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U. S. Congress

CONGRESSIONAL RECORD:

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Part 1

THE PROCEEDINGS AND DEBATES

OF THE

SIXTIETH CONGRESS, FIRST SESSION.

VOLUME XLII.

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VOLUME XLII, PART VIII.

CONGRESSIONAL RECORD

AND

APPENDIX,

SIXTIETH CONGRESS, FIRST SESSION.

construction of the law is different, but the Commissioner of Navigation does not agree with the gentleman from New York. The Commissioner of Navigation of the United States says it will cut down the air space.

The gentleman from New York is entitled to his construction of the law, but I am going to take the construction of the law as handed in here by the Commissioner of Navigation, and not only by the Commissioner of Navigation, but I have talked to a number of people who are interested in the immigrants who are coming to this country, and other people who represent the great labor organizations in this country whose component parts are made up to some extent of immigrants who have come here, and as far as the information I can get from them it is that they are opposed to section 42 being repealed until they can get a fair and honest test of the law that you made, that the Republican party made, saying that you did it because you would not adopt the educational test, but that section 42 would take the place of it and protect the American laborer against the pauper laborer of Europe.

Mr. DRISCOLL. Who said that?

Mr. UNDERWOOD. A number of gentlemen on the other side of the House.

Mr. DRISCOLL. Who?

Mr. UNDERWOOD. I refer the gentleman to the CONGRESSIONAL RECORD.

Mr. LANGLEY. I never heard it.

Mr. UNDERWOOD. You get the CONGRESSIONAL RECORD and you will find the very argument that was made to pass this bill was that section 42 restricted immigration coming into this country.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. BURNETT. Will the gentleman use part of his time now?

Mr. BENNET of New York. I yield three minutes to the gentleman from California [Mr. HAYES].

Mr. HAYES. Mr. Speaker, this bill has no politics in it, the gentleman from Alabama [Mr. UNDERWOOD] to the contrary notwithstanding. The bill under consideration is intended to remove a possible ambiguity from section 42 of the immigration law, passed by the last Congress. So far as the air space is concerned, it does not affect that law except as to the lowest deck. The upper deck has the same air space provided in this bill as amended, as is required by section 42 of the law of the last Congress. It increases the air space 1 square foot per passenger in the lower deck in order to make the excess over the minimum required in the sleeping space on the two decks the same. It gives 3 feet excess on both the lower and upper decks.

Now, the situation is exactly this: The law at present in force requires a minimum of 100 cubic feet per passenger. Section 42 of the law of last year, which does not go into effect until January 1, 1909, increases that air space by providing where the distance is 7 feet or more between the decks there should be a minimum space allowed of 18 superficial feet per passenger on the upper deck and 20 superficial feet per passenger on the lower deck.

This reenacts that provision, except that it increases the superficial feet 1 foot per passenger on the lower deck. That is all there is to it. There is no politics in it.

Mr. CAULFIELD. What is the reason for changing the law?

Mr. HAYES. The reason is to remove the ambiguity in the law of 1907. Section 42 provides that on the main deck the minimum space allowed is 18 superficial feet per passenger. Now, the main deck is a very uncertain term in the modern ship. The main deck is supposed to be the first deck that runs straight through the whole length of the ship.

Mr. BURNETT. I will ask the gentleman if that was not the law since 1882?

Mr. HAYES. I am not sure but it was. I think since 1819. There is some dispute about which is the main deck in the modern ship, and in order to remove that dispute this law is framed to remove that possible ambiguity. Some of the steamship companies, as a matter of course, are not desiring to obey the law passed by the last Congress, because, as it has been stated, a few of them will have to reconstruct or change their ships in some respects, although, as I understand it, those that are up to date and modern in construction, as most of them are—certainly more than three-fourths, and I do not know but more than nine-tenths, of the ships engaged in the business—provide the things required by this bill; only a few are not up to this standard, and, of course, they are objecting to this. They do not want this law to go into effect.

Mr. SHERLEY. Who is asking for this new law?

Mr. HAYES. This bill is the law, with the ambiguity to which I have referred removed.

Mr. SHERLEY. At whose suggestion is the removal of the ambiguity?

Mr. BENNET of New York. I will say that the request comes from the Commissioner of Navigation.

Mr. BURNETT. Did not the steamships and their agents appear before the committee?

Mr. BENNET of New York. Never. The steamship companies appeared for the Senate bill, but never for the House bill.

Mr. HAYES. This bill is asked for by the Commissioner of Navigation, this section 42, with the possible ambiguity out of it, and 1 foot air space additional on the lower deck.

Mr. BURNETT. Is it not true that the Commissioner of Navigation asked for the Senate bill?

Mr. HAYES. He wanted the ambiguity, or the possible ambiguity, removed from section 42. That is what he asked for.

Mr. BURNETT. How much time has the gentleman from New York [Mr. BENNET] and myself?

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BURNETT] has seven minutes remaining and the gentleman from New York [Mr. BENNET] has eight minutes.

Mr. BURNETT. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, as has been stated by gentlemen who have preceded me, section 42 of the bill passed by the last Congress provided for certain regulation of steerage passengers. It provided for larger air space in the steerage compartments, so that this class of passengers would not be obliged to put up with the small and incommensurable compartments which are now provided for them. Under this act, passed by the last Congress, the steamship companies were given to January 1, 1909, to comply with the new regulations, but instead of making preparation to comply with the provisions of this law, they come in here with crocodile tears in their eyes, as is customary with all these "poor and oppressed corporations" when they are required to do something which will tend to give the people some relief from their abuses, and ask the repeal or change of this section, for no other reason than that it may mean an expenditure of a few thousand dollars and reduce by a few pennies the large dividends they have for years declared, and that at the expense of the limbs, health, and lives of thousands of unfortunate men, women, and children.

No one else but these heartless and greedy steamship companies are demanding the passage of this bill in lieu of the act which is to go in force January next. The only argument that they can make against section 42, which is so obnoxious to them, is that it will prevent the use of all the space and would reduce the carrying capacity about 25 per cent. It is on this theory that the steamship companies have been able to enlist the misguided "liberal" immigration advocates, who have not looked carefully into the situation and its attendant evils, and are made unwilling tools of these companies. I presume that nearly every one in this House is fully aware that I am not opposed to liberal immigration, and if I thought that section 42 was enacted for the purpose of restricting or imposing any special hardship on these unfortunate people who, on account of persecutions are seeking our hospitable shores, I would be the last man in the world to oppose the repeal of this section. But, Mr. Speaker, I firmly believe that this section has been enacted from a purely humanitarian standpoint, so as to put an end to the shameful, inhuman, yes, brutal treatment, to which the steerage passengers are subjected.

For this reason I am opposed and sincerely believe every Member of this House will be opposed to the passage of this bill. [Applause.]

The fact that the steamship companies have been misleading and imposing upon the people of foreign countries by deceptive methods, such as flaring literature and glib agents, instilling into these unsuspecting people great hopes for riches, does not signify that they should also endeavor to employ these despicable methods in this House. [Applause.]

Now, Mr. Speaker, I desire to read from a statement made by Mr. S. C. Neale, counsel for the International Mercantile Marine Company, while introducing the vice-president of that company to the Immigration Commission:

Mr. Chairman and gentlemen of the Commission, just before the adjournment of Congress last year the immigration bill was passed, and in that act there is a section known as "section 42." The object of that section was to give greater space to third-class passengers than had been accorded them under the old passenger act of 1882. As soon as that section was brought to the attention of the steamship companies they realized that it would be greatly to their disadvantage.

Then he introduced Mr. P. A. S. Franklin, the vice-president of the International Mercantile Marine Company, who stated

that he represented thirty-five steamship companies, and who, in part, said:

Mr. Chairman and gentlemen of the Commission, we appreciate the opportunity of appearing before you. We should like very much to have section 42 of the act amended to conform more closely to the British Board of Trade regulations, which took effect January 1, 1908. We feel that in adopting section 42 and changing your basis of measurement from the cubical to the superficial you based your section to a certain extent on the board of trade regulations as they then existed. The board of trade committee sat for a long time. It was composed of very able men. It gave this matter very careful consideration. The board of trade have now adopted new regulations, which, as I have said, took effect January 1, 1908. We desire to place before you those regulations, and to ask you if you can not see your way clear to report something of that kind as an amendment to section 42. Section 42 would create very serious hardship upon the various steamship companies, because it would reduce their carrying capacity of passengers from 25 to 35 per cent, which we hope is a much larger reduction than you wished to make.

Only eight or nine years ago third-class passengers came aboard steamships with their utensils. Now, in many cases they are provided with dining rooms where they are seated and are served by stewards. There are published bills of fare, and the passengers are given three meals a day and an additional supper at night if they want it. We feel that the steamship companies have provided very comfortable accommodations for which, under section 42, they are not given credit; and if section 42 is carried out and the steamship companies have to live up to it, they will have to curtail these outside accommodations which they are giving to the passengers. In some cases they will have to carry passengers in the dining rooms instead of leaving those rooms open for the passengers.

Mr. Speaker, you will notice that not only do they come to ask this House to legalize and approve their criminal tortures which they visit upon the steerage passengers, but they threaten that unless we give them that privilege or right which they are seeking they will take the law into their own hands and increase the hardship by discontinuing the very few accommodations which they extend to these steerage passengers.

Mr. Speaker, within the last few years nearly every State in the Union passed certain laws to protect and provide for more humane treatment in the transportation of cattle, sheep, and swine, and they met with general approval. Congress passed a law in 1891 which I desire to quote:

REGULATION OF CATTLE SHIPS.

The Secretary of Agriculture is hereby authorized to examine all vessels which are to carry export cattle from the ports of the United States to foreign countries, and to prescribe by rules and regulations or orders the accommodations which said vessels shall provide for export cattle, as to space, ventilation, fittings, food and water supply, and such other requirements as he may decide to be necessary for the safe and proper transportation and humane treatment of such animals.

And again, in 1906, we passed the following law:

No railroad, express company, car company, common carrier other than by water, or the receiver, trustee, or lessee of any of them, whose road forms any part of a line of road over which cattle, sheep, swine, or other animals shall be conveyed from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia, shall confine the same in cars, boats, or vessels of any description for a period longer than twenty-eight consecutive hours without unloading the same in a humane manner, into properly equipped pens for rest, water, and feeding, for a period of at least five consecutive hours, unless prevented by storm or by other accidental or unavoidable causes which can not be anticipated or avoided by the exercise of due diligence and foresight.

It is but fair to ask, in view of this: Is it not only fair but highly proper and opportune to give human beings at least the same consideration and treatment that is given to cattle? I am of the opinion that the steamship companies have been permitted long enough to reap a rich harvest and violate the laws in many different ways and that the time is ripe that a firm stand should be taken against them and force them to comply with section 42, which secures to steerage passengers humane treatment. If the time would permit, I would read the hearing had on this bill, but, that being impossible, I ask to embody in my remarks a certain part of the proceedings before the Committee on Immigration and Naturalization March 24:

Mr. ADAIR. And does this bill now proposed lessen the amount of space or increase the amount of space?

Mr. CHAMBERLAIN (Commissioner of Immigration). It increases it over the act of 1882, and it lessens it from what was provided in section 42. It is about halfway between.

Mr. ADAIR. What is the real purpose for wanting to lessen it?

Mr. CHAMBERLAIN. The real purpose for wanting to lessen it, in the first place, is to bring it into accord with the best law that there is in existence on the subject—the regulations that were framed by the British board of trade shortly after you gentlemen passed this law.

Mr. HAYES. It was framed last fall, was it not?

Mr. CHAMBERLAIN. Yes; in September.

Mr. HAYES. And framed in order that they might bring it here. The British board of trade framed that law, according to my belief, in order that they might bring it here and influence legislation.

Mr. SABATH. Is it not true that the only question about the construction of section 42 is as to the main deck, as to which deck the courts or the ship companies may construe to be the main deck?

Mr. CHAMBERLAIN. That is a very important structural question. Something ought to be done with section 42, anyway.

Mr. SABATH. We can amend section 42 right here so as to designate which shall be recognized as the main deck, can we not?

Mr. BURNETT. Without restricting or reducing the air space.

Mr. SABATH. That is the main question, is it not?

Mr. CHAMBERLAIN. That is a very important structural question that ought to be dealt with, at any rate.

Mr. SABATH. They have not done anything since 1882, have they? They have paid no attention to the rules and regulations?

Mr. BURNETT. In 1906 they amended the law so as to allow this board of trade to make these regulations; and the board of trade has come along and done this after our law was passed.

Mr. HAYES. Undoubtedly with the intention of bringing them here and influencing legislation.

Mr. BURNETT. There is no doubt of it.

Mr. HAYES. Not a bit of doubt in the world.

Mr. O'CONNELL. Let me ask, if you please, who introduced this bill, and at whose request it was introduced? Does the committee know?

Mr. BENNET. I know nothing about it. It was as a result, I presume, of the hearings before our Commission.

Mr. BURNETT. And the only people before us on that matter were the steamship people. We have heard from no charities, or leagues, or anything of that kind, that I have heard of.

Mr. BENNET. Simply from the steamship people and Mr. Chamberlain, who came at our request.

Is it not clear to you, Mr. Speaker and gentlemen, who desires the bill and for whose benefit it would operate?

I also desire to include extracts from an article in the Home Mission Monthly, January, February, and March (1908) numbers, by an unknown steerage passenger, but submitted to Government authorities at Ellis Island, who do not dispute its truth:

We live in an age of improvements. Charity organizations are numerous. The child-labor question, welfare work, tenement-house inspection, draw the attention of the multitude. A man that drives a sick horse is arrested and the horse is cared for; the dog without a master is taken to a dog's hospital. But, strange to say, war goes on and nations murder nations. Twentieth century life is a peculiar combination of charity and cruelty. I have seen steamship companies bathing in wealth and dividends at the cost of millions of immigrants who suffer steerage horrors from six to twenty days.

Going aboard ship, we were shown into a room that served as a sleeping room (it contained 290 beds, if you please), dining room, and recreation room. In vain I looked for a dining room. When dinner time came we were given a plate, spoon, and cup—the outfit of a steerage passenger. No knives, forks, buckets, bath rooms, spittoons, nor refuse buckets, so you can imagine the sanitation of the place.

The conditions on the ship are absurd, disgraceful, downhauling. As there was no place provided for the refuse, many times the refuse and grease were spread all over the steerage deck.

In rooms from 50 by 65 feet to 80 by 65 feet there are from 175 to 290 beds. Between the beds there was not an inch of space. They were double-tiered and divided into blocks of thirty-two beds. The floor is of iron and damp. The ventilation—especially in bad weather, when some of the hatches have to be closed—is terrible. There was no place to put baggage but the damp iron deck, upon which the refuse of the meals was thrown, while the consequences of seasickness were scarcely fit to put baggage upon. There being no dining room, we had to eat where we slept.

I pitied especially the poor mothers, who had to take care of children. They simply could not keep themselves or their children clean. Salt water was all that was available, and that is almost impossible to wash with. Vermin in abundance is the plague of every woman and child in the steerage and many of the men as well, and no wonder. No pen can describe the washing and toilet rooms. This is a serious matter from a hygienic point of view. The rooms were almost unbearably filthy. During our seventeen days' trip the steerage was washed out but once.

Driven like cattle in the between-decks, with all hatches closed but one, the air was unbearable, but our protest did not help. As long as such large numbers of passengers are allowed to occupy such a small space and the conditions are not improved the steerage will continue to be a disgrace to humanity.

Mr. Speaker, I also wish to quote the following from the minority report signed by me:

Under the law as it now exists the herding together of people who travel in the steerage has been the cause of untold suffering, misery, and death among those who have to travel that way. Anyone who has ever witnessed the plight of those who have to travel in the steerage of the large steamships bringing people to America is bound to be shocked at the brutal and even murderous conditions under which many of them have to travel. We will give one quotation from the report of Commissioner Watchorn, who has charge of the station at Ellis Island. Referring to section 42, he says:

"It is a matter of regret that that portion of the act of February 20, 1907, relating to improved conditions on passenger ships, was not made operative earlier than 1909. During the year just closed 1,506 children have been received at this station afflicted with measles, diphtheria, and scarlet fever, all of which diseases are due, more or less, to overcrowding and insanitary conditions. Of this number, 205 died. This indicates a state of affairs which surely ought to be remedied before 1909, and I respectfully urge that such steps as may be deemed necessary to hasten the going into effect of this humane provision of law may be given the fullest consideration of the Bureau."

We concede that the amendments put on this bill by the House Committee on Immigration make it a great improvement on the Senate bill, and in some respects is probably an improvement on section 42, but fearing the result of an effort to pass this bill through the House, even as amended, may put us back in the clutches of the steamship companies, we believe it dangerous to try to pass the bill through the House even as amended.

We know what are frequently the results of the deliberations of conference committees, and we believe that imperfect as section 42 is, we had better give it a fair trial than to begin to change it without knowing where we will land. Should we go back to the Senate bill, the conditions referred to by Commissioner Watchorn will be reinstated, the steamship companies will continue their cruelties to helpless immigrants who fall into their hands. This is not a question of restriction, for the steamship companies will conform rather than lose the price of the passage of the immigrant, but it is a question of forcing these heartless corporations to have greater care for the lives of those who can not protect themselves against their greed.

If through conference or otherwise the steamship companies accomplish their wicked purpose, we are not responsible for the results and here serve notice on our colleagues on the committee who voted to report this bill and on our colleagues of the House who vote for its passage that on your hands and not ours will be the evil results of those who suffer by it.

I also desire to include in my remarks the following statement from a gentleman whom I purposely sent to Baltimore only last Sunday to examine one of these boats and which I have not time to read:

Yesterday an opportunity presented itself, of which I have availed myself, in seeing with my own eyes the steerage compartments of an ocean-going liner. This opportunity I have long sought, principally for the purpose of ascertaining the truth of the pitiful stories which I have had related to me by hundreds of alien immigrants who have crossed the Atlantic as steerage passengers—tales of great hardship, sickness, and misery while confined in the steerage.

The absolute truth of these stories of sufferings was proven to my complete satisfaction on my visit to one of the many liners which arrived last Wednesday, at the immigration station at Baltimore, Md. Upon my entrance to the steerage compartment, I was silently greeted with a stench that was nauseating in the extreme, very much like that emitted from a decomposing carcass. Upon investigation I found that the lavatories, reeking with accumulated filth, the wooden floors being thoroughly saturated with excrement, were in no small way responsible for the putridity.

These pestilential lavatories, devoid of the slightest sanitation, are located in these compartments, being separated only by a thin wooden partition. The bunks present the spectacle of antiquated prisons, long since relegated for more comfortable ones. There are two tiers of these bunks, constructed of iron piping, and each tier contains four bunks and upward. The compartments are very small, and it is apparent that the builders of the ship utilized every inch of space to crowd in as many of these bunks as possible, neglecting neither ingenuity nor skill, and of course, wholly regardless of the comfort of those who would be compelled to occupy these for weeks. Surely, these bunks were not intended for the use of adults.

It takes a contortionist to get into one of these bunks. There are no springs, but hard bars of iron, on which is placed a mattress sparingly stuffed with corn husks, and upon which, besides a blanket, is a pillow filled with the same material. Within these compartments long tables and benches are placed on which meals are served. These passengers eat and sleep in these foul compartments, the atmosphere of which is filled with disease-spreading bacilli. The small space provided for these bunks makes it a physical impossibility for an adult occupant to obtain rest. It is literally true that these passengers are huddled together like so many sheep in a pen. The ordinary stock cars provide more space and air for the animals that are quartered in them than do the steerage compartments of an ocean liner. This statement may appear ironical, but it is true. This description is no exaggeration of what I have seen.

CHAS. J. MICHAL.

Mr. Speaker, if I had the assurance that the Senate would pass this bill as amended by our committee, I would not oppose it, but I have been informed on very good authority that the Senate will never agree to the bill as it is presented to the House to-day, because they are strictly opposed to my amendment, which provides that—

In the measurement of the passenger decks and of the lowest passenger decks, the space occupied by that part of the personal baggage of the steerage passengers which the inspector permits to be carried, there shall be included commodious and suitable dining rooms, lounging rooms, smoking rooms, lavatories, toilet rooms, and bathrooms for the exclusive use of steerage passengers, and the space so occupied shall also be excluded—

But my original amendment, before being amended, provided: that such space as the company is forced to give for these places should not be deducted from the small space allotted to the steerage passengers for their own use.

For the reasons I have given, and for many other reasons, I am opposed to the bill, as I am not willing to sacrifice the health and lives of poor and oppressed people in behalf of greedy steamship companies. Mr. Speaker, I ask, Shall these steamship companies reign, dictate and do as they please forever? Is it not time that steerage conditions, such as I have described, come to an end? I am satisfied, Mr. Speaker, that this side of the House will solidly vote against this inhuman and treacherous bill. I realize that you have a majority and that you can pass it, but if you do you and your party will be held responsible. [Applause.]

Mr. BURNETT. Will the gentleman consume part of his time now?

Mr. BENNET of New York. I yield two minutes to the gentleman from New York.

Mr. SHERMAN. Mr. Speaker, as I understand this bill and the position that is taken by those who oppose it, their opposition is simply ridiculous. Nothing that I have heard, as I understand it, by the gentlemen who are opposing the motion of the gentleman from New York would indicate that they do not believe in accomplishing just what the gentleman from New York is striving to accomplish. They believe in the enactment of the provisions that the gentleman from New York is seeking to have passed, and say that we would have a very much better statute than that which now exists. But they say that they are fearful that the House conferees will have some outrage perpetrated upon them when they meet like conferees from the Senate, and they think then this House may be per-

sued into doing something which it does not wish to do, and which it does not now intend to do. That is about the size of the entire opposition.

Now, Mr. Speaker, this is simply and solely a proposition to change the statute so as to deal with conditions under which immigrants are coming to our shores. In other words, to provide that the immigrant who leaves his own shore in good health shall not have his health ruined in transit to this country by being improperly housed and not being properly cared for. That is all there is to it, and the prevalence of the motion made by the gentleman from New York will lead to a modification of the statute so as to better the conditions of every immigrant brought to our shores. That is the simple and sole question, as I understand from what I have heard of this discussion and from what I gather from reading the report that the majority and the minority made on this bill. It seems to me, under those circumstances, that there ought to be a substantially unanimous vote for the adoption of the motion made by the gentleman from New York [Mr. BENNET]. [Applause.]

Mr. BURNETT. I yield two minutes to the gentleman from New York.

Mr. SULZER. Mr. Speaker, this bill is in the interest of the foreign steamship owners and against the welfare of the poor immigrant. My sympathy is all with the latter. It is a bill against humanity, and the motion of the gentleman from New York should be voted down.

Last year, after a great deal of consideration, after a most thorough investigation, we passed the act of February 20, 1907. Section 42 of that act provided for the air space that these steamship companies should allow to these poor immigrants, but the enforcement of that section was unwisely postponed until next January. The Commissioner of Immigration in New York, Mr. Watchorn, a man of much experience, a man of great efficiency, and a man whose competency has never been questioned, has testified that the postponement of section 42 was a great mistake, against the welfare of the poor immigrants, and in the interests of the foreign steamship companies. I agree with Mr. Watchorn.

Now, you want to practically repeal section 42 to help the steamship companies. I asked the gentleman from New York [Mr. BENNET], when he was on the floor, whether this new bill would increase or decrease the air space allowed to the immigrants, and he said it would increase the space. He is mistaken about it. The record conclusively shows that the gentleman from New York was in error. It will decrease the air space. It will mean the crowding of more immigrants in the holds of the steamships. It will mean more sickness and more distress and more deaths for poor men and women and children. It is a mistake, and it will never have my sanction. The poor immigrants pay for their passage and should be treated like human beings and not like cattle. The record and the testimony demonstrate beyond question that the passage of this bill will decrease the air space instead of increasing it, and I trust the motion will be voted down, in the interest of humanity. [Applause on the Democratic side.]

Mr. BURNETT. Does the gentleman intend using the remainder of his time in one speech?

Mr. BENNET of New York. Yes.

Mr. BURNETT. Mr. Speaker, I believe I have one minute remaining. In that time I merely desire to reiterate what I said before. The gentleman from New York [Mr. SHERMAN] talks about the ridiculousness of the proposition that the House should not pass this bill because in conference the House may be forced to do something that it does not want to do. And yet every day we see from the reports of conference committees that the House or the Senate are backing down from propositions that they have insisted upon and that they believe to be right, and during this very day, in my judgment, you are going to see the same thing again in the passage of a conference report on the currency bill, which even the Republicans do not want. I warn the gentlemen now that if they go to tampering with this section 42, which Mr. Watchorn says ought to have gone into effect long ago instead of next January, they are going to see the steamship companies finally coming out with substantially the bill that was introduced and passed through the Senate without anybody even seeing the joker that is in it. The steamship companies are really the only ones that desire a change in section 42, and in passing it you are playing into their hands. If the bill that suits them does not pass at this session, you will hear their friends howling early next session for an extension of the time in which they may prepare to conform to section 42.

Mr. BENNET of New York. Has the gentleman from Alabama exhausted his time?

The SPEAKER pro tempore. He has.

Mr. BENNET of New York. I ask for a vote.

The SPEAKER pro tempore. The question is on suspending the rules and passing the bill as amended.

Mr. BURNETT. The yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

Mr. BENNET of New York. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. CLARK of Missouri. Dilatory, Mr. Speaker.

The SPEAKER pro tempore. The point is evidently well taken. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 134, nays 92, answered "present" 16, not voting 145, as follows:

YEAS—134.

Acheson	Dawson	Hinshaw	Norris
Adair	Denby	Holliday	Nye
Andrus	Diekema	Howell, N. J.	Olcott
Bannon	Douglas	Howland	Olmsted
Barchfeld	Durey	Hubbard, W. Va.	Overstreet
Barclay	Dwight	Humphrey, Wash.	Parker, N. J.
Bartholdt	Edwards, Ky.	Jones, Wash.	Parker, S. Dak.
Bates	Ellis, Mo.	Keller	Parsons
Beale, Pa.	Ellis, Oreg.	Kennedy, Iowa	Payne
Bede	Englebright	Kennedy, Ohio	Porter
Bennet, N. Y.	Esch	Kinkaid	Pray
Bonyage	Fairchild	Knapp	Prince
Boyd	Focht	Kuftermann	Reeder
Bradley	Fordney	Lafan	Reynolds
Burke	Foss	Langley	Roberts
Burleigh	Foster, Ind.	Law	Rothermel
Burton, Del.	Foulkrod	Lindbergh	Scott
Butler	Fowler	Lindsay	Sherman
Calder	French	Longworth	Smith, Iowa
Calderhead	Gaines, W. Va.	Loudenslager	Smith, Mich.
Campbell	Gardner, Mich.	Lowden	Southwick
Capron	Gilbams	McCall	Stafford
Chaney	Goulden	McCreary	Sterling
Chapman	Graft	McGavin	Sulloway
Cockran	Haggott	McKinlay, Cal.	Tawney
Cocks, N. Y.	Hale	McKinley, Ill.	Taylor, Ohio
Cook, Colo.	Hall	McLachlan, Cal.	Thistlewood
Cooper, Pa.	Hamilton, Mich.	McMillan	Volstead
Coudrey	Haskins	Malby	Waldo
Crumpacker	Haugen	Miller	Wanger
Currier	Hawley	Moore, Pa.	Wilson, Ill.
Cushman	Hayes	Morse	Young
Dalzell	Henry, Conn.	Needham	
Darragh	Hepburn	Nelson	

NAYS—92.

Adamson	Craig	James, Ollie M.	Randell, Tex.
Aiken	Crawford	Johnson, Ky.	Rauch
Alexander, Mo.	Davis, Minn.	Jones, Va.	Rhinock
Ansberry	Finley	Kelher	Richardson
Ashbrook	Fitzgerald	Kimball	Riordan
Bartlett, Nev.	Floyd	Kipp	Robinson
Beall, Tex.	Foster, Ill.	Lee	Rucker
Bowers	Fulton	Lenahan	Russell, Mo.
Brantley	Garrett	Lloyd	Russell, Tex.
Brodhead	Godwin	McDermott	Sabath
Broussard	Granger	McHenry	Sherley
Burgess	Hackney	Macon	Slayden
Burleson	Hamilton, Iowa	Madison	Smith, Mo.
Burnett	Hammond	Maynard	Spight
Byrd	Hardy	Moon, Tenn.	Stephens, Tex.
Candler	Hay	Moore, Tex.	Sulzer
Carter	Heflin	Murdock	Thomas, N. C.
Cary	Helm	Nicholls	Tou Velle
Caulfield	Henry, Tex.	O'Connell	Underwood
Clark, Mo.	Hitchcock	Padgett	Watkins
Clayton	Hobson	Page	Webb
Cooper, Tex.	Houston	Pou	Williams
Cox, Ind.	Hull, Tenn.	Rainey	Wilson, Pa.

ANSWERED "PRESENT"—16.

Boutell	Draper	Laning	Mann
Cooper, Wis.	Flood	Lever	Sheppard
Cousins	Goldfogle	McKinney	Sims
Dixon	Humphreys, Miss.	Madden	Stanley

NOT VOTING—145.

Alexander, N. Y.	Edwards, Ga.	Higgins	Littlefield
Allen	Ellerbe	Hill, Conn.	Livingston
Ames	Fassett	Hill, Miss.	Lorimer
Anthony	Favrot	Howard	Loud
Bartlett, Ga.	Ferris	Howell, Utah	Lovering
Bell, Ga.	Fornes	Hubbard, Iowa	McGuire
Bennett, Ky.	Foster, Vt.	Huff	McLain
Bingham	Fuller	Hughes, N. J.	McLaughlin, Mich.
Birdsall	Gaines, Tenn.	Hughes, W. Va.	McMorrin
Booher	Gardner, Mass.	Hull, Iowa	Marshall
Brownlow	Gardner, N. J.	Jackson	Mondell
Brumm	Garner	James, Addison D.	Moon, Pa.
Brundidge	Gill	Jenkins	Mouser
Burton, Ohio	Gillespie	Johnson, S. C.	Mudd
Caldwell	Gillett	Kahn	Murphy
Carlin	Glass	Kitchin, Claude	Patterson
Clark, Fla.	Goebel	Kitchin, Wm. W.	Pearre
Cole	Gordon	Knopf	Perkins
Conner	Graham	Knowland	Peters
Cook, Pa.	Greene	Lamar, Fla.	Pollard
Cravens	Gregg	Lamar, Mo.	Powers
Davenport	Griggs	Lamb	Pratt
Davey, La.	Gronna	Landis	Pujo
Davidson	Hackett	Lassiter	Ransdell, La.
Dawes	Hamill	Lawrence	Reid
De Armond	Hamlin	Leake	Rodenberg
Denver	Harding	Legare	Ryan
Driscoll	Hardwick	Lewis	Saunders
Dunwell	Harrison	Lilley	Shackelford

Sherwood	Steenerson	Vreeland	Wiley
Siemp	Stevens, Minn.	Wallace	Willett
Small	Sturgiss	Washburn	Wolf
Smith, Cal.	Talbott	Watson	Wood
Smith, Tex.	Taylor, Ala.	Weeks	Woodyard
Snapp	Thomas, Ohio	Weems	
Sparkman	Tirrell	Weisse	
Sperry	Townsend	Wheeler	

So the motion to suspend the rules and pass the bill was agreed to.

The Clerk announced the following additional pairs:

For the vote:

Mr. ALEXANDER of New York (in favor) with Mr. CARLIN (against).

Until further notice:

Mr. BURTON of Ohio with Mr. BELL of Georgia.

Mr. COLE with Mr. BOOHER.

Mr. DRISCOLL with Mr. ELLERBE.

Mr. GRAHAM with Mr. FAYROT.

Mr. GREENE with Mr. GARNER.

Mr. HOWELL of Utah with Mr. GILL.

Mr. LOVERING with Mr. GILLESPIE.

Mr. MOON of Pennsylvania with Mr. GLASS.

Mr. PEARRE with Mr. GORDON.

Mr. RODENBERG with Mr. GREGG.

Mr. SMITH of California with Mr. HACKETT.

Mr. TIRRELL with Mr. PATTERSON.

Mr. SNAPP with Mr. HAMLIN.

Mr. MCKINNEY with Mr. GOLDFOGLE.

Mr. BRUMM with Mr. FORNES.

Mr. MCGUIRE with Mr. STANLEY.

Mr. GOLDFOGLE. Mr. Speaker, I voted "no" upon the roll call. I find that I am paired with the gentleman from Illinois [Mr. MCKINNEY]. I therefore am compelled to withdraw my vote and vote "present."

The SPEAKER pro tempore. The Clerk will call the name of the gentleman from New York.

The Clerk called the name of Mr. GOLDFOGLE, and he answered "present."

The result of the vote was announced as above recorded.

The doors were opened.

EULOGIES ON THE LATE SENATOR PROCTOR.

Mr. HASKINS. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the desk and ask to have read.

The Clerk read as follows:

Ordered, That the House shall meet at 12 o'clock noon on Sunday, December 13, 1908, which day and hour is hereby set apart for memorial addresses on the life, character, and public services of Hon. REEFIELD PROCTOR, late a United States Senator from the State of Vermont.

The SPEAKER pro tempore. Without objection, the order will be agreed to.

There was no objection.

CONDEMNED ORDINANCE.

Mr. BRADLEY. Mr. Speaker, I move to suspend the rules, take from the Speaker's desk the bill (H. R. 21410) granting condemned ordinance to certain institutions, with Senate amendments thereto, and to concur in the Senate amendments.

The Senate amendments were read:

The SPEAKER pro tempore. Is a second demanded?

Mr. HAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Under the rule a second is ordered. The gentleman from New York is entitled to twenty minutes and the gentleman from Virginia to twenty minutes.

Mr. BRADLEY. Mr. Speaker, this bill donates condemned cannon and obsolete small arms to certain institutions in a dozen States—North, South, East, and West—and really needs no explanation. The Senate amendment, section 13 of the bill, simply exempts these institutions from the statutory requirement calling for quarterly reports to the War Department, and section 14—a Senate amendment—provides that patriotic societies may purchase obsolete small arms and their equipment from the War Department at a reasonable price. Mr. Speaker, I return to the Chair the balance of my time.

Mr. HAY. Mr. Speaker, this bill is for the purpose of distributing obsolete ordnance among the different organizations of the country, both Union and Confederate. There is no objection to the passage of the bill. I yield ten minutes to the gentleman from Missouri [Mr. RUSSELL].

Mr. RUSSELL of Missouri. Mr. Speaker, the first session of the Sixtieth Congress will soon adjourn, and its work will become a matter of history. It has already won the deserved appellation of "The do-nothing Congress," and the merited condemnation of the American people—

Mr. PAYNE. Mr. Speaker, I make the point of order that the gentleman is not speaking to the bill.

Mr. RUSSELL of Missouri. Mr. Speaker, I desire to say that I have not consumed over forty minutes of the time of this Congress, and I would like to have ten minutes now.

Mr. PAYNE. I make the point of order.

Mr. UNDERWOOD. Mr. Speaker, on the point of order made by the gentleman from New York I desire to submit this question. The House has adopted a rule allowing every Member to print in the Record such speeches as he desires.

Mr. COCKRAN. Such stuff as he desires, the gentleman means.

Mr. UNDERWOOD. I accept the amendment. And the proposition is, if the gentleman does not speak he can insert his remarks in the Record. Therefore I contend that the rule which was adopted on the motion of the gentleman from New York [Mr. PAYNE] two or three days ago eliminates the rule that makes it necessary for a Member to speak to the bill, because the House has already given him permission to use the Record for any purpose that he may desire.

The SPEAKER pro tempore. Does the gentleman from Alabama seriously contend that an order granting leave to print in the Record changes the rule which under a motion to suspend the rules requires that Members speak to the subject before the House?

Mr. UNDERWOOD. It is not my contention. It is a new rule which was adopted by the Republican party just a day or two ago.

The SPEAKER pro tempore. The Chair wanted the aid of the gentleman from Alabama in deciding the question. The Chair thinks that the gentleman from Missouri must proceed in order.

Mr. RUSSELL of Missouri. That is, I must discuss this bill?

The SPEAKER pro tempore. To discuss the pending bill.

Mr. RUSSELL of Missouri. I do not desire to speak upon this bill. I desire to talk upon something else.

The SPEAKER pro tempore. The gentleman has leave to print.

Mr. RUSSELL of Missouri. Mr. Speaker, I ask unanimous consent to proceed for ten minutes.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent to proceed for ten minutes.

Mr. PAYNE. Mr. Speaker, this rule was adopted for the special purpose of saving the time of the House, and giving unanimous consent does not do that, and therefore I object.

The SPEAKER pro tempore. The gentleman from New York objects. The gentleman from Missouri will proceed in order.

Mr. RUSSELL of Missouri. Mr. Speaker, I do not desire to discuss this bill. The privilege of concluding my remarks being refused, I will extend them in the Record. [Applause on the Democratic side.]

Mr. HAY. Mr. Speaker, unless somebody desires to speak on the bill, I do not desire to use any more of my time.

Mr. CLAYTON. I would like to ask the gentleman: This is a bill relative to the disposition of worthless brass and obsolete cannon?

Mr. HAY. Brass cannon.

Mr. CLAYTON. Does not the gentleman think we could talk about what soon will be obsolete or worthless brass of the Republican side of the House?

Mr. HAY. I think so, decidedly, but the Chair does not agree with me; that is the only trouble.

Mr. CLAYTON. And perhaps our worthy CANNON with the brass with which he has ruled this House—and I say it good naturedly—may also be obsolete in the next Congress.

Mr. HAY. That is quite true.

Mr. CLAYTON. Why not let us talk about the disposition of that piece of obsolete cannon?

Mr. HAY. Well, I yield such time as the gentleman may desire for that purpose.

Mr. CLAYTON. I only want a minute or two to talk about this matter. We are now talking about—I believe I am speaking to the bill—brass cannon and the brass that is incident to the other side of this House, of course, because we know with what an amazing amount of brass the gentleman from New York, the Republican leader of this House, has asserted and will undertake to show in the pending campaign that the Sixtieth Congress has possessed some virtues other than brass.

Mr. PAYNE. Mr. Speaker, I make the point of order against the gentleman's remarks.

The SPEAKER pro tempore. The gentleman will proceed in order.

Mr. CLAYTON. If the gentleman does not wish me to pass encomium upon him—

Mr. PAYNE. I call the gentleman to order.

Mr. CLAYTON. I will proceed in order, Mr. Speaker. Of course I may admit I was wrong. There may be no similarity

between brass and the gentleman from New York, and there may be nothing brassy about him, and perhaps I should not have said so. Now, Mr. Speaker, he is willing enough that we talk about obsolete things. We are talking about obsolete arms. Now, why should I not be allowed to talk about what soon will be obsolete? Does the Chair rule that in discussing what is already obsolete I have no right to discuss what soon will be obsolete?

The SPEAKER pro tempore. The Chair thinks not.

Mr. CLAYTON. You ought not to rule that, but to rule I have the right to talk about what soon will be obsolete as well as what is already obsolete.

The SPEAKER pro tempore. This bill entirely refers to small arms and—

Mr. CLAYTON. Small arms. Well, what I desired to speak about was that the crowd on that side will be smaller in the next Congress, and I wanted to talk about it.

The SPEAKER pro tempore. The Chair trusts the gentleman will proceed in order.

Mr. CLAYTON. Well, Mr. Speaker, I have never read this bill. [Laughter.] I must say that I am in the dilemma that most of us here are in. This bill, like a multitude of others which have been put through this session of Congress, by some sort of secret arrangement some gentlemen have with the Speaker to call up a measure and get recognition by unanimous consent or to suspend the rules, are put through, and the House knows nothing about them, and we have to ask somebody about them in order to vote. The gentlemen on that side seem to vote every time, with practical unanimity, "aye" in support of such a measure as this, and on this side we frequently vote "no," because we do not know anything about it.

It is a safe vote always, as I have learned by my long associations here with Republican Members of this House, if the House has not had the opportunity to read and study and be informed concerning a measure, to vote "no" on any Republican measure. Therefore, were it not for the assurance of the gentleman from Virginia [Mr. HAY]—for whom I have the very greatest regard, and whom, I may say, I hope will never be obsolete, and that he will come to Congress as often as he wants to, and who adorns the Committee on Military Affairs—I would vote against this. But I must take his word for it, and with all of my opposition to the methods of the majority in this House, Mr. Speaker, I must vote for the disposition of the obsolete guns in this bill. Why rush bills through the House without proper consideration? Why pass the bill relating to useless arms and refuse to pass the bill offered by my colleague [Mr. HEFLIN] to stop employees or statisticians from divulging prematurely, for benefit of the gamblers, the cotton reports of the Agricultural Department?

Mr. HAY. Mr. Speaker, I yield two minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, just a few words. This bill comes from the Committee on Military Affairs with a unanimous report, and so far as I know there is no objection to it. I trust it will pass unanimously. I do not care to make an invidious comparison between the brass cannon or the obsolete cannon or the human CANNON.

The SPEAKER pro tempore. The question is, Shall the rules be suspended and the Senate amendments agreed to?

Mr. HAY. Mr. Speaker, I desire to print as a part of my remarks the report on this bill, and ask unanimous consent to do so.

The SPEAKER pro tempore. Without objection, the report may be printed as a part of the gentleman's remarks.

There was no objection.

The report is as follows:

Report No. 673, to accompany H. R. 21410.

The Committee on Military Affairs, to which was referred the bill (H. R. 21410) granting condemned ordnance to certain institutions, reports the same to the Senate favorably and recommends that it be passed, amended as follows:

After line 3, on page 6, add the following:

"SEC. 13. That the various cannon and other articles of ordnance property furnished under the foregoing provisions of this act shall not be required to be accounted for to the Chief of Ordnance.

"SEC. 14. That the Chief of Ordnance is hereby authorized to sell, without advertisement, to patriotic organizations, for military purposes, surplus obsolete small arms and their equipments and ammunition, at such prices as he may deem reasonable and just: *Provided*, That hereafter obsolete small arms and their equipment and ammunition shall not be disposed of to such organizations except as provided for in this act."

The legislation granting condemned cannon referred to in sections 1, 2, 3, 4, and 5 of the within bill has heretofore been remarked upon by the War Department, as will be seen in the various House reports upon the individual cases contained in this omnibus ordnance bill. That referred to in sections 6 and 7 has not been reported upon. The same statement can be made in regard to all of the sections, however, that the guns called for are on hand in the War Department, are obsolete, and are useful to the Department only as old material, for which their value is about 12 cents per pound. The bronze guns on hand

are of three general classes, namely, 12-pounder heavy, 12-pounder light, and 6-pounder, weighing, respectively, about 1,750 pounds, about 1,200 pounds, and about 880 pounds each. In some cases the sections of the bill call for guns of a particular class; in others they do not. If the lightest gun should be given in all of the cases in which the class is not specified the total weight of those called for by the bill would be about 21,000 pounds, corresponding to a value of about \$2,520; if light 12-pounders should be given in all such unspecified cases the total weight would be about 36,000 pounds, corresponding to a value of about \$4,320. The guns have no special historical value, and their donation is merely a question of giving away material of the money value mentioned.

The Department has also remarked upon the legislation contained in section 9 and upon the principle of that contained in section 12, to the following effect: At the low prices secured for these obsolete arms and equipments, it would, in the opinion of the Department, be more advantageous for the Government in its general policy of encouragement of military instruction and drill of youth, to issue the arms to institutions other than those mentioned in the laws now authorizing such issues than to sell these arms, equipments, etc.; provided that these institutions could be regularly inspected by army officers, as are the institutions to which such issues may now be lawfully made, in order to insure that the Government is obtaining a proper return for the use of the property. In view, however, of the present lack of officers available for the purpose, such inspections would probably not be practicable.

The Department has not remarked upon legislation such as that contained in sections 8, 10, and 11. The organizations mentioned in these sections probably desire the guns for parade purposes, and there are a large number of such organizations in the country who would probably desire similar donations to such an extent as to make a drain of which it would be difficult to estimate the magnitude upon the supply of obsolete guns which the Government now either sells for a considerable aggregate amount or issues to institutions of certain classes. The Department now sells obsolete Springfield rifles with bayonets at as low a price as \$2 for each rifle, and sells gun slings and cartridge belts for 20 cents each. In consideration of the easy possibility of thus obtaining these arms, and of the great demand for them which would probably result if the practice were inaugurated of donating them to organizations whose use of them would not be such as to promote military training of the youth of the country, neither the Department nor your committee favors legislation making such donations, which, although unimportant in the few cases within mentioned, would, as instances of a policy, deprive the Government of a source of considerable income. Hence the amendment proposed by section 14 of the bill as reported.

The SPEAKER pro tempore. The question is on suspending the rules and agreeing to the Senate amendments.

Mr. HAY. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PAYNE. Mr. Speaker, I make the point that no quorum is present.

The SPEAKER pro tempore. The gentleman from New York makes the point that no quorum is present. Evidently, the point is well taken. The Doorkeeper will close the doors, the Sergeant-at-Arms will bring in absent Members—

Mr. HENRY of Texas. Mr. Speaker, the rule requires the doors shall be closed while there is a call of the House, at least.

The SPEAKER pro tempore. Yes.

Mr. HENRY of Texas. For the comfort of the Members I desire to ask unanimous consent that the rule requiring the doors be closed be dispensed with during this roll call and other roll calls. It is not done on the Senate side, and it is not done anywhere else under the call of the House. This room is so hot while the doors are closed that I think we can well dispense with the rule, and I ask unanimous consent that it be suspended.

Mr. WILSON of Illinois. Will the gentleman allow a question?

Mr. HENRY of Texas. Yes.

Mr. WILSON of Illinois. Would it not be better to dispense with the roll call?

Mr. HENRY of Texas. If I had it in my power it might be that it would, but I have not the power.

Mr. PAYNE. Sufficient doors are left open to give us ventilation. I object.

The SPEAKER pro tempore. The Sergeant-at-Arms will bring in absent Members. Those in favor of suspending the rules and agreeing to the Senate amendments will, as their names are called, answer "yea;" those opposed will answer "nay;" those present and not voting will answer "present;" and the Clerk will call the roll.

During the roll call:

Mr. HENRY of Texas. Mr. Speaker, I make the point that all doors ought to be closed, and insist on the rules being enforced.

The SPEAKER pro tempore. The Chair has directed that all doors be closed.

Mr. HENRY of Texas. I see a number of them open here. I insist they ought to be closed.

Mr. PAYNE. Regular order, Mr. Speaker.

Mr. WILSON of Illinois. Regular order!

The SPEAKER pro tempore. The rules have been complied with, and the Clerk will continue.

The Clerk proceeded with the calling of the roll.

The question was taken, and there were—yeas 238, nays 5, answered "present" 13, not voting 131, as follows:

YEAS—238.

Acheson	Diekema	Henry, Conn.	Nye
Adair	Douglas	Henry, Tex.	O'Connell
Adamson	Draper	Hepburn	Olcott
Alken	Driscoll	Higgins	Olmsted
Alexander, Mo.	Durey	Hill, Conn.	Oversett
Alexander, N. Y.	Dwight	Hinshaw	Padgett
Andrus	Edwards, Ky.	Hobson	Parker, N. J.
Anthony	Ellis, Oreg.	Houston	Parsons
Bannon	Englebright	Howard	Patterson
Barchfield	Esch	Howell, N. J.	Payne
Barclay	Fairchild	Howell, Utah	Pearre
Bartholdt	Fassett	Howland	Pollard
Bates	Favrot	Hubbard, W. Va.	Pray
Beale, Pa.	Ferris	Humphrey, Wash.	Prince
Beall, Tex.	Finley	James, Ollie M.	Pujo
Bede	Fitzgerald	Johnson, Ky.	Rainey
Bell, Ga.	Floyd	Jones, Va.	Randell, Tex.
Bonyne	Focht	Jones, Wash.	Reeder
Booher	Fordney	Kelfer	Richardson
Bradley	Foss	Kellher	Riordan
Brantley	Foster, Ill.	Kennedy, Iowa	Roberts
Brodhead	Foster, Ind.	Kennedy, Ohio	Robinson
Broussard	Foulkrod	Kimball	Rodenberg
Brumm	Fowler	Kinkaid	Rothermel
Burgess	French	Kipp	Rucker
Burke	Fulton	Knapp	Russell, Mo.
Burleigh	Gaines, Tenn.	Kuistermann	Russell, Tex.
Burleson	Gaines, W. Va.	Lafane	Sabath
Burton, Ohio	Gardner, Mich.	Langley	Saunders
Butler	Gardner, N. J.	Lanning	Scott
Byrd	Garner	Lennan	Slayden
Calder	Garrett	Lindbergh	Smith, Cal.
Calderhead	Gilhams	Lindsay	Smith, Mich.
Campbell	Gill	Lloyd	Smith, Mo.
Candler	Gillett	Longworth	Snapp
Capron	Glass	Loudenslager	Stafford
Cary	Godwin	Lovering	Steenerson
Caulfield	Goldfogle	Lowden	Stephens, Tex.
Chaney	Gordon	McCall	Sterling
Chapman	Goulden	McCreary	Stevens, Minn.
Clayton	Graft	McDermott	Sulzer
Cockran	Graham	McGavin	Tawney
Cocks, N. Y.	Granger	McHenry	Taylor, Ohio
Cook, Colo.	Greene	McKinlay, Cal.	Thomas, N. C.
Cooper, Pa.	Hackett	McKinley, Ill.	Tirrell
Cooper, Tex.	Hackney	McKinney	Tou Velle
Cooper, Wis.	Haggott	McLachlan, Cal.	Underwood
Coudrey	Hale	McLain	Volstead
Cox, Ind.	Hall	McLaughlin, Mich.	Vreeland
Craig	Hamilton, Iowa	Macon	Waldo
Crumppacker	Hamilton, Mich.	Malby	Wanger
Currier	Hammond	Maynard	Washburn
Cushman	Hardy	Moon, Tenn.	Wheeler
Dalzell	Haskins	Moore, Pa.	Williams
Darragh	Haugen	Moore, Tex.	Wilson, Pa.
Davenport	Hawley	Murdoch	Wood
Davis, Minn.	Hay	Needham	Woodyard
Dawson	Hayes	Nelson	Young
De Armond	Heflin	Nicholls	
Denby	Helm	Norris	

NAYS—5.

Clark, Mo.	Pou	Rauch	Webb
Hamlin			

ANSWERED "PRESENT"—13.

Bennet, N. Y.	Humphreys, Miss.	Sheppard	Watkins
Brundidge	Lever	Sims	
Dixon	Madden	Stanley	
Flood	Mann	Talbot	

NOT VOTING—131.

Allen	Fornes	Lamb	Ransdell, La.
Ames	Foster, Vt.	Landis	Reld
Ansberry	Fuller	Lassiter	Reynolds
Ashbrook	Gardner, Mass.	Law	Rhinock
Bartlett, Ga.	Gillespie	Lawrence	Ryan
Bartlett, Nev.	Goebel	Leake	Shackleford
Bennett, Ky.	Gregg	Lee	Sherley
Bingham	Griggs	Legare	Sherman
Birdsall	Gronna	Lewis	Sherwood
Boutell	Hamill	Lilly	Slomp
Bowers	Harding	Littlefield	Small
Boyd	Hardwick	Livingston	Smith, Iowa
Brownlow	Harrison	Lorimer	Smith, Tex.
Burnett	Hill, Miss.	Loud	Southwick
Burton, Del.	Hitchcock	McGuire	Sparkman
Caldwell	Holliday	McMillan	Sperry
Carlin	Hubbard, Iowa	McMorran	Splight
Carter	Huff	Madison	Sturgiss
Clark, Fla.	Hughes, N. J.	Marshall	Sulloway
Cole	Hughes, W. Va.	Miller	Taylor, Ala.
Conner	Hull, Iowa	Mondell	Thistlewood
Cook, Pa.	Hull, Tenn.	Moon, Pa.	Thomas, Ohio
Cousins	Jackson	Morse	Townsend
Cravens	James, Addison D.	Mouser	Wallace
Crawford	Jenkins	Mudd	Watson
Davey, La.	Johnson, S. C.	Murphy	Weeks
Davidson	Kahn	Page	Weems
Dawes	Kitchin, Claude	Parker, S. Dak.	Weisse
Denver	Kitchin, Wm. W.	Perkins	Wiley
Dunwell	Knopf	Peters	Willlett
Edwards, Ga.	Knowland	Porter	Wilson, Ill.
Ellerbe	Lamar, Fla.	Powers	Wolf
Ellis, Mo.	Lamar, Mo.	Pratt	

The following additional pairs were announced:

Until further notice:

Mr. BENNETT of Kentucky with Mr. ANSBERRY.

Mr. COLE with Mr. ASHBROOK.

Mr. DAVIDSON with Mr. BARTLETT of Nevada.
 Mr. ELLIS of Missouri with Mr. POWERS.
 Mr. FOSTER of Vermont with Mr. BURNETT.
 Mr. HOLLIDAY with Mr. CARLIN.
 Mr. KAHN with Mr. CARTER.
 Mr. LAW with Mr. ELLERBE.
 Mr. LAWRENCE with Mr. GILLESPIE.
 Mr. McMILLAN with Mr. GREGG.
 Mr. McMOHRAN with Mr. HULL of Tennessee.
 Mr. MONDELL with Mr. HITCHCOCK.
 Mr. PERKINS with Mr. LEE.
 Mr. REYNOLDS with Mr. PAGE.
 Mr. SHERMAN with Mr. SHERLEY.
 Mr. SMITH of Iowa with Mr. SMALL.
 Mr. THISTLEWOOD with Mr. SPIGHT.

The SPEAKER. On this question the yeas are 238, the nays 5, present 13—a quorum. The Doorkeeper will open the doors. The yeas have it, and the motion to suspend the rules and concur in the Senate amendments prevails.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 186. Joint resolution relating to the assignment of space in the House Office Building.

The message also announced that the Senate had passed without amendment the following House concurrent resolution:

House concurrent resolution 41.

Resolved by the House of Representatives (the Senate concurring), That there be printed and bound 50,000 copies of the proceedings of the conference of the governors of the States and Territories, called by the President of the United States, to be held May 13, 14, and 15, 1908, to consider measures for the conservation of the country's natural resources, of which 14,000 copies shall be for the use of the Senate, 26,000 copies for the use of the House of Representatives, and 10,000 copies for distribution by the President of the United States.

EMERGENCY CURRENCY.

Mr. VREELAND. Mr. Speaker, I move to suspend the rules and adopt the conference report which I present.

The SPEAKER. The gentleman from New York moves to suspend the rules and agree to the conference report which he presents.

The conference report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 21871) to amend the national banking laws, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: Strike out all of the matter inserted by said Senate amendment and insert in lieu thereof the following:

"That national banking associations, each having an unimpaired capital and a surplus of not less than 20 per cent, not less than 10 in number, having an aggregate capital and surplus of at least \$5,000,000, may form voluntary associations to be designated as national currency associations. The banks uniting to form such association shall, by their presidents or vice-presidents, acting under authority from the board of directors, make and file with the Secretary of the Treasury a certificate setting forth the names of the banks composing the association, the principal place of business of the association, and the name of the association, which name shall be subject to the approval of the Secretary of the Treasury. Upon the filing of such certificate the associated banks therein named shall become a body corporate, and by the name so designated and approved may sue and be sued and exercise the powers of a body corporate for the purposes hereinafter mentioned: *Provided*, That not more than one such national currency association shall be formed in any city: *Provided further*, That the several members of such national currency association shall be taken, as nearly as conveniently may be, from a territory composed of a State or part of a State, or contiguous parts of one or more States: *And provided further*, That any national bank in such city or territory, having the qualifications herein prescribed for membership in such national currency association, shall, upon its application to and upon the approval of the Secretary of the Treasury, be admitted to membership in a national currency association for that city or territory, and upon such admission shall be deemed and held a part of the body corporate, and as such entitled to all the rights and privileges and subject to all the liabilities of an original member: *And provided further*, That each national currency association shall be composed exclusively of banks not members of any other national currency association.

"The dissolution, voluntary or otherwise, of any bank in such

association shall not affect the corporate existence of the association unless there shall then remain less than the minimum number of ten banks: *Provided, however*, That the reduction of the number of said banks below the minimum of ten shall not affect the existence of the corporation with respect to the assertion of all rights in favor of or against such association. The affairs of the association shall be managed by a board consisting of one representative from each bank. By-laws for the government of the association shall be made by the board, subject to the approval of the Secretary of the Treasury. A president, vice-president, secretary, treasurer, and an executive committee of not less than five members shall be elected by the board. The powers of such board, except in the election of officers and making of by-laws, may be exercised through its executive committee.

"The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation any securities, including commercial paper, held by a national banking association. For the purpose of obtaining such additional circulation, any bank belonging to any national currency association, having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than forty per centum of its capital stock, and which has its capital unimpaired and a surplus of not less than twenty per centum, may deposit with and transfer to the association, in trust for the United States, for the purpose hereinafter provided, such of the securities above mentioned as may be satisfactory to the board of the association. The officers of the association may thereupon, in behalf of such bank, make application to the Comptroller of the Currency for an issue of additional circulating notes to an amount not exceeding seventy-five per centum of the cash value of the securities or commercial paper so deposited. The Comptroller of the Currency shall immediately transmit such application to the Secretary of the Treasury with such recommendation as he thinks proper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and if he be satisfied with the character and value of the securities proposed and that a lien in favor of the United States on the securities so deposited and on the assets of the banks composing the association will be amply sufficient for the protection of the United States, he may direct an issue of additional circulating notes to the association, on behalf of such bank, to an amount in his discretion, not, however, exceeding seventy-five per centum of the cash value of the securities so deposited: *Provided*, That upon the deposit of any of the State, city, town, county, or other municipal bonds, of a character described in section 3 of this act, circulating notes may be issued to the extent of not exceeding ninety per centum of the market value of such bonds so deposited: *And provided further*, That no national banking association shall be authorized in any event to issue circulating notes based on commercial paper in excess of thirty per centum of its unimpaired capital and surplus. The term "commercial paper" shall be held to include only notes representing actual commercial transactions, which when accepted by the association shall bear the names of at least two responsible parties and have not exceeding four months to run.

"The banks and the assets of all banks belonging to the association shall be jointly and severally liable to the United States for the redemption of such additional circulation; and to secure such liability the lien created by section 5230 of the Revised Statutes shall extend to and cover the assets of all banks belonging to the association, and to the securities deposited by the banks with the association pursuant to the provisions of this act; but as between the several banks composing such association each bank shall be liable only in the proportion that its capital and surplus bears to the aggregate capital and surplus of all such banks. The association may, at any time, require of any of its constituent banks a deposit of additional securities or commercial paper, or an exchange of the securities already on deposit, to secure such additional circulation; and in case of the failure of such bank to make such deposit or exchange the association may, after ten days' notice to the bank, sell the securities and paper already in its hands at public sale, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of such additional circulation. If such fund be insufficient for that purpose the association may recover from the bank the amount of the deficiency by suit in the circuit court of the United States, and shall have the benefit of the lien hereinbefore provided for in favor of the United States upon the assets of such bank. The association or the Secretary of the

Treasury may permit or require the withdrawal of any such securities or commercial paper and the substitution of other securities or commercial paper of equal value therefor.

"Sec. 2. That whenever any bank belonging to a national currency association shall fail to preserve or make good its redemption fund in the Treasury of the United States, required by section 3 of the act of June 20, 1874, chapter 343, and the provisions of this act, the Treasurer of the United States shall notify such national currency association to make good such redemption fund, and upon the failure of such national currency association to make good such fund, the Treasurer of the United States may, in his discretion, apply so much of the redemption fund belonging to the other banks composing such national currency association as may be necessary for that purpose; and such national currency association may, after five days' notice to such bank, proceed to sell at public sale the securities deposited by such bank with the association pursuant to the provisions of section 1 of this act, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of the additional circulation taken out by such bank under this act.

"Sec. 3. That any national banking association which has circulating notes outstanding, secured by the deposit of United States bonds to an amount of not less than forty per cent of its capital stock, and which has a surplus of not less than twenty per cent, may make application to the Comptroller of the Currency for authority to issue additional circulating notes to be secured by the deposit of bonds other than bonds of the United States. The Comptroller of the Currency shall transmit immediately the application, with his recommendation, to the Secretary of the Treasury who shall, if in his judgment business conditions in the locality demand additional circulation, approve the same, and shall determine the time of issue and fix the amount, within the limitations herein imposed, of the additional circulating notes to be issued. Whenever after receiving notice of such approval any such association shall deposit with the Treasurer or any assistant treasurer of the United States such of the bonds described in this section as shall be approved in character and amount by the Treasurer of the United States and the Secretary of the Treasury, it shall be entitled to receive, upon the order of the Comptroller of the Currency, circulating notes in blank, registered and countersigned as provided by law, not exceeding in amount ninety per cent of the market value, but not in excess of the par value of any bonds so deposited, such market value to be ascertained and determined under the direction of the Secretary of the Treasury.

"The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept as security for the additional circulating notes provided for in this section, bonds or other interest-bearing obligations of any State of the United States, or any legally authorized bonds issued by any city, town, county, or other legally constituted municipality or district in the United States which has been in existence for a period of ten years, and which for a period of ten years previous to such deposit has not defaulted in the payment of any part of either principal or interest of any funded debt authorized to be contracted by it, and whose net funded indebtedness does not exceed ten per centum of the valuation of its taxable property, to be ascertained by the last preceding valuation of property for the assessment of taxes. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept, for the purposes of this section, securities herein enumerated in such proportions as he may from time to time determine, and he may with such approval at any time require the deposit of additional securities, or require any association to change the character of the securities already on deposit.

"Sec. 4. That the legal title of all bonds, whether coupon or registered, deposited to secure circulating notes issued in accordance with the terms of section 3 of this act shall be transferred to the Treasurer of the United States in trust for the association depositing them, under regulations to be prescribed by the Secretary of the Treasury. A receipt shall be given to the association by the Treasurer or any assistant treasurer of the United States, stating that such bond is held in trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency. The provisions of sections 5163, 5164, 5165, 5166, and 5167, and sections 5224 to 5234, inclusive, of the Revised Statutes respecting United States bonds deposited to secure circulating notes shall, except as herein

modified, be applicable to all bonds deposited under the terms of section 3 of this act.

"Sec. 5. That the additional circulating notes issued under this act shall be used, held, and treated in the same way as circulating notes of national banking associations heretofore issued and secured by a deposit of United States bonds and shall be subject to all the provisions of law affecting such notes except as herein expressly modified: *Provided*, That the total amount of circulating notes outstanding of any national banking association, including notes secured by United States bonds as now provided by law and notes secured otherwise than by deposit of such bonds, shall not at any time exceed the amount of its unimpaired capital and surplus: *And provided further*, That there shall not be outstanding at any time circulating notes issued under the provisions of this act to an amount of more than five hundred millions of dollars.

"Sec. 6. That whenever and so long as any national banking association has outstanding any of the additional circulating notes authorized to be issued by the provisions of this act it shall keep on deposit in the Treasury of the United States, in addition to the redemption fund required by section 3 of the act of June 20, 1874, an additional sum equal to five per cent of such additional circulation at any time outstanding, such additional five per cent to be treated, held, and used in all respects in the same manner as the original redemption fund provided for by said section 3 of the act of June 20, 1874.

"Sec. 7. In order that the distribution of notes to be issued under the provisions of this act shall be made as equitable as practicable between the various sections of the country, the Secretary of the Treasury shall not approve applications from associations in any State in excess of the amount to which such State would be entitled of the additional notes herein authorized on the basis of the proportion which the unimpaired capital and surplus of the national banking associations in such State bears to the total amount of unimpaired capital and surplus of the national banking associations of the United States: *Provided, however*, That in case the applications from associations in any State shall not be equal to the amount which the associations of such State would be entitled to under this method of distribution, the Secretary of the Treasury may, in his discretion, to meet an emergency, assign the amount not thus applied for to any applying association or associations in States in the same section of the country.

"Sec. 8. That it shall be the duty of the Secretary of the Treasury to obtain information with reference to the value and character of the securities authorized to be accepted under the provisions of this act, and he shall from time to time furnish information to national banking associations as to such securities as would be acceptable under the provisions of this act.

"Sec. 9. That section 5214 of the Revised Statutes, as amended, be further amended to read as follows:

"Sec. 5214. National banking associations having on deposit bonds of the United States, bearing interest at the rate of two per cent per annum, including the bonds issued for the construction of the Panama Canal, under the provisions of section 8 of "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," approved June 28, 1902, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per cent each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds; and such associations having on deposit bonds of the United States bearing interest at a rate higher than two per cent per annum shall pay a tax of one-half of one per cent each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds. National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first month a tax at the rate of five per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax of one per cent per annum for each month until a tax of ten per cent per annum is reached, and thereafter such tax of ten per cent per annum upon the average amount of such notes. Every national banking association having outstanding circulating notes secured by a deposit of other securities than United States bonds shall make monthly returns, under oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average monthly amount of its notes so secured in circulation; and it shall be the duty of the Comptroller of the Currency to cause such reports of notes in circulation to be verified by examination of the bank's records. The taxes received on circulating notes secured otherwise than by bonds of the United

States shall be paid into the Division of Redemption of the Treasury and credited and added to the reserve fund held for the redemption of United States and other notes.

"SEC. 10. That section 9 of the act approved July 12, 1882, as amended by the act approved March 4, 1907, be further amended to read as follows:

"SEC. 9. That any national banking association desiring to withdraw its circulating notes, secured by deposit of United States bonds in the manner provided in section 4 of the act approved June 20, 1874, is hereby authorized for that purpose to deposit lawful money with the Treasurer of the United States and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury, to withdraw a proportionate amount of bonds held as security for its circulating notes in the order of such deposits: *Provided*, That not more than nine millions of dollars of lawful money shall be so deposited during any calendar month for this purpose.

"Any national banking association desiring to withdraw any of its circulating notes, secured by the deposit of securities other than bonds of the United States, may make such withdrawal at any time in like manner and effect by the deposit of lawful money or national bank notes with the Treasurer of the United States, and upon such deposit a proportionate share of the securities so deposited may be withdrawn: *Provided*, That the deposits under this section to retire notes secured by the deposit of securities other than bonds of the United States shall not be covered into the Treasury, as required by section 6 of an act entitled "An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes," approved July 14, 1890, but shall be retained in the Treasury for the purpose of redeeming the notes of the bank making such deposit."

"SEC. 11. That section 5172 of the Revised Statutes be, and the same is hereby, amended, to read as follows:

"SEC. 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denomination of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, one thousand dollars, and ten thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall as soon as practicable cause to be prepared circulating notes in blank, registered and countersigned, as provided by law, to an amount equal to fifty per cent of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the subtreasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency, for their delivery as provided by law: *Provided*, That the Comptroller of the Currency may issue national bank notes of the present form until plates can be prepared and circulating notes issued as above provided: *Provided, however*, That in no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this act."

"SEC. 12. That circulating notes of national banking associations, when presented to the Treasury for redemption, as provided in section 3 of the act approved June 20, 1874, shall be deemed in lawful money of the United States.

"SEC. 13. That all acts and orders of the Comptroller of the Currency and the Treasurer of the United States authorized by this act shall have the approval of the Secretary of the Treasury, who shall have power, also, to make any such rules and regulations and exercise such control over the organization and management of national currency associations as may be necessary to carry out the purposes of this act.

"SEC. 14. That the provisions of section 5191 of the Revised Statutes, with reference to the reserves of national banking associations, shall not apply to deposits of public moneys by the United States in designated depositaries.

"SEC. 15. That all national banking associations designated as regular depositaries of public money shall pay upon all special and additional deposits made by the Secretary of the Treasury in such depositaries, and all such associations design-

nated as temporary depositaries of public money shall pay upon all sums of public money deposited in such associations interest at such rate as the Secretary of the Treasury may prescribe, not less, however, than one per cent per annum upon the average monthly amount of such deposits: *Provided, however*, That nothing contained in this act shall be construed to change or modify the obligation of any association or any of its officers for the safe-keeping of public money: *Provided further*, That the rate of interest charged upon such deposits shall be equal and uniform throughout the United States.

"SEC. 16. That a sum sufficient to carry out the purpose of the preceding sections of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"SEC. 17. That a commission is hereby created, to be called the 'National Monetary Commission,' to be composed of nine members of the Senate, to be appointed by the presiding officer thereof, and nine members of the House of Representatives, to be appointed by the Speaker thereof; and any vacancy on the commission shall be filled in the same manner as the original appointment.

"SEC. 18. That it shall be the duty of this commission to inquire into and report to Congress at the earliest date practicable what changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency, and for this purpose they are authorized to sit during the sessions or recess of Congress, at such times and places as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ a disbursing officer and such secretaries, experts, stenographers, messengers, and other assistants as shall be necessary to carry out the purposes for which said commission was created. The commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary.

"SEC. 19. That a sum sufficient to carry out the purposes of sections 17 and 18 of this act, and to pay the necessary expenses of the commission and its members, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said commission, which audit and order shall be conclusive and binding upon all Departments as to the correctness of the accounts of such commission.

"SEC. 20. That this act shall expire by limitation on the 30th day of June, 1914."

And the Senate agree to the same.

EDWARD B. VREELAND,
THEODORE E. BURTON,
JOHN W. WEEKS,

Managers on the part of the House.

NELSON W. ALDRICH,
W. B. ALLISON,
EUGENE HALE,

Managers on the part of the Senate.

The SPEAKER. Is a second demanded?

Mr. PUJO. Mr. Speaker, I demand a second.

The SPEAKER. A second is ordered, under the rule.

Mr. PUJO. I ask the gentleman from New York, in the interest of the orderly enactment of legislation, that we be allowed an hour on a side, at least, of debate, the gentleman from New York to control one half of the time and the ranking Member on the committee on this side to control the other half of the time. It is known to all Members that the bill just reached the desks about two minutes ago, and there is not a Member, not even the conferees, who have had an opportunity to make themselves familiar in the slightest degree with the provisions of this bill; and I ask the gentleman, in the interest of orderly legislation—

Mr. VREELAND. I want to make a parliamentary inquiry. Does this come out of anybody's time?

The SPEAKER. No; the gentleman made a parliamentary inquiry somewhat extended, but the Chair does not take it out of the time of either gentleman. The gentleman from New York is entitled to twenty minutes and the gentleman from Louisiana is entitled to twenty minutes.

Mr. PUJO. Now, Mr. Speaker, I ask unanimous consent of this House that debate on the conference report upon what is known as the "national currency" legislation, proposed a few moments ago, be extended so as to allow one hour for each side, the time to be controlled by the gentleman from New York and the ranking Member on this side.

The SPEAKER. Is there objection?

Mr. VREELAND. I regret to say that I shall have to object, for the reason— [Cries of "No, no!"]

The SPEAKER. Objection is heard.

Mr. VREELAND. I want to say in explanation that a great many gentlemen have told me— [Cries of "Regular order!" on the Democratic side.]

The SPEAKER. The gentleman is in regular order. The gentleman has twenty minutes.

Mr. CLARK of Missouri. Are you taking it out of his time?

The SPEAKER. The Chair is keeping the time.

Mr. COCKRAN. Would it be in order to ask an extension to half an hour?

The SPEAKER. The gentleman from New York asks unanimous consent for an extension of the time to thirty minutes on a side instead of twenty minutes on a side.

Mr. VREELAND. I consent to that.

The SPEAKER. The Chair hears no objection. The gentleman from New York is entitled to thirty minutes and the gentleman from Louisiana is entitled to thirty minutes.

Mr. VREELAND. Mr. Speaker, I regret that I felt obliged to object to an extension of time for debate upon this bill, but quite a number of gentlemen on this side who wish to get away on afternoon trains have informed me that if the extension is granted they will be unable to remain until a vote is taken.

Mr. Speaker, the motion which I have made to agree to the conference report means that the Republican conferees on the part of this Republican House and the conferees on the part of the Republican Senate have agreed upon a financial bill, have brought it in here with a unanimous report, and hope that it will be adopted by this Republican House.

Mr. Speaker, we believe that the Republican party has not ceased to be a great constructive party. We believe that it is still the great business party of the country. We believe that this conference report now before us is evidence that the Republican party is still a great cohesive body, with power to get together and place upon the statute books legislation which will prevent the recurrence of such a disaster as befell the American people last October.

Mr. Speaker, the concessions that have been made between the House and the Senate in the preparation of this conference report are honorable concessions, such as might properly be made. The financial bill which we have brought in here today is the bill passed by this House with amendments to which the House conferees have consented. We believe that it is a good bill and one which this House may place upon the statute books, satisfied that it will carry out the purpose for which it is enacted. The bill which we have brought in here with amendments is substantially the House bill in all its essential features that was adopted by the Republican conference, drawn by a committee appointed by that conference, and passed through the House of Representatives.

AMENDMENTS TO HOUSE BILL.

I desire, first, to refer to the amendments which have been made to the House bill. We have added to our bill a portion of the Senate bill. I suppose the minority upon this floor will ring all the changes and use their keenest sarcasm and invective in charging that we have adopted the Aldrich bill. But, Mr. Speaker, although the leader of the minority may run his dagger through the cloak of the Aldrich bill he will find that the body has been removed. What were the objections to the Aldrich bill? What were the criticisms made upon this side of the Chamber by Republican Members of this House when the Aldrich bill came over from the Senate? We all understand the objections which were made to section 8 of that bill, changing the law applying to the reserves of banks, and section 11, with its restrictions upon the directorate and officers of banks. There are many who believe that these provisions might be changed so that they would be useful as a part of our banking laws. But it was thought that they might better be left to be considered by the commission provided in this bill. But there was further objection to the Senate bill as it came to the House by many upon this side of the Chamber. What is the purpose of this law? It is to provide a great reservoir of currency, to be drawn upon only in case of need. It is not intended to provide for the ordinary needs of business. It is to provide against a currency famine such as we had last October. It is to give a feeling of confidence to the bankers of the country and to the depositors of the banks. It is to assure them against fright and panic which, for some unexpected reason, may take possession of the people. It is to provide that \$500,000,000 shall be printed and ready for use, held as a reserve, to come out only with the consent of the Secretary of the Treasury and upon his certificate that it is needed.

This emergency money is to be identical with the money now in use. It is to be guaranteed by the Government and re-

deemed by the Government as is the present bank-note circulation. The Senate bill provided that to secure the Government for these bank notes, State, county, municipal, and district bonds might be deposited with the Secretary of the Treasury and notes therefor be drawn to the amount of 90 per cent of their cash value and not to exceed 90 per cent of their par value. But the bankers of the United States immediately informed us that they do not carry this class of bonds as permanent investments. They informed us that in order to be ready to avail themselves of the provisions of the Senate bill they would be obliged to buy \$400,000,000 or \$450,000,000 of this class of bonds in addition to that which they then held. The figures of the Treasury Department showed that their contention was true. Not to exceed \$60,000,000 of bonds, such as required by the Senate bill, are now owned by all the national banks of the United States. Especially those of the West and South informed us that they could not afford to divert this great amount of money from the ordinary channels of commercial business and tie it up in these bonds to keep for a contingency which might never happen, and which, at the best, would not happen oftener than once in ten or fifteen years. The bankers informed us that if they withdrew this great sum of money and invested it in bonds they would be unable to furnish money to move the crops of the country next fall.

They declared, almost unanimously, that they would not purchase these bonds and keep them on hand for such a contingency. If these statements of fact are true it would mean, then, that in passing the Senate bill alone we would be providing a remedy which could not be used in time of need—that is, the banks would not hold the bonds upon which they could take out this great additional amount of circulation. These were the objections, and they were strong and legitimate objections, to the Senate bill standing alone as a basis for emergency circulation. The House, therefore, originated the bill which passed the House of Representatives last week. The House bill provided that ten or more banks with a capital and surplus of at least \$5,000,000 might form a voluntary association. The House bill provided that in time of need, with the consent of the Secretary of the Treasury, a bank belonging to one of these associations might present to the association bonds of any description or commercial paper acceptable to the association. If the officers of the association were satisfied with the security given to them in behalf of such bank, the association could make application to the Secretary of the Treasury for the issue of additional bank notes. Every safeguard was thrown around the transaction to make it safe, not only to the Government but to the association itself. The association acts as the agent of the Government. The association holds the securities deposited, in trust for the Government. If the association makes a mistake as to the value of securities which it accepts, all of the assets of all of the banks belonging to the association are made jointly and severally liable to the Government for any loss.

No fair-minded man can examine the provisions of this act and not admit that the security and protection to the Government are absolute and unquestionable. Any fair-minded man must admit that the security given to the Government for guaranteeing this emergency circulation is much greater than it now receives for guaranteeing the ordinary bank-note circulation in daily use. The Government has at least six or seven dollars in security for every dollar which it stands behind. These associations may be formed anywhere from the Pacific to the Atlantic ocean and from Maine to the Gulf of Mexico. The banks belonging to these associations do not have to buy some particular kind of bonds. Any securities, bonds or commercial paper, which a bank may legally own and which is acceptable to the officers of the association which stands good for the notes issued, may be deposited for this emergency circulation. That was the substance of the bill passed by the House. To that bill we have added the provisions of the Senate bill which permits any bank, in time of emergency, with the consent of the Secretary of the Treasury, to deposit public securities—that is, State, county, municipal, and district bonds—with the Treasury Department and circulation up to 90 per cent may be taken out against it. But it is evident that when this provision is incorporated in the House bill all of the criticism which would lie against the Senate bill standing alone falls to the ground.

It can no longer be charged that banks are compelled to buy bonds. It can no longer be charged, therefore, that the bill is in the interest of those who have bonds to sell. It can no longer be charged that the measure will bring no relief in time of need. Banks which do not have bonds are given every facility for obtaining circulation upon securities which they do own. Banks which do happen to have this class of public bonds may take out circulation without belonging to an associa-

tion. Banks which join these clearing-house associations and which own these public bonds may obtain circulation to the amount of 90 per cent as well through the association as if they presented them directly to the Treasury Department. The parts of the Senate bill which we have incorporated in the House bill are entirely free from the criticisms which were made against the Senate bill as it came to the House.

RESERVE.

Mr. Speaker, we have changed that portion of the House bill which provided that the same reserve should be kept against these emergency notes as is now provided by law against deposits. In my judgment, the bill is very much improved by the change. We provide in this bill that banks taking out emergency circulation shall keep a redemption fund of 10 per cent with the Treasurer of the United States to redeem these notes. This is double the amount required for the present bank-note circulation. It will also be remembered that banks do not carry reserves against existing circulation. I have always believed that the reserve feature of the House bill could not be justified. If these bank notes were to be redeemed over the counters of banks, as they are redeemed under the Canadian system, then a reserve should be kept against them and, in my opinion, such reserve should be a little larger than the ordinary reserve carried against deposits. But these bank notes are never presented at the counter of the bank which issues them and payment asked.

I have put the question to more than a hundred cashiers of banks if they ever knew a single instance in which a note issued by a bank was laid down on the counter and payment demanded. I never received a reply in the affirmative. These notes are presented at the Treasury for redemption and there only. Therefore, any reserve kept by the banks for the payment of these notes should be kept at the point of payment, namely, with the Treasurer of the United States. Another reason for requiring reserves of banks against money is that the depositor selects the time when payment shall be made and not the bank. The bank must pay whenever the depositor demands his money, but in the payment of these notes the bank determines when payment shall be made. If a bank takes out this emergency circulation it stays out so long as the bank is willing to pay the increasing tax against it. When conditions are so improved and money becomes easy enough that the bank desires to stop the tax and retire the notes it sends money to the Treasurer of the United States for this purpose. Therefore, as the bank determines the time of payment it need not keep reserves on hand for unexpected demands which might be made. If the full amount of \$500,000,000 of emergency circulation should ever be taken out \$50,000,000 would have to be deposited by banks with the Treasurer of the United States in advance, so that the United States would not have to advance money in redeeming these notes. In my judgment, this section is an improvement upon the bill passed by the House.

TAXATION.

The rate of taxation against these notes is substantially the same as the House bill. The House bill required that the tax commence at 4 per cent. With the reserve which they were required to keep this would amount to 5½ per cent. In this report we require that the tax shall commence at 5 per cent and increase at the rate of 1 per cent a month until it reaches 10 per cent, and it remains at that limit so long as the circulation shall stay out. We provide some limitations about commercial paper. There must be at least two names upon it. The paper must not run more than four months. It must be paper which represents actual commercial transactions. We have retained the provision that there must be, first, 40 per cent of United States bond-secured circulation taken out by any bank before it can take out emergency circulation. We provide that not to exceed 30 per cent of the capital and surplus of banks shall be issued against commercial paper alone. The effect of that would be, taking the whole country together, that \$450,000,000, in round numbers, could be issued through these clearing-house associations, through the banks of the United States, against commercial paper alone. Above that figure any kind of securities could be used for the balance of emergency circulation up to the limit. We retain the provision that every State shall be entitled to the money apportioned to it of this \$500,000,000 circulation. That means that New York or Chicago could not take out the circulation which belongs to Maine or Texas or California.

WHAT IS ASSET CURRENCY?

The singular objection is made to this bill by some gentlemen that it is asset currency. They certainly have not in their minds a clear definition of what asset currency means. What

is asset or credit currency? It is such a system as prevails, for example, in Canada, where bank notes are issued by the banks, are not guaranteed by the Government, and are redeemable only by the bank which issues them. All of the property—the assets of the bank—remain in its possession. If the bank should close its doors the holders of the notes issued by it would become creditors of the bank. The notes would cease to be money. They would become liquidated claims against the bank. The holder of these notes would be either a general creditor or a preferred creditor, as the law might provide. The holder of these notes would keep them until the affairs of the bank were liquidated and payment could be made. That is a credit system of currency. Since 1863 the United States has had a secured system of currency. We have had a system whereby the United States guarantees the payment of these notes issued by the banks and takes to itself security for its protection.

Under the present law every bank taking out circulation is required to buy a particular asset; that is, United States bonds. These bonds, a part of the assets of the bank, are then deposited with the United States as security for the guaranty of its notes by the Government. Under this proposed law we are not departing from the secured system of currency. We are not departing from the guaranty of these notes by the United States, but we are enlarging the class of securities which the United States will accept for such guaranty. Under a secured system of currency, such as we provide for in this bill, assets of a bank desiring circulation are taken out of its possession, and out of its control and are passed upon as to value and the quantity of the security by some authority provided by law. The securities are kept in the possession of an agent of the United States in trust for the United States as special security for the notes issued. It will be seen, therefore, that this is not a credit system of currency; that it is no departure from the secured system of currency which we have had for forty years except that we enlarge the class of securities which the Government will take to protect itself. The system is the same. The only question is, whether the United States is getting ample guaranty for its indorsement of these circulating notes. Upon that point I have heard no gentleman make serious question.

RAILROAD BONDS.

It is also suggested, in some quarters, that we are putting railroad bonds back into the bill. Some gentlemen say that the Senate bill originally provided that railroad bonds, with certain limitations, could be made the basis of bank-note circulation. They inquire if we are not putting them back in this bill so that they may be used as a basis for bank-note circulation. The statement that railroad bonds are put back in the bill is misleading and inaccurate. What were the objections to railroad bonds as a basis for circulation which led to their elimination from the Senate bill? Personally, I believe that railroad bonds of the class provided in the Senate bill, at 75 per cent of their cash value and not to exceed 75 per cent of their par value, are a perfectly safe basis for circulation, but many gentlemen considered that there were other objections besides the question of value. They pointed out that railroad bonds are only semipublic in their nature. Railroads and railroad rates are subject to regulation by law. They are, to an extent, under the control of the Government. If \$500,000,000 of emergency circulation should be taken out with railroad bonds as a basis it is claimed that the United States might find itself in a position where it could not properly exercise its control of railroads and exercise its right over the rates or railroads without depreciating the value of the security which it held for guaranteeing these bank notes and might find itself in a position where, if it did exercise such control, it would mean the depreciation of their securities to such an extent as to make a loss for the Government.

It was objected further that it would be selecting out one class of property, only in part of a public nature, and giving it an enhanced value by law. It was contended that such advantages belong only to bonds of the United States or those issued by States or municipalities where all of the people would enjoy the benefits. It was contended that if banks must buy a large amount of railroad bonds in order to avail themselves of the privileges of this law, it would be giving them an undue preference by law over other classes of property. The mere statement of the case shows that none of these objections lies against the use of bonds under this proposed law. It provides no market for bonds of any kind. Banks are not obliged to buy bonds in order to take out circulation under this law. Railroad bonds, under this law, are not put upon a par with public bonds. State and municipal bonds can be used as a basis for circulation either directly or through the association provided for in

this bill at 90 per cent of their par value if the cash value is at or above par. Railroad bonds can be used only through these associations, and are put in the same class with commercial paper and can be accepted at not to exceed 75 per cent of their value. If we should except railroad bonds from the kind of securities owned by banks which may be used through these associations as a basis for circulation we would then be unjustly discriminating against a certain kind of property, and a kind of property which is very largely owned by savings banks and life insurance companies. If gentlemen wish to forbid national banks from owning railroad bonds they should pass a law for that purpose. They certainly would not expect us to discriminate against any kind of securities which national banks may now legally own.

SENATE AND HOUSE BILLS HARMONIZE.

I want to say that the Senate provision harmonizes perfectly with the House provision in this bill. There is no conflict between them whatever. It makes a broader base for this legislation. It gives banks which desire to purchase and hold public bonds the right to take out circulation direct. It gives those who do not wish to buy and hold this class of bonds the right to use the legal securities in their banks through these associations.

WHAT DO WE DO FOR THE DEPOSITORS?

Some gentlemen upon the other side who seem desirous of finding opportunities for criticism ask what we are doing for the depositors in this bill. It seems to me that such gentlemen fail to understand the provisions of this bill or else they do not want to understand them. The whole purpose and object of this bill is for the benefit of depositors. It is to enable banks to pay depositors upon demand. It is to prevent such a suspension of payment as took place throughout the United States last fall when depositors were unable to draw their money. It is a law to enable banks to do their duty by their depositors.

The panic last October was largely a bankers' panic. It started as a local run upon the Knickerbocker Trust Company in New York City, but the bankers throughout the United States became alarmed and all tried to draw their money from New York at a time and, of course, were unable to do so. This resulted in a general suspension of bank payments in cash throughout the United States, and to my mind the most striking feature of the panic was the refusal of the American people, as a whole, to become frightened; although their business was disarranged and largely stopped, they waited with the utmost calmness for business to get back into its accustomed channels. If the law had been strictly followed the Comptroller of the Currency would have closed the banks of the United States which refused to honor the demands of their depositors. Why was it that the Comptroller did not so act, and why was it that public opinion did not compel him to close their doors? It was because the American people knew that nowhere on earth could the banks get additional money, except by the slow process of importing gold, and by the equally slow process of taking out additional circulation based upon Government bonds, which could not be had. The banks, and especially those of New York and Chicago, made the greatest efforts to import gold and to obtain additional circulation. It was the knowledge that these banks were doing everything possible under the law to obtain money to meet the demands made upon them that induced public opinion to acquiesce in this suspension of payment. The purpose of this law is to provide means whereby banks can obtain money under such circumstances.

Under this law we provide that immediately \$500,000,000 can be taken out to pay depositors in case of need. When this law goes into effect public opinion will no longer sanction suspension of payment, although it may be considerable expense and trouble for banks to take out this money. Public opinion would require them to take it out and keep their engagements or close their doors. Some bankers tell us that they will neither join these associations nor buy bonds to avail themselves of the provision of this law in case of trouble; but those bankers greatly mistake the temper of the public mind. They would find that having the legal means provided for them of obtaining money, public opinion would compel the Comptroller of the Currency in case they did not obtain it to close their doors as insolvent institutions.

We are doing more than that for depositors in this bill. We are providing for a commission which shall take up and study not only the currency question, but a revision of our banking laws. We all know that the banking laws need revision. We know that they are weak and defective in many particulars. We know, for example, that the examinations of national banks are not what they should be. We know that they are greatly inferior to the examinations provided by some of the States.

Our examiners are paid according to the number and the size of the banks which they examine. We are putting a direct premium upon the slighting of their work. Along many lines the Comptroller of the Currency is clothed with insufficient power in dealing with national banks in compelling them to obey the letter and spirit of the law. We may confidently expect that the commission appointed under this bill will bring in a revision of our banking laws at the next session of Congress which will make the depositors of money much more safe in national banks and which will largely decrease the opportunity for illegal transactions by the officers of banks.

Mr. Speaker, I reserve the balance of my time.

Mr. PUJO. Mr. Speaker, I will ask the Chair to inform me when I have used three minutes.

This is a composite bill. It incorporates the Aldrich bill and the Vreeland bill, and as presented is a composite measure here. It authorizes the issuance of five hundred millions of our circulating currency, should the bill be passed, to be based upon United States bonds, State bonds, county bonds, municipal bonds, all with a taxing power behind them. So far those are the main features of the Aldrich bill. Each political autonomy is vested with the power to levy a tax to protect the notes should the issuing bank fail to retire them when presented and the bonds deposited as security fail to realize a sufficient sum when disposed of. The other features of the bill are novel, and I am surprised and amazed to witness their adoption for the first time by the Republican party—an asset currency pure and simple, a sub-treasury scheme practically.

I call attention to the language on page 4 of the bill. When uniting banks with a minimum capital of \$5,000,000 form an association, they can have money issued by depositing certain securities with the Treasurer of the United States. Now, what is the character and what is the class of securities required to be deposited? I read, beginning on page 3:

The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of the section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation, any securities, including commercial paper, held by a national banking association.

A warehouse receipt issued for any agricultural product, an elevator receipt for wheat, for corn, for oats, held by a bank can be used for deposit with this association, and in turn with the Secretary of the Treasury, as the basis for circulation.

[Here the hammer fell.]

I will use two minutes more of my time, Mr. Speaker.

The ninety-day draft of a merchant in Kansas City who would ship hay to New York, or a ninety-day draft of a merchant in Kansas City who would ship a carload of mules to Louisiana, drawn by him, accepted by the buyer, and discounted at the bank, becomes commercial paper, with two names on it, a legal subsisting basis for this currency.

I want to congratulate the Republican party, being a sound-money party (purely in a Pickwickian sense), for advocating a scheme like this. Evidently the political emergency must be great, otherwise they would not in a moment, without giving an opportunity to discuss the measure, try to force such a currency upon the American people. I now yield three minutes to the gentleman from Virginia [Mr. GLASS] and reserve the balance of my time. [Applause on the Democratic side.]

Mr. GLASS. Mr. Speaker, the presentation of this conference report here at this time in this way, with all of its attendant circumstances, constitutes a distinctly partisan pretense. Whatever the design, the effect can only be to deceive the country into the belief that something of an effective nature has been accomplished in the direction of a reform in existing currency conditions. The gentleman from New York having charge of this report [Mr. VREELAND] has never undertaken to disguise the fact that he has considered this matter from a partisan standpoint. He has seemed to regard it as of more importance that the Republican majority should be able to boast of having "done something" at this session than to defer action until the right thing can be done at another session, after full consideration and intelligent discussion. Of all the cloud of witnesses before the Committee on Banking and Currency, the gentleman from New York was the only one who ventured to obtrude partisanship into the consideration of the currency question.

SIGNED BY ALL, FAVORED BY NONE.

This report, Mr. Speaker, enjoys the unique distinction of having been signed by all of the Republican conferees, both of the Senate and the House, but not really approved by a single one of them. [Applause on the Democratic side.] There is scarcely one important provision of this composite bill which has not been severely condemned by the Republican leaders of Congress. Those features which appeal to Members of this House have been mercilessly criticised in the other Chamber,

and those which suit the Republican managers of the Senate have been roundly denounced over here. Thus, upon high Republican authority, the conference report embodies a measure which is 50 per cent House infamy and 50 per cent Senate infamy, thereby making the whole of it utterly bad. [Applause on the Democratic side.]

I once heard the late distinguished Senator John J. Ingalls describe *Paradise Lost* as "that matchless epic poem which everybody praises and nobody reads;" and so we have here a currency bill for which every Republican Member will vote, but in the provisions of which not one of them honestly believes. [Applause on the Democratic side.] I might go further and say it is a bill which not one Member on the other side, save the conferees, has read. It is the most extraordinary bill ever presented to the House of Representatives, under circumstances quite as extraordinary as the bill itself. As far as the Vreeland or House bill is concerned, it does not figure in this measure, as I view it; and no Member on that side may vote for this conference report under the false assumption that he is getting something for which the House Republicans have stood. Not a bit of it; for, gentlemen, we have here, in all its essential provisions, the Aldrich currency bill, pure and simple—that "abominable makeshift" which the House Republicans have vowed they would never support. [Applause on the Democratic side.] And yet the distinguished gentleman from Ohio [Mr. BURTON], for whose intellectual integrity and independence of spirit this House has so great admiration, has yielded. "Swearing he would ne'er consent," he, with the rest, "has consented." [Applause on the Democratic side.]

THERE IS NO EMERGENCY.

Mr. Speaker, it may confidently be predicted that there is not a single great bank in America capable of taking care of itself in time of financial disturbance that will be induced to join a currency association as provided by the Vreeland clause of this composite bill for the purpose of getting emergency currency. The country will have to be in an unhappy state, indeed, to cause the formation of such associations. The only part of this bill that will ever be appealed to for relief by the banks of the country will be section 3, which prescribes State, county, and municipal bonds as a basis for so-called emergency issues. And, Mr. Speaker, why should we have an emergency currency? There is no emergency. There is no likelihood of any emergency. A hundred bankers from every section of the country appeared before the Committee on Banking and Currency; and, besides these, many representatives of mercantile and industrial associations, as well as financial experts and text-book writers.

Only one of all these was willing to suggest the possibility of an emergency within the next ten years. Moreover, should a disturbance come next fall, as has been hinted here as an excuse for precipitancy, it has been mathematically demonstrated that, owing to clerical and mechanical requirements, no relief could possibly come from this bill, for the reason that more than twelve months, probably two years, will be required by the Treasury Department to get fully prepared to issue the emergency notes for which it provides. Then why present this crude and ill-digested measure and rush it ruthlessly through the House of Representatives without a moment's time for orderly consideration?

Mr. BURGESS. The emergency is political.

Mr. GLASS. Precisely so. The only emergency is the necessity which party leaders imagine confronts them to "do something," even though it be the wrong thing.

PERMANENT REFORMATION NEEDED.

This bill is utterly wrong in principle, as any bill must be which merely provides an emergency currency. What the country needs is not a makeshift legislative deformity, designed to help out a desperate situation, but a careful revision and a wise reformation of the entire banking and currency system of the United States whereby panics may be prevented, or, if not prevented, under which their violence may be diminished and the evils consequent greatly abated. I shall not soon forget the earnestness and the deliberate vehemence of that great banker of the West, Mr. James B. Forgan, who has spent his life in the study and practical application of banking principles in this country and abroad, when asked by a member of the Banking and Currency Committee if he "believed there was need of emergency currency legislation at this time." "I do not," was the reply; "and I do not think that a condition can ever exist in this country or any other country that will warrant the use or the issue of anything that could bear such an infernal name as 'emergency currency.'"

And yet, Mr. Speaker, that is precisely the sort of bill this is which will presently be put through this House under whip and spur, without adequate consideration, with the least possible opportunity for debate, without being read even by a single

Member of the side which must assume full responsibility for its enactment into law. Why, sir, the Republican conferees themselves are not entirely familiar with the measure; there are some things omitted and some which appear that are inscrutable to gentlemen who have signed this report and asked the House to accept this bill. And if the conferees do not know, how much less do those Members of the House who have been summoned to their seats in such haste as to have scarcely recovered their breath?

SMALL BANKS ENDANGERED.

I have said that no great bank will enter a currency association under the Vreeland clauses of this bill "for the purpose of getting emergency currency." There is, however, a cunning inducement here to strong banks to enter in order to dominate such associations; for the bill practically puts it within the power of three men, constituting a majority of the managing board of a currency association, to strangle the very existence out of the weaker banks and to practically appropriate the assets of the weaker banks. The bill provides that—

The association—

Which means, in the last analysis three members of the managing board—

may, at any time, require of any of its constituent banks a deposit of additional securities or commercial paper * * * to secure circulation; and in case of the failure of such bank to make such deposit, the association may, after ten days' notice to the bank, sell the securities and paper already in its hands.

What would be easier in time of stress than for the managers of currency associations, representing the one or two strong banks, to seize upon an exigency as an excuse to squeeze the weaker banks and, by foreclosure, get possession of their most desirable assets? In this matter of foreclosure three men would be supreme. The managing board is charged with plenary power. There is no appeal from its order and no escape from the craft, the cupidity, or avarice of its members.

THE VREELAND "INQUITIES."

In part, Mr. Speaker, this is the same Vreeland bill which was denounced by high Republican authority at the other end of the Capitol for its inadaptability to practical uses, and yet all its freak provisions remain. It is the same Vreeland bill which was assailed by powerful Republican Senators because it contained a sham clearing-house clause, which was not founded on real clearing-house usages; yet here is the same clearing-house clause, identical with the other, except for change of title to "currency association."

This is the Vreeland bill of which it was said by Republican critics that seventeen States would be entirely precluded from constructing associations under its provisions; yet no alteration is made in this respect. This is the Vreeland bill, characterized with manifest impatience by Republican Senators as a scheme to compel undesirable partnerships in the banking business; yet the objectionable partnership feature is still there. This is the Vreeland bill which positively would not be accepted, or even seriously considered, by a Republican Senate because it put the Federal Government in the picaune and incongruous business of discounting commercial paper; yet the Senate is waiting to take it, with this and all other offensive features.

And the only apology given for thus paltering in a double sense with the interests of commerce and the stability of our financial fabric is the confident assertion of those who urged these objections and savagely pointed out these deficiencies that the Vreeland clauses of the bill are not worth the ink that was used in their writing, since they will never be invoked in time of panic or at any other time! And we are gravely told, amid Republican applause, that this is constructive statesmanship; that the Republican party "does things."

THE ALDRICH "INFAMIES."

In its other and larger part, Mr. Speaker, this hybrid bill embodies the essential features of the Aldrich bill. Describing the Aldrich bill before the House Committee of Banking and Currency, Mr. Gage, late Secretary of the Treasury, said:

I have no sympathy with it at all. I do not think it is curative. I do not think it is curative of our evils. At best it is a patch or a panacea, if it even be a panacea, which once in ten years may be availed of when the country is in a condition of intense panic, and when many of the evils of the panic are developing and existing, and it may not be effective then. In the meantime, if adopted, it probably puts us to sleep. It is a gentle narcotic that woe the community into a false repose, I think, from which we will suffer many a nightmare, from which we will awaken at last in trouble and real agony.

This is the bill we have here, Mr. Speaker, with a gauze curtain erected before it by the gentleman from New York [Mr. VREELAND], hoping to hide its deformities and to conceal from public gaze its economic decrepitude. It is even considerably worse than that Aldrich bill, so severely condemned by President McKinley's Secretary of the Treasury; for when Mr. Gage characterized the Aldrich bill as "a patch" or a

mere "panacea," the Senate had eliminated from it the dangerous railroad-bond feature which this conference report restores in a form which intensifies its threatening possibilities. We have here, gentlemen, the same Aldrich bill that House Republican leaders swore by Jupiter and all the gods with which mythology and Holy Writ acquaint us they would never enact into law; yet see how eager, how impatient you wait to answer roll call for this masterpiece of legislative legerdemain!

The conference report presents the Aldrich bill which some of you said "was written in Wall street" when it "provided a bond market" for railroad securities; yet, with railroad bonds restored and the door opened wide to railroad stocks and every conceivable description of speculative security, you have the audacity to pretend that your action here to-day in voting for this bill involves you in no reprehensible inconsistency! We have here the independent bank feature of the Aldrich bill, put in, as many Republicans contended, to peculiarly benefit certain great financial institutions at the money centers; yet you will take that under the assumption that there is really something vital about the Vreeland provisions which may operate as an antidote to the Aldrich poison.

SOME OF ITS DEFICIENCIES.

Mr. Speaker, I might traverse this composite bill in each of its features—I mean separately as to the Vreeland provisions and then as to the Aldrich clauses—and point out its technical and actual deficiencies; but scientific disputation, involving the use of statistics and of terminology with which few persons, comparatively, are familiar, does not appeal to this House nor to the country, because not readily understood. I might point out how this bill weakens the security to depositors in banks in order to strengthen the security of the Government; how it threatens the credit of the National Treasury by inviting a raid on the gold reserve; how it gives the Government guaranty to private corporations; how it perpetuates and accentuates the rigidity of a bond-secured currency system which intelligent bankers, scarcely without exception, have denounced as "a menace to the civilized world of finance."

"AWAKEN AT LAST IN AGONY."

But what is the use? It is sufficient to point to the exhaustive hearings had before the House Committee on Banking and Currency to show that this bill, both as to its Vreeland features and its Aldrich features, has been condemned and utterly reprobated by the wisest bankers, the ablest merchants, the best financial experts, the most eminent text-book writers in America and abroad. The bill, should it pass and receive Executive sanction, will do infinite harm. It will, as Secretary Gage declared, prove a deception, or, to precisely quote him, "A narcotic, to woo the country into false repose," from which we will "awaken at last in trouble and real agony."

This is the bill, Mr. Speaker, which is about to be jammed through Congress under threat and stress. The only, or I should say the best, defense to the bill is the belief of the Rhode Island Senator that the Vreeland "iniquities" will never be invoked, and the equally confident prediction of the gentleman from New York [Mr. VREELAND] that the Aldrich "infamies" are mere surface manifestations. [Applause on the Democratic side.]

Mr. PUJO. Mr. Speaker, I yield three minutes to the gentleman from Kentucky [Mr. OLLIE M. JAMES].

Mr. OLLIE M. JAMES. Mr. Speaker, our Republican friends told us this panic was a depositors' panic, and therefore you want to give to the depositors some relief and safeguard their deposits. If there has been one demand that has come to you, gentlemen, stronger than any other during this Congress it was by that vast throng who earn their daily bread by the sweat of their brow and who deposit their little savings in banks. [Applause on Democratic side.] How have you answered that? You have answered that demand from that great body of the American people by reducing the reserve to 10 per cent and by giving no such safeguards as were proposed in the so-called La Follette amendment of the Senate, denying directors to loan to themselves as directors in other corporations the depositors' money, and by the provisions of this bill making the lien of the Government for emergency currency a superior and first lien upon the assets of the bank. [Applause on Democratic side.]

Why, Mr. Speaker, not only that, but you have gone further. You not only turn over to the banks the Public Treasury, but you turn it over to one man. Let us see this provision here relative to the appointment of the Commission. The man who is the chairman of that Commission, and he will undoubtedly be the gentleman from Rhode Island [Mr. ALDRICH], has the right under this bill to do what? He has the right—

To employ a disbursing officer and such secretaries, experts, stenographers, messengers, and such other assistants as shall be necessary to carry out the purposes for which said Commission was created.

And further, you do not limit his right to draw upon the Public Treasury. You turn over the Public Treasury—the money of the American people—to his audit, and his audit alone. Listen to this provision:

That a sum sufficient to carry out the purposes of sections 17 and 18 of this act, and to pay the necessary expenses of the Commission and its members, is hereby appropriated out of any money in the Treasury not otherwise appropriated. Said appropriations shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said Commission, which audit and order shall be conclusive and binding upon all departments as to the correctness of the accounts of such Commission.

You do not even provide that the accounts shall be approved by your commission. What will be the result? You have got 3,000,000 idle men. I know that you boasted you gave them a full dinner pail, and that you would put them to work. Do you mean to put them to work under the provisions of this bill? [Applause on Democratic side; cries of "Oh" on the Republican side.]

Gentlemen, you will howl worse than that when the people get a chance at you next November. [Applause on Democratic side.] This commission feature not only does that, but it gives to them the right to go to such foreign countries as they may desire for the purpose of investigating currency. [Applause on Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. HOBSON. Was the time of the interruption taken from the gentleman's time?

The SPEAKER. The Chair was not aware that the gentleman was interrupted, except as talkers love to be.

Mr. PUJO. Mr. Speaker, I desire to ask if the gentleman from New York [Mr. VREELAND] will not use some of his time now?

Mr. VREELAND. I yield to the gentleman from Massachusetts [Mr. LOVERING] one minute.

Mr. LOVERING. Mr. Speaker, I have read this bill very carefully. I am satisfied that it is a better bill than any that has yet been presented to this House. [Applause on the Republican side.] The other day when the conference failed it happened that within twenty-four hours after the wages in our New England cotton mills were cut down from 10 to 17 per cent, and the cut was accepted. I hope that this measure may soon be the means of restoring wages. What was true of our cotton mills was likewise true of many of our other industries.

I hope the conference report will be accepted. [Applause on the Republican side.]

Mr. VREELAND. I yield five minutes to the gentleman from Massachusetts [Mr. WEEKS].

Mr. WEEKS. Mr. Speaker, it is not difficult for gentlemen who wish to do so to conjure up in their minds objections to any bill. For instance, the gentleman from Louisiana [Mr. PUJO] has just stated what can be included in the security provided under this bill. As a matter of fact, this security is protected in exactly the same way that that behind clearing-house certificates has been protected for the last forty-five years. More than a billion of those certificates have been issued first and last, and there is not an instance of a failure. Banks always put up their best securities, not their poorest securities, when they are asking for clearing-house certificates, and they will do the same thing when asking for circulation under this bill. They have to go to their fellow-bankers who have to guarantee these certificates, and when a man has to guarantee somebody else's obligations he is pretty sure to see that he is amply protected before he will join in the guaranty. Therefore I conclude that that is one of the class of wild fancies which may be conjured up by anyone who wishes to object to a measure.

I want to explain briefly some of the things in this bill which are different from those which were in the original Vreeland bill. It is proposed to allow the issue of circulation based on State, municipal, and county bonds to individual banks. That is to say, if a bank owns bonds of that character and prefers to take out the circulation as a separate organization, without going into the association, it may do so. But there are only \$65,000,000 of those bonds held by all the national banks in the United States, and \$16,000,000 of them are held by the banks in the city of New York, made up almost entirely of the bonds of the city of New York, which leaves less than \$50,000,000 held by all the other banks in the United States. Therefore it will be impossible to take out more than 90 per cent of that amount—less than \$45,000,000—unless the banks buy bonds or borrow them. Of course, borrowing bonds can not be prevented and it may be indulged in, but the original objection to the Aldrich bill and the strongest objection to it, in my opinion, was that objection which would have compelled banks to either invest their money, which should have been used for commercial purposes, in bonds, or which would have compelled them to buy

bonds when the emergency arose. That objection is entirely removed in this bill.

The average amount of the surplus held by national banks is about 50 per cent of their capital. The banks of this country have a capital of about \$900,000,000, and the total capital and surplus amounts to a little over \$1,400,000,000. The average bank, under this bill, would be able to do just this: Suppose a bank had a capital of \$100,000 and a surplus of \$50,000, which would be about the average. Under this bill it would be obliged to have 40 per cent of its capital in bond-secured circulation, which would be \$40,000. It could then take out 30 per cent of its capital and surplus secured by commercial paper, which is circumscribed in its character; that would be \$45,000 more, leaving \$65,000 which could be taken out secured by other securities, such as State, county, and municipal bonds, and other bonds. With any other securities than the three I have mentioned the bank must go into the clearing house and can take out but 75 per cent of their value, and they must be guaranteed by every bank in the association.

Again, there is one feature which the gentleman from New York did not refer to that I wish to call your attention to, and that is the time limit placed upon the life of this bill. There has been a great deal of criticism because that was not done in the Vreeland bill. The time limit in this case is six years. A commission is provided for which is supposed to study this question from every standpoint, and if radical changes are necessary in our currency system, as many believe, the commission will file its report before six years—I presume in two years, and I hope within one year—whatever their findings may be. But in any case this bill provides for, and is, a temporary measure. It is not intended that it should be permanent law. Recognizing that idea, the conferees have agreed to make the time limit which it shall remain on the statute books six years.

The rate of interest provided for this circulation commences at 5 per cent and increases 1 per cent a month until it reaches 10 per cent. That is not an abnormal rate of interest for banks to pay in times of money stringency. In many of the cities of this country where clearing-house receipts were taken out, the rate was 7½ per cent, and in very few instances less than 6 per cent. As those certificates did not remain out, ordinarily, more than three months, the 6 per cent rate would be equal to the average rate on this proposed circulation. [Loud applause on the Republican side.]

Mr. PUJO. Does the gentleman expect to close the debate in more than one speech, or does he wish us to use some of our time?

Mr. VREELAND. I say to the gentleman I wish him to consume some of his time.

Mr. PUJO. I yield four minutes to the gentleman from Pennsylvania [Mr. McHENRY].

Mr. McHENRY. The House of Congress, Mr. Speaker, is supposed to be both a deliberative and a representative body, but in this action which you now propose the people are to learn that this legislative body is governed not by deliberation, but by party passion; controlled not by the people, but by one man. You can pass this iniquitous measure if you choose, because you have the power; but there is one thing you can not do—you can not compel the people to accept the provisions of a law which they do not approve.

For six long tedious months the Committee on Banking and Currency have given faithful study and consideration to this vitally important question. The committee was unanimous in a desire to frame a nonpartisan measure which would work to the good of all the people and not for the special interest of a favored few. There were some basic principles upon which we disagreed, but the disagreement was an honest and non-political one. But the gentleman from New York [Mr. VREELAND], who seems to have become the spokesman for the Republican managers in the House, appeared before our committee at the public hearings, literally whipping the Republican members into line, injecting a discordant partisan element in our deliberation. We have been frankly told that a panic was on and another one coming, and that it was necessary, in order to secure the election of a Republican President, that some sort of financial legislation be placed upon the statute books. No matter what, only so it was something. We accept the challenge, Mr. Speaker. But while we of the minority are fighting with every ounce of strength we have to prevent the passage of this bill, we feel that it is a hopeless fight; that the orders from Wall street and Republican party bosses are more powerful in this Congress than the appeals or the needs of the people.

The issue is now squarely before us, with the Republican party management lined up where it rightfully belongs and where it has been for the past forty years, legislating for the

predatory interests. When I made the statement in my speech on the 14th, that the issue before the people was no longer a question of Republicanism or Democracy, but that it was a struggle between the people and Wall street, I did not believe your party managers would have the courage thus early to make this open declaration of war against the people. While I am the Representative of the people in Congress, I will always be found upon the side of the people, whether the issue is a Democratic issue or a Republican issue. [Applause.]

In this instance all possible doubt is removed, and in your action of forcing a vote here now the majority party burns all bridges behind and strikes off at one blow the mask of hypocrisy which has given protection to predatory interests for the past forty years and which has made possible the accumulation of vast individual fortunes; the assembling of gigantic trusts, levying enormous tributes upon the people's earnings and placing the country under the domination of complete corporate control while at the same time deceiving the people with their cries of protection and full dinner pail promises. Drunk with power, the Republican managers will have become, with the passage of the Aldrich-Vreeland bill, the open advocates and servants of Wall street.

I am anxious, Mr. Speaker, that proper currency legislation shall be enacted, but I am not willing that the people shall be fooled and that the sovereign right of the Government to issue money shall be taken from it and delegated to Wall street gamblers. Rather than have a bill of this kind, it would be infinitely better for the country to have no legislation at all at this session.

Under the rule by which this bill is brought up for action practically all debate is shut off and no amendments permitted. If you will give us two days' debate, Mr. Speaker, the bill can probably be so amended that it will be a workable measure and fair to all parts of the country alike and to all people, but this is not a part of your plan—the Wall street plan demands that the bill shall go through just as it was, without any changes. It has just come from the conference report and we are to vote on it immediately, and I will venture the assertion that nine out of ten Members of the House have not had time to read the bill—do not know what they are voting upon, and are simply obeying the order of the party—Wall street bosses. Why this haste? If the measure is an honest one, it will bear the light of investigation and intelligent discussion. Is it the part of a deliberative body to rush a conference report here and demand that we shall speak and vote against the measure without even having had time to read the bill? It is now just twelve minutes since the printed conference report has been delivered, and without any study or preparation whatever we are called upon to register our protest against the bill. This represents the most important legislation that Congress has had before it since the civil war. To now vote upon it, without a full knowledge of the bill and without any privilege to amend, do you suppose, sir, that the American people can view our action with favor?

If you will give us reasonable time for debate, I have sufficient confidence in the intelligence and integrity of the individual Members of the House to believe that the bill will either be honestly amended or killed outright, which, for the country's sake and for the Republican party's sake, too, would be the better plan.

The bill provides that ten banks with a total capitalization of \$5,000,000 may go together and form themselves into a so-called "clearance-house association," with the power delegated to them by the Government to issue currency to the extent of \$500,000,000. At the present time, Mr. Speaker, the currency of our country is on what is termed a gold and United States bond basis. That is, every dollar of currency except our present outstanding national-bank notes is guaranteed by the actual gold or silver coin in the United States Treasury and is redeemable in gold or silver on demand. In the establishment of the national banking system, it was agreed that a national bank could, to the extent of its capital, issue money against the United States bonds. The United States Government, through this medium, merely divides up the bonds, which represent the people's obligation, into small denominations in order that they may be used in circulation to meet the demands of trade. So successful has been the practical working of this plan that today no man thinks of looking at a note to see whether it is a national-bank note, a United States Treasury note, a gold certificate, or a silver certificate. The people have absolute confidence in their currency at the present time. If anything is needed, it is a bill which will unify our currency system and not make it more diverse, as this does. As I have already told you in my previous address, the country is now suffering more from lack of confidence than lack of money, and that any legislative action upon this question should be with the idea of re-

storing confidence, not of creating further doubt or distrust in the minds of the people as to the character or value of the money which they are to receive in exchange for the sale of their labor or the products of their labor. This bill is the entering wedge for a radical and violent change in the currency of our country. It means the retirement of the present United States bond-secured note as rapidly as it can be done under the law, and to replace the national bond security with whatever railroad or other bonds or notes which a bank issuing currency may have.

I will not go into the economic side of this question or burden you with statistics, but will discuss the practical workings of the bill and prove to your satisfaction, if you are open to conviction, that the bill is impractical; that its use will be confined entirely to Wall street banks; that it will not stop panics, but, on the contrary, will precipitate them; that it will absolutely insure the monopoly of the people's money by predatory interests. In brief, sir, I will prove to you that it is a Wall street measure pure and simple; that it is a measure against the honest business interests and producers of all classes, and to enact it into a law will be a crime against the people which they will resent at the polls in November. [Applause.]

BRIEF SUMMARY OF THE BILL.

I do not want to burden the RECORD by offering the entire bill, but will briefly outline its essential features.

First. It provides for an association of not less than ten banks, with a total capitalization of not less than \$5,000,000, for the purpose of issuing money. Each bank in said association to have one vote, and to choose a board of five managers, of which three shall constitute a quorum for the transaction of business.

Second. It provides that the total issue shall not exceed \$500,000,000.

Third. That the issue shall be based upon national, State, county, or municipal bonds, railroad stock, or bonds and notes or any security which a bank may own or hold as collateral.

Fourth. It provides that the rate of tax on said circulation shall be 5 per cent per annum for the first month and 1 per cent per annum for each additional month until a maximum tax of 10 per cent is reached.

Fifth. It provides an interest rate of 1 per cent per annum on Government deposits—perhaps.

THE REAL PURPOSE OF THE BILL.

The Wall street interests have become alarmed at the attitude of the people in their demand for banking and currency reform. Realizing that all such demands are eventually enacted into law, they have decided, while they have the power, to fool the people under threat of another panic, and enact a law which will continue their present control of the currency of the country. That is, if a supplemental issue of currency is to be authorized, it must not be allowed to pass beyond the control of the large banking syndicates, so the underlying principles of this forced measure may be found in two definite objects.

First, to enable them to control and regulate panics at will and to stop panics when it suits their purposes to have them stopped.

Second, to provide a permanent fund for the Wall street gambler's use.

THE NEEDS OF THE WALL STREET GAMBLER.

It is estimated that the average daily balances needed for carrying the gamblers' debts on Wall street ranges from \$250,000,000 to \$500,000,000. The use of this sum of money is neither for the benefit of the country at large nor for the benefit of the corporations whose stocks and bonds are dealt in. When stocks or bonds are sold and the money received from such sale goes into the treasury of the corporation issuing such stock, the money has been wisely expended and represents a legitimate investment. But after the treasury stock of the company has been sold there is no economic gain, either to the company or to the country, in the interchange of that stock from one hand to another, which, under the present method, resolves itself into a pure stock gambling, stock manipulating deal.

So the result is that large sums of money are used to carry the stock gamblers' debts, and for this purpose the actual cash is required, and in this way the reserves of the country banks become tied up and unavailable at certain periods of the year when needed, because the gambler can not convert his stock into cash upon the call of the bank. The sum of \$250,000,000 of cash, if distributed throughout the country in the regular channels of commerce, would give the country an additional sustaining credit of at least \$1,000,000,000. So the Wall street banker wants to be put in a position where he can return the country bank reserves, either in real money or this proposed new kind of money.

IMPRACTICAL AND UNEQUAL DISTRIBUTION.

I propose to show you, Mr. Speaker, that in its practical application this bill is not intended for the benefit of the average country bank, but is intended for the sole benefit of the Wall street bank. The bill is so cunningly devised that the average country bank would not dare take the risk of becoming a member in these associations, because they will be liable to share in the losses and failures of all other banks in the association, but would never receive any benefit whatever from their connection, as I will prove.

In the first place, the average country national bank has taken out its full amount of bond-secured currency, and under the provisions of the Aldrich-Vreeland bill the bank which has its full circulation out could only receive from this association, provided it could get it if it wanted to, 40 per cent of the amount of its surplus. For instance, a bank having one hundred thousand capital and its full circulation issued, and having a surplus of, say, \$25,000, could only receive under the law 40 per cent of its surplus, which would be \$10,000. It is quite evident, therefore, that the average country bank would not be justified in assuming so great a risk for so small a benefit, especially when the possibility for any benefit is so remote.

Furthermore, by this restriction, it becomes very plain that the one direct purpose of the bill is to drive out of existence our present bond-secured currency.

All currency panics—and this measure is said to be only intended as a remedy for a currency panic—begin in New York. No matter how severe any money stringency or general panic may be, it requires a certain period of time for the crisis or the panic to extend into the country and into the Far West and South.

Now, Mr. Speaker, I want you to observe the extreme adroitness with which this bill is drawn in the interests of the Wall street banks. In one paragraph the bill says the money shall be distributed with geographical fairness. In another it says:

If any section does not apply for their quota, it shall be available and shall be given to those banks which do make application for the money.

So when a panic starts in Wall street the clearing-house application is rushed into the Treasury for all the money which is due them. In a few days, or a few weeks, perhaps, the pressing need for money in New York continues, and up to this time the need has not been felt in the interior or the Far West or South, and the entire issue, if needed, goes to New York. But eventually the panic extends to all parts of our country. So when the interior or Southern or Western banker realizes that he will need his quota of this money and sends in his application, he will be met by the answer, "You did not apply soon enough; the New York demand has absorbed all the available money."

Any national-banking law offering special privileges to banks should be so framed as to extend the privilege to all the banks of the country with equal fairness, that it may be of equal benefit to all the people, and any law which fails to do this is not a law which will fulfill an honest purpose in the interests of the whole people. The practical result therefore of this bill will be to place this vast fund of \$500,000,000 to the sole credit of the Wall street banks, to be used, not for the commercial or industrial needs of the country, because they can not afford to pay such a high tax, but for purely speculative purposes to carry out the bull and bear markets on a scale such as the country has never yet witnessed.

There are seventeen States whose total capitalization for each State is less than \$5,000,000. These States could not form themselves into a State association of their own. Here again we see the growing tendency toward the destruction of State lines and States rights and the centralization toward the Federal Government.

The result under this bill will be that a syndicate of Wall street banks, radiating from New York, Philadelphia, Boston, and Chicago, will constitute a syndicate of absolute control of the entire issue. Wall street never waits for a panic. It both anticipates and precipitates a panic and is always ready for it with the cash in hand when the panic comes. So under this bill the managers of a clearing-house association can take out the full issue of the money with the Secretary's consent, because no other applications have been received. Then when the panic comes they have the money at hand to take advantage of the falling values and can easily afford to pay a steady rate of 10 per cent interest.

THE DANGER OF INFLATION AND CONTRACTION.

The wildest dreams of the Wall street manipulator are fully realized in this bill. The Wall street operator never loses except when he runs short of money, and with the legal right which he will appropriate under this bill, he reaches into the People's Treasury and converts his stocks and bonds into the

currency of the people to the extent of \$500,000,000, or one-sixth of the total amount of all the currency of all the people of the United States. It is giving him a power so great that the combined interests which will control this fund can carry out any market-manipulating scheme their brains may conjure; can create panics at will; boom markets one day by opening the Treasury lid and letting out plenty of money, and creating depression and panic and falling prices the next day by putting the money back and closing the lid. Plenty of money means a bull market and high prices. A scarcity of money means a bear market and low prices.

The Wall street rigger is now supplied with an automatic device, furnished him by Uncle Sam, who will hand over by this law the key of the people's Treasury to the Wall street managers to create artificial prices and artificial panics at will. If they want to build a new railroad or issue a new basketful of bonds on a railroad already built, they will be enabled under the mechanism of this bill to convert their stocks and bonds into money. The high rate of interest will always be sure to keep this huge sum in reserve for them. It will never be used by country banks or for the use of the farmer or home-builder or manufacturer or merchant. So the Wall street man will always find this sum available for his own use. That he will use it to his own profit there can be no doubt. That all profits must come from the people, for there is no other source from which they may come, is also true. Therefore the Aldrich-Vreeland bill acts as a huge sponge in the hands of Wall street to absorb the vitality from the people and to never give anything out which does not benefit the predatory interests.

A HIGHER FIXED RATE OF INTEREST.

It is the function of government, acting for its people, to issue money, and is the most sacred of all governmental functions. Any tax upon money is a direct tax upon the people. If, therefore, money is needed for our commercial and industrial needs, it should be forthcoming under a fair and equitable law adhering to a fixed standard of value such as we now have, and it should bear no tax beyond the ordinary expense incurred in making and maintaining the issue.

The predatory interests who have framed this bill have made the tax under the bill range from 5 to 10 per cent to serve two distinct purposes: First, to prevent the farmer, the manufacturer, and the merchant from using any of this money, because they can not afford to pay 10 per cent; second, it will give every bank an excuse, which will be taken advantage of by the banks to charge a uniformly higher rate of interest than they have ever charged before. When a farmer calls at the bank and wants to borrow money for use in the harvesting of his crops or the purchase of stock or machinery, he will be told that the bank would be glad to accommodate him, but in order to do so they will have to use "emergency currency," which will cost him 8 per cent or 10 per cent or 12 per cent.

To-day the average interest rate is higher than it was one year ago or two years ago. It will gradually be forced to a still higher level. We are told that there is a plethora of money at the present time. True, there is plenty of money now in the large money centers, but it is not available for commercial uses. The stock gambler can borrow it on call at a low rate of interest, but long-term commercial or industrial paper can only be sold at a high rate of interest. There is one thing, Mr. Speaker, that I would have the House and the country understand, and that is that a high rate of interest means a direct tax upon all forms of human production. This bill tends to increase this tax, and will not only fail absolutely to give the people a corresponding benefit, but, on the contrary, will furnish an additional means to rob them of what they have.

INFLATED SECURITIES.

On page 4 of the conference report the bill reads as follows:

The officers of the association may thereupon, in behalf of said bank, make application to the Comptroller of the Currency for an issue of additional circulating notes to an amount not exceeding 75 per cent of the cash value of the securities or commercial paper so deposited.

On page 5 of said report it further reads:

That upon the deposit of any of the State, city, town, county or other municipal bonds, of a character described in section 3 of this act, circulating notes may be issued to the extent of not exceeding 90 per cent of the market value of such bonds as deposited.

So, Mr. Speaker, under the bill banks can procure currency to the extent of 90 per cent of the market value of any railroad or other bonds which they may put up, or 75 per cent of the market value of any securities which they may have.

This is a fatal defect. The bill should be amended by inserting after the words "market value" the words "not reckoned above par." The people of the country know, if Members of Congress do not, that Wall street can regulate its own prices

to serve its own purpose and that the market price, as indicated by Wall street during a boom period, seldom has any relation whatever to intrinsic value. For instance, amalgamated copper was selling a year ago around \$135 per share. To-day it is selling for \$62 per share.

Suppose, now, the Government had permitted an issue of \$1,000,000,000 of currency on copper-stock securities, the market value of which is less than half to-day of what it was a year ago. So we are asked to create a medium for the conversion of these wild-cat stocks into a form of wild-cat currency, and then compel the United States Treasury, the people's Treasury, under section 12 of the bill, to redeem these bank notes in the lawful money of the United States.

Do you suppose, Mr. Speaker, that the people of this country want a currency law of this kind? Do you suppose, sir, that the legitimate banks of the country, whose best interests are always conserved with the best interests of the people, want a measure of this kind? No; they do not. There invariably comes a time in the lives of all men when the common brotherhood of men—the patriotism and love of country—predominates above self-interest, but when self-interest is combined with the common interest of the American people and a patriotic interest in our Government, the condemnation and opposition to any move which destroys these primary elements of common good becomes unlimited in its duration and violence.

The people of the country and the banks of the country, with the exception of a few Wall street banks, are opposed to this measure, and I want to make the prediction that every man here who votes in favor of this bill under the spur of the party lash will live to see the day when he will regret his action, but will never live to be old enough to earn the forgiveness of his people who have sent him here to represent them in Congress. This is the consummation of the final act in the drama of American politics in which the people are giving to the predatory interests of Wall street absolute control of their individual welfare and of their Government.

THE POWER OF THE SECRETARY.

I presume it will be urged by gentlemen of the other side that the measure is an entirely safe one, because the Secretary of the Treasury has the power to say whether this money shall be issued or not. Mr. Speaker, we are dealing with practical conditions and not theories. The honesty and upright conduct of Secretaries in the past will afford no criterion upon which we may pass judgment of the individual strength and honesty of the Secretaries of the future. But however honest and able the Secretary of our Treasury may be, in future he will become not the representative of the people and a great Government, but he will be the "hired man" of Wall street. They will control him by persuasion if they can, by force if they must.

Does it not strike you as singular, sir, that nearly every Secretary of the Treasury for the past thirty years has almost invariably stepped from the office of Secretary into the presidency of a large Wall street bank? I do not intend for a moment to cast any reflection whatever upon any Secretary. I believe they have all been able, honest men and have been faithful in the performance of their duties. But I wish to point out the practical evolution of the office, in which it becomes the natural stepping stone for a higher advancement in the banking world.

Our Secretary is now placed in a position of entire helplessness, for he will be compelled to do the bidding of Wall street. When the predatory interests have two or three hundred million dollars of railroad bonds to market, they will come to him and ask him for the currency. He refuses, saying, "There is no panic; no necessity for this enormous issue, and therefore it can not be authorized." "Very well, Mr. Secretary, we will make a panic for you," they say. So there is an immediate tying up of fifty or one hundred million dollars of the country bank reserves in the large city banks. The country banks need their money, but can not get it. The panic is precipitated and the Secretary is obliged to authorize the issue of currency to meet the forced demands made upon him by the business interests of the country. Under this bill one or two men, whose names I do not care to mention in this public address, can put through any gigantic scheme which may appeal to them. When labor becomes too insistent in its demands, or too prosperous, the order goes forth to shut down the factory and starve them into submission.

If there is a new consolidation of railroads or a new combination of industrial corporations or a combination of all the gold mines of the country, the people have provided them a fund of \$500,000,000 to carry out their nefarious schemes. It would only cost them about 1 per cent for the use of this money for a period of three months. During those three months they would

make many times the cost of this 1 per cent, all of which would come from the people, for it can not come from any other source, thus helping still further and with absolute certainty the concentration of the savings of the people into the hands of a few.

You may enforce this bill if you will, but I will neither be a party to the crime nor would I be the follower of the political bosses who assume responsibility for it. [Great applause.]

THE PAYMENT OF INTEREST ON GOVERNMENT DEPOSITS.

This bill further provides that interest at the rate of not less than 1 per cent per annum shall be paid upon all special Government deposits; which means that the Wall street banks, who now have \$160,000,000 of the people's money, and for which they are paying no interest, shall continue to hold such deposits and not pay any interest. But the little country bank which receives a deposit shall pay 1 per cent. The banks all should pay not less than 2 per cent for the use of the Government deposits, and I presented a bill—and which the Banking and Currency Committee refused to consider—requiring all surplus Government moneys to be deposited with all the national banks in the country, giving to each bank its pro rata share and requiring the payment of 2 per cent annual interest.

According to our last year's balance this would earn the Government approximately \$4,000,000 per annum and would help cover the Treasury deficit. Furthermore, it would redistribute the money throughout the entire country, placing it within reach of the people from whom it has been collected in the form of taxes. But under the provisions of this bill all large banks will avoid the payment of any tax on Government deposits, and the small banks will not be required to pay more than 1 per cent. Thus we see the hand of Wall street against the people in every line of the bill.

DANGER OF BANKRUPTCY OF THE PEOPLE'S TREASURY.

I have explained briefly how Wall street can force the permission of the Treasurer to issue this vast sum of money. Furthermore, he must say for how long a term it shall be issued. It may be for three, or four, or twelve months, or without limitation. Now, suppose the Wall street interests become displeased with the Government and want to punish the Government and the people both at the same time. They withdraw the \$500,000,000 by concerted action, enter into a contract with the Government that they shall have the use of the money for a certain number of months or years, as the case may be, and then, at the psychological time, return this tremendous sum in one day or during a period of days for redemption at the Treasury. This would easily be possible under this bill.

How is the Treasury to meet such a demand? It can not meet it and the Government becomes bankrupt, its credit destroyed. The confidence in our Government not only of our own people but of the world, destroyed because the Government has failed to meet its expressed obligation which, under section 12 of this bill, provides that all circulating notes of national bank associations shall on presentation be redeemed in lawful money of the United States. Which means this railroad mining stock currency must be redeemed in gold.

If this vast sum of money was to be distributed in the regular channels of trade and come in for redemption through the ordinary business transactions of the country, then the 10 per cent redemption feature would be sufficient; but it is a fatal error and an unwarranted risk to assume by placing this tremendous power in the hands of two or three men.

The people of this country can no longer be trifled with. Under the present hazardous element of chance to which the banking interests of the country seem committed, it is a wonder to me that we have gone along as well as we have. Fortunately, we have maintained a sound monetary basis, giving the people of this country and the people of the world the fullest confidence in the American dollar. But for the assembling of our dollars, that they may be drawn into the natural channels of trade, it is all left entirely and wholly to chance.

The farmer and miner and wage-earner may bring his money into the bank and thus contribute to the commercial credits of the country, or he may not—it is for him to decide. No particular encouragement has been given him to put his savings in the banks. And in the discussion of the banking proposition, which is separate from the currency question, the security and support of the depositors as related to the success of our banking system seems to have been lost sight of. Not only are we still neglecting the depositor, but we are placing upon him an additional burden of risk.

We insist that if Government moneys are deposited in banks that the bank should give to the Government sufficient of its securities to safeguard the Government against loss, thus weakening the position of the individual depositor. In addition to

this, it is intended to give to banks the authority to transfer still more of its securities to this Wall street Government combination, adding an additional risk to the individual bank depositor and finally creating a doubt in his mind as to the value of the bank note he receives.

There are some lengths to which the people will go, Mr. Speaker, but there is a limit to their endurance and patience as well as there is a limit to the patience and indulgence of every reasonable man, and you must not forget that Wall street, with all its power, is not yet so great as the power of 85,000,000 people if they choose to use that power.

There are one or two causes which will some day cause them to exercise that power, and those are the primeval causes of fear and anger, and the first time, sir, that the occasion ever arises, either from a good or bad motive, for the enforcement of the provisions of this law, the people will not take any chances nor will they listen to reason, but will convert their savings in the banks into gold and will take the gold to their homes. Should they do this, which I trust they never may, the period of calamity and suffering to our people which will follow will be more far-reaching in its devastation than even the horrors of war.

This, sir, is a step backward in the advancement of our people and our Government. It is a step toward the enthronement of a money—monarchical—power. The one hope I indulge is the enduring patience of the people and the abiding faith which they have in the ballot box, but to expect 85,000,000 people to pour all their earnings into the pockets of a few men, giving them the power to say how much the people may earn and how much they shall spend, is beyond human conception.

I repeat, sir, this has ceased to be a matter of political differences and is neither a question of Republicanism or Democracy, but is a question of whether Wall street or the people shall rule this American Government. [Applause.]

Shall our House of Congress become the House of Commons and the House of Lords? Shall we close as a fitting climax to this billion-dollar Republican Congress by crowning our masters, King Morgan and King Rockefeller, the heroes of the last panic, or shall it be King Taft, Wall street's hired man? [Prolonged applause.]

Mr. PUJO. Mr. Speaker, will the gentleman from New York please advise me whether he intends to conclude the debate in one speech, or will he use some of his time now?

Mr. VREELAND. We shall probably use our remaining time in one speech.

Mr. PUJO. How many minutes have I left?

The SPEAKER. The gentleman has fifteen minutes remaining, and the gentleman from New York [Mr. VREELAND] has three minutes remaining.

Mr. PUJO. I yield twelve minutes to the gentleman from New York [Mr. COCKRAN].

Mr. COCKRAN. During the very brief time allotted to me I shall address myself principally to the position taken here the other day by the gentleman from Ohio [Mr. BURTON]; not to exult over inconsistencies in his attitude, but to ask for some light on a very important aspect of this question. The gentleman from Ohio [Mr. BURTON] undoubtedly is familiar with the history of currency agitations, not only the agitations that have divided men and parties in this country, but those which from time to time have excited nations abroad. And I think he will agree with me that the fruitful source of differences and difficulties has always been the misapplication of terms.

I doubt whether we could have had a violent discussion over the question of coinage lasting over a generation if it had not been for the confounding of two words, "price" and "value." Because prices, which are but the terms in which values are expressed, may be affected by law it was assumed the Government could affect values themselves, and on this false assumption all manner of extravagant proposals were advanced and many preposterous laws actually enacted. The Sherman silver law was passed through this House and foisted upon the country under a misapprehension of the word "consumption." Silver bullion stored in the Treasury was considered to be "consumed," and on that misapprehension elaborate arguments were framed to show that a purchase every month by the Government of 4,500,000 ounces of silver and a storing of the proceeds in the Treasury would be a consumption of the whole of our product, which must necessarily result in maintaining the metal at a high price. That misapprehension was finally dispelled by experience, but not until the unfortunate consequences had plunged this country into a financial crisis which it required the most persistent and strenuous labors to remove.

Here we have a new phrase, equally sonorous, but I fear equally misleading, and equally certain to produce still graver perils. My friend from Ohio [Mr. BURTON] will do a great

service to the country and enlighten this House decisively if he will explain, during the time allotted to him, just what he means by the "emergency" with which we are to deal and just what he means by a "financial or currency makeshift," to adopt the description of this bill given us by one of its proposers, the gentleman from Massachusetts [Mr. WEEKS].

Can there be such a thing as a makeshift in currency except the liquidation through Government intervention of a debt which is undeniable by a piece of paper whose intrinsic value is questionable? If there be any other description of "makeshift" to get rid of an awkward obligation, I have never heard of it. What is the emergency which we are called upon to meet? I should like the gentleman from Ohio to describe it in plain English. I said here, the other day, that the emergency we were discussing was a failure of banks to meet their obligations, inability to pay their debts as they should be paid—over the counter, on demand, with the same kind of money in which the liabilities had been contracted. And how is it proposed that this emergency be met? Why, by evading the liability. The inability to meet an obligation which in you or in me would be called bankruptcy, entailing the immediate surrender of all our property into the hands of our creditors to be administered for their benefit through agents appointed by the court, and our own exclusion from the ranks of active business, when it overtakes a bank is not to be considered a default, a suspension, or a bankruptcy, but an emergency [applause on Democratic side], and the Government is to step in through the operation of this measure and relieve the bank from the emergency by practically assuming its obligations, taking over the securities which have proved worthless for the purpose of obtaining money through the ordinary channels of trade, and itself guaranteeing notes issued against them by the bankrupt concern. Mr. Speaker, inability to meet our debts is an emergency that often confronts many of us. I have been frequently face to face with it.

Such ingenuity as I possess has often been devoted to finding some method of meeting that emergency. I never yet have been able to discover any way of settling a debt but one, and that was by paying it. And I never was allowed to pay it with anything but money, the same kind of money in which it had been contracted. Now, I deem it of capital importance to the value of this debate that there be no misapprehension about the terms employed on one side or the other, and therefore I venture at this point to describe the measure now before the House in terms that can not be misunderstood. I challenge the gentleman from Ohio [Mr. BURTON] to dispute the correctness of this description. Is not this a measure to enable banks to discharge in an emergency currency obligations contracted in ordinary currency? [Applause on Democratic side.] I would like the gentleman from Ohio to answer that question now, and I yield him the necessary time, because if we can agree on our definitions it will greatly simplify this issue and therefore promote the value of the discussion.

Mr. BURTON of Ohio. Does the gentleman from New York yield the time out of his time?

Mr. COCKRAN. I merely ask for an answer, yes or no. Am I correct in my description?

Mr. BURTON of Ohio. No. [Applause on the Republican side.]

Mr. COCKRAN. Well, if this measure does not provide for an emergency currency such as I have described, I will leave it to the gentleman from Ohio to describe it himself, and if he can show that it has any other object he will deserve more generous applause for his ingenuity than you have been willing to bestow on this exhibition of his candor. [Applause on the Democratic side.]

Let us see whether my description be wanting in accuracy or the gentleman's answer be lacking in candor.

What is it this bill proposes to do? It proposes that banks under certain conditions shall have the right to issue what the gentleman from Ohio is pleased to call an "emergency currency." Surely this much will not be questioned. Well, he says now that this emergency currency will not be issued to meet their debts. Then, in heaven's name, for what purpose can it be issued? To gratify their munificence, as contributions to some meritorious purpose, political or sociological?

Will the gentleman from Ohio [Mr. BURTON] mention one object or purpose for which a bank can justify the issue of a single dollar, excepting the satisfaction of a debt or the granting of a loan? And in times of emergency banks are seeking loans, not granting them. If the emergency money be issued to meet a debt, that debt must have been contracted in ordinary currency. Yet the gentleman denies that this inevitable result of the measure he proposes is the object he has in view. His denial is the best proof that he is ashamed of this offspring of

his labors, and it is the one redeeming feature of his performance. I challenged the gentleman from Ohio here the other day to show me a precedent for such a proposal in the whole history of the world, and he told us the suspension of the bank act in England was practically an application of this same principle. Well, that was an amazing revelation to me. The gentleman from Ohio, unlike some of his collaborators, has a reputation to lose. His statement in this respect showed either lack of information, which would be deplorable in any Member of the House, or else a readiness to dodge difficult questions by sacrifice of candor, which I should not have deemed conceivable until his performance here a few moments ago. The suspension of the English bank act was not to facilitate the issue of paper, and the gentleman must know it.

The gentleman must know that the notes of the Bank of England are not legal tender at the bank. They are legal tender everywhere else. The act that was suspended three different times was the act of 1844. That was the act separating the Bank of England into two departments—the department of issue, which is purely a Government agency, and the banking department, which is simply an ordinary banking concern. Prior to 1844 the bank's notes were on precisely the same footing as its other debts. By the law of that year the issue department was separated completely from the banking operations. The bank was allowed to issue notes against the debt due to it by the Government. For every other note that the bank issued it was required to have in its vaults the equivalent in gold. The gold held for the redemption of notes was thus set apart from the operations of the bank and made the property of the note holders, the bank being merely the depository of it. When emergencies arose that resulted in runs upon the bank its notes, not being legal tender at its own counter, were not valid to pay its debts over the counter. The same causes that had produced the runs on the bank operated to discredit its notes. To meet that emergency it was allowed, by decree in council, to take for its ordinary banking purposes the gold that it held for the redemption of notes, which was not in fact its property, but the property of the note holders, of which it was not the owner but the custodian.

The suspension of the English bank act of 1844, so far from being a measure enabling the bank to increase its note issues, as the gentleman from Ohio pretends, was a measure enabling it to use gold which did not belong to it to meet a total failure of its note issues—a temporary impossibility to use them for the liquidation of its debts. And so we find the historical precedent assigned by the gentleman from Ohio for this proposal is as inapplicable and irrelevant as his description of it is vague, shadowy, and elusive.

Mr. Speaker, passing from the general economic objections to this measure and coming down to consider its practical operation, we find that banks of deposit whose natural function is that of discount, accepting money over their counter and repaying it on demand, loaning back to some of their depositors moneys to meet unusual demands upon them, will be encouraged by the provisions of this bill to enter another field, which no bank of discount ever entered with profit to its depositors or with safety to a commercial system.

By this measure banks are urged to forsake the function of discount and engage in the business of investment. Investment is a very important element of all industrial systems, but it is not the business of a bank. I do not deposit money with a bank that it may be invested. I can invest my own money. I can buy bonds or securities quite as well as the bank. And I am entitled to all the profits which judicious investment may earn. Under the system proposed by this bill the bank will employ its deposits in purchasing securities. If the purchase prove profitable, the banks will enjoy the profits. If losses ensue, the Government will turn the worthless securities into money for the benefit of the bank. With such a prospect of profit and such a guaranty against loss banks will naturally enter the field of investment, or, to put it plainly, the field of speculation, where all the operations will be baneful, forsaking the field of discount, where all the operations must be beneficial. [Applause on the Democratic side.] Savings banks and insurance companies are all agencies for investment. It is entirely proper for them to engage in purchases of stocks and bonds. But a bank of discount is organized simply for the purpose of economizing the amount of capital that every trader in the nature of things must keep idle and therefore unproductive. Where a thousand persons deposit money in one place each one can borrow from the aggregate fund such sum as may be necessary to meet an unusual demand upon him. If he be engaged in making tables, he will need to purchase materials, sometimes finding an advantage in making a particularly large purchase. His bank advances him the necessary funds, using

for that purpose the moneys deposited with it by other customers; and when the tables are finished and sold the customer deposits the proceeds with the bank, liquidating his own debt, changing himself from a debtor to a creditor, contributing now to the fund which will be available for others.

The business of a bank is this collection, concentration, and redistribution of money; the taking in of money on deposit and reissue of the same money as loans; the movement of money; the circulation of money in a mighty tide, touching and stimulating every department of industry—the manufacture of desks, the making of chairs, the weaving of cloth, the tillage of fields, the construction of houses, the transportation of goods—all the varied but closely interdependent features and elements of commerce and production. That movement of money is banking. It is not investment. They are two wholly distinct and incompatible elements. Under a wholesome banking system the depositor is debtor and creditor alternately. He is deeply concerned in the welfare of his bank. He can not be a party to a run on it without fatal injury to his own interests. There never yet has been a panic caused by runs on banks where the banks themselves had remained steadfast to their own natural field of discount.

How have these runs been started, aggravated, and accelerated till panic, wild and unreasoning, has again and again swept away the foundations of credit? Because banks have pursued the very course which this measure seeks to impose on them.

Banks for years past have forsaken the field of discount and entered the field of investment. When these investments proved unprofitable, or when, from any cause, the security became unmarketable, the banks, as the gentleman from New York said in his hearing before the Committee on Banking, found themselves with assets as good as money, but without money. Exactly. They had things they considered good as money, but they did not have the money. It is not the duty of a bank to offer its customers things which the bank officers consider good as money. It is the duty of the bank to have the money itself always ready to meet every demand. And it must be the same kind of money which it has received. This may be inconvenient, difficult, at times involving sacrifice, but it is the only condition on which credit can be maintained or business conducted.

You gentlemen, when a proposal was made in this country to redeem or liquidate in silver debts which had been contracted in gold, rose up in wrath and indignation, declaring it not merely vicious finance, but vicious in morals. I agreed with you in that. To-day you are fathering an identical proposal. To-day you are asking that banks shall be allowed to do the very thing against which you protested in the name of heaven and earth when it was suggested as a means of relieving ordinary debtors from the burden of their obligations. Under this bill banks are to be set aside as a special class of debtors and treated in a different way from other debtors when payment of their obligations becomes inconvenient. If I buy bonds or if I buy a house and issue obligation for them, when I am called upon to redeem it I can not go to the Government and obtain authority to issue paper with which to liquidate my obligation by turning over to the Treasury the bonds or the house, even though I think they are as good as gold. Yet from every point of view it is ten thousand times worse that the fullest redemption by the banks of all their obligations be open to suspicion than the discharge of his debts by any individual, however important he might be.

If the richest man in this country should be allowed to escape his obligations through any legerdemain of legislation, it would be disastrous to those persons with whom he dealt. It would not affect seriously the body of the community. But when the fidelity of banks to their obligation is open to the slightest question, commerce is touched at its very center, the vitals of credit are assailed, trade is paralyzed, all enterprise is suspended, and industry is prostrated seriously, if not permanently. [Loud applause.]

Mr. PUJO. Mr. Speaker, I yield the balance of my time to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, you were never so highly honored in all your life as you have been to-day. This bill ought to be entitled the "Cannon-Aldrich political emergency bill." [Applause on the Democratic side.] Your influence over this House was never so vastly shown as to-day. But the other day the House said, "the Aldrich bill is altogether wicked," and it would have none of it. It was not good enough for the House. But the other day the Republican Senate said that the Vreeland bill was altogether iniquitous and destructive of the best interests of the country, and it would have none of it. Nobody so poor in the House as to do reverence to the Aldrich bill; nobody so poor in the Senate as to do reverence to the Vreeland bill. But to-day the great discovery—two iniquities

compose a perfect good. Neither bill was good enough for either House, but to-day both bills combined are good enough for both Houses. [Applause on the Democratic side.] Why, this comes in response to the sincere prayer of the Speaker, because he does pray. [Laughter.] It has not been long since his prayer began to bear this refrain: "Anything, O God, anything; it makes no difference what, even if it be really nothing, just so that I can call it something; anything before the House adjourns." [Applause on the Democratic side.]

"It will not do for the Republican party to go to the country with absolutely nothing. It must have something that can be called something by somebody somewhere." And in response to that prayer, directed not to the Almighty, but to the Members of the House here present, and with the conference report on public buildings held back, those who were lions to thwart the pathway of the Aldrich bill are now lambs. I find on page 6035 of the CONGRESSIONAL RECORD these words of the gentleman from Ohio [Mr. BURTON] referring to the Aldrich bill:

If it passes this House, it will be without my vote and without my support.

Now you bring back the Aldrich bill. [Applause on Democratic side.]

I said the other day, because sometimes I am accidentally a prophet, that "nobody here wanted the miserable makeshift that passed the House, but that you merely wanted to get into conference so that you could go back with the Aldrich bill," and that was the reply that was received from that side of the House, as worded by the gentleman from Ohio.

The gentleman from New York [Mr. COCKRAN] says that there is no such thing as an emergency currency. The gentleman is mistaken. Emergency Republican currency is absolutely necessary to Republican political emergencies, and necessary right now. [Loud applause on Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. VREELAND. Mr. Speaker, has the other side used up all of its time?

The SPEAKER. Yes.

Mr. VREELAND. I yield to the gentleman from Ohio [Mr. BURTON] the remaining time on this side. [Applause on the Republican side.]

Mr. BURTON of Ohio. Mr. Speaker, the incompetency of the Democratic party to rule this people was never more emphatically displayed than by their course on this currency legislation. [Applause on the Republican side.] Last autumn there was a frightful panic. The mightiest financial institutions tottered as if they would fall, the wheels of commerce and industry were clogged, hundreds of thousands were thrown out of employment. Men who had walked with head erect and proud were compelled to beg in the streets for bread, and much of the cause of this distressful condition was the rigidity and insufficiency of our currency system.

The Republicans of this House came here determined, in spite of barren theories, in spite of selfish interests, and against the solid opposition of the Democratic party, to do something for this country, so that such a calamity might not occur again. [Applause on the Republican side.]

If you gentlemen had been in power and had gone home, having done nothing, you might better have called on the rocks and the hills to fall on you because of your inability to take care of this most urgent problem. And yet you fill the air with cries that this measure is prompted only by a political emergency, that it is partisan. Gentlemen, if there is any question which should be approached dispassionately, if there is any question wherein we should seek to grasp the real situation and solve it, it is this which relates to the money supply of the country.

The gentleman from New York [Mr. COCKRAN] wants to know what is an emergency. If he had been in New York, or even in any small manufacturing town last October or November, he would have gotten a lesson as to what is an emergency that would have sunk deep, and which he never would have forgotten.

You say we have a composite bill, made up of the Aldrich and the Vreeland provisions. The Aldrich measure, with its iniquities, you say is brought in here. Why is it, gentlemen, that you have not said one word about this fact, that the basic principle of your bill—the Williams bill—was identical with that of the Aldrich bill—the issuance of currency based upon municipal or public bonds? [Applause on the Republican side.] Not only did you make municipal and State bonds the basis for currency, but you would have allowed them to constitute half of your reserves. You out-Aldriched Aldrich in your bill. [Applause on the Republican side.]

I trust we will not hear from you in this next campaign about the Aldrich bill unless you explain that fact. Why, it looks as

if Senator ALDRICH had imitated you in drawing his measure. [Laughter.]

The gentleman from Mississippi has quoted at length some remarks of mine. I want to congratulate him, or gentlemen on either side, who read my remarks; it is an evidence they are very thorough students and that they will be thoroughly posted. He quoted a statement of mine that I would not vote for the Aldrich bill. I have not, and am not going to [derisive cries on the Democratic side], because that bill gave the right to issue emergency currency exclusively to banks which had State, county, and municipal bonds. I do not believe in that on principle. I do not believe that you ought to compel banks to carry a stock of bonds as a requisite for the issuance of currency.

But this bill throws open to any national bank of the country the opportunity to become a member of an association of banks, each of which may issue currency upon its resources—that is, upon commercial paper or securities approved by the association.

There must be at least ten banks associated, having a capital and surplus of not less than \$5,000,000. But if any single banking association having public bonds wishes to issue currency under the method embodied in the Aldrich bill, it may do so.

On this side we have had the courage to bring forward a measure for the relief of the country and to meet the fear of panic and distress; on the other side you have fled from your own measure. [Laughter on the Republican side.] And now you accuse others because they introduce a bill for the purpose of meeting the existing situation, containing a principle to which even you can not make objection.

How much time have I remaining?

The SPEAKER. The gentleman has six minutes remaining.

Mr. BURTON of Ohio. I do not want to go into an answer to the learned dissertation of the gentleman from New York in regard to banking. Why, his argument may be reduced down to an absurdity so transparent that it seems to me that he should realize it if he will reflect for a moment. What is the business of banking? Banking institutions receive deposits. The amount of those deposits sometimes runs to ten or twelve times—the usual proportion must be five times—the daily average amount of their available resources or cash on hand. There is not a bank in the country, however prosperous, but would be bankrupted if on the same day all its depositors and creditors should call upon it for settlement. But there is a usual course of things in which there is a sort of parity or equality between deposits and withdrawals. The whole business of banking rests upon this general fact. Times of unusual stress or emergencies may come, when the withdrawals will largely exceed the deposits. For such a time, gentlemen, any rational banking system must have the right to provide. How was it last fall? With an abundance of resources, no one having any right to complain of their solvency, numerous banks did not have the cash to respond to the demands of their customers. In such emergencies there should be a right to issue or obtain circulating notes.

This is no confession of insolvency or bankruptcy; it is merely to meet those conditions which are likely to occur in different years and in different seasons of the same year. It is idle to rise here and in stentorian tones, which would make those of Bombastes Furioso seem like the chirping of a canary bird [laughter], say that such conditions are the fault of our existing banking system. [Great laughter.]

The gentleman from Mississippi has congratulated you, Mr. Speaker, and I congratulate you also, for your leadership and for the work of the Republican Members of this House. [Loud applause on the Republican side.] If we had gone to our homes without passing a measure which would make impossible a repetition of the dire distress of last fall, we should have been failing in our duty. I am not so sure that we may not have pressure next fall.

Some depositors are very likely to withdraw their money; they may be timid about taking any more chances; they may put their money away with safe-deposit companies. Bankers will be cautious in extending accommodations. Large crops may require large sums of money. The Treasury will no longer have an ample reservoir from which it can supply the needs of bankers; I do not really know that under any system this ought to be expected. All these are factors of possible danger.

I wish to reiterate another thing that I have said repeatedly, and that is that we should have an opportunity to try different kinds of currency, because no radical change will be accepted except after trial by gradual steps.

This country is at sea as to the best plan to be adopted. There is no settled public opinion. Every other country would

allow a bank to issue circulating notes upon its resources, either from a great centralized bank or from separate banks.

This is the true principle of currency issue, to make the amount outstanding commensurate with the volume of business of the country and the resources of its banks. [Applause on the Republican side.] And I want to say, and I weigh my words, that the time is coming when that general principle is going to be adopted; whether it be through a central bank, whether it be by strong associations of banks as in the Vreeland bill, or whether it be by individual banks backed by the responsibility of all, or by a sufficient guaranty fund. The deposit of municipal bonds is all right so far as it goes. The trouble with the Aldrich bill was that it would tend to perpetuate this present system of rigidity, in which there is no sufficient flexibility in the currency. It would relieve the situation somewhat, but it was framed in accordance with the idea that the proper basis for currency is a deposit of bonds or permanent securities, whereas banks ought not to be compelled to carry such securities.

The provisions of the bill agreed upon will serve their purpose. They may not be permanent. We have placed a time limit upon them to satisfy that potent public opinion which believes that we ought to have an entire reorganization of our whole banking system. Some, no doubt, will maintain that these provisions will work so well that no such readjustment will be required. At any rate, we are advocating the passage of a law which has in it no element of danger. No bank note can be issued which will not be good anywhere on the globe. The tax is so high that there can be no danger of any inflation. The redemption fund of 10 per cent substituted for the reserve provision in the House bill is, I believe, an improvement. And with this on the statute books the ship of commerce may go out into the most stormy sea with the hope that, though tempests may come, she will weather them all, and weather them in safety. [Prolonged applause on the Republican side.]

The SPEAKER. As many as favor the motion to suspend the rules and agree to the conference report will say "aye;" those opposed will say "no."

Mr. PUJO. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 166, nays 140, answered "present" 6, not voting 76, as follows:

YEAS—166.

Acheson	Diekema	Hubbard, W. Va.	Parker, S. Dak.
Alexander, N. Y.	Douglas	Humphrey, Wash.	Parsons
Andrus	Draper	Jones, Wash.	Payne
Anthony	Driscoll	Kahn	Pearre
Bannon	Durey	Keifer	Pollard
Barchfeld	Dwight	Kennedy, Iowa	Porter
Barclay	Edwards, Ky.	Kennedy, Ohio	Pray
Bartholdt	Ellis, Mo.	Kinkaid	Reeder
Bates	Ellis, Oreg.	Knapp	Reynolds
Beale, Pa.	Englebright	Küstermann	Roberts
Bede	Esch	Lafean	Rodenberg
Bennet, N. Y.	Fairchild	Landis	Scott
Bingham	Fassett	Langley	Sherman
Bonyng	Focht	Laning	Slomp
Boutell	Fordney	Law	Smith, Cal.
Boyd	Foss	Littlefield	Smith, Iowa
Bradley	Foster, Ind.	Longworth	Smith, Mich.
Burke	Foulkrod	Loudenslager	Snapp
Burleigh	French	Lovering	Southwick
Burton, Del.	Gaines, W. Va.	Lowden	Stafford
Burton, Ohio	Gardner, Mich.	McCall	Steenerson
Butler	Gardner, N. J.	McCreary	Sterling
Calder	Gilliams	McGavin	Stevens, Minn.
Capron	Gillett	McKinlay, Cal.	Sturgiss
Cary	Graff	McKinley, Ill.	Tawney
Caulfield	Graham	McKinney	Taylor, Ohio
Chaney	Greene	McLachlan, Cal.	Thistlewood
Chapman	Haggott	McLaughlin, Mich.	Tirrell
Cocks, N. Y.	Hale	McMillan	Volstead
Cole	Hall	Madden	Vreeland
Cole, Colo.	Hamilton, Mich.	Madison	Wanger
Cooper, Pa.	Haskins	Malby	Washburn
Coudrey	Haugen	Mann	Weeks
Cousins	Hawley	Mondell	Weems
Crumpacker	Hayes	Moore, Pa.	Wheeler
Currier	Hepburn	Needham	Wilson, Ill.
Cushman	Higgins	Norris	Wood
Dalzell	Hinshaw	Nye	Woodyard
Davidson	Holliday	Olcott	Young
Davis, Minn.	Howell, N. J.	Olmsted	The Speaker
Dawson	Howell, Utah	Overstreet	
Denby	Howland	Parker, N. J.	

NAYS—140.

Adamson	Bowers	Calderhead	Cooper, Tex.
Aiken	Brantley	Campbell	Cooper, Wis.
Alexander, Mo.	Brodhead	Candler	Cox, Ind.
Ansberry	Broussard	Carlin	Craig
Ashbrook	Brumm	Carter	Crawford
Bartlett, Nev.	Burgess	Clark, Fla.	Darragh
Beall, Tex.	Burleson	Clark, Mo.	Davenport
Bell, Ga.	Burnett	Clayton	Davey, La.
Booher	Byrd	Cockran	De Armond

Dixon	Hamilton, Iowa	Lindsay	Robinson
Ellerbe	Hamlin	Lloyd	Rothermel
Favrot	Hammond	McDermott	Rucker
Ferris	Hardy	McHenry	Russell, Mo.
Finley	Hay	McLain	Russell, Tex.
Fitzgerald	Heflin	Macon	Ryan
Flood	Helm	Maynard	Sabath
Floyd	Henry, Conn.	Moon, Tenn.	Saunders
Foster, Ill.	Henry, Tex.	Moore, Tex.	Sherley
Fowler	Hill, Conn.	Morse	Sims
Fulton	Hitchcock	Murdock	Slayden
Gaines, Tenn.	Hobson	Murphy	Small
Garner	Houston	Nelson	Smith, Mo.
Garrett	Howard	Nicholls	Sparkman
Gill	Hughes, N. J.	O'Connell	Spight
Gillespie	Hull, Tenn.	Padgett	Stanley
Glass	Humphreys, Miss.	Page	Stephens, Tex.
Godwin	James, Olie M.	Patterson	Sulzer
Goldfogle	Johnson, Ky.	Prince	Thomas, N. C.
Gordon	Jones, Va.	Pujo	Tou Velle
Goulden	Kellher	Rainey	Underwood
Granger	Kimball	Randell, Tex.	Waldo
Gregg	Kipp	Rauch	Watkins
Hackett	Lee	Rhinock	Webb
Hackney	Lenahan	Richardson	Williams
Hamill	Lindbergh	Riordan	Wilson, Pa.

ANSWERED "PRESENT"—6.

Adair	Lamb	Pou	Sheppard
Brundidge	Lever		

NOT VOTING—76.

Allen	Griggs	Lamar, Mo.	Powers
Ames	Gronna	Lassiter	Pratt
Bartlett, Ga.	Harding	Lawrence	Ransdell, La.
Bennett, Ky.	Hardwick	Leake	Reid
Birdsall	Harrison	Legare	Shackleford
Brownlow	Hill, Miss.	Lewis	Sherwood
Caldwell	Hubbard, Iowa	Lilley	Smith, Tex.
Conner	Huff	Livingston	Sperry
Cook, Pa.	Hughes, W. Va.	Lorimer	Sulloway
Cravens	Hull, Iowa	Loud	Talbott
Dawes	Jackson	McGuire	Taylor, Ala.
Denver	James, Addison D.	McMorran	Thomas, Ohio
Dunwell	Jenkins	Marshall	Townsend
Edwards, Ga.	Johnson, S. C.	Miller	Wallace
Fornes	Kitchin, Claude	Moon, Pa.	Watson
Foster, Vt.	Kitchin, Wm. W.	Mouser	Weisse
Fuller	Knopf	Mudd	Wiley
Gardner, Mass.	Knowland	Perkins	Willett
Goebel	Lamar, Fla.	Peters	Wolf

So the conference report was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. FOSTER of Vermont with Mr. POUL.

Mr. THOMAS of Ohio with Mr. RANDELL of Louisiana.

Mr. LAWRENCE with Mr. HILL of Mississippi.

Mr. PERKINS with Mr. FORNES.

Mr. MILLER with Mr. HARDWICK.

Mr. MORRAN with Mr. GRIGGS.

Mr. LORIMER with Mr. ADAIR.

Mr. SHEPPARD. Mr. Speaker, I would inquire if the gentleman from Indiana, Mr. WATSON, voted?

The SPEAKER. He is not recorded.

Mr. SHEPPARD. Then I wish to withdraw my vote of "no" and answer "present."

The Clerk called the name of Mr. SHEPPARD, and he answered "present."

Mr. LAMB. Mr. Speaker, I am paired with the gentleman from Wisconsin, Mr. JENKINS. I voted "no." I wish to withdraw my vote and vote "present."

The Clerk called the name of Mr. LAMB, and he answered "present."

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 6190) authorizing a resurvey of certain townships in the State of Wyoming.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 21815. An act to amend the laws relating to navigation, and for other purposes;

H. R. 21410. An act granting condemned ordnance to certain institutions;

H. R. 21735. An act to authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes; and

H. J. Res. 186. Joint resolution relating to the assignment of space in the House Office Building.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. R. 6. Joint resolution directing the selection of a site for the erection of a pedestal for a bronze statue in Washington, D. C., in honor of John Witherspoon.

SALE OF LANDS, CORDOVA BAY, ALASKA.

Mr. PARSONS. Mr. Speaker, I move to suspend the rules, take from the Speaker's table the bill (S. 6418) authorizing the sale of lands at the head of Cordova Bay, in the Territory of Alaska, and for other purposes, to strike out all after the enacting clause, and insert the following, which I send to the desk and ask to have read, and pass the same.

The Clerk read as follows:

That a corporation to be hereafter duly organized under the name and style of the Cordova Bay Harbor Improvement and Town-Site Company and composed of the following-named persons, to wit: John H. McGraw, Edward Lewin, and Donald A. McKenzie, or any of them, and such others as may be hereafter become associated with them as incorporators, shall be permitted to purchase at the prices of \$2.50 per acre not to exceed 2,000 acres of such nonmineral lands of the United States as may be selected by said corporation and approved by the Secretary of the Interior, including tide or mud flats, situated at the head of Cordova Bay, at approximately latitude 60° 30' north and longitude 146° west of Greenwich, in the district of Alaska, the same to be located in as nearly compact form as possible, with a front of not to exceed 2 miles on the wharfage and dock area to be reserved by the Secretary of War as provided in section 3 of this act, in order to effect the improvement of said lands for town-site purposes and for the promotion and convenience of commerce with foreign nations and among the several States: *Provided, however,* That the Secretary of the Interior is hereby authorized and directed to withdraw from all form of location or entry not to exceed 3,000 acres, to be selected by him and surrounding the land hereby made purchasable, subject to future disposition by the Congress.

Sec. 2. That no land covered by any valid existing claim or right heretofore initiated or recognized under any law of the United States shall be subject to purchase under this act until all rights thereunder have been transferred to said corporation or relinquished to the United States.

Sec. 3. That the Secretary of War, as soon as practicable after the passage of this act, shall establish a wharfage and dock area extending along the entire water front of the land proposed to be bought by said corporation and 1,000 feet in width, thereby fixing the seaward line of said wharfage and dock area, and the area thus established is hereby reserved and shall remain under the control of the United States, in trust, however, for the future State which may be created, including the same or any part thereof within its boundaries: *Provided,* That wharves, docks, slips, and waterways may be constructed and maintained within such wharfage and dock area in accordance with plans approved and terms and conditions prescribed from time to time by the Secretary of War, but the public at all times shall have the use of all such wharves, docks, slips, and waterways upon the payment of such reasonable charges, and under such regulations as may from time to time be fixed and prescribed by the Secretary of War.

Sec. 4. That the right of eminent domain may, after the issuance of patent hereunder, be exercised over any lands purchased under this act, whether such lands may have been included within streets and alleys or otherwise, under any law applicable to lands held in private ownership in the district of Alaska, and no exclusive right of way shall be granted to any person, company, or corporation over the lands purchased under this act.

Sec. 5. That the corporation named in section 1 of this act shall, within six months after the approval hereof, file with the register and receiver of the land district within which the lands applied for are situated, an application to purchase under this act, which application shall particularly describe the lands applied for and be accompanied with a certified copy of the field notes and plat of the survey of the boundaries of such lands, made under the direction and supervision of the surveyor-general of the district of Alaska.

Sec. 6. That the corporation named in section 1 of this act shall, within twelve months after the approval of the application named in the foregoing section, subject to the approval and under the direction of the Secretary of the Interior, file with the said Secretary a detailed plan of a town site, embracing the lands applied for, upon which shall be delineated adequate streets, alleys, lots, blocks, wharves, docks, slips, and waterways, and such reservations as the said Secretary may deem necessary and suitable for public use as parks and sites for public and school buildings and coaling stations: *Provided,* That the reservations for public parks shall, in addition to such other lands as may be needed for that purpose, include all of said lands which can not be reasonably utilized as sites for building purposes; and said corporation shall, after patent, dedicate and convey all of the said reservations for such public uses.

Sec. 7. That the corporation named in section 1 of this act, or its assigns, shall, within six months from the approval of the plan mentioned in the preceding section, pay to the proper receiver the full purchase price of the lands applied for; and within five years after the issuance of patent said corporation shall do all things necessary to render 320 acres of the land purchased suitable and available for wharfage and town-site purposes in accordance with the plan thereof submitted as required in section 6 of this act, and shall within two years from the approval of the plan mentioned in the preceding section construct within said wharfage and dock area a public dock, wharf, or pier, with suitable approaches on the land side and with not less than 34 feet of water at mean low tide leading to and surrounding the same, so as to enable ocean steamers to approach, dock, discharge and take on cargoes thereat; that patent for said lands shall recite that they are issued under the provisions of this act and are subject to cancellation and the land therein granted to forfeiture as herein provided; and if said corporation or its assigns shall fail to comply with any of the terms and conditions of this act, either before or after the issuance of patent, all interests, rights, or title which may have accrued or vested under this act shall be forfeited to the United States, and the application under which they accrued, or the patent under which they vested, shall be canceled: *Provided,* That the Secretary of the Interior may, on satisfactory showing, reasonably extend the time within which any of the acts enumerated in this act may be performed.

SEC. 8. That said corporation shall have the right to confine the waters of Cordova Creek to one channel and to straighten and deepen the same in such manner as may be prescribed by the Secretary of War.

SEC. 9. That the Alaska Terminal and Navigation Company shall be permitted to purchase, at the price of \$2.50 per acre, not to exceed 640 acres of such nonmineral lands of the United States as may be selected by said corporation and approved by the Secretary of the Interior, including the tide and mud flats, situated on the southerly end of Kanak Island, in the district of Alaska, with a front of not to exceed 1 mile on the wharfage and dock area on Controller Bay, to be reserved by the Secretary of War as provided in section 10 of this act.

SEC. 10. That the Secretary of War, as soon as practicable after the passage of this act, shall establish a wharfage and dock area extending along the entire water front of the land proposed to be bought by said corporation, and 1,000 feet in width, thereby fixing the seaward line of said wharfage and dock area, and the area thus established is hereby reserved and shall remain under the control of the United States, in trust, however, for the future State which may be created, including the same or any part thereof within its boundaries: *Provided*, That wharves, docks, slips, and waterways may be constructed and maintained within such wharfage and dock area in accordance with plans approved and terms and conditions prescribed from time to time by the Secretary of War; but the public at all times shall have the use of all such wharves, docks, slips, and waterways upon the payment of such reasonable charges, and under such regulations, as may from time to time be fixed and prescribed by the Secretary of War.

SEC. 11. That the corporation named in section 9 of this act shall, within six months after the approval hereof, file with the register and receiver of the land district within which the lands applied for are situated an application to purchase under this act, which application shall particularly describe the lands applied for, including the tide or mud flats, and be accompanied by a certified copy of the field notes and plat of the survey of the boundaries of such lands made under the direction and supervision of the surveyor-general of the district of Alaska.

SEC. 12. That the corporation named in section 9 of this act shall, within one year from the approval hereof, subject to the approval and under the direction of the Secretary of War, file with the Secretary of the Interior a detailed plan of such wharves, docks, slips, and waterways as may be necessary and suitable for shipping purposes; and shall within two years from the approval of the plan mentioned in this section construct within such wharfage and dock area a public dock, wharf, or pier with not less than 30 feet of water at mean low tide leading to and surrounding the same, so as to enable ocean steamers to approach, dock, discharge, and take on cargoes thereat: *Provided*, however, That within four years from such approval the water approaching and surrounding said public dock, pier, or wharf shall be deepened by said corporation to a depth of not less than 35 feet.

SEC. 13. That patents for said land shall recite that they are issued under the provisions of this act, and are subject to cancellation and the land therein granted to forfeiture as herein provided; that if said corporation shall fail to comply with any of the terms and conditions of this act or shall fail to do and perform any of the things required of it in this act, either before or after the issuance of patent, all interests, right, or title which may have accrued or vested under this act shall be forfeited to the United States, and the application under which they accrued or the patent under which they vested shall be canceled: *Provided*, That the Secretary of War may, on satisfactory showing, reasonably extend the time within which any of the acts enumerated in this act may be performed.

SEC. 14. That this act may be amended, modified, or repealed.

Mr. ROBINSON. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from New York is entitled to twenty minutes and the gentleman from Arkansas is entitled to twenty minutes.

Mr. PARSONS. Mr. Speaker, this motion is to strike out everything in the Senate bill after the enacting clause and to insert two bills relating to Alaska reported by the Committee on Public Lands. The numbers of the bills are H. R. 19014, in regard to Cordova Bay, and H. R. 21218, in regard to Controller Bay. The first part of the amendment grants to the Cordova Bay Harbor Improvement and Town Site Company, as soon as it shall be incorporated, not exceeding 2,000 acres. So far as the committee could ascertain these acres are almost entirely made up of mud flats, and to be useful they would have to be filled in. Both these bills have the approval of the Department of the Interior. The committee, however, imposed further restrictions than did the Department of the Interior. In the first bill, as approved by the Department, the company was entitled to take 5,000 acres. We cut it down to 2,000 acres, and then provided that surrounding this town site 3,000 acres should be withdrawn by the Department from location or entry, so that the forests and the water rights would remain under the control of the Government.

Each one of the bills provides that along the water front there shall be reserved by and remain under the control of the Government a strip 1,000 feet broad. In that strip there shall be constructed the wharves and docks. In each case the land to be taken is to be paid for at the rate of \$2.50 an acre. Within six months the corporation is to file its application to purchase and within twelve months after that has been approved it is to file its plans. In the case of the Cordova Bay Company within two years after its plans have been filed it must within this wharfage and dock area construct a public wharf or dock or pier, the water approach to which and water surrounding which shall have a depth of not less than 34 feet at mean low water. In New York Harbor, Ambrose Channel, which is the main channel that we are now dredging, is only to have a depth of 35 feet. This Cordova Harbor is to have a depth of 34 feet. I

mention this to show that if this corporation dredges out and gets a depth there of 34 feet, which is one requirement it must comply with, then you may be sure its promoters are acting in good faith. If they do not fulfill the conditions, then all the grant is subject to forfeiture, and that will all be set out in the patent. There are other details which I have not mentioned—

Mr. COLE. Is this a railroad proposition?

Mr. PARSONS. No.

Mr. COLE. Is not this corporation subsidiary to some railroad corporation?

Mr. PARSONS. No. I will say to the gentleman that so far as I could learn the railroad which is going from Cordova Bay now has a harbor at a different point on Cordova Bay, and so far as I know this is a different proposition. I have been informed that that railroad has built there a harbor at its own point on this bay. Now, in regard to the other bill, the Controller Bay bill, I yield five minutes to the gentleman from Alabama [Mr. CRAIG] who reported the bill for the committee.

Mr. CRAIG. Mr. Speaker, I am in favor of this bill as it is amended, consolidating the two bills for harbors in Alaska. The Controller Bay bill is the proposition to which I will specially address my remarks. In Controller Bay there is an island or sand bar—on some maps it is given as Kanak Island, and on others it is given as a sand bar across this bay, and other maps do not show it at all. It is on this island or sand bar that the land described in the bill is situated. This island is uninhabited and has neither animal nor vegetable life on it. It has never been used for any purpose, and it is situated in this bay in such a manner that on the southeasterly corner, or near that point, a harbor may be constructed, according to the opinion of some engineers. This harbor will be dredged about 2,000,000 cubic yards in order to make a channel, and that does not include the dock which the corporation must build for the use of the public.

Mr. CUSHMAN. Two million yards.

Mr. CRAIG. Two million cubic yards must be dredged. This bill provides that this corporation shall be allowed to purchase from the Government 640 acres of land, or mud flats, whichever they may select on this island, but these 640 acres of land must not be on the water front, but must front on the harbor area, which is to be reserved by the Secretary of War. In other words, the Government will reserve a strip of land 1,000 feet wide between the water front and the land which is sold; and that strip must be reserved for the future State. It must be held in trust by the Government. This company must present plans and specifications for the dredging, and they must be approved by the Secretary of War. Then they must construct within a given length of time—two years, I believe—after the approval of the plans a dock or wharf, around which there shall be a depth of water 34 feet. That is, at the end of two years. At the end of three years they must have deepened their channel to 35 feet.

The reason for that was that it is expected that coal, which is to be dug from the coal mines which we hope to see opened up there, will be brought down to this part of the country. It can be barged over from the land to this island on the same kind of barges that they now use in New York Harbor, except that they will not have the great depth that they have in New York.

Now, when the channel is completed, the vessels of our Navy can land, even the largest vessels, right at this dock. We are now paying on the Pacific \$8.30 a ton for the coal our fleet is burning. Some of that coal is American coal, but even most of that is carried in foreign bottoms; whereas, when we get this harbor complete, with these slips and docks constructed, it is thought that ultimately they can land coal on these docks for our fleet at \$4.50 a ton, which undoubtedly will be very greatly to the benefit of this country.

Mr. GAINES of Tennessee. We are paying now about \$10 a ton?

Mr. CRAIG. We are paying \$8.30 a ton for coal now. The question has just been asked by the gentleman from Mississippi [Mr. HUMPHREYS] whether or not this company will charge for the use of these docks. That can not be so, because the land upon which the docks are to be built is reserved by the Government, and anybody who will come to the Secretary of War and comply with the terms that he may prescribe from time to time may get the privilege of leasing or having a dock made there, or getting a place where they can make a dock, and then they can charge for ships coming in. This company does not make that charge except as prescribed by the Secretary of War. This company expects to make its money by owning the terminal facilities back of the docks and running barges from the land over to these docks. It is not expected to build a

town at this point, because it is not expected it will at any time be habitable, but it is expected that they can use these barges, bring over the produce from the land, and get the best harbor facilities possible. This place is very well protected from all points, according to all the evidence introduced in the committee.

Mr. HAMLIN. Will the gentleman yield?

Mr. CRAIG. Certainly.

Mr. HAMLIN. What business is this company engaged in now?

Mr. CRAIG. This company, as I understand it, is not engaged in any business now, but is trying to get engaged in the business of opening this harbor.

Mr. HAMLIN. I thought perhaps they might own certain coal mines.

The SPEAKER. The time of the gentleman has expired.

Mr. ROBINSON. I yield to the gentleman from Alabama [Mr. CRAIG] three minutes more.

Mr. CRAIG. The testimony before the committee does not develop that these gentlemen have any interests, railroad or otherwise. But they expect to make their money out of owning these terminal facilities for handling the cargoes that come in and go out of this port.

Mr. HAMLIN. There is no railroad running down to the coast at this point at this time?

Mr. CRAIG. Not now.

Mr. BENNET of New York. Will the gentleman yield?

Mr. CRAIG. Certainly.

Mr. BENNET of New York. Do you think under the restrictions of this bill and what they have got to do they can make it pay?

Mr. CRAIG. That was not a part of our consideration. If they are willing to take the bill and dig this channel to 35 feet and build this dock for the use of the public, I say it is a good proposition from a business standpoint for the Government, and we are not looking out for the other fellow particularly.

Mr. HUGHES of New Jersey. Will the gentleman yield for a question?

Mr. CRAIG. Certainly.

Mr. HUGHES of New Jersey. Is it true that the Government retains the control or ownership of the water front?

Mr. CRAIG. The Government retains the control and reserves from every kind of entry or sale of any kind 1,000 feet in width of all the water front, which is to be held in trust for the future State.

I yield back the remainder of my time, Mr. Speaker.

Mr. ROBINSON. I yield two minutes to the gentleman from Ohio.

Mr. COLE. Mr. Speaker, I am not familiar with the details of this measure. I chance to be a member of the Committee on Territories, and this proposition for the construction of railways in Alaska has been before the Committee on Territories for the last two or three years. We have had very extensive hearings upon that matter, and we had hoped that some general measure involving the construction of railways in Alaska might be submitted to this House at this or the coming session. It occurs to me that this is taking snap judgment upon a very serious proposition. Now, here is a matter granting a corporation about 2,000 acres.

Mr. PARSONS. Let me make a statement. Your committee in the Fifty-ninth Congress reported out a bill granting to these same people 4,500 acres at this same point.

Mr. COLE. I realize that our committee took favorable action upon this proposition at one time in connection with railroad legislation which was recommended by the President of the United States. But now here is a matter brought in in the closing hours of the session of Congress, brought in by the Committee on Public Lands, depriving, as I consider it, the Committee on Territories of jurisdiction of a proposition over which it has exercised control all this session, upon which we have had hearings, and upon which we expect to bring a report into this Congress. Now we are deprived of this privilege by this hasty action. I think it will be found upon investigation that this is not a private corporation, but that it comes in in connection with some railroad, because it is identical with the one on which we have acted in conjunction with railroad franchises. Tell me why it is that this corporation is interested in the construction of these wharves, unless they expect that the coal from the mines in the interior shall come there. The gentlemen who spoke in opposition to this proposition said they expected to transport the coal to the Pacific coast and sell it cheaper than they can the coal that comes from the mines of Pennsylvania.

The Committee on Territories is anxious to facilitate that result. We are anxious enough that the people living upon

the Pacific coast shall get this coal from the fields of Alaska, but at the same time, Mr. Speaker, we want to preserve the rights of the United States Government when it comes to granting franchises for the construction of railways in Alaska. We do not intend to grant any railway corporation exclusive rights to harbor facilities. That is the proposition I contend for, and I hope that this House may defeat this bill and let the Committee on Territories, which has jurisdiction of this proposition, bring in a report upon the question of the general construction of railways in Alaska. [Applause.]

Mr. PARSONS. Would the gentleman oblige me by pointing out in the bill a single thing that does not guarantee the interests of the United States?

Mr. COLE. Mr. Speaker, that is just the trouble. I have not had time to investigate the report on the bill; but I do know something of the general proposition of railway construction in Alaska, and I do not like to vote for a bill involving this question without knowing exactly what I am supporting. [Applause.]

Mr. ROBINSON. Mr. Speaker, as a general proposition, I do not believe in granting lands to private corporations; but under the provisions of this bill the rights of the Government and the rights of the public are so carefully safeguarded that in my judgment, after a very detailed and careful consideration of the matter, the Government I think has by far the best of the proposition. I believe the bill should pass.

Now, in reply to the statement made by the gentleman from Ohio [Mr. COLE], there is no proposition of railroad construction involved either directly or indirectly in this bill. So far as I know this proposition is not within the jurisdiction of the Committee on Territories. It relates solely to the public lands of the United States, and the Committee on Public Lands has exclusive jurisdiction of that subject.

Mr. COLE. Will the gentleman yield for a question?

Mr. ROBINSON. Certainly.

Mr. COLE. If there is no connection between this and the railroad proposition, why is it that the railroad has been advocating it for the last two years?

Mr. ROBINSON. I do not know what road the gentleman refers to, nor the advocacy he refers to; but I want to say that under this bill no exclusive right can be granted to any party or to any corporation to build a railroad. So far as the building of roads is concerned, I would be glad if that country should speedily have railroads, if the rights of the people are properly safeguarded. Alaska can not be developed without them. I do not stand here to advocate the interest of any particular railroad corporation which may approve or oppose this bill. The bill which I advocate guarantees to every corporation and to every individual equal rights as to rights of way and we propose that no exclusive privilege shall be acquired, and if any exclusive right is attempted to be granted it would probably work a forfeiture.

Mr. Speaker, this is one of the most meritorious provisions in the bill. Another proposition to which the distinguished gentleman from Ohio [Mr. COLE] referred was this: He said he wanted to guard the rights of the States. A provision is found in this bill requiring that the Government of the United States shall reserve control of the harbor areas in trust for the future State that may be created within the Territory of Alaska. So that, in my judgment, this feature is well cared for.

There are a great many provisions, but I will not take time now to refer to them all.

There are two general propositions in this bill. One of them relates to Cordova Bay and the other to Controller Bay. The requirements made of these corporations will, in my judgment, result in time in the establishment of at least one great city in Alaska, and at the same time the rights of the public will be carefully safeguarded and the development of Alaska facilitated. I fear I am consuming too much time, and I yield five minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. OLMSTED. I should like to ask how it is that the time on both sides is controlled in favor of the bill.

Mr. ROBINSON. Mr. Speaker, I will yield to any gentleman opposed to the bill, even though I have already allotted the time. The only gentleman who requested to be heard in opposition to the bill was the gentleman from Ohio [Mr. COLE], and I yielded him all the time he desired.

If the gentleman from Pennsylvania [Mr. OLMSTED] wants recognition, I will yield to him.

Mr. OLMSTED. We have already used up most of the time on both sides in favor of the bill. We are unable to find out whether it ought to be passed or not.

Mr. ROBINSON. How much time is remaining?

The SPEAKER pro tempore. The gentleman from Arkansas has thirteen minutes remaining.

Mr. ROBINSON. I will yield to the gentleman from Pennsylvania if he wants time.

The SPEAKER pro tempore. How much time did the gentleman yield to the gentleman from Wyoming [Mr. MONDELL]?

Mr. ROBINSON. Five minutes.

Mr. MONDELL. Mr. Speaker, on the question of jurisdiction, I want to say to the gentleman from Ohio that the committee of which I have the honor of being chairman is very careful not to invade the jurisdiction of any other committee, and we refused to take jurisdiction of these matters until there was eliminated from the bill every question except those relating exclusively to the public lands of the United States, which are under the jurisdiction of our committee. Now, the necessity for this legislation arises from three conditions existing in Alaska, two of them conditions established by legislation, one of them a natural condition.

In the first place the Government restrains every alternate 80 rods along the shore line of all the navigable waters of Alaska under the general law. Therefore persons acquiring land in Alaska under the general law can only acquire 80 rods in length along navigable waters, with a break of 80 rods, and then another 80 rods of shore line can be obtained. Now, this land proposed to be sold could be acquired in 80-rod front tracts for no greater cost under the general laws, but who can build a harbor in an uninhabited wilderness, with 80-rod stretches of vacant Government land alternating along the harbor front? Who is going to improve a harbor in that Territory under those conditions.

Mr. HAMLIN rose.

The SPEAKER pro tempore. Does the gentleman from Wyoming yield?

Mr. MONDELL. I can not yield; I have only five minutes.

The SPEAKER pro tempore. The gentleman declines to yield.

Mr. MONDELL. In the next place, the general law reserves a 60-foot roadway along the water front of all navigable waterways, so that those who acquire water fronts are cut off from high tide by that 60-foot roadway; that adds to the difficulties of constructing a harbor. Those are conditions fixed by legislation.

Now, the natural condition that makes this legislation necessary lies in the fact that this particular region has a long stretch of mud flats extending seaward from the point of high tide, and as under the general-law title can only be obtained to the point of high tide, it is impossible to excavate through the long stretch of mud flats to the line of high tide, and so we provide that the Secretary of War may fix the harbor line, and that shall be the point from which these parties own landward.

Under the terms of the bill the grantees are required to dredge out the mud flats in the public harbor area lying in front of their holdings, in order to fill up their own lands, and this harbor area, a thousand feet wide, stretching along the entire front of their holdings, is free to all comers, and all wharves and docks built within that area must grant the privilege of loading and unloading to every vessel that comes, at a rate to be fixed by the Secretary of War. So that there is at all times free access to the harbor area. Now, this is a carefully guarded bill, necessary to the building up of these ports in Alaska, in order to make it possible to take out the products of the Alaskan coal fields and take them to market. I hope that railroads will build to these towns, to at least one of them. The port on Kanak Island is needed, as I understand it, particularly for the purpose of unloading coal from barges coming from the Katalla coal fields. The coal is to be brought from the mines to this proposed port in barges and may there be loaded on the largest vessels afloat.

Mr. ROBINSON. Mr. Speaker, I yield one minute to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Speaker, on yesterday, when this bill was called up, I objected, not because I had any objection to the contents of the bill, but because I could not get consideration of a bill that I have introduced—a bill of great importance to the men who grow grain and cotton. It is now on the Calendar. It seeks to prevent falsifications in the collection and compilation of agricultural statistics and the unauthorized issuance and publication of the same. I have been insisting here for three or four days, Mr. Speaker, whenever I could get the opportunity, that you permit us to pass this bill. There is no law, as I have told you repeatedly, to punish a clerk or Government official for selling this information. The law requires the farmer to give this statistical information, but there is absolutely not one line on the statute books to punish anybody for selling it to the grain gamblers of Chicago, New York, or New Orleans, or the cotton gamblers of any one of these three places. On yesterday, ac-

cording to newspaper reports, your grand jury here indicted Theodore Price and others for tampering with and disposing of agricultural statistics.

Here is the newspaper article:

COTTON LEAK FINDING—FOUR INDICTMENTS RETURNED BY GRAND JURY HERE—CONSPIRACY IS CHARGED—T. H. PRICE, MOSES HAAS, F. A. PECKHAM, AND E. S. HOLMES ACCUSED—ALLEGED PROFIT OF \$750,000—STATISTICIAN OF AGRICULTURAL DEPARTMENT SAID TO HAVE BEEN PAID \$1,000 IN ONE INSTANCE.

Four indictments were returned late this afternoon by the grand jury growing out of the cotton-leak scandal of 1905 in the Department of Agriculture.

Theodore H. Price, of New York, the cotton king, is alleged in the indictments to have conspired with Moses Haas and Frederick A. Peckham, of New York, and Edwin S. Holmes, Jr., of this city, the latter then associate statistician of the Department of Agriculture, to furnish advance information in anticipation of cotton reports.

The three New York men are also charged with conspiring to bribe Holmes to shape the reports to suit their interests.

Price made \$750,000 out of the advance information of the report for December, 1904, it is alleged in one of the indictments. Of this sum it is declared he paid Moses Haas \$125,000. The indictments do not estimate how much Holmes is believed to have received as his share of the profits, but it is charged that for information on the June report of 1905 he was paid \$1,000 by Haas.

FORMER PROCEEDINGS.

Holmes, Peckham, and Haas were indicted here in October, 1905. After a long legal fight Peckham and Haas succeeded in preventing their extradition to this district. Holmes was tried in June, 1907, and the jury disagreed. He has not been retried.

Indictments of similar import and against the defendants were returned in New York City to-day.

One indictment charges that on May 31, 1905, Theodore H. Price and Moses Haas unlawfully conspired to commit an offense against the United States of promising, offering, and giving to an official of the United States a sum of money, the amount to the grand jurors unknown, to induce Holmes unlawfully and in violation of his duty as associate statistician—which was honestly and carefully to keep secret all statistics and statistical matter—to furnish advance information to them concerning the contents of the forthcoming crop report.

SEVEN OVERT ACTS.

The indictment sets out seven overt acts. It is charged that a conference was held in New York City May 31, 1905, between Price and Haas; that June 1, in furtherance of the alleged conspiracy, Haas journeyed to Washington, where, it is alleged, he met Holmes and promised to pay Holmes for the alleged violation of his duty of secrecy by giving out advance information concerning the cotton crop.

The next overt act charged is that June 1, 1905, Haas received from Holmes information of what was to be contained in the cotton-crop report to be issued in June. The next day, and before the report was made public, it is alleged, Haas received information from Holmes. On both dates mentioned, it is declared, Price, in New York, received the information alleged to have been imparted by Holmes to Haas.

The last overt act charged is that Haas, June 2, 1905, gave Holmes \$1,000.

The second count of this indictment charges that Haas and Price conspired to bribe Holmes to shape the June report so as to show a greater cotton crop than the information in the hands of Holmes justified.

PECKHAM IS INVOLVED.

Another indictment charges Price, Haas, and Holmes, in eight counts, as conspiring to bribe Holmes to give out information in advance of the Department report.

The other counts charge conspiracy to shape the report to suit the ends desired by Price and Haas.

The third indictment is against Holmes, Peckham, and Haas, and charges a conspiracy to defraud the Government by getting information in advance.

The fourth indictment is against Peckham and Haas only, and charges they conspired to commit the offense of bribing Holmes to give out advance information.

INDICTED IN NEW YORK.

NEW YORK, May 29, 1908.

Four indictments were returned by the Federal grand jury to-day. It was reported that Theodore H. Price, the prominent cotton operator, was charged with improper transactions in connection with the leak of Government cotton statistics of several years ago.

Mr. Price was arraigned before Judge Hough in the criminal branch of the United States circuit court later in the afternoon, and through his counsel, John D. Lindsay, entered a plea of not guilty to the charge of conspiracy against the United States Government. Assistant United States District Attorney Dorr said that two indictments have been found, but only one would be pressed. He asked for \$20,000 bail in the case.

It is true there is an amendment in the code that is now hanging up on the shelf and will not be acted upon until the fall session. In the meantime this crop must be at the mercy of the speculators of this country, and I want to appeal to the gentleman from Kansas [Mr. CALDERHEAD] to go with others to the gentleman from New York [Mr. PAYNE], who comes from a State where the worst gambling exchange on the earth exists, to beg him in the closing hours of this Congress to grant this relief to the toiling masses of this country, the farmers of America. Mr. Speaker, I have pleaded with him. I have addressed a letter to him setting out the reasons why this should become a law, but he persists in asking the Speaker not to recognize me for the purpose of asking unanimous consent or for the purpose of moving to suspend the rules. The gentleman's party will have to explain it on the stump this fall in the agricultural districts of the country. You know there is no law covering this case, and why do you not give me one minute of time to consider it. I promise you that if you will

let me pass it through the House I will put it through the Senate. It will become a law in a little while. The President is in favor of it. The President will sign the bill as soon as we can get it to him.

Mr. CALDERHEAD rose.

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Kansas.

Mr. CALDERHEAD. Mr. Speaker, I think I have a right to require that the gentleman from Alabama shall speak to the bill and not discuss some other question.

The SPEAKER. Oh, the gentleman did not rise to ask the gentleman to yield, but rather to make a point of order that the gentleman from Alabama must confine himself to discussing the bill. The Chair was not paying attention to what the gentleman stated. [Laughter.] The Chair will say to the gentleman that he should proceed in order.

Mr. HEFLIN. Mr. Speaker, I shall, and I am very grateful to the Chair for his candor and his honesty. He has paid but very little attention to me, not only now, but when I have gone to him and asked him to recognize me [laughter and applause], and I find it quite difficult to get anyone on that side to pay attention to us when we are advocating things in the interest of the people. [Applause on Democratic side.]

Mr. Speaker, in conclusion, I want to say to the gentleman from Kansas that I favor his bill. I propose to vote for his bill. I do not think that those three old soldiers ought to suffer for the many sins that belong to the gentleman from New York [Mr. PAYNE]. [Applause.]

Mr. Speaker, Holmes was indicted and tried for some offense, and why was he not convicted? You all know why. It was because we had no law covering his case, and you have no law now. What is the purpose of these last indictments? Why have you waited so long to indict them? The offense was committed in 1905 and this is 1908. Again I ask, Why have these men not been indicted before now?

My bill to prevent falsifications in the collection and compilation of agricultural statistics and the unauthorized issuance and publication of the same was placed upon the Calendar for consideration by this House on May 12, 1908. I have constantly and persistently tried to get the Speaker to recognize me to call up this bill and pass it, or at least to give the House an opportunity to vote on it. I knew that the Democrats were all for it, and that if a few Republicans would join us that we could pass it.

The Speaker would not recognize me to move to suspend the rules and pass the bill, but would only recognize me to ask unanimous consent, and that left it in the power of one man to defeat it, and the gentleman from New York—the Republican floor leader [Mr. PAYNE]—objected, as he usually does to measures that are for the common good.

Mr. Speaker, I have told the gentleman from New York [Mr. PAYNE] that the Republicans in this House would have to answer to the farmers of the country for your failure to pass this important measure.

Day after day I have begged you to give me one minute in which to consider and pass this bill, but you would not. I do not believe that the indictments returned while my bill was being urged in this House will deceive the farmers and others who know that there is no law to punish the offenders. It would not surprise me, when you are questioned in the next campaign as to why you did not pass my bill, to hear you say, "Why, we have had Price, Haws, and others indicted," and so forth. Then some thoughtful farmer will ask you what objection you had to HEFLIN's bill, and why did you not indict Price and his gang in 1906, or in 1907, or before this bill was on the Calendar for consideration in 1908. What will be your answer? If you tell the truth, you will say the grain gamblers and the cotton gamblers did not want HEFLIN's bill to become a law. Mr. Speaker, if the masses of the people knew how their interests were trampled upon and how their demands are denied by this Republican Congress, there would be indignation meetings held from now until you are driven from power in November.

Mr. ROBINSON. Mr. Speaker, I yield three minutes to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Speaker, I want to comment on section 3, which is one of the most important sections of this bill. All of the rights that the public, it seems to me, should retain, unless it retain all of them and give nothing, have been reserved and protected in this bill. This company, to get its patent and so forth, is required to do certain things, among others to improve the means of getting into the harbor from the adjoining land. It is to make "slips"—that is, a way to get in and out of water. Anyone can use these slips upon paying a certain charge to be fixed by the Secretary of

War, so that the slips are not exclusive, and all of the harbor rights that the State would own if Alaska were turned into a State are expressly reserved by the section of the bill from which I quote, as follows:

That the Secretary of War, as soon as practicable after the passage of this act, shall establish a wharfrage and dock area extending along the entire water front of the land proposed to be bought by said corporation, and 1,000 feet in width, thereby fixing the seaward line of said wharfrage and dock area, and the area thus established is hereby reserved and shall remain under the control of the United States, in trust, however, for the future State which may be created, including the same or any part thereof within its boundaries.

Mr. PADGETT. Will the gentleman allow me to interrupt him there?

Mr. GAINES of Tennessee. Yes.

Mr. PADGETT. This land purports to be swamp or muck land.

Mr. GAINES of Tennessee. Yes.

Mr. PADGETT. And the parties are proposing to pay \$2.50 an acre, to dredge it and make a wharf, and so forth?

Mr. GAINES of Tennessee. Yes.

Mr. PADGETT. What is it about this muck land that makes it so valuable that the parties are willing to dredge all this out and build this wharf and these slips, and then pay \$2.50 an acre for what purports to be swamp, muck land? What is it that makes it so valuable?

Mr. CUSHMAN. Will the gentleman yield to me?

Mr. GAINES of Tennessee. Yes.

Mr. CUSHMAN. It is not the value of the land. It is because harbors in Alaska are scarce, and the people in Alaska have never been able to induce the Government to make appropriations for improving their harbors. They are not like the gentleman and myself and his and my districts.

Mr. PADGETT. Oh, I do not get it in mine because I am a highland terrapin.

Mr. CUSHMAN. At any rate, after years of effort to get the Government to improve the harbors, they have met with no success, and numerous people have said that if the Government will give them a chance to improve the harbors they will improve them themselves.

Mr. PADGETT. They are doing it from an altruistic point of view?

Mr. CUSHMAN. Not entirely. The value of this land to-day is nothing. What it will be worth in the future depends upon what they make it worth.

Mr. PADGETT. If it is worth nothing, why is it they are willing to give \$2.50 an acre for it and dredge it out and make slips and wharves?

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. ROBINSON. I yield two minutes more to the gentleman from Tennessee.

Mr. GAINES of Tennessee. The land as it is now is practically worthless, because unusable and no people there to use it.

Mr. PADGETT. Why is it they are willing to give so much for it?

Mr. GAINES of Tennessee. It is paying for a possibility. After they have improved the harbor, it will be a very fine harbor. As it is it is not a raw or unimproved or natural harbor. After they have put the slips in there so that the people can go in and out, it will be a valuable franchise—when enough people go there to use it.

Mr. NICHOLLS. Will this corporation have the right forever to impose such charges as the Secretary of War fixes for these slips?

Mr. GAINES of Tennessee. They can be changed, of course, by the Secretary or Congress. Now, to proceed with this provision:

Provided, That wharves, docks, slips, and waterways may be constructed and maintained within such wharfrage and dock area in accordance with plans approved and terms and conditions prescribed from time to time by the Secretary of War; but the public at all times shall have the use of all such wharves, docks, slips, and waterways upon the payment of such reasonable charges, and under such regulations, as may from time to time be fixed and prescribed by the Secretary of War.

Now, this company is going to go there and improve a wholly unimproved country. They are going to put in these slips and the public can use these slips by paying this charge, and this company of course has the use of the property that it puts there. We know, Mr. Speaker, in our own country that natural harbors are not as valuable as they are when improved, and there are enough people to use and give it a value. Alaska is practically uninhabited, and none of the harbors are improved. There are few railroads there, and, so far as I know, no railroad is connected with this. No railroad man appeared before the committee when I was there, although I was not present at all the meetings. Now, I know the committee, Mr. Speaker, as

carefully as it can, so far as I think the committee can, preserved the rights of the public. I know while I was present I undertook to do so, and suggested the amendment about preserving these water rights for the future State, and we even went so far as to take an aye-and-no vote upon the proposition; so I think the bill ought to pass.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PARSONS. Mr. Speaker, I yield four minutes to the gentleman from Washington [Mr. CUSHMAN].

Mr. CUSHMAN. Mr. Speaker, I think in the few years I have been in the House I have demonstrated, or at least tried to demonstrate, that I have been a true friend to Alaska, to the people and the interests of that region. I would not lift my voice in favor of this bill here if I did not believe it was entirely worthy and that the motives in asking this legislation are entirely honest. Now, as a matter of fact, I regret the gentleman from Ohio [Mr. COLE] should have thought there was an effort, in reporting this bill from the Committee on Public Lands, to invade the rights of his committee—the Committee on Territories. I am under many obligations to the members of the Committee on Territories for assisting in reporting the Alaska Delegate bill and many other bills relating to Alaskan matters generally, but this bill relates exclusively to public lands and therefore is within the jurisdiction of the Committee on Public Lands.

Now, then, the necessity for this legislation arises simply from lack of harbor facilities in Alaska. The people there are not only willing that the Government of the United States should make the harbor improvements but they are anxious that the Government should improve the harbors in Alaska. But the Government has failed to do so, and all along that vast stretch of coast line good harbors are scarce. This particular harbor of Cordova is a good, safe harbor in one way—that is, it is protected by islands that lie along the mouth of the harbor, protecting it from the winds and storms that blow in from the sea, and there is good anchorage but no wharfage facilities. There is no place where a ship can get up to land to load and unload a cargo because the mud flats lying out at the head of the harbor make the water too shallow to float a ship close to shore. Now, the gentleman wants to know what makes this land so valuable. I have here pictures showing the character of this land—nothing but a broad stretch of mud flats, with some brush grown up on the flats just above the line of high tide, which lands are absolutely of no value now, and they never will be of any value unless the harbor is improved.

The bill has been modified by the Secretary of the Interior and the Public Lands Committee of Congress with all manner of restrictions, among other things holding in trust for the people a strip of land 1,000 feet wide along the entire water front after the harbor has been improved, and the people who make these improvements and put their money into improving this harbor will have to go to the Secretary of War and get a permit the same as other people to do business on this water front. Why, there has been no bill introduced here in years of which I know that contains so many restrictions.

Mr. PADGETT. The Government retains the riparian rights.

Mr. CUSHMAN. The Government retains a strip 1,000 feet wide along the entire water front. Now, the necessity for this was explained by the gentleman from Wyoming [Mr. MONDELL]. The Secretary of the Interior could not, without legislation by Congress, grant these people any rights to the public land that would enable them to make these additional improvements, because the Secretary might grant them a right to file on the land down to the line of high tide, but these improvements must be made between the line of high tide and low tide, where these great mud flats exist, and they propose to do dredging on the mud flats and take the material dredged out and dump it behind a sea wall, raising that area where the mud flats lie, and thereby accomplish two things—first, make a good, deep harbor by dredging; second, make solid, high ground out of the mud flats by dumping the dredged material thereon. This bill requires them to make a depth there of 30 feet, to permit the deepest-draft vessels to get into the wharves.

I want to assure the membership of the House that there is, in my judgment, not only no "nigger in the wood pile" concealed in this bill, but that it is an honest bill; one that will enable the improvements to be made in this harbor at the head of Cordova Bay. Now, there is need for harbor facilities in that region. There is a good harbor there, but no ship can effect a landing now, because there is an insufficient depth of water, and because there are no docks and no slips, and no opportunity to build them unless some man with capital and energy will go there and do this dredging.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. ROBINSON. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. Three minutes.

Mr. ROBINSON. I yield to the gentleman from Ohio [Mr. COLE] two minutes.

Mr. COLE. Mr. Speaker, I just wanted to make one further observation upon this proposition. I did not care to charge anybody with having fathered a measure that was not honorable in every respect. I did think that I saw a connection between this proposition and the one before the Committee on the Territories, from the simple fact that they are asking for exactly the same thing that the company before the Committee on the Territories is asking for. Now, I have talked with a number of the members of that committee. They are all intensely and deeply interested in the construction of railways in Alaska, and I think the gentleman from Washington [Mr. CUSHMAN] will bear me out in that statement. I have recommended the identical proposition that the gentleman advances here to-day, but we thought that there were two great railway interests trying to get control of conditions in Alaska, and that it was better to make an investigation first and ascertain the facts in the matter before any of the rights of the Government were given away. That is my position, and, I think, the position of the Committee on the Territories, as far as I have been able to learn. They are in favor of railway construction there, but they want to begin upon a sound basis—ascertain the facts first, and then go forward with the construction of the railways.

Mr. OLMSTED. Will the gentleman yield to an inquiry? I simply wish to ask whether it is or is not a fact that through these two bays the entire Alaskan coal fields are controlled? Would the coal come out between these two bays?

Mr. COLE. Mr. Speaker, my understanding is that these are the only two bays suitable for wharves and for dockage on the shores of Alaska in this region, and my observation is that the railways that are contemplated extending down from the gold and the coal fields will of necessity center at these two points.

Mr. OLMSTED. These bills give these two companies the monopoly of these two bays?

Mr. COLE. I have not read the bill, because I did not have a copy, and I can not answer the question.

Mr. CUSHMAN. The railroad company already have their harbor on this same bay, 6 miles farther down on the bay.

Mr. ROBINSON. I want to read section 4 of this bill. It is as follows:

SEC. 4. That the right of eminent domain may, after the issuance of patent hereunder, be exercised over any lands purchased under this act, whether such lands may have been included within streets and alleys or otherwise, under any law applicable to lands held in private ownership in the district of Alaska, and no exclusive right of way shall be granted to any person, company, or corporation over the lands purchased under this act.

Mr. OLMSTED. That prevents anybody else getting an exclusive right of way over their land after they had purchased it.

Mr. ROBINSON. Mr. Speaker, the act expressly provides that no exclusive right of way shall be granted, and it also gives the right of eminent domain, so that any number of railroads may be built, and no monopoly in transportation can be created. There is no railroad proposition here. I repeat again, I hope somebody will build a railroad into Alaska and develop that great country. But this is not a proposition of controversy between railroads. This will not interfere with railroad building.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PARSONS. Mr. Speaker, there are two coal fields in Alaska. The Controller Bay field, which is in the vicinity of both of these harbors, and near which the so-called "Guggenheim road," I believe, is built, and the Matanuska field, which is farther west, and is to be reached by a railroad from Cook Inlet, several hundred miles west of this. The two harbors referred to in this bill have nothing to do with the outlet of coal from the Matanuska field. So far as the Controller Bay field is concerned, my information is that the so-called "Guggenheim railroad" already has, in another part of this Cordova Bay, its own harbor erected, and whether this Cordova town-site proposition will ever have any connection with that or not I do not know; but this proposition is purely a town-site and wharf proposition. Any railroad that is going to make use of it will have no special privilege as a result of this bill. The wharves that will be constructed will be for public use. The charges must be reasonable, and the wharves are to be under

the supervision and regulation of the Department, so that no monopoly can be obtained.

Mr. OLMSTED. Can anybody else except this company build a dock or wharves in any of these bays?

Mr. PARSONS. Yes; anybody who applies can build a dock or wharf in either of these bays; but they will have to build it under regulations established by the Department, and when this wharf is built under this bill anybody can use it.

Mr. OLMSTED. But under this bill nobody else can build it.

Mr. PARSONS. No; anyone can build. Your reference is to only one provision, by which the corporation is forced to build one dock. But any other person can go in and build other docks.

Mr. OLMSTED. On their land?

Mr. PARSONS. It is not corporation land; it is land of the United States.

Mr. OLMSTED. But the corporation is to buy it at \$2.50 an acre.

Mr. CUSHMAN. Not within a thousand feet of the water front.

Mr. PARSONS. The land is back of that. There is a reservation to the United States of a thousand-foot strip along the water front, and every acre the corporation can buy must be back of that strip. That strip controls the water front.

Mr. CUSHMAN. And they fill up with what they dredge out of the harbor.

The SPEAKER pro tempore (Mr. WANGER). All time has expired. The question is on suspending the rules and passing the bill.

Mr. ROBINSON. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PARSONS. I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from New York suggests that a quorum is not present. That is evidently the case.

Mr. HENRY of Texas. A parliamentary inquiry.

The SPEAKER pro tempore. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members—

Mr. HENRY of Texas. I want to renew my request that during the call of the House the Doorkeeper be instructed to allow the doors to remain open, as they do in the Senate and in every other legislative body. I ask that the rule be suspended on this roll and all other rolls.

The SPEAKER pro tempore. The request could only apply to the present roll.

Mr. HENRY of Texas. Well, I will make the request as to the present roll call.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Sergeant-at-Arms will notify absent Members. As many as are in favor of the motion to suspend the rules and pass the bill will, as their names are called, answer "yea," those opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 141, nays 49, answered "present" 10, not voting 187, as follows:

YEAS—141.

Acheson	Darragh	Holliday	Porter
Adamson	Diekema	Houston	Pray
Ashbrook	Douglas	Howland	Reeder
Bannon	Durey	Hughes, N. J.	Reynolds
Borchfeld	Ellerbe	Humphrey, Wash.	Riordan
Barclay	Ellis, Oreg.	Jones, Wash.	Robinson
Bartholdt	Esch	Kahn	Rodenberg
Bartlett, Nev.	Fassett	Kelifer	Russell, Mo.
Bates	Ferris	Kennedy, Iowa	Scott
Beale, Pa.	Finley	Kennedy, Ohio	Sherman
Bede	Floyd	Kinkaid	Smith, Cal.
Bell, Ga.	French	Kinkaid	Smith, Iowa
Bonyne	Gaines, Tenn.	Lafean	Smith, Mich.
Broussard	Gaines, W. Va.	Law	Smith, Mo.
Burke	Gardner, Mich.	Lindbergh	Southwick
Burleigh	Gardner, N. J.	Longworth	Stafford
Burnett	Garner	Lovering	Steenerson
Burton, Ohio	Garrett	Lowden	Sterling
Campbell	Gillespie	McCreary	Sturgiss
Candler	Gillet	McGavin	Sulzer
Capron	Godwin	McHenry	Tawney
Cary	Gordon	McKinley, Ill.	Taylor, Ohio
Caulfield	Goulden	McLachlan, Cal.	Thistlewood
Chapman	Graft	McLaughlin, Mich.	Volstead
Clark, Fla.	Graham	McMillan	Waldo
Clayton	Granger	Maynard	Wanger
Cockran	Greene	Mondell	Washburn
Cocks, N. Y.	Hackney	Moore, Pa.	Weems
Cook, Colo.	Hale	Needham	Williams
Cooper, Pa.	Hall	Norris	Wilson, Ill.
Coudrey	Hamilton, Mich.	Nye	Wood
Craig	Haugen	Olcott	Woodyard
Crumpacker	Hawley	Padgett	Young
Carrier	Hayes	Parsons	
Cushman	Heflin	Payne	
Dalzell	Hepburn	Pollard	

NAYS—49.

Aiken	Cole	McKinney	Russell, Tex.
Alexander, Mo.	Cooper, Tex.	Macon	Saunders
Ansberry	Cox, Ind.	Moon, Tenn.	Slayden
Beall, Tex.	Foster, Ill.	Moore, Tex.	Spight
Booher	Gilhams	Murphy	Stephens, Tex.
Boutell	Hackett	Nicholls	Thomas, N. C.
Bowers	Hamlin	O'Connell	Tou Velle
Brodhead	Hardy	Olmsted	Watkins
Burgess	Helm	Rainey	Webb
Burleson	Henry, Tex.	Randell, Tex.	Wheeler
Butler	Hubbard, W. Va.	Rauch	
Chaney	Hull, Tenn.	Rothermel	
Clark, Mo.	Lloyd	Rucker	

ANSWERED "PRESENT"—10.

Bennet, N. Y.	Dixon	Lever	Sheppard
Cooper, Wis.	Flood	Parker, N. J.	
De Armond	Humphreys, Miss.	Sabath	

NOT VOTING—187.

Adair	Focht	Jones, Va.	Overstreet
Alexander, N. Y.	Fordney	Kimball	Page
Allen	Fornes	Kipp	Parker, S. Dak.
Ames	Foss	Kitchin, Claude	Patterson
Andrus	Foster, Ind.	Kitchin, Wm. W.	Pearre
Anthony	Foster, Vt.	Knapp	Perkins
Bartlett, Ga.	Foulkrod	Knopf	Peters
Bennett, Ky.	Fowler	Knowland	Pou
Bingham	Fuller	Kuistermann	Powers
Birdsall	Fulton	Lamar, Fla.	Pratt
Boyd	Gardner, Mass.	Lamar, Mo.	Prince
Bradley	Gill	Lamb	Pujo
Brantley	Glass	Landis	Ransdell, La.
Brownlow	Goebel	Langley	Reid
Brumm	Goldfogle	Laning	Rhinock
Brundidge	Gregg	Lassiter	Richardson
Burton, Del.	Griggs	Lawrence	Roberts
Byrd	Gronna	Leake	Ryan
Calder	Haggott	Lee	Shackelford
Calderhead	Hamill	Legare	Sherley
Caldwell	Hamilton, Iowa	Lenahan	Sherwood
Carlin	Hammond	Lewis	Sims
Carter	Harding	Lilley	Slemp
Conner	Hardwick	Lindsay	Small
Cook, Pa.	Harrison	Littlefield	Smith, Tex.
Cousins	Haskins	Livingston	Snapp
Cravens	Hay	Lorimer	Sparkman
Crawford	Henry, Conn.	Loud	Sperry
Davenport	Higgins	Loudenslager	Stanley
Davey, La.	Hill, Conn.	McCall	Stevens, Minn.
Davidson	Hill, Miss.	McDermott	Sulloway
Davis, Minn.	Hinshaw	McGuire	Talbott
Dawes	Hitchcock	McKinlay, Cal.	Taylor, Ala.
Dawson	Hobson	McLain	Thomas, Ohio
Denby	Howard	McMorran	Tirrell
Denver	Howell, N. J.	Madden	Townsend
Draper	Howell, Utah	Madison	Underwood
Driscoll	Hubbard, Iowa	Malby	Vreeland
Dunwell	Huff	Mann	Wallace
Dwight	Hughes, W. Va.	Marshall	Watson
Edwards, Ga.	Hull, Iowa	Miller	Weeks
Edwards, Ky.	Jackson	Moon, Pa.	Weisse
Ellis, Mo.	James, Addison D.	Morse	Wiley
Englebright	James, Ollie M.	Mouser	Willet
Fairchild	Jenkins	Mudd	Wilson, Pa.
Favrot	Johnson, Ky.	Murdock	Wolf
Fitzgerald	Johnson, S. C.	Nelson	

The Clerk announced the following additional pairs:
Until further notice:

Mr. DRAPER with Mr. RICHARDSON.
Mr. ALEXANDER of New York with Mr. BYRD.
Mr. VREELAND with Mr. WILSON of Pennsylvania.
Mr. SULLOWAY with Mr. UNDERWOOD.
Mr. STEVENS of Minnesota with Mr. SPARKMAN.
Mr. SLEMP with Mr. SMALL.
Mr. ROBERTS with Mr. SHERLEY.
Mr. PEARRE with Mr. SABATH.
Mr. OVERSTREET with Mr. RYAN.
Mr. MOON of Pennsylvania with Mr. RHINOCK.
Mr. MOON of Tennessee with Mr. PUJO.
Mr. MALBY with Mr. POU.
Mr. MCKINLAY of California with Mr. PATTERSON.
Mr. MANN with Mr. SIMS.
Mr. MCCALL with Mr. PAGE.
Mr. LOUDENSLAGER with Mr. McLAIN.
Mr. LOUD with Mr. McDERMOTT.
Mr. LORIMER with Mr. HUMPHREYS of Mississippi.
Mr. LITTLEFIELD with Mr. LINDSAY.
Mr. LANING with Mr. LENAHAN.
Mr. LANGLEY with Mr. LEE.
Mr. KÜSTERMANN with Mr. KIPP.
Mr. ADDISON D. JAMES with Mr. KIMBALL.
Mr. HOWELL of New Jersey with Mr. JONES of Virginia.
Mr. ENGLEBRIGHT with Mr. JOHNSON of Kentucky.
Mr. FOULKROD with Mr. OLLIE M. JAMES.
Mr. MURDOCK with Mr. HOWARD.
Mr. HIGGINS with Mr. HOBSON.
Mr. HASKINS with Mr. HITCHCOCK.
Mr. MADDEN with Mr. HARDWICK.
Mr. GOEBEL with Mr. HAY.
Mr. FOSS with Mr. HAMMOND.
Mr. FAIRCHILD with Mr. HAMILTON of Iowa.

Mr. EDWARDS of Kentucky with Mr. HAMILL.
 Mr. DWIGHT with Mr. GREGG.
 Mr. DRISCOLL with Mr. GOLDFOGLE.
 Mr. DENBY with Mr. GILL.
 Mr. DAWSON with Mr. FULTON.
 Mr. DAVIS of Minnesota with Mr. FAYROT.
 Mr. BENNET of New York with Mr. FARNES.
 Mr. DAVIDSON with Mr. FITZGERALD.
 Mr. CALDER with Mr. DAVENPORT.
 Mr. BURTON of Delaware with Mr. CRAWFORD.
 Mr. BRADLEY with Mr. CARTER.
 Mr. ANTHONY with Mr. CARLIN.
 Mr. ANDRUS with Mr. BRANTLEY.
 Until the 29th:

Mr. NELSON with Mr. DAVEY of Louisiana.
 For the remainder of this day:

Mr. HILL of Connecticut with Mr. GLASS.

The SPEAKER pro tempore (Mr. WANGER). On this question the yeas are 141, nays 49, answered "present" 10. Accordingly the rules are suspended and the bill as amended is passed.

REPORTS AND INVESTIGATIONS OF RAILROAD ACCIDENTS.

Mr. ESCH. Mr. Speaker, I move to suspend the rules and pass, with the committee amendments, the bill (H. R. 17979) requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said Commission.

The SPEAKER pro tempore. The gentleman from Wisconsin moves to suspend the rules and pass the following bill with committee amendments. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That it shall be the duty of the general manager, superintendent, or other proper officer of every common carrier engaged in interstate or foreign commerce by railroad to make to the Interstate Commerce Commission, at its office in Washington, D. C., a monthly report, under oath, of all collisions, derailments, or other accidents resulting in injury to person or property, which report shall state the nature and causes thereof and the circumstances connected therewith: *Provided*, That hereafter all said carriers shall be relieved from the duty of reporting accidents in their annual financial and operating reports made to the Commission.

Sec. 2. That any common carrier failing to make such report within thirty days after the end of any month shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than \$100 for each and every offense and for every day during which it shall fail to make such report after the time herein specified for making the same.

Sec. 3. That the Interstate Commerce Commission shall have authority to investigate all collisions, derailments, or other accidents resulting in serious injury to person or property occurring on the line of any common carrier engaged in interstate or foreign commerce by railroad. The Commission, or any person thereunto authorized by said Commission, shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose may subpoena witnesses, administer oaths, take testimony, and require the production of books, papers, orders, memoranda, exhibits, and other evidence, and be provided by said carriers with all reasonable facilities. Said Commission shall make reports of such investigations, stating the cause of accident and the responsibility therefor, together with such recommendations as it deems proper. Such reports shall be made public in such manner as the Commission deems proper.

Sec. 4. That neither said report nor any report of said investigation nor any part thereof shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation.

Sec. 5. That the Interstate Commerce Commission is authorized to prescribe for such common carriers a method and form for making the reports hereinbefore provided.

Sec. 6. That the act entitled "An act requiring common carriers engaged in interstate commerce to make full reports of all accidents to the Interstate Commerce Commission," approved March 3, 1901, is hereby repealed.

Sec. 7. That this act shall take effect from and after its passage.

The SPEAKER pro tempore. Is a second demanded.

Mr. ADAMSON. I demand a second.

The SPEAKER pro tempore. The gentleman from Georgia demands a second. Accordingly, under the rule, a second is ordered. The gentleman from Wisconsin [Mr. ESCH] is entitled to twenty minutes and the gentleman from Georgia [Mr. ADAMSON] is entitled to twenty minutes.

Mr. ESCH. Mr. Speaker, this bill is largely a codification of existing law, and will result in economy, as our committee firmly believe.

By the act of March 3, 1901, interstate carriers, through their proper officials, are required to report monthly all accidents arising out of collisions or derailments resulting in injury or loss of life to passengers or employees engaged in train operations.

Section 20 of the Hepburn Act requires the same carriers to make annual reports to the Commission, giving all accidents, whether to employees, to passengers, or to other individuals, including trespassers. It will therefore be seen that by requiring these monthly reports as to collisions and derailments, and

also annual reports with reference to accidents of every character, there is a very large duplication of work. Because of such duplication the Commission has repeatedly appealed to Congress to change the law.

Practically this entire bill is a codification of the existing law, and the bill asks for the repeal of the act of March 3, 1901. The other provisions are practically existing law, with such modifications therein as are required by the codification.

Mr. WILLIAMS. What was the act of March 3, 1901?

Mr. ESCH. Requiring monthly reports of accidents to be made to the Commission.

Mr. WILLIAMS. So far as accidents are concerned, it is waived that far, but it is not altogether repealed?

Mr. ESCH. No.

Mr. WILLIAMS. Just to that extent?

Mr. ESCH. Yes. The new matter in this legislation is contained in the first sentence in section 3:

That the Interstate Commerce Commission shall have authority to investigate all collisions, derailments, or other accidents resulting in serious injury to person or property occurring on the line of any common carrier engaged in interstate or foreign commerce by railroad.

The necessity for this legislation arises because of the incompleteness of the reports now made by the railroad companies to the Commission with reference to accidents. It has been shown to our committee that during the last fiscal year no less than seventy-eight railroad accident reports were filed with the Commission which were by the Commission considered as defective and wholly incomplete. These seventy-eight accidents resulted in the loss of life of 407 people and the injury of 1,614. I have here a copy of the quarterly accident bulletin for the months of January, February, and March, 1907, and in order to illustrate the incompleteness of the reports as now made I wish to cite these illustrations.

Here is a case of a derailment in which nineteen were killed and 149 injured, with a property loss of \$2,600, and it comes to the Commission "unexplained." Here is another derailment where one person was injured and there was a property loss of \$17,655, also unexplained. Here is another where three people were killed and 35 were injured, and the property loss was \$18,700.

These three illustrations are in one single quarterly report, and many others might be stated.

Now, then, if we have an unbiased tribunal to investigate these wrecks which result in serious loss to life and property, the Government can acquire a fund of information upon which to base proper recommendations to Congress for remedial legislation. It is on that account that this legislation is presented to the Congress.

I desire to print as part of my remarks the report filed by me in support of this bill.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, submitted the following report, to accompany H. R. 17979:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 17979) requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said Commission, having considered the same, report thereon with amendment, and as so amended recommend that it pass.

Amend the bill as follows:

Strike out, in line 9, section 1, the word "serious."

The bill as amended is a reenactment in substance of the act entitled "An act requiring common carriers engaged in interstate commerce to make full reports of all accidents to the Interstate Commerce Commission," approved March 3, 1901, with section 3 added as new matter. In order to avoid a duplication of reports, upon recommendation of the Interstate Commerce Commission, the proviso has been added to section 1 of the bill, the idea being that if all accidents were included in the monthly reports there would be no necessity of the common carriers making annual reports of "accidents to passengers, employees, and other persons, and the causes thereof," as required by section 20 of the Hepburn Act.

Section 1 of the act approved March 3, 1901, requires monthly reports "of all collisions of trains or where any train of part of a train accidentally leaves the track, and of all accidents which may occur to its passengers, or employees while in the service of such common carrier and actually on duty." The monthly report, as shown in section 1 of the bill, requires reports "of all collisions, derailments, or other accidents resulting in injury to person or property." The latter provision therefore broadens the scope of these reports, because it embraces injuries to employees, passengers, and all other persons, thus including trespassers.

Section 3 of the bill gives authority to the Interstate Commerce Commission "to investigate all collisions, derailments, or other accidents resulting in serious injury to person or property occurring on the line of any common carrier engaged in interstate or foreign commerce by railroad" and provides how such investigations shall be made and what the reports of such investigations shall contain and in what manner they shall be made public.

The Interstate Commerce Commission in its annual reports has repeatedly recommended the granting to it of such authority by Congress. In response to the request of the Committee on Interstate and Foreign Commerce for such suggestions as it desired to make with reference to the merits of H. R. 4804, being a bill which practically contained the provisions now set forth in section 3 of the bill herewith reported, the Commission, through its chairman, Mr. Knapp, declared as follows:

"This measure is cordially approved by the entire Commission. It responds to the recommendation which the Commission has repeatedly

made upon this subject in its annual reports to the Congress and is believed to be adequate in scope and form for the purpose intended."

Chairman Knapp further reports:

"We respectfully call your attention to the fact that the proper and efficient administration of such a law will involve an expenditure which the Commission can not make from its present appropriation. To a great extent, if not for the most part, the Commission would be obliged to make the required investigations through agents and representatives appointed to perform that duty, and this implies the selection of men of high character and unquestioned capacity, who must be correspondingly paid, to say nothing of such subordinates as stenographers, typewriters, clerks, etc. It will be necessary, therefore, to materially increase the general appropriation, which would otherwise be sufficient, or to provide a special fund which the Commission could use for this particular purpose."

"In this connection we call your attention to a kindred recommendation upon which we request favorable action. Under existing law carriers are required to make monthly reports to the Commission of accidents caused by collision or derailment, or resulting in injury to passengers or employees on duty; and the Commission is authorized to require annual reports of all accidents however caused, and this results in much duplication. We greatly desire that the statutory obligation to furnish monthly reports be extended by amendment to cover all accidents, and thus permit the omission of accidents from the annual reports required by section 20 of the amended law. To this end we propose the following:

"That in addition to the reports now required, the Commission, beginning with the 1st day of July, 1908, shall require, and all carriers subject to this act shall furnish, on forms provided by the Commission, full reports of all accidents occurring on their respective lines resulting in death or injury, whether to passengers, employees, or other persons; the intent of this section being to make the monthly accident reports complete and to relieve the carriers from the duty of reporting accidents to persons in their annual financial and operating reports made to the Commission."

"All of which is respectfully submitted."

"MARTIN A. KNAPP, Chairman."

This suggestion has been carried out by adding the proviso to section 1, already alluded to.

In view of the fact that under the provisions of said act, approved March 3, 1901, railroad companies through their proper officials were required to make reports of accidents and give the causes thereof, it was found that such reports were oftentimes delayed beyond the limit of time allowed by law and were often reported imperfectly, requiring delay in securing complete reports, and, further, in view of the fact that it was but natural that railroad companies, as a rule, in reporting causes of accidents occurring on their lines, would not magnify their own carelessness, if indeed they would in all instances admit their share of responsibility, and because in many cases reports were received wherein no cause of accident was given and the report entered and published as "unexplained," the conclusion became irresistible that there should be authority given to the Commission to investigate for itself the causes of accidents resulting in serious inquiry to person or property. Section 3 of this bill gives such authority and limits its exercise to such instances where, the injury being serious, investigation seems necessary.

To show a few instances of the insufficiency of present reports as now made the committee herewith insert a statement furnished by the Interstate Commerce Commission, showing that for the fiscal year ended June 30, 1907, there were 78 accidents involving the loss of 407 lives and the injury of 1,614 persons, which should have been investigated:

"The reports shown in accident bulletins indicate that circumstances connected with certain of these accidents were not sufficiently cleared up by the companies' reports and might be affected by bad practice or other conditions requiring correction which could only be disclosed by an impartial investigation conducted by a Government body. For instance, accident No. 15, reported in Bulletin 21, in which two persons were killed and five injured, is reported as due to a mistake in order; the receiving operator omitted two words and the dispatcher failed to check the error in the repetition. Investigation should be made to determine the practice of the railroad company with regard to the handling of train orders and to the experience of the men who are charged with responsibility for this accident."

"Accident No. 30, from the same bulletin, in which two persons were killed and four injured, is said to be due to a misinterpretation of orders. Conductor and engineers had been on duty eighteen hours. This indicates bad practice, and should be investigated."

"Collision No. 16, in Bulletin 22, in which 1 person was killed and 49 injured, is said to have been caused by an error in the engineer's watch. This is a cause which would indicate the need of considerable investigation to determine the method of handling such matters on that particular road."

"Many of the accidents noted are reported as due to false clear-signal indications and other derangements of the block system, but the cause of such derangements is in no case made clear. Whether these are due to the employment of inexperienced and immature persons or to the use of improper apparatus or material are matters which can only be determined by rigid investigation."

In Accident Bulletin No. 23, covering the months of January, February, and March, 1907, three derailment accidents are reported in which a total of 22 persons were killed and 185 injured, for which derailments no causes were assigned and no explanations given. An examination of subsequent bulletins shows even a larger number of unexplained causes of accidents."

Your committee believes that if this bill passes and the authority provided in section 3 is given to the Commission thorough and careful investigations will be made, and as by section 4 of the bill neither the report made by the company nor the report of the investigation made by the Commission are to be admitted as evidence or for any purpose in any suit or action for damages, it will be possible to secure full and complete testimony of all the facts connected with any given accident."

As the reports of these investigations increase and the causes of accidents are established and made known it will be possible for the Commission to make recommendations to Congress with a view to the enactment of remedial legislation. The ascertainment by a disinterested commission of the causes of railroad accidents and the publicity given to the findings of such commission will have a beneficial effect throughout the country and lead to the correction by the common carriers of such faults in management or defects in road construction or equipment as may have been found to have been defective. It is in

this particular that the legislation provided in section 3 is expected to be peculiarly valuable.

Section 5 of the bill is the same as section 4 of the act approved March 3, 1901.

Section 6 repeals the above-mentioned act.

I reserve the balance of my time.

Mr. ADAMSON. Mr. Speaker, the statement made by the gentleman from Wisconsin [Mr. Esch] is a fair one, and substantially sets out the position of our Committee on Interstate and Foreign Commerce which reported the bill. I did not demand a second for the purpose of antagonizing the bill, nor with the intention of consuming the time allowed to me on that account. The bill is an excellent one, and should pass unanimously. If any gentleman is opposed to the bill I will be glad to yield him time. If no other applies for time now, I yield to the gentleman from Mississippi [Mr. WILLIAMS] such time as he desires to use, and reserve to myself what he does not consume.

Mr. WILLIAMS. Mr. Speaker, this is a bill, in my opinion, eminently proper, and is in line with legislation that I think public attention ought to have been more directed to. I have never thought that in meeting the great railroad problems with which we are confronted we have attached a sufficient degree of importance to the preservation of human life and the safety of travel. We have had our attention directed entirely too much in comparison to the cheapness of transportation and the celerity of transportation. I would rather save one human life than save a great many dollars. The real sore spot about the transportation system of the United States is the reckless disregard of human life and limb with which it is carried on. I shall not bore the House with giving them statistics. I shall not repeat what I said yesterday when speaking upon another bill as to the comparison, unfavorable to us, of the number of people killed and crippled who are the employees of railroads and travelers upon railroads in this and other countries.

I think it would be better if we so directed our legislative efforts as to force the railroads to put more of their earnings into the betterment of the rolling stock and tracks, so as to prevent railroads from doing a two-track business on a one-track basis and to force them to resort to every possible device that saves human life and limb. It is always ungracious to compare unfavorably anything in one's own country with the same thing in another country, but one who has traveled anywhere else, outside perhaps of South America and some semi-civilized countries, must know the greater regard which governments and transportation companies, forced to it by the governments, have for human life.

I now want to read part of a letter which I received this morning. One part of it contains a compliment to myself, which I shall omit, but the balance of it I want to read. It is signed by Mr. Edward A. Moseley, the Secretary of the Interstate Commerce Commission, and it is as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, May 27, 1908.

DEAR MR. WILLIAMS: In an entirely personal way I am intensely interested in the bill which Mr. Esch was authorized to report from the Committee on Interstate and Foreign Commerce—House bill No. 17979. This bill authorizes the Interstate Commerce Commission to investigate serious accidents, and is a measure which the Commission have in their reports to Congress urgently urged, attention being particularly drawn to this matter by the horrible wreck at Takoma Park, right under the shadow of the Capitol, and which the Commission undertook to investigate, and were met with the objection that they had no authority to do so, which undoubtedly is true. What was done was under the color of the block-signal resolution. This is a measure in which one can have no other interest than the interest of seeing the public and railroad employees properly protected—a matter which you are aware I have given almost my entire life to.

It is only by investigating accidents that we can find the reasons and bring about measures to stop these holocausts.

I am, with great regard and respect,

EDW. A. MOSELEY.

Mr. ESCH. Mr. Speaker, I yield three minutes to the gentleman from Kansas, Mr. Campbell.

Mr. CAMPBELL. Mr. Speaker, I am particularly glad to see this bill reported by the committee and to now see it called up for passage. Some three years ago I introduced a bill along this line, upon which I asked for and had a hearing before the Interstate and Foreign Commerce Committee. The questions asked me on that occasion led me to believe that there was an impression in the committee that there was already sufficient legislation upon this subject to secure all needed information as to railway accidents. The one thing, however, that I pressed then, and that I am now glad to note is covered in this bill, is that the railroad companies should be required to state not that there was a derailment, not that there was a head-on collision, but to give the cause of the derailment, to give the cause of the collision—in fact, to give the cause of the accident, whatever it might be. The gentleman from Mississippi [Mr. WILLIAMS] states that one who has traveled elsewhere than in this

country is impressed with the care with which railway trains are conducted in other countries as compared with the manner in which they are conducted here.

There is a conservatism about the management of a railway train in England and in Scotland, indeed in every country in Europe, that is distinct as compared with the conduct of our trains here. The manner in which you are required to get to and on a train; the care with which you are required to get off and away from it, all show a proper regard for human life and limb. Every precaution human ingenuity can take is taken for the purpose of avoiding accidents that result in injury or death to the passenger or employee. There is more regard in the older countries for life and limb than for a determination to get to the point of destination at the earliest moment possible, at all hazards. I have feared that our roadbeds and rolling stock were not in proper proportion to each other to secure the greatest safety in their use. I hope the bill will pass. [Applause.]

Mr. ESCH. Mr. Speaker, I yield two minutes to the gentleman from Kansas [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I introduced a bill, too late in the session, I am sorry to say, to have it given consideration this year, giving to the Interstate Commerce Commission jurisdiction over the physical condition of railroads. This bill was introduced at the request of the National Railway Trackmen's Association and is intended to reach a condition which certainly deserves the attention of the nation through the Interstate Commerce Commission. There was filed, in support of the bill which I introduced, photographs showing the condition of tracks on various railroads which must cause those who look at them to wonder how it is possible that any train can pass over such a track in safety. Upon many railroad sections of the country there is evidence filed to show that only one trackman is employed, and the wages paid to those men are so low in many cases as to give no hope of very efficient service. The bill which we are now considering will, I trust, go far to show the necessity for the passage of the measure which I have introduced, providing as it does that railway accidents shall be reported and the causes of them shown. I believe it will be made evident that in most cases the cause of railroad accidents is the poor condition of the tracks, owing to the employment of an insufficient number of employees to keep them in proper condition. I am glad, indeed, to have the opportunity to vote for this bill. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MANN. Mr. Speaker, there have been some complaints at times in respect to the inactivity of this session of Congress, but it certainly will always be remembered that this Congress has endeavored to do and has done much in the way of doing away with railroad accidents. In the sundry civil bill there is carried a legislative provision authorizing the Interstate Commerce Commission to make investigation and experiments with all the safety appliances of any character whatever intending to make more safe travel upon railroads. Yesterday the House passed a bill in reference to ash pans which will in the future, I trust, secure to the railroad employees immunity from going under locomotives when the necessary cleaning is resorted to. Now we propose to pass another bill requiring railroads to report all accidents upon their roads either to persons or property.

Of course the report of accidents is not of itself so important, but it gives to Congress all the information for future legislation and calls to the attention of the superior officers of the railroads the accidents which do occur and makes known to the public the circumstances surrounding them, and in my judgment this bill, coming from the Committee on Interstate and Foreign Commerce, will accomplish a great deal in rendering in the future railway travel more safe and in rendering to the employees of the railroads, who are in the greatest danger themselves, a further degree of immunity from accident. We kill an army every year upon the railroads. We injure more than an army upon the railroads, and at this session I think we have done as well as we could to prevent railway accidents and railway injuries in the future. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired. [Cries of "Vote!"]

Mr. ADAMSON. Mr. Speaker, I venture to assert that each of the gentlemen who are now crying "vote" has done more talking than I have in this Congress, and I can prove by each one of them that I have done a great deal more voting than speaking. I offered to yield time to any gentleman who wanted to speak on this bill, but inasmuch as no gentleman desired to speak, and inasmuch as if this bill is voted on, you would go ahead with something else, and somebody else would be talk-

ing, I believe I will tell you a little about railroads myself. [Laughter and applause.] Especially is that proper, in view of the fact that this bill is in such good hands on this side of the House, and is such a good bill that its passage may not consume as much time as you may apprehend. I am entirely loyal to the beneficent filibuster which has gotten after the other side and forced them to work at this session, just as putting fire on the back of a lazy terrapin makes him crawl. But this bill accords so completely with the Democratic demands that, with the concurrence of the leader of the minority, I shall permit it to pass without a roll call. [Applause.]

Now, I am not especially antagonistic to railroads. I love them. We need them. I want good railroads, so managed as to serve the purposes of their creation by serving the convenience of the people, while safeguarding life and limb. I wish to remind you right here now that whatever difficulties have been encountered in connection with operating and regulating railroads have not been on account of anything vicious essentially in the iron, nor in the cross-ties, nor in the charters, but in the human nature of the men who ran those railroads, and who operated them financially and physically. The trouble we had with them when we began to regulate them was that those same humans, looking to their own interests above all things, just as some other people do who are not railroad men, taking as their rule of action "what the traffic would bear," resented our efforts to regulate them. What we wanted was something like essential equality and fairness in their treatment of men and localities. They resisted so hard the assertion of the authority of the Government to govern them and their property, like other men and other property, that they have made trouble in the country. They have sought to dissatisfy the people with legislation. They have made everything as inconvenient and troublesome as possible, charging that it resulted from the legislation, and kindled a fire, which they themselves are unable to extinguish, by senseless threats and prophecies of famine and appeals to an outraged people to call off "the politicians" and submit to robbery. [Applause on the Democratic side.]

If they would recognize, as all other men do, that railroad men and railroad property are subject to rule and regulation by law, just as everything else in this country is, and show a little consideration, courtesy, and fairness to the different persons and communities whom it is their duty to serve, there would be no trouble on earth between the people and the railroads. Prompt connections at junction points, convenient schedules, and abstinence from discrimination would make them popular and rich. But when they have in their power a locality where there is no competition, they hit hard and do not try to conceal the fact that they do it because they can. They accord better treatment to people who, because of other facilities, do not need their favors. The result is resentment on the part of the people discriminated against, and the suffering people, who feel that they are ruthlessly and uselessly imposed upon and robbed, are expected, being human themselves, to retaliate in any way they can, and reprisal is not surprising at every opportunity. When a railroad head sticks up they hit the head, and sometimes hit harder than they intended and regardless of whether or not their wrongs are thereby remedied.

Now, we set out simply to effect one amendment in the "law to regulate commerce," and that was to provide that when the Commerce Commission announced the correction of a rate it could be enforced. That was resisted, and resisted, and resisted, and other legislation was resorted to until, in my opinion, the resistance of the railroads to regulation, and their own talk about calamity and ruin and all that sort of thing, and their efforts to make regulation unpopular with the people, and talking about panics and trouble, have brought on the very difficulty they talked about. [Applause on the Democratic side.] And I am sorry to say that some of the reforms, while good in morals, good in criminal law, good to prevent frauds, have not been practically productive of beneficial results in the localities with which I am acquainted.

When I complain of a railroad on which my people depend, and have a right to depend for service, suspending connections and failing to afford schedules and trying to destroy the importance of my town and nullify its natural advantages by discriminating against it in favor of a competitor, it does not satisfy me nor answer my complaint for you to talk to me about how much stock and how many bonds have been issued by that railroad, owned away off by some other fellow who is past the issue of victuals and clothes, not concerned about sustaining life or sustaining his family, but reaching out and thrashing around for speculation, and whether he loses or wins it does not hurt anybody in the world. It does not make any difference at all. He is speculating.

For the purpose of levying just taxation and sometimes to

consider in making rates, it is valuable, and even necessary, to know the true value of the property. Moreover, in the interest of morality and general honesty, there ought to be such laws as would adorn the jails and penitentiaries with some of the gorgeous personages who wreck and ruin corporations and rob the people of their facilities for service, as well as of their money. Our primary concern is with actual service. We have a right to enjoy the use of the tracks and rolling stock which the law has authorized the corporations to operate among us. They are public functionaries, and should acknowledge by their conduct that they are amenable to control if they do not voluntarily do their duty. Having physical possession of the property itself, it is our duty to provide by law that the property is operated fairly and justly to men and communities. [Applause.]

The cases I refer to are not affected by water competition. The localities are in the interior, and are arbitrarily benefited or bottled up at the caprice or cupidity of allied railroads, which establish pretended competitive points when they wish and destroy others at their will. I admit the people discriminated against are negligent and unduly submissive. They rely too much on the Government to protect them and fail to invoke the law in the proper manner. If, like the railroads, they would engage the best lawyers in the land and show fight, I believe they could free themselves of much of the injustice which is inflicted, because the corporations believe the people will not resist. Fighting in the court-house is necessary to make law valuable. [Prolonged applause.]

Mr. Speaker, how much time have I remaining?

The SPEAKER. Three minutes.

Mr. ADAMSON. If no other gentleman desires to speak, I reserve the balance of my time.

Mr. ESCH. Mr. Speaker, I yield to the gentleman from Ohio [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I am very glad to have an opportunity of voting for a bill of this nature. My only regret is that the bill reported by the Committee on Interstate and Foreign Commerce and now under consideration is not a more thorough-going measure. It seems to me that, while a step perhaps in the right direction, this bill casts too much additional work upon the Interstate Commerce Commission; and, second, it does not define how the investigations provided for shall be conducted.

In the short time allotted to me by the gentleman in charge of the bill I can not dwell upon the glaring necessity for some such measure as the present. The number of passengers and employees killed annually by the railroads in America is not only appalling, but it comes very nearly to being a national disgrace. The intense competition between our routes of travel, the consequent demand for excessive speed, the demand for net earnings to meet enormous fixed charges and dividends upon excessive capitalization, have all tended toward a recklessness in the operation of our railroads which contrasts most unfavorably with the care and the devices used abroad. That this result comes from closer, more impartial and intelligent government supervision I do not believe that anyone who has ever traveled abroad or studied the subject can doubt.

There has been consequently a growing and ever more imperative demand on the part of the American public for disinterested and thorough investigations of railroad accidents resulting in loss of life. It is obvious that the railroads themselves can not be depended upon to make this careful investigation; and it is obvious that they can not be depended upon to give the results of such investigation the widest publicity so that the true lesson of each accident may be learned.

Now, the bill under consideration is doubtless a step in the right direction, but I greatly regret that it is not a more radical step. It simply provides that the common carrier shall make a report to the Interstate Commerce Commission of all accidents "resulting in injury to persons or property," and then provides that the Interstate Commerce Commission shall have authority to investigate all such accidents. If the Interstate Commerce Commission proceeds vigorously and thoroughly to exercise the authority given in this bill, it will be fairly overwhelmed with work. I think the description of the accidents to be reported and investigated is too broad. It covers any accident "resulting in injury to persons or property." I submit it ought to be limited to accidents involving loss of life. Even then it will be essential that the Interstate Commerce Commission be provided, either by law or by its own regulation, with the proper machinery for carrying on these investigations.

I trust that without egotism I may refer to the bill introduced by myself on the first day of the present session and referred to the Committee on Interstate and Foreign Commerce. Briefly epitomized, it provides that every railroad shall report

any accident involving loss of life, and then it is made the duty of the Interstate Commerce Commission to proceed as soon as possible to cause a public investigation of such accident to be made and a public report concerning the same filed with the Interstate Commerce Commission. It heavily penalizes the railroad for failing to make said report, and distinctly makes it the duty of the United States district attorney to prosecute a violation of the act; it then goes on to provide the machinery for investigating accidents.

It creates a commissioner of railroad accidents in each judicial district of the United States and furnishes him with the necessary stenographer and process to secure witnesses and to make a full investigation ex parte of the accident and return the testimony to the Interstate Commerce Commission. It provides for the expense and fees for such commissioner and for records to be kept by the Interstate Commerce Commission, properly digested, of all such reports, and, finally, it makes an appropriation for carrying on the work. It will be seen that this bill, while it somewhat limits the scope of the accidents to be investigated, actually provides in a practical way for such investigation and a public report concerning the causes of the accident and the probable means for its prevention.

I sincerely hope that the Committee on Interstate and Foreign Commerce will at some future time further consider this matter. Meanwhile, not because I believe the present measure to be what it ought to be, but simply because I believe it to be, as I have said, a step in the right direction, I sincerely hope it will have the favorable consideration of the House.

For the further information of the House, I shall take the liberty of adding to my remarks the bill introduced by me on the 2d of December, to which I have referred. It is as follows: A bill (H. R. 507) for public investigation of railroad accidents on interstate roads.

Be it enacted, etc., That whenever there occurs, upon any railroad engaged in interstate commerce, any accident which causes to any person employed upon such railroad, or a passenger upon such railroad, loss of life, it shall be, and is hereby made, the duty of the Interstate Commerce Commission to proceed as soon as possible, by one or more of the commissioners hereinafter named, to cause a public investigation of such accident to be made and to have a report made concerning the same to it, the said Interstate Commerce Commission.

SEC. 2. That whenever there occurs, upon any railroad engaged in interstate commerce, any accident which causes to any person employed upon such railroad, or a passenger upon such railroad, loss of life, it shall be, and is hereby made, the duty of such railroad and its officers to forthwith, and in no case later than forty-eight hours after the occurrence of such accident, to report the same to the Interstate Commerce Commission, setting forth when and at what, or between what, stations upon said road and at what hour and to what train or trains, or otherwise, such accident occurred, with the names, if known, or if not known, some adequate description, of the person or persons losing their life or lives in said accident.

SEC. 3. That any railroad violating the provisions of the above section, by failing to make said report within the time above limited, shall, upon conviction thereof, be fined any sum exceeding \$1,000 and not exceeding \$10,000 for every violation of this act; and it is hereby made the duty of the United States district attorney within whose district such accident shall occur to prosecute any violation of section 2 of this act.

SEC. 4. That in order to enable the Interstate Commerce Commission to comply with the duty imposed upon it by section 1 of this act, it is hereby directed to appoint not less than one nor more than two persons in each judicial district of the United States, whose duty it shall be, when any such accident occurs, and upon receiving notice thereof from the Interstate Commerce Commission, to immediately attend at the most convenient place for the purpose in the vicinity of the place where said accident occurred, and proceed forthwith to a public hearing and investigation of the same; and for this purpose he shall have the right to subpoena and enforce the attendance of witnesses, send for books and papers, and all writs issued by him shall be forthwith served by the marshal of such judicial district.

SEC. 5. That such officer shall be known as a Commissioner of Railroad Accidents. He shall be under the direction of said Interstate Commerce Commission. He shall, if necessary, employ a competent stenographer. He shall examine witnesses, reduce their testimony to writing, and as soon as may be possible upon the conclusion of his investigation make a report in writing to the Interstate Commerce Commission aforesaid, which report shall be open at all times to public inspection. The investigation and hearing shall be ex parte. The witnesses shall be examined by such Commissioner and their testimony reduced to writing in his presence. A transcript of the testimony, including papers and documents put in evidence, shall be forwarded by the Commissioner, with his report, to the Interstate Commerce Commission. The counsel of the railroad company, or counsel for any other person interested, may attend, and may, within the discretion of the Commissioner, cross-examine any witness examined by him; and by such means as he may see fit to adopt, and within his discretion, the Commissioner shall endeavor to ascertain the true cause of the accident. His report shall set forth his opinion as to the cause of the accident, and how the same might have been prevented.

SEC. 6. That each Commissioner, appointed as above, shall receive for his services, first, \$100 per annum; second, his traveling expenses and other personal expenses to and from his home to the place where such investigation is held, his personal expenses while engaged in such investigation, including adequate compensation to a stenographer, and such other incidental expenses as may be approved by the Interstate Commerce Commission; and third, \$25 a day during the time that he is actually engaged in such investigation and hearing and in preparing his report, but in computing such per diem not more than two days shall be allowed for the preparation of such report.

SEC. 7. That in addition to the powers and jurisdiction hereinbefore given to such Commissioner of Railroad Accidents he shall further have such summary jurisdiction to punish contempts, to maintain order, and

to enforce his orders during the hearing as usually pertain to courts of general jurisdiction. In addition thereto such Commissioner shall have the power and right to enter and inspect, either by himself or with others of special knowledge he may appoint for that purpose, any place or building the entry or inspection of which appears to him requisite for the purposes of such investigation. He shall have power to administer oaths; to require any person examined to sign, when reduced to writing, the testimony given by him; and such other powers incidental to the duties that he is to perform as may be by law incidental thereto.

SEC. 8. That every person attending as a witness before said court shall be allowed such fees and mileage for attendance upon such investigation as are fixed for attendance upon the district court of the district wherein such investigation is held; and all expenses of such investigation are to be paid by such Commissioner after being allowed and approved by the Interstate Commerce Commission.

SEC. 9. That it is further made the duty of the Interstate Commerce Commission to keep and provide record books wherein shall be recorded, under adequate indices, all the reports received by it from all such Commissioners, and furthermore the same shall be classified, digested, and indexed by it in books kept for that purpose, according to the nature and cause of the accident.

SEC. 10. That the sum of \$250,000 shall be, and is hereby, appropriated out of any funds in the Treasury of the United States not otherwise expended for the fiscal year in order to provide for and pay the expenses incident to the operation and enforcement of this act, such payments to be made, to persons entitled thereto, upon the warrant or requisition of said The Interstate Commerce Commission.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken, and a majority having voted in favor thereof, the rules were suspended and the bill was passed.

WASHINGTON AND WESTERN MARYLAND RAILROAD.

Mr. MOORE of Pennsylvania. Mr. Speaker, I move to suspend the rules and pass Senate bill 2295.

The SPEAKER. The gentleman moves to suspend the rules and pass the bill which the Clerk will report.

The Clerk read as follows:

A bill (S. 2295) to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906.

Be it enacted, etc., That the time within which the Washington and Western Maryland Railroad Company is required to complete and put in operation its railroad in the District of Columbia under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906, be, and the same is hereby, extended for the term of eighteen months from the 28th day of December, 1907, and all of the franchises, rights, and powers conferred by said acts, or either of them, upon said railroad company, may be enjoyed and exercised as fully and completely as if said railroad had been completed and put in operation prior to the 28th day of December, A. D. 1907: *Provided*, That within one month after the approval of this act the said Washington and Western Maryland Railroad Company shall deposit with the collector of taxes of the District of Columbia the sum of \$2,000 to guarantee the construction of said railroad within the time herein extended. If this sum is not so deposited this act shall be void; if this sum is deposited and the said railroad company shall fail to construct and have in operation the said railroad, within the time herein prescribed, the said sum shall be forfeited to the District of Columbia and this act shall be void.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. I demand a second.

The SPEAKER. Under the rules, a second is ordered. The gentleman from Pennsylvania [Mr. Moore] is entitled to twenty minutes and the gentleman from Mississippi [Mr. Williams] is entitled to twenty minutes.

Mr. MOORE of Pennsylvania. Mr. Speaker, this bill comes from the Committee on the District of Columbia with the approval of the Commissioners of the District, and it proposes to extend the time for the construction of the Washington and Western Maryland Railroad for eighteen months from the 28th of December last. An act was passed by this House June 28, 1906, which granted an extension of eighteen months. For certain reasons the work was not completed within the time limit. There were difficulties in securing the right of way, and certain other legal problems that had to be met. Those questions have all been disposed of, and at least \$130,000 has been spent by the railroad company in securing rights of way and in preliminary work of construction.

The road is to extend 4 miles along the northern bank of the Potomac River, from the Aqueduct Bridge at Georgetown in a westerly direction between the Potomac River and the Chesapeake and Ohio Canal to the Maryland line, where it connects with the spur extending through the State of Maryland to Kensington, the regular line of the Baltimore and Ohio road. The citizens of Georgetown have sent petitions to the committee favoring the enactment of the bill for this extension. They expect through the completion of this road to have easier access for freight in Georgetown and to relieve the present difficulties requiring the passage of freight from Eckington through the streets of the city of Washington. The question has been raised as to the earnest of the company in the matter of construction. The second vice-president advised the committee that the company has proceeded in perfect good faith up to

this time to secure the necessary right of way, and has actually completed some of the work which has been affected by ice floes in the Potomac.

The committee desired to be sure that there be no question about the good intent of the company, and required from them some assurance before the passage of this bill. In consequence of that demand a letter was received from the second vice-president and general counsel of the company, which letter contains the pledge to complete the road within the time limit specified. I send that letter to the Clerk's desk to be read and inserted in the Record.

Mr. WILLIAMS. I would like to ask the gentleman a question. I notice here an act of Congress approved March 2, 1889, is referred to, and then an act of Congress approved June 28, 1906, is referred to as amendatory of that act. What was the act approved March 2, 1889?

Mr. MOORE of Pennsylvania. That was the act granting the company the privilege of constructing the road.

Mr. WILLIAMS. Well, then, what was the act approved June 28, 1906? I presumed that was the act authorizing the construction.

Mr. MOORE of Pennsylvania. That was an act extending the time, as I understand.

Mr. WILLIAMS. Now, the act approved June 28, 1906, was an act giving an extension of time?

Mr. MOORE of Pennsylvania. That is correct.

Mr. WILLIAMS. Which extension comes down to the 28th of December, 1907?

Mr. MOORE of Pennsylvania. That is correct.

Mr. WILLIAMS. Now, you want to give them a further extension?

Mr. MOORE of Pennsylvania. A further extension of eighteen months from December 28.

Mr. WILLIAMS. You give them a further extension of eighteen months upon the condition that they deposit the sum of \$2,000 as a guaranty that they will construct the road?

Mr. MOORE of Pennsylvania. That is correct.

Mr. WILLIAMS. Well, now, who owns this line?

Mr. MOORE of Pennsylvania. This road is controlled now by the Baltimore and Ohio.

Mr. WILLIAMS. The Baltimore and Ohio. Do you think the sum of \$2,000 will be any real guaranty that they will construct that railroad?

Mr. MOORE of Pennsylvania. If you will permit the letter which I have just sent to the Clerk's desk to be read, I think you will find a guaranty much stronger than the \$2,000 this act requires.

Mr. SMITH of Michigan. Is it not true that they have purchased the entire right of way with the exception of one lot?

Mr. MOORE of Pennsylvania. They have purchased the entire right of way without any exception. If you will listen to the letter which I have sent to the Clerk's desk, I think it will thoroughly cover the situation. I desire to have it printed in the Record as a pledge to bind the company hereafter.

Mr. GOULDEN. What is the length of the road?

Mr. MOORE of Pennsylvania. Four miles, so far as the part covered by this bill is concerned.

The SPEAKER pro tempore. The letter will be read in the time of the gentleman from Pennsylvania.

The Clerk read as follows:

THE BALTIMORE AND OHIO RAILROAD COMPANY,
LAW DEPARTMENT,
Baltimore, Md., May 19, 1908.

DEAR SIR: I understand some question is raised as to the intention of the Baltimore and Ohio Railroad Company to complete the line of the Washington and Western Maryland Railroad. As to this, I beg to state that in case S. 2295, as reported by your committee, is passed, this company intends to begin work promptly and to complete the line without delay, and that the line will be completed without fail within the term of the extension provided in S. 2295, unless such completion be prevented by circumstances beyond this company's control, such as injunction by a court or flood in the Potomac. The officers of the company recognize that no further extension by Congress could be expected, unless the failure to complete within the time granted by the pending bill were due to some cause beyond the company's control.

Very respectfully,

HUGH L. BOND, JR.,

Second Vice-President and General Counsel.

HON. SAMUEL W. SMITH,
Chairman Committee on District of Columbia,
House of Representatives, Washington, D. C.

Mr. MOORE of Pennsylvania. Mr. Speaker, unless some one desires to speak, I reserve the remainder of my time.

Mr. WILLIAMS. What reason was given when the first extension was granted? Was that on account of something beyond the control of the company, so that they could not construct it within the time?

Mr. MOORE of Pennsylvania. The reason given for the first extension was the difficulty in securing the right of way.

Mr. TAWNEY. Mr. Speaker, I desire to ask—

Mr. WILLIAMS. I yield to the gentleman from Wisconsin [Mr. MURPHY] such time as he may require.

Mr. TAWNEY. I want to ask the gentleman from Pennsylvania a question before he takes his seat, if he will yield to me. The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield to the gentleman from Minnesota?

Mr. MOORE of Pennsylvania. Certainly.

Mr. TAWNEY. The purpose of this legislation is to extend the time for the completion of this road for one year?

Mr. MOORE of Pennsylvania. We make it eighteen months, because six months have already elapsed.

Mr. TAWNEY. About a year from the present time.

Mr. MOORE of Pennsylvania. Yes.

Mr. TAWNEY. Now, the parties who will principally benefit by the building of this road, as I understand it, are the people in Georgetown and that vicinity.

Mr. MURPHY. People doing business in Georgetown.

Mr. TAWNEY. People doing business in Georgetown. It will obviate the necessity of the transportation of the freight from Kensington over to Georgetown, hauling it through the streets of Washington.

Mr. MOORE of Pennsylvania. Yes.

Mr. MURPHY. Mr. Speaker, when this bill came before our committee I was very much opposed to it. It looked to me as if it was simply an attempt of a railroad company to hold a strategic point on the Potomac River, to prevent any other company from entering the city by that means. I investigated the matter carefully, going there several times, and our committee also investigated it, and information in relation to it was presented to the committee, giving us pretty complete information, as we thought, about it.

This grant was originally given to the railroad company eighteen years ago to build this line of road.

Mr. KELIHER. Where is it to run?

Mr. MURPHY. It is to run up the Potomac River, crossing the river at the Aqueduct bridge, and running along the property owned by the canal company. One of the reasons why the road was not built was the interference with the canal rights. Subsequently those canal rights were acquired.

The citizens of Georgetown have long demanded that the road be built. They want it for purposes of transportation there without transfer, so that cars of merchandise and goods can come in and go directly there without having those goods transported across the city.

After a pretty complete investigation of it the committee became satisfied that no great harm could be done by extending the time for twelve months. The time was extended before for two years; that was in 1906, and has now almost expired. The company were unable to build within that time for the reasons I have stated. Most of that two years was taken in acquiring the rights to property along the line. Litigation, which was contested, and the settlement of some estates prevented the acquisition of the necessary property for building the road. These matters have now been arranged satisfactorily. We are assured that the road will be built in this time, and the committee believes that no very great injury would probably be done to anybody even if the line is not completed within eighteen months, but in order to provide some penalty for a failure to complete the road within that time this \$2,000 clause was inserted in the bill.

If the road is not completed within twelve months, there is a forfeiture of \$2,000, and all rights of the company will be terminated. We believe that the company is now in earnest, that the road will be built within twelve months, that it will be a great benefit to the people of that portion of the city, and if it is so built will carry the lines of freight cars outside of the main business portion of the city of Washington to supply these people instead of having to reach them by some other means. For that reason the subcommittee and the general committee favorably report this bill, and we hope that it will pass.

Mr. TAWNEY. It is a unanimous report of the committee?

Mr. MURPHY. Yes.

Mr. TAWNEY. The committee is satisfied of the necessity and desirability of building the road?

Mr. MURPHY. The committee is. I will say in reply to the gentleman from Minnesota that I was the main objector to this bill on the committee, and I am satisfied now that the bill is all right.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Pennsylvania to suspend the rules and pass the bill.

Mr. CLARK of Missouri. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. The gentleman demands the yeas and nays.

Those demanding the yeas and nays will rise and stand until counted. (After counting.) Twenty-two gentlemen rising.

Mr. MOORE of Pennsylvania. Mr. Speaker, I make the point of no quorum.

Mr. HAY. Mr. Speaker, I make the point that there is no quorum.

The SPEAKER pro tempore. The gentleman from Pennsylvania makes the point that there is no quorum. The point is well taken. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absentees; the question will be taken on the motion of the gentleman from Pennsylvania to suspend the rules and pass the bill, and the Clerk will call the roll.

Mr. CLARK of Missouri. Mr. Speaker, before the Clerk begins to call the roll, I ask unanimous consent that the doors and windows may be opened so that we may have some air during the calling of the roll.

The SPEAKER pro tempore. Is there objection?

There was no objection, and it was so ordered.

The question was taken, and there were—yeas 184, answered "present" 16, not voting 188, as follows:

YEAS—184.

Adair	Davenport	Kahn	Payne
Adamson	Dawson	Kelifer	Pollard
Aiken	Diekema	Kelther	Pou
Alexander, Mo.	Dwight	Kennedy, Iowa	Rainey
Ansberry	Edwards, Ky.	Kennedy, Ohio	Randell, Tex.
Ashbrook	Ellerbe	Kimball	Reeder
Barchfeld	Ellis, Mo.	Kinkaid	Reynolds
Bartholdt	Englebright	Kipp	Rhinock
Bartlett, Nev.	Fairchild	Kustermann	Richardson
Bates	Ferris	Lafean	Riordan
Beall, Tex.	Finley	Laning	Rodenberg
Beck	Fitzgerald	Law	Rothermel
Bell, Ga.	Floyd	Lee	Russell, Mo.
Bonyng	Focht	Lindbergh	Sabbath
Booher	Fordney	Lindsay	Scott
Boutell	Foster, Ill.	Littlefield	Sherley
Bowers	Foulkrod	Lloyd	Smith, Cal.
Boyd	French	Longworth	Smith, Iowa
Brodhead	Fulton	Loudenslager	Smith, Mich.
Broussard	Gaines, W. Va.	Loving	Snapp
Burke	Gardner, N. J.	Lowden	Southwick
Burleigh	Garner	McCall	Spight
Burleson	Garrett	McCreary	Stephens, Tex.
Burnett	Gillespie	McGavin	Sterling
Burton, Del.	Gillett	McKinley, Ill.	Stevens, Minn.
Burton, Ohio	Glass	McKinney	Tawney
Calder	Godwin	McLain	Taylor, Ohio
Campbell	Gordon	McMillan	Thistlewood
Candler	Goulden	Macon	Thomas, N. C.
Carter	Granger	Mann	Tou Velle
Chaney	Greene	Maynard	Underwood
Chapman	Hackney	Mondell	Volstead
Clark, Mo.	Hall	Moore, Tenn.	Vreeland
Clayton	Hamilton, Mich.	Moore, Pa.	Waldo
Cocks, N. Y.	Hamlin	Moore, Tex.	Wanger
Cole	Hawley	Murphy	Washburn
Cook, Colo.	Hay	Nicholls	Watkins
Cooper, Pa.	Hayes	Nye	Weeks
Cooper, Tex.	Helm	O'Connell	Weems
Coudrey	Henry, Tex.	Olcott	Wheeler
Cox, Ind.	Holliday	Olmsstead	Williams
Crawford	Howard	Pagett	Wilson, Ill.
Crumpacker	Howland	Parker, N. J.	Wilson, Pa.
Currler	Hubbard, W. Va.	Parsons	Wood
Cushman	James, Ollie M.	Patterson	Young
Dalzell	Jones, Wash.		The Speaker

ANSWERED "PRESENT"—16.

Bennet, N. Y.	Flood	Hughes, N. J.	Madden
De Armond	Hale	Humphreys, Miss.	Rauch
Dixon	Haskins	Lamb	Russell, Tex.
Driscoll	Houston	Lever	Sheppard

NOT VOTING—188.

Acheson	Cousins	Graff	Jackson
Alexander, N. Y.	Craig	Graham	James, Addison D.
Allen	Cravens	Gregg	Jenkins
Ames	Darragh	Griggs	Johnson, Ky.
Andrus	Davey, La.	Gronna	Johnson, S. C.
Anthony	Davidson	Hackett	Jones, Va.
Bannon	Davis, Minn.	Haggott	Kitchin, Claude
Barclay	Dawes	Hamill	Kitchin, Wm. W.
Bartlett, Ga.	Denby	Hamilton, Iowa	Knapp
Beale, Pa.	Denver	Hammond	Knopf
Bennett, Ky.	Douglas	Harding	Knowland
Bingham	Draper	Hardwick	Lamar, Fla.
Birdsall	Dunwell	Hardy	Lamar, Mo.
Bradley	Durey	Harrison	Landis
Brantley	Edwards, Ga.	Haugen	Langley
Brownlow	Ellis, Oreg.	Heflin	Lassiter
Brumm	Esch	Henry, Conn.	Lawrence
Brundidge	Fassett	Hepburn	Leake
Burgess	Favrot	Higgins	Legare
Butler	Fornes	Hill, Conn.	Lenahan
Byrd	Foss	Hill, Miss.	Lewis
Calderhead	Foster, Ind.	Hinsaw	Lilley
Caldwell	Foster, Vt.	Hitchcock	Livingston
Capron	Fowler	Hobson	Lorimer
Carlin	Fuller	Howell, N. J.	Loud
Cary	Gaines, Tenn.	Howell, Utah	McDermott
Caulfield	Gardner, Mass.	Hubbard, Iowa	McGuire
Clark, Fla.	Gardner, Mich.	Huff	McHenry
Cockran	Gilham	Hughes, W. Va.	McKinlay, Cal.
Conner	Gill	Hull, Iowa	McLachlan, Cal.
Cook, Pa.	Goebel	Hull, Tenn.	McLaughlin, Mich.
Cooper, Wis.	Goldfogle	Humphrey, Wash.	McMorran

Madison	Perkins	Shackleford	Suloway
Malby	Peters	Sherman	Sulzer
Marshall	Porter	Sherwood	Talbot
Miller	Powers	Sims	Taylor, Ala.
Moon, Pa.	Pratt	Slayden	Thomas, Ohio
Morse	Pray	Slemp	Tirrell
Mouser	Prince	Small	Townsend
Mudd	Pujo	Smith, Mo.	Wallace
Needham	Ransdell, La.	Smith, Tex.	Watson
Nelson	Reid	Sparkman	Webb
Norris	Roberts	Sperry	Weisse
Oversstreet	Robinson	Stafford	Wiley
Page	Rucker	Stanley	Willett
Parker, S. Dak.	Ryan	Steenerson	Wolf
Pearre	Saunders	Sturgiss	Woodyard

So the motion was agreed to.

The Clerk announced the following additional pairs:

Until 8 p. m.:

Mr. HASKINS with Mr. HUGHES of New Jersey.

For the balance of the day:

Mr. GILHAMS with Mr. HEFLIN.

Until further notice:

Mr. WOODYARD with Mr. WEBB.

Mr. THOMAS of Ohio with Mr. SULZER.

Mr. SHERMAN with Mr. SLAYDEN.

Mr. KNAPP with Mr. RUCKER.

Mr. HOWELL of New Jersey with Mr. ROBINSON.

Mr. GRAFF with Mr. RAUCH.

Mr. FASSETT with Mr. PUJO.

Mr. ESCH with Mr. MCHENRY.

Mr. DARRAGH with Mr. HARDY.

Mr. CAPRON with Mr. HACKETT.

Mr. BUTLER with Mr. DE ARMOND.

Mr. ACHESON with Mr. BURGESS.

Mr. GRAHAM with Mr. SMITH of Missouri.

Mr. CAULFIELD with Mr. CLAYTON.

Mr. HALE with Mr. HULL of Tennessee.

Mr. CARY with Mr. RUSSELL of Texas.

Mr. HINSHAW with Mr. LENAHA.

Mr. BARCLAY with Mr. STEPHENS of Texas.

Mr. DUREY with Mr. CLARK of Florida.

The result of the vote was announced as above recorded.

The doors were opened.

RESURVEY OF CERTAIN TOWNSHIPS IN THE STATE OF WYOMING.

Mr. MONDELL. Mr. Speaker, I move to suspend the rules and call up the conference report on the bill S. 6190 and agree to the same.

The SPEAKER pro tempore (Mr. OLMSTED). The gentleman from Wyoming moves to suspend the rules and agree to the conference report on the bill which the Clerk will report.

The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the bill (S. 6190) authorizing a resurvey of certain townships in the State of Wyoming, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment to the amendment of the House numbered two.

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House numbered one; and agree to the same.

F. W. MONDELL,
A. J. VOLSTEAD,
JOS. T. ROBINSON,

Managers on the part of the House.

KNUTE NELSON,
C. D. CLARK,
A. J. MCLAURIN,

Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the House amendment to Senate bill 6190 submit the following statement of the effect of the conference agreement:

Senate amendment No. 1 authorizes the resurvey of certain lands in the State of Colorado, and your conferees have agreed to the same.

Senate amendment No. 2 provides for the disposition of Fort Keogh, Mont., and the Fort Keogh Military Reservation, and your conferees have disagreed to the same.

F. W. MONDELL,
A. J. VOLSTEAD,
JOS. T. ROBINSON,

Managers on the part of the House.

The SPEAKER pro tempore. Is a second demanded?

Mr. FINLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. The gentleman from South Carolina demands a second. Under the rule a second is ordered. The gentleman from Montana is entitled to twenty minutes and the gentleman from South Carolina to twenty minutes.

Mr. FINLEY. I would like to ask the gentleman to explain the conference report.

Mr. MONDELL. Mr. Speaker, the two amendments of the Senate to the amendments of the House to this Senate bill which were in conference related, the first to a resurvey of some lands in Colorado, and to that amendment the House conferees agreed. The second amendment of the Senate related to the disposition of Fort Keogh and Fort Keogh Reservation, in Montana. To that amendment of the Senate the conferees disagreed.

Mr. FINLEY. What do these two amendments involve?

Mr. MONDELL. The first amendment, to which the conferees agreed, is an amendment authorizing the Secretary of the Interior to resurvey certain lands in Colorado.

Mr. FINLEY. What is the necessity for that resurvey?

Mr. MONDELL. The necessity for legislation arises from the fact that the Department has no authority to resurvey lands that have been surveyed and the survey of which has been accepted.

Mr. FINLEY. These lands have been surveyed once. What is the difficulty about that survey?

Mr. MONDELL. Some of these surveys were executed a great many years ago, at a time when surveys were not examined in the field, and probably some of them were not well executed. In some places corners have become obliterated, and of the resurveys asked for some are requested by the Department in connection with their coal-classification work, where they find corners missing.

Mr. FINLEY. Are these lands to be resurveyed public lands belonging to the Government or lands of private individuals?

Mr. MONDELL. They belong partly to the Government and partly to individuals. There are some lands in private ownership, but the resurveys will be necessary in order to enable the Government to dispose of its public lands. This simply authorizes the Secretary to have such resurveys made as he may deem necessary, and the bill provides that no resurveys shall be ordered until the Secretary shall have determined that corners are lost or obliterated to such a certain extent that, in his opinion, a resurvey or retracement is necessary.

Mr. FINLEY. Now, do I understand the gentleman that on no lands that have been conveyed to private individuals these lost corners are obliterated or misplaced?

Mr. MONDELL. Well, the gentleman understands that all over the public domain there have been some lands taken up. I presume there are none of the townships, the resurvey of which is authorized, but what contain some lands that have been located.

Mr. FINLEY. Would this resurvey have the effect possibly of disarranging some grants that have been made to private parties?

Mr. MONDELL. No; this resurvey bill provides that the resurvey shall not be executed in a manner to disturb or impair the present holdings of individuals.

Mr. FINLEY. Now, what does the second amendment provide?

Mr. MONDELL. The second amendment was an amendment that provided for the disposition of the lands of the Fort Keogh Reservation in Montana, an abandoned military post, and to that amendment the conferees disagreed.

Mr. FINLEY. What is the area of that reservation?

Mr. MONDELL. It is a reservation of about 59,000 acres.

Mr. FINLEY. It is a military reservation?

Mr. MONDELL. Yes, sir; but that is eliminated from the bill.

Mr. FINLEY. It goes out?

Mr. MONDELL. It goes out.

Mr. FINLEY. So it is not involved in the bill at present at all?

Mr. MONDELL. Not at all.

Mr. JONES of Washington. What portion of these lands that are resurveyed are public lands?

Mr. MONDELL. As the gentleman no doubt knows, there are some lands in private ownership scattered through these townships, but the resurvey can only be undertaken by the Secretary in cases where he determines that the corners are lost or obliterated to an extent to make necessary resurveys in order to dispose of the public lands.

Mr. JONES of Washington. But I understood that surveys would not be authorized when the greater part of the land had

already passed to private ownership, even though there was some public land.

Mr. MONDELL. This bill provides they can not be executed at all if half of the lands have passed into private ownership.

Mr. FINLEY. There is nothing involved in the bill, if the gentleman will permit, except the resurvey of certain lands in Colorado.

Mr. MONDELL. That is all involved in the conference report.

Mr. Speaker, I ask for a vote.

The SPEAKER pro tempore (Mr. OLMSTED). The question is upon the motion of the gentleman from Wyoming to suspend the rules and agree to the conference report.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays. The yeas and nays were ordered.

Mr. MONDELL. Mr. Speaker, I suggest that there is no quorum present.

The SPEAKER pro tempore. The gentleman from Wyoming suggests that there is no quorum present. The Chair will count. (After counting.) Seventy-eight Members are present, not a quorum. The point is well taken. The Doorkeeper will close the doors, the Sergeant-at-Arms will bring in absent Members; those who are in favor of agreeing to the conference report will, as their names are called, answer "yea," those opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 171, nays 12, answered "present" 22, not voting 183, as follows:

YEAS—171.

Acheson	Durey	Hubbard, W. Va.	Overstreet
Adair	Edwards, Ky.	Jones, Wash.	Padgett
Adamson	Ellis, Mo.	Kahn	Parsons
Alexander, Mo.	Ellis, Oreg.	Kelifer	Patterson
Andrus	Englebright	Keliber	Payne
Ansberry	Esch	Kennedy, Ohio	Pollard
Barchfield	Fairchild	Kimball	Pray
Bartboldt	Ferris	Kinkaid	Rainey
Bartlett, Nev.	Finley	Kipp	Rauch
Bates	Focht	Küstermann	Reeder
Bede	Fordney	Lafean	Reynolds
Bell, Ga.	Foster, Ill.	Law	Riordan
Bonyng	Foulkrod	Lee	Robinson
Booher	Fowler	Lenahan	Rodenberg
Bowers	French	Lindbergh	Rothermel
Boyd	Fulton	Lindsay	Saunders
Burleigh	Gaines, W. Va.	Littlefield	Scott
Burleson	Gardner, Mich.	Lloyd	Smith, Cal.
Burton, Del.	Gardner, N. J.	Longworth	Snapp
Burton, Ohio	Garrett	Lovering	Southwick
Calder	Gillespie	McCall	Spight
Calderhead	Godwin	McCreary	Stanley
Campbell	Gordon	McGavin	Stephens, Tex.
Candler	Goulden	McHenry	Sterling
Capron	Graham	McKinley, Ill.	Stevens, Minn.
Carter	Granger	McKinney	Sturgiss
Caulfield	Greene	McLain	Sulzer
Chaney	Hackett	Macon	Tawney
Chapman	Hackney	Malby	Taylor, Ohio
Cockran	Haggott	Mondell	Thistlewood
Cocks, N. Y.	Hale	Moon, Tenn.	Tou Velle
Cole	Hall	Moore, Pa.	Underwood
Cook, Colo.	Hamilton, Mich.	Moore, Tex.	Volstead
Coudrey	Hamlin	Morse	Waldo
Cox, Ind.	Haskins	Murphy	Wanger
Crumpacker	Haugen	Murphy	Weems
Currier	Hawley	Needham	Wheeler
Cushman	Hay	Nicholls	Williams
Dalzell	Helm	Norris	Wilson, Ill.
Darragh	Henry, Tex.	Nye	Wood
Davenport	Howell, N. J.	O'Connell	Young
Davidson	Howell, Utah	Olcott	The Speaker
Diekema	Howland	Olmsted	

NAYS—12.

Beall, Tex.	De Armond	Houston	Sabath
Clayton	Fitzgerald	Rucker	Slayden
Cooper, Tex.	Floyd	Russell, Mo.	Webb

ANSWERED "PRESENT"—22.

Bennet, N. Y.	Flood	Humphreys, Miss.	Russell, Tex.
Brundidge	Gilhams	Lamb	Sheppard
Dixon	Graff	Lever	Watkins
Draper	Heflin	Madden	Wilson, Pa.
Driscoll	Higgins	Mann	
Dwight	Holliday	Nelson	

NOT VOTING—183.

Aiken	Brownlow	Cravens	Fuller
Alexander, N. Y.	Brumm	Crawford	Gaines, Tenn.
Allen	Burgess	Davey, La.	Gardner, Mass.
Ames	Burke	Davis, Minn.	Garner
Anthony	Burnett	Dawes	Gill
Ashbrook	Butler	Dawson	Gillet
Bannon	Byrd	Denby	Glass
Barclay	Caldwell	Denver	Gobel
Bartlett, Ga.	Carlin	Douglas	Goldfogle
Beale, Pa.	Cary	Dunwell	Gregg
Bennett, Ky.	Clark, Fla.	Edwards, Ga.	Griggs
Bingham	Clark, Mo.	Ellerbe	Gronna
Birdsall	Conner	Fassett	Hamill
Boutell	Cook, Pa.	Favrot	Hamilton, Iowa
Bradley	Cooper, Pa.	Forbes	Hammond
Brantley	Cooper, Wis.	Foss	Harding
Broadhead	Cousins	Foster, Ind.	Hardwick
Broussard	Craig	Foster, Vt.	Hardy

Harrison	Knopf	Miller	Slomp
Hayes	Knowland	Moon, Pa.	Small
Henry, Conn.	Lamar, Fla.	Mouser	Smith, Iowa
Hepburn	Lamar, Mo.	Mudd	Smith, Mich.
Hill, Conn.	Landis	Page	Smith, Mo.
Hill, Miss.	Langley	Parker, N. J.	Smith, Tex.
Hinshaw	Lanning	Parker, S. Dak.	Sparkman
Hitchcock	Lassiter	Pearre	Sperry
Hobson	Lawrence	Perkins	Stafford
Howard	Leake	Peters	Steenerson
Hubbard, Iowa	Legare	Porter	Sulloway
Huff	Lewis	Pou	Talbott
Hughes, N. J.	Lilley	Powers	Taylor, Ala.
Hughes, W. Va.	Livingston	Pratt	Thomas, N. C.
Hull, Iowa	Lorimer	Prince	Thomas, Ohio
Hull, Tenn.	Loud	Pujo	Tirrell
Humphrey, Wash.	Loudenslager	Randell, Tex.	Townsend
Jackson	Lowden	Randell, La.	Vreeland
James, Addison D.	McDermott	Reld	Wallace
James, Oille M.	McGuire	Rhinock	Washburn
Jenkins	McKinlay, Cal.	Richardson	Watson
Johnson, Ky.	McLachlan, Cal.	Roberts	Weeks
Johnson, S. C.	McLaughlin, Mich.	Ryan	Weisse
Jones, Va.	McMillan	Shackleford	Wiley
Kennedy, Iowa	McMorran	Sherley	Willett
Kitchin, Claude	Madison	Sherman	Wolf
Kitchin, Wm. W.	Marshall	Sherwood	Woodyard
Knapp	Maynard	Sims	

The Clerk announced the following additional pairs:

Until further notice:

Mr. WOODYARD with Mr. THOMAS of North Carolina.

Mr. SMITH of Iowa with Mr. RANDELL of Texas.

Mr. McMILLAN with Mr. MAYNARD.

Mr. LOWDEN with Mr. GARNER.

Mr. LOUDENSLAGER with Mr. CRAWFORD.

Mr. KENNEDY of Iowa with Mr. CRAIG.

Mr. GILLET with Mr. CLARK of Missouri.

Mr. DAWSON with Mr. BRODHEAD.

Mr. COOPER of Pennsylvania with Mr. ASHERBROOK.

Mr. BOUTELL with Mr. BROUSSARD.

Mr. BEALE of Pennsylvania with Mr. AIKEN.

The SPEAKER pro tempore. On this vote the yeas are 171, nays 12, answering "present" 22—a quorum. The Doorkeeper will open the doors. A majority having voted in favor thereof, the rules are suspended and the conference report is agreed to.

PHILIPPINE TARIFF LAWS.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules and pass the following bill, with the committee amendment:

The SPEAKER pro tempore (Mr. OLMSTED). The gentleman from New York moves to suspend the rules and pass, with the committee amendment, the bill which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 21449) to amend an act entitled "An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes," approved March 3, 1905.

Be it enacted, etc., That paragraphs 29, 245, 308, 345, and 397 of the act entitled "An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes," approved March 3, 1905, be, and the same are hereby, amended to read as follows:

"PAR. 29. Gold and silver plated wares:

"(a) Gold and silver plated jewelry, N. W., kilo, \$2.40.

"(b) Gold and silver plated wares other than jewelry, N. W., kilo, \$2.

"(c) Silvered copper foil, N. W., kilo, 50 cents.

"Provided, That none of the articles classified under paragraphs 27, 28, and 29 shall pay a less rate of duty than 25 per cent ad valorem: And provided further, That all articles classified for duty under paragraphs 27, 28, and 29 shall pay the prescribed rates on the net weight of the articles themselves, and that the immediate packing in which they are contained shall be assessed for duty under the paragraph covering the articles of which it is manufactured."

"PAR. 245. Machinery and apparatus for mining and the reduction and smelting of ores, for pile driving, dredging, and hoisting, for refrigerating and ice making, sawmill machinery, machinery and apparatus for extracting vegetable oils and for converting the same into other products, for making sugar, for preparing rice, hemp, and other vegetable products of the islands for the markets, and detached parts thereof, also traction and portable engines and their boilers adapted to and imported for and with rice-threshing machines, 5 per cent ad valorem."

NOTE.—The expression "preparing vegetable products for the markets" shall be taken to mean putting said products in their first marketable condition.

"PAR. 308. (a) Whisky, rum, gin, and brandy, per proof liter, 35 cents: Provided, That each and every gauge or wine liter of measurement shall be counted as at least one proof liter.

"(b) Cocktails, blackberry, and ginger brandy, per gauge liter, 35 cents.

"(c) Liqueurs, cordials, and all compound spirits not specially mentioned, per gauge liter, 65 cents.

"Provided, however, That if the proof in the liquors classified under (b) and (c) of this paragraph should be above 105 degrees, the same shall pay a surtax of 25 cents per liter."

"PAR. 345. Buttons:

"(a) Bone, porcelain, composition, wood, steel, iron, and similar materials, N. W., kilo, 30 cents.

"(b) Rubber, copper and its alloys, N. W., kilo, 50 cents.

"(c) Mother-of-pearl and others not specially provided for, except of gold or silver, or gold or silver plated, N. W., kilo, \$1.30.

"Provided, That none of the articles classified under clause (c) of this paragraph shall pay a less rate of duty than 50 per cent ad valorem."

"PAR. 397. All materials for exclusive use in the construction and repair, in the Philippine Islands, of vessels of all kinds."

SEC. 2. That under the heading "Articles free of duty" there shall be added a paragraph as follows:

PAR. 384. Agricultural machinery, apparatus, and implements, machinery and apparatus for making or repairing roads, steam and other motor plows."

SEC. 3. That section 21 of the said act is hereby amended so as to read as follows:

"SEC. 22. That the entry of all importations at the ports of the Philippine Islands made subsequent to a period of sixty days from the date this revised tariff goes into force and effect, of goods, wares, and merchandise from countries other than the United States, when the value of such importation exceeds \$100, shall be accompanied by a consular invoice similar to that required for goods imported into the United States from foreign countries and executed as required for importations into the United States; and when brought into the Philippine Islands from the United States, such importations shall be accompanied by an invoice similar in form to the consular invoices required for importations into the United States, but in lieu of execution by a consul of the United States, such invoices shall be sworn to before a United States commissioner, collector of customs, deputy collector of customs, or notary public."

SEC. 4. That this act shall take effect sixty days after its passage.

Mr. CLAYTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. The gentleman from Alabama demands a second, which under the rule is considered as ordered. The gentleman from New York [Mr. PAYNE] is entitled to twenty minutes, and the gentleman from Alabama [Mr. CLAYTON] is entitled to twenty minutes.

Mr. PAYNE. Mr. Speaker, this bill is reported favorably from the Committee on Ways and Means. It proposes three or four amendments to the tariff law for the Philippine Islands on goods imported into those islands, and does not relate to goods coming to the United States. That question is entirely out of the bill.

The first amendment, in paragraph 29, simply reduces the duty on silvered copper foil to 50 cents per kilo. It is now 75 cents. This reduction is made to aid a manufacturing industry in the city of Manila, an industry which is controlled by Filipinos, owned by them, and which employs something over 100 Filipino workmen. They find that there is too much competition from the outside world in the Orient for them to successfully compete for the trade, and they ask for this slight reduction on silvered copper foil, which is used as raw material in the manufacture of buttons.

Mr. WILLIAMS. Mr. Speaker, before that paragraph 29: "Gold and silver plated jewelry." Is that a reduction or an increase?

Mr. PAYNE. There is no reduction made in that at all. The whole paragraph is quoted, and the only change is made by adding clause c, if the gentleman has the bill. That is the only change made in that part.

Mr. WILLIAMS. The other two clauses are the same as in the present law?

Mr. PAYNE. The other two clauses are exactly like the present law.

The next amendment of which I will speak, because it is connected with this, is to paragraph 345, which increases the duty on buttons—bone, porcelain, composition, wood, steel, iron, and similar materials—to 30 cents per kilo, instead of 20 cents under the present law; on buttons, the mother-of-pearl and others not specially provided for, except of gold and silver plated, to \$1.30 per kilo, instead of \$1 in the present law.

These are the only changes made in paragraph 345, and, as I said before, it is made to give protection to this manufacture of buttons in the city of Manila.

Paragraph 245 is amended so as to except agricultural machinery, apparatus, and implements, machinery and apparatus for repairing roads, and steam and other motive plows from the present law of 5 per cent ad valorem and placing them on the free list. Now, a new paragraph is added, 384, which places these articles on the free list. That is the difference with reference to that.

Paragraph 308 is amended. Subdivision a of the present law is amended to read as follows:

Whisky, rum, gin, and brandy, per proof liter, 35 cents.

This bill adds the following proviso:

Provided, That each and every gauge and wine liter of measurement shall be counted as at least one proof liter.

This amendment is simply to make the tariff on these articles correspond to our internal-revenue law. The duty is slightly increased, I am informed, but not much. The paragraph relates to the change in the liter, the quantity, the tariff on the quantity, so that here is a slight change in the duty, but not great, and it simply makes it conform to our internal-revenue laws.

The amendment to paragraph 397—

Mr. WILLIAMS. Before the gentleman leaves that—section b, in paragraph 308; is that change a reduction, or what?

Mr. PAYNE. It is the same as the present law. The only change in the paragraph is in subdivision a; b and c are identical with the present law.

The amendment to paragraph 397 extends the privilege of free importation to all materials for exclusive use in the construction and repair in the Philippine Islands of vessels of all kinds. The present law allows the free importation only of parts of machinery, pieces of metal, and wood imported for the repair of foreign vessels which have entered ports of the Philippine Islands through stress of weather. In other words, it allows material for the repair of all vessels in the islands, whether they have come there through stress of weather or otherwise, to come in free of duty, and that is the only change in that.

The original bill proposed to repeal section 22 of said act, and I would say right here that these amendments were all recommended by the resident Philippine Commissioners sitting with the House, and by the Commission in Manila, and also by the War Department, and the Chief of the Consular Bureau. All parties in the Philippine Islands, so far as I have any knowledge, united in the recommendation for the enactment of this law.

Mr. COOPER of Texas. Are there any changes in the duties on agricultural products going to the Philippine Islands?

Mr. PAYNE. Not at all.

Mr. DRISCOLL. Will the gentleman yield for a question?

Mr. PAYNE. I prefer to wait until I have finished my statement of the effect of the bill; then I will be glad to yield.

The bill as presented proposed to repeal section 22 of said act. The committee proposed an amendment retaining section 22 of said act, with an amendment, so as to read as hereinafter set forth. Section 22 would read precisely as it does now, except that we add at the end of the section the words "or notary public." This section relates to the consular invoice which shall accompany importations into those islands for goods imported from the United States and from foreign countries. The present law reads as follows:

Such importations shall be accompanied by an invoice similar in form to the consular invoices required for importations into the United States, but in lieu of execution by a consul of the United States, such invoice shall be sworn to before a United States commissioner, collector of customs, or deputy collector of customs.

In other words, it requires, on importations from foreign countries, the same consular invoice that is required by our law for importations into the United States, and it also provides that when those importations are from the United States into the Philippine Islands, those invoices, instead of being made and sworn to before a consul, as in foreign countries, can be made before those officers whom I have enumerated.

Considerable complaint was made by our people exporting goods into the Philippine Islands, and also from the Philippine Islands the same complaint was made, that it was oftentimes inconvenient, on a small invoice, to reach some of these officers required under the law. And instead of repealing the paragraph as the bill proposed, the committee thought it was better to allow that the invoices in the United States might be verified before a notary public, which, of course, would inconvenience no one. So they have added to the end of the paragraph after these other officers the words "or notary public." That comprises all the changes that are made in the present law.

Mr. DRISCOLL. I was going to ask the gentleman whether any estimate has been made as to what effect these changes in the import duties would have on the aggregate receipts from customs by the insular government of the Philippines.

Mr. PAYNE. The amount is so small that it is hardly worth considering.

Mr. DRISCOLL. Then it is not worth bothering with, is it?

Mr. PAYNE. If the button industry is not worth bothering with, of course it is not worth bothering with. If the slight duty that is now put on agricultural machinery is any hindrance or burden to the farmers in the Philippine Islands, as it is claimed, then that slight duty might just as well come off.

Mr. DRISCOLL. I did not know, but if it was important enough for you to bring a bill in, it was important enough to ascertain the difference in the aggregate receipts.

Mr. PAYNE. It is hard to tell whether this bill will increase or decrease the aggregate receipts, because in some cases it decreases the rate of the duty, and in other cases it adds to it.

Mr. DRISCOLL. What I wanted to know was whether any estimate had been made by the committee or anybody else.

Mr. PAYNE. No estimate was made in the hearings before the committee. It simply appeared that the changes in the revenue would be very slight from the passage of this bill, and yet what little there are would benefit the farmers in the Philippine Islands giving them their machinery free, and at the same time would protect the button industry in the city of Manila, employing 100 natives.

Mr. DRISCOLL. But the insular government needs all the

money it can raise for revenues for the running of the government.

Mr. PAYNE. The insular government is for this bill. They think they will get along without the revenue they will lose under these items. They are all for it. They come here demanding it. They say they can afford to give up the small amount of duties that they will have to give up under this bill, and that the bill will be a benefit to agriculture and a benefit to this manufacturing industry. I reserve the balance of my time.

Mr. CLAYTON. Mr. Speaker, it seems to me that this bill is a sort of affirmation of the Massachusetts Republican idea of what the tariff ought to be. This report says, in speaking of one paragraph of the bill:

This paragraph would reduce the duty on silvered copper foil to 50 per cent per kilo. Large quantities of silvered copper foil is used in the manufacture of buttons, and the reduction of the duty would be an aid to manufacturers who use this as their raw material.

Then later down in the same report we find the following:

There is a button factory at Manila, controlled by the Filipinos, in which it is said there are 100 hands employed in the manufacture of buttons. These two changes are made for the purpose of encouraging this industry and protecting it by an adequate tariff.

It seems to me, Mr. Speaker, that that meets the ideal views of the Massachusetts Republicans—free raw material that he wants to use in manufacturing the goods that he sells to the country, but a high protective tariff on the manufactured goods that he compels the American consumers to buy. [Applause on the Democratic side.]

There seems to be one other New England idea revived here. Just exactly what it means I do not know, as we are legislating here now every day without knowing scarcely what we do. These measures are called up and put through under these arbitrary rules and by some understanding with the Speaker, and we hardly know what we are going to do or what we are doing. And I want to predict right now, Mr. Speaker, that hereafter votes that are being cast by Members on that side, as well as some in rare instances by Members on this side, are going to rise up to plague you, because you are putting through ill-advised legislation here frequently. There is something said a little later along in this report about "whisky, rum, gin, brandy, per proof liter, 35 cents." The bill itself provides:

That each and every gauge or wine liter of measurement shall be counted as at least 1 proof liter.

Now, I understand the gentleman from New York [Mr. PAYNE] to say that that is put in there because of the internal-revenue tax on intoxicating liquors over there. I do not know what a liter is. Some of you on that side may. Nobody on this side knows how much a dram is, because we are not used to such things. We know very little about how much is contained even in a glass, and we know very much less about a liter and about proofs. I do not know. It may be a gallon or 5 gallons. I do not know, and I shall, on account of my objections that I have pointed out and my lack of knowledge about the provisions of the bill, content myself in this case, as I often do—voting on the safe side of a proposition—by voting "no," because nearly everything you bring in here is bad, and I shall have to vote "no."

I yield five minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, the activities of the American Republic are being spread all over the world; pretty nearly—

From Greenland's icy mountains
To India's coral strand;

at any rate from the frozen shores of Alaska to the tropical islands of the Philippine Archipelago. The chief governing body on the legislative side of the American Republic consists of the Committee on Ways and Means in the House of Representatives. It is struggling around all through our possessions. This committee has during this session found nothing it could do at home. It has found some things it could do for or against "the heathen," I hardly know precisely which.

I notice they have done two things in this bill which I think might be imitated in connection with the tariff at home. First, they have raised the import duty on whisky, rum, gin, and brandy. That is a very good way of getting a revenue and it is very good way of protecting the consumer by making him do with less of the goods. With all other sorts of goods, the sort that do the consumer good, it is a good policy to reduce the duty. I find here, under one class of "machinery and apparatus for mining, for the reduction and smelting of ores," and various other sorts of machinery, including sawmill machinery, and under another class agricultural machinery, apparatus, and implements, and so forth, that they are put upon the free list for the Filipinos. The Ways and Means Committee can bless the poor Filipinos by putting agricultural implements and machinery

necessary to carry on various industries upon the free list, but they can not put the mower, the reaper, the plow, the hoe, the ax, the cotton gin, the bagging, and ties of the American farmer on the free list to save their lives.

They can put the "machinery for refrigerating and ice making, for pile driving, dredging, and hoisting," machinery for the benefit of those who are engaged in the Philippines in river and harbor improvements, and machinery for the reduction and smelting of ores, for the benefit of the Filipino miner, upon the free list, but they can not do anything for the benefit of the American minor, or of the American adult, either one, as far as I have been able to learn. The gentleman from New York did not tell us in his explanation of the bill whether wood pulp and print paper were upon the free list when they were imported into the Philippine Islands or not, so I can not enter into any sort of comparison with regard to his refusal to put them on the free list for the American publisher and reader. It seems to me, however, that this is a bill framed very largely upon Democratic ideas, to wit, increase the duty upon luxuries, and especially upon the sort of luxuries that men can easily do without to their own benefit, and reducing the duty upon the necessities of life and the necessities of industries.

Now, Mr. Speaker, I would suggest to the Ways and Means Committee this idea: That when they are acting with regard to somebody else way off yonder, where there are no special interests tagging at the committee's elbow all the time to obtain enrichment for themselves by the exploitation of the consumer, they seem to understand the duty ought to be high on luxuries and low upon necessities, but in dealing with our own people, where the special interests are potential, I would advise them to disregard those special interests for a moment and frame tariff legislation upon like lines to a greater extent. [Applause on the Democratic side.]

Mr. CLAYTON. Mr. Speaker, how much time have I left?

The SPEAKER pro tempore. The gentleman from Alabama has twelve minutes remaining.

Mr. CLAYTON. Mr. Speaker, I yield four minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, the argument of the gentleman from New York [Mr. PAYNE] in favor of this bill is interesting but not illuminating. If I understood the gentleman aright, there seems to be a different economic law applicable to the Orient from the economic law the Republicans have applied in the Occident. What is good economic law for the United States does not seem to be good economic law for the Philippines, and vice versa. The Republicans in this House ever since I came to Congress have declared that it was necessary to levy a tax on raw material imported into this country in order to protect the domestic manufacturer. Now the gentleman from New York [Mr. PAYNE] tells us that it is necessary to take off the tariff tax on raw material imported into the Philippine Islands in order to protect the manufacturers in the Philippines. Hence a universal economic law, according to the gentleman, is quite different in the Orient from what it is in the Occident.

It is all very queer to me. I am seeking light, but the more the gentleman talks on tariff taxation the more confused I confess I become regarding the subject-matter. Something must be wrong. I can not understand the inconsistent statements of the gentleman. Either I am dull or the gentleman is awry on his facts. I have been under the impression, from my study of political economy, that a universal law was a "universal law," applicable here and everywhere, and I was astounded to hear the political leader on the Republican side of the House enunciate a new doctrine so contrary to the views of every writer on the subject, from the days of Adam Smith down to the present time. But perhaps they were wrong and the gentleman from New York is right. Who can tell? All things now seem possible with the leaders of the Republican party in this House. They can change a universal law, it appears, just as readily as they can change any other kind of a law. Their constructive ability is almost as great as their recuperative powers, and this seems to lend color to the declaration this morning of the other gentleman from New York [Mr. VREELAND] about the cohesive power of the Republican party. [Applause.]

Now, sir, what does this bill do? Well, it decreases the tariff tax on certain schedules of the Philippine tariff law and increases the tax on other schedules. It is not a Republican tariff bill, because such a bill would surely increase the tax on all the schedules. It is not a Democratic tariff bill, because such a bill would surely decrease the tariff tax. It is an emergency hodgepodge tariff bill—a sort of cross between the good and the bad—a miserable compromise.

Mr. Speaker, I am in favor of taking off the tariff duty on all raw material in order to help the manufacturers in the

Philippines; and I am willing to go further. I am in favor of taking off the tariff tax on all raw material imported into the United States, in order to aid the manufacturers of this country. I believe it will help the manufacturers in the Philippine Islands as well as the manufacturers in the United States, and what is good for one is good for the other.

All raw material essential to our industries and manufacturers should be admitted free, in order that this country can compete successfully with the manufacturers of all the world. I believe that all raw material imported into this country should come in free. I know it will aid the manufacturer and benefit the wage-earner. It follows, like the night the day, that the more free raw material, the more will be imported; the more that is imported, the more will be manufactured; the more manufactured, the more mills and the more factories; the more factories and mills, the more men will be employed; the more men employed, the more wages will be paid; and the more wages paid, the happier the hearthside, the more prosperous the wage-earner, and the more contented the family. [Applause.]

Mr. Speaker, for years I have advocated more free raw material, and I have introduced several bills to accomplish it, but the Republicans have never dared to act on them. One of these bills introduced by me provides that the tariff taxes on wood pulp and white print paper shall be taken off; another bill provides that the tariff taxes on coal shall be taken off; another bill provides that the tariff taxes on lumber shall be taken off, so that the toilers and consumers of the country shall have free coal to keep the hearthside warm in winter; so that they shall have free lumber to build their homes, and the free coal to keep them warm after they are built. That is fair and just and that ought to be the law.

But, sir, the bill I especially desire to talk about to-day is the bill (H. R. 20191) introduced by me to take off the tariff taxes on the necessities of life and place on the free list all goods, wares, and merchandise made in the United States and sold cheaper in other countries than in this country. It is a brief bill, and I send it to the Clerk's desk and ask to have it read in my time as part of my remarks.

The Clerk read as follows:

A bill (H. R. 20191) relating to the revenues for the Government and to encourage the industries of the United States.

Be it enacted, etc., That whenever it shall be made to appear to the satisfaction of the Secretary of the Treasury that the manufacturer, maker, or producer of any article, manufacture, compound, or product made or produced in these United States the like of which when imported is made dutiable by any of the provisions of existing laws, bargains, sells, transfers, or disposes of, or agrees to bargain, sell, transfer, or dispose of any such article, manufacture, compound, or product upon condition that the same shall be exported or for export, at a sum or value less than that for which the same or a like article, manufacture, compound, or product is or was bargained, sold, or disposed of without any such condition, the Secretary of the Treasury shall forthwith, upon satisfactory proof of such sale, order and direct that all such article or articles, when imported, shall be admitted free, and thereafter the same shall be placed on the free list, so that no duty shall be assessed or collected on any such article, manufacture, compound, or product, the intention of this act being that whenever goods, wares, and merchandise produced or manufactured in these United States are sold cheaper in foreign countries than in this country the same shall be placed on the free list and not entitled to any of the benefits of existing tariff laws.

Sec. 2. That this act shall take effect on the 1st day of July, 1908.

Mr. SULZER. Mr. Speaker, that bill speaks for itself and needs no explanation. It is a well-known fact that there are now over 100 articles on the dutiable list receiving immense protection from the Dingley tariff schedules, and that these articles manufactured in this country are sold cheaper abroad than at home. It is an injustice on the over-burdened taxpayers and consumers of the country, and I am in favor of an immediate revision of the Dingley tariff law schedules in accordance with the terms of my bill so that trust-made goods in this country shall be sold just as cheap here to our own people as they are sold to purchasers in other lands, and especially so when we take into consideration the additional cost of transportation. This unjust discrimination in favor of foreigners against our own people is an outrage, and when the people realize it all I feel confident that they will favor the enactment of a bill similar to mine, so that the protected manufacturers in this country shall sell the necessities of life to the people of this country just as cheaply as they sell them to the people in Europe and in Asia and in Africa.

This bill of mine was referred by the Speaker, in accordance with the rules of the House, to the Committee on Ways and Means. I pleaded for a hearing before the committee, but without avail. Finally I wrote a peremptory letter to the gentleman from New York [Mr. PAYNE], the chairman of the committee, demanding a hearing, and in reply I received the following letter, which I send to the Clerk's desk and ask to have read in my time as part of my remarks.

The Clerk read as follows:

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., April 1, 1908.

Hon. WILLIAM SULZER,
House of Representatives, City.

DEAR MR. SULZER: Your request of the 31st ultimo for hearings on a couple of tariff bills introduced by you received. The majority of the committee have decided that it is not best to agitate the business of the country during a Presidential year and during the present depression in business by a debate before the committee as to the rates of duty in tariff schedules.

Yours, very truly,

SERENO E. PAYNE.

Mr. SULZER. Sir, that letter tells the story and the whole story, and shows how futile it is for a Democrat to endeavor to legislate in response to the just demands of the people. The Republican party never was and never will be honest and sincere with the people on this vital question of tariff taxation. The people will be fooled by the Republican leaders just so long as they will let these so-called "leaders" fool them. [Applause on Democratic side.]

We know to-day, beyond all contention, that the tariff is a tax, and, beyond all dispute, that the consumers pay the taxes. Ultimately all the burdens of protective taxation fall upon the consumers of the country. Protection for protection's sake is a system of indirect taxation which robs the many for the benefit of the few. No party that stands for the best interests of all the people can support it, especially where it fosters trusts, shelters monopolies, and saddles the great burdens of Government on the farmer, and the toiler, and the wage-earner of the country. The Republicans in Congress tell us that at some future time they may revise the tariff schedules of the Dingley law, but they do not tell us whether they will revise the schedules up or down—whether they will make the taxes more or less. They may, if they are continued in power, revise the tariff taxes at some future time; but if they do, I am satisfied they will make the taxes higher instead of lower and legislate for monopoly instead of man.

The Democratic party stands for a fair, just, and equitable revenue system, a tariff for revenue that will support the Government, economically administered, with equal justice to all and favoritism to none, having a jealous care for our farmers and our toilers.

The Democratic party does not believe in free trade any more than it believes in protection for the sake of protection. Free trade is a scarecrow—a bugaboo. Free trade at the present time and for generations to come is an absolute impossibility. There is not a civilized country in the world to-day that is a free-trade country. All the nations of the earth raise most of their revenue from a tax on imports. We must do the same; but we do not believe in taxing the necessities of life and exempting the luxuries of life. On the contrary, those articles the least needed by all the people should pay the highest tax, and those most needed by all the people should pay the least tax. [Applause.]

Mr. Speaker, the Republicans contend, when we demand a revision of these unjust tariff discriminations in taxation, that it is all in the interest of labor, that this exorbitant protection is for the benefit of the wage-earner, but every intelligent man in the country knows the absurdity of the proposition. Labor comes in free. Labor receives no protection. Tariff taxation has nothing to do with the price of labor. Capital buys labor as cheaply as it can. Wages are regulated by the inexorable law of supply and demand. Whenever you find two employers looking for one workman, wages will be high, and whenever you find two workmen looking for one employer, wages will be low. When the demand is greater than the supply, wages go up, and when the supply is greater than the demand, wages go down. Tariff taxes and import duties have nothing to do with it. In all prosperous communities labor is sought for, not turned aside.

Sir, the Democratic party favors tariff reform in the interest of the consumers of the country and for the benefit of the toilers of the land. It is in favor of reducing the tariff taxes wherever they foster trusts or shelter monopoly. It would reduce the tariff taxes on all goods, wares, and merchandise manufactured in this country and sold cheaper abroad than at home. It would revise the Dingley tariff schedules in a business way in the interest of all the people. The Dingley tariff law violates every principle of Democracy. It is the highest protection measure ever written on our statute books. It is a law for protection, for the sake of protection, and not for the sake of revenue. Most of the Dingley tariff schedules are entirely too high and in the interest of monopoly. The Dingley tax laws violate the cardinal principle of Jefferson—"Equal rights to all, special privileges to none." They burden beyond the calculation of the human intellect the struggling people of our country. They foster monopoly, and make a few rich men a little more pros-

perous. They take from those least able to pay and give to those most able to pay. Most of the Dingley tariff schedules are for the rich and against the poor—for the few and against the many. These high-protection tariff schedules that foster trusts and shelter monopoly should be revised, not by their friends—the Republicans—but by those who would see to it that they are revised in a business way and in harmony with the progressive spirit of the times.

The Democratic Representatives in Congress have been making an heroic effort to get the Republicans to revise the Dingley tariff tax schedules, but their efforts are in vain. The Republican leaders in Congress turn a deaf ear to the burdened taxpayers of the country and decline even to take the tariff off wood pulp and white print paper, demanded by nearly every newspaper publisher in the country. The removal of this tariff tax on wood pulp and white print paper would protect our forests and give the owners of the newspapers of the land cheaper white paper. But the paper trust says no, and the Republican leaders in Congress say no, and that is the end of the matter until the people turn the Republicans out and elect a Democratic Congress that will respond to the urgent demands of the people of the country. [Applause on Democratic side.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SULZER. Give me a couple of minutes more.

Mr. CLAYTON. I am very sorry I can not give the gentleman any more time. I yield four minutes to my colleague from Alabama [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, this bill is an ideal Republican tariff bill. It takes care of the manufacturer. It is framed so as presumably to take care of somebody outside of the manufacturing interest. I note that the bill gives free trade, or a reduction of duties, on agricultural implements. The United States practically makes all the agricultural implements that go into the Philippine Islands. Therefore, we are taking care of our own or their own by reducing the tariff on agricultural implements. On the other hand, to protect the great manufacturer, the labor involved in a button industry that is composed of 100 men, this bill proposes to increase the tax on buttons 50 per cent to 8,000,000 of people. Now, that is strictly in accordance with the Republican idea of writing a tariff bill. The report shows that there are 100 men in the Philippine Islands engaged in the business of making buttons. There are 8,000,000 people living in the Philippine Islands, many of whom, at least, are supposed to use buttons, and for the benefit of the 100 gentlemen engaged in the manufacture of buttons, we propose to raise the duty 50 per cent.

Now, I do not think there is very much in the bill one way or another. It reduces the duty on some things and raises it on others, but it is strictly along the line of Republican legislation, and the only material comment that I can see in reference to the matter is that it almost makes the American citizen wish he was a Filipino.

We have been struggling for years to secure a revision of the tariff in the United States. We have had the doors of the Ways and Means Committee locked hard against the American people, but it seems that if we were Filipinos we could get the doors opened, not only in this Congress, but in the last Congress. We can get legislation for the Filipinos, but we can not get tariff legislation for the American people.

Mr. CLAYTON. In that connection, I understand the gentleman to say that this bill gives the Filipinos free agricultural implements, but the American farmer must stand the tariff on the implements that he buys?

Mr. UNDERWOOD. Unquestionably.

Mr. CLAYTON. And therefore, so far as the tax by the Federal Government is concerned, the American farmer had better be a Filipino than an American.

Mr. UNDERWOOD. Well, in some respects, probably; yes. I agree with my colleague.

Mr. OLLIE M. JAMES. I would like to ask the gentleman from Alabama [Mr. UNDERWOOD] if he does not think the chairman of the Ways and Means Committee might be appealed to to give unanimous consent to allow this section to apply to the American farmer and let him have the agricultural implements the same as the Filipino farmer free of any tariff duty?

Mr. UNDERWOOD. I can not agree with the gentleman from Kentucky that an appeal to the chairman of the Ways and Means Committee on this section would be productive of fruitful legislation.

Mr. OLLIE M. JAMES. Do you mean to assert that he has a greater love for the Filipino farmer than for the American farmer? [Applause on the Democratic side.]

Mr. UNDERWOOD. I can not speak for the gentleman from New York [Mr. PAYNE] myself.

Mr. OLLIE M. JAMES. I hope the opportunity will be given to the gentleman from New York [Mr. PAYNE], because he ought to love farmers, to deal with the American farmers as he does with the Filipino farmers.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CLAYTON. Mr. Speaker, I would like to ask the gentleman from New York [Mr. PAYNE] to use some of his time.

Mr. PAYNE. I want to say to the gentleman that there will not be more than one speech on this side.

Mr. CLAYTON. Then I yield the rest of the time, which, I believe, is four minutes, to the gentleman from Kentucky [Mr. SHERLEY].

Mr. SHERLEY. Mr. Speaker, we had an era of phrase-making a few years ago, and one of the phrases that did duty for a time was "sphere of influence," and we were told of the great "sphere of influence" that was to come to the American people by virtue of the Philippines, and, in return, to the Philippine people by virtue of our acquisition of those islands. Now, to any man who has ever been in the Philippines or has even ever read of them, two fundamental facts will be apparent. The first is that that country is now and must remain an agricultural country. The second is that the city of Manila, of which we are wont to brag so much and on which we have spent so much of American money, can never be made the center of a sphere of influence as a rival to the other great cities in the Orient, unless it is an absolutely free city. Manila will never compete with Hongkong if there is any restriction upon trade, for Hongkong has absolutely no restriction and has also the advantage of an earlier start. What we need to do for the Philippines is not only to make Manila a free city, but to give the Philippine people a market for their products here in America.

The bill has an equity, but it is insignificant alongside of that great equity that should be extended to the Philippine people of giving them a market in America for their products. The attempt to build up an industry in button manufacturing is of no real value, though the admission free of duty of agricultural implements should be of considerable value; but what we really need to do, as I have said, is to take our tariff duty off exports from over there and give these people a market here, and thereby a chance to live. We may indulge in all sorts of protestations as to our good will to the Filipinos, but in the last analysis we will be judged not by our words, but our deeds. The Filipino people have been clamoring for an opportunity to have a market here for their products. We may talk about enlightening them, about improving them, making them ready for self-government, but any government that does not enable them to enjoy prosperity, not as a matter of charity but by the operation of economic laws that will be of benefit to them, can not possibly justify itself when the verdict of history is written.

What I would like to see the distinguished gentleman from New York do is to bring in a bill along these lines, a bill that will give the Filipino people a market here at home, and also give Manila a chance as a free city to compete with the other cities of the Orient.

And we can not, with very much face, talk about the open door in the Orient and attempt to shut it in that part of the Orient that floats our flag. [Applause on the Democratic side.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PAYNE. Has the gentleman from Alabama consumed his time?

The SPEAKER pro tempore. The gentleman from Alabama has consumed his time, and the gentleman from New York has seven minutes remaining.

Mr. PAYNE. I only desire to speak for a small portion of the time.

Mr. SULZER. If you have any time to spare, we will use it over here.

Mr. PAYNE. I think you might abuse it.

Mr. Speaker, silvered copper foil is used as a raw material in the manufacture of buttons in the Philippine Islands. No silvered copper foil is manufactured in those islands, and there is no prospect of any manufacture of that kind in the future; so there is no reason for any tariff upon that article except for a tariff for revenue, there being no industry to protect. It is not like the United States, that furnishes all our coal and all our iron ore and all those other things that the Democrats roll as a sweet morsel under their tongues when they talk about free raw material. It shows an advance in the Filipinos that they looked far enough into their industries to see that their button industry was languishing because of the competition that comes from oriental countries, that they themselves

demand a protective tariff on that industry, and I am very glad to be able to help give it to them.

The gentleman from Mississippi says that we are adopting Democratic ideas for the Philippine Islands.

Mr. OLLIE M. JAMES. Will the gentleman yield for a question?

Mr. PAYNE. I do not believe I had better; it would take too much time.

Mr. OLLIE M. JAMES. It would do you good. I see you have a provision here giving farming implements to the Filipinos free of duty. Will you agree to an amendment for the benefit of the American farmers by putting these articles on the free list? [Applause on the Democratic side.]

Mr. PAYNE. Now, that is a funny question for a full-grown man to ask. [Laughter on the Republican side.] Of course the gentleman knows that they do not manufacture any agricultural implements in the Philippine Islands, and of course he ought to know that in the United States we manufacture all the agricultural implements we need to till our teeming millions of acres.

Now, as to the difference between the Philippine Islands and the United States, as I was about to say when the gentleman interrupted me with that inquiry, the gentleman from Mississippi [Mr. WILLIAMS] said we were adopting Democratic ideas. Well, Democratic ideas are exactly fitted to the Philippine Islands, where they have no manufactures except cigars and buttons. [Applause and laughter on the Republican side.] But they are out of date when you come to talk about the United States, the first manufacturing nation on all the earth. [Applause on the Republican side.] Here, with our varied industries, with the hundreds of thousands of men employed in those industries, with the happiness and prosperity and luxury that we have brought to the homes of these people, it is necessary that we should have more progressive ideas. And that is the reason that the people of this country are keeping out of power those who would legislate on Filipino lines for the United States and keeping in power the Republican party, a party of progress, a party that has made progress in the United States. [Applause on the Republican side.]

Gentlemen do not seem to understand the difference between the two countries. I thank God that we have the Philippine Islands, if for no other purpose than to furnish education to gentlemen like the gentleman from Kentucky [Mr. OLLIE M. JAMES]. [Laughter on the Republican side.] I thank God that those islands are attached to us, that they may learn some new ideas from us, and that the Filipinos are learning the valuable lesson of employing their labor at home to make those articles which they need, and every time they ask us to take a step in this direction I am in favor of it. [Applause on the Republican side.] That is the Republican idea; that is the Republican doctrine. [Applause on the Republican side.]

The SPEAKER pro tempore (Mr. OLMSTED). The question is on the motion of the gentleman from New York [Mr. PAYNE] to suspend the rules and pass the bill, with committee amendments.

Mr. CLAYTON. The yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 174, nays 41, answered "present" 12, not voting 160, as follows:

YEAS—174.

Acheson	Crumpacker	Godwin	Kennedy, Iowa
Adair	Currier	Gordon	Kinkaid
Aiken	Cushman	Goulden	Kipp
Andrus	Dalzell	Graff	Küstermann
Anthony	Darragh	Graham	Lafean
Bannon	Davidson	Granger	Lanling
Barchfeld	Dawson	Greene	Law
Barclay	Diekema	Hackney	Lenahan
Bartholdt	Douglas	Haggott	Lindbergh
Bates	Driscoll	Hamill	Littlefield
Beall, Tex.	Dwight	Hamilton, Mich.	Longworth
Bede	Edwards, Ky.	Haskins	Loudenslager
Bonyne	Ellis, Mo.	Haugen	Lovering
Bowers	Ellis, Oreg.	Hawley	McCreary
Boyd	Esch	Hayes	McDermott
Bradley	Fairchild	Helm	McKinley, Ill.
Burleigh	Fitzgerald	Henry, Tex.	McKinney
Burton, Del.	Focht	Hepburn	McLain
Butler	Fordney	Higgins	Madison
Calder	Foster, Ill.	Holliday	Malby
Calderhead	Foster, Ind.	Houston	Mann
Campbell	Foulkrod	Howard	Moore, Pa.
Candler	Fowler	Howell, N. J.	Moore, Tex.
Capron	French	Howell, Utah	Morse
Chaney	Gaines, Tenn.	Howland	Murdock
Chapman	Gaines, W. Va.	Hubbard, W. Va.	Murphy
Cocks, N. Y.	Gardner, Mich.	Hughes, N. J.	Needham
Cole	Gardner, N. J.	Humphreys, Miss.	Nicholls
Cook, Colo.	Garner	Johnson, Ky.	Norris
Cooper, Pa.	Gilham	Jones, Wash.	Nye
Cooper, Wis.	Gillespie	Kahn	O'Connell
Coudrey	Gillett	Kelifer	Olcott
Cox, Ind.	Glass	Keliber	Olmsted

Overstreet
Padgett
Page
Parker, N. J.
Parsons
Payne
Pearre
Pollard
Pray
Rauch
Reeder

Reynolds
Robinson
Rosenberg
Rothermel
Scott
Sherley
Sherman
Sims
Slayden
Smith, Cal.
Smith, Iowa

Smith, Mich.
Snapp
Southwick
Steenerson
Sterling
Stevens, Minn.
Sturgiss
Taylor, Ohio
Thistlewood
Tou Velle
Volstead

Vreeland
Waldo
Wanger
Washburn
Wheeler
Williams
Wilson, Ill.
Wood
Young

NAYS—41.

Adamson
Alexander, Mo.
Ansberry
Ashbrook
Bell, Ga.
Booher
Brodhead
Burlison
Burnett
Carter
Clark, Mo.

Clayton
Cooper, Tex.
Crawford
Davenport
De Armond
Ferris
Finley
Floyd
Hackett
Hamlin
Heflin

Kimball
Lindsay
Lloyd
Macon
Moon, Tenn.
Pujo
Rainey
Randell, Tex.
Rhinoek
Riordan
Rucker

Russell, Mo.
Smith, Mo.
Sparkman
Sulzer
Thomas, N. C.
Underwood
Watkins
Webb

ANSWERED "PRESENT"—12.

Bennet, N. Y.
Brundidge
Dixon

Draper
Durey
Flood

Lever
McCall
Madden

Nelson
Russell, Tex.
Sheppard

NOT VOTING—160.

Alexander, N. Y.
Allen
Ames
Bartlett, Ga.
Bartlett, Nev.
Beale, Pa.
Bennett, Ky.
Bingham
Birdsall
Boutell
Brantley
Broussard
Brownlow
Burrin
Burgess
Burke
Burton, Ohio
Byrd
Caldwell
Carlin
Cary
Caufield
Clark, Fla.
Cockran
Conner
Cook, Pa.
Cousins
Craig
Cravens
Davis, La.
Davis, Minn.
Dawson
Denby
Denver
Dunwell
Edwards, Ga.
Ellerbe
Englebright
Fassett
Favrot

Fornes
Foss
Foster, Vt.
Fuller
Fulton
Gardner, Mass.
Garrett
Gill
Goebel
Goldfogle
Gregg
Griggs
Gronna
Hale
Hall
Hamilton, Iowa
Hammond
Harding
Hardwick
Hardy
Harrison
Hay
Henry, Conn.
Hill, Conn.
Hill, Miss.
Hinshaw
Hitchcock
Hobson
Hubbard, Iowa
Huft
Hughes, W. Va.
Hull, Iowa
Hull, Tenn.
Humphrey, Wash.
Jackson
James, Addison D.
James, Ollie M.
Jenkins
Johnson, S. C.
Jones, Va.

Kennedy, Ohio
Kitchin, Claude
Kitchin, Wm. W.
Knapp
Knopf
Knowland
Lamar, Fla.
Lamar, Mo.
Lamb
Landis
Langley
Lassiter
Lawrence
Leake
Lee
Legare
Lewis
Lilley
Livingston
Lorimer
Loud
Lowden
McGavin
McGuire
McHenry
McKinlay, Cal.
McLachlan, Cal.
McLaughlin, Mich.
McMillan
McMorran
Marshall
Maynard
Miller
Mondell
Moon, Pa.
Mouser
Mudd
Parker, S. Dak.
Patterson
Perkins

Peters
Porter
Pou
Powers
Pratt
Prince
Ransdell, La.
Reid
Richardson
Roberts
Ryan
Sabath
Saunders
Shackleford
Sherwood
Slomp
Small
Smith, Tex.
Sperry
Splight
Stafford
Stanley
Stephens, Tex.
Sulloway
Talbot
Tawney
Taylor, Ala.
Thomas, Ohio
Tirrell
Townsend
Wallace
Watson
Weeks
Weems
Weisse
Wiley
Willett
Wilson, Pa.
Wolf
Woodyard

So the rules were suspended and the bill as amended was passed.

The Clerk announced the following additional pairs:
Until further notice:

Mr. ALEXANDER of New York with Mr. BARTLETT of Nevada.

Mr. TIRRELL with Mr. SAUNDERS.

Mr. TAWNEY with Mr. STEPHENS of Texas.

Mr. PRINCE with Mr. SABATH.

Mr. PORTER with Mr. PATTERSON.

Mr. MONDELL with Mr. OLLIE M. JAMES.

Mr. MCGAVIN with Mr. GREGG.

Mr. LORIMER with Mr. GARRETT.

Mr. KNAPP with Mr. FULTON.

Mr. KENNEDY of Ohio with Mr. FAVROT.

Mr. HUMPHREY of Washington with Mr. ELLERBE.

Mr. HALL with Mr. CRAIG.

Mr. GOEBEL with Mr. COCKRAN.

Mr. FOSS with Mr. BYRD.

Mr. BURTON of Ohio with Mr. BURGESS.

Mr. BURKE with Mr. BRANTLEY.

On this vote:

Mr. BOUTELL with Mr. BROUSSARD.

The result of the vote was announced as above recorded.

REARRANGEMENT OF HALL OF HOUSE OF REPRESENTATIVES.

Mr. MC CALL. Mr. Speaker, I ask unanimous consent for the passage of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Superintendent of the Capitol Building and Grounds be authorized and directed, under the supervision of the Speaker, to consult with architects of repute and expert upon ventilation and acoustics with a view to a rearrangement and reconstruction of the Hall of the House of Representatives, and to place it in direct contact with the outer wall or walls of the building, and to improve

its ventilation and acoustical properties, and to reduce its size, and to report with plans to the Speaker on the first Monday of December, 1908. The expenses hereunder, not to exceed the sum of \$5,000, shall be paid out of the contingent fund of the House.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I ask the gentleman from Massachusetts to yield me three minutes.

Mr. McCALL. If I may yield the gentleman three minutes, I will gladly do so.

Mr. CLAYTON. I ask unanimous consent that the gentleman may have three minutes.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I have reserved the right to object, and I understand that the gentleman yields.

Mr. OLLIE M. JAMES. Mr. Speaker, a parliamentary inquiry. In giving the gentleman from Mississippi unanimous consent to speak, does that shut off the right of any other Member on the floor to object?

The SPEAKER. Undoubtedly not. Is there objection to the gentleman from Mississippi addressing the House for three minutes? [After a pause.] The Chair hears none.

Mr. WILLIAMS. Mr. Speaker, as I understand this resolution, it merely provides that the Architect, together with other architects, may study this question and submit plans next December to the Speaker, and those plans can then be considered by the House; and among other things he is to consider the arrangement and construction of the Hall, the question of whether or not the Hall can be placed so as to get ventilation from windows connecting with the free air, removing the Hall to the outer wall, and the balance of it. Understanding that, I consider this is a matter going to the comfort and health of the Members of the House, and I reserve the right to object and ask to make these remarks so that the remarks might explain why I do not object to unanimous consent.

Mr. OLLIE M. JAMES. Mr. Speaker, I would like to ask the gentleman from Massachusetts if under this resolution it is contemplated to reduce the size of the House and put benches in here.

Mr. McCALL. I would say that nothing is contemplated; that I consulted my colleague upon the committee, the gentleman from North Carolina [Mr. THOMAS], the gentleman from Alabama, and the gentleman from New York [Mr. PAYNE], who made a speech against the proposition on this side, and I endeavored to draw that resolution so as to refer this whole question to architects who may perhaps submit half a dozen plans next winter to the House, and nothing will be decided whatever until we have the plans.

Mr. OLLIE M. JAMES. But has not the Speaker the right now to have architects make such plans as may be necessary?

Mr. McCALL. He can not get consulting architects, and in the matter of this importance, I would say to the gentleman from Kentucky, we want to authorize our Architect to consult with the most eminent architects of the country.

Mr. CLARK of Missouri. Mr. Speaker, I ask unanimous consent to address the House for two or three minutes on this question.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. CLARK of Missouri. Mr. Speaker, I had a good deal to do with defeating this resolution here the other day, and I will state why. If there was any guaranty that they would not have benches, I would not have any objection to this scheme, and I have not any now to this particular resolution pending here. I think the Hall of the House ought to be remodeled.

Whether a clear, loud, penetrating voice indicates an empty head, as some of them insinuated here the other day, I have a vast advantage over nearly everybody here in point of voice. It does not make a bit of difference to me whether the House is in good order or bad order when I commence a speech. They always get into good order before I get very far into it [laughter], and they do it because they can not help themselves. A clear, strong, penetrating voice does not make its possessor an orator, but it is very advantageous in a large and tumultuous assembly.

But I do not think that everybody ought to be expected to have as clear a voice or as strong a voice as I have, or anything of the sort, and I think that people ought not to be compelled to wear themselves out in an effort to make themselves heard here.

Mr. ADAMSON. Will the gentleman permit a question?

Mr. CLARK of Missouri. Yes.

Mr. ADAMSON. What about the case of men who are less interesting than the gentleman, but who are talking about something in which you and your people are interested and a matter you would like to hear and whom you are prevented from hear-

ing by such proceedings as you see before you, men all accumulating down there in front of the altar—if you choose to give it that name—confessing thereby they can not hear without going there?

Mr. CLARK of Missouri. They were here when I began, or they would have been in their seats now. [Laughter.] This matter is well worth discussing. The average Member can not be heard at all unless the Speaker keeps good order, and the Speaker does the best he can—for a Republican—but he does not succeed very well. [Applause.] My own notion about it is—and I have studied more about it since the other confabulation that we had before—I think the gentleman from Mississippi [Mr. WILLIAMS] is entirely right about it, that this Hall ought to be in some way run to the outside wall so that we could have light and air in here. [Applause.] Now, if the Speaker and his committee can accomplish that proposition and reduce the size of the Hall and still leave us a comfortable place to sit, then I will have no objection to it; but I am eternally opposed to sitting on a straight-back bench anyway. I did enough of that when I was a boy at school, and some of the benches did not have any backs at all.

Mr. McCALL. Will the gentleman yield?

Mr. CLARK of Missouri. Yes.

Mr. McCALL. The resolution does not put any power in the hands of the Speaker to settle anything, but simply to have an investigation of this kind made by architects with a view of getting to the outer wall and reporting plans for doing the same on the first Monday in December.

Mr. CLARK of Missouri. I am in favor of that.

Mr. WILLIAMS. And those plans will come before the House, and the House will then determine.

Mr. McCALL. And we can determine at that time. I will admit that I did not have that degree of information the other night that would justify us in settling so important a question. However, I did not mean to take the gentleman from Missouri off the floor.

Mr. CLARK of Missouri. That was all I had to say, anyhow.

Mr. THOMAS of North Carolina. Mr. Speaker, I ask unanimous consent for a minute or two.

The SPEAKER pro tempore. The gentleman from North Carolina asks unanimous consent to address the House for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. THOMAS of North Carolina. Mr. Speaker, this resolution does not contemplate the removal of the desks. As the Members of the House well know, I was opposed the other night to the removal of the desks and the changes contemplated by the original resolution reported from the Committee on the Library. This resolution simply contemplates the preparation between now and the next session of plans, under the direction of the Speaker of the House and the Superintendent of the Capitol Buildings and Grounds, with a view of reducing the size of the Hall, and especially with a view of taking out this south wall, in order that we may get nearer to the southern end of the Capitol.

All that the resolution contemplates, Mr. Speaker, is simply that plans shall be prepared, to be reported to the House at the next session of Congress, with a view, not to take out the desks, but simply to remodel the Hall so we will be nearer to the air on the south side of the Capitol. I can see no objection to the resolution in its present form.

The SPEAKER pro tempore. Is there objection?

Mr. SIMS. Mr. Speaker, reserving the right to object, I wish to ask the gentleman from Massachusetts a question.

Mr. McCALL. Certainly.

Mr. SIMS. Mr. Speaker, there seems to be a prejudice against any action by this House toward removing these desks if they are to be replaced by benches.

But if gentlemen will go over to their offices occasionally and see those large, roomy, comfortable chairs over there, I want to know why they would conclude that chairs could not take the place of these desks, and not cost the country any more, or not as much. And if this resolution does not contemplate getting rid of this nuisance, I do not see any use in wasting time in making an attempt to do anything.

Mr. McCALL. I will say to the gentleman from Tennessee [Mr. SIMS] that that question will all be left open.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent for two minutes. [Cries of "Vote!"]

Mr. Speaker, I ask unanimous consent for just two minutes; or, one minute will be enough.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent for two minutes. Is there objection?

There was no objection.

Mr. HENRY of Texas. Mr. Speaker, I desire to say this to

the House. Two or three days ago the gentleman from Massachusetts [Mr. McCALL] brought in a resolution to remove the desks and place benches in this hall. I aided in defeating that resolution. After it was defeated, I went to the gentleman from Massachusetts [Mr. McCALL] (and he will bear me out), and asked him to present this resolution. It does not contemplate removing the desks or look to a change in that regard. The principal idea and plan are that we shall have better ventilation and acoustics. It simply provides for a survey, looking to removal of the walls south and east of us, so that we may have a more wholesome and healthful Chamber. It calls for a report to be made here at the next session of Congress, and not for any change at this time. I hope that no gentleman on this side will object. Now is the opportune time to inaugurate this change, which means so much for the health and comfort of all of us.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 21875. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1909, and for other purposes;

H. R. 21815. An act to amend the laws relating to navigation, and for other purposes;

H. R. 21735. An act to authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes;

H. R. 21410. An act granting condemned ordnance to certain institutions; and

H. J. Res. 186. Joint resolution relating to the assignment of space in the House Office Building.

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House do now take a recess until to-morrow at 11 o'clock a. m.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PAYNE. Mr. Speaker, I make the point that there is no quorum.

The SPEAKER. The Chair will count. [After counting.] One hundred and eighty Members are present—not a quorum. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absent Members. As many as favor the motion will, as their names are called, answer "yea;" as many as are opposed will answer "nay;" those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 147, nays 60, answered "present" 10, not voting 171, as follows:

YEAS—147.

Adair	Davidson	Howard	Overstreet
Alexander, Mo.	De Armond	Howell, N. J.	Padgett
Andrews	Dickema	Howell, Utah	Page
Bannon	Douglas	Hubbard, W. Va.	Parker, N. J.
Barchfeld	Driscoll	Humphrey, Wash.	Parsons
Barclay	Dwight	Johnson, Ky.	Payne
Bartholdt	Edwards, Ky.	Kahn, Wash.	Pollard
Bates	Ellis, Mo.	Kelley	Pujo
Bede	Ellis, Oreg.	Kimball	Rainey
Bonyuge	Esch	Klistermann	Rauch
Boyd	Focht	Lafean	Reeder
Bradley	Fordney	Laning	Reynolds
Brumm	Foster, Ind.	Law	Rothermel
Burleigh	Foulkrod	Lindbergh	Russell, Mo.
Burton, Del.	French	Longworth	Scott
Butler	Gaines, W. Va.	Loudenslager	Sherman
Calder	Gardner, Mich.	Lovering	Smith, Cal.
Calderhead	Gardner, N. J.	Lowden	Smith, Mich.
Campbell	Garner	McCall	Southwick
Capron	Gillett	McGavin	Steenerson
Carter	Glass	McKinley, Ill.	Sterling
Chaney	Gordon	McKinney	Stevens, Minn.
Chapman	Goulden	McLain	Sturgiss
Cocks, N. Y.	Graham	Macon	Sulzer
Cole	Greene	Mann	Tawney
Cook, Colo.	Haggott	Mondell	Taylor, Ohio
Cooper, Pa.	Hall	Moore, Pa.	Thistlewood
Cooper, Tex.	Haskins, Mich.	Morse	Volstead
Cooper, Wis.	Hawley	Murphy	Waldo
Coudrey	Hayes	Murphy	Wanger
Cox, Ind.	Hepburn	Nye	Washburn
Crawford	Higgins	Olcott	Wheeler
Crumacker	Hinshaw	Olmsted	Wilson, Ill.
Currier	Holliday		Wood
Cushman			Young
Dalzell			The Speaker
Darragh			

NAYS—60.

Adamson	Clayton	Hamill	Moore, Tex.
Aiken	Davenport	Hamilton	Nichols
Ansberry	Ellerbe	Heflin	O'Connell
Ashbrook	Ferris	Helm	Randall, Tex.
Bartlett, Nev.	Finley	Henry, Tex.	Riordan
Beall, Tex.	Fitzgerald	Houston	Robinson
Bell, Ga.	Floyd	Hughes, N. J.	Rucker
Booher	Foster, Ill.	James, Ollie M.	Sherley
Bowers	Gaines, Tenn.	Keliher	Sims
Brodhead	Garrett	Kipp	Stanley
Burleson	Gillespie	Lee	Thomas, N. C.
Burnett	Godwin	Lenahan	Tou Velle
Candler	Granger	Lloyd	Watkins
Clark, Fla.	Hackett	McDermott	Webb
Clark, Mo.	Hackney	McHenry	Williams

ANSWERED "PRESENT"—10.

Bennet, N. Y.	Durey	Lever	Sheppard
Dixon	Flood	Madden	
Draper	Humphreys, Miss.	Nelson	

NOT VOTING—171.

Acheson	Foster, Vt.	Lamar, Fla.	Ransdell, La.
Alexander, N. Y.	Fowler	Lamar, Mo.	Reid
Allen	Fuller	Lamb	Rhinock
Ames	Fulton	Landis	Richardson
Anthony	Gardner, Mass.	Langley	Roberts
Bartlett, Ga.	Gill	Lassiter	Rodenberg
Beale, Pa.	Goebel	Lawrence	Rosenberg, Tex.
Bennett, Ky.	Goldfogle	Leake	Ryan
Bingham	Gregg	Legare	Sabath
Birdsall	Griggs	Lewis	Saunders
Boutell	Gronna	Lilly	Shackelford
Brantley	Hale	Lindsay	Sherwood
Broussard	Hamilton, Iowa	Littlefield	Slayden
Brownlow	Hammond	Livingston	Sleep
Brundidge	Harding	Lorimer	Small
Burgess	Hardwick	Loud	Smith, Iowa
Burke	Hardy	McCreary	Smith, Mo.
Burton, Ohio	Harrison	McGuire	Smith, Tex.
Byrd	Haugen	McKinlay, Cal.	Snapp
Caldwell	Hay	McLachlan, Cal.	Sparkman
Carlin	Henry, Conn.	McLaughlin, Mich.	Sperry
Cary	Hill, Conn.	McMillan	Spight
Caulfield	Hill, Miss.	McMorran	Stafford
Cockran	Hitchcock	Madison	Stephens, Tex.
Conner	Hobson	Mailly	Suloway
Cook, Pa.	Hubbard, Iowa	Marshall	Talbot
Cousins	Huff	Maynard	Taylor, Ala.
Craig	Hughes, W. Va.	Miller	Thomas, Ohio
Cravens	Hull, Iowa	Moon, Pa.	Tirrell
Davey, La.	Hull, Tenn.	Mouser	Townsend
Davis, Minn.	Jackson	Mudd	Underwood
Dawes	James, Addison D.	Norris	Vreeland
Dawson	Jenkins	Parker, S. Dak.	Wallace
Denby	Johnson, S. C.	Patterson	Watson
Denver	Jones, Va.	Pearre	Weeks
Dunwell	Kennedy, Iowa	Perkins	Weems
Edwards, Ga.	Kennedy, Ohio	Peters	Welssse
Englebright	Kinkaid	Porter	Wiley
Fairchild	Kitchin, Claude	Pou	Willitt
Fassett	Kitchin, Wm. W.	Powers	Wilson, Pa.
Favrot	Knapp	Pratt	Wolf
Fornes	Knopf	Pray	Woodyard
Foss	Knowland	Prince	

The Clerk announced the following additional pairs:
Until further notice:

Mr. DENBY with Mr. JONES of Virginia.

Mr. HAUGEN with Mr. MAYNARD.

Mr. SLEEP with Mr. RHINOCK.

Mr. SMITH of Iowa with Mr. SLAYDEN.

Mr. DUREY with Mr. SMITH of Missouri.

Mr. SULLOWAY with Mr. UNDERWOOD.

Mr. WOODYARD with Mr. WILSON of Pennsylvania.

The SPEAKER. On this vote the yeas are 147, nays 60, answering "present" 10, a quorum. The Doorkeeper will open the doors.

So the motion was agreed to.

Accordingly (at 9 o'clock and 55 minutes p. m.) the House took a recess until 11 o'clock a. m. to-morrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of San Pedro Harbor, California (H. R. Doc. 969)—to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Key West Harbor, Florida (H. R. Doc. 970)—to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of channel near South Harpswell, Me. (H. R. Doc. 971)—to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. McCALL, from the Committee on the Library, to which was referred the bill of the Senate (S. 6641) to incorporate the American National Institute (Prix de Paris) at Paris, France, reported the same without amendment, accompanied by a report (No. 1781), which said bill and report were referred to the House Calendar.

Mr. WILSON of Illinois, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 113) to establish a fish-hatching and fish-culture station at Dell Rapids, S. Dak., reported the same with amendment, accompanied by a report (No. 1782), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the Senate (S. 6460) to establish a shad hatchery on the Kennebec River, in the State of Maine, reported the same with amendment, accompanied by a report (No. 1783), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WALDO, from the Committee on Claims, to which was referred the bill of the Senate (S. 6665) for the relief of Charles H. Dickson, reported the same with amendment, accompanied by a report (No. 1784), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BEDE: A bill (H. R. 22208) for the appointment of a commissioner to hear all claimants for losses sustained by the overflow of the Mississippi River or its connecting and tributary waters in northern Minnesota in the spring of 1905—to the Committee on Claims.

By Mr. LANGLEY: A bill (H. R. 22209) for the establishment at Paintsville, Ky., of a home for destitute widows of soldiers and sailors of the United States, and of certain State militiamen, and for Army nurses—to the Committee on Military Affairs.

By Mr. GAINES of Tennessee: A bill (H. R. 22210) appropriating money to procure sites for and erect Lock B and Lock C, lower Cumberland River, Tennessee—to the Committee on Rivers and Harbors.

By Mr. LANGLEY: A bill (H. R. 22211) providing for the removal of the charge of desertion in certain cases—to the Committee on Military Affairs.

By Mr. RAINEY: A bill (H. R. 22228) to place white paper on the free list—to the Committee on Ways and Means.

Also, a bill (H. R. 22229) to place coal on the free list—to the Committee on Ways and Means.

Also, a bill (H. R. 22230) to preserve the forests and place lumber, timber, bark, and wood pulp on the free list—to the Committee on Ways and Means.

Also, a bill (H. R. 22231) to repeal import duties on antitoxin and diphtheria serum—to the Committee on Ways and Means.

Also, a bill (H. R. 22232) to place wood pulp and white paper on the free list—to the Committee on Ways and Means.

By Mr. SMITH of Michigan: Joint resolution (H. J. Res. 193) to create a commission to prepare a municipal code for the District of Columbia—to the Committee on the District of Columbia.

By Mr. HUMPHREYS of Mississippi: Joint resolution (H. J. Res. 194) to enable the States of Mississippi, Louisiana, and Arkansas to fix the jurisdiction of offenses against their liquor laws when committed on the Mississippi River or other boundary waters—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. CALDERHEAD: A bill (H. R. 22212) granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and

Harry S. Lee, formerly Albert Lee Alleman—to the Committee on Invalid Pensions.

By Mr. FLOYD: A bill (H. R. 22213) granting an increase of pension to John W. Lay—to the Committee on Invalid Pensions.

By Mr. GREENE: A bill (H. R. 22214) granting a pension to Catherine Green—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22215) granting a pension to Lizzie S. Alty—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22216) granting a pension to Isaac D. Pease—to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 22217) for the relief of certain Indians by blood for identification as Mississippi Choctaws and enrollment on the final rolls of the Choctaw Nation or tribe of Indians—to the Committee on Indian Affairs.

By Mr. McKINLEY of Illinois: A bill (H. R. 22218) granting a pension to Mary A. Kreker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22219) granting a pension to Anna Howell—to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 22220) granting an increase of pension to John M. Dickerson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22221) granting an increase of pension to Charles P. Sutphen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22222) granting an increase of pension to William H. Norris—to the Committee on Invalid Pensions.

By Mr. MONDELL: A bill (H. R. 22223) for the relief of Charles Kingston—to the Committee on Claims.

By Mr. THOMAS of North Carolina: A bill (H. R. 22224) granting a pension to Ansel B. Chapin—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 22225) granting an increase of pension to Alfred M. Robbins—to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 22226) granting an increase of pension to Elizabeth A. Archer—to the Committee on Invalid Pensions.

By Mr. CARTER: A bill (H. R. 22227) for the relief of Charles A. Davidson and Charles M. Campbell—to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Memorials of the German-American citizens, of Mayville, Wis., and Oldenburg, Tex., protesting against the passage of any law restricting interstate commerce in malt liquors—to the Committee on the Judiciary.

Also, memorials of the Knights of Columbus of Kane, De Sota, Harrisburg, Allegheny, Braddock, Pittsburg, and St. Marys, all in the State of Pennsylvania, praying that the anniversary of the discovery of America may be made a legal holiday—to the Committee on the Judiciary.

Also, memorials of the International Brotherhood of Paper Makers of Glens Falls and Palmer, N. Y., protesting against the removal of the duty on paper and wood pulp—to the Committee on Ways and Means.

Also, petition of Willie Good and 145 other citizens of the District of Columbia, protesting against the enactment of any law prohibiting the liquor traffic in the District of Columbia—to the Committee on the District of Columbia.

Also, memorials of the Knights of Columbus of Uniontown and Ebensburg, Bishop Neuman Council, De La Salle Council, Erie Council, Bradford Council, and Du Bois Council, all of the State of Pennsylvania, praying that the anniversary of the discovery of America may be made a legal holiday—to the Committee on the Judiciary.

Also, memorial of Edwin T. Galloway, of Rutherford, N. J., praying for legislation to provide for the removal of the wreck of the United States battle ship *Maine* from the Habana Harbor—to the Committee on Naval Affairs.

Also, memorials of the Knights of Columbus of Austin, Meadville, Philadelphia, Washington, Johnstown, and Isabella, all in the State of Pennsylvania, and Brooklyn, N. Y., praying that the anniversary of the discovery of America be made a legal holiday—to the Committee on the Judiciary.

Also, memorial of the Polish-American citizens of Milwaukee, Wis., praying for intervention in behalf of the Poles within the jurisdiction of the Prussian Government—to the Committee on Foreign Affairs.

Also, memorial of the Presbyterian Ministers' Association of New York and vicinity, praying for the passage of the bill to restrict interstate transportation in intoxicating liquors, and to suppress race-track gambling and Sunday toil and traffic in

the District of Columbia—to the Committee on the District of Columbia.

By Mr. ACHESON: Petition of Western Society of Engineers, of Chicago, favoring H. R. 6122, to further work of Geological Survey, etc.—to the Committee on Rivers and Harbors.

By Mr. BURTON of Ohio: Petition of citizens of Cleveland, Ohio, for the enactment of the bills H. R. 94 and 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done by the Government—to the Committee on the Judiciary.

By Mr. CALDERHEAD: Petition of citizens of Kansas, favoring a volunteer officers' retired list—to the Committee on Military Affairs.

By Mr. CARY: Petition of citizens of Milwaukee, Wis., for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. CAULFIELD: Petition of James McIntyre, John Winn, and J. R. Fleming, for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: Petition of Uniontown Council, No. 1275, Knights of Columbus, for H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. COOPER of Texas: Petitions of W. J. Pendergrast and Louis Dequot, of Port Arthur, Tex., and Paul Koch, B. M. Patterson, William Webber, J. R. Briggs, John Goldhart, T. Cohlman, L. Clark, George Grete, George Warner, August Goeke, Herman Schroe, William Garrett, Charles Fisher, Martin Olsen, J. L. Maitregeau, M. J. Smith, Frank Palmer, Joe Manning, Frank Burke, William Murphy, George W. Elect, W. B. Hendrick, Frank Camp, and C. B. Maitre, for H. R. 20584, amendment to Sherman antitrust law, and for the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. CURRIER: Petitions of Hillsboro (N. H.) Grange and citizens of Elizabethtown, Pa., for a national highways commission and Federal aid in road construction (H. R. 15837)—to the Committee on Agriculture.

By Mr. DALZELL: Petitions of Harrisburg, Allegheny, and De Soto councils, Knights of Columbus, favoring H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. DWIGHT: Petitions of Cigar Packers' Union, No. 229, and Garment Workers' Union, No. 44, of Binghamton, N. Y., for the enactment of the bills H. R. 94 and H. R. 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done for the Government—to the Committee on the Judiciary.

By Mr. ESCH: Petition of citizens of La Crosse, Wis., for the enactment of the bills H. R. 94 and 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done by the Government—to the Committee on the Judiciary.

By Mr. GOULDEN: Petition of United Master Butchers of America, of New York City, favoring amendment of the Stevens bill relative to duty on wrapping paper, etc.—to the Committee on Ways and Means.

By Mr. GRANGER: Petitions of Four Leaf Clover Club and Embreaso Club, of Providence, R. I., for passage of H. R. 18445, to investigate and develop methods of treatment of tuberculosis—to the Committee on Interstate and Foreign Commerce.

By Mr. GREENE: Papers to accompany bills for relief of Lizzie S. Alty, Catherine Green, and Capt. Isaac D. Pease—to the Committee on Invalid Pensions.

By Mr. HAMMOND: Petition of H. A. Batsche and other citizens of Minnesota, for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. HAYES: Petition of the United Metal Trades Association of the North Pacific coast, against anti-injunction legislation—to the Committee on the Judiciary.

Also, petition of A. L. Adams, for legislation looking to the conservation of the natural resources of the country—to the Committee on the Judiciary.

Also, petition of Outdoor Art League of San Jose, for legislation to preserve the Calaveras big trees—to the Committee on Agriculture.

By Mr. KELIHER: Petition of Central Council of Irish Country Clubs against treaty alliance with Great Britain—to the Committee on Foreign Affairs.

By Mr. KNOWLAND: Petition of sundry citizens of Oakland, Berkeley, and Chico, Cal., for the enactment of the bills H. R.

94 and 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done by the Government—to the Committee on the Judiciary.

By Mr. LEE: Paper to accompany bill for relief of Thomas J. Holmes—to the Committee on War Claims.

By Mr. LINDSAY: Petition of James P. Boyle, against any amendment or treaty provision to extend right of naturalization, etc.—to the Committee on Immigration and Naturalization.

By Mr. MAYNARD: Petition of citizens of Virginia, for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Petitions of San Domingo Council, No. 236; Bishop Neuman Council, No. 989, and Cabella Council, No. 328, for H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

Also, petition of Mrs. E. H. Reid and other citizens of Pennsylvania, favoring concurrent resolution 28, against Russian atrocities—to the Committee on Foreign Affairs.

By Mr. NEEDHAM: Petition of citizens of Santa Cruz County, for H. R. 20584, amendment to the Sherman antitrust law, and for the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. NICHOLLS: Petition of Scranton Council, No. 280, Knights of Columbus, for H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. O'CONNELL: Petition of citizens of Quincy, Mass., for H. R. 20584, amendment to Sherman antitrust law, and for the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. REEDER: Petition of Walter Schmidt, against the Penrose bill, amending section 3893 of Revised Statutes—to the Committee on the District of Columbia.

Also, petition of Mrs. Minnie Krammer and others, favoring passage of Littlefield and Sims bills—to the Committee on the Judiciary.

Also, petition of Annual Conference of Kansas Evangelical Association, assembled at Holton, Kans., favoring the Littlefield original-package bill—to the Committee on the Judiciary.

By Mr. SHERMAN: Petition of various councils, Knights of Columbus, favoring H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. SULZER: Petition of Charles Young, for inserting, after the word "print," in the Stevens bill, the words "wrapping paper and paper used in the manufacture of paper bags"—to the Committee on Ways and Means.

By Mr. TAYLOR of Alabama: Petitions of George Thorsen, L. M. Teal, R. S. Williams, J. C. Kendrick, Charles Beasley, G. A. Lamb, C. L. Gaba, G. A. Phillips, P. J. Doherty, Boone B. Trawick, Miss Bessie Mags, Sam L. Wade, P. Jensen, W. T. Burleigh, W. T. Batter, Louis Turner, B. T. Amas, R. B. Welch, Charles W. Le Blanc, George W. Riley, and many other citizens of the city of Mobile, for amendment to the Sherman antitrust law (H. R. 20584), for the Pearre bill (H. R. 94), for a just and clearly defined general employers' liability law, and for an eight-hour law—to the Committee on the Judiciary.

By Mr. WILSON of Pennsylvania: Petition of Local Union No. 2098, United Mine Workers of America, of Antrim, Pa., for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

SENATE.

THURSDAY, May 28, 1908.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. FULTON. I ask unanimous consent that the further reading be dispensed with.

The VICE-PRESIDENT. The Senator from Oregon asks unanimous consent that the further reading of the Journal be dispensed with. Is there objection?

Mr. GORE. Mr. President, I object.

The VICE-PRESIDENT. Objection is made. The Secretary will continue the reading of the Journal.

The Secretary resumed and concluded the reading of the Journal, and it was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the dis-

agreeing votes of the two Houses on the amendment of the House to the bill (S. 6190) authorizing a resurvey of certain townships in the State of Wyoming.

The message also announced that the House had passed the following bills with amendments, in which it requested the concurrence of the Senate:

S. 2295. An act to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company, under the provisions of an act of Congress approved March 2, 1899, as amended by an act of Congress approved June 28, 1906; and

S. 5083. An act to amend section 1 of the passenger act of 1882.

The message further announced that the House had passed the bill (S. 6418) authorizing the sale of lands at the head of Cordova Bay, in the Territory of Alaska, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 17979. An act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission and authorizing investigations thereof by said Commission; and

H. R. 21449. An act to amend an act entitled "An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes," approved March 3, 1905.

ENROLLED JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (S. R. 6) directing the selection of a site for the erection of a pedestal for a bronze statue in Washington, D. C., in honor of John Witherspoon, and it was thereupon signed by the Vice-President.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of Local Union No. 131, United Brotherhood of Carpenters and Joiners of America, of Seattle, Wash., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of the Woman's Christian Temperance Union, of Sandwich, N. H., praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. PILES presented a petition of Local Union No. 131, United Brotherhood of Carpenters and Joiners of America, of Seattle, Wash., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. BRANDEGEE presented petitions of sundry citizens and labor organizations of East Norwalk, Danbury, and South Norwalk, all in the State of Connecticut, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. LA FOLLETTE presented a petition of sundry citizens of Superior, Wis., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

He also presented memorials of sundry organizations of Manitowoc, Milwaukee, Norwood, Stillwater, La Crosse, and Fond du Lac, all in the State of Wisconsin, remonstrating against the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Jersey City, N. J.; of Miami, Fla., and of St. Louis, Mo., praying for the enactment of legislation to prohibit the giving to or receipt of any free frank or privilege for the transmission of messages by telegraph or telephone and to prevent discriminations in interstate telegraph and telephone rates, which were referred to the Committee on Interstate Commerce.

Mr. BURKETT presented sundry petitions of citizens of Alliance, Nebr., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. STEPHENSON presented a petition of sundry citizens of Milwaukee, Wis., praying for the adoption of certain amend-

ments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

He also presented a petition of the Trades and Labor Council of La Crosse, Wis., praying for the adoption of certain amendments to the Constitution, which was referred to the Committee on the Judiciary.

FORT DOUGLAS MILITARY RESERVATION.

Mr. WARREN. I am directed by the Committee on Military Affairs, to whom were referred the amendments of the House of Representatives to the bill (S. 6200) granting a perpetual easement and right of way to Salt Lake City, Utah, for the construction, operation, maintenance, and repairs of conduit and pipe lines and valve houses upon and across the Fort Douglas Military Reservation, to report them favorably, and I move that the Senate concur in the amendments.

Mr. ALDRICH. I must object. I must object to anything being considered.

The VICE-PRESIDENT. Objection is made.

Mr. SUTHERLAND. I hope the Senator from Rhode Island will permit the amendments of the House to this bill to be concurred in. It will take but a moment.

Mr. ALDRICH. I gave notice yesterday that I should ask the Senate to consider the conference report on the currency measure. After that is out of the way there will be ample time for the consideration of bills on the Calendar.

The VICE-PRESIDENT. The bill and amendments of the House will be placed on the Calendar.

LOCOMOTIVE ASH PANS.

Mr. FORAKER. I report back favorably, with amendments, from the Committee on Interstate Commerce, the bill (H. R. 19795) concerning locomotive ash pans, and I want to give notice that at the earliest opportunity I shall ask for its consideration.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. WARREN introduced a bill (S. 7254) to increase the efficiency of the Army of the United States, which was read twice by its title and referred to the Committee on Military Affairs.

Mr. PILES introduced the following bills, which were severally read twice by their titles and referred to the Committee on Claims:

A bill (S. 7255) for the relief of Edward P. Tremper; and

A bill (S. 7256) for the relief of Matthew B. Malloy.

Mr. FLINT introduced a bill (S. 7257) providing a means for acquiring title to private holdings in the Sequoia and General Grant national parks, in the State of California, in which are big trees and other natural curiosities and wonders; which was read twice by its title and referred to the Committee on Public Lands.

Mr. CLARK of Wyoming introduced a bill (S. 7258) for the relief of Charles Kingston, which was read twice by its title and referred to the Committee on Claims.

Mr. TELLER introduced a bill (S. 7259) for the relief of Edwin P. Harman, which was read twice by its title and referred to the Committee on Claims.

Mr. CLAPP introduced the following bills, which were severally read twice by their titles and referred to the Committee on Claims:

A bill (S. 7260) for the relief of Sylvester Peterson (with accompanying papers);

A bill (S. 7261) for the relief of R. D. Johnston;

A bill (S. 7262) for the relief of the estate of Robert Barber, deceased; and

A bill (S. 7263) for the relief of Milton A. Elliott.

Mr. BURKETT introduced a bill (S. 7264) for the relief of Stephen J. Weekes, which was read twice by its title and referred to the Committee on Claims.

Mr. DANIEL introduced a bill (S. 7265) to carry into effect the findings of the Court of Claims in the matter of the claims of George Boushell and others, which was read twice by its title and referred to the Committee on Claims.

Mr. OWEN introduced a bill (S. 7266) to establish a Department of Labor, which was read twice by its title and referred to the Committee on Commerce.

Mr. DICK introduced a joint resolution (S. R. 98) providing for extra compensation for officers and employees of the United States Senate, including the members of the Capitol police, for the fiscal year ending June 30, 1908, which was read twice by its title and referred to the Committee on Appropriations.

INTERSTATE BUSINESS BY TELEGRAPHERS.

Mr. LA FOLLETTE submitted the following resolution, which was read:

Resolved, That the Secretary of the Department of Commerce and Labor be, and he is hereby, directed to institute an investigation into all the telegraph and telephone companies engaged in the conduct of an interstate business as to the methods used in handling the public's business, the wages paid telegraphers, telephone operators, and other employees of such companies and the working conditions of the employees thereof, together with a statement of the receipts and expenditures of such companies for a period of five years.

And he is further directed to report the result of such investigation to the Senate on the first Monday in December, 1908.

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent that I may take just a minute or two to make a brief statement in reference to the resolution.

The VICE-PRESIDENT. The Senator from Wisconsin asks permission to make a brief statement.

Mr. ALDRICH. If it will literally not take more than a minute or two I will not object.

Mr. LA FOLLETTE. It will literally not take more than a minute or two, perhaps not more than half a minute.

The Senate need hardly be reminded, Mr. President, of the inconvenience and loss to the business of the country and the hardship to the employees arising from the telegraphers' strike which occurred last year. I am advised, and I believe credibly informed, that a referendum is now in progress among the different organizations of the Telegraphers' Union looking to the ordering of another strike. It is a matter of common knowledge that telegraphers are the poorest paid men engaged in any business requiring a like degree of training, skill, and intelligence.

I believe if the Secretary of Commerce and Labor could be authorized to make this investigation, and begin promptly, that strike might be averted. It would bring him in touch with these men and his influence over them might operate to postpone and possibly to avert a strike. Such an investigation can do no harm. It may do a vast amount of good. It will place before the Senate information respecting wages, hours of service, and all conditions surrounding the labor in this important branch of public service and furnish an accurate basis for needed legislation. I hope there will be no objection to the present consideration and passage of the resolution.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent, and agreed to.

COMMODITY CLAUSE OF INTERSTATE-COMMERCE LAW.

Mr. GORE. I send a resolution to the desk, which I ask to have read and considered.

The resolution was read, as follows:

Whereas on page 5 of the report of the Interstate Commerce Commission, submitted in response to Senate resolution calling for information respecting the enforcement of the commodities clause of the interstate-commerce act, the following statement occurs in a letter from Hon. W. A. Glasgow, jr., to the President of the United States:—"the Attorney-General has authorized a statement to the effect that the Department of Justice contemplates the institution of proceedings as soon as possible after the date named (May 1, 1908) whereby a prompt determination of this question (the constitutionality of the act) by the Supreme Court of the United States may be obtained. It is expected that the railroads concerned will cooperate with the Government to this end; and if they do so in good faith, and if they in good faith immediately obey the decision of the Supreme Court when rendered, it is not the purpose of the Department of Justice to prosecute them for a failure to comply with the terms of the act pending the decision of the Supreme Court." Therefore be it

Resolved, That the Senate respectfully request the Attorney-General of the United States to advise the Senate whether or not the Department of Justice has authorized the statement:

"The Department of Justice contemplates the institution of proceedings as soon as possible after the date named (May 1, 1908) whereby a prompt determination of this question (the constitutionality of the act) by the Supreme Court of the United States may be obtained. It is expected that the railroads concerned will cooperate with the Government to this end; and if they do so in good faith, and if they in good faith immediately obey the decision of the Supreme Court when rendered, it is not the purpose of the Department of Justice to prosecute them for a failure to comply with the terms of the act pending the decision of the Supreme Court."

And the Attorney-General is also requested to advise the Senate when, to whom, and in what manner said statement was made and by what authority was made and whether or not in his opinion any department of the Government other than Congress has the power to repeal or suspend the operations of criminal statutes, and whether or not it is customary for the executive department or any branch thereof to extend Executive clemency to offenders against the law prior to their conviction, and whether it is customary for the Department of Justice to institute proceedings to determine the constitutionality of an act of Congress, or whether such proceedings are usually instituted by the parties affected by such enactment.

Mr. TELLER. I should like to suggest to the Senator introducing the resolution that the Senate does not request Cabinet officers to furnish information, but directs them to do so.

Mr. GORE. I accept the suggestion of the Senator from Colorado.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. TELLER. I want to correct it so as to change the words "respectfully requests" to the usual form, the word "directs."

Mr. GORE. I accept that.

The VICE-PRESIDENT. The resolution will be so modified.

Mr. HALE. I move that the resolution be referred to the Committee on Interstate Commerce.

The VICE-PRESIDENT. The Senator from Maine moves that the resolution be referred to the Committee on Interstate Commerce.

Mr. GORE. Mr. President, before that motion is acted upon—

Mr. ALDRICH. I object to the consideration of the resolution to-day if it is to lead to debate.

Mr. GORE. I merely desire to ask to have a couple of insertions in the Record and referred with the resolution to the committee.

Mr. ALDRICH. I have no objection to that.

There being no objection, the resolution was referred to the Committee on Interstate Commerce with the following papers:

[Extracts from testimony of Paul Morton before the Interstate Commerce Commission, January 7, 1902.]

Paul Morton, being duly sworn, testifies as follows:

Mr. DAY. Mr. Morton, will you state your official relation to the Atchison road, what your jurisdiction is?

Mr. MORTON. I have general charge of the commercial relations of the company.

Mr. DAY. And charge of its traffic department?

Mr. MORTON. Yes, sir.

Mr. DAY. Mr. Morton, the Commission wants to know the concessions that have been made during the past year; take the year 1901 or the last part of it, or eight months of the year; what concessions have been made from the established tariffs in the transportation of packing-house products and dressed beef or dressed meats by your road?

Mr. MORTON. We have carried the business from Kansas City to Chicago for 5 cents less than the published tariff to Chicago and Chicago junction points.

Mr. DAY. Domestic as well as export?

Mr. MORTON. Both.

Mr. DAY. How long have you been doing that?

Mr. MORTON. We did it, I think, about April 1; we commenced to do it from the beginning of the year, at which time there was a general declaration of good faith and intention of an absolute maintenance of rates. We told one of the largest shippers in Kansas City that if they would come and ship with us we would give them 5 cents reduction from the tariff, and in order to get them we had to promise to do it for a year—I think until the 1st of July of this year, 1902.

Mr. DAY. How was this traffic billed out?

Mr. MORTON. Billed on the tariff.

Mr. DAY. How was the adjustment made?

Mr. MORTON. By cash.

Mr. DAY. At the time?

Mr. MORTON. Later.

Mr. DAY. It was billed at the tariff and the tariff was collected?

Mr. MORTON. The tariff was collected.

Mr. DAY. Were there claims presented for settlement?

Mr. MORTON. Statements.

Mr. DAY. Presented to whom?

Mr. MORTON. To our freight department.

Mr. DAY. Approved there?

Mr. MORTON. Settled there.

Mr. DAY. What other concerns did you carry for to whom concessions were made in case of through connecting lines?

Mr. MORTON. I think all—Swift, Armour—

Mr. DAY. And made the same concessions to each?

Mr. MORTON. Yes. There has been no discrimination, as far as the concession was concerned.

Commissioner FIFER. What do you say is a proper remedy for this situation?

Mr. MORTON. I think the legalization of pooling would go a long way toward stopping it.

Commissioner CLEMENTS. You made that contract for a year from what time?

Mr. MORTON. I think the contract was made about April 1. I do not know that we commenced to getting the business until June 1. I think the contract was made on the 30th of June, 1901.

Commissioner CLEMENTS. That will go until the middle of this year?

Mr. MORTON. Yes, sir; it is an illegal contract. It was illegal when we made it, and we knew that. I think it was illegal so long as we did not publish the tariff. If we published the tariff, it would be perfectly legal. My impression is that they did not want us to publish the tariff.

Commissioner CLEMENTS. Can you tell how much you paid out in a year?

Mr. MORTON. On this business?

Commissioner CLEMENTS. Yes, sir.

Mr. MORTON. No; I can not.

Commissioner CLEMENTS. In a general way, I mean.

Mr. MORTON. There is a great deal more money paid out than there ought to be.

Commissioner CLEMENTS. Have you an idea whether it is \$50,000 or \$100,000 or \$10,000—anything definite? Of course if it is a mere guess and you do not know—

Mr. MORTON. Well, I think there was a great deal more than any sum you mention paid out.

Commissioner CLEMENTS. By your company?

Mr. MORTON. By all the companies. I think we paid out \$50,000 a year or more.

Commissioner CLEMENTS. You say it is paid in cash by your company?

Mr. MORTON. Cash settlements.

Commissioner CLEMENTS. Who is it paid by? What officer of your company hands over the money?

Mr. MORTON. It may be one and it may be another. Commissioner CLEMENTS. Under what department would it be? Mr. MORTON. The traffic department, the freight department. Commissioner CLEMENTS. Who would have the direction of that? Who would see that it was paid? Who would direct it to be done? Mr. MORTON. I would. Commissioner PROUTY. Taking any one year, how much would it cost your road? Mr. MORTON. I should think between \$500,000 and \$1,000,000 a year; nearer a half million than a million. Of course a good many of those rates are made for the promotion of local industries, and are perfectly proper rates to make.

[From the Washington Post, May 23, 1908.]

BONAPARTE'S IRE UP—THREATENS TO RESIGN AND THE PRESIDENT GIVES IN—AT ODDS OVER A MERGER—ATTORNEY-GENERAL'S NOTICE OF A SUIT ANGRERS MR. ROOSEVELT—IT IS ASSERTED THE LATTER ORDERED THE PRESS CORRESPONDENTS TO "KILL" INFORMATION, BUT THIS WAS COUNTERMANDED LATER BY DEPARTMENT OF JUSTICE—PRESIDENT SAID TO HAVE ASSURED NEW HAVEN OFFICIALS THERE WOULD BE NO ACTION. NEW YORK, May 22, 1908.

A Washington dispatch to the Sun says:

There was a clash of policies at the White House this morning, and the encounter came near causing a rupture of official relations between President Roosevelt and Charles J. Bonaparte, the Attorney-General. The President had one policy and Mr. Bonaparte another. Both had to do with the filing of a legal action against the New York, New Haven and Hartford Railroad Company as an alleged combination in restraint of trade.

There was an earnest and emphatic discussion between the President and Mr. Bonaparte, culminating in a threat from the Attorney-General to resign his office. The President yielded, for a reason which will appear later, and the petition against the New Haven road was filed in Boston this afternoon, although Mr. Roosevelt was opposed, almost until the last moment, to this action by the Department of Justice.

Several months ago representatives of the Department of Justice began investigation of the New Haven road's ownership of electric lines in Massachusetts, Rhode Island, and Connecticut, and its large interest, acquired last year, in the Boston and Maine Railroad. District Attorney French, at Boston, reported in favor of a suit against the company, setting forth that the investigation had shown to his satisfaction that the New Haven road enjoyed almost a complete monopoly of transportation facilities in New England, and that this monopoly had been formed by the purchase and consolidation of formerly competing lines of steam and electric roads.

ADVISED AGAINST ACTION.

When Mr. French's report came to Washington it was examined pretty thoroughly by Milton D. Purdy, Assistant to the Attorney-General, whose office was specially created to deal with prosecutions under the antitrust laws. Mr. Purdy has sometimes been called the chief trust buster of the Administration, and his nomination for a Federal judgeship in Minnesota is now before the Senate. Mr. Purdy reported to Attorney-General Bonaparte that he did not think the case against the New Haven road was a strong one, and that an action should be taken toward the dissolution of the alleged merger. In the meantime, representatives of the New Haven road, including two of its vice-presidents, had several interviews with President Roosevelt, and in each case received the assurance that in no event would any action be taken without notification to them. This assurance was repeated by the President yesterday in the strongest terms, when Timothy E. Byrnes, one of the New Haven road's vice-presidents, called at the White House.

Probably one of the most surprised men in the country this morning was Mr. Byrnes when it became known that the Attorney-General had formally announced through the several press agencies that a petition would be filed against the New Haven road in Boston this afternoon. He was not more surprised than President Roosevelt himself.

TAKES BONAPARTE TO TASK.

The announcement came from the Department of Justice shortly before 10.30 o'clock. Half an hour later Mr. Bonaparte went over to the White House to attend the regular meeting of the Cabinet, but the news of the contemplated action against the railroad company had preceded him, and the President immediately asked him for an explanation of his action. The President's request for information was in the nature of taking Mr. Bonaparte to task, but the Attorney-General met the issue squarely, explaining that he had found, after a competent investigation, that the New Haven road was violating the terms of the Sherman antitrust law, and that he understood it to be the policy of the Administration to prosecute such cases.

Either just before or just after the Attorney-General's arrival at the White House the President caused a telephone message to be sent to Mr. Bonaparte's private secretary, directing that he notify the newspaper correspondents to "kill" the announcement from Mr. Bonaparte's office that the New Haven road was to be prosecuted under the Sherman law. The private secretary was told that no suit or petition would be filed, and that the newspapers should be so informed. It was found, however, that the early editions of some of the evening papers had already published the announcement.

THREATENS TO RESIGN.

In the meantime the discussion between the President and the Attorney-General proceeded to the point where Mr. Bonaparte offered his resignation from the Cabinet as an alternative to the filing of the suit against the New Haven road. Further details of the discussion are lacking, except that the President—evidently in view of the fact that the fat was in the fire as a result of the publication of Mr. Bonaparte's announcement—decided to yield. A few minutes later the newspaper correspondents received another telephone message from the Department of Justice saying that the order to "kill" Mr. Bonaparte's announcement was recalled.

The petition does not include the steamboat lines owned or controlled by the New Haven road and generally regarded as a part of the New Haven system. The reason for this is interesting. More than a year ago Charles S. Mellen, president of the road, and Timothy E. Byrnes, vice-president, came to Washington for the purpose of apprising President Roosevelt of their intention to perfect their steamboat holdings on Long Island Sound. They wanted to know if the plans they had on foot would subject them to prosecution by the Federal Government. The President summoned Herbert Knox Smith, Commissioner of Corporations under the Department of Commerce and Labor, but he did not consult with officials of the Department of Justice. A confab ensued at the White House between the President, Commissioner Smith, and Messrs. Mellen and Byrnes, and the upshot of the matter was that

the President told the railroad officials to "go ahead," assuring them that no legal action would be taken in the premises.

This agreement has since been a matter of great embarrassment to the Department of Justice, for some of the officials believe the case against the New Haven system would be much stronger if the steamboat holdings could be made a feature of the prosecution. The old agreement between the President and Mr. Mellen is regarded as morally binding, although, perhaps, it does not constitute an immunity recognizable by the courts.

The belief is in Washington that the President had intended that no more important antitrust suits should be filed before the Chicago convention, and perhaps not until after the Presidential election next fall. There has recently been much less activity in this direction than there was a few months ago, and it has been freely predicted that no more actions under the antitrust laws would be begun at present.

It was stated by a member of the Cabinet after yesterday's meeting that the proposed bill against the New Haven and Hartford Railroad was under discussion before and at the meeting.

The feature on which the President desired information from the Attorney-General was as to whether the recent decision of the Massachusetts supreme court to the effect that there should be no agreement between the trolley and steam roads in that State would have any effect on the suit brought yesterday by the Federal Government. It was stated at the White House that the Attorney-General, after going over the matter with the President, advised him that the decision in question would have no effect on the suit. With this understanding, the temporary holding up of the announcement was withdrawn.

COMPENSATION FOR EXTRA SERVICES OF EMPLOYEES.

Mr. DICK submitted the following resolution, which, with the accompanying papers, was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid from the contingent fund of the Senate, as compensation for extra services rendered during the fiscal year ending June 30, 1908, to the officers and employees of the Senate, including members of the Capitol police force, borne on the annual and session rolls on the 1st day of May, 1908, an amount equal to 25 per cent of the annual salary then paid them by law.

AFFAIRS OF INDIANS IN WISCONSIN.

Mr. CLAPP submitted the following resolution, which, with the accompanying paper, was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Senate Committee on Indian Affairs be, and it hereby is, authorized and directed by a subcommittee (clerical force or otherwise) to take and have printed testimony for the purpose of ascertaining all the facts with reference to the condition of affairs of the Indians in Wisconsin. Said committee is authorized to send for persons and papers, to administer oaths, to sit during the sessions or recess of the Senate, either at Washington or elsewhere, as may be deemed advisable, the expense of the investigation to be paid from the contingent fund of the Senate. And be it further

Resolved, That pending the final report of such committee and action thereon by Congress the Secretary of the Interior be requested to suspend the approval of any roll, the making of allotments, and the making of timber contracts for Indian allottees in the State of Wisconsin.

HOUSE BILLS REFERRED.

H. R. 17979. An act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission and authorizing investigations thereof by said Commission was read twice by its title and referred to the Committee on Interstate Commerce.

H. R. 21449. An act to amend an act entitled "An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes," approved March 3, 1905, was read twice by its title, and referred to the Committee on the Philippines.

WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2295) to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906, which were:

On page 2, line 1, to strike out "one year" and insert "eighteen months."

On page 2, line 7, after "seven," to insert:

Provided, That within one month after the approval of this act the said Washington and Western Maryland Railroad Company shall deposit with the collector of taxes of the District of Columbia the sum of \$2,000 to guarantee the construction of said railroad within the time herein extended. If this sum is not so deposited this act shall be void; if this sum is deposited and the said railroad company shall fail to construct and have in operation the said railroad within the time herein prescribed, the said sum shall be forfeited to the District of Columbia and this act shall be void.

Mr. GALLINGER. I move that the Senate agree to the amendments made by the House of Representatives.

The motion was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. LATA, one of his secretaries, announced that the President had approved and signed the following acts:

On May 27, 1908:

S. 4316. An act to further amend the act entitled "An act to promote the efficiency of the militia, and for other purposes," approved January 21, 1903.

On May 28, 1908:

S. 4812. An act to regulate the employment of child labor in the District of Columbia;

S. 6363. An act granting title to a parcel of land in the city of Dubuque, Iowa, heretofore known as "St. Raphael's Cemetery," to the Archbishop of Dubuque and his successors in office, and confirming and establishing title thereto accordingly; and

S. 6805. An act to encourage the development of coal deposits in the Territory of Alaska.

LANDS IN ALASKA.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 6418) authorizing the sale of lands at the head of Cordova Bay, in the Territory of Alaska, and for other purposes.

Mr. KEAN. I move that the bill and amendments of the House be referred to the Committee on Public Lands.

The motion was agreed to.

AMENDMENT OF NATIONAL BANKING LAWS.

Mr. ALDRICH. I move that the Senate proceed to the consideration of the conference report on House bill 21871.

The motion was agreed to, and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 21871) to amend the national banking laws.

Mr. ALDRICH. Mr. President, the only provisions of the measure reported from the committee of conference that did not receive the consideration of the Senate, and most of them at considerable length, are the first and second sections of the bill.

The third section is identical with the bill which has already passed the Senate twice, once as an original proposition and second as a substitute for the House bill.

The same is true of sections 4, 5, 7, and 8.

The only change in section 9 is the change in the taxation of the notes authorized to be issued. The Senate bill provided for a taxation of 6 per cent for the first four months and of 9 per cent after that time. The measure reported from the conference provides for 5 per cent the first month, 6 per cent the second month, and advancing 1 per cent per month until it reaches 10 per cent, and stays there. The average taxation for the first four months would be at the rate of 6½ per cent, which is an increase of taxation over the Senate bill of one-half of 1 per cent on an average rate for the first month. Then it is 1 per cent less.

Section 10 is identical with the provisions that passed the Senate twice.

Section 11 is practically the same.

Section 12 is identical.

Section 13 is identical.

Section 14 is identical.

Section 15 is identical.

Section 16 provides for an appropriation.

Sections 17, 18, and 19 provide for a commission identical in terms with the bill which passed the Senate as a substitute for the House bill.

Section 20 provides a limit upon the life of the bill, which is new. Therefore the only sections with which the Senate are not familiar are sections 1 and 2 and section 6.

Section 6 provides for an increase in the amount of the redemption fund held in the Treasury for the redemption of these additional notes over the fund of ordinary bank notes now issued under the provisions of law as security for the deposit of United States bonds.

The act of 1874 provided that banks should at all times keep on deposit a redemption fund equal to 5 per cent of their outstanding notes. By the provision of section 6 the redemption fund to be held to secure the redemption of these additional notes, whether issued under what I may call the House provision or the Senate provision, is made 10 per cent, and the provision of the second section of the bill makes all the associated banks, in what I may call the House provision, liable for the redemption fund of each other. So in practical effect notes issued under the provisions of the House bill would have an available redemption fund almost as large as the notes outstanding of any one bank. I think that this feature of the bill is a decided improvement over either the Senate or House provision in that regard. It is an additional safeguard for the Treasury in connection with the redemption of these notes.

Sections 1 and 2 of the bill, and especially section 1, have not been discussed in the Senate. The provisions of section 1 are, first, for the formation of national currency associations, which

shall consist of not less than ten banks and not less than \$5,000,000 of capital in the aggregate. Any national bank desiring to take out additional notes as a member of one of these associations may make an application which, after it is approved by the association and by the Secretary of the Treasury, will permit that bank to deposit with the association securities whose character and value shall be approved first by the association and then by the Secretary of the Treasury, and to take out circulating notes not exceeding 75 per cent of the value of the securities thus deposited. The association is to determine, first, what percentage of notes will be issued upon the securities deposited, and, in the next place, the Secretary of the Treasury shall determine as to the character of the notes and as to the amount of securities which shall be deposited.

The provisions of this section in effect constitute an alternative plan for the Senate bill. Under the Senate bill a bank would go to the Treasury, and upon the approval of the Comptroller of the Currency and of the Secretary, would take out additional notes based upon the deposit of State and municipal bonds. Under the provisions of the measure as reported by the conference committee that privilege remains intact. If they desire to use other securities, they can secure the notes by a deposit with these associate banks.

All the assets of the associated banks are held liable to the United States for the final redemption of these notes, and the liability to the Government is secured by a first lien upon all the assets of all the banks.

These in effect are the terms of the provisions of section 1 of the bill, which, as I said, in connection with section 6, are the only new features that are not familiar to the Senate.

I shall not detain the Senate further in explanation of the report.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. I do.

Mr. CULBERSON. I desire to ask the Senator from Rhode Island a question. The Senator, of course, is familiar with the circumstances—which, by the way, we are not permitted to discuss fully here—under which this measure comes to the Senate. Certain bills, it is said, are awaiting action at another place upon the disposition which may be made of this measure.

I desire, therefore, to ask the Senator from Rhode Island—and I am sure he is able to answer this, if he is so situated that he feels he ought to answer—if he can give us any information as to the probability of passing at this session the anti-injunction bill or any bill on that subject now pending in the Senate before the committees or in another body?

Mr. ALDRICH. Mr. President, upon that subject, of course, I have no authority to speak for anybody except myself. However, I think it must be apparent to the Senator from Texas, as it is to me, that it will be impossible at this session to pass any bill through the Senate upon that subject. The difference of opinion is so wide upon the subject between those who believe that nothing should be done, who think that the powers of the courts and of the judges should not be limited in any way, and those who believe that there should be some enactment into law of what is the practice in certain States, and those who believe that the whole question should be submitted to juries, and that the effect of the great writ should be absolutely destroyed—I say these differences are so great that unless the Senate were willing to stay here for months, I think (and I say I am only expressing my own individual opinion) it would be impossible at this session to pass an act of that kind.

Mr. CULBERSON. Does the Senator think we may assume that no legislation of that character will be passed by the majority in Congress at this session?

Mr. ALDRICH. That is my own individual judgment, and I believe that opinion is shared by a large majority of the Senators sitting upon both sides of the Chamber.

Mr. CULBERSON. I will state to the Senator that, as far as this side of the Chamber is concerned, I think it is ready at any time to vote upon these matters of injunction. In fact, a bill has been passed on the subject by the Senate and is now pending in another body.

Mr. ALDRICH. I can say nothing in addition to what I have said on the subject, I think.

Mr. CULBERSON. There is another important matter, Mr. President, which the Senator, I trust, will pardon me for calling his attention to at this time, measures which are pending with reference to the publicity of campaign contributions. I ask the Senator if we may expect any legislation on that subject at this session?

Mr. ALDRICH. I am also without authority to speak for anybody but myself. There is a measure pending in the Committee on Privileges and Elections which comes here from the House of Representatives, and I can only say, as far as I am personally concerned, if the Senator desires a vote on that measure this afternoon or any hour to-day or to-morrow, without further debate, after the pending conference report is disposed of, I certainly shall make no objection to that request.

Mr. CULBERSON. Does the Senator refer to what is known as the "McCall publicity bill?"

Mr. ALDRICH. I refer to the bill which came here on that subject from the House of Representatives, and which is now pending in the Committee on Privileges and Elections.

Mr. CULBERSON. But my inquiry was with reference to a publicity bill pure and simple, unmixed with other political matters.

Mr. ALDRICH. The publicity bill that is before the Senate is associated with other provisions in regard to changes in election laws. The Senate can not disassociate those two items. If the Senator desires legislation upon the subject, of course it must be legislation with the concurrence of the House of Representatives, and those two things can not be separated. Of course, if we should agree to take a vote upon the subject and fix a time and the Senate should disagree to that provision, then the matter would be in conference. But I am quite willing, speaking for myself, to fix a time immediately after the disposition of the pending conference report for a vote upon the House proposition without further amendment.

Mr. CULBERSON. The Senator, then, I assume, so far as he is concerned—and of course we know the extent to which he speaks—is unable to give us any assurance that a publicity bill pure and simple, unmixed with the bill, I will state frankly, concerning representation, will be acted upon at this session and be passed.

Mr. ALDRICH. There is no possible way in which the Senate can bring the matter to a test vote except by taking up the House bill, so far as I can see. If we are to have effective legislation upon the subject, it must be, as I said before, by concurrence of the two Houses; and I shall join with pleasure the Senators upon the other side, if they desire to have a time fixed for a vote upon that proposition, in acceding to their request.

Mr. BACON. With the permission of the Senator from Texas, I desire to make a suggestion to the Senator from Rhode Island in that connection. There are some things in which parties and Senators are at variance. Of course we recognize that there are some things in which there is controversy, some things in which there is a diversity of opinion and of wish. There are other things in which there is, on the part of Senators of both political parties, a profession of unanimity of purpose and of desire.

Now, both parties represented in this Chamber, and those outside of this Chamber who are recognized as the leaders of the parties in the country at large, avow that they are at one upon one subject, that they are in perfect unison and accord on the subject of the requirement of publicity in connection with campaign funds and contributions.

Mr. ALDRICH. Will the Senator from Georgia state to whom he refers? I would be glad to have the Senator state definitely to whom he refers as the leaders of the two parties.

Mr. BACON. I can only speak of what appeared in the press. I am not speaking otherwise than what has been given out in an authoritative manner. There are some who in the public press assume to be leaders and express themselves in that way. But I am not speaking of that except simply by way of a side matter. I am speaking about what concerns us in this Chamber, to wit, the profession on the part of Senators on each side of the Chamber that we are in favor of the passage of a law which shall make public the contributions for campaign purposes prior to an election. I suppose there is no Senator here who will rise in his place and say he does not favor that.

Now, that being a matter in which we are professedly in absolute accord, the suggestion I wish to make to the Senator is that if in truth we are in accord, if it is true that in good faith that profession is made, then the matter which is thus without controversy can be easily disposed of without debate and without reference to committees or anything else. We can pass the measure in five minutes if it is limited to the publicity feature, whereas the Senator well knows that to attach to it a matter which is in controversy and about which there is not a concord of sentiment it must necessarily at this time defeat the one about which there is no diversity of opinion.

That being the case, I suppose of course it has occurred to the Senator—but I thought I would take the liberty of suggesting it—that the plain, simple way, if we desire really to carry out our professions relative to requiring publicity of cam-

paign contributions, is to limit our consideration and our action to that matter about which there is professedly no diversity of opinion.

I said I supposed there was no Senator in this Chamber who would rise in his place and say that he did not favor the publicity bill. Then I would ask every Senator to ask himself the question whether it is acting in good faith to attach to that measure relative to publicity another measure which does produce controversy and about which we are disagreed and the inevitable consequence of which must be to defeat that which they profess a desire to accomplish.

If it be true that our profession is sincere on both sides, if it be true that each of us, without exception, favors the enactment of a law which shall require publicity as to contributions for campaign funds, why is it that we can not make good that profession by an act which it is easy for us to accomplish by simply saying that we will pass a bill which shall relate to that and to nothing else?

Mr. CULBERSON. Mr. President, I am obliged to the Senator from Georgia for the suggestion which he has made and to which no reply so far has been made by the Senator from Rhode Island, to whom I yield if he desires to make a reply now. If he does not see proper to reply further, I assume—and if my assumption is not well founded, I hope that I may be corrected—that there is no possibility of passing an anti-injunction bill at this session of Congress, nor is there any probability or any possibility of passing a bill providing for the publication of campaign contributions, pure and simple.

Mr. FORAKER. Mr. President—

Mr. CULBERSON. Passing from that, Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Ohio?

Mr. CULBERSON. I desire to ask the Senator from Rhode Island a question with reference to the report now pending.

Mr. FORAKER. Before the Senator passes from that I should like to make a remark right at that point. I happen to be a member of the Committee on Privileges and Elections, and I think it is due that I should state—and that is why I rise—that I do not know of any other bill providing for publicity than the one which has been sent us from the House and is now pending before that committee.

Mr. CULBERSON. Mr. President, I will state for the information of the Senator—

Mr. FORAKER. If the Senator will bear with me a moment—

Mr. CULBERSON. For the information of the Senator from Ohio I will state that there has been pending before that committee for several months a bill introduced by the Senator from South Carolina [Mr. TILMAN] and another introduced by myself.

Mr. FORAKER. That may be. I have not had the pleasure to consider those bills in committee. I am in favor of a publicity bill—

Mr. GORE. Mr. President—

Mr. FORAKER. And the Republican members of the Committee on Privileges and Elections have been polled, and they are unanimously in favor of reporting the House bill and acting upon it at any time it may suit the pleasure and the convenience of the Senate to take action.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Oklahoma?

Mr. FORAKER. If I do, I will have to yield in the time of the Senator from Texas [Mr. CULBERSON].

Mr. CULBERSON. Mr. President, I am perfectly willing to yield to the Senator from Oklahoma.

Mr. GORE. Mr. President, I merely desire to state, first, that I regret that a distinguished member of that committee has overlooked the introduction of a bill in this body which is an exact copy of the McCall bill as originally reported in the House of Representatives. I introduced that measure here myself. It has been pending for some time before that committee, dissociated with political matters that were subsequently thrust into that bill in the other House.

Mr. FORAKER. Mr. President, it is not strange that anyone should overlook the fact that a bill has been introduced here. Twenty thousand bills have been introduced at this session of Congress in both Houses.

What I want to say with respect to the bill is that the only difference I know of between the House publicity bill and the bill which the Senator indicates that he would favor is that the House bill calls for a little bit more publicity than the other bill. I want to see honest elections. I want to see publicity as to campaign expenditures, and I should like to see this publicity include campaign expenditures before the conventions as

well as after. I am heartily in favor of so amending the bill as to make it so apply; but on top of that I want enough publicity to enable Congress, if Congress should see fit, to provide for honest elections and the enforcement of laws that will secure honest elections.

I do not understand that the publicity bill which has been sent here from the other House provides that any action be taken by Congress, except only to secure such data as may be necessary to enable Congress, if it should see fit to do so, to enforce what, Mr. President? The Constitution of the United States! Is there any Senator on the other side who is not willing to have all the data gathered that may be necessary to enable the Congress of the United States to enforce the Constitution of the United States?

Mr. CULBERSON. I am not at all surprised, Mr. President, that the Senator from Ohio should suggest that the Republican members of the Committee on Privileges and Elections had been polled and are in favor of the House bill, and I am not surprised because, if the majority of the members of that committee would stop to think, they would know, and probably do know, that that is a very good way in which to defeat the passage of the bill to publish the campaign contributions either before or after election. I assume—

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Ohio?

Mr. CULBERSON. I do.

Mr. FORAKER. I did not catch accurately the remark of the Senator from Texas about defeating the bill.

Mr. CULBERSON. I suggested that if the majority of the members of the Committee on Privileges and Elections would stop to think and consider the matter, they would see that the proposition to present the bill to the Senate as it passed the other House would have the effect of defeating the passage of the publicity bill.

Mr. FORAKER. Why would it defeat the passage of the bill, Mr. President, unless somebody in this body is opposed to the gathering of data necessary to the enforcement of the Constitution with respect to elections?

Mr. BEVERIDGE. Mr. President—

Mr. CULBERSON. Just excuse me, will the Senator please? Passing from that for the moment, I want to ask the Senator from Rhode Island, in charge of this bill, if he will kindly explain the meaning of the terms on the top of page 4 of the pending bill?

Mr. ALDRICH. I think I have not the same print that the Senator has.

Mr. CULBERSON. I will read it to the Senator.

Mr. BEVERIDGE. I wish to say to the Senator from Texas—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Indiana?

Mr. CULBERSON. Certainly.

Mr. BEVERIDGE. I wish to say to the Senator from Texas, before leaving the publicity question, as the Senator has raised the question squarely upon the question of campaign publicity—I am a member of the Committee on Privileges and Elections and have been so since I became a member of this body—I think we can bring this to a direct issue.

I therefore ask unanimous consent that on the day the present measure now before us—the currency bill—shall have been concluded, the Senate shall proceed to the consideration of the publicity bill, now pending before the Committee on Privileges and Elections—I do not recall the number of the publicity bill, but I refer to the one which came here from the other House—and I ask that the Senate, before adjournment, on the day following the time that we proceed to its consideration, shall vote on that bill, together with all amendments that may be offered thereto.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. The Senator from Indiana [Mr. BEVERIDGE] asks unanimous consent that the Senate proceed to the consideration of the House bill—

Mr. HALE. Mr. President—

The VICE-PRESIDENT. The Chair will first state the request and will then recognize the Senator.

The Senator from Indiana asks unanimous consent that the Senate proceed to the consideration of what is known as the "publicity bill"—

Mr. HALE. I object to any—

The VICE-PRESIDENT. The Chair has not yet put the question—immediately after the conclusion of the pending bill, and that the Senate vote upon the bill and pending amendments the day following. Is there objection to the request?

Mr. HALE. I object to anything that mortgages the future action of the Senate after this proposition is disposed of.

The VICE-PRESIDENT. Objection is made.

Mr. HALE. The Senate can take up the bill then, or not, as it chooses.

Mr. CULBERSON. Mr. President, that question will take care of itself in due time. It will be met properly, and on this floor. Now, I ask the Senator from Rhode Island, who has made a very brief explanation of this bill, to explain to the Senate—because we are in doubt about it—the meaning of the phrase "any securities, including commercial paper," which words he will find at the top of page 4 of the print of the bill which I have in my hand.

The term "commercial paper" is defined in very general terms in this bill, but the term "any securities" is not defined in the bill. I would ask the Senator to give us an explanation of it and to state particularly whether it includes railroad bonds?

Mr. ALDRICH. Mr. President, it would include any securities held by the banks which were approved first by the association and then by the Secretary of the Treasury. It undoubtedly would include railroad bonds, if the banks held those bonds as part of their security and they were approved first by the association and then by the Secretary of the Treasury.

Mr. BACON. Mr. President, I desire to say a word in reply to what has been said by the Senator from Ohio [Mr. FORAKER]. What has been said by the Senator from Ohio simply emphasizes the suggestion which I have made, that the matter which is sought to be injected in connection with the proposition of the enactment of legislation regarding publicity is a matter which can not be disposed of summarily. It is a matter the intensity of which we have some little hint of in the suggestions made by the Senator from Ohio and the manner and earnestness with which they are made. Of course we recognize the fact that the question arising under the fourteenth amendment is a very broad and a very great question, one with which Congress may at some time possibly have to deal, and I think the Senator from Ohio may rest assured that whenever the time comes to deal with it, with the opportunity to do so, there will be full and adequate debate on the subject. But the Senator fully recognizes the fact that in the present situation debate upon that question of such proportions and of such thoroughness as that question is entitled to and must have whenever it is considered is now impossible. The Senator knows that, and I repeat that the earnestness and emphasis with which the suggestion is made by the Senator illustrates the fact that it is a matter which can not be disposed of summarily or without long and earnest debate.

The point I am after is this, that there is a matter about which we all profess to have no difference, and that is the requirement of publicity in campaign contributions. If Senators on the other side want that legislation they can get it, because we stand ready to pass it without debate, if it is kept by itself. Now, when Senators attach to it a matter that they know can not be passed without extended debate, it is practically putting it beyond the range of possibility for the enactment of that legislation. It is practically preventing that legislation.

Mr. President, I stated that I desired to reply to the Senator from Ohio. I will not now reply directly to him—or, rather, I will not reply at length—because that would lead to a wider range of debate than the circumstances now justify; but when the time comes we shall not be lacking in replying to questions as to whether or not there shall be legislation along the line of what is generally known as the "Crumpacker amendment."

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. I do.

Mr. FORAKER. I only want to state to the Senator from Georgia that, as was stated by the Senator from Rhode Island [Mr. ALDRICH], there can not be any legislation unless both Houses act in reference to a proposition that has been sent to us by the other House. Let us take it up and let us act on it. I will say to the Senator frankly that I would rather vote out the part to which the Senator objects than fail to have the other enactment.

Mr. BACON. I am very happy to hear the Senator say that.

Mr. FORAKER. But there is a difference of opinion; and the way to reach the point of action upon that question is to take up the House bill, and if a member of the Senate wants to propose an amendment by way of striking that out, that is his privilege, but let the Senate vote on it. If Senators by a majority vote should strike it out, well and good. I do not say to the Senator that I would vote to strike it out—for I

would not—but I will say I would rather vote to strike it out than to have the other fail.

Mr. BACON. Very well. The Senator need not be at all in doubt on one subject, and that is that the linking of that question under the fourteenth amendment with the publicity question defeats the publicity measure for this session. Senators who are mainly interested in that question in regard to representation under the fourteenth amendment and whose States would be affected by it would not consent to a partial consideration of it and to a vote upon short notice.

Mr. BEVERIDGE. Will the Senator yield to me for a moment?

Mr. BACON. If the Senator will pardon me just a moment, I will yield.

Mr. BEVERIDGE. Certainly.

Mr. BACON. I want, however, to say to the Senator from Ohio, without pressing the subject too far, that I am a little surprised to hear the suggestion of the Senator as to his favoring this proposed legislation under the fourteenth amendment, and for this reason: If I understand this proposed legislation, it looks to the fourteenth amendment solely and to what may be done under the provisions of the fourteenth amendment. If I correctly recollect the provisions of the fifteenth amendment, it practically superseded the provisions of the fourteenth amendment in so far as it contemplated this particular legislation, and I had supposed that the Senator from Ohio, in common with a good many others, favored the fifteenth amendment in its entirety and was not disposed to compromise on it by any halfway measures under the fourteenth amendment.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. Certainly.

Mr. FORAKER. The Senator is entirely right in supposing that I favor the fifteenth amendment. I not only favor it as a constitutional enactment, but I favor it as constitutional provision that ought to be enforced.

Mr. BACON. Yes.

Mr. FORAKER. And I hope we shall have somebody in authority in this country some day who will find a way to enforce it.

Mr. BACON. I thought that was the attitude of the Senator.

Mr. FORAKER. And it is because of that idea that I am willing to have that provision go out of the bill, although I see no objection to gathering the data that may be necessary to enable Congress to act.

Mr. ALDRICH. Will the Senator from Georgia yield to me for a moment?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. BACON. Yes.

Mr. ALDRICH. I want to appeal to the Senator from Georgia to postpone the discussion of this very interesting question until that matter shall be before the Senate.

Mr. BACON. I want to say very frankly to the Senator from Rhode Island that I should not have had another word to say had I not simply desired to call the attention of the Senate to the fact that there was a subject upon which there was no diversity of opinion, to wit, the publicity matter, and that if we desired to legislate upon that, the simple way to do it was to exclude matters about which there was a contrariety of opinion. I was only induced to make any further remarks by the very earnest—and if I were not so well acquainted with the amiable character of the Senator from Ohio, I might characterize it with a somewhat more intense term—manner in which he suggested that while we were in favor of fuller publicity, we were not in favor of other things that the Constitution required which were of equal importance with publicity. I simply desired to suggest that those other things were matters about which at the proper time we could have discussion, but that it was impracticable now, and it looked as if we could have no action unless we acquiesced in the suggestion of the Senator from Ohio.

Mr. BEVERIDGE. Will the Senator permit me?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. I do.

Mr. BEVERIDGE. Mr. President, the Senator still continues to discuss the possibility of action upon the campaign publicity bill. I wish to ask the Senator whether, if hereafter there can be a consensus of opinion upon this side of the Chamber that the matter shall be taken up and disposed of immediately after the pending measure is disposed of, he can assure us that there will be unanimous consent from that side?

Mr. BACON. If it is limited to the publicity feature, I should say undoubtedly yes—

Mr. BEVERIDGE. I will say, Mr. President—

Mr. BACON. But if not, I should undoubtedly say no.

Mr. BEVERIDGE. Then I intend to renew my request upon the assurance of the Senator from Georgia that there will be no objection upon that side. At some future hour I intend to renew my request.

Mr. BACON. Mr. President, the Senator, I am sure not purposely, fails to state my position correctly. If the Senator wants an assurance from our side, we should want an equal assurance from his that the bill would be limited to that question of publicity.

Mr. BEVERIDGE. I said if there should be a consensus of opinion upon this side that the publicity matter should be taken up after the pending bill is disposed of, then can the Senator—of course it would have to be on the bill and any amendments offered and to be offered—

Mr. BACON. Mr. President, the Senator wants an assurance from us. We are ready to give it—

Mr. BEVERIDGE. That is enough.

Mr. BACON. But we want the reciprocal assurance from the other side that it will be a matter which relates to publicity and nothing else. Give us that assurance and we will give you ours. We are here desiring the enactment of legislation with reference to publicity, but we are not here, and do not propose to be here, for the purpose of lending the opportunity for the summary enactment of legislation which may be very vital in its character and for which there is now no present opportunity for debate.

Mr. BEVERIDGE. That brings it to an issue, Mr. President. I shall renew my request later.

Mr. TELLER. Mr. President, I think it is rather unfortunate that we should at this time couple with the consideration of the currency bill a political debate, but I am going to make a suggestion or two in the same line myself, not because I think it is very appropriate, but because it has been brought out by statements made on the other side of the Chamber.

If there is any one thing which I think the people of the United States have been anxious for, it is the passage of a law that shall make public the expenses of political campaigns. If there is any one thing that the people have been nauseated with, it is the use of money in campaigns for the last several years. Unfortunately, I think, for the public welfare and the public weal, Congress is composed largely of members of one political organization. The Republican party is dominant in this body, as it is in the other, and any legislation that the people want they ought to be able to get. It has been in the power of the dominant political party for several years to pass an act to make campaign expenses public. They have never attempted to do that until recently; and when they did attempt to do it they coupled with it a proposition that they knew would create a controversy here, as it ought to create a controversy here, and wherever it is discussed. I want to say here, without offense to any branch of the public service, that it is so apparent that the other feature was added to the publicity bill not to get the facts, but to kill that bill which, in my judgment, will not admit of any defense on the part of anybody in this Chamber or anywhere else.

Mr. President, the addition made to the publicity bill is one that raises a great constitutional question. It is a question that we fought out here in this Senate years ago with a great deal of feeling, and, after a prolonged discussion, we thought we had laid that ghost, at least for the time being, when we defeated what was known as the "force bill." No sensible man can believe that that proposition was attached to the publicity bill except for the purpose of defeating it. Nobody would expect that either side of the Chamber would adopt the suggestion in regard to gathering facts and making an inquiry if it were not to be followed up by legislation. But legislation of the character sought to be had is prohibited most positively by the Constitution of the United States, and there is not a Senator here who will dare to say that this is not the fact.

By what authority will you figure your representation on votes when the Constitution says it shall be based on population and not on votes? Are you going to take the election as a census, when the Constitution says that you shall have a census to determine who are the persons entitled to be represented? That question is to be determined by the census and not by the election. When that question comes here we will take it up. If the Republican party in this Senate will give us any assurance that they will take the publicity bill as it came from the House simple and alone, they can get a united vote on this side of the Chamber for it; but they will be far from doing that, because they do not want the publicity bill to pass. I should not have gone into a political discussion at this time but for the fact that it has been intruded here.

Mr. President, I want now to come to the pending bill. It is very apparent from the statement made by the chairman of the Committee on Finance that the adoption of this report will practically conclude the consideration of public affairs for this session. I do not suppose that anybody will deny that. We were perfectly ready to adjourn, and expected to adjourn on Saturday last. We had every reason to believe that we might adjourn on Saturday last. In the early part of the session there had been an attempt on the part of the Finance Committee, not on political lines, but on lines proper and right, to secure, if possible, some legislation for what has been termed an "emergency condition." It was a tentative proposition as presented here. It was supported in part by Democrats and by Republicans, and opposed in part by members of each of the two great political organizations. I think the committee endeavored as far as possible to keep it from being a political question; and I cast my vote with the dominant party on that bill, not because the bill was acceptable to me in all particulars, but because I felt it a duty upon me as a representative here to secure, if possible, something that would satisfy the public that, in case a condition should arise such as we had last fall, there would be some relief afforded.

The other branch of Congress, of which I will speak with bated breath, of course—and yet I understand I am not infringing the rule when I speak of an act that has already transpired, but that I am authorized to express my opinion about it—had before it several bills to relieve the financial situation. Bills that had been before the House in some form for a long time were reintroduced, and when the bill which passed the Senate reached there they sidetracked it very summarily, and we are told here authoritatively—it came from the very highest authority there—that the bill could not pass and we would be required to take something else in its place or do nothing. Then came from the House to this body a bill. This Senate never stopped to inquire about it. It was understood there was a principle in that bill that was obnoxious to every man who had correct ideas of what the currency system of this country should be. It had in it a provision for what we call and what I think is truly represented by the term "asset currency." I understood the Senator from Rhode Island [Mr. ALDRICH] was to explain to us if the bill now presented is not an asset-currency bill, and I hope he will do so later, because he did not do it this morning.

The bill came here, and we gave it no attention whatever. We treated it exactly as they treated the Aldrich bill when it went to the House. We substituted the Aldrich bill for the House bill and sent the bill to conference. Then when the conferees got together they disagreed. I shall not go into any statement of what the conferees did, except to say they disagreed, and the chairman came here and reported another and an entirely different proposition, and it passed this body, not perhaps in response to the demand made by the public, I think, generally for some legislation on this subject, but to investigate the whole situation.

We had prepared ourselves then to go home. We had attempted to close up the affairs at this session of Congress and get through, and we were told by those who had the business in charge that on Saturday night last, certainly, we might dismiss all cares of legislative matters and return to our respective homes. Suddenly we were told that certain bills pending in Congress in which we were supposed to have some interest, could not be passed unless we passed first the currency bill. I can not refer to anybody who said that, but it was in the air, and we were told over and over again, "Unless you pass a currency bill, certain bills in which Senators are interested will not become laws." How much there was in that it was difficult to say, but in a day or two we knew that the conference committee that had been supposed to be defunct—

Mr. ALDRICH. Not defunct.

Mr. TELLER. Not defunct in law, but there had been no suggestion of reorganization or recalling the committee until they suddenly got together and a new bill was presented for our consideration.

Mr. President, it is now a composite bill, as I have heard it called. It is a bill composed practically of two propositions—the House proposition, which we never considered at all, and the proposition that we did consider and did pass. I suppose it is entirely within the power of the conference committee to make the report that they have made, which is now under discussion, unless it may be as to one single provision as to which I have some doubt, but which is of not much consequence one way or the other, and that is the provision in regard to the appointment of a commission. I am not certain that the provision in regard to the commission is within the province of the conference committee. However, I do not care to discuss that ques-

tion, because as I have said, in my opinion, it is not a matter of very much importance one way or the other.

I think it is our business to take up this bill, and if we find any objections to it, to make them known. It is quite certain that the main features of this bill that were incorporated in the so-called "Vreeland bill" have never been considered a moment in this body. Although we have had it technically before us, we have not given it any consideration whatever.

I do not intend at this time to go into the question of the history of money; I do not intend to make a speech upon what I think ought to be the financial system of the Government of the United States, or upon the mistakes that have been made in financial legislation.

I want to confine myself just for a few moments to this bill. I want to say for myself—and I speak for nobody else—that the statement made in the public press that I had declared that there would be filibustering against this bill was unauthorized, for, on the contrary, I have always said I did not believe there was any disposition on the part of the opponents of the bill to enter into any filibustering proceedings.

I shall have to ask the chairman of the Committee on Finance, who is also chairman of the conference committee, to make some explanations as I go along, because I find it difficult to determine what some of the provisions of this bill mean. If it is not too much to ask the Reporter, I should like to have him read the answer of the chairman to the inquiry of the Senator from Texas [Mr. CULBERSON].

Mr. CULBERSON. As to what the word "securities" meant?

Mr. TELLER. I do not know whether the Reporter who took the notes is now in the Chamber. If not, I suppose the Senator could, perhaps, repeat his explanation.

The VICE-PRESIDENT. The Chair is informed that the Reporter who took the part of the remarks to which the Senator refers has left the Chamber with his notes.

Mr. TELLER. Then I will ask the Senator to repeat it. The Senator from Texas asked what was meant by the word "securities."

Mr. ALDRICH. The Senator from Texas asked me, in effect, whether the word would include railroad bonds. I said, "Undoubtedly, if the bank had bonds that were satisfactory to the national association and, secondly, to the Secretary of the Treasury."

Mr. CULBERSON. I asked the Senator from Rhode Island to explain the meaning of the term "any securities," and also to state particularly whether it included railroad bonds. I wanted a general explanation and also whether it applied to the specific matter of railroad bonds.

Mr. ALDRICH. The term "securities" would include bonds of any character; would include railroad bonds or any other bonds that the bank held. It includes whatever would be understood to be securities, within the meaning of that term, by the association and the Secretary of the Treasury.

Mr. TELLER. There is a wide distinction between securities and commercial paper. Commercial paper is defined distinctly. There is no attempt to define securities. So I assume myself that any securities which a bank would take and loan money upon would be securities to be used. Is that correct?

Mr. ALDRICH. Unquestionably. Anything that the bank could legally take as security for loans would undoubtedly be used, subject to the approval of the association and the Secretary of the Treasury.

Mr. TELLER. In the first place it must have the approval of the local association.

Mr. ALDRICH. Consisting of ten banks.

Mr. TELLER. Then it must have the approval of the Secretary of the Treasury. So exactly what securities you will get depends upon what it is to the interest of the ten banks to put up and then what it is the disposition of the Secretary to take.

Mr. ALDRICH. They must be securities that the banks can legally invest in.

Mr. TELLER. I understand that the banks can take all kinds of securities, pretty much, except real estate. They can take bonds and mortgages, well secured.

Mr. ALDRICH. Not mortgages.

Mr. TELLER. They can not in the first instance, but they can to protect themselves against loans when they have made a loan.

Mr. ALDRICH. When they have already loaned money.

Mr. TELLER. They can take bonds of any kind—of corporations, of individual concerns, of private corporations.

Mr. ALDRICH. Undoubtedly.

Mr. TELLER. So the door is exceedingly wide on securities. Mr. OVERMAN. Would that include warehouse cotton receipts?

Mr. TELLER. The Senator from North Carolina asks me

if it would include warehouse receipts upon cotton, corn, and so forth. It seems to me it would.

Mr. OVERMAN. I should like to know if the Senator from Rhode Island understands that it will.

Mr. TELLER. I understand a man may take the warehouse receipts and go to a bank, and that is the practice.

Mr. OVERMAN. And cotton receipts?

Mr. ALDRICH. I think anything that a bank would take as collateral security under the law could be used for this purpose, under the limitations I have stated.

Mr. TELLER. That is as I take it, and that is a feature which I think it would be well for us to consider before we get through with this debate.

This struck me as a very important part of the bill, and I am glad the chairman of the Committee on Finance is frank enough to state what I believe is a fair interpretation of the bill.

The currency question is a large one. Ever since I have been in public life, which is now pretty nearly a generation, it has been continuously before the public. It never has been settled, I believe, very satisfactorily at any time. It is said that John Bright once was asked by a friend if he understood the currency question, and he said that he did not, very emphatically, but he said, "I am credibly informed that some people do." After thirty-odd years of experience in public life I do not believe that the latter part of his answer was correct. I really do not know of anybody who understands the currency question, unless he himself is to be the judge. If you leave it to a neighbor, he will decline to admit it. That has been my experience. The scientists of the world, the men who have studied these things, come before our committee, and one man tells us one thing as to currency and another another. And if you had a dozen of them before you, you would have at least twelve or fifteen different suggestions. You would have as many suggestions anyhow as you had scientists, and in many cases two or three from each one—alternate opinions.

I am not going to express myself very positively about the currency question, except that I believe that the issue of currency is an act of sovereignty or ought to be an act of sovereignty and not the act of a bank. At all events, there is one thing we have adopted in this country in connection with our currency—that the Government stands back of every bill that is issued. Whenever a bank issues its paper it is issued with the understanding to the public and to everybody else that the Government stands back of the paper. The Government guarantees it. No individual looks to the bank. With five or six hundred million dollars of bank paper scattered over this country, no man ever looks to see what bank issued it if it is recognized by the United States. The bank is not the first one that is looked to. We look to the United States, and the United States looks to the bank.

So far as the bill holder is concerned, it is immaterial to him whether the bank makes good to the Government or not. The Government is looked to by him who holds the bill. That is what gives vitality and life and safety to our system of currency. That is a valuable feature of our financial system. But I can not understand how those who contend that the Government should stand back of the bill issued by a bank in Colorado or New York or somewhere else can deny to the Government the right to issue its own bill if it wants to and make it money as it makes the other indirectly by guaranteeing the bank's issue of money.

So when this bill was before the Senate I voted for a proposition that the Government itself should put out the money, and I believe some of my friends on the other side of the Senate voted in the same way. But we were not sufficiently strong to carry it, and we adopted the system of putting the money in the bank and having the bank go through the form of having the United States guarantee it. The Government prints the paper. Then it turns it over to the bank, and the bank turns it over to its customers. I do not intend to go into a general discussion of that feature of this question now. I only want to say that it seems to me it would have been a short cut if the Government had said: "We will issue so much money."

Of course our friends say, "How are you going to get it out?" There would not be any trouble about getting it out. A country that is spending a billion dollars every year, and that needs a billion dollars every year, and is likely to need in a short time a billion and a half a year, will not be troubled about getting out the money and getting it distributed properly. So there can be no objection to that. If the Government had no expenses, and the Government was not needing any money, then the Government might properly say, "We will turn over to the banks the right to issue money, because we can not distribute it properly."

Mr. President, some of us remember twelve or fifteen or eighteen years ago when some people, in even the Senate, had a subtreasury plan. I was this morning looking over a speech made by a prominent member of the Senate at that time, not now a member of the body. In it he advocated that there could be no better security in the world than wheat, corn, cotton, and even in the last resort, he thought, farm land. He thought it ought to be as good as anything else when put up for money, which the Government ought to issue and loan to the needy farmer or mechanic or laborer.

I never myself expected to see the subtreasury scheme in a bill in the Senate with the approval of the Finance Committee of the Senate. I never was in favor of the subtreasury scheme, and I supposed it had received its quietus long ago. But here comes a bill that is on all fours, in my judgment, with the subtreasury scheme, except perhaps it is a little more complicated, a little more ridiculous, than the subtreasury scheme of former days.

In order to get to the public this money which is to be issued the banks must form an association and form a new corporation. It is a voluntary corporation. There must be ten banks with \$5,000,000 of capital, and they must have a surplus of 20 per cent of their capital. Then they are entitled to create a corporation by signing a certificate and sending it to the Secretary of the Treasury. Then each bank has an equal voice. It does not make any difference how much money one bank has or how little another bank has; how much stock one bank has or how little another has. They are all on an equality when they go into this organization, so far, at least, as the management of the association is concerned. The management of that concern becomes a matter of great importance to the investing public and of great importance to the United States, because the United States is to stand back, in some respects at least, of what the association shall do. If they want to get some money, all they have to do is to get together, and a bank that has paper can present it to the association and say, "Upon this I want so much money." The associated banks or the corporation will say, "That is good paper." But possibly it is not good paper. Whether it can be used or not will depend upon whether it can pass the inspection of the Comptroller of the Currency. What will he know about it? The associated banks know, and they say, "The First National Bank of this association needs the money. This is not the best paper they have, by any means, but it is good for us, because the First National Bank is good for the paper;" and so very inferior paper will meet the approval, perhaps, of the entire ten banks, not that they look to the maker of the paper, but to the bank that produces it.

The other day a distinguished banker, talking to me about it, said, "If this bill shall become a law, I shall never put up anything but my best paper. I will put up the paper which has the best names and which is the surest to be paid." "Yes," I said, "but the other banks may not do that. The other bank may say, 'I can take this paper and discount it at a neighboring bank and get the money. I will get the cash on John Smith's note, but here is John Jones's note that I can not get the money on. If I guarantee it that will be enough.'" The associated banks will say, "That is all right." What does the Comptroller of the Currency know about it? He will take what the banks say about it. Possibly the Government will lose nothing by it.

But I object to this scheme because it is not going to stop here. I know there is a decided determination in the banking circles of this country to make their commercial paper an asset upon which to issue money. They will now issue it through this system because there is no other way. But some day they will make the same demand that is already made in some bills that have appeared in one branch or the other of Congress, that they shall be allowed to use their commercial paper as they shall see fit; and then you will have opened the door to an expansion governed only by the necessities of the banks and have left the banks to determine what shall be good security for the notes of the country. I do not suppose, when that comes, anybody will expect the Government to stand back of the notes any longer. I do not know that any bank would have the hardihood to say, "We want to issue as many notes as we think our paper is worth, but you must guarantee them." We will get back to the old system that existed fifty years ago, when every bank issued whatever its credit would stand for and sometimes a good deal more—most always a good deal more.

I object to this scheme because it is a scheme that opens the door to this kind of banking. There are more than 6,000 national banks in the United States. They have nearly a billion dollars of capital, and to say that they have great power is unnecessary. Everybody knows that. Everybody knows that if the banks of this country, as an entirety, make a

demand upon Congress, there is not virtue enough in this body or in the other to withstand their demands unless they are so extortionate and so bad that common decency required us to reject them. The power of the banks is felt in this country. I am not one of those who inveigh against banks. I believe to-day the banking system of the United States, with slight exceptions, is a very good one. I doubt whether we will ever get a better one. Of course, I know that the doctrinaires say, "You have founded your issue of bills upon a debt, and therefore it is all wrong. You should have founded your issue upon gold or silver or something of value." But the security of the bill holder is what largely determines the character of the banking system of the country. If the bill holder is perfectly safe, the money will always be good everywhere. It will be good anywhere in the world. Just as long as the United States stands back of a bank its paper will circulate anywhere where civilized men go. It may not circulate as money; people may not take it; but if I was in the Desert of Sahara to-day with a million dollars of first-class American bank paper, the first time I struck a civilized community I would be in funds; and so it would be everywhere, and so it has been. You can take your money to Europe and buy exchange with it.

So, Mr. President, I want to keep, if possible, the American circulation intact. I mean to be fair about this. I do not mean to say this bill will destroy that condition, but I do say it is the first step, and I have lived long enough and know enough about public affairs to know that the first invasion is always followed by another. When we have let down the bars for one animal, we let them down for the herd when it comes.

Mr. President, was there any necessity for including commercial paper? They tell us there are not bonds enough. I saw the statement the other day, made authoritatively by some gentleman, that we had to put in commercial paper because there was no other way; there were not bonds enough; and he gave a short list of bonds. There is in circulation at least four, if not five or six, times the amount of money that is to be issued under this so-called "emergency law." There is not any paucity of bonds—municipal bonds, State bonds, county bonds. If anybody has so much objection to railroad bonds that he does not want to take railroad bonds, I want to say that, in my judgment, there is not a bond of any railroad company in this country which has complied with the provisions put in the Aldrich bill—that it shall have paid dividends on its stock and interest on its bonds for a certain length of time—that is not better than John Smith's bond, although he may be worth a million dollars. There was no need of putting in commercial paper except to meet a demand certain banks have made that they should be allowed to use their commercial paper as they see fit. With my consent they will not do it.

There is an objection to this bill to which I want very briefly to call attention. That is the formation of this new association. Just what it will do I do not know. It is not a bank. But it is a corporation under the law, if this bill goes into effect. You have ten banks. You must have ten banks with \$5,000,000 capital and a certain amount of surplus before they can form this association. That will enable the great cities, the very places where we do not want to strengthen the banks, to be strengthened. New York, Chicago, Boston, and cities of that kind and cities of very much less population can do what the country villages and small cities can not do. There are sixteen States and Territories which can not organize one of these associations inside of the State. Oh, but they have very generously provided that you can unite with some other State. Take South Dakota and North Dakota. Neither one of them would be allowed to form an association. They have not sufficient capital. I have a list here of the States: Delaware, South Carolina, Florida, Mississippi, Arkansas, North Dakota, South Dakota, Montana, Wyoming, Oklahoma—New Hampshire would; it has \$260,000 more than is necessary—Oregon, Idaho, Utah, Nevada, and Arizona. New Mexico might have been added, but it was not. That makes sixteen. The provision that they may join with some other State is without any benefit to those people, I think. I do not know that they will suffer because they do not get one of these organizations, but if they are desirable, they ought to have one.

It is the only way they can approach the Government with commercial paper, anyway. I am not certain, but I am rather inclined to think it will enable the individual banks, if they have the Aldrich bill security, to go and get money out of the Treasury, but if they want to use commercial paper as the basis of loans, they must go into one of these organizations, and sixteen States are practically denied that opportunity.

What is the need of this particular emergency bill now? Is the need any greater than it was thirty days ago? Is it any

greater than it was when the committee of the Senate and of the other body declared they would suspend all operations in reference to this question and go home? Has somebody got frightened? Is somebody wielding the big stick and saying "this must be done?" We have been hearing for a few days that it would be exceedingly dangerous for Congress to adjourn without this legislation. A gentleman said to me the other day, "If this Congress adjourns and a panic comes next fall before the election, the Republicans will be wiped from the face of the earth." I said I hoped that would happen. I did not fear very much it would, and I did not really hope it would happen, because I did not think it would. But that is some reason, I think, perhaps, why this movement has been made all at once.

Mr. CLAPP. In your hope that it would happen, you would really want to separate the occurrences—have the Republican party wiped off the earth without the panic.

Mr. TELLER. I would not want a panic for the sake of wiping the Republican party off the face of the earth, although the country could stand a good deal for the sake of getting rid of it, for a while at least. I do not think we are going to have a panic. I think it is a mistake for men in high public position, as some of our public men have done—and I do not refer to anybody here or in the House—to tell us there is to be a panic. There ought to have been no panic last year. There never would have been a panic last year if the banking business in the great city of New York had been done as it ought to have been done. There is where the panic started; there is where the disease was, and, as I said once on this floor, I sustained the Secretary of the Treasury when he put the money into New York, because there is where the trouble was. It would have done no good to have sent the money into the great West, where we did not have a panic. Of course you can not have a great panic in New York without having something of a panic all over the country. But in the great West, taking the great country west of the Mississippi River, which I call the great West, there were no disturbances. There was some fright, and yet I believe in the majority of instances the banks kept open and paid their depositors, although perhaps for a time they would not make any loans. I know that was the case in Colorado, where practically all the banks responded to the calls of their depositors for money.

I do not believe there is any such condition as demands now this kind of legislation, and I think it is a mistake to come here and say, "If you do not do this, we are going to have a panic."

Mr. President, I have not any doubt but that this bill is going to pass. I have not myself any desire to obstruct it. My duty is done when I vote against it and when I express in a brief way, as I am trying to do, my objections to it.

There are several features of the bill that might be discussed. The feature which strikes me most is the one I have mentioned. I know some of my friends here, in whose judgment I have great confidence, could not vote with me for the Aldrich bill. I could not see that the Aldrich bill violated any fundamental principle governing the currency system in this country. I said I did not believe it was greatly needed, but I followed the line of those who thought it was needed and said we had better then provide something; that it was only an emergency bill. This bill is an emergency bill, but you have provided that if it is passed at all it shall continue for six years. Mr. President, if it is a good bill and if it ought to pass there ought not to be any limit on it at all. If it is a bad bill and ought not to pass, the limit is too long.

Mr. President, there is no end to the currency question when you come to discuss it. But I do not intend, as I said, to go over it. I want to say just a few words on one point. I am a believer in the old doctrine that the basis of good banking and good currency is the world's money, gold and silver, the relation of gold and silver being regulated by law. I know some will tell you that that can not be done. Mr. President, it has been done for five thousand years in the world's history.

I have recently had occasion to go back into the ages with the best extant history of the world. At least four or five thousand years before Christ was born the relation between gold and silver in Egypt, and subsequently in Babylon and later still in China and India, was governed by law. You will find in the old tablets that they are now unearthing at Babylon a contract in silver of a certain standard, one standard of one town and another standard of another. The fact was that they then had different standards just as we had later, when France had 15½ ounces of silver to 1 of gold, and we had practically 16 ounces, and over in Japan at the same time you could buy an ounce of gold with 6 ounces of silver. I know there has been a shifting relation between silver and gold for all time. I

found the other day that in Egypt at one time silver was more valuable by weight than gold and later gold was more valuable than silver. So it has been for all time. But, after all, Mr. President, that is the foundation of good banking and that is the foundation of a good currency.

Just now I am told that gold is going away from us very rapidly, and one of the reasons I have heard for this legislation is that gold is leaving the country. I believe thirteen or fourteen million dollars left within the last few months, and I do not know but more.

Mr. President, the gold is going where it is needed more than it is needed here. It is going where its value is greater than it is here. It is going to do the duty of money for the world. We have reached a state now when each section of the world is so in touch with the other that the money of this country must be determined largely by what is the money of other sections of the world as well. Of course, we may have our local money, but back of all we have got to keep up our exchange either by sending abroad our products or sending abroad gold to fill the place of the products to pay for the goods that we are buying year by year. This year we bought more foreign goods than we ever bought before in our history. We sent abroad more stuff than we ever sent abroad before. So the one hand may possibly wash off the other; but if it does not, then you must make it up, not with paper money, but with gold.

Mr. President, I have a copy of the Wall Street Journal here. I take the Wall Street Journal occasionally. I do not follow the prices of stocks very much. I have never indulged in that. I find here a little touch on this bill. It says:

Is there still ground for hope that Congress, before it adjourns, will pass a bill providing for an emergency circulation in time of financial crisis?

Under existing conditions this bill must necessarily be either the Aldrich or the Vreeland bill or a modification of one or the other of them.

Of the two the Vreeland bill is the better, because it provides for securing the emergency notes by either commercial paper or bonds, while the Aldrich bill provides for bond security only.

But let us have either one or the other.

A law for an emergency circulation should have a time-limit clause restricting the life of the measure to two or three years, in order that in the meantime a thoroughgoing reorganization of the banking and currency system might be prepared and passed by Congress to take its place.

Mr. President, we have a provision in this bill for a reorganization. We are going to have a commission composed of nine members of this body and nine Members of the House. Does anyone believe that we will reorganize with that commission the banking system of the United States? If he does, he is more hopeful than I am. I do not believe that you can reorganize the banking system of the United States materially without a great change in public sentiment, and I doubt whether you could do it anyway without a great disaster.

It may need and probably does need some amendments, and I think there are some Senators here who are going to talk about the amendments that are needed. Mr. President, I do not intend to bother with that. We will have trouble enough with that when it comes. A demand for action will be made by this bill. Whether it will be wise or whether it will be foolish I do not know.

I do not see anything very dangerous in the bill except the precedent that is set. I doubt very much whether the banks will take advantage of it. I doubt very much whether you will organize any considerable number into this banking association outside of the great cities. I believe that in New York they will have a great big association that will dominate the markets there and dominate the business there. But you will have the same trouble there that you had last fall. The banks will lend themselves, just as they have lent themselves, not to meeting the demands of commerce and trade, but to meeting the demands of the speculators of Wall street.

Mr. President, I may want to say something further on the bill, but I am going to relieve the Senate, at least for the present.

The PRESIDING OFFICER (Mr. DILLINGHAM in the chair). The question is on agreeing to the report of the conference committee. Is the Senate ready for the question?

Mr. TELLER. I do not suppose we are ready to vote on it. I understand that several Senators desire to make speeches. I think the understanding was with the chairman that we would not attempt to vote on it to-day.

Mr. OWEN obtained the floor.

Mr. ALDRICH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Rhode Island?

Mr. OWEN. Certainly.

Mr. ALDRICH. I am told the Senator from Colorado stated that there was an understanding that there was no vote to be

taken on the conference report to-day. I know nothing of any such understanding. I shall try very hard to get a vote on the report to-day.

Mr. TELLER. I understood there would be no vote on it to-day, unless, of course, we got through with the debate.

Mr. ALDRICH. Of course, there will be no vote until debate is exhausted, but there is no understanding that there will not be a vote when debate is exhausted.

Mr. TELLER. No; I did not myself so understand. I understood that probably to-day would be devoted to debating it, if it was desirable.

Mr. ALDRICH. Yes; if it was desirable.

Mr. TELLER. I know a number of Senators on this side, now out at lunch probably, expected to make some remarks on the bill.

Mr. ALDRICH. If no one is here to speak, I suggest that the vote be taken.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. OWEN] has the floor.

Mr. ALDRICH. I beg pardon.

Mr. OWEN. Mr. President, in speaking with regard to this conference report—

Mr. TELLER. Mr. President, I am loath to do it, but I am going to suggest that there is not a quorum present. I think we are entitled to have some Senators here when we are debating this question.

The PRESIDING OFFICER. The Senator from Colorado suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Depew	Heyburn	Scott
Allison	Dick	Johnston	Simmons
Borah	Dillingham	Kean	Smith, Md.
Brandegee	Dixon	Knox	Smoot
Briggs	du Pont	La Follette	Stephenson
Brown	Flint	Long	Sutherland
Burkett	Foraker	Nelson	Taylor
Burrows	Frazier	Newlands	Teller
Carter	Gallinger	Owen	Warner
Clapp	Gary	Overman	Warren
Clark, Wyo.	Guggenheim	Paynter	Wetmore
Clay	Hemenway	Piles	

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. It appears that a quorum is present.

The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A joint resolution (S. R. 74) suspending the commodity clause of the present interstate-commerce law.

Mr. ALDRICH. I ask that the unfinished business may be laid aside informally.

The PRESIDING OFFICER. The Senator from Rhode Island asks that the regular order be temporarily laid aside. It will be so ordered unless objection is made.

Mr. FORAKER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Ohio?

Mr. OWEN. Certainly.

Mr. FORAKER. I am very anxious to have a very short bill considered.

Mr. OWEN. Is it the so-called "ash-pan bill"?

Mr. FORAKER. Yes.

Mr. OWEN. I am heartily in favor of the bill. I yield to the Senator from Ohio.

Mr. ALDRICH. I shall have to object to the consideration of any bills or resolutions during the progress of the discussion on the conference report. I have been asked to yield to a number of Senators, but I must decline.

The PRESIDING OFFICER. Objection is made.

Mr. FORAKER. I am very sorry that the Senator feels obliged to object. I will seek another opportunity to call it up.

Mr. OWEN. Mr. President, I shall not consume the time of the Senate further than for a few moments, to point out again an objection which appears to me to be manifest to this so-called "financial bill" as it returns to the Senate in its amended form.

I understand that it will be practically impossible to amend the bill. It will be impossible to enforce the objections which I entertain in regard to the bill and make it what it ought to be. Yet I desire to put upon the record my opinion that the notes which are to be issued for emergency circulation ought to be the direct notes of the United States Treasury, and they ought not to be notes of the various national banks, of which there are over 6,000. There must, under this bill, be about 6,000 different kinds of notes, each differing in form from the other, although substantially alike in quality.

I point out to the Senate that the provision requiring these notes to be national-bank notes makes it impossible for this bill to provide any adequate remedy to the State banks of the United States, which have two-thirds of the capital invested in the banking business of the nation, which have two-thirds of all the deposits in the United States, and two-thirds of the banking power. Under this bill, because these notes must be national-bank notes in form, those numerous State financial institutions and the great trust companies of the United States are denied the relief which they ought to have in common with the national banks of the United States, which would not be true if Treasury notes were available, upon proper security, for emergency currency.

It is true that the State banks and great trust companies can rely in some measure upon the national banks, and will rely upon the national banks, for emergency circulation. But I see no just or sound reason why this measure should be so drawn as to deny to the individual State bank and to the individual trust company, no matter where it be, an opportunity, upon the deposit of proper security, to receive relief in time of panic.

I point out to the Senate that the so-called "Vreeland amendment" only permits associations having \$5,000,000 of aggregate capital stock to get any relief. Why is it that only large associations are permitted to have relief, and why is it that relief is denied to the small banks unless they pay tribute to the larger organizations? It is unsound in principle and it is unfair in practice to deny to the small State bank or to the small national bank relief against the possibility of a panic and grant such relief only to the great national banks of the reserve cities or great associations of \$5,000,000 capital.

Mr. FLINT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from California?

Mr. OWEN. Certainly.

Mr. FLINT. How are the small national banks discriminated against under the provisions of the bill?

Mr. OWEN. Because it will take 200 small national banks to make an organization sufficient for the purposes of the bill under the Vreeland amendment which I am now criticising.

Mr. FLINT. The Senator says that in the same territory there are 200 small banks. As a general proposition, will there not be a number of large banks within the same territory?

Mr. OWEN. I will call the attention of the Senator to the fact that there are seventeen States in the Union where the combined capital of such State's national banks would not amount to \$5,000,000, and I do not see any sound reason for this discrimination.

Granted that by having an organization of 200 of these small banks they could in that difficult and troublesome way arrive at relief, why should they be required to do that? Is it the purpose to put an obstacle in the way of relief of the smaller banks? Is that the intention, and only to allow this currency to be issued by the great organizations in New York and Chicago and St. Louis or great centers? I see no sound reason in it, and for that reason I enter my protest against it.

I feel, however, constrained to say that if there was nothing but this bill between the commerce of the United States and the possibility of panics, I would vote for the bill. But as it is, since the bill will pass in any event, I shall record my opposition to the erroneous principles laid down in the bill and to the improper manner in which it has been drawn—and which I have heretofore pointed out in great detail—by recording my vote against it.

Now, Mr. President, having said so much with regard to this measure, I do not intend to repeat that which I have heretofore said on the floor of the Senate in critical analysis of this bill.

THE COURT OF CLAIMS.

Before I take my seat I wish to avail myself of the opportunity to express my views in regard to an occasional thoughtless reference to the Court of Claims which I have observed on the floor of the Senate and which might be construed as a criticism of that court. I think the suggestions which I have observed in the RECORD have been unjust, have been unfair, and have been ungenerous.

I have been a member of the bar of the Court of Claims for nearly twenty years, and I have felt personally greatly honored in the respect and the confidence of that court. I have taken through that court some of the great cases which have been sent to it by Congress, and I want to say here in the Senate that instead of that court receiving affidavits and ex parte testimony and dealing with evidence in a careless and neglectful way, they require evidence of the highest character; that

they have stood there, most faithfully and honorably, protecting the interests of the United States against a multitude of claimants sent to that great court by the Congress of the United States. That the interests of the United States have not been neglected might well be shown by the French spoliation cases, where, I understand, Congress has heretofore paid about four millions of dollars in satisfaction of the awards, and that perhaps two millions of dollars only are yet to become necessary in order to satisfy such awards as may be hereafter made, though the original losses were estimated at twenty millions. This great reduction is due to the inability of the claimants to show that the captures were illegal, to the loss of documentary evidence from the files of the Executive Departments and of the French courts, but largely to the strictness of the court's requirements as to proof; and in the Indian depredation cases, where thousands and tens of thousands of cases have been filed, the comparative recovery has been small because of the scrutiny and care and painstaking labor of that court.

There is probably not in the civilized world a more laborious, hardworking, or more conscientious court, and there is probably not one case in a hundred where that court has allowed a judgment that it has not been confirmed by the Supreme Court of the United States, while in many appealed cases the Supreme Court has been more liberal than the Court of Claims in such cases.

It has been suggested that this court (or some other, possibly the Choctaw-Chickasaw citizenship court) had allowed excessive fees to be charged. I was one of the attorneys in the famous case known as "the Eastern Cherokee case," in which that court allowed a fee of 15 per cent, in contracts involving a larger amount, the case involving \$5,000,000; and possibly that case may have been in mind in connection with such comment. I call the attention of the Senate to the fact that the Eastern Cherokee case was sixty-five years old; that it had been decided adversely to the Cherokees by various authorities on various occasions; that it took the attorneys who represented that case seven years to reach any recovery; that they were employed on various contracts by contingent fees; that the printed record submitted to the court embraced 2,700 printed pages, and that the fee was apportioned among a large number of attorneys and counselors at law, whose expenditure in time, labor, and money had been very great.

It could have rendered no less a verdict and been just.

I think it is only fair to that court to point out the fact that the United States Senate allowed 35 per cent of the recovery in the Western Cherokee case, which was identical in character. The Senator from Colorado [Mr. TELLER] is one of those who remembers the Western Cherokee case well. It came before the Interior Department when he was Secretary of the Interior. Many years afterwards it was finally adjudicated and it took nearly sixty years to bring that case to a conclusion.

The Western Cherokees contracted 35 per cent contingent fee, dependent on recovery, and it was allowed by Congress and the fees paid to the various attorneys by an act of Congress in which the Senate took a conspicuous part. The Eastern Cherokee case involved contracts aggregating a far greater sum than 15 per cent, but the court being instructed by Congress to fix the fees, limited its allowances to that figure on a showing that made such finding absolutely obligatory as a matter of common justice.

Mr. President, it seems to me that the Senate should tenderly respect the good name and great reputation of our national courts, and no careless suggestion should be permitted to pass uncorrected which in any way could wound the feelings or impair the high standing of any of our national courts.

I have felt that it was a duty as well as a privilege to commend on the floor of the Senate this most honorable court, which is one of the most thoroughly sound and conservative courts in the world, a court of great learning, a court of unrelenting diligence, and a court of a dignity and worth in its personnel second to none, and in importance, judged fairly and justly by the value of its services, second only to the Supreme Court of the United States.

Mr. NEWLANDS. Mr. President, I wish to say a few words regarding this conference report. I shall vote against the adoption of the report, and I shall vote against it because the tendencies of the bill reported, if it is enacted into law, will be to increase, instead of curing and doing away with existing abnormalities. The abnormality under which we have been suffering is an inflation of bank loans, made by our national and State banks from the moneys of their deposits without maintaining sufficient cash reserves to meet their depositors' checks.

Another unhealthy condition is that there is in the country no proper security in the way of bank capital to the depositors in banks.

The relation of bank loans to bank capital is left entirely, or almost entirely, to the judgment of the banks themselves; and, as a result, we have this condition: Certain banks, with larger bank capital than is necessary, when you take in view the amount of their deposits, and others where the amount of the bank capital is less than should be required; and we all know that the real security which the depositors have, in addition to the securities and negotiable paper in which their deposits are invested by the banks, is the bank capital and surplus and the bank reserves.

As an evidence of this unhealthy condition I have only to state that when the panic came on the aggregate deposits in all the banks of the country—national banks, State commercial banks, State savings banks, and trust companies—was about \$12,000,000,000; and against that extraordinary amount of deposits there was a reserve in the banks of only \$1,000,000,000, or 8 per cent; and that if you exclude the savings banks as not requiring any considerable amount of reserves and estimate, as is the fact, that the deposits in all the commercial banks, State and national, amounted to \$10,000,000,000, the reserves equaled only 10 per cent. But even if there had been an average reserve of 10 per cent in all the commercial banks of the country, national and State, the unhealthiness of the condition would not have been so apparent.

But we find the greatest disproportion between the reserves existing in State banks and the reserves existing in the national banks. The average reserve of the national banks at that time was 18 per cent; the average reserve in the State banks, the commercial banks, was less than 6 per cent, and yet, as the Senator from Oklahoma [Mr. OWEN] so well observed, the State banks outnumber the national banks and have two-thirds of the bank capital of the country and nearly two-thirds of the deposits of the country. The danger point, then, in our whole system of reserves is in the State banks, which outnumber the national banks and outclass them in both capital and deposits.

So also as to national banks. Whilst the average reserve was 18 per cent, yet the manner in which that reserve was distributed amongst the various banks indicated a most unhealthy condition. Of the total reserves in all the banks, national and State, amounting to \$1,000,000,000, the national banks, though inferior in number and inferior in capital and deposits, had \$700,000,000 of reserves, and of that \$700,000,000 of reserves over \$300,000,000 was in the central reserve city banks in New York, Chicago, and St. Louis, and nearly \$200,000,000 was in reserve city banks, about 300 in number, and only about \$200,000,000 was in the country banks, over 6,000 in number, so that over one-half of the reserves of the country were in banks averaging less than 400 in number, in the central reserve and reserve city banks, and less than half of them were in 6,000 national banks, constituting the country banks of the United States, and whose obligations to individual depositors far exceeded in amount the similar obligations of the reserve city and reserve banks.

Now, how was that? Simply under the existing law which permits these country banks to deposit three-fifths of the reserve required by law in reserve cities and central reserve cities. The result was that over one-half of the legal reserves of over 6,000 national banks of the country was accumulated in less than 400 banks in our great cities, mainly New York, and used there for promotion and speculation. We all know the methods employed during certain seasons. The New York banks offer tempting rates of interest to the country banks for their reserve money, which they are forbidden to use locally, draw in the money, and then lend it to those who are interested in promotion and stock speculation. The spring and summer months is the time chosen for the promotion of the great industrial corporations of the country, for the promotion of great trusts, and for the increased issue of railroad stocks and bonds.

The prices go up in the market; and the faster the prices go up the greater is the demand upon the New York banks for money for speculative purposes, for it is a peculiar condition of the stock market that as the market is rising the demand for speculation increases; and that when it is going down and more favorable opportunities are presented for getting stocks at their real values, the demand for them diminishes. So it is that after the summer season is over, when the country banks require the moneys which they have deposited in the reserve cities at interest for the purpose of moving the crops of the country, when they require the small sums of \$200,000,000 or \$300,000,000 for that purpose, the money is not forthcoming; the banks in the reserve cities and in the central-reserve cities can not pay it to the country banks without calling in their loans; and that means a contraction of values, a slump in the

market, a local panic, and possibly a panic extending over the entire country.

We have had numerous evidences of such panics within the past ten years. A panic of that kind is almost a yearly occurrence. Sometimes it is only local in its consequences; but if those consequences are sufficiently severe and involve enough mercantile houses or brokerage houses or banks, then we find the country alarmed, and there is a general demand for money on deposit. So that whilst the average of reserves in the national banks of 18 per cent is perhaps sufficient, it is so distributed as not to make it an element of safety in any banking situation.

Now, Mr. President, this evil is very evident. The Senator from Rhode Island [Mr. ALDRICH] admits it. In a speech which he delivered when he first reported his bill in this body he used the following words:

I have already alluded to the inadequacy of bank reserves. When we compare the reserves of our banks with the reserves of similar European institutions this inadequacy becomes painfully apparent.

"This inadequacy becomes painfully apparent," and yet the Senator from Rhode Island has nowhere addressed himself to this important question, but has only addressed himself to the question of further inflating the loans of the country and aggravating and exaggerating the condition of inflation that now exists. The Senator will doubtless reply that there was no time for this, that all we could do was to address ourselves to the question of emergency. That may have been true when the Senator first presented his bill; an emergency was then on, but that emergency has passed, and the financial conditions of the country are now on the road to recovery; yet since the Senator presented his bill over four months have elapsed, and I will venture to say that he has not once called together his committee during that entire period for the consideration of this important question.

The Senator says that he has alluded to the inadequacy of bank reserves, that "this inadequacy becomes painfully apparent," and yet, with this condition of things, when this inadequacy is "painfully apparent," and when he and his committee have had four months to consider this question, he brings into this body, upon a day's notice, a new measure in which no allusion is made to this unhealthy and abnormal condition, and no remedy presented.

This is of a piece, Mr. President, with the administration of the Finance Committee under the Senator from Rhode Island during his entire administration of twelve years. During that time how many efforts has the Senator made to reform the bank act? Did he not know twelve years ago, as well as to-day, that this system of piling up the bank reserves of the country in a few cities, to be used there for promotion and speculation, was prejudicial to the safety of the country? Year before last we had a warning upon this subject, if prior to that time we had lacked information upon it.

I remember in the debate in the early part of 1907, long before the recent panic, when the Senator then, as now, was bent upon inflating the currency instead of securing upon a safe foundation the banking system of the country, that I then presented an amendment. A measure was pending in this body providing, I believe, for greater issues of currency, a larger proportion of currency upon national bonds, increasing the proportion from 90 per cent to 100 per cent—resulting, I believe, in an issue of \$400,000,000 more of bank notes—and also doing away with that provision of the banking act which prevented bank notes from being retired at a rate of more than \$3,000,000 a month. When this measure was pending I then presented to the Senate an amendment intended to remedy this condition regarding the reserves. In my remarks upon that occasion I said:

Now, Mr. President, I wish to say one word regarding the reserves of these banks. We have a system which crowds all the reserves of the national banks of the country in New York City. That seems to me to be a vicious system, because it collects from every part of the country money to be used simply in speculation.

Mr. OWEN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Oklahoma?

Mr. NEWLANDS. Yes.

Mr. OWEN. I suggest the absence of a quorum.

The VICE-PRESIDENT. The absence of a quorum being suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Brandeggee	Carter	Cullom
Ankeny	Briggs	Clapp	Curtis
Bacon	Brown	Clark, Wyo.	Depew
Beveridge	Burkett	Clay	Dick
Borah	Burrows	Culbertson	Dillingham

du Pont	Hale	Nelson	Smoot
Flint	Heyburn	Newlands	Sutherland
Foraker	Hopkins	Owen	Taylor
Frazier	Kean	Overman	Teller
Gallinger	Knox	Paynter	Warner
Gary	Long	Piles	Warren
Guggenheim	McLaurin	Simmons	

The VICE-PRESIDENT. Forty-seven Senators have answered to their names. A quorum is present.

Mr. NEWLANDS. Mr. President, I should like the attention of the Senator from Rhode Island for a moment. I call his attention to a few sentences in his speech of February 10, 1908, in which he said:

I have already alluded to the inadequacy of bank reserves. When we compare the reserves of our banks with the reserves of similar European institutions, this inadequacy becomes painfully apparent.

Now, I wish to ask the Senator whether there is any provision in this bill regarding bank reserves?

Mr. ALDRICH. There is no provision in the bill regarding bank reserves, but there is a provision for the appointment of a commission to consider what changes shall be made in our banking laws, and I have no doubt that the subject of reserves will be one of the first questions taken up by that commission.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Rhode Island another question, and that is whether there is any provision in this bill upon which an instruction can be based to the conferees to provide that the country banks shall keep a larger percentage of their reserves within their own vaults? Would it, in the present status of the conference, assuming that this report is rejected, be within the power of that conference committee to take up the question of the reserves and report upon it?

Mr. ALDRICH. There is no question of reserves in difference between the two Houses, and the conference committee has no authority to take up questions that are not involved in differences of opinion between the two Houses.

Mr. NEWLANDS. The bill as originally passed, the so-called "Aldrich bill," had a provision regarding the reserves. I should like to ask the Senator from Rhode Island how it is that this bill includes no provision in regard to reserves?

Mr. ALDRICH. The bill which went to the House from the Senate, upon which the conference committee has acted, contained no provision in regard to reserves.

Mr. NEWLANDS. But the former bill, known as the "Aldrich bill," did, as I understand it.

Mr. ALDRICH. The conference committee had no authority to take into consideration a bill which passed Congress, or either House, at a period prior to the passage of this bill.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Rhode Island, who has been chairman of the Finance Committee, I believe, for the last twelve years, at least, whether during that time he has always been of the impression that the bank reserves of our national-bank system were painfully inadequate, and whether or not he has ever presented to that committee any measure looking either to an increase of the reserves or to a proper distribution of them?

Mr. ALDRICH. Mr. President, the Committee on Finance try to take up and consider carefully all the measures presented to them. If the Senator from Nevada, with his wide experience and great knowledge upon this subject, had presented a bill in regard to the subject, I am sure the committee would have given it careful consideration, but I have no recollection of any such bill having been presented.

Mr. NEWLANDS. Mr. President, we have here an evidence of the maladministration of the Republican party, of its utter failure to appreciate the gravity of the situation regarding national banks. We have here the admission of the chairman of that committee, who has been in charge of the Finance Committee of the Senate for the past twelve years, that the reserves are painfully inadequate, and yet during that time no effort has been made to correct this evil.

The Senator has not lacked warning regarding it. A year ago last February, long before the recent panic, when the Senator had a bill up providing, as his bills generally do, for the inflation of the currency of the country, and not for the proper regulation of banking, I offered to that bill an amendment absolutely germane, providing that country banks should be compelled to keep at least—I believe that was the form of the amendment—three-fifths of their reserves within their vaults; but this change was to be gradually brought about within a period of ten years, so as to cause no immediate wrenching of our financial system.

That amendment was opposed by the Senator from Rhode Island and defeated; and yet within a year a new light has fallen upon the Senator from Rhode Island, and he now sees that our reserves are "painfully inadequate;" he now sees

that the distribution of these reserves is prejudicial to the banking interests of the country, and that the concentration of these reserves in a few great cities, in less than 400 banks out of nearly 6,000 banks, tends to the promotion of speculation and to the derangement of the business of the country. And yet, though the Senator was warned of it two years ago and found his realization of the warning in the panic of last fall, he presents to this body, when the emergency is over and the time for rational legislation has come, a measure simply to inflate the currency, to exaggerate still further the bank loans of the country and he does it whilst in the very speech in which he presents the necessity of legislation he admits that this condition is painfully apparent.

At the time he presented the bill he urged the condition of emergency. He said that there was a panic upon us—for the panic at that time was not spent—and he urged his bill then as a measure of immediate relief. The force of the panic has been spent, the business conditions of the country are reviving, and we are now marching on to better conditions of business and of commerce. The Senator has had three months in which he could call together the experts of the country, the bankers of the country, and the commercial men of the country—the economists of the country—and obtain their judgment upon this subject; but to-day, instead of presenting us an adequate measure of relief intended to cure existing abnormalities, which the Senator himself admits, he presents this measure, which is intended simply to increase in the future the inflation of bank loans, adding over \$500,000,000 to the vast superstructure of credit now built up upon the narrow and tottering basis which has existed for so long a time.

Mr. President, the Senator says that the proposed commission will be charged with the duty of framing a bill; and yet I observe that the commission is to be composed, so far as the Senate is concerned, of members of the Finance Committee, the very committee which has been so derelict in duty under the leadership of the Senator from Rhode Island. I think the country will have small confidence in the results of the work of a commission so organized, when we have had absolute non-action, apathy, and inertia in this committee under the leadership of the Senator from Rhode Island for the past twelve years.

Now, what is the condition of the exaggerated bank loans? The Senator in his speech presented it most powerfully. Since 1900, in a period of eight years, according to his statement, the bank loans have increased from \$5,000,000,000, if I recollect his statement aright, to \$10,000,000,000; and I refer only to the bank loans of commercial banks. From \$5,000,000,000 to \$10,000,000,000 in eight years. How has that been accomplished? By inadequacy of reserves in the State banks and by an improper distribution of the reserves of the national banks.

The Senator believes in the powers of the nation. He believes in the great interstate-commerce power of the Constitution when applied to grants.

The Senator and his party have never failed to exercise that power when a subsidy has been asked for. They never fail to exercise that power when a great and powerful corporation wanted anything from the Government. We have made land grants; we have made subsidies; we have guaranteed railroad bonds under that power, but when it comes to the question of restricting these great corporations to whom the Senator and his party would be so liberal, then he doubts our power under the interstate-commerce clause.

The Senator and his party then take themselves to that "twilight zone" to which Mr. Bryan so aptly alluded—the zone of twilight between the national powers and the State powers in which these great corporations avoid the exercise of both national and State sovereignty.

So when I suggest in this body, belonging, as I do, to the Democratic party, a party that believes simply in the constitution of delegated powers and the powers implied in the delegated powers, that banking is a matter of interstate commerce just as much as is railroading, that the transaction by which goods are transported from a point in one State to a point in another State does not vary at all from the reciprocal transaction by which money is transferred from the consignee to the consignor through the banks, and that State banks, as well as State railroads, under the interstate-commerce power are subject to the regulation of the entire Union of States, he doubts the power.

I could well understand how such an objection might come from this side of the house, with its views regarding the strict construction of the Constitution, but I can not understand how the objection can come from the other side of the house. It has never failed to exert these powers to the largest degree when subsidy or grant were concerned. Why should it hesitate to exercise them when restriction and regulation of these gigantic State corporations engaged in interstate commerce are involved?

Now, a few words only would bring the reserves of the State banks under the same control as the reserves of the national banks and require the holding of the proper proportion of those reserves within the bank vaults. The nation has the same power to apply safety appliances to State banks engaged in interstate commerce as to a State railroad engaged in interstate commerce. And we all know that the business of the banks of the country may be prostrated at any time if the safety appliance of a proper reserve of cash to meet obligations to depositors is not maintained.

In a few words we could provide that all banks engaged in interstate commerce should keep the same percentage of reserves within their vaults as is required of national banks. It is true you would have to make the change gradually, running over a period of years, for it would be, of course, an unwise thing to bring all the banks up with a sudden jerk to the requirements of a rational law upon this subject. It might result in the sudden contraction of bank loans, which would involve liquidation. But certainly a gradual reform, running over a period of ten years, would accomplish a beneficial change. We would then have a rational system of banking in this country, both national and State banks maintaining the same reserves and the same security to their depositors, whereas under the system proposed by the Senator from Rhode Island, or, rather—for no system is proposed by him—under a national system, however perfected it may be, the only thing we accomplish is the perfection of the administration of the national banks of the country that have only 40 per cent of the deposits of the country and less than this proportion of the banking capital of the country.

It lies in the power of the State banks, if they are permitted to go on and conduct business in this irrational way without proper reserves, to paralyze the national banking system itself, for if their system is not protected, if they do not keep the proper amount of cash on hand to meet the ordinary demands of their depositors, a panic is sure to come, and the panic will involve national banks as well, for panics are always unreasonable, and, of course, if the depositors all call upon the banks for their money at one time liquidation and bankruptcy will ensue.

I protest against this system of legislating for only one-third of the banking system of the country. I protest against this system which perfects only the national banks of the country and absolutely ignores the great power of the union of the States to require security and safety from the State banks themselves in the interest of the general business of the country and of commerce, interstate and foreign.

We can not allow two-thirds of the banking machinery of this country to break down. We can not confine our efforts simply to perfecting the national-bank system, when it involves only one-third of the banks, about one-third of the capital, and about 40 per cent of the deposits of the country.

To what extremes has loose legislation in the various States gone upon this banking question! We all know that in the State of New York the trust company has become an institution of great importance during modern times. The name is a seductive one. It invites confidence, and yet a great number of these trust companies really conduct a confidence game instead of administering their affairs in the interest of their stockholders and their depositors; and State legislation has been loose regarding them.

I read the other day the communication of the president of a trust company in New York to the legislature of that State, which at that time was seeking simply to compel them to keep a reserve of 10 per cent on hand, any part of which could be in national-bank notes, a thing unknown to our system, for national-bank notes are not legal-tender money. They constitute no proper portion of a bank reserve. He protested against the requirement of a reserve. He said that statistics showed that the trust companies were as safe and successful as the national banks themselves, and alluded to the great business they had done and that thus far none of them, he believed, had failed. And yet his very statement showed that the trust companies to which he referred had in actual legal-tender money an insignificant reserve, not exceeding, if my recollection is right, 2 or 3 per cent.

The banking business of the national banks became so endangered by this system of loose State banking, permitting banks upon inadequate capital and reserves to make enormous profits, that we found a disposition on the part of the managers to go out of the national bank corporation and into the State organizations, and the only thing that prevented many of them from going out was the legislation presented by the Senator from Rhode Island, which increased the amount of bank currency that they could issue upon national bonds from 90 to 100 per

cent, and which released them from other restrictions that previously existed. Even then we find that many of these national banks, in order to make money, were obliged to couple themselves with trust companies.

It is a familiar thing for a national bank in any one of the great cities to have a trust company at its back door, with the stock held by the national bank or its stockholders, and the loose banking with large profits is done through the trust company.

There is no provision regarding the relation of capital to loans. There are no adequate provisions regarding the relation of reserves to deposits.

So we find in New York one trust company, the Knickerbocker Trust Company, with a capital of only \$1,000,000, having \$50,000,000 of deposits and a reserve which I can not state with accuracy, but which was ridiculously small. Think of permitting a bank with a capital of only \$1,000,000 to accept deposits to the extent of \$50,000,000 and then loan out every dollar of those deposits!

Safe banking, according to the admission of the Senator from Rhode Island, requires that there should be a fixed relation between the capital of the bank and the loans made by the bank and that no bank should be permitted to loan more than five times its own capital out of its depositors' money, but should keep the rest of the depositors' money within its own vaults responsive to their demands. I ask the Senator from Oklahoma [Mr. OWEN] whether that is not regarded as a safe rule in banking, the Senator himself being a banker? And yet we have in the Knickerbocker Trust Company a relation of capital to bank loans not of 1 to 5, but of 1 to 50.

We are told that the entire commerce of the country, interstate and foreign, can be absolutely prostrated because the Union lacks the power to regulate the corporations created by an individual State. I deny it. This Union was formed for some purpose. It is our Union. It is a Union of the States. It is not a centralized government far off from us. It is a Government of which we are a part, and one of the things for which the Union was organized was the promotion and regulation of interstate and foreign commerce—full regulation of it—and the power of the Union of States is as complete over interstate commerce as is the power of the individual State over the commerce within its boundaries.

These banks all engage in interstate commerce. The bulk of their transactions are interstate. Banking knows no State lines. The banking center of one State may be in another State. The Federal power, as the Senator from Oklahoma suggests, did tax the circulation of the State banks. That was an exhibition of great power, and yet men hesitate now in the exercise of this great power over interstate commerce to take hold of the banking system of the country under a full and comprehensive plan and so shape it, not radically, not by violently wrenching it, but by a gradual course of reform under the direction of the Comptroller of the Currency, extending over a period of ten years or more, the progress being so made year by year as to make our entire banking system, national and State, secure, in the interest of both interstate and of State commerce.

But if anyone has any doubt about the power of the nation to act in this matter, we can surely act in a persuasive manner. We are organizing under this bill clearing-house associations for the purpose of aggregating the national banks together, upon the theory that in union there is strength, so that the association, the central body, can have the combined strength of all those who constitute its membership and can in time of need help any weak or discipline any recalcitrant member. Now, why should we not give the State banks the opportunity of entering these clearing-house associations? They are members of clearing-house associations now, either voluntary associations or associations organized under State law. Why should we not permit them through these clearing-house associations to receive their proportion of the emergency money based upon securities just as good as those of the national banks?

Why should we not, under regulations imposed by the Secretary of the Treasury and the Comptroller of the Currency and with proper guards, admit them to membership in these clearing-house associations? And if we do it, can we not make it upon conditions? And what should the conditions be? The conditions should be that they maintain the same reserve and that they maintain the same proportion of capital to loans as is required of the national banks, and so by this persuasive method—for thousands of banks would come into these clearing-house associations in order to avail themselves of the benefit of this emergency money—we would, without any question of constitutional law, bring the entire banking system of this country into harmony, so far as protection of depositors is concerned.

I do not stand simply for the protection of the depositors of these banks. I stand also for the protection of the people who make loans from the banks. When you quickly draw out the money from a bank and pay it to the depositors what does it mean? It means the prostration of some man who has borrowed money from the bank, and these men are the men of energy and enterprise, who have built up the entire country. We want to protect them as well, and the best way to protect them is to prevent constantly recurring panics, to make our banking system so safe that a depositor will never think of going to the bank and demanding his money except for the current demands of his business or of his household. If we do that we will protect the borrowers of the country, the men of energy, and the men of enterprise who have made this country what it is.

Mr. President, I am aware that we are going to have some difficulty in getting a sufficiency of basic money to support this great structure of credit which we have built up. We have exaggerated our system of bank loans and we have exaggerated our system of credit money. We have \$3,000,000,000 of so-called "money" in this country, only one billion and a half of which is gold. We have to-day \$660,000,000 of uncovered paper money, consisting of bank notes and of greenbacks, deducting, of course, the gold which is in the Treasury as a redemption fund for the greenbacks and deducting the 5 per cent redemption fund that stands back of the national-bank notes.

We have \$660,000,000 of uncovered paper money. There is no country in the world—at least, no civilized country—that has so large a proportion, and we propose under this system to add to it over \$500,000,000 of uncovered paper money, for, recollect, there is a difference between secured money and covered money. Covered money is the money that is covered dollar for dollar by legal-tender specie, and secured money is money that may be secured by national bonds or by county bonds or by the assets of banks. We have to-day \$660,000,000 of uncovered paper money. It calls for gold, every dollar of it. We have to-day \$660,000,000 of silver which has been turned by legislation into a call for gold, so that the silver to-day is simply a material upon which a promise to pay gold is stamped, and really it is as much uncovered money to-day as is the paper money to which I have alluded.

How do the other countries of the world stand regarding uncovered paper money? We find that the United States has \$660,000,000, to which we propose to add possibly \$500,000,000 more. We find that the United Kingdom, consisting of Australia, Canada, the British Islands, and India, with a total population of three or four hundred million people, has only about \$200,000,000 of uncovered paper money, whilst we have \$660,000,000, with the prospect of \$500,000,000 more.

Then comes France, frequently alluded to, which has only \$269,000,000 of uncovered paper money. It had more, it is true, immediately after the Franco-Prussian war, for it had to pay off its debt to Germany in gold and had to substitute paper money in its place, and it did so by the issue of the notes of the Bank of France.

But unlike our Government, it immediately sought to cover that extraordinary issue of paper gradually through a series of years by taking in gold and silver, and to-day as a result of their prudent management they have outstanding only \$269,000,000 of uncovered paper money, whilst we have kept out our uncovered greenbacks, we have kept out our uncovered national-bank notes, and we propose now to issue \$500,000,000 more of uncovered paper money.

There may come a time when the demand will come, not from depositors, but from the holders of this uncovered paper money; there may come a time when war is impending, when they will say, "We demand the redemption in gold," and then the credit of the Government itself will be imperiled, and that of course will involve the imperiling of the interests of all.

Now, I was alluding to France, which has \$269,000,000. Italy stands with \$150,000,000. Now I come to the South American countries, whose example I am sure none of us would wish to emulate, and we find out of a total of \$4,000,000,000 of uncovered paper money, more or less, in the world, of which we have one-sixth and will have one-fourth under this system, South America has over a billion and a half, or one-third of the entire amount. Colombia has \$1,000,000,000 of uncovered paper money. Brazil has \$363,000,000 of uncovered paper money. Argentina has \$293,000,000 of uncovered paper money. Shall we emulate the example of Argentina and of Brazil and of Colombia in our financial system?

And yet Senators make constant allusion upon this floor to the fact that the banks of Europe, the great civilized nations in the world, have a certain elasticity of issue of uncovered paper money. I have shown you how much they have out.

The whole British Empire has not over \$200,000,000; France only \$269,000,000, and Germany with a very inconsiderable amount. You will find that the Bank of England and the Bank of Germany have enormous reserves of gold, and these extensions of currency which they are permitted to make still leave a large reserve of gold in their treasury for the immediate redemption of this paper money when it is presented; and we propose to issue this vast amount of emergency currency in addition to the \$660,000,000 of uncovered paper to-day without providing a sufficient redemption fund.

Mr. President, it has been a favorite expression of almost every financial man who has spoken upon the subject during the past year that we have the worst financial system in the world. I ask if we have it who is responsible for it? What party announced itself to be the party of sound money in 1896? What party challenged the Democracy upon that question? The Republican party. It has been in full power. The Senator from Rhode Island has been in charge of this committee for twelve years, and yet during that time not a single remedial measure has been brought into this body for the correction of these evils that exist.

On the contrary, the legislation that has been brought in has simply tended to give more uncovered money, to increase the issue, to enlarge the inflation; and the effect of it has been—I will not say the purpose of it was—the organization of these great corporations, the inflated issues of stocks and bonds, the use of the hard earnings of the yeomanry of the country in every section for the promotion of the sale of those stocks and bonds upon the market. We have had every year a system of inflation in New York, followed by a period of contraction, where the public was milked every year by these promoters and speculators, and yet no effort has been made to cure this speculative condition.

On the contrary, every act of legislation has tended to increase the inflation and to increase the opportunity of these men to spoliage the country.

I have no word of reproach against the bankers as a class. I have but the highest respect for the banking organizations of the country. But a system of piratical banking has been engaged in in the great centers of the country for which they are not responsible, but this body is responsible. The Republican party is responsible, for it has given them the opportunity for this kind of promotion. Think of it! Out of \$700,000,000 in reserves in all the national banks of the country, about \$500,000,000 is accumulated in three reserve cities, and most of it in the city of New York.

Mr. President, I would not wrench this system violently. I do not believe in radical reform. I believe in progressive reform. I believe we should bring about these things gradually, running over a period of five, ten, or twenty years, but we should steadily make progress toward a more perfect system of banking, one that will involve the correction of the evils, both of our national-bank system and of our State-bank system, so far as the constitutional power of the nation can be exercised.

So far as concerns the organizations of these clearing-house associations, perhaps I might differ with the action of the committee in some details, yet I think the movement is in the right direction. It accords with the theory of home government, of local self-government.

It gives the banks in a particular State or in a particular banking district, regardless of State lines, the opportunity to get together for mutual support and mutual aid, and that means of course the prevention and relief of panics. It means rules regarding the relation of loans to capital and reserves and deposits, for we will find if we only leave these matters to the regulation of the unions of banks, they will necessarily bring into their councils the best men of the banking fraternity, and their whole power and influence will be exercised in the line of good banking.

Thus far we have run too strongly toward decentralization. I would not run too far toward centralization. The organization of these clearing-house associations is, to my mind, a commendable plan. I would amplify it, however, by admitting the State banks to these organizations, and with the approval of the Secretary of the Treasury and the Comptroller of the Currency, and under certain rules and regulations as to the reserves which they shall keep and the proportion of loans to capital which they will maintain.

We might go a step further in the direction of solidifying the banking interests of the country in the line of the public safety. We might provide that the presidents of the various clearing-house associations shall meet annually in the city of Washington—there would probably be less than 100 of them—and that they should confer here upon matters of mutual con-

cern. We might give them the power to select nine commissioners to constitute, with the Secretary of the Treasury as chairman and the Comptroller of the Currency as secretary, a banking commission, one from each judicial circuit in the country, who would sit permanently at Washington and act in a purely advisory way to the Secretary of the Treasury, the President of the United States, and to Congress itself.

Can there be any doubt but that the clearing-house associations would send here their best men, the best trained men, the safest men, the truest men, the men of highest character and integrity? They would be brought here in contact with Congress, in contact with the Secretary of the Treasury, with the Comptroller of the Currency, with the President of the United States, and they could be called upon at any time for information and for advice.

I would not at first give them any positive powers. I would simply have them here in an advisory way.

I am aware that this is open to the objection of government by commission. When anyone now suggests the appointment of a commission, the first outcry is "government by commission." We Americans have a way of thinking by the brand. You have only to put on a brand by some name intended to be opprobrious and many people, without thinking of the essential principles involved, condemn it because of the brand.

Whenever the word "centralization," I observe, is used upon that side of the House it is used for that purpose. It is used to summon to your aid the active opposition of members on this side of the House to measures which your side opposes. And the response is often made, when you brand a thing as a usurpation of power or brand it as centralization, it prevents many men from thinking upon the essential principles.

So recently it has been the custom to brand these commissions and to allude to their action as "government by commission." Mr. President, there is no objection to a commission properly constituted for investigation and report. There is no reason why Congress itself should restrict the membership of every commission it creates to Members of Congress.

There is no reason why commissions should not be appointed in an advisory way to collect information, to make reports, to communicate to Congress, to communicate to the President, to communicate with the Secretary of the Treasury. I submit it is much better to have this method of communication than the present condition of things, where the Secretary of the Treasury is compelled to go to New York as the only source of information when an emergency arises.

Mr. President, I was alluding to the possible formation of a banking commission which would be representative of these clearing-house associations, which would have its permanent sessions in Washington, and we could have at hand the benefits of its information at any time.

Mr. TELLER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Colorado?

Mr. NEWLANDS. Certainly.

Mr. TELLER. I should like to make a suggestion to the Senator as to the body that might take charge of this question. I do not know how it would strike him, but I would suggest that we might refer it to this new house of governors that we are having.

Mr. NEWLANDS. Well, Mr. President, I am inclined to think that the new house of governors was a very appropriate conference for the purpose of ascertaining what the views of the entire country were regarding the conservation of our natural resources, a question of very much greater importance than the banking question which we now have before us.

I know of no body of men so well equipped to present the views of their constituents as the executives of the various States of the Union. I think it was a very happy thought which suggested the gathering of this board of governors at Washington to consider this great question of the waste of the energies of the Republic that is going on, and to take measures for the cure of existing conditions; and I look for such a shaping of public opinion upon that subject as will result in immediate legislation.

I wish to say to the Senator from Colorado that I have as high an idea as he has of the capacity and the ability and the functions of the body to which I belong, but I recognize one fact, and that is that it is not a creator of public opinion, but that it follows public opinion; and I welcome all conferences wherever held as formulating public opinion in regard to legislation that is imperiously demanded by the country.

Mr. TELLER. I should like to suggest to the Senator that I did not underrate the governors, but as they had disposed of the great questions that they came here for, I thought we might have something else for them to do in the future.

Mr. NEWLANDS. In view of the great apathy and inertia and inactivity of the Committee on Finance under the administration of the Senator from Rhode Island during the last twelve years, I think I am entirely safe in saying that it would be very much better to intrust this question of the reformation of our banking system to the "house of governors" than to the Finance Committee of the Senate.

I stated that the Senator from Rhode Island had referred to the painful inadequacy of our reserves in a recent speech, and I stated that he had warning upon this subject. If I may be permitted, without apparent egotism, to do so, I will refer to a speech which I made over a year ago, before the recent panic, and which possibly the Senator from Rhode Island heard, for he was in the Chamber. I observe the Senator from Rhode Island is retiring from the Senate Chamber. I should like him to hear this, but inasmuch as he is turning a deaf ear to it, I will read it to the rest of the Senate. It is from a speech delivered by me February 26, 1907.

Now, Mr. President, I wish to say one word regarding the reserves of these banks. We have a system which crowds all the reserves of all the national banks of the country in New York City. That seems to me to be a vicious system, because it collects from every part of the country moneys to be used simply in speculation. When the moneys are needed in the West and in the South a contraction of the volume of money is caused in New York, and we have the stock panics which may at any time be so large in their proportion as to involve bank panics in New York and resulting bank panics throughout the United States.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Texas?

Mr. NEWLANDS. Certainly.

Mr. CULBERSON. Noticing that the Senator from Rhode Island has returned to the Chamber, I suggest to the Senator from Nevada to reread the portion he read in his absence, as the Senator from Nevada desired the attention of the Senator from Rhode Island to it.

Mr. NEWLANDS. I will read it again.

Now, Mr. President, I wish to say one word regarding the reserves of these banks. We have a system which crowds all the reserves of all the national banks of the country in New York City. That seems to me to be a vicious system, because it collects from every part of the country moneys to be used simply in speculation. When the moneys are needed in the West and in the South a contraction of the volume of money is caused in New York, and we have the stock panics which may at any time be so large in their proportion as to involve bank panics in New York and resulting bank panics throughout the United States.

Now, let us see how much of these reserves can be placed in New York. There are sixteen reserve cities provided for by the national banking act. National banks in these cities are required to keep 25 per cent of their deposits in cash, but they are allowed to deposit one-half of such cash in banks in New York City and no other city.

I should add two other cities, St. Louis and Chicago.

New York is the central reserve city in the United States. The result is that all of these national banks in the sixteen reserve cities may really have only cash reserves of 12½ per cent, provided they deposit the remaining 12½ per cent in the national banks of New York City.

Then, how is it with the other cities that are not reserve cities, the country banks, the banks of the smaller cities? They are compelled by law to keep a reserve of 15 per cent. They must have reserves equal to 15 per cent of their deposits. But they are permitted to deposit three-fifths of their supposed cash reserve in the reserve cities. The result is that under the law the national banks of the smaller cities are compelled to keep on hand only 6 per cent of their deposits, and the remaining three-fifths of the 15 per cent may be deposited in the reserve cities, and then the national banks in the reserve cities can deposit one-half of these moneys in the New York City banks under the system to which I have referred.

So the tendency is to deposit in New York one-half of all the reserves of all the national banks in the United States—

I have just shown that in New York City, just prior to the time of the recent panic, about one-half of the entire reserves of all the national banks of the country were in New York City.

So the tendency is to deposit in New York one-half of all the reserves of all the national banks of the United States. It seems to me that is an unfair advantage to give to New York. It has the effect of building up New York at the expense of her great commercial rivals. It is not fair to Boston; it is not fair to Philadelphia; it is not fair to Baltimore, or to Richmond, or to Atlanta, or to New Orleans, or to San Francisco.

When you add to these enormous reserves deposited in the New York banks the command of the life-insurance moneys of the country, you can see how the entire financial system of the country is made to play into the hands of New York and to promote this speculation, which has been breeding panics year after year.

It is this system of crowding the cash reserves of the national banks of the entire country into New York that has led to this overcapitalization of railroad securities, of trust securities, of watered stocks and bonds, that have been placed upon the entire public and upon which the public are compelled to pay interest and dividends.

Mr. President, it would, of course, revolutionize the banking system of the country if we should attempt to make too radical a change at once in this particular, but I think it is only reasonable to provide in this very bill that hereafter the actual cash to be maintained by these country banks and by these reserve city banks, outside of the central

city of New York, shall be increased at the rate of 1 per cent per annum—

That was my suggestion—

until we shall have finally a system that will compel the country banks to hold four-fifths of their required reserve of 15 per cent in actual cash in their vaults to meet the demands of their depositors; and that will compel the reserve city banks to keep 25 per cent of actual cash in their vaults to meet the demands of their depositors. If we do this we shall have a safe and sound banking system, and not a banking system that simply aids the promotion of speculation in the country, with its accompanying stock and bank panics.

There the Senator had, if he did me the honor to listen to that speech, an exact picture of what subsequently occurred and what every man who has been accustomed to think would accept as likely to occur at any time under the existing conditions. I moved an amendment to that bill providing for a gradual increase of the cash reserves to be kept in bank vaults, and the Senator from Rhode Island objected to it and it was defeated.

Now, I have small hopes of this commission, organized as it is, with the experience we have had of the Finance Committee thus far upon this subject. I have little hope of a rational bill being presented to us at the next session. There is certainly nothing in the past experience, nothing certainly in the past action, that would warrant us to have great confidence in the result of the work of this commission. I believe it would be a wise thing to add to this commission an equal number of men to be selected by the President of the United States. I am sure that he would select men who were eminent in finance or eminent in economics. I should like to see upon that commission some men who are preeminent in sound economics. If we can only have sound economics in this country we will have sound morals.

Now, we have such men. We have such men in Mr. Jenks, professor at Cornell University. We have such a man in Mr. Conant. These men and men like them have been called to the aid of the Government on financial matters, not only relating to our domestic affairs, but relating to our financial relations with Germany, Mexico, China, and the Philippines. Such men, it seems to me, would aid very much in the deliberations of this commission.

I do not believe in that exalted egotism which assumes in the selection of a commission of this kind that there is no wisdom outside of this body. If we want to have a pair of shoes made, we go to a shoemaker. If we want plumbing done, we go to a plumber. If we want carpenter work done, we go to a carpenter.

But there are some things with reference to which Congress often seems to regard expert aid as almost unnecessary. One of them is art, another is architecture, and another is our system of finance. The habit of mind is growing up in Congress of absolutely excluding the outside world from its deliberations upon these important commissions and from bringing into their membership men of experience and capacity and thought in certain lines of specialty. I do not underrate the capacity or the ability of the Congress of the United States, but I do believe this is an age of specialism. I do believe that in every line of thought and action there are experts, and I should call such men into a commission of this kind as equals in deliberation, and not simply as witnesses to present their views.

Mr. President, I hope that this commission will consider not only the question of domestic finance, but also of international finance. The disruption which took place years ago between the gold-standard countries and the silver-standard countries still exists. That disruption is producing serious results upon trade and commerce, results, perhaps, which we are unconscious of, but which Germany is not unconscious of, which England is not unconscious of, and which France is not unconscious of. Those countries that are upon the cheap silver basis are paying practically the old wages at the market price of silver in the world. Their competitive power is great, and as one reason for the fact that our exports do not increase as they ought to increase—our exports outside of the natural products of manufactured exports—you will find the basis of it in this system of international exchange. That requires study.

I should like to see such men as Jenks and Conant, who have now had a world-wide experience in these matters, upon this commission. You need not fear them. No man can question their devotion to the gold standard, but their studies of the entire world have brought them to the realization of the fact that over three-fourths of the population of the world is not upon the gold standard, and that countries that are desirous of engaging in international exchange of products must consider the question of a suitable international exchange as well as of a suitable domestic exchange.

We have been regardless of this in the past. We have been a country of such extraordinary natural resources that we

have been enabled to commit any quantity of economic blunders without injury to ourselves. We have gone on under this system with a high tariff, raising the value of our domestic products by the exclusion of foreign products in competition with them, and we have also, through this system, created within the tariff wall great monopolies that have driven out the competition of the smaller corporations, and have thus been able to raise the prices of their products within the area of monopoly.

In addition to these conditions, which have had a direct effect upon prices and which have raised the cost and the value of everything in this country, including products and labor and real estate and buildings, we have had this system of inflation of bank loans, which has given to every dollar of actual cash in the banks a potential capacity of \$10 through the system of bank loans, and we all know that an inflation of credit has the same result as an increase in the volume of money in the effect upon prices. The result is that the prices of labor and the prices of products in this country, created by this system of tariff monopoly and created by this system of inflation of bank loans, are higher than they are anywhere else in the world, and yet we expect to enter into the commerce of the world and to compete with countries who are using a cheaper money than we are, who are manufacturing upon a cheaper basis, with cheaper wages, and the cost of whose ships and the cost of administration of whose ships is vastly less than our own.

And now, under this system of monopoly and subsidy, it is proposed to take the ocean within the area of our subsidizing effort, and to subsidize steamships all over the ocean with a view to promoting our commerce with other nations.

Mr. President, what we want in this country is a stable standard of value, not a standard that is varying with the seasons, one standard in the spring and another standard in the fall. We do not want a standard that changes with every inflation of banking loans, and changes with every diminution of bank loans. What we want are stable values, stable wages, stable prices. A rapid increase in prices is almost as bad as a rapid diminution in prices, for the prices of things always run ahead of the prices of labor; and then we have the struggle of labor to keep up with the prices of products, and that results in all sorts of contentions that involve the very peace of the Republic.

It is time that we were devoting ourselves to sound economics—sound economics regarding our tariff, sound economics regarding our monopolies of production, sound economics regarding our money and banking system, and sound economics regarding our system of international exchange.

Mr. President, I shall vote against this conference report. I trust the Senator from Rhode Island will, upon reflection, yield to the suggestion of so returning this question to the conference committee as to bring out a bill that will meet the demands of the country for reform in the particulars to which I have alluded and reform in the particulars to which he himself has alluded with rare force and vigor.

HOOR OF MEETING TO-MORROW.

Mr. ALDRICH. I move that when the Senate adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 11778) to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

The message also announced that the House had passed a bill (H. R. 15452) to establish two or more fish-cultural stations on Puget Sound, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 3405) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 1385. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Cheyenne River and Standing Rock Indian reservations, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect;

S. 2295. An act to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906; and

S. 6190. An act authorizing a resurvey of certain townships in the State of Wyoming.

HOUSE BILL REFERRED.

H. R. 15452. An act to establish two or more fish-cultural stations on Puget Sound, was read twice by its title and referred to the Committee on Fisheries.

ORDER OF BUSINESS.

Mr. ALDRICH. Mr. President, there are several matters that were pending this morning which could be passed, I think, by unanimous consent; and with a view to accommodating Senators I will ask that the pending conference report be now laid aside temporarily.

The VICE-PRESIDENT. The Senator from Rhode Island asks unanimous consent that the pending conference report be temporarily laid aside. Without objection, it is so ordered.

Mr. ALDRICH subsequently said: Mr. President, in asking to lay aside the conference report I did it with the view of having the report taken up directly after the routine business to-morrow morning and pressing its consideration in the hope that a vote will be reached early in the day to-morrow. If this can be done, I can see no reason why there should not be a final adjournment of the session to-morrow.

Mr. HALE. Mr. President—

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Rhode Island yield to the Senator from Maine?

Mr. ALDRICH. Certainly.

Mr. HALE. Let us have an understanding, Mr. President, for the next hour that nothing shall be considered except by unanimous consent. In that way a good many matters which ought to pass, House bills that are on the Calendar and other bills, will be passed. If we get, as probably we shall, a vote on the currency measure to-morrow, there will be a speedy adjournment following that. Therefore I ask unanimous consent that the next hour, or the time until 5 o'clock, may be devoted to measures to be considered by unanimous consent.

Mr. CULBERSON. I will ask the Senator from Maine, why not make it for the remainder of the day? What are we going to do between 5 o'clock and the time of adjournment?

Mr. HALE. At 5 o'clock everybody will want to leave.

Mr. CULBERSON. Why not make it for the remainder of the day?

Mr. HALE. I am entirely willing.

Mr. CULBERSON. I make that suggestion to facilitate matters.

Mr. HALE. I am entirely willing to make it for the rest of the day.

Mr. NEWLANDS. I will ask the Senator from Maine whether he will yield to me for a moment to make a motion for the immediate consideration of the bill (H. R. 21899) providing for the appointment of an Inland Waterways Commission, with the view to the improvement and development of the inland waterways of the United States?

Mr. HALE. I am asked by half a dozen Senators to yield for special measures. This is a matter entirely in the hands of the Senate.

Mr. BEVERIDGE. The Senator from Nevada [Mr. NEWLANDS] made a request for unanimous consent.

Mr. HALE. No; he said "to make a motion."

Mr. BEVERIDGE. He wants to make a request for unanimous consent.

Mr. NEWLANDS. I want to make a motion for the consideration of this important bill.

The VICE-PRESIDENT. The Senator from Maine asks unanimous consent that the residue of the day be given to the consideration of unobjected measures. Is there objection? The Chair hears none, and it is so ordered.

Mr. DEPEW. I desire to call up Calendar No. 674, being the bill to compensate injured employees of the Government. The bill passed the House unanimously, was unanimously reported from the Judiciary Committee of the Senate, and has received very full consideration. I ask that it may now be considered in order that we may pass it.

The VICE-PRESIDENT. The Senator from New York asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (H. R. 21844) granting to certain employees of the United States the right to receive from it com-

pensation for injuries sustained in the course of their employment.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New York?

Mr. FORAKER. Will the Senator from New York yield to me?

The VICE-PRESIDENT. The Chair will put the request for unanimous consent. Is there objection?

Mr. BACON. What is the request, Mr. President?

The VICE-PRESIDENT. That the Senate proceed to the consideration of the bill to compensate employees of the Government for injuries sustained in the course of their employment.

Mr. BACON. I do not rise for the purpose of making an objection.

The VICE-PRESIDENT. Without objection—

Mr. BRANDEGEE. I do not wish to object to the request of the Senator from New York; I am in favor of his bill; but I desire to ask the parliamentary status. I ask whether the unanimous-consent agreement asked for by the Senator from Maine, that we proceed to the consideration of unobjected measures, has been allowed?

Mr. HALE. That has been agreed to.

Mr. BRANDEGEE. Has the request of the Senator from New York for unanimous consent been agreed to?

The VICE-PRESIDENT. That is the pending request. Is there objection?

Mr. HALE. Under the agreement, Mr. President, there can be no debate or amendment of a bill. It is simply a question whether the Senate agrees to it.

Mr. BACON. No, Mr. President; I do not understand that to be the case. I understood that the suggestion was that no bill should be taken up except by unanimous consent.

Mr. HALE. That is all.

Mr. BACON. But then to take it up and say it shall not be debated or amended is a different matter. That was not included in the request made by the Senator.

Mr. HALE. Mr. President, under that this one bill could take the rest of the day.

Mr. BACON. That is true.

Mr. HALE. Certainly I did not have anything of that kind in mind. My object was to clear the Calendar of a great many bills; and under the circumstances I will object.

The VICE-PRESIDENT. Objection is made.

Mr. HALE. And I will object to any bill that gives rise to debate.

Mr. BEVERIDGE. I desire to make a parliamentary inquiry, and that is—

Mr. DEPEW. I do not think this bill will give rise to debate. It may give rise to amendment.

Mr. BEVERIDGE. I want to find out for my own information if, under this unanimous-consent agreement, we proceed to the consideration of a bill, as the Senator from Maine has said—and I understood the Chair to agree to that—it might take up the rest of the day; and I wish to ask this further question, if, under the present unanimous-consent agreement, we take up a bill for consideration, then during the rest of the day can that bill be laid aside for anything else except by unanimous consent?

The VICE-PRESIDENT. The unanimous-consent agreement is that the afternoon shall be given to the consideration of unobjected measures. If a measure is taken up and its consideration proceeded with and then an objection is interposed, that terminates its consideration.

Mr. BEVERIDGE. I understand.

The VICE-PRESIDENT. And the business following would be governed by the same rule.

Mr. BEVERIDGE. I thank the Chair.

LOCOMOTIVE ASH PANS.

Mr. FORAKER. I ask unanimous consent that House bill 19795, reported favorably with two or three minor amendments, may be now considered.

The VICE-PRESIDENT. The Senator from Ohio asks unanimous consent for the present consideration of a bill the title of which will be stated.

The SECRETARY. A bill (H. R. 19795) concerning locomotive ash pans.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BRANDEGEE. I desire to ask the Senator from Ohio if he expects to have this bill passed without allowing an opportunity for any amendment whatever to be proposed to it here?

Mr. FORAKER. No. There are some committee amendments in the bill.

Mr. BRANDEGEE. Then, I ask the Senator from Maine if he allows this bill to come up in violation of the unanimous-consent agreement he obtained?

Mr. FORAKER. I understand it is not in violation of the agreement.

Mr. HALE. Mr. President, my object is to have passed twenty or thirty bills that can be passed without debate and without amendment and without taking up the time of the Senate. Anything which involves amendment or discussion under the agreement I must object to.

Mr. BEVERIDGE. Mr. President, I wish to say that but for that agreement I would ask for the present consideration of Calendar No. 684, which would probably consume a quarter of an hour or a half an hour, but in view of the statement of the Senator from Maine, I will not make that request. The bill relates to the Territories, I will say.

Mr. HALE. I should certainly object to it.

Mr. FORAKER. I was in the corridor and came in as soon as I saw the Senator from Nevada [Mr. NEWLANDS] had concluded his remarks. I was then told not to interfere, as something was being done, but I wanted to move the consideration of this measure. I did not hear what the consent agreement was, but I was here before anything had been done under it and before it was too late to object to it. It does not seem to me that there ought to be a consent agreement which would in that way cut off the presentation of a bill to which there may be any kind of an amendment. I have a bill here that is important in its character, and I want an amendment made to it changing the title. Nobody will object to that. Another amendment simply changes the date when it is to take effect. Nobody will object to that. There is another minor amendment that everybody interested in the bill has agreed to, and there certainly would not be any discussion about it. I should like very much to have the bill passed.

Mr. HOPKINS. Mr. President, I was present when the Senator from Maine [Mr. HALE] made his request, and I should not have sat in my seat and permitted it to have gone through if it had had the limitations now placed upon it by that Senator. When I, as one of the Senators, consented to that agreement I believed that the order was broad enough to include the bill that has just been called up by the Senator from Ohio [Mr. FORAKER]. That bill, in my judgment, is one of the most important that has come before the Senate at this session. It is one as to which early action is most necessary. The House has considered it and passed it by an almost unanimous vote. It has been considered by the Senate committee, and, as I understand, has been unanimously reported by that committee. It is not a bill that would call forth any debate whatever; and it is only necessary to perfect the bill by one or two amendments that will lead to no discussion. If we can not have bills of that character considered, we might as well adjourn, because there is no advance that can be made here by considering bills where there is no opposition to them and that have no public importance.

Mr. FLINT. Mr. President, I will simply say that everything the Senator from Illinois [Mr. HOPKINS] has said in reference to this bill is equally true of the bill that the Senator from New York [Mr. DEPEW] sought to have considered. I did not intend when I consented to the unanimous consent agreement that no bill should be taken up that required any debate or that required simply a few amendments. It is my understanding that both of these measures could be disposed of this afternoon.

Mr. HALE. Mr. President, what I had in view was the large number of bills that are held up because the Senate can not consider and pass them. What I had in view was to prevent the time from being used by one or two measures which may be of great public importance, but which will consume time. I wanted to help the Senate clear off the docket of cases that may not be of great public importance, but are of importance to Senators who are interested in them. Unless that is done this afternoon, Mr. President, it clearly will not be done at any time. I do not object in this case, for here is a measure that only needs to be perfected, I think, relating to the title and to formal matters, because it comes within the spirit of the agreement which was made by the Senate and which I must insist upon.

Mr. FORAKER. I do not think there will be any debate.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. DEPEW. Adopting always the correct language of the Senator from Maine, all that is required of this bill, which has unanimously passed the House and been unanimously reported from the Judiciary Committee, is to perfect it.

Mr. HALE. There are Senators here who believe there are

many things that ought to be done to it, and I know it will give rise to extended debate. Therefore, I object to it.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just called up by the Senator from Ohio?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BACON. I do not know what the bill contains, but I desire to know whether the Senate is proceeding upon the construction put upon the unanimous-consent agreement which is contended for by the Senator from Maine, and that is that the bill must only be considered in its present shape without opportunity for amendment or debate. I make this inquiry before the bill is read, because I do not wish to be considered as opposing any particular bill; but it is certainly unreasonable that we should be called upon to consent to the consideration of a bill with any such limitations or restrictions as that there shall be neither amendment nor debate. I do not know what the bill is; I can not tell whether an amendment may be deemed important.

Mr. HALE. All the Senator from Georgia has to do is to object to the consideration of the bill.

Mr. FORAKER. I hope the Senator from Georgia will not do that. I should like the Senator to allow the bill to be read anyway, for the information of the Senate. It is a short bill.

The VICE-PRESIDENT. The Secretary will read the bill. The Secretary read the bill, which had been reported from the Committee on Interstate Commerce with amendments.

The VICE-PRESIDENT. The amendments of the committee will be stated in their order.

Mr. BACON. I should like to inquire, before passing upon the question of consent, whether there is a report accompanying the bill?

The VICE-PRESIDENT. There is no report accompanying the bill.

Mr. FORAKER. There is only an oral report. The bill was reported this morning from the committee, and the report is favorable upon the bill, with three amendments: One changing the title of the bill, as I said a while ago; one postponing the time for six months when the bill shall take effect, and the other exempting railroads from the operation of this law which use oil and electrical power.

Mr. BACON. I simply want to know whether the bill is practical or not? If it is, I have no objection to it.

Mr. NEWLANDS. I wish to state that a hearing was had before a subcommittee, of which the Senator from Illinois [Mr. CULLOM] was the chairman and the Senator from Ohio [Mr. FORAKER] and myself were the other members.

Mr. FORAKER. I should like to have the amendments stated.

Mr. CLAY. I was not present when the unanimous consent was given. I was attending a committee meeting. Is it contemplated by the unanimous-consent agreement that when a bill is taken up by unanimous consent it can not be amended or debated?

Mr. HALE. What I supposed, under the common usage of the Senate, was that when a Senator asked that a bill be considered the title would be read and the Chair would ask if there was objection to its consideration; and if there was objection, that would end it and we would proceed to another bill.

Mr. BACON. The Senator will perceive, however—

The VICE-PRESIDENT. The Chair has the request of the Senator from Maine as made to the Senate. It was made when the present occupant of the Chair was not in the Chamber. The Chair will read it for the information of the Senate. It is as follows:

Mr. HALE. Let us have an understanding, Mr. President, for the next hour that nothing shall be considered except by unanimous consent. In that way a good many matters which ought to pass, House bills that are on the Calendar and other bills, will be passed. If we get, as probably we shall, a vote on the currency measure to-morrow, there will be a speedy adjournment following that. Therefore I ask unanimous consent that the next hour, or the time until 5 o'clock, may be devoted to measures to be considered by unanimous consent.

Mr. HALE. It was afterwards modified so as to include the whole of the day.

The VICE-PRESIDENT. It was modified subsequently so as to embrace the residue of the day.

Mr. CLAY. That would not deprive a Senator of the right to debate a bill by unanimous consent. It prevents a bill from being taken up.

Mr. FORAKER. The bill now before the Senate is a House bill, and comes specifically within the provision of the unani-

mous-consent agreement. I hope there will be no debate on the bill or amendments.

Mr. HALE. I see plainly the object which I had in view is not going to be attained. It was that we clear off the docket of measures that did not give rise to debate or that would not use up time, but in which Senators are greatly interested. When a bill is called up Senators are appealed to not to object. If Senators do not want to object and want the time to be taken by one or two bills, as it will be, the Senate will have no further opportunity of clearing the docket.

Mr. WARREN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Wyoming?

Mr. HALE. I do.

Mr. WARREN. May I suggest to the Senator from Maine and to the Senate, Can we not proceed, as the Senator from Maine evidently intended, first to dispose of the few, and they are few, House bills on the Calendar, about which there is no question, and which need not be inquired about, and having disposed of them take up the measure which is now before the Senate, and such others as may follow?

Mr. HALE. That is another proposition. All that would have been included. If the time had not been taken up by Senators who want their particular bills passed, we would have already passed half a dozen different measures to which nobody objects.

Although at my suggestion the rule was agreed upon, I do not consider that it is my duty to object to every measure. I see plainly that, as things are going, we shall not clear off the docket. We shall not get at the measures indicated by the Senator from Wyoming, nor at very few others. We could proceed, and if the Chair asks if there is objection, any Senator may say, "Would it give rise to debate or amendment?" And unless that assurance is given, a Senator objects and it is passed over, and we take up the next bill. In that way we dispose of all such cases as the Senator has indicated, and fifteen or twenty or thirty others. But if every Senator wants the opportunity to call up a measure and have it considered which is of public character, and appeals to allow it to be considered, we shall consider only two or three measures this afternoon.

Mr. BACON. Will the Senator permit me to make a suggestion? The trouble about that method of procedure is that there is only an opportunity to have a bill presented and a request made for consideration, when if the Senator had the opportunity to be informed about it, he would not make any objection. It puts one in rather an embarrassing position to have to object on an uncertainty.

Mr. HALE. Mr. President—

Mr. BACON. If the Senator will pardon me a minute, I will illustrate by this particular instance.

Mr. HALE. I intended to exclude all such matters.

Mr. BACON. I will illustrate by this particular case. When the bill was read from the desk the inquiry was in my mind as to the practicability of it. Therefore I asked whether there was a report. In the absence of the explanation which has been made by Senators here I should have objected, but with the explanation made by the Senator from Ohio and the explanation made by the Senator from Nevada that it is practicable, I do not object. Yet if we were limited to the strict rule suggested by the Senator from Maine, this bill would have gone over, showing that we really make progress by the opportunity to have a little explanation. I do not object to the bill since the Senator from Ohio and the Senator from Nevada have made their statement.

Mr. GALLINGER. Mr. President, I have been here some time, and I have never known a unanimous-consent agreement given to pass bills without consideration. It has been a very common rule near the close of a session to ask unanimous consent to consider House bills on the Calendar, but it has always been considered that any Senator had the right to ask questions concerning them or to move an amendment. I think that the procedure this afternoon will be satisfactory if we go along and if a unanimous-consent agreement is given like in the case of the bill the Senator from Ohio called up, he may submit amendments; and if it gives rise to long debate, some one would object, of course.

Mr. BEVERIDGE. That is to say, the whole thing is in the control of the Senate.

Mr. HALE. I should like to have it understood that when objection is interposed, if, for instance, a Senator sees that a bill is going to confiscate all the time of the afternoon, an objection will send it over. That is all I asked for, and that ought to be allowed.

Mr. BEVERIDGE. Yes; and that places it in the control of the Senate all the time.

The VICE-PRESIDENT. The Chair understands that under the unanimous-consent agreement amendments may be offered and that a bill may be debated, but an objection at any time before the passage of a measure will carry it over.

Mr. FORAKER. I ask that the amendments reported by the committee to the bill be stated.

The VICE-PRESIDENT. The amendments reported by the committee to the bill will be stated.

The amendments of the Committee on Interstate Commerce were, in line 3, after the word "of," to strike out "July" and insert "January;" in line 4, after the word "and," to strike out "nine" and insert "ten;" in section 2, line 10, after the word "of," to strike out "July" and insert "January;" in line 11, after the word "and," to strike out "nine" and insert "ten," and at the end of the bill add as a new section the following:

SEC. 6. That nothing in this act contained shall apply to any locomotive upon which, by reason of the use of oil, electricity, or other such agency, an ash pan is not necessary.

So as to make the bill read:

Be it enacted, etc., That on and after the 1st day of January, 1910, it shall be unlawful for any common carrier engaged in interstate or foreign commerce by railroad to use any locomotive in moving interstate or foreign traffic not equipped with an ash pan which can be dumped or emptied and cleaned without the necessity of any employee going under such locomotive.

SEC. 2. That on and after the 1st day of January, 1910, it shall be unlawful for any common carrier by railroad in any Territory of the United States or the District of Columbia to use any locomotive not equipped with an ash pan which can be dumped or emptied and cleaned without the necessity of any employee going under such locomotive.

SEC. 3. That any such common carrier using any locomotive in violation of any of the provisions of this act shall be liable to a penalty of \$200 for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge.

SEC. 4. That it shall be the duty of the Interstate Commerce Commission to enforce the provisions of this act, and all powers heretofore granted to said Commission are hereby extended to it for the purpose of the enforcement of this act.

SEC. 5. That the term "common carrier" as used in this act shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

SEC. 6. That nothing in this act contained shall apply to any locomotive upon which, by reason of the use of oil, electricity, or other such agency, an ash pan is not necessary.

The amendments were agreed to.

Mr. BRANDEGEE. I have taken pains to read over some portions of the hearings on this bill, and while I am in favor of the general purpose of the bill and think it may be necessary, and probably is, I should like to ask the Senator from Ohio whether he is satisfied from the testimony that there is such a practical automatic ash pan that the railroad companies can comply with this proposed law.

Mr. FORAKER. The testimony shows that on two or three roads they do have one in successful operation. I have not any doubt from what I have read of the testimony that an ash pan can be provided and will be within the time given in the proposed statute. We have extended the time, and I think the bill ought to pass in the form in which it is.

Mr. BRANDEGEE. I meant whether there was any ash pan in existence and now in the market.

Mr. FORAKER. I do not know exactly what is in the market. I know railroads are making successful use and satisfactory use of them—satisfactory to the men who are concerned and for whose benefit this safety appliance is to be adopted.

The Senator from Minnesota [Mr. CLAPP] reminds me that a number of roads are already successfully and satisfactorily using them, and the other roads have a year and a half or two years within which to supply them.

Mr. BRANDEGEE. I understood from the testimony in the hearings that that was true of certain makes of locomotives, but was not true of all. However, I do not want to throw any impediment in the way of this bill or its passage. I want to suggest to the Senator from Ohio, however, inasmuch as the testimony indicates that such of these ash pans as are in use are apt to get out of order at times, owing to clinkers gathering in them and owing to changes in temperature, freezing weather, and very hot weather, whether it would not be well to amend the bill in line 7 so as to read, "an ash pan which can be under ordinary conditions," and so forth.

Mr. FORAKER. I hope the Senator will not insist upon the consideration of that proposed amendment. The committee thought it would give rise to doubt and uncertainty in the operation of the law and in the enforcement of it. Therefore they concluded not to offer the amendment.

Mr. BRANDEGEE. I did not intend to insist upon it. I simply suggested it to the Senator.

Mr. FORAKER. I would rather the Senator would not offer it. Mr. BRANDEGEE. I do not offer it as an amendment.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to promote the safety of employees on railroads."

INTERSTATE TRANSPORTATION OF EXPLOSIVES.

Mr. KEAN. I ask unanimous consent for the present consideration of the bill (H. R. 17228) to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation. It is a bill that was read yesterday. I think there will be no objection to it.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. BACON. I want to ask the Senator from New Jersey a question.

Mr. KEAN. I shall be glad to answer it, if I can.

Mr. BACON. I am sure the Senator will.

I will say in advance that I approve of the provisions of the bill. I think it is a very important bill, and I have no doubt it has been worked out with great care. I have a somewhat indefinite impression, however, that there is in the present law a provision which gives to the States the right still further to regulate the transportation and storage of explosives which are brought through interstate-commerce channels. Am I correct in that?

Mr. KEAN. That is true. We have in the State of New Jersey a very strict law in regard to the transportation of explosives.

Mr. BACON. The question I desire to ask the Senator is this: Without an opportunity to examine the bill closely, I am a little uncertain whether there is anything in it that will repeal those sections of existing law which relate to the rights of the States to regulate this matter.

Mr. KEAN. Nothing at all. The rules and regulations are to be made by the Interstate Commerce Commission, and they are to be modernized so that they will apply to every class of explosives.

Mr. BACON. But the Senator does not answer my question, if I understand him correctly. What I desire to know is, whether the existing provisions of law which give to the States the right still further to regulate the transportation and storage of explosives which come through interstate-commerce channels are still in force or whether this bill entirely takes the place of that legislation.

Mr. KEAN. I do not see how it can take the place of the entire legislation, except so far as the Interstate Commerce Commission may regulate the transportation of explosives.

Mr. BACON. The Senator agrees that in the present law the authority is given to the States, and I suppose the committee looked into that question. I wish to know whether this bill in any manner repeals that provision of law.

Mr. KEAN. I think in no manner whatever.

Mr. BACON. It does not?

Mr. KEAN. I think it does not.

Mr. BACON. All right. The Senator will see the importance of it. It is not only important that the transportation shall be carefully regulated, but the States must frequently make regulations as to how it shall be received and where stored.

Mr. KEAN. The Senator from Georgia is perfectly right, and I am personally very much interested in it, because we have a very strict law in our State, I think more strict than most of the States of the Union.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. KEAN, from the Committee on Interstate Commerce, to whom was referred the bill (S. 5495) to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation, asked to be discharged from its further consideration, and that the bill be postponed indefinitely, which was agreed to.

DISPOSAL OF SOLDIERS' CLOTHING, ETC.

Mr. WARREN. I ask unanimous consent to call up the bill (H. R. 19462) to amend section 5438 of the Revised Statutes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. OWEN. Will the Senator explain the substance of the bill?

Mr. WARREN. The bill was explained quite fully yesterday. It relates to sales of soldiers' clothing. It was objected to yesterday by the Senator from Texas [Mr. CULBERSON], who has now consented to its coming up and being passed. He has no further objection.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FORT DOUGLAS MILITARY RESERVATION EASEMENT.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 6200) granting a perpetual easement and right of way to Salt Lake City, Utah, for the construction, operation, maintenance, repair, and the renewal of a conduit and pipe line and valve houses upon and across the Fort Douglas Military Reservation; which were, on page 2, after line 12, to insert:

SEC. 2. That the Secretary of War be, and he is hereby, authorized and empowered, upon the release to the United States by the Delaware and Hudson Company, or its subsidiary companies, of all rights of way and other easements of said company and of its subsidiary companies within the limits of the military reservation of Plattsburg Barracks, at Plattsburg, in the county of Clinton and State of New York, as said reservation existed prior to January 1, 1890, to convey to said Delaware and Hudson Company, its successors and assigns, for the operation and maintenance of its railway, a right of way 100 feet wide through said military reservation, together with a right of way 66 feet wide along the north end of the reservation, and the right to occupy and use about 2 acres in the northeast corner of the same, within limits described in and shown upon a blueprint attached to a memorandum of agreement made between said company and the United States, represented by Maj. J. G. Galbraith, Inspector-General United States Army, in October, 1906: *Provided*, That except as to the said 2-acre tract in the northeast corner of the reservation, which may be used for the storage of cars, engines, etc., the right of way herein authorized to be granted shall be used for main and passing track purposes only, and not for the storage of cars, engines, etc., thereon; and that the occupation and use of any land within the reservation shall be subject to such restrictions as the Secretary of War may prescribe to protect the interests of the United States and for the maintenance of good order and discipline on said military reservation.

And to amend the title so as to read: "An act granting certain rights of way and providing for certain exchanges of the same."

Mr. SUTHERLAND. The amendments were read yesterday, and the Committee on Military Affairs has reported favorably. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

INJURIES TO GOVERNMENT EMPLOYEES.

Mr. DEPEW. I ask for the present consideration of the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

We have just passed two bills in order to try to prevent accidents to people employed on railroads or traveling upon them, and here is a bill for the Government to compensate its employees who are injured on railroads or anywhere else. I ask for its present consideration.

Mr. HALE. Mr. President, the bill needs many things to make it a practicable measure of legislation. Therefore I must object.

The VICE-PRESIDENT. Objection is made.

BUREAU OF MINES.

Mr. DICK. I ask the consent of the Senate for the present consideration of the bill (H. R. 20883) to establish in the Department of the Interior a Bureau of Mines.

Mr. TELLER. Let the bill go over.

The VICE-PRESIDENT. Objection is made to the present consideration of the bill.

PLATT NATIONAL PARK, SULPHUR, OKLA.

Mr. BRANDEGEE. I ask unanimous consent for the present consideration of the bill (S. 5164) to provide for the improvement of the Platt National Park, situated at Sulphur, Okla.

The bill was introduced by the Senator from Oklahoma [Mr. GORE], and proposed to appropriate \$250,000 for the improvement of this park, which was created in honor of Senator O. H. Platt, my predecessor. As reported it is cut down from two hundred and fifty thousand to twenty thousand dollars, and the report of the committee shows that the Secretary of the Interior finds that that sum is necessary for necessary improvements in the park. There is no opposition to the measure that I know of. It is strongly urged by the Department. I hope the bill will be taken up and passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Public Lands with an amendment in

line 3, before the word "thousand," to strike out "two hundred and fifty" and insert "twenty," so as to make the bill read:

Be it enacted, etc., That the sum of \$20,000 is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, for the improvement of the Platt National Park, situated at Sulphur, Okla., such money to be used and expended under the supervision of the Secretary of the Interior.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLARENCE W. TURNER.

Mr. OWEN. I move that the bill (S. 4292) for the relief of Clarence W. Turner be indefinitely postponed, the item having been already provided for.

The motion was agreed to.

INLAND WATERWAYS COMMISSION.

Mr. NEWLANDS. I ask unanimous consent for the present consideration of the bill (H. R. 21899) providing for the appointment of an Inland Waterways Commission, with the view to the improvement and development of the inland waterways of the United States.

Mr. ALDRICH. The Senator from Mississippi, who happens to be absent from his seat at the moment, I know is very much interested in this bill, and he asked me to see that it did not come up in his absence. I shall, therefore, have to interpose an objection.

The VICE-PRESIDENT. The bill will lie over.

Mr. NEWLANDS. I will ask the Senator from Rhode Island if he has a recent statement to that effect from the Senator from Mississippi?

Mr. ALDRICH. No; not within the last fifteen minutes.

Mr. NEWLANDS. Within the last three days, because my information is to the contrary, I will say.

Mr. TELLER. I will enter an objection.

The VICE-PRESIDENT. Objection is made.

COMPENSATION OF CERTAIN TREASURY OFFICIALS.

Mr. ALDRICH. I ask unanimous consent for the present consideration of the bill (H. R. 21003) fixing the compensation of certain officials in the customs service, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized to increase the maximum compensation of inspectors of customs not to exceed \$6 per diem, at the ports of New York, Chicago, Boston, Philadelphia, and San Francisco, and such other ports as he may designate.

The amendment was agreed to.

Mr. ALDRICH. I offer the amendment I send to the desk.

The SECRETARY. It is proposed to add as a new section the following:

Sec. 2. That hereafter the salary of the Treasurer of the United States shall be \$8,000 per annum.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

DISTRICT HOME FOR FEEBLE-MINDED CHILDREN.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 6919) to establish a home for feeble-minded, imbecile, and idiotic children in the District of Columbia, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that there shall be established in the District of Columbia a home for feeble-minded, imbecile, and idiotic children, to be under the control and supervision of the Commissioners of the said District, and proposes to appropriate, one half out of the revenues of the District of Columbia and the other half out of any money in the Treasury not otherwise appropriated, \$50,000 for the erection of all necessary buildings for the home.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE SMITH.

Mr. CULLOM. Mr. President, I desire to give notice that on December 15, 1908, my colleague and I will present for consideration resolutions commemorative of the life and character of the Hon. GEORGE W. SMITH, late a Member of the House of Representatives from the State of Illinois.

AMENDMENT OF PASSENGER ACT.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5083) to amend section 1 of the passenger act of 1882.

Mr. DILLINGHAM. I move that the Senate disagree to the amendments of the House of Representatives and ask a conference with the House on the disagreeing votes of the two Houses thereon, the Chair to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed as the conferees on the part of the Senate Mr. DILLINGHAM, Mr. LODGE, and Mr. McLAURIN.

CONSTITUTIONAL CONVENTION OF OKLAHOMA.

Mr. GORE. I desire to call up the bill (S. 5329) to provide for an appropriation to defray the expenses of the constitutional convention and State election of Oklahoma, and for other purposes. The measure has been once read in the Senate.

Mr. HALE. I must object, Mr. President.

The VICE-PRESIDENT. Objection is made, and the bill will go over.

ORDER OF BUSINESS.

Mr. CARTER. I move that the Senate proceed—

Mr. DEPEW. As the bills, under the agreement which was made, seem to have been all considered, I ask unanimous consent to call up for consideration the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

Mr. HALE. I will not interpose any further objection.

Mr. TELLER. It has ever been the rule of this body that an objection made at one session of the Senate held good for that entire day's session, and I am not willing to see that relaxed. So I object.

Mr. CARTER (to Mr. DEPEW). Move it.

Mr. DEPEW. I move that the Senate proceed to the consideration of the bill.

Mr. TELLER. The Senator can not move it without violating the agreement we entered into this afternoon. If the Senator chooses to do that, he may. He has to-morrow to pass the bill. I have no objection to the bill, although I think it is a badly drafted bill. But I do not intend to make any objection to it. However, I do object to changing the rules of the Senate in this way.

Mr. DEPEW. I would not be insistent, except we are exigent as to time. We have agreed to meet to-morrow morning at 11 o'clock, at which time the currency bill is to be taken up and considered. Of course that bill will occupy the rest of the day, and when it is through no power under heaven can keep the Senate here to consider anything. Senators will all be on their way home, naturally and properly. I do not want to violate any rule of the Senate, nor do I think there has been any violation of any rule or of the proprieties of the Senate on this, almost the last, day, and under these conditions, to move that the bill be taken up.

The VICE-PRESIDENT. The Senator from New York moves that the Senate proceed to the consideration of a bill the title of which will be stated.

The SECRETARY. A bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

Mr. TELLER. That is contrary to the unanimous consent given here a short time ago, and if that is done, it will be the first time it has ever been done since I have been in the Senate. The Senator can to-morrow morning, if he wants to, call it up here, and, so far as I am concerned, I will not object.

Mr. DEPEW. I want to ask the Senator from Colorado whether, if there be no other Senators having bills to call up, the unanimous consent agreement is not exhausted?

Mr. TELLER. It is not. We were to consider unobjected cases until adjournment, and to adjourn when they were through. The motion of the Senator from New York can not be made without a violation of the rule, and if I was in favor anxiously of passing the bill I should not consent to a violation of the rule.

Mr. FORAKER. I ask for the reading of the consent agreement, so that we may see whether it has not been exhausted, as the Senator from New York says. I do not recall the exact language.

If the Senator from Colorado is right as to what its provisions are, of course we can not take up the bill to-day. But if the consent agreement has been exhausted, as I suppose it has been, by reason of the fact that we are through with the cases for the benefit of which it was entered into, I should like very

much to see this bill taken up. But nobody wants to violate a consent agreement.

Mr. TELLER. It was not entered into with a view of benefit any bill. It is that the Senate may understand that no business not consented to by every Senator shall be transacted. That was to last until adjournment. I shall insist, no matter what the language is, that that was the intention and that was the purpose and that was the declaration of the Senate.

Mr. FORAKER. If that is correct, that is the end of it for to-day.

Mr. TELLER. It will be the end of unanimous-consent agreements if the contrary course is once adopted.

Mr. FORAKER. I thought this was an agreement which, by its terms, was limited to such bills as might be taken up without objection.

Mr. HALE. It applies for the day.

Mr. FORAKER. It does? For the whole day?

Mr. DEPEW. I am very certain that the spirit of the agreement was to allow the Calendar to be cleared, so far as Senators wished to call up unobjected cases. That has been gone through, until no Senator has any bill left and there is no bill left on the Calendar which—

Mr. KEAN. I understand the Senator from Vermont has a bill he desires to call up.

Mr. DEPEW. Then I will yield.

Mr. FORAKER. I understand there is a disposition to accommodate the Senator from New York to-morrow morning.

Mr. DEPEW. Then I will ask unanimous consent that this bill be taken up to-morrow morning immediately after the morning business.

Mr. ALDRICH. I can not consent to that.

Mr. DEPEW. I knew that.

Mr. ALDRICH. But in the morning if an arrangement can be made by which the bill can be voted on without further discussion, I will try to accommodate the Senator from New York. I am desirous that the bill be passed.

Mr. HALE. That is the best way to leave it.

Mr. ALDRICH. I think the Senator had better leave it in that way.

Mr. WARREN. If the Senator from Rhode Island will permit me for a moment, I wish to make an appeal to him. I know, of course, how important is the financial measure that is in his charge, but I suggest that he confer with the Senator from New York [Mr. DEPEW] in charge of the other—the Government liability bill—and try in the morning to make an arrangement to have it disposed of. We ought to dispose of it promptly in some manner.

NATURALIZATION OF ALIENS.

Mr. DILLINGHAM. I ask unanimous consent to call up the bill (H. R. 21052) to amend sections 11 and 13 of an act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States."

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

Mr. BACON. Is that a bill to which unanimous consent is required?

The VICE-PRESIDENT. It requires unanimous consent.

Mr. BACON. If the Senator will explain the bill, I am not going to object, but I would like to have it understood.

Mr. DILLINGHAM. The first section of the bill is one which relates to the payment of clerks for the cost of naturalization proceedings. The object of the section is so concisely stated in the House report that I will take the liberty of reading it:

It provides a means for compensating the clerks of courts exercising naturalization jurisdiction for the cost of additional clerical assistance beyond the limit of \$3,000 allowed them under existing law. A provision was inserted for this purpose in the naturalization law, but the Comptroller of the Treasury held that it was ineffective, and at the request of the Division of Naturalization drafted the form which is herewith reported.

Unless this bill is passed naturalization of persons entitled to it in large cities will very largely cease.

The law provided that where the receipts were \$6,000 a year additional clerical assistance might be allowed, but there was no appropriation for that purpose and the Comptroller ruled that it could not be paid. The amendment is for the purpose of rectifying that error and curing the defect in the law.

Mr. HALE. What additional burden is cast upon the clerks of courts in reference to naturalization which they did not have to perform when we fixed the salaries of clerks? At that time we fixed the salaries at a very generous rate; the process of naturalization was going on; the clerks were doing the formal business, and that work was a part of the business of naturalization which led to the generous provision establishing the salaries of the clerks. We are beset constantly for increases of pay and salary on account of distinctive work. I wish the

Senator would tell the Senate what additional burden has been cast upon the clerks since the time we fixed their salaries with reference to naturalization.

Mr. DILLINGHAM. No additional burden has been laid upon the clerks since the passage of the naturalization law, nor does the provision now pending lay any additional burden upon the clerks. But when the naturalization law was passed it laid a largely increased service upon the clerks in a half dozen different ways which I would not be able to clearly state without having a copy of the act before me. Under the new naturalization law the whole business has been thoroughly arranged and such pains are taken in connection with every subject of proceeding that the labor of the clerks is very largely increased.

The cost of naturalization was fixed substantially at \$5, and out of that the clerks take one-half and the balance goes to the Government of the United States. That fee is so disproportionately small that the clerks of the State courts refuse absolutely to send for the papers or to conduct the business, and in the United States courts the business is very much discouraged.

But in the large cities, where there is a large volume of business, the applicant first files his declaration of intention. After a certain length of time he files his application. In that application he also names his witnesses. The clerk has to give notice to the Department of Justice in relation to the matter, and the papers prepared in the clerks' office, as I now remember it, are sent to the Department here in Washington, and the Department takes a hand in it.

We have made appropriation at the present session for the Department to investigate the witnesses in these cases so as to assist the district attorney when the cases come to be heard. They have to be placed upon the docket. Every case is advertised on the walls of the court-house. All the proceedings are had in open court. The amount of clerical assistance has been so great as to demand some special compensation. That special compensation was provided for in the law itself, but through a defective wording of the law the Comptroller would not allow it.

Mr. HALE. Though the Senator did not understand my question clearly, he does say that since the salaries of the clerks were fixed years ago on a very generous basis the condition of immigration and of naturalization attendant upon immigration has very largely increased the burden on the clerks.

Mr. DILLINGHAM. That is undoubtedly true.

Mr. HALE. That was my question. I wanted to make it clear.

Mr. DILLINGHAM. That is undoubtedly true. I will add while I am on my feet that the amendment suggested by the Senate committee to the second section of the bill is to increase the amount paid by applicants for naturalization from \$5 to \$10, so that the Government will get a larger amount out of it and the clerks will be properly paid.

Mr. GALLINGER. The Government gets one-half of it?

Mr. DILLINGHAM. The Government gets one-half of it.

Mr. HALE. That is to be made a part of the bill?

Mr. DILLINGHAM. It is.

Mr. HALE. Increasing the fee from \$5 to \$10?

Mr. DILLINGHAM. To \$10. I will say, in addition, that the commission which had this matter in charge recommended a fee of \$11. Congress cut it down to five and then left the matter in such a shape that the State courts refused utterly to touch the question or to secure the blanks. It seemed to the committee that a fee of \$10 is entirely reasonable if a man wants to become an American citizen and have the right to take up public lands and in other ways to assert the rights of citizenship. If that amount is demanded the clerks will have proper pay, and, at the same time, the Government will be getting something to repay it for the expense which we are put by reason of the naturalization law.

Mr. HALE. The Senator will understand that many of us here know very little about the provisions of this bill, having had no opportunity to examine it, and the questions I have asked the Senator has answered. I shall make no further objection to the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Immigration with amendments.

The first amendment was to strike out section 1 of the bill in the following words:

That section 11 of an act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States, approved June 29, 1906, be, and the same is hereby, amended by adding thereto the following: "At any time within sixty days from the date of the entry of a final order in a naturalization case, either the applicant for admission

to citizenship or the United States may take an appeal from such order on questions of law only to the United States circuit court of appeals for the circuit in which such order is entered. The judgments, orders, or decrees of the circuit courts of appeals in such cases shall be final in the same manner and to the same extent as is now provided by section 6 of the act of March 3, 1891, establishing circuit courts of appeals."

Sec. 2.

The amendment was agreed to.

The next amendment was, on page 3, line 12, before the word "appropriated," to strike out the word "permanently," so as to make the section read:

That section 13 of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," is hereby amended by striking out the last sentence of the section, which reads as follows: "And in case the clerk of any court collects fees in excess of the sum of \$6,000 in any one year, the Secretary of Commerce and Labor may allow to such clerk from the money which the United States shall receive additional compensation for the employment of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance," and inserting in lieu thereof the following:

"And in case the clerk of any court exercising naturalization jurisdiction collects such fees in excess of the sum of \$6,000 in any fiscal year the Secretary of Commerce and Labor may allow salaries, only for naturalization purposes, to pay for clerical assistants, to be selected and employed by that clerk, additional to the clerical force, which clerks of courts are required to pay for by section 13 of the act of June 29, 1906 (34 Stat., p. 596), from fees received by such clerks in naturalization proceedings, if in the opinion of said Secretary the naturalization business of such clerk warrants further additional assistance. Such amount as may be necessary to pay the additional clerical assistance herein provided for is hereby appropriated from any naturalization fees collected by such clerk and deposited in the Treasury of the United States: *Provided*, That the total salaries of such additional clerical assistants shall in no instance exceed the fees received by the United States from the clerk of that court during such fiscal year: *Provided further*, That when, at the close of any fiscal year, the business of such clerk of court indicates that the naturalization fees for the succeeding fiscal year will exceed \$6,000 the Secretary of Commerce and Labor may authorize the continuance of the allowance of salaries for the additional clerical assistance herein provided for and employed on the last day of the fiscal year until such time as the remittances indicate that the fees for the ensuing fiscal year will not be sufficient to allow the additional clerical assistance authorized by this act.

"That payment for the additional clerical assistance herein authorized shall be in the manner and under such regulations as the Secretary of Commerce and Labor may prescribe."

The amendment was agreed to.

The next amendment was to add as an additional section to the bill the following:

SEC. 2. That section 13 of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," is hereby amended by striking out the following: "That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding: For receiving and filing a declaration of intention and issuing a duplicate thereof, \$1; for making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, \$2; and for entering the final order and the issuance of the certificate of citizenship thereunder, if granted, \$2," and inserting in lieu thereof the following: "That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding: For receiving and filing a declaration of intention and issuing a duplicate and triplicate thereof, \$4; for making, filing, and docketing the petition of an alien for admission as a citizen of the United States, for making a duplicate thereof, and for the final hearing thereon, \$3; and for entering the final order upon all petitions filed subsequent to June 30, 1908, including the issuance of a certificate of citizenship thereunder, if granted, \$3. The provisions of this paragraph shall take effect July 1, 1908."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend section 13 of an act entitled 'An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States.'"

AFFAIRS IN THE TERRITORIES.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. I hope the Senator will withhold the motion.

Mr. CARTER. I withhold the motion if there is any further business under the unanimous-consent agreement.

Mr. BEVERIDGE. Yes. I wish to ask unanimous consent to proceed to the consideration of the bill (H. R. 21957) relating to affairs in the Territories.

I will state now, in asking unanimous consent, that if its

consideration should occupy as much as fifteen minutes I will myself withdraw the bill for the day.

Mr. GALLINGER. It has been read.

Mr. BEVERIDGE. It has been read.

The VICE-PRESIDENT. The Senator from Indiana asks unanimous consent for the present consideration of the bill (H. R. 21957) relating to affairs in the Territories.

There being no objection, the bill was considered as in Committee of the Whole.

Mr. GALLINGER. I will call the Senator's attention to page 5.

Mr. BEVERIDGE. I know what the Senator is going to ask.

Mr. GALLINGER. No; this is something I did not call attention to. I call the attention of the Senator from Indiana to the fact that on page 5, line 4, the words "white male and female citizens" occur, while on line 12 it reads "the white male citizens." It relates to the same thing, and the words "and female" should be inserted in line 12, after the word "male."

Mr. BEVERIDGE. I think that plainly should be done. Will the Senator move that amendment?

Mr. GALLINGER. I will move to amend by inserting after the word "male," in line 12, the words "and female."

Mr. BEVERIDGE. I will say to the Senator this is all—as he knows, of course—the language of the existing law. That is the reason why the committee did not change it.

The amendment was agreed to.

Mr. GALLINGER. There is another point which I think is in the existing law, but it is an incongruity that ought not to be repeated. Lines 4 and 5, on page 5, read, "of the white male and female citizens over the age of 21 years, other than Indians." Manifestly the words "other than Indians" ought to come out.

Mr. BEVERIDGE. That language is a part of the existing law.

Mr. GALLINGER. But what is the good of perpetuating a misnomer or an incongruity?

Mr. BEVERIDGE. The Senator has asked me the question. Of course there is none. The committee on examining it did not know what was in the mind of Congress when it passed the act. So we just let it stand. I have no objection to its going out.

Mr. GALLINGER. I move that the words "other than Indians" be stricken out, on page 5, line 5.

Mr. CLAY. Has unanimous consent been given to take up the bill?

The VICE-PRESIDENT. It has been given. Is there objection to the further consideration of the bill?

Mr. CLAY. I was out when the bill was first taken up. I desire to ask the Senator in charge of it if this is the same measure, called the Territorial bill, we had up the other day and discussed?

Mr. BEVERIDGE. It is that bill.

Mr. CLAY. I understood the Senator from Indiana to announce that various amendments that were stricken out of the bill would be restored to it. Is that correct?

Mr. BEVERIDGE. No; the one provision concerning Hawaii. I have no intention of asking that the provision concerning the practice of medicine in Alaska should be reinstated, the Committee on Territories being the appropriate committee to have that provision of the bill, but the Committee on Pacific Islands and Porto Rico are prepared to explain to the Senate the provisions concerning Hawaii, with which my committee properly has nothing to do.

Mr. CLAY. I call the Senator's attention to the fact that when this bill was before the Senate on a previous occasion it was stated that the provision relating to the Hawaiian Islands had never been considered by the Committee on Pacific Islands and Porto Rico.

Mr. BEVERIDGE. No; that is not the case.

Mr. CLAY. It was so stated, and diligent inquiry convinced me that that matter was inserted in the bill simply by going around and having Senators agree to it; and the provisions of it were never discussed by the committee.

Mr. BEVERIDGE. If the Senator will pardon me a moment, he is wrong in just one particular. The provisions were not inserted in the bill in the Senate at all. They came over from the House as a part of an omnibus measure, a practice which ought to be condemned as vigorously as the Senator from Georgia would condemn it.

The bill was referred to the Committee on Territories because it chiefly related to business of our committee. We then examined all the portions of the bill which were appropriately before us and prepared a report to refer the whole measure to

the appropriate committee, so far as the Hawaiian provisions were concerned. But the chairman of the committee was at that time ill, and therefore the better procedure was thought to be, in order to get some legislation at all, the whole being an omnibus bill, that the bill should be handed to the senior Senator on the committee, who should confer with members of the committee—that is, the appropriate committee for handling the section concerning Hawaii—and see whether they approved it or not. If they did not, the committee of which I am chairman proposed to strike it all out.

Mr. HALE. It was struck out?

Mr. BEVERIDGE. It was; on the floor of the Senate.

Mr. HALE. I thought so. I hope the Senator does not propose to pass the bill with the part of the measure in it that was stricken out by the Senate.

Mr. BEVERIDGE. There will be a motion to reinsert, with an explanation of the Committee on Pacific Islands and Porto Rico as to why it should be inserted.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Indiana yield?

Mr. HALE. I understood that was stricken out.

Mr. BEVERIDGE. Yes; but the Senator from California, who has that part in charge, can explain it.

Mr. WARREN rose.

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Wyoming?

Mr. BEVERIDGE. Yes; but the Senator from California wants to explain the provisions concerning Hawaii.

Mr. WARREN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from California?

Mr. FLINT. I yield to the Senator from Wyoming. He desires to explain one provision of it.

Mr. GALLINGER. I have some further amendments to offer.

Mr. CLAY. If the Senator intends to restore that feature of the bill relating to the Hawaiian Islands, I shall feel it to be my duty to object to the consideration of the bill.

Mr. WARREN. Will the Senator allow me a word there?

Mr. CLAY. Yes.

Mr. BEVERIDGE. I yield to the Senator from Wyoming.

Mr. WARREN. Section 36 has been stricken out. Allow me to read section 36 and read the report on it. As a matter of fact it is the subject-matter of a bill which I introduced as a separate measure, and it was favorably considered by the appropriate committee. It is for a right of way across a military reservation which is entirely agreeable to the War Department, and is worded as proposed by that Department. I hope there will be no objection to section 36. It is a matter that is important. A great amount of money has been expended there. It is a matter of irrigation and—

Mr. CLAY. The Senator surely does not insist that the provisions which relate to the Hawaiian Islands simply have reference to a right of way through a reservation?

Mr. WARREN. I am discussing section 36, which stands by itself, and which has this one matter and no other included.

Mr. CLAY. I do not know about section 36, but the Hawaiian Islands provision has reference to electric lighting plants, and so forth.

Mr. BEVERIDGE. It has reference to two subjects.

Mr. GALLINGER. Mr. President, I had some further amendments, and I did not mean to yield the floor.

The VICE-PRESIDENT. Is there objection to the further consideration of the bill?

Mr. CLAY. I object.

The VICE-PRESIDENT. Objection is made, and the bill goes over.

Mr. FLINT. I hope the Senator will withdraw his objection.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. I beg pardon.

Mr. BACON. I have been trying for an hour to get before the Senate a little matter that is somewhat personal.

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. CARTER. I yield to the Senator from Georgia.

Mr. BEVERIDGE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. I yield to the Senator from Indiana.

Mr. BEVERIDGE. I call the attention of both the Senator from Montana and the Senator from Georgia to a request which was made that the Chair did not hear, which was that the junior Senator from Georgia should withhold his objection until the Senator from California could explain the provision

which caused the objection of the junior Senator from Georgia. I hope the Senators will now permit the Senator from California to make that explanation.

Mr. CARTER. Mr. President—

The VICE-PRESIDENT. The Chair understood the request made, but the objection of the Senator from Georgia under the rule stopped the consideration of the bill.

Mr. BEVERIDGE. I am aware of that fact, but this is what I call the attention of the Senator from Montana and the Senator from Georgia and the Chair to. The Senator from California had asked that the Senator from Georgia should withhold his objection until he could make a statement, and I hope the Senators will permit the Senator from California to make a statement.

Mr. CLAY. Mr. President—

Mr. CARTER. Of course, if the Senator from Georgia withdraws his objection, the Senator from California may proceed.

Mr. BEVERIDGE. For that purpose.

Mr. CARTER. And I will certainly withdraw the motion to proceed to the consideration of executive business.

Mr. CLAY. I think that under all the circumstances I ought to withhold the objection and permit the Senator from California to make his statement.

Mr. BEVERIDGE. That is all.

The VICE-PRESIDENT. Does the Senator from Georgia withdraw his objection?

Mr. CARTER. I withdraw the motion.

Mr. KEAN. Temporarily.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Georgia?

Mr. BACON. No. I do not wish to take the floor from the Senator from California.

Mr. FLINT. Mr. President, the other day when the bill was last before the Senate, there was a motion made, late at night, in the midst of considerable confusion, that certain provisions of the bill should be stricken out.

I will state the facts in reference to those provisions. They relate to the Hawaiian Islands. The bill should have been referred to the Committee on Pacific Islands and Porto Rico. The chairman of the committee was ill, and the matter was referred to me. I was asked to see the members of the committee in reference to these provisions. I polled the committee and stated to them the various matters contained in the bill and received their approval.

There are three bills relating to Hawaii, two of them granting privileges to electric light and power companies. Certain amendments were made in the bills as they came from the Hawaiian legislature. One of the bills had been vetoed by the governor. The bill that had been vetoed by the governor was a much narrower and more contracted bill than the bill that was signed by the governor, and there were no good reasons why one of them should have been signed and the other should have been vetoed. The bills were amended in the House so as to restrict the light companies to a grant for thirty-five years, but being limited by the legislature and by Congress, the grant could be revoked at any time.

Another provision was the grant of the privilege to the whole district. The bills were limited by the House to two certain towns. One of the grants in the first section was limited to a town of twenty-five hundred inhabitants, and the other to a town of 3,000 inhabitants.

Another provision in the bill, inserted by the House, was that if the rates were unsatisfactory and not reasonable the matter could be brought before the proper court and it could be there determined whether the rate was reasonable or unreasonable. Every provision that has been inserted in the bill by the House has been a provision limiting the powers granted by the legislature of Hawaii, and in no instance have they been extended.

The last provision in the bill is in reference to granting a dam site to a water-power company on a military reservation in Hawaii. The company now has a dam there that has cost \$400,000. They have been operating under a lease for some forty years. The time is now about to expire, and in the meantime a military reservation has by proclamation covered the site. It is simply the damming up of a ravine and storing the water. This water backs up on some 30 or 40 acres of land, as I am advised, on this military reservation. There would be no need of coming to Congress for this particular legislation but for the fact that this land has been declared to be a military reservation.

The bill has the approval of the Secretary of War. Certain provisions have been inserted providing that water may be used for the military, and if electric lights are produced there

the Government may have the right to use such lights. In every provision of both bills the interests of the Government are guarded. I believe there is no good reason why these bills should not now be passed, and I ask, Mr. President, that the motion—

Mr. CLAY. I will ask the Senator whether the bills which he has been discussing were ever considered and discussed in the committee?

Mr. FLINT. The Committee on Pacific Islands and Porto Rico of the Senate?

Mr. CLAY. Yes.

Mr. FLINT. No, sir.

Mr. CLAY. Now, is it not true that no member of that committee has examined the provisions of this measure except the Senator himself, and that the Senator has made his examination since this matter has been under discussion on the floor of the Senate?

Mr. FLINT. I will say, in answer to the Senator from Georgia, that the chairman of the committee [Mr. FORAKER] has given the matter fully as much consideration as I have, and that at the time the bills were before the Senate I had given the matter practically the same consideration that I have now. The only question asked me by the Senator from Wyoming, which I was unable to answer at the time when he asked it, was how the bills which had passed the Hawaiian legislature had been amended in the other House. I had not examined that feature and was unable to answer. I did know, however, that the bills in themselves were good and proper, in my opinion, to be passed, but I did not know all the particulars in which they had been amended. I have since examined them word for word and am prepared to point out the various amendments that have been made.

Another matter that was called to my attention by the Senator from Wyoming, which I was unable to answer at that time and which should be stricken from the bill, is this: The bill in relation to Hawaii, as set forth in the omnibus bill, contains a statement that the bill adopted has been certified to by the president of the senate and the clerk of the senate of Hawaii. That certificate should be stricken from the bill, for the reason that the bill as it is now in the Senate is not the bill that was passed by the Hawaiian legislature. It is a bill that has been amended in many respects, as I have outlined, and should not bear the certificate of the presiding officer of the Hawaiian legislature.

I now move, Mr. President, that the vote by which sections 34, 35, and 36 of the pending bill were stricken out be reconsidered.

Mr. CLAY. Mr. President, certain bills passed the Senate and went to the House. Those bills were there included in an omnibus bill and came back to the Senate for consideration. There was inserted in the omnibus bill a measure relating to the Hawaiian Islands which had never been considered or passed by the Senate. You will find, on a critical examination of this measure, that it was considered by the Territorial legislature of those islands and that the Territorial legislature of the islands passed it. It then went to the governor, and he vetoed it.

Mr. FLINT. He vetoed one bill, Mr. President.

Mr. CLAY. He vetoed the bill relating to the provision for furnishing electricity for the cities named.

Mr. FLINT. If the Senator will pardon me—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from California?

Mr. CLAY. Certainly.

Mr. FLINT. There were two bills which were practically the same in general terms, though one contained some provisions that the other did not contain. One of the bills, the one contained in section 34 of the omnibus bill, which granted rights to one town or one district, was vetoed by the governor. The grants in section 35, which were to another district and another town, were signed by the governor. The one that was signed by the governor is a broader bill than the one that was vetoed by him.

Mr. CLAY. The governor based his veto on the ground that this was an effort to give to a special company, naming the company, the privilege of furnishing electricity for these cities when the opportunity of furnishing electricity ought to be allowed to all companies. Mr. President, it is true that the legislature of that Territory overruled the veto of the governor, but I do not desire to discuss the merits of that matter. It is true that this bill provides that this company shall have the right to occupy the streets and shall be given the franchise without the payment of anything, and that this company shall have this exclusive privilege for the period of thirty-five years.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from California?

Mr. CLAY. Yes.

Mr. FLINT. The provisions in reference to the length of time have been stricken from the bill.

Mr. CLAY. I am talking about the bill as it was reported to the Senate, when we were discussing it on a previous occasion.

Mr. FLINT. No; the bill as reported to the Senate does not provide that the company shall have the exclusive right for thirty-five years.

Mr. CLAY. For how many years, then?

Mr. FLINT. There is no limit; it can be revoked at any time. Another matter to which I wish to call the attention of the Senator is this: It does not cover the entire district, as the original bill that passed the Territorial legislature of Hawaii provided, but it is now limited to one town of only 2,500 inhabitants. The provision covering the whole district is entirely eliminated from the bill.

Mr. CLAY. Is it not an exclusive privilege?

Mr. FLINT. An exclusive privilege for this one town of 2,500 inhabitants, but it can be revoked at any time, either by Congress or by the legislature of Hawaii.

Mr. CLAY. And it is to the identical company named?

Mr. FLINT. The identical company named.

Mr. CLAY. And that was the reason that the governor of Hawaii vetoed the measure, as I understand. The governor made a very vicious assault upon this company.

Mr. FLINT. Mr. President, simply to be fair about the proposition, I would call the attention of the Senator to the fact that the governor signed a bill for another company for another district that was in exactly the same terms so far as the grant was concerned, but the provisions of the bill were much broader than the one he had vetoed.

Mr. CLAY. I dislike to be captious, but when this measure was up on a previous occasion the Senator in charge of it agreed that certain features of it ought to go out and named them. Then, again, he agreed that all the provisions relating to the Hawaiian Islands should be stricken from the bill. The Senator from California himself said that none of the features relating to the Hawaiian Islands had been considered in any way whatever by the committee; and to-day, Mr. President, we are informed that the committee has never been in session and has never considered this measure in any way whatever. It is true that the Senator from California has given us a very intelligent explanation of the measure, but I do not believe it is a good practice to take a general measure of fifteen or twenty pages and simply have members of the committee approve it without its ever having been discussed before a committee. That may do for a public building bill involving \$50,000 or \$100,000, but for general legislation affecting general principles a different rule ought to prevail.

Mr. President, if it is going to be insisted that these matters shall be included in this bill, I feel it to be my duty to object to its consideration.

The VICE-PRESIDENT. Objection is made to the further consideration of the bill.

BOUNDARY LINE BETWEEN GEORGIA AND FLORIDA.

Mr. CARTER. I renew my motion, that the Senate proceed to the consideration of executive business.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. CARTER. I yield to the Senator from Georgia for an explanation he desires to make.

Mr. BACON. Mr. President, a few days since I presented to the Senate some half dozen old documents—some of them nearly one hundred years old—relating to the boundary line between the States of Georgia and Florida. I knew nothing about where they came from or by whom they had been gathered. The documents were presented to me by the printing clerk of the Senate, who called my attention to the importance of preserving them from loss—there being but few of them in existence—with a request that I present them to the Senate and ask that they be printed together as one document. I did so, not knowing, I repeat, whence they had come, but being satisfied of their importance and of their genuineness.

The request was granted by the Senate and these documents have been printed as one document, now known as "Senate Document No. 467." Upon the title page appear the words: "Presented by Mr. BACON." I wish to say that that entry was not made by my procurement or knowledge. My first intimation of it was after it was thus printed as a document.

But the particular thing I rose to say was that I have since

been informed that these documents, which are rare and difficult to obtain, were, after great labor, fished out by Mr. Sumner, the superintendent of documents of the House of Representatives, from a great mass of matter, which had been laid aside and considered valueless. Mr. Sumner did so at the instance of Representative BRANTLEY, from my State, and they are entitled to all the credit of having exhumed these documents, and the fact that they are now made permanent. If I had known of the facts, I would not have presented the documents to the Senate, as I think it was but due to Mr. BRANTLEY that he should have had the opportunity of presenting them in the House.

I make this statement because, Mr. President, if there is anything I am averse to, it is one Senator or Representative trying to enjoy the fruits of the labor of another Senator or Representative. I believe every man ought to have credit for what he does. It was an entirely innocent thing on my part; and I take this public way of disclaiming any credit whatever for this work and giving the whole of it to Representative BRANTLEY and the official of the House whom he put to work to accomplish this desirable end.

CYCLONE SUFFERERS IN OKLAHOMA.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Oklahoma?

Mr. CARTER. I yield to the Senator.

Mr. GORE. I am indebted to the Senator from Montana. I introduce a joint resolution, which I send to the desk, and I ask unanimous consent for its present consideration.

The VICE-PRESIDENT. The Senator from Oklahoma introduces a joint resolution, for which he asks present consideration. The joint resolution will be read for the information of the Senate.

The joint resolution (S. R. 99) providing for assistance to the people of the storm-swept district of Oklahoma was read the first time by its title and the second time at length, as follows:

Whereas on the 25th day of May, 1908, there occurred in the district of Oklahoma a disastrous cyclone or tornado, causing the loss of a number of lives and the destruction of much property and rendering many persons homeless and temporarily without means of support: Therefore be it

Resolved by the Senate and House of Representatives, etc., That the Secretary of War be, and he is hereby, authorized to use such means as he has at hand, or that may be furnished to him, in the way of tents, provisions, and supplies, to relieve the distress occasioned by such storm or cyclone, and that he take such steps as he may deem proper for the relief of such distress and need among the people who have suffered from the results of said storm or cyclone.

The VICE-PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AFFAIRS IN THE TERRITORIES.

Mr. BEVERIDGE. I wish to say to the Senator from Montana [Mr. CARTER] that, with the understanding that there will not be any effort to reinsert the provisions concerning Hawaii, the Senator from Georgia [Mr. CLAY] informs me that he will withdraw his objection to the bill in relation to the Territories.

Mr. CLAY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. CARTER. I yield to the Senator from Georgia.

Mr. CLAY. The Senator from Indiana informs me that he will not insist upon inserting the amendments that were stricken out of the omnibus bill referred to, and that he is willing to have it considered without those amendments. I therefore withdraw my objection.

Mr. BEVERIDGE. That is correct.

The Senate, as in Committee in the Whole, resumed the consideration of the bill (H. R. 21957) relating to affairs in the Territories.

Mr. WARREN. I desire to offer as an amendment a section which, bunched with others, has been heretofore stricken out. It is not objectionable, as I understand, to the Senator from Georgia.

Mr. KEAN. What section is that?

Mr. WARREN. Section 36, according a right of way across the military reservation to this irrigating water.

Mr. KEAN. That is to make the bridge sufficiently strong, so that guns, and so forth, can be carried over it, if I remember the amendment.

Mr. WARREN. I move to amend by reinserting section 36.

The VICE-PRESIDENT. The Senator from Wyoming proposes an amendment, which will be stated.

Mr. BEVERIDGE. It has been read once, Mr. President.

Mr. WARREN. It is at the bottom of page 32, section 36.

The VICE-PRESIDENT. Does the Senator from Wyoming desire the portion of the bill to which he refers stricken out?

Mr. BEVERIDGE. Section 36 has already been read.

Mr. CARTER. I presume a motion to reconsider the vote by which that section was stricken out is in order.

Mr. BEVERIDGE. I think either that or the motion of the Senator from Wyoming [Mr. WARREN], which is to reinsert, would be proper.

Mr. WARREN. Mr. President, as several sections went out together, I simply move to amend the bill by reinserting this one section, numbered 36.

Mr. BEVERIDGE. That is right.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to reinsert in the bill section 36.

Mr. BEVERIDGE. That section has been read.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. KEAN. Let it be read.

The VICE-PRESIDENT. The amendment will be stated.

The Secretary read the section proposed to be inserted, as follows:

SEC. 36. That the Wahiawa Water Company (Limited), a corporation organized under the laws of the Territory of Hawaii for the purpose of irrigation, be, and is hereby, granted the right of way through the lands of the United States to the extent of the ground occupied by the water of the reservoirs and canals of said company and their laterals, and 50 feet on each side of the marginal limits thereof, including that portion of said company's irrigation works located within the limits of the military reservation made by the order of the President July 20, 1899, setting aside a portion of Waianae Uka, in the island of Oahu, Territory of Hawaii, and as published in the General Orders of the War Department, No. 147, and dated August 10, 1899, and including also the right to take from the lands of the United States adjacent to the line of the canals earth and stone necessary to the construction thereof, the said reservoir sites, canals, and laterals, and waterways being now occupied under an outstanding lease from the former authorities of said Territory to said company and so recognized in said General Orders: *Provided*, That the plans for the works herein proposed shall be submitted to the Secretary of War for approval and shall be carried out in conformity to such regulations in respect to maintenance and operation as he shall prescribe: *Provided also*, That the servitude herein granted shall not prevent the movement of troops over the said right of way, and when the movement of field artillery and wagon trains is impeded or prevented, due to the use of gulches for water storage by said company, bridges suitable for the passage of troops, artillery, and wagon trains across said gulches, with suitable approaches thereto, shall be provided by said company when required by the Secretary of War, said bridges and approaches to be constructed in accordance with plans approved by the Secretary of War: *Provided further*, That during the occupation of said military reservation by troops the said company shall furnish, free of charge, all the water needed for post or encampment purposes, and, in case an electric power plant is erected by said company, it will furnish power to the United States, if required, and, if it be obtainable without interference with the irrigation supply, at not to exceed 1 cent per kilowatt hour, measured at the dynamos.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GALLINGER. To conform to the amendment adopted on my motion a few moments ago striking out the words "other than Indians," in line 25, on page 5, I move a corresponding amendment on page 5, line 5.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 5, line 5, after the word "years," it is proposed to strike out the words "other than Indians."

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GALLINGER. Now I desire the attention of the Senator from Indiana to another matter. If he will turn to page 5, beginning in line 19, he will find it reads:

Except that the respective district judges may in their discretion grant licenses at regularly established road houses to the keeper of said road houses.

There are two absurdities in that. One is that the judges may grant licenses "at regularly established road houses" and to the "keeper" of said road houses. I move to strike out the words "at regularly established road houses;" then make the word "keeper" plural, and after the word "of," in line 21, to strike out "said" and insert "regularly established."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 5, line 20, after the word "licenses," it is proposed to strike out "at regularly established road houses;" in line 21, after the word "the," to strike out the word "keeper" and insert the word "keepers;" and in line 21,

before the word "road," to strike out the word "said" and insert the words "regularly established."

Mr. BEVERIDGE. I should like to have the clause read as proposed to be amended.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

Except that the respective district judges may in their discretion grant licenses to the keepers of regularly established road houses on main traveled post-roads and post trails in the district.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CARTER. To come in at the end of the bill, I offer the amendment which I send to the desk.

Mr. FULTON. Before that is read, I ask the Senator if he will allow me to ask the Senator from New Hampshire a question?

Mr. CARTER. Certainly.

Mr. FULTON. The Senator from New Hampshire has moved to strike out the words "other than Indians," in line 5, page 5, but I do not understand whether he has moved to strike out the same words in line 25 on the same page.

Mr. GALLINGER. Yes; I first moved that those words be stricken out.

The VICE-PRESIDENT. The words referred to on line 25, page 5, were stricken out on motion of the Senator from New Hampshire.

Mr. CARTER. Now, I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

Provided, That no obligation shall be created against or assumed by the United States on account of any bond or bonds issued in pursuance of the authority granted by this act, and a notice of this proviso shall be printed on the face of each bond issued.

Mr. BEVERIDGE. Where does that come in?

Mr. CARTER. At the end of the bill.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE-PRESIDENT. There are several committee amendments that have not been acted upon, which will be stated by the Secretary.

The SECRETARY. On page 3, line 8, after the name "Valdez," it is proposed to strike out the words "lithographed or printed thereon" and to insert "and also bear the seal of said town."

The amendment was agreed to.

The next amendment of the Committee on Territories, which had not been acted upon, was, on page 17, line 22, after the word "have," to strike out "a facsimile of;" in the same line, before the word "signature," to insert the word "written," and in line 23, after the name "Phoenix," to strike out "lithographed or printed thereon" and to insert "and also bear the seal of said city."

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SUTHERLAND. I desire to direct the attention of the Senator from Indiana to the provision on page 7 of the bill, which reads:

That if any false material statement is made in any part of such petition or affidavit the petitioner or petitioners shall be deemed guilty of perjury, and upon conviction thereof said license shall be revoked and said license shall be subject to the penalties provided by law for the crime of perjury.

It seems to me that there are two defects in that provision. The first is that it omits the qualifying adjective "willfully," and makes it a case of perjury if the statement is false, even though not willfully false. The second is that it applies to a promissory statement contained in the bill which is required to be filed. For example, the affidavit is:

Fifth. That said applicant intends to, and if so licensed will, superintend in person the management of the business licensed.

That proposes to make the case perjury if the applicant, having promised that he will superintend the management of the business licensed, thereafter breaks his promise. I do not understand that at the common law or under any statute that could possibly be perjury.

Mr. BEVERIDGE. My attention was distracted for the moment, but I will say to the Senator, concerning these provisions, that this is the license system for road houses in Alaska. It is a matter very difficult to control, and this stren-

uous provision, to which the Senator very properly calls attention—

Mr. NELSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Minnesota?

Mr. BEVERIDGE. Certainly.

Mr. NELSON. I desire to say that the provision of the law to which the Senator from Utah [Mr. SUTHERLAND] refers has been the law ever since 1899, and is in the Alaskan criminal code.

Mr. SUTHERLAND. I had occasion to examine the provision in the Alaskan criminal code to which the Senator calls attention, and, if anything, that is even more objectionable than the provision here.

Mr. BEVERIDGE. Mr. President, I will state that when I first brought up this bill I said that if it would occupy fifteen minutes, under the general spirit of the unanimous-consent agreement secured by the Senator from Maine [Mr. HALE], I would withdraw the bill. It was withdrawn. Then it subsequently appeared that objection would be withdrawn and that the bill could be put through immediately. In view of the statement made at the time when the bill was taken up, and in accordance with the spirit of the understanding, I will not press the bill further upon the attention of the Senate at this time. I do this merely to keep the spirit of the statement which I then made. I now see it is going to take more time than I anticipated.

Mr. SUTHERLAND. If the Senator will permit me, I think we can dispose of the bill.

Mr. BEVERIDGE. I am glad to hear that; but I want to frankly admit that we have now gone over the time that I said, when I called up this bill, would be consumed; and I added that, if much time should be consumed, I would withdraw the bill.

Mr. SUTHERLAND. I think an amendment can be made that will cure this defect; but I do not desire to consent to a bill that I think is as fundamentally wrong as this bill now is.

Mr. BEVERIDGE. I have not the least objection to the Senator's amendment. I am merely trying to keep with the Senate an agreement which I made. Certainly I am not at all objecting to the consideration of the Senator's amendment.

EXECUTIVE SESSION.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 29, 1908, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 28, 1908.

PROMOTIONS IN THE NAVY.

Midshipman Hugh K. Aiken to be an ensign in the Navy from the 13th day of February, 1908, to correct the date of his promotion as confirmed on May 19, 1908.

Midshipman Harvey Delano to be an ensign in the Navy from the 13th day of February, 1908, to fill a vacancy existing in that grade on that date.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 28, 1908.

PROMOTION IN THE NAVY.

Midshipman Hugh K. Aiken to be an ensign.
Midshipman Harvey Delano to be an ensign.

POSTMASTERS.

INDIANA.

Samuel H. Grim, at Roanoke, Huntington County, Ind.

OHIO.

Sherwood Blamer, at Johnstown, Licking County, Ohio.

SOUTH CAROLINA.

Lawrence O. Harper, at Honea Path, Anderson County, S. C.

TENNESSEE.

Leander W. Dutro, at Memphis, Shelby County, Tenn.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 28, 1908.

[Continuation of legislative day of Tuesday, May 12, 1908.]

The recess having expired, the House was called to order by the Speaker at 11 o'clock a. m.

WOOD PULP AND PRINT PAPER.

Mr. MANN. Mr. Speaker, I ask unanimous consent for leave now to present to the House a report from the select committee appointed under House resolution 344 in regard to the pulp and paper investigation, and that the report of the committee and views of the minority be read.

Mr. WILLIAMS. Mr. Speaker, I do not see the gentleman from Tennessee [Mr. SIMS] nor the gentleman from New York [Mr. RYAN] in the Chamber. I will ask the gentleman to postpone this matter until they can be present; otherwise I shall have to object, out of courtesy to them.

Mr. MANN. Well, I will say to the gentleman from Mississippi that the gentleman from Tennessee [Mr. SIMS] and I were together within five minutes. While I did not say to him that this would be called up immediately upon the commencement of the day's session, I did say to him that I would make that request early in the session, and he has no objection. I will send and get him; he is in the building here.

Mr. WILLIAMS. Well, Mr. Speaker, it will not delay the House long. I suggest to the gentleman from Illinois just to hold the request until the gentleman from Tennessee is present. He is in the habit of being present a very few minutes after the House meets. I object for the present.

FISH-CULTURAL STATIONS ON PUGET SOUND.

Mr. HUMPHREY of Washington. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill H. R. 15452, suspend the rules, and pass the same.

The SPEAKER. The gentleman from Washington moves to discharge the Committee of the Whole House on the state of the Union from further consideration of the following bill, suspend the rules, and pass the same.

The Clerk read as follows:

A bill (H. R. 15452) to establish two or more fish-cultural stations on Puget Sound.

Be it enacted, etc., That the Secretary of Commerce and Labor be, and he is hereby, authorized and directed to establish two or more fish-cultural stations on Puget Sound, State of Washington, for the propagation of salmon and other food fishes, and to make the necessary surveys, and purchase sites, construct ponds and buildings, construct, purchase, and hire boats and equipments, and employ such assistance as may be required for the construction and operation of such fish-cultural stations at suitable points to be selected by the Secretary of Commerce and Labor, and the number of such stations to be determined by him, and for said purpose the sum of \$50,000 is hereby authorized to be appropriated.

The SPEAKER. Is a second demanded?

Mr. SPIGHT. I demand a second.

The SPEAKER. Under the rules, a second is ordered. The gentleman from Washington [Mr. HUMPHREY] is entitled to twenty minutes, and the gentleman from Mississippi [Mr. SPIGHT] is entitled to twenty minutes.

Mr. HUMPHREY of Washington. Mr. Speaker, this bill is for the purpose of establishing fish hatcheries upon Puget Sound. It has been recommended by the Fish Commissioner, who has been urging it for several years. The salmon industry upon Puget Sound is the greatest in the country, and it is rapidly decreasing. According to statements made by the Fish Commissioner, and according to statistics that have been furnished me from the Department, unless something is done quickly several of the best varieties of salmon will soon be extinct. I might say to the House that this is not a local question, but affects the entire country. The price of salmon is constantly increasing while the supply is rapidly diminishing, and unless something is done it will be but a few years more before the best variety of salmon will be in such small numbers that they will cease canning them altogether. I do not know that I have anything more to say at this time, unless some gentleman wants to ask me some questions, and I therefore will reserve the balance of my time.

Mr. SPIGHT. Mr. Speaker, I would have no objection to the passage of this bill but for the fact that out of a great number of bills reported from the same committee this is the only one that is given the favor of consideration. The bill within itself I think is meritorious, but I do not think it is fair to single out one bill to the exclusion of all others, and discriminate against everybody else who is in just as favorable an attitude before Congress as the gentleman from Washington. For that reason I call the attention of the House to the fact that everybody else is cut out and this bill is proposed to be passed without any reference to the consideration of any other bill.

Mr. STEPHENS of Texas. I desire to ask the gentleman a question. Why is it necessary to have four distinct fish-culture stations established at Puget Sound at one time?

Mr. SPIGHT. That is another question that enters into the consideration of this matter. I understand that this applies only to the question of the propagation of the salmon.

Mr. HUMPHREY of Washington. Only to the salmon.

Mr. SPIGHT. All the other fish hatcheries are of a general nature.

Mr. STEPHENS of Texas. Well, let me ask this question: Is it not a fact that it requires a considerable outlay in money to start a fish hatchery?

Mr. HUMPHREY of Washington. Not at all; I will call the attention of the gentleman from Mississippi to the fact, and he is a member of our committee, at the time it was considered by the committee it provided for two at fifty thousand each, but I only asked for \$50,000 for both. I offered that amendment myself, because I think they can be established for that amount.

Mr. STEPHENS of Texas. Does the bill carry any appropriation?

Mr. HUMPHREY of Washington. It does not carry an appropriation.

Mr. STEPHENS of Texas. The appropriation for the four different parts are \$12,500 apiece?

Mr. HUMPHREY of Washington. Twenty-five thousand dollars for each of the two.

Mr. STEPHENS of Texas. And that includes the entire plant?

Mr. HUMPHREY of Washington. That is the entire plant.

Mr. STEPHENS of Texas. Would it not be better to establish a \$50,000 plant and distribute the fish from one central point?

Mr. HUMPHREY of Washington. It would not, for the reason that the Department says that two hatcheries can be worked to better advantage and that they can be better located.

Mr. SPIGHT. I do not care for my time to be taken up in colloquy between the gentleman from Washington [Mr. HUMPHREY] and other Members. I yield such time as he may desire to my colleague on the committee [Mr. GOULDEN].

Mr. GOULDEN. Mr. Speaker, as a member of the Committee on the Merchant Marine and Fisheries, I would state that this bill was given very careful consideration. The only objection that could possibly lie against it would be that raised by the gentleman from Mississippi [Mr. SPIGHT]. But it must be borne in mind that this bill has been before the committee two or three years at least, and was favorably reported last year and passed the House, but was hung up in some way or other, unknown, in the Senate. I believe it to be a meritorious bill in all respects and one that should receive the support of the Members of this House.

Mr. LITTLEFIELD. To what bill does the gentleman now refer?

Mr. GOULDEN. I am referring to the bill H. R. 15452.

Mr. LITTLEFIELD. Is that the one pending before the House?

Mr. GOULDEN. Yes.

Mr. LITTLEFIELD. The bill of Mr. HUMPHREY of Washington?

Mr. GOULDEN. Yes.

Mr. LITTLEFIELD. That is a bill that was delayed in the legislative processes in some unknown and undiscoverable way.

Mr. GOULDEN. Yes; in the closing days of the Fifty-ninth Congress Mr. HUMPHREY was unable to get it through the Senate, not because there was any objection to the bill. On the other hand, it was regarded as proper and meritorious and was so recognized, I think, at the other end of the Capitol. It was simply for want of time. I trust that this bill will receive the approval of the House. I think it a very important matter, and something that is imperatively demanded on the Pacific coast to save the great salmon industry in that section of the country. It is clearly proven that the fish are rapidly decreasing, so that even now the price has materially advanced the last few years. The Government should do all possible to conserve and preserve the natural resources of the country, and the salmon industry is one of sufficient weight to call for action on the part of Congress.

Mr. SPIGHT. Mr. Speaker, I yield three minutes to the gentleman from Indiana [Mr. COX].

Mr. COX of Indiana. Mr. Speaker, as said by the gentleman from New York [Mr. GOULDEN], this bill is a bill that received a great deal of attention before the committee to which the bill was referred. I believe that it is a meritorious measure, exceedingly so, and for two reasons. In the first place, the evidence discloses the fact that this species of salmon sought to be perpetuated by this bill is fast disappearing and becoming extinct; second, it disclosed the fact that this species of salmon is one of the best species of fish used by the American people or any other people for that matter as a food product. For the purpose of preserving this species of fish I believe the bill

should pass and should receive the hearty support of every Member upon this floor.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. COX of Indiana. Yes.

Mr. WILLIAMS. Does the gentleman know how many bills of this character are favorably reported by that committee?

Mr. COX of Indiana. I do not, but I would say at least a dozen.

Mr. WILLIAMS. This is the only one recognized by the Speaker for consideration?

Mr. COX of Indiana. Yes; so far as I know.

Mr. WILLIAMS. Is the gentleman aware of the fact that at this session matters which are of similar character have been bunched together in omnibus bills and motions made to suspend the rules and pass those omnibus bills?

Mr. COX of Indiana. Yes; I am aware of that fact and also aware of the fact—

Mr. WILLIAMS. Does the gentleman know why this was not done in this case?

Mr. COX of Indiana. I do not. In response to one of the questions propounded by the gentleman from Mississippi I will state that several fish-hatchery bills that passed our committee were proposed to be placed in an omnibus bill and submitted to the House and put upon passage, but as yet that has not been done. But be that as it may, Mr. Speaker, I regard this bill somewhat as an exception to the other fish-hatchery bills passed by our committee. For the reasons I have stated a moment ago—of the rapid decline of this species of fish and for the perpetuation and preservation of this species of fish—I believe that it ought to become a law. In addition to that, the evidence disclosed the fact that this business of salmon fishing on Puget Sound is an extensive business. It employs several thousand men. It has invested in it several million dollars of capital. These are all considerations entering into the question that induce me on this occasion to support this bill. I believe it is meritorious and ought to pass. [Applause.]

Mr. SPIGHT. Mr. Speaker, I yield three minutes to the gentleman from Maryland [Mr. PEARRE].

Mr. PEARRE. Mr. Speaker, I am opposed to this bill, and all other fish-hatchery bills unless they all be taken and put upon the same footing. It is impossible for me to understand why one of these bills should be selected and favored, while the others are discriminated against. I am perfectly willing to confess that this is a matter somewhat personal to myself, from one point of view, by reason of the fact that in the Fifty-ninth Congress I introduced a bill for the establishment of a fish hatchery or a fish-cultural station in the State of Maryland, where, as far as I am informed, there is no fish-cultural station at all. That bill was included by the Committee on the Merchant Marine and Fisheries, under the chairmanship of the distinguished gentleman from Ohio, Mr. Grosvenor, in an omnibus bill and favorably reported. That bill never had a hearing in this House, because the chairman of the committee was never recognized for the purpose of calling it up. At any rate, it was never considered in the House, and no action was ever taken upon it.

Now, I reintroduced this fish-cultural bill for Maryland, and the present committee reported that bill favorably. It is House bill 89, report No. 1587, providing for an appropriation of only \$25,000 for the establishment of a fish-cultural station in the State of Maryland, which has no such station.

It may be satisfactory to some gentlemen, and I presume it is within the province of the leadership of the House, to select one of these bills over the others, and to discover by the keen eye of introspection some particular provision in one of the bills which makes it superior for consideration above all other propositions of like character; but it does seem to me, Mr. Speaker, that elemental fairness and the square deal require that all these bills should be considered together and passed *pari passu*. I am, therefore, unalterably opposed to this method of considering this bill, and for that reason shall vote against the proposition embodied in the bill of the gentleman from Washington with regard to the fish-cultural station for that State.

Mr. SPIGHT. I ask the gentleman from Washington [Mr. HUMPHREY] to occupy some of his time.

Mr. HUMPHREY of Washington. I yield to the gentleman from Virginia [Mr. MAYNARD].

Mr. MAYNARD. Mr. Speaker, as a member of the Committee on the Merchant Marine and Fisheries, I favor the bill of the gentleman from Washington [Mr. HUMPHREY]. I have been for two sessions a member of that committee, and as the gentleman from Maryland says, at the last session of Congress, when General Grosvenor was chairman of the committee, we did report an omnibus bill containing all the bills that had been reported favorably, but were unable to get consideration for it. Now, as we can not get consideration for the omnibus bill, car-

rying all the bills, why should we refuse to pass this bill, which has been reported, and which has special merits? I am not only a member of the committee, but was a member of the subcommittee that carefully investigated all these bills and reported to the full committee. I should be glad to support, by my vote and voice, all the fish-cultural station bills reported by that committee, but if I am not given an opportunity to vote for them all, believing that they all should pass, I want to vote for those that I can get an opportunity to vote for; and here is an opportunity to vote for one that has special merits.

On account of the decrease in the salmon supply, we must do what we can to protect them, and being in favor of taking care of all the fish-cultural stations and increasing them and conserving our fish food products, I am especially in favor of this bill.

Mr. BOOHER. Why do you have two stations on Puget Sound? Why not combine them in one?

Mr. MAYNARD. I should prefer that the gentleman from Washington [Mr. HUMPHREY] answer that question.

Mr. HUMPHREY of Washington. I did not understand the question.

Mr. BOOHER. Why do you have two stations on Puget Sound? Why not combine them in one, having one large station, with probably one-half of the employees that will be required for the two?

Mr. HUMPHREY of Washington. The answer to that is this, that the Department thinks that very much better work can be done by having two stations, for the reason that it is difficult to find one station where you could do so much work, and that it would be better to have different hatcheries on different streams. The Puget Sound region is a vast country. The sound is 150 miles in length, and a great many streams come into it, and they want to locate these hatcheries so that they will be tributary to different streams.

Mr. BOOHER. It is not customary to establish more than one fish-cultural station in a State, is it?

Mr. HUMPHREY of Washington. There has not been any custom about it. Prior to the last six years there was none anywhere.

Mr. BOOHER. I know in my State, a large State, very much interested in fish culture, we only have one established by the Government. We have three or four State fish hatcheries. I do not see any good reason why there should be two fish hatcheries established on Puget Sound by the Government.

Mr. HUMPHREY of Washington. The gentleman is fortunate in having one. Most of the States of the Union have none.

Mr. BOOHER. It was our good fortune to get one.

Mr. MAYNARD. In conclusion, I believe the House should pass this bill and such other fish-hatchery bills as we are able to get recognition for. A good many members of the committee have fish-hatchery bills which have been properly reported for which they wish to get recognition; but if they can not get recognition, the members of the committee wish to see those who can get recognition pass their bills.

The SPEAKER. The time of the gentleman has expired.

Mr. CAULFIELD. Mr. Speaker, I would like to ask the gentleman, What particular power of the Constitution do we exercise when we pass this kind of legislation for the benefit of the canning industry?

Mr. HUMPHREY of Washington. I have not time to discuss the constitutional question. We have been exercising this power for some years, and I have not time to take up that question now.

Mr. LITTLEFIELD. I understand the gentleman is willing to take the bill, the Constitution to the contrary notwithstanding.

Mr. HUMPHREY of Washington. I yield four minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, it is easy to criticize a particular bill that comes before the House because some other bill is not presented at the same time, but it is a novel doctrine to me, presented by the distinguished gentleman from Mississippi, that no bills should be passed unless all bills should be passed at the same time. It would be a pretty legislative body that attempted to put all legislation in one proposition to be voted upon at one time. The Committee on the Merchant Marine and Fisheries has upon the Calendar thirty-five bills providing for fish hatcheries. The criticism which is usually and properly levied against combining bills of this character is that they become mere pork-barrel bills, and it has been a valid objection that there should be no putting in of great numbers of bills of a same character, some of which may be good and should go through and some of which may be bad.

I introduced a bill in the House for a fish hatchery in Chicago. A bill has been reported from the committee for a fish hatchery in southern Illinois. Some of the States have several bills reported. Is that a reason for not giving consideration and approval to a good measure—good upon its face? Do gentlemen

here propose to take the position that we ought to vote against a good measure because they have a bad one that they want locked up with it? My observation is that those gentlemen who are opposed to a good measure, unless it be linked with another one, have a bad measure they want to carry through on the strength of the good measure, and I suspect that is the reason why some gentlemen now have opposed this bill. [Applause.] Nobody opposes this bill upon its merits. Nobody criticises the provisions of this bill upon their merits; but they want to add to it some other bill that will not bear inspection. Let them call up their bill—

Mr. PEARRE. Does the gentleman know that or simply assert it?

Mr. MANN. I say what I say, even to the gentleman from Maryland.

Mr. SPIGHT. I would like to ask the gentleman—

Mr. MANN. I only have four minutes. If the gentleman will give me the time—

Mr. SPIGHT. I want to say to the gentleman that I have no bill at all.

Mr. MANN. I did not suppose the gentleman had a bill, but I examined the reports of this committee when they were made, and some of them will not bear reading in the light of the day. There are bills reported from that committee for fish hatcheries that have no license to be before this House for favorable consideration. A committee that reports in thirty-five bills of the same character and does not report any that are bad is made up of better material than the gentleman from Maryland or myself. They have been trying to establish a salmon fish hatchery for years. There ought to be a provision for the maintenance of the salmon fish business. We can not afford to have the salmon fisheries become extinct simply because somebody wants to plant some German carp or something else in the mud streams of the West or of the South.

Mr. BOOHER. Does the gentleman know of anyone who wants to plant German carp anywhere?

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. How much time have I remaining, Mr. Speaker?

The SPEAKER. The gentleman has twelve minutes remaining.

Mr. HUMPHREY of Washington. I will ask the gentleman from Mississippi to use some of his time.

Mr. SPIGHT. I yield the balance of my time to my colleague [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I do not know of anybody that wants to plant mud carp in the streams of the West. If the gentleman from Illinois knows of anybody who is opposing this bill upon that ground, he ought to make a frank statement of what the bill is and who is the proponent of it. I have announced no such doctrine in the question I asked of the gentleman from Indiana [Mr. Cox] as the gentleman supposes. I merely announced the doctrine that the one-man power in this House is strong enough already; favoritism from the desk is sufficiently potent already; and when it comes to a question as to whether one bill should be considered alone out of several of like character and of equal merit, the committee should be heard to say it, rather than merely the Speaker, who says it by selecting one out of many of like character and equal merit. I do not know what the motive of the Speaker was in selecting this one out of many. I have no right to inquire into that motive. I only know that he has done it.

The gentleman from Illinois [Mr. MANN] is wrong in another respect. He says there is no objection to this bill upon its merits. There is objection to the bill upon its merits. There is no reason why Puget Sound should have in this bill an appropriation for two fish hatcheries. The streams that lead into it are of like character. The fish are of like character, and one hatchery would do the work just as well as two.

The gentleman asserts that the Department says it would rather have two. Why, if you will leave it to them, any bureau of any Department of this Government would rather have two or three or four of almost anything than to have one. The more the merrier for them and the greater number of employees. Then, it is urged here that there is great danger of the extinction of this particular fish. There is no more danger of the extinction of this particular fish than of half a dozen other sorts of sea food I could mention of equal palatability. You had better be taking care of the diamond-backed terrapin down here in the Chesapeake, the most toothsome of sea food. You had better be taking care of the fresh-water fish that used to just swarm in the great streams of the Delta of the Mississippi River and of the tributaries leading into the river. You can not get one of these streams supplied upon a general order. You must get different men to order small amounts, and trust to turning them loose into the different streams.

Mr. Speaker, I believe that if I were in the chair and the Speaker were upon the floor, the Speaker would be the first man to agree with me about the proposition I am advancing, namely, that there ought not to be rank personal favoritism in recognition of gentlemen for presentation of bills of like character and of acknowledgedly equal merit. Talk about the "extinction" of these fish. What is becoming of the pompano? What has become of half a dozen other kinds of fish in this country? Why should this bill have been selected specially out of all others for recognition and none others presented?

The gentleman from Illinois says that he does not like the idea of bunching bills, but at this session of Congress the majority has bunched I do not know how many bills from the Judiciary Committee. They brought in an omnibus bill from the Committee on Indian Affairs; they brought in a whole lot of Territorial matters upon one bill, because in the opinion of the several committees they were of equal merit and of like character, and deserved to be heard by the House upon an equal footing. If I had no objection to this bill upon its merits—and I have the objection that it entails unnecessarily a double expense—I would still have an objection to taking it up and singling it out and giving one gentleman alone the advantage over others that have equal rights.

I yield back the balance of my time.

Mr. SPIGHT. Will the gentleman from Washington [Mr. HUMPHREY] use some more of his time now? How much time have I left, Mr. Speaker?

The SPEAKER. The gentleman has seven minutes.

Mr. HUMPHREY of Washington. I yield three minutes to the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. Mr. Speaker, one of the greatest of the food fishes in the world, if not the greatest, is the salmon. It is admitted on all sides that the salmon will become extinct unless something is done by way of propagating it in fish hatcheries. There can not be any question about the desirability and the propriety of passing this bill. The gentleman from Mississippi [Mr. WILLIAMS] puts his judgment against that of the Department and says that two fish hatcheries are not necessary. The Department says that they are, and they can work to much better advantage if they have two instead of one and do a good deal more than twice the work. And I am inclined to follow the Department instead of the gentleman from Mississippi [Mr. WILLIAMS].

The gentleman talks about one-man power that has been exercised in this House. It has resulted in nothing except prolonging the hours of the session and disabling the reading clerks of the House by useless roll calls.

Mr. LITTLEFIELD. Will the gentleman allow me?

Mr. PAYNE. I can not yield, as I have only three minutes.

I can not appreciate the statesmanship of those gentlemen who oppose this bill because they do not get a hatchery in their State or in their neighborhood. The great State of New York has but one United States fish hatchery, I find after diligent search, located at Cape Vincent. We have two provided for and run by the State of New York. I have never made an application for fish to the United States Fish Commission but they have been invariably provided from the fish hatcheries in Washington and not from the hatchery in the State of New York.

Gentlemen forget that this is a common Union, and that fish can be sent as readily from Washington to New York as from the fish hatchery there or from Washington to Mississippi, and especially to Maryland as readily as if the hatchery were located in my friend's district in Maryland. There is no good reason for opposing this bill because every State can not be represented in an omnibus bill giving a fish hatchery in every State.

No one doubts the propriety of this measure for a moment, or doubts that this particular fish ought to be cultivated in the United States to prevent its extinction. No one doubts that this is one of the greatest food fishes in the world, and no one ought to doubt about his duty to vote for this bill, unless it be from the feeling that he must have some local pap in his own State and his own district. Let us legislate for the good of the whole country, and not for any particular locality. I understand there are bills before the committee, including one for the State of New York, but I can not conceive how I could stand here and not vote for one in Washington, because I could not get one in New York, or would not vote for one in Maryland, if that proposition was before us, and it presented a strong case like this case, and I could not get one for the State of New York. I would vote for them all. We can not locate fish hatcheries in every Congressional district in the United States. Let us take a broader view, Mr. Speaker, and legislate for the good of the whole people. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. Mr. Speaker, I desire to say in relation to this bill that it is the first one on the Calendar. It is the first one reported of its character; it stands at the head, and I can not see how anyone can complain that it is unfair that the first bill on the Calendar should be the first one recognized for passage. Replying further to the gentleman from Mississippi [Mr. WILLIAMS], he has a fish hatchery in his State, and it was established by being inserted in an appropriation bill. Certainly bringing this bill up and considering it at this time, when it is first on the Calendar, it can not be said that there is any unfairness in it.

Mr. WILLIAMS. That fish hatchery you refer to in Mississippi was established in the Fifty-sixth Congress.

Mr. HUMPHREY of Washington. I do not know when it was established, but I understand that "Private" John Allen got it on an appropriation bill.

A MEMBER. At Tupelo.

Mr. SPIGHT. How many fish hatcheries have been established in the State of Washington?

Mr. HUMPHREY of Washington. One. I yield three minutes to the gentleman from Missouri [Mr. ALEXANDER].

Mr. ALEXANDER of Missouri. Mr. Speaker, this is the first session I have been on the Committee on Merchant Marine and Fisheries, but I am informed that in previous Congresses omnibus bills have been brought in containing all the requests introduced in this House, and they failed to pass for that reason. I am not a member of the subcommittee who had this bill under consideration, but on account of previous failures the committee was directed to select those bills that were the most pressing, those that were the most meritorious, and make a report on them to the general committee. This bill was one of the first ones considered, and it was favorably reported by the subcommittee to the committee and is favorably reported by the latter to this House. Now, there are a number of other similar bills reported and on the Calendar for passage; not all the bills, because there must be fifty or seventy-five of them, but for those States where there are no hatcheries and for those States where there is greater need of them than in others. This one is in the interest of one of the most valuable industries of its kind in the country, and I can not see any reason why this proposition can not be considered on its merits. If there are others who have bills that have not yet been reported, or that have been reported but have not been embraced in this proposition, it would be very small on their part to resist the passage of this bill simply because the bills are not up for consideration. I hope before this Congress closes that all the bills of merit from the committee may be put upon their passage.

Mr. WILLIAMS. If the gentleman will permit an interruption. Of course I do not want my friend to understand that I am afraid that somebody else will get a bill passed. The gentleman knows that I have no bill before the committee.

Mr. ALEXANDER of Missouri. I understand that; the gentleman has no bill before the committee. But there are people who have them before the committee that may be disappointed if they fail to pass; but there is not one of greater merit than this for the promotion of the salmon industry of the Northwest, and for that reason it was reported. It came to the committee early in the session, and for that reason received early consideration. There are a number from my own State, and one reported. It may fail of passage at this session of Congress, but I hope no Member from the State of Missouri will vote against this proposition simply because his bill is not up for consideration. [Applause.]

Mr. HUMPHREY of Washington. Mr. Speaker, how much time have I?

The SPEAKER. Five minutes, and the gentleman from Mississippi has seven.

Mr. SPIGHT. I yield two minutes to my colleague from Mississippi [Mr. CANDLER].

Mr. CANDLER. Mr. Speaker, it is true that there is a fish hatchery in the State of Mississippi, which was authorized during the Fifty-sixth Congress. I am glad that that fish hatchery is in the district represented by the gentleman now occupying the floor. But that fish hatchery was established because of a universal demand that existed throughout the whole country. By the facts and statements presented by my distinguished predecessor, Private John Allen [applause], it was shown that there was a demand not only on the part of the people throughout the country, but that it even extended to the fish themselves; that they, from all the lakes, streams, and other fish-inhabited waters of the country, were clamoring to have their progeny hatched at Tupelo, and were traveling over dry land by millions, hoping to reach that happy place in order that they might propagate in that great center of trade and population and the hub of the universe. [Laughter and great

applause.] Because of this situation and demands that fish hatchery was established by unanimous consent. Every Member on the floor of the House, Democrat and Republican, in response to universal sentiment, agreed to the establishment of that hatchery, and it was established by a unanimous vote, not only because the people demanded it, but because the fish themselves were open mouthed in their demand, and above everything else because of the high standing and universal popularity in this House at that time of my distinguished predecessor. [Applause.]

The fact that the fish hatchery was established at Tupelo in response to universal demand and that it exists there to-day with such splendid facilities furnishes the strongest argument on earth why there is no necessity for this hatchery, because if left to the fish themselves, these salmon would travel there to propagate their kind at Tupelo, and the Tupelo hatchery could, if fully sustained by the Government with sufficient appropriations, propagate the salmon and all other kinds of fish that are needed throughout the country. All the fish want is an opportunity so that they may go to Tupelo. So I say, let them be disseminated from that center of the universe, and do not put two hatcheries away out in the State of Washington, even though it be in the district of my good friend [Mr. HUMPHREY] of Washington State, but let them propagate at and be disseminated and distributed from Tupelo, this great fountain-head of good things. Daily our facilities are growing greater. We have one of the best hatcheries in all the land, and we can, if given sufficient time, furnish you all the fish you want. So send us the salmon, and we will propagate them and furnish you an unlimited supply. [Great applause and laughter.]

Mr. SPIGHT. Mr. Speaker, in reply to the suggestion of the gentleman from Washington [Mr. HUMPHREY] and also in reply to the gentleman from Illinois [Mr. MANN] I want to say that the policy of the Committee on the Merchant Marine and Fisheries was, as far as possible, to limit favorable reports to States that had no hatcheries, and in most cases favorable reports were made only as to such States.

I think the gentleman from Washington was a little unfortunate in selecting as one of his champions the gentleman from Illinois [Mr. MANN], who has seen proper, indirectly at least, to challenge the motives of other gentlemen who have fish-hatchery bills before the House. I am glad that I am not subject to his criticism.

The Committee on the Merchant Marine and Fisheries were controlled in their recommendations by two motives—first, the merit of the proposition and, second, the absence of a hatchery in that State. Now, the gentleman from Illinois [Mr. MANN], in attempting to impugn the motives of men who have fish-hatchery bills before the House, has been unfair and unjust to every other man who has a bill of that sort. I believe he did not refer to anybody except the gentleman from Maryland. I do not know that he intended to intimate that the bill of the gentleman from Maryland was not entitled to consideration from the standpoint of its merits.

Mr. MANN. No; I did not refer to any specific gentleman at all.

Mr. SPIGHT. But I should like the gentleman from Illinois to designate any one of these bills reported from this committee which is, as he says, fraudulent in effect.

Mr. MANN. I should be delighted to do so if I had the opportunity.

Mr. SPIGHT. I yield the balance of my time to the gentleman from Maryland [Mr. PEARRE].

Mr. PEARRE. I am constrained to agree with the gentleman who has just taken his seat in his suggestion that the gentleman from Illinois was very unfortunate in the method which he adopted in advocating this bill.

Now, the suggestion that the gentleman has made and the reflections that he has endeavored to cast upon other gentlemen of this House perhaps ought to be concentrated, if fair at all, upon the members of the Committee on Merchant Marine and Fisheries, because, Mr. Speaker, it is a reflection upon those gentlemen every time any one of the bills which has been reported by that committee is refused a hearing and equal consideration with the pending bill by the Members of the House of Representatives—by this House. Mr. Speaker, each one of these bills was considered by this committee, and the House has no right to assume—and I respectfully submit the Speaker of this House has no right to assume—that these reports, all being favorable, indicate a preference to one bill over the other, and the suggestion of the gentleman from Washington [Mr. HUMPHREY] that as this is the first of the bills on the Calendar, therefore it should have the right of way and should be first considered, is of course unworthy of consideration.

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. Mr. Speaker, I yield one minute to the gentleman from Washington [Mr. JONES].

Mr. JONES of Washington. Mr. Speaker, a similar bill to this was reported several years ago to this House. I know that when I was a member of the Committee on the Merchant Marine and Fisheries a similar bill was reported from that committee, and a bill similar to this was brought up in the last Congress and received a majority vote of this House. I would like to see a great many of these bills pass. I remember when first a member of this committee of investigating this subject to a considerable extent, and I was greatly impressed with the necessity of the Government encouraging the development of the fish industry as a means of furnishing an abundant and cheap food supply. Congress should give more consideration to the encouragement and development of the fishing industry of the country, and without referring to the other bills which have been favorably reported, I desire to say that this bill is certainly a meritorious one and, in my judgment, there can be no valid objection to it. It is asked why should we have two stations on Puget Sound. The Members overlook the fact that Puget Sound is an immense body of water, that it has hundreds of miles of coast line, and into it come a great many different streams from the interior. They have overlooked also the characteristics of these fish. A great many of the different kinds of salmon are found only in particular streams, and it seems to be their nature by instinct after they have hatched out and have gone to sea to come back to the very same stream.

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. I yield one minute more to the gentleman.

Mr. JONES of Washington. For instance, the celebrated sockeye salmon, sent all over the globe, is found almost exclusively in the Frazer River, going up into Canada, and the Quenilt salmon, which we had the pleasure of furnishing to the Members of the House a few days ago, are found only in the Quenilt River. So it is with a great many different species.

The salmon fisheries are one of the principal industries of the State, possibly \$10,000,000 annually is the value of the salmon output of the State, and the supply of fish, as has been said, is diminishing very rapidly, and the Federal Government ought to do a little bit toward helping in this matter. The State is not neglecting this industry. The State is doing a great deal, and we are spending from \$65,000 to \$100,000 a year for maintaining State hatcheries ourselves. We have sixteen or more State hatcheries, maintained and operated by State appropriations. Very stringent laws have been enacted for the protection of the industry, and we are demonstrating the justness of our demands on the Federal Government by doing everything in our power to help ourselves.

Mr. HUMPHREY of Washington. Mr. Speaker, I desire to read a dispatch to the House, to show the Members the importance of this industry, as I think, perhaps, some of them do not understand the extent of the salmon industry on Puget Sound. I read from a dispatch which I received on March 2, 1908, from the fish commissioner. In that he says that the number of men employed in 1907 was 10,900; wages paid, \$3,550,000; capital invested, \$4,500,000. Now, I ask the Members of this House whether or not we can afford to spend the small sum of \$50,000 to protect that great industry?

The gentleman from Mississippi [Mr. WILLIAMS] said that there was nothing to the statement that these salmon were being exterminated. I wish to read just one statement here upon that proposition and then I will ask for a vote. I read from the report:

The sockeye or blueback is the red salmon, and is not only the finest of all salmon, but the finest of all food fishes. The pack of this species is as follows: 1905, 757,485 cases; 1906, 182,241 cases; 1907, 71,486 cases.

So that is the decrease in three years, from 1905 to 1907; the pack was not one-tenth in 1907 what it was three years before. I do not believe that the Members of this House will subscribe to the doctrine of my friend from Maryland [Mr. PEARRE] and vote against this bill, when they admit that it has merit, simply because somebody else did not get what he wanted. I desire to say to the gentleman that I have voted to report these various bills. Most of them are good bills, and they ought to pass, and I hope that they will pass. So far as I am personally concerned, I will do everything that I can, not only in the committee, but upon the floor of the House, to pass them. [Applause.]

The SPEAKER. The question is on the motion of the gentleman from Washington to suspend the rules and pass the bill.

The question was taken.

Mr. SPIGHT. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. HUMPHREY of Washington. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The point is sustained. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absentees, and the question will be taken on the motion of the gentleman from Washington to suspend the rules and pass the bill. The Clerk will call the roll.

The question was taken, and there were—yeas 189, nays 36, answered "present" 19, not voting 143, as follows:

YEAS—189.

Acheson	Diekema	Howell, Utah	Padgett
Adair	Douglas	Howland	Page
Adamson	Ellis, Mo.	Hubbard, W. Va.	Parker, N. J.
Alexander, Mo.	Ellis, Oreg.	Humphrey, Wash.	Parsons
Alexander, N. Y.	Englebright	Humphreys, Miss.	Payne
Andrus	Esch	Johnson, Ky.	Pollard
Ansberry	Fairchild	Jones, Wash.	Porter
Ashbrook	Fassett	Kahn	Pujo
Bannon	Ferris	Kelley	Randell, Tex.
Barchfield	Floyd	Kennedy, Iowa	Rauch
Bartholdt	Focht	Kennedy, Ohio	Reeder
Bartlett, Nev.	Fordney	Kimball	Richardson
Bates	Foss	Kinkaid	Robinson
Beall, Tex.	Foster, Ill.	Knapp	Rodenberg
Bede	Foster, Ind.	Klistermann	Rothermel
Bonyng	Fowler	Langley	Sabath
Bowers	French	Laning	Scott
Boyd	Fulton	Law	Sherley
Broussard	Gaines, W. Va.	Lee	Smith, Cal.
Brumm	Gardner, Mich.	Lindsay	Smith, Iowa
Burke	Gardner, N. J.	Littlefield	Smith, Mich.
Burleigh	Garner	Lloyd	Smith, Mo.
Burton, Del.	Garrett	Lovering	Snapp
Burton, Ohio	Gilham	Lowden	Steenerson
Butler	Gillespie	McCall	Stephens, Tex.
Byrd	Gillett	McCreary	Sterling
Calder	Godwin	McGavin	Sturgiss
Caldwell	Goulden	McHenry	Sulloway
Campbell	Graft	McKinlay, Cal.	Sulzer
Capron	Graham	McKinley, Ill.	Taylor, Ohio
Carter	Greene	McKinney	Thistlewood
Chaney	Hackett	McLachlan, Cal.	Thomas, N. C.
Chapman	Hackney	McLaughlin, Mich.	Tirrell
Clark, Fla.	Haggott	Madison	Tou Velle
Cocks, N. Y.	Hale	Malby	Underwood
Cole	Hamilton, Mich.	Mann	Volstead
Cook, Colo.	Hamlin	Maynard	Waldo
Cooper, Pa.	Harding	Moore, Tenn.	Wanger
Cooper, Tex.	Hardy	Moore, Pa.	Washburn
Cox, Ind.	Haugen	Moore, Tex.	Watkins
Craig	Hawley	Murdoch	Webb
Crumacker	Hayes	Needham	Weems
Currler	Helm	Nicholls	Wood
Cushman	Henry, Conn.	Norris	Woodyard
Dalzell	Hepburn	Nye	Young
Davis, Minn.	Holliday	O'Connell	
Dawson	Howell, N. J.	Olcott	
De Armond		Overstreet	

NAYS—36.

Alken	Clayton	Henry, Tex.	Morse
Barclay	Davenport	Hitchcock	Pearre
Beale, Pa.	Edwards, Ky.	Houston	Roberts
Bell, Ga.	Ellerbe	Howard	Russell, Mo.
Brodhead	Finley	Hull, Tenn.	Sims
Burnett	Gordon	Kelher	Slayden
Candler	Granger	Lafean	Spight
Caulfield	Hay	Lindbergh	Tawney
Clark, Mo.	Hedin	Macon	Williams

ANSWERED "PRESENT"—19.

Booher	Flood	McDermott	Russell, Tex.
Boutell	Haskins	Madden	Sheppard
Brundidge	Hughes, N. J.	Olmsted	Talbot
Dixon	Lenahan	Rainey	Wheeler
Driscoll	Lever	Riordan	

NOT VOTING—143.

Allen	Fitzgerald	Kitchin, Wm. W.	Pratt
Ames	Fornes	Knopf	Pray
Anthony	Foster, Vt.	Knowland	Prince
Bartlett, Ga.	Foulkrod	Lamar, Fla.	Ransdell, La.
Bennet, N. Y.	Fuller	Lamar, Mo.	Reid
Bennett, Ky.	Gaines, Tenn.	Lamb	Reynolds
Bingham	Gardner, Mass.	Landis	Rhinock
Birdsall	Gill	Lassiter	Rucker
Bradley	Glass	Lawrence	Ryan
Brantley	Goebel	Leake	Saunders
Brownlow	Goldfogle	Legare	Shackelford
Burgess	Gregg	Lewis	Sherman
Burleson	Griggs	Lilly	Sherwood
Calderhead	Gronna	Livingston	Stemp
Carlin	Hall	Longworth	Small
Cary	Hamilton, Iowa	Lorimer	Smith, Tex.
Cockran	Hammond	Loud	Southwick
Conner	Hardwick	Loudenslager	Sparkman
Cook, Pa.	Harrison	McGuire	Sperry
Cooper, Wis.	Higgins	McLain	Stafford
Coudrey	Hill, Conn.	McMillan	Stevens, Minn.
Cousins	Hill, Miss.	McMorrin	Taylor, Ala.
Cravens	Hinshaw	Marshall	Thomas, Ohio
Crawford	Hobson	Miller	Townsend
Darragh	Hubbard, Iowa	Mondell	Vreeland
Davey, La.	Huff	Moore, Pa.	Wallace
Davidson	Hughes, W. Va.	Mouser	Watson
Dawes	Hull, Iowa.	Mudd	Weeks
Denby	Jackson	Murphy	Weisse
Denver	James, Addison D.	Nelson	Wiley
Draper	James, Ollie M.	Parker, S. Dak.	Willett
Dunwell	Jenkins	Patterson	Wilson, Ill.
Durey	Johnson, S. C.	Perkins	Wilson, Pa.
Dwight	Jones, Va.	Peters	Wolf
Edwards, Ga.	Kipp	Pou	
Favrot	Kitchin, Claude	Powers	

So the motion was agreed to.

The Clerk announced the following pairs:
Until the 29th:

Mr. NELSON with Mr. DAVEY of Louisiana.
Until further notice:

Mr. SLEMP with Mr. WALLACE.
Mr. SOUTHWICK with Mr. SPARKMAN.
Mr. SPERRY with Mr. HARRISON.
Mr. GOEBEL with Mr. WILEY.
Mr. STEVENS of Minnesota with Mr. WILLETT.
Mr. VREELAND with Mr. WILSON of Pennsylvania.
Mr. WILSON of Illinois with Mr. WOLF.
Mr. ANTHONY with Mr. BRANTLEY.
Mr. BRADLEY with Mr. BURGESS.
Mr. CALDERHEAD with Mr. BURLESON.
Mr. COOK of Pennsylvania with Mr. COCKRAN.
Mr. COOPER of Wisconsin with Mr. CRAVENS.
Mr. COUDREY with Mr. CRAWFORD.
Mr. DARRAGH with Mr. FAYROT.
Mr. DAVIDSON with Mr. FITZGERALD.
Mr. DENBY with Mr. GAINES of Tennessee.
Mr. FULLER with Mr. DENVER.
Mr. DRAPER with Mr. GLASS.
Mr. DRISCOLL with Mr. GOLDFOGLE.
Mr. DUREY with Mr. GREGG.
Mr. DWIGHT with Mr. HAMILTON of Iowa.
Mr. FOULKROD with Mr. HAMMOND.
Mr. GRONNA with Mr. HILL of Mississippi.
Mr. HALL with Mr. HOBSON.
Mr. HIGGINS with Mr. HUGHES of New Jersey.
Mr. HILL of Connecticut with Mr. OLLIE M. JAMES.
Mr. HUBBARD of Iowa with Mr. KIPP.
Mr. HUFF with Mr. CLAUDE KITCHIN.
Mr. HUGHES of West Virginia with Mr. WILLIAM W. KITCHIN.
Mr. HULL of Iowa with Mr. LASSITER.
Mr. ADDISON D. JAMES with Mr. LEAKE.
Mr. KNOWLAND with Mr. LEGARE.
Mr. LAWRENCE with Mr. LEWIS.
Mr. LONGWORTH with Mr. McDERMOTT.
Mr. LORIMER with Mr. McLAIN.
Mr. LOUD with Mr. MURPHY.
Mr. LOUDENSLAGER with Mr. PATTERSON.
Mr. MCGUIRE with Mr. STANLEY.
Mr. McMILLAN with Mr. PETERS.
Mr. McMORRAN with Mr. RAINEY.
Mr. MARSHALL with Mr. RANDELL of Louisiana.
Mr. MILLER with Mr. REID.
Mr. MONDELL with Mr. RHINOCK.
Mr. MOON of Pennsylvania with Mr. RYAN.
Mr. OLMSTED with Mr. SAUNDERS.
Mr. PRINCE with Mr. SMALL.
Mr. REYNOLDS with Mr. SMITH of Texas.
Mr. AMES with Mr. BARTLETT of Georgia.
Mr. LANDIS with Mr. DIXON.
Mr. MOUSER with Mr. SHERWOOD.
Mr. BROWNLOW with Mr. BRUNDIDGE.
Mr. TOWNSEND with Mr. SHACKLEFORD.
Mr. MADDEN with Mr. HARDWICK.
Mr. BINGHAM with Mr. LIVINGSTON.
Mr. POWERS with Mr. PRATT.
Mr. HASKINS with Mr. RUCKER.
Mr. MUDD with Mr. TALPOTT.
Mr. ALLEN with Mr. LEVER.
Mr. GARDNER of Massachusetts with Mr. EDWARDS of Georgia.
Mr. KNOPF with Mr. WEISSE.
Mr. DUNWELL with Mr. LAMAR of Florida.
Mr. BIRDSALL with Mr. LAMAR of Missouri.
Mr. HINSHAW with Mr. LENAHA.
Mr. CARY with Mr. RUSSELL of Texas.
Mr. FOSTER of Vermont with Mr. POU.
For the session:
Mr. BENNET of New York with Mr. FURNES.
Mr. SHERMAN with Mr. RIORDAN.
Mr. BOUTELL with Mr. GRIGGS.
Mr. WATSON with Mr. SHEPPARD.
Mr. COUSINS with Mr. FLOOD.
Mr. DAWES with Mr. TAYLOR of Alabama.
Mr. CONNER with Mr. JOHNSON of South Carolina.
Mr. JENKINS with Mr. LAMB.
The result of the vote was announced as above recorded.
The doors were opened.

WOOD PULP AND PRINT PAPER.

Mr. MANN. Mr. Speaker, I renew the request that I made in the House that the special committee on the wood pulp and paper investigation be now permitted to present its report, with the views of the minority, and that the same may be read.

The SPEAKER. Is there objection?

Mr. SIMS. Reserving the right to object, I wish to make an inquiry. Does the gentleman propose to move to adopt the majority report?

Mr. MANN. Well, Mr. Speaker, it will be time enough to answer that when the question arises.

Mr. SIMS. I will then ask, Mr. Speaker, to move to adopt the minority report.

Mr. MANN. The question is, now, of getting the report before the House and having it read.

Mr. SIMS. Mr. Speaker, if we can not have any action by the House on either the majority or minority report, I do not see any use in taking up the time of the House to read these reports.

The SPEAKER. Is there objection?

Mr. HITCHCOCK. I object.

Mr. MANN. I thought after they saw it they would not want it read.

Mr. HITCHCOCK. We do not object if you will let us discuss it.

TRANSPORTATION BETWEEN HAWAII AND THE UNITED STATES.

Mr. LITTLEFIELD. Mr. Speaker, I move to suspend the rules and take up the bill H. R. 13465 and put it upon its passage.

The SPEAKER. The gentleman from Maine moves to suspend the rules and pass the following House bill, with amendments, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 13465) to amend the laws concerning transportation between the ports of the Territory of Hawaii and other ports of the United States.

Be it enacted, etc., That for a period of six years from the passage of this act passengers may be transported without penalty in foreign vessels between ports of the Territory of Hawaii and other ports of the United States: *Provided, however,* That the provisions of this act shall cease to be operative whenever a new line of at least three steamships of the United States shall have been established from the United States to Hawaii.

Mr. KAHN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rules, a second is ordered. The gentleman from Maine [Mr. LITTLEFIELD] is entitled to twenty minutes and the gentleman from California [Mr. KAHN] to twenty minutes.

Mr. LITTLEFIELD. Mr. Speaker, I want to make a very short statement in relation to this measure, and then I will yield time to gentlemen who are interested in its passage and who will support the proposition in debate.

This bill comes from the Committee on Merchant Marine and Fisheries with a unanimous report. When Hawaii was incorporated into the United States as a Territory the coastwise laws applied thereto, and under these coastwise laws foreign vessels were prohibited under a penalty of \$200 per passenger from transporting passengers between Hawaii and the mainland of the United States. So that if a foreign vessel under the existing conditions transports a passenger from Hawaii to San Francisco, the passenger has to pay not only the \$75 passage money, but the \$200 in addition thereto that the transportation line is compelled to pay as a penalty for engaging in that transportation.

Now, it turns out to be the fact that they have not the same facilities for transportation from Hawaii to San Francisco today that they had when the Territory was incorporated. I am going to read a list of the vessels engaged in transportation at that time and give a list of the vessels now engaged, so that the House can see that the facilities of transportation now are very much less than they were then, a condition that renders this legislation necessary.

At that time, when the incorporation took place, the Pacific Mail Steamship Company had the *China*, the *City of Rio Janeiro*, the *City of Peking*, and one other—four in all; the Oceanic Steamship Company had the *Alameda*, the *Mariposa*, the *Moana*, and the *Australia*, the latter being the local boat—a total of four.

The Occidental and Oriental Company had the *Doric*, the *Coptic*, and *Gaelic*, a total of three, and of these only one is now operated.

The Toyo Kisen Kaisha Company, a Japanese line, had the *America Maru*, *Hong Kong Maru*, and *Nippon Maru*, a total of three, and those same three are still operated.

A total of fourteen.

I give these details so the gentlemen may be advised in relation thereto.

To-day the Pacific Mail Steamship Company has the *Mongolia*, the *Manchuria*, *Siberia*, *Korea*, and *China*.

The Oceanic Steamship Company has the *Alameda*, which is an old and small-sized boat.

The Matson Navigation Company has the *Hilonian*, which is a freighter, with accommodations for about thirty-five passengers.

The American-Hawaiian Company has the *Nevadan* and the *Nebraskan*, which are both freight boats and accommodating only twelve passengers each. This makes a total of nine vessels.

The American and Hawaiian boats are to be withdrawn, and there will then go on in their place a new ship called the *Lurline*, with a capacity of thirty-five passengers, so that it will then have eight as compared with fourteen when the Territory was incorporated. The fact is, that under these circumstances there is a great congestion in travel. On frequent occasions passengers have been obliged to wait from eight to twenty-one days to get transportation in American bottoms, and only from 10 to 60 per cent of the passengers booked for American steamers have been able at times to get transportation.

The result of that has been that they have been obliged to wait from ten to twenty-five days, as the case may be, and pay an extra \$200 to the Japanese or other lines, in addition to the transportation rate of \$75 per passage in order to get passage to the United States. Now this bill will enable those people under those circumstances, when sufficient American accommodation is not presented for the transportation of people to get their transportation without the imposition of a \$200 fine upon the steamer which they have to pay. Within the last few weeks a gentleman who was obliged to come to this country with his wife on account of the illness of his son, paid \$400 in addition to the transportation charge in order to be able to see him under those circumstances. These fines that were imposed under circumstances involving cases of sickness are, it is claimed, remitted by the Department of Commerce and Labor, and it is claimed that these particular fines were remitted. Now it is in order to relieve the people of Hawaii from embarrassment under those conditions that this bill is presented.

Mr. RODENBERG. I would like to direct the gentleman's attention to the fact that the governor of Hawaii, who recently was in Washington to attend the conference of governors, was compelled to pay a fine of \$200 under similar circumstances.

Mr. LITTLEFIELD. That is true. He could not get passage on an American vessel in time to attend the conference, and the result was that he had to get passage on the first foreign vessel that came, and to pay the steamer's fine of \$200. I am authorized to state, on the authority of Mr. George B. McClellan, secretary to the Delegate from Hawaii, that on the recommendation of the Secretary of Commerce and Labor when this bill was originally prepared it included in its exemption not only passengers, but perishable freight, but on a conference with the representatives of these steamship lines, which are now operated under the American flag, and especially in a conference with Mr. Sherwin, representative of the Pacific Mail and Oceanic lines, and the representative of the American and Hawaiian Line, they agreed with the people of Hawaii that if they would strike out the provision in relation to perishable freight they would not themselves have any objection to the passage of this legislation. So it was stricken out. Notwithstanding the agreement they are now, as I understand it, actively opposing the passage of this bill.

Now, with this preliminary statement by way of explanation, Mr. Speaker, I yield five minutes to the gentleman from North Carolina [Mr. WEBB] and reserve the balance of my time.

Mr. WEBB. Mr. Speaker, there has been no more meritorious bill presented to Congress at this session than this one. It is simply yielding to the people of that beautiful island in the Pacific a meed of justice which has been too long delayed, and I hope every Member on this side of the House will vote for it. I believe that were there time to discuss its merits every Member on both sides would do so. It will be argued, no doubt, that transportation facilities between the American coast and the Hawaiian Islands are already sufficient. I tell you, gentlemen, from personal experience, that they are not. I had an experience along this line just a year ago. I happened to be in Honolulu when I received information of serious illness in my family. I wanted to get back on the first boat. I found that the first American boat did not sail for a week. The Government boat on which I was to sail did not leave in six days. There was, however, a boat flying the English flag—the *Doric*—within Honolulu Harbor that was to sail that night at 11 o'clock for San Francisco. I went down to secure a stateroom. The agent of the ship company told me: "I can not sell you a berth, Mr. WEBB, unless you will deposit \$200 in addition to your passage, because the company will be fined \$200 if they carry you." I said to him, "\$200 is no object, my friend." And I got Mr. George W. Smith and Mr. McClellan to guarantee the deposit of \$200, paid my \$75, and came on home. I was

told that night that there were 300 American citizens in Honolulu begging passage and could not get it because there were not American vessels sufficient to carry them. I had to sleep in an upper berth myself in an English vessel. The foreign vessels are ready to take you, but no man under ordinary circumstances wants to pay a \$200 fine and \$75 passage.

Mr. GOULDEN. Was that fine afterwards remitted?

Mr. WEBB. It was remitted after about four months, but no man wants to take his chances to get the fine remitted. The common expression in the Hawaiian Islands is: "You can get in here, but you can never get out," and this coastwise law which is now applied to territory 2,100 miles from the mainland is killing these beautiful islands; and if you will sound the heart of every man in that Territory, he will tell you that is what it is doing. The most beautiful exhibition of confidence ever shown by one nation in another was in 1898 when the Hawaiian Islands dropped by their own consent, like a ripe apple, into the lap of the United States; but since that time vessels plying between them and the mainland have been decreasing, intercourse between our country and those islands has been falling off, and the islands have been gradually dying under our harsh law. Any man down there will tell you that is the fact, and one of the reasons is the long delay in extending this measure of justice that we are now trying to get through to suspend these coastwise laws for six years and put them in the same position as Porto Rico and the Philippines. Any man can go to Porto Rico or the Philippines on any vessel, but not so with Hawaii, the most beautiful possession we have. You can not go there unless you go on an American vessel, and American vessels are not sufficient to carry the people who want to travel between that country and ours. [Applause.]

I yield back the remainder of my time to the gentleman from Maine.

Mr. LITTLEFIELD. How much time did the gentleman use?

The SPEAKER pro tempore. Four minutes.

Mr. LITTLEFIELD. I should like to have the gentlemen who are opposed to the bill occupy some of their time, because there will only be two speakers in closing.

Mr. KAHN. In my judgment this bill should be entitled "A bill to drive another nail into the coffin of American shipping on the Pacific Ocean." The gentleman from Maine has given a list of American ships that ply between the coast of California and the Hawaiian Islands, but his list is not at all complete. This is the true list, given me only a few days ago by the Commissioner of Navigation.

A MEMBER. American bottoms?

Mr. KAHN. All American bottoms—the *Mongolia*, the *Manchuria*, the *Siberia*, the *Korea*, and the *China*, of the Pacific Mail Steamship Company; the *Alameda*, of the Oceanic Steamship Company. The gentleman from Maine says that she is old, and that she is not of much account. She is known in that trade as "Old Reliability." It is almost a moral certainty that six days from the hour that she sails from San Francisco her smokestack will be seen above the horizon at Honolulu. She is as regular as clockwork, and there are hundreds of people who sail periodically between those islands and this country, who wait for an opportunity to sail on the *Alameda*. Then, there are the *Hilonian*, the *Enterprise*, and the *Lurline*, of the Matson Navigation Company. The gentleman from Maine said that the *Lurline* has accommodations for only thirty-five passengers. The owner of the vessel, Captain Matson, was here only two months ago. The *Lurline* has but recently gone around Cape Horn to San Francisco. She has accommodations for sixty first-class passengers, and her cabin fittings are said to be as fine as those of any vessel on the Pacific. She cost nearly a million dollars, and she is just about to begin to run to the islands.

Mr. LITTLEFIELD. Will the gentleman allow me?

Mr. KAHN. Yes.

Mr. LITTLEFIELD. Will the gentleman state to the House, if he has the information, how many staterooms the *Lurline* has?

Mr. KAHN. I do not know; but she has accommodations for sixty first-class cabin passengers, and her cabins are stated to be finer than those of any other vessel on the Pacific.

Mr. LITTLEFIELD. Are those accommodations figured by the steamboat men on the basis of three to a stateroom, when everybody knows there are only two berths and a lounge in a stateroom?

Mr. KAHN. I do not know.

Mr. LITTLEFIELD. I understand they are figured that way.

Mr. KAHN. I know positively that she has accommodations, and the best kind of accommodations, for sixty first-class passengers.

Mr. LITTLEFIELD. That is the way they are figured.

Mr. KAHN. Then in addition to those I have already mentioned there is the *Nevadan*, of the American-Hawaiian Steamship Company, and there are two independent steamers that occasionally run, the *Indiana* and the *Ohio*, owned by the Barneson-Hibberd Company.

Mr. ALEXANDER of New York. I desire to ask the gentleman from California if all the vessels that he names touch at Honolulu?

Mr. KAHN. They do.

Mr. ALEXANDER of New York. On every one of their trips?

Mr. KAHN. They do.

Mr. ALEXANDER of New York. How often in a year could a passenger get out of Honolulu who must rely on the boats the gentleman mentions?

Mr. KAHN. Practically once a week, and I want to say in that very connection that to-day on the Atlantic seaboard there are hundreds of people who want to go to Europe who can not get accommodations, and they have to wait until they can. We in California, when we want to come East on the railroad, frequently have to wait a full week before we can get our Pullman accommodations on the trains.

A moment ago I was speaking of the *Lurline*. Here is a vessel that represents an investment of nearly \$1,000,000 which has just gone into that trade. The only steamship line that will be benefited by the passage of the bill is the Toyo Kisen Kaisha, the Japanese steamship line. That line receives a subsidy of \$500,000 per annum from the Japanese Government. That line will give these islands one ship additional, on an average, every four weeks. That is all that this bill will do. That is all the benefit the people of Honolulu will receive—one additional ship every four weeks. The cost to American shipping is too great. The American ship has to pay 60 per cent more to her officers and crew than the Japanese ship. Under our navigation laws she has to pay more for her rations by a great deal than the Japanese ships, because under those navigation laws merchant vessels of the United States have to furnish better rations than even our war ships furnish to the sailors of Uncle Sam's Navy.

Mr. WILSON of Pennsylvania. I desire to ask the gentleman if it is not a fact that the wages of seamen are regulated not by the flag they sail under, but the port they ship from?

Mr. KAHN. I understand that that is not the case; but these ships that ply between San Francisco and Honolulu exclusively get their crews at San Francisco and they pay San Francisco wages, whereas the Toyo Kisen Kaisha ships get their crews in Japan and they pay Japanese wages. The wages on a Japanese ship, such as the *Hongkong Maru*, of 6,000 tons burden, is \$2,509 per month. On an American ship of exactly the same burden the wages are \$6,540 a month. Per annum, the wages on an American steamship of 6,000 tons burden are \$78,480, and per annum the wages on one of these Japanese steamers of the same burden are \$30,108, making an excess of cost of wages per annum to the American steamship of \$48,372. In addition to that, the American ship has all the burden of furnishing better rations.

Mr. WILSON of Pennsylvania. Will the gentleman permit another interruption? Are the figures that he states not based upon the assumption that the entire crew is shipped from American ports, while the fact is that the crew is shipped from the various ports the vessel sails from?

Mr. KAHN. On every one of the lines that ply between Honolulu and San Francisco the sailors are shipped at the American mainland port, with the exception of the Pacific Mail. Under our laws the Pacific Mail has to have a greater percentage of white men than the Japanese line. It is true that line has a mixed crew. I will tell you what it costs to run the smallest—

Mr. WILSON of Pennsylvania. But they do not require the crew to be all American.

Mr. KAHN. It is practically all American. There are no Asiatics on the Spreckles Line, on the Oceanic Line. They carry white men. Now, the wages of a mixed crew on the Pacific Mail steamer *China*, per annum, is a little over \$38,000. If they had all white men they would have to pay \$80,000.

Mr. RODENBERG. Will the gentleman explain then why it is that the cost of transportation on the Toyo Kisen Kaisha from Honolulu to San Francisco is \$10 more than on the American lines, with the exception of the Pacific Mail?

Mr. KAHN. Well, I do not know how that is. But, as a matter of fact, they are not allowed to carry passengers from Honolulu to San Francisco. They can not do it under our laws unless they pay a fine of \$200 on every passenger carried. I want to say just a word about that \$200 proposition. Much has been said about this charge of \$200. Whenever a good case can be made out, whenever you can show the Secretary of the Department of Commerce and Labor that there is great need

of your coming here immediately, when there is sickness in your family, when there is any great necessity for your coming, all that you need do is to make affidavit to that effect and supply your proof, and I am told that it is the invariable rule of the Department to remit the \$200. Now, I investigated somewhat the case that my friend the gentleman from Maine [Mr. LITTLEFIELD] spoke of a little while ago.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. KAHN. Certainly.

Mr. MADDEN. Why do they charge \$200; what is the purpose?

Mr. KAHN. Because you violate the coastwise-trade law.

Mr. MADDEN. What was the intention of it?

Mr. KAHN. So as to give the American ships the benefit of the coastwise trade and to build up American shipping.

Mr. SHERLEY. Will the gentleman yield?

Mr. KAHN. The gentleman will pardon me just a moment; when I finish my remarks I will yield to him if I have the time, but I am afraid my time is running out.

Mr. SHERLEY. On that point I simply desired to know under what authority they remit this \$200?

Mr. KAHN. The law gives the Secretary of the Department of Commerce and Labor power to remit it when, in his judgment, he thinks sufficient reason has been given for the passenger having taken a foreign vessel. Now, much has been said here—

Mr. LITTLEFIELD. Mr. Speaker—

Mr. KAHN. Mr. Speaker, I can not yield further just now. I will after I have finished, if I have any time left. I want to be perfectly fair in this matter. Much has been said here about the number of passengers who have had to wait at Honolulu. It may be true that at the time the gentleman from North Carolina [Mr. WEBB] and some of his colleagues were in Honolulu last year the conditions were rather bad, due to the fact that two steamers of the Pacific Mail Company, the *Mongolia* and *Manchuria*, had mishaps, and were at that time in dry dock and were not making the run. In addition to that, the Oceanic Steamship Company's three steamers, the *Sonoma*, the *Sierra*, and the *Ventura*, had been withdrawn from the run to Australia a few months before, and they used to stop at Honolulu. It is not improbable that when those gentlemen were there the situation was rather acute, but since then the *Mongolia* and the *Manchuria* are again making the run. In addition to that, as I have said, there is a brand-new ship into which the owners have put nearly \$1,000,000, with the expectation of carrying freight and passengers between those islands of the Pacific and the mainland. What does the Secretary of the Department of Commerce and Labor say about this thing—

Mr. ALEXANDER of New York. Will the gentleman permit—

Mr. KAHN. If the gentleman will excuse me for a moment while I make this statement—

Mr. ALEXANDER of New York. I desire to ask a question on that point, and that is if the three steamers of the Oceanic Line have been transferred to the Honolulu run?

Mr. KAHN. They have not, but this other steamer, the *Lurline*, will help to take their place. Listen to what the Secretary of Commerce and Labor says about the matter. The gentleman from Maine stated at the outset that the service was much worse now than when the islands came into our possession. But what does the Secretary say in his letter to the Committee on the Merchant Marine and Fisheries? Let me read it to you:

The people of Hawaii are entitled to regular and frequent means of transportation by first-class steamships to and from our mainland. Between the years of 1900 and 1906 the American steamship companies had considerably improved such facilities, but in 1907, through the withdrawal of the Oceanic Line to Australia and through accident to the steamships *Mongolia* and *Manchuria*, those facilities were curtailed.

So that, as a matter of fact, between 1900 and 1906 the American lines improved, if you please, their service to the islands, according to the report of the Secretary. The other day I wired to the manager of the Pacific Mail Steamship Company when it was said that there were so many people waiting for opportunity to get transportation accommodations from Honolulu to San Francisco. This is the telegram I sent:

MAY 20, 1908.

TO R. P. SCHWERIN,
James Flood Building, San Francisco, Cal.

I am informed that Mr. McClellan, of Honolulu, is telling Members that 65 per cent of the times that Pacific Mail steamers arrive from Orient en route to San Francisco they have no accommodations for Honolulu passengers. Please wire me the facts at once.

JULIUS KAHN.

On the same evening I received this reply:

SAN FRANCISCO, CAL., May 20, 1908.

HON. JULIUS KAHN,
House of Representatives, Washington, D. C.:

Telegram 20th. Records May 1, 1907, to April 30, 1908, we had twenty-one sailings, Honolulu to San Francisco. Maximum cabin capacity, 4,505. Total carried these steamers, including passenger em-

barking both Orient and Honolulu, 2,871, or 1,634 less than maximum cabin capacity. Maximum steerage capacity, 15,170; number carried, 4,259, or 10,911 less than maximum steerage capacity. There was 36.3 per cent cabin capacity unoccupied. Mr. McClellan's statements incorrect as to facts.

R. P. SCHWERIN.

Mr. Speaker, I reserve the balance of my time.

Mr. LITTLEFIELD. Is that the same gentleman, I would like to inquire, that stated to Mr. McClellan if they would withdraw from the bill the proposition in relation to perishable freight he would withdraw his opposition to this legislation?

Mr. KAHN. I know nothing about any statement that Mr. Schwerin made to anybody. I only know what I said in the telegram that I have read to this House.

Mr. LITTLEFIELD. Who is Schwerin?

Mr. KAHN. I have told the House two or three times. He is manager of the Pacific Mail Steamship Company.

I reserve the balance of my time.

Mr. LITTLEFIELD. Mr. Speaker, I yield now five minutes to the Delegate from Hawaii [Mr. KALANIANA'OLE], and I bespeak for him on the part of the House careful and quiet attention, because this is a matter that vitally concerns his constituents and in which he has more interest than in any other piece of legislation pending before the House.

The SPEAKER. The Delegate from Hawaii [Mr. KALANIANA'OLE] is recognized for five minutes. [Applause.]

Mr. KALANIANA'OLE. Mr. Speaker, the gentleman from California [Mr. KAHN] a little while ago mentioned among the steamers running to Hawaii the *Ohio* and *Indiana*.

Mr. KAHN. Only occasionally.

Mr. KALANIANA'OLE. Only once did they visit Hawaii, and that occasion was an excursion from San Diego. They have never been there since that.

Mr. KAHN. If the gentleman will allow me, my authority is the Commissioner of Navigation. That is all I know about it.

Mr. KALANIANA'OLE. Mr. Speaker, if the Commissioner of Navigation reports those two steamers as in service between Hawaii and California he is using his official position in a manner to mislead Congress as to the real facts.

Mr. Speaker, the bill under consideration is designed only to afford relief for the congestion in passenger travel between Hawaii and the mainland.

That congestion has become so severe that some form of temporary relief is imperatively required.

The unanimous report of the Committee on Merchant Marine and Fisheries clearly states that "This measure is neither asked nor intended as any departure from the true intent of the American shipping laws, but is merely designed to give temporary facilities for travel till such time as a proper support of the American merchant marine will enable it to supply an adequate passenger service between Hawaii and mainland ports."

It is recognized by everyone that the coastwise laws were never intended to lay an actual embargo upon travel; yet that is precisely the result in Hawaii.

On the mainland there is always an alternative of travel by rail if the coastwise service is deficient, but in Hawaii we are, of course, limited to steamer travel exclusively; and as there are frequent gaps of from eight to eighteen days between the sailings of American steamers, the result is that the people of Hawaii are practically marooned for those periods.

If a business man has urgent business on the mainland, or a family receive cabled news of sickness of some relative, their only possibility of using the four foreign steamers sailing for San Francisco is by paying a fine of \$200 in addition to the regular fare.

Only last month one of our prominent citizens received a cablegram telling of the serious illness of his son in an Eastern school. In order that the father and mother might hasten to the bedside of their sick son, they paid a \$400 fine; had they not done so, they would have been compelled to wait nine days for the next American steamer from Hongkong, and they could have no assurance whatever that they could secure passage on her. When in fact that next steamer did arrive in Honolulu, there were 150 passengers booked for passage to San Francisco, and of this number the steamer had accommodations for only 26.

Some of our citizens and tourists have even cabled to Hongkong and paid for passage and staterooms for the entire trans-Pacific voyage in order to secure passage from Honolulu to San Francisco.

I read here a clipping from a Honolulu daily paper of April 21, 1908:

PASSENGER ACCOMMODATIONS.

Four passenger-carrying steamships sail from this port for the coast within the week, yet there is not accommodation for the traffic. The *Korea* can not even take all those who have special rights to accommodations—those tourists whose return on that vessel is in a way guaranteed by the representations of the company's agents on

the coast and by the letters given them to the agents here. One hundred and fifty in all were booked to sail, and thirty only of those who really intended going can be taken. Every ticket for the limited cabin accommodation of the *Hilsonian* for her return trip was sold before she arrived yesterday, and the agents report that 100 passengers could have been secured if there had been room for that many. The *Alameda* will go up full, and what few passengers the *Nebraskan* can take she will have no difficulty in securing. On the contrary, it seems that there will be a scramble for travelers to get aboard. On the other hand, the *Mongolia* is now on her way here with 75 Honolulu passengers. Honolulu's passenger traffic just now is booming, too much so for those who want to travel and can not because of the fewness of American bottoms on the run and the operations of the coastwise laws.

These are not unusual or exceptional conditions, but are rather the prevailing conditions throughout the year.

On the 8th of this month I sent the following cablegram to the Chamber of Commerce of Honolulu:

Cable me what proportion of passengers booked for Pacific Mail steamers last year actually secured passage.

To this I received the following cabled reply:

Unable to secure exact data. Steamer *Siberia*, sailing for San Francisco to-day, can not take 20 per cent of applications. Practically same conditions on all through steamers.

CHAMBER OF COMMERCE.

The steamship companies have given out the misleading statement that only 65 per cent of the cabin space on their steamers has been used. That statement is disproven by the fact that through the larger part of the entire year there are passengers left over from the through steamers who are wholly unable to secure passage from Honolulu.

At the time of annexation, ten years ago, there were fourteen steamers available for travel between Honolulu and San Francisco. To-day there are but nine steamers available for that travel; and of these three are freight steamers, the cabin capacity of all three not equaling that of one second-class passenger boat.

I am informed by the American-Hawaiian Steamship Company, which operates two of those steamers, that those two will be withdrawn at once and replaced by exclusive freight steamers.

The result will be that by the end of this summer, unless this bill is passed, we shall have but eight steamers carrying passengers between Honolulu and San Francisco, and of these two are freighters with only limited passenger equipment.

In other words, Mr. Speaker, Hawaii will have six less steamers available for travel at the end of this summer than she had ten years ago, although during that time the volume of travel has increased almost 50 per cent.

It is true that the Pacific Mail Company has replaced its old steamers with new and larger ones, but the volume of travel to the Orient has increased so greatly that there are frequently fewer accommodations available for Hawaii on the big new steamers than there were on the smaller old ones ten years ago.

Tourists desiring to visit Hawaii have so frequently been unable to secure passage that that class of travel has greatly fallen off. So great has been the decrease of tourist travel that two of the best and largest hotels in Honolulu were compelled to close their doors last December. One of these hotels, the Royal Hawaiian, had been in continuous and successful operation for half a century.

Let it be clearly understood in this House that Hawaii asks no change of the law with respect to freight carriage. We are only asking for the physical possibility of travel to and from the mainland.

Hawaii believes in proper protection to shipping, and we believe in ship subsidy, but until Congress sees fit to make such laws as will give us sufficient American passenger boats we are simply compelled to ask this temporary privilege.

Only a few weeks ago this House voted almost unanimously to suspend the coastwise laws as regards the Philippines, that action being taken not only in the interest of the Filipinos, but also of our own export commerce.

I am unwilling to believe that this nation in annexing Hawaii intended that it should be made less possible for us to travel back and forth to the mainland States than was the case when we were a foreign nation.

Freedom of intercourse between the several States and Territories is one of the fundamental principles of our Federal system of government.

An embargo upon travel has never in our history been levied, save as a stringent war measure, and I do not believe that the passage of this measure will be taken by any sensible people as any assault on the American shipping laws, but merely a measure to relieve the practical embargo that has been created against travel to and from Hawaii in ever-recurring periods.

It is unsound for the opponents of this measure to say it is a break in the American protective principle. The strongest advocate of protection has never held that it should be carried so far as to wholly take away the right to obtain a commodity;

yet that is precisely what constantly occurs in Hawaii; for recurring periods of from one to three weeks, American citizens are denied the commodity of travel to and freedom of intercourse with the mainland of this nation.

The statements made here that this will turn most of the passenger travel over to Japanese steamers is absurd and unfounded. There are only three Japanese passenger steamers calling at Honolulu; and their rates are \$10 and \$15 higher than that charged by either the Oceanic or the Matson steamers.

The Japanese steamers will carry only the surplus of passengers and those unable to wait for a later boat.

This measure will not injure any American steamship company. Everyone knows that the profits of a steamship line are made from freight and not from passengers; moreover, because of the increase of travel, made possible by this bill, the number of passengers using the American steamers will not be decreased in the slightest degree.

Hawaii asks only that as American citizens they be given reasonable freedom of travel to and from the nation's mainland. [Applause.]

I received this paper yesterday. I will read a clipping from it to show you what we are up against. It is dated May 15:

ALEX. ROBERTSON WILL STAY HOME—CAN NOT ATTEND THE CONVENTION IN CHICAGO.

National Committeeman A. G. M. Robertson will not go to the national convention at Chicago. Mr. Robertson finds that he is up against the old question of being able to get a passage across the pond to San Francisco. He is tied up as counsel in the Bierce case, and can not sail as expected on the *China*, while the *Hilsonian* and the *Manchuria*, the only other two vessels sailing in time for their passengers to reach Chicago by the date of the convention, are so overbooked that there is practically no possibility of making either of them. Consequently he has decided to stay at home, and his proxy will go forward to Delegate KUHIO on the *China*.

I would like further to say to the gentleman from San Francisco [Mr. KAHN] that San Francisco sells every year to Hawaii more goods than she does to any point in the entire Orient. And yet, though we are the largest and most profitable customer San Francisco has, she takes the ungracious position of denying us reasonable means of even coming to her markets to buy her goods. [Applause.]

Mr. LITTLEFIELD. Mr. Speaker, I would like to have the gentleman from California [Mr. KAHN] exhaust his time.

Mr. KAHN. How much have I left?

The SPEAKER pro tempore. Two minutes.

Mr. LITTLEFIELD. How much have I remaining?

The SPEAKER pro tempore. The gentleman from Maine has two minutes remaining.

Mr. KAHN. I will yield to my colleague [Mr. HAYES].

Mr. HAYES. Mr. Speaker, the proposition contained in this legislation can be explained, it seems to me, in a very few words. The general navigation laws and policy of the United States, or, perhaps I ought to say, lack of laws, or policy, has already driven from the high seas nearly all American shipping, and this bill proposes to make the first move to take the business of the coastwise trade from American ships.

This bill finds an excuse for invading a territory that has heretofore been held to be sacred to the American flag, and if we yield to this demand other excuses will be found to invade the coastwise trade in other places.

So far as passenger traffic between this country and Hawaii is concerned, there is no doubt that at times the ships are crowded and not able to furnish accommodations. But that is true of every line of steamships. It is true of the English ships; it is true of the French and the German ships from either one of those countries in the traffic between them and the United States. Anybody who has been to London or to Liverpool, which city probably has the best steamship connection with ports of this country, knows that sometimes you must wait for weeks in certain seasons before you can get accommodations. But that does not argue as a general proposition that the means of transportation between this country and England are not adequate.

I know that in the case of Hawaii, as a general proposition, the means are more than adequate to accommodate the travel between that country and the United States.

There is another proposition alluded to by my colleague, and that is this: This bill, if it passes, will take a large amount of business from American ships. And to whom will it go? There is no other line to which it can go except the Japanese line. The competition between the Japanese and American ships on the Pacific Ocean is very intense, and is getting more so. I have it from the very highest authority that the Pacific Mail Steamship Company is running its ships at a very large loss weekly at this time, and the passage of this bill will simply accentuate that loss. If you desire to inaugurate the policy of driving the American flag not only from the high seas, but from

the coastwise trade, this is a good time to begin. This is the first move in that direction, and I hope this Congress will put the seal of its disapproval on it and say that what has heretofore been sacred to American ships shall continue to be retained for them. I yield back the remainder of my time to my colleague.

Mr. KAHN. Mr. Speaker, I just want to say a word or two in conclusion. The gentleman from Hawaii has alluded to the fact that San Francisco has a considerable trade with Hawaii. That is true, but I want to call his attention to the fact that much of the capital that is invested in Hawaii is California capital, brought into the islands from the State of California. Finding that my colleague [Mr. NEEDHAM] desires to say a few words, I yield to him the balance of my time.

The SPEAKER pro tempore. The gentleman is recognized for three-quarters of a minute.

Mr. NEEDHAM. Mr. Speaker, I sympathize with the people of Hawaii in their desire to get better accommodation for travel between that Territory and the mainland. I was there last summer, and I think I understand the condition. But this bill proceeds upon a wrong and vicious theory, and I can not support it. If the committee had brought in a bill providing that the collector of customs might issue permits in certain cases for travel upon foreign vessels—to those making out an exceptional case—I would have been glad to have supported such a measure. But this measure absolutely abolishes the coastwise laws between the mainland and the Territory of Hawaii. This Congress has not only refused to do anything for American shipping, but now, led by the gentleman from Maine, it is going to take a worse step and make an irreparable breach in the coastwise laws of the United States. I never expected the gentleman from Maine to lead such a movement. I think this bill ought to be withdrawn, perfected, and brought in upon the right theory. [Applause.]

Mr. LITTLEFIELD. I yield one minute to the gentleman from Washington.

Mr. HUMPHREY of Washington. I regret as much as any man upon the floor of this House that conditions have become such as to make necessary the passage of this bill. When the ocean-mail bill was defeated it left Hawaii without adequate passenger facilities. I do not think we should punish the people of the islands for the failure of Congress to do its duty. Those who favor this bill, and I mention especially the Delegate from Hawaii, have been eminently fair. It was agreed that this bill should not be called up as long as there was any hope for the ocean-mail bill. The statement of the gentleman from California [Mr. KAHN] while correct is also misleading. A portion of the time the American lines furnish ample facilities, but there are periods for several weeks, perhaps for three months at a time, when they do not. From the number of ships running the accommodations appear ample, but the difficulty is that there is no system about their running. Several may get into port on one day, and then again there may be several days when none arrive.

As I have said, if the House had done its patriotic duty and assisted American shipping by passing the amendment to the post-office appropriation bill, this legislation would have been unnecessary and would never have been asked for. As this is the first opportunity I have had, I am going to ask the indulgence of the House for a few minutes while I reply to a statement made by the gentleman from Ohio [Mr. BURTON] on last Saturday, when he was discussing the pay that would be received by American vessels as compared with Japanese vessels if the ocean-mail amendment passed. Reading from the RECORD of May 23, 1908, page 7162, he said:

Now, let us notice a little the comparative expenses as appears in the discussion before the Committee on Post-Offices and Post-Roads.

There is at present a Japanese line from Puget Sound, at a cost of \$333,000 per year. This proposed line under the American flag would cost \$777,000. There is a line from 'Frisco to the Orient, on which the payments are \$500,000 a year. The cost of the proposed American line would be \$932,000 to Manila.

There is no man in the House for whom I have a higher regard than the gentleman from Ohio, and no one in whose integrity and honesty of purpose I have greater faith. He is usually accurate in statement and conservative in speech. His word has great weight, and this only adds to the reason why I can not permit such gross exaggeration as the statement quoted to go to the country unchallenged. The evident import of the statement—and I think it was so intended by the gentleman, and I do not think any other construction can be given it—was to show that the rate of pay under the proposed amendment would be much higher than the compensation paid by Japan. I was astonished, I might say astounded, when I entered the Chamber and heard the gentleman making this statement. As a portion of it refers to the line that runs from my home port, and es-

pecially as I have had something to do with the preparation of the amendment, I feel in duty bound to state the facts to the House and to the country.

I can not understand how the gentleman failed to know that the figures he was quoting and the comparison he was making was between Japanese lines of three vessels and proposed American lines of six vessels; of Japanese vessels making a trip once a month and American vessels making a trip twice a month; between Japanese vessels running 12,000 miles and American vessels running more than 13,000 miles. Upon both the routes from San Francisco and Puget Sound he therefore more than doubled the amount of pay that the American vessels would receive and cut in two the services they would be required to render. His exaggeration, so far as the route from Puget Sound was concerned, is even greater. On the Puget Sound route he compared the pay that would be received by six American vessels of 16 knots an hour with three Japanese vessels of 14 knots an hour. He doubled the number of Japanese vessels and he doubled the pay that the American vessels would receive in his attempt to make a showing discreditable to the amendment. He compared second-class American vessels with third-class Japanese vessels. He compared the total amount that would be received by six second-class American vessels, running upon a 13,000-mile voyage, making twenty-six trips, with the pay received by third-class Japanese vessels, running upon a 12,000-mile voyage, making thirteen trips.

He charged the American vessels with \$4 per mile, while in fact they should have been charged with only \$2 per mile. He gave them credit for a monthly service while they should have been credited with a service every two weeks. All the facts that I have stated were shown upon the same page of the document, from which I think the gentleman was taking his figures. I attempted to show to the gentleman that he was mistaken, but owing to the limited time for which he had been recognized, he refused to yield. I attempted to show him that under the bill six American vessels of similar speed of the Japanese vessels would cost only about \$400,000 per year for a semimonthly service. I was quoting from memory, and I find that I erred slightly, for under the terms of the amendment, six American vessels of the same character as the three Japanese vessels making twice as many trips and traveling 1,000 miles farther each trip, would receive only \$358,800, while the Japanese vessels for making the same number of trips and traveling more than 25,000 miles less, would receive \$654,030. If an American line similar in character to the Japanese line should run from Puget Sound under the terms of the amendment, it would receive annually \$194,350 for traveling 13,000 miles farther than the Japanese line that now receives \$327,015.

Taking the three American vessels now running from Puget Sound in competition with these Japanese vessels, character of ship considered—for the American ships have a tonnage more than twice that of the three Japanese ships and are more modern in construction—the American vessels under the amendment would receive less than one-third as much as the Japanese vessels with which they run in competition.

Three out of six vessels of the line from Puget Sound to the Orient have disappeared within the last year, and it seems to me that a statement of these figures as they are and not as the gentleman interpreted them should convince anyone that the other three are doomed. I can not believe that the gentleman from Ohio will feel that I have done less than my duty by calling attention to his misstatements. Certainly I would not champion a system of subsidy so unjustifiably large as the gentleman's figures, in the way in which he quoted them, would tend to show. The gentleman's statement was a reflection upon every Member of the House that voted for the amendment, either upon his intelligence or his integrity. The payment under the amendment would not have been one-half that he contended it would be. In fact, on the Puget Sound line the amount paid would not have been one-fourth. According to his contention the amount paid for an American line similar in service to that called for by the Japanese Government would receive \$777,400 annually, when in truth and in fact it would have received under the amendment only \$186,894, not one-fourth of the amount stated by him.

I do not see how exaggeration, misinformation, and misstatement could go further. The statement made by the gentleman shows the danger of quoting figures that you have not studied to prove a preconceived theory. But perhaps I ought not to complain of the statement made by the gentleman from Ohio; rather ought I to compliment him on his moderation, for when he attempts to state figures upon this question, and does not have to increase them more than two, three, or even four times above what they actually are in order to make out his case, he is, after all, for one of the opponents of American shipping, con-

servative. It is, indeed, unfortunate for the enemies of American shipping when they attempt to state facts and figures. They should stick to free-trade platitudes, to lurid adjectives, to vehement denunciation, to speeches "full of sound and fury, signifying nothing." They should never fall into figures. Whenever they do their case is lost. Grosses exaggeration can not save it.

The gentleman also said that he was ready to stand at all times against the principle of subsidies. Surely the gentleman must have a strange definition for "subsidy." Rather, I think, the gentleman must have meant that he was opposed to all subsidies he did not help to distribute. Last year from the committee of which he is chairman, came a bill appropriating more than eighty millions of "subsidy"—a subsidy to improve our rivers and harbors.

I think that was a good bill. It distributed that subsidy wisely and was a credit to the gentleman from Ohio. Wherein lies the difference between subsidizing the ship and the harbor? To-day whenever a foreign ship is built requiring an additional depth of water an additional clamor goes up to subsidize our harbors for its benefit; and it is done, and done with the consent and assistance of the gentleman, and it is right.

The gentleman is in favor of subsidizing our harbors for the accommodation of foreign subsidized ships, but he is opposed to subsidizing our own ships so that they may use our own subsidized harbors.

The SPEAKER pro tempore. The gentleman from Maine has one minute remaining.

Mr. LITTLEFIELD. Mr. Speaker, the coastwise laws of the United States do not apply to the Philippines. Why? Because we have not sufficient American bottoms to serve the trade in the Philippines. I have insisted time out of mind on making them apply. Now, the question is whether we should continue the application of the coastwise laws to Hawaii to-day when there are not sufficient American vessels to accommodate the people. The Scriptures say that the Sabbath was made for man and not man for the Sabbath, and transportation is conducted for the public, and the public does not exist for transportation. These gentlemen in Hawaii have been cabled to to give us the information as to their capacity and the bookings for their capacity during the year, and they have absolutely refused to give the information. The whole thing depends upon whether or not there are sufficient accommodations. When these companies refuse to open their mouths and give the information necessary for intelligent action, their mouths should be closed on this floor when they undertake to oppose the legislation. [Cries of "Vote!" "Vote!"]

The SPEAKER pro tempore. The question is, Shall the rules be suspended, the amendments agreed to, and the bill passed?

Mr. KAHN and Mr. SPIGHT demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HAY made the point that there was no quorum present, and then withdrew the point.

Mr. KAHN. I make the point that there is no quorum present.

The SPEAKER pro tempore. The point is evidently well taken. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absentees.

Mr. RODENBERG. Mr. Speaker, I ask unanimous consent that the doors be opened during the call.

The SPEAKER pro tempore. If there be no objection, it will be so ordered.

There was no objection.

The question was taken, and there were—yeas 164, nays 48, answered "present" 15, not voting 160, as follows:

YEAS—164.

Acheson	Burleson	Davidson	Glass
Adamson	Burnett	Davis, Minn.	Godwin
Alken	Byrd	Dawson	Gordon
Alexander, Mo.	Caldwell	De Armond	Graff
Alexander, N. Y.	Campbell	Diekema	Graham
Ansberry	Candler	Douglas	Granger
Anthony	Capron	Dwight	Hackett
Ashbrook	Carter	Esch	Hackney
Bannon	Caulfield	Fairchild	Hamilton, Mich.
Barchfeld	Chapman	Favrot	Hamlin
Bartholdt	Clark, Fla.	Ferris	Hammond
Bates	Clark, Mo.	Finley	Harding
Beale, Pa.	Clayton	Fitzgerald	Haugen
Beall, Tex.	Cocks, N. Y.	Floyd	Hay
Bede	Cole	Fordney	Heflin
Bowers	Cooper, Pa.	Foss	Helm
Boyd	Cooper, Tex.	Foster, Ill.	Henry, Conn.
Bradley	Cox, Ind.	Fulton	Henry, Tex.
Brodhead	Craig	Gaines, W. Va.	Hepburn
Broussard	Crumpacker	Gardner, Mich.	Higgins
Burgess	Currier	Garner	Hill, Conn.
Burke	Darragh	Garrett	Hitchcock
Burleigh		Gillespie	Hobson

Holliday	Littlefield	Olcott	Smith, Mich.
Houston	Longworth	Padgett	Smith, Mo.
Howland	Lowden	Page	Spight
Hubbard, W. Va.	McCall	Parsons	Steenerson
Hughes, N. J.	McCreary	Pollard	Surgiss
Hull, Tenn.	McHenry	Porter	Sulloway
Humphrey, Wash.	McKinley, Ill.	Pujo	Taylor, Ohio
Humphreys, Miss.	McKinney	Rainey	Thomas, N. C.
Johnson, Ky.	McLaughlin, Mich.	Randell, Tex.	Tou Velle
Jones, Wash.	Macon	Reynolds	Underwood
Keliher	Mann	Richardson	Volstead
Kennedy, Iowa	Maynard	Robinson	Vreeland
Kimball	Moon, Tenn.	Rodenberg	Wanger
Kuistermann	Moore, Tex.	Rothermel	Watkins
Laning	Morse	Russell, Mo.	Webb
Law	Nicholls	Sherley	Wilson, Ill.
Lindbergh	Norris	Sims	Wilson, Pa.
Lindsay	Nye	Slayden	Woodyard

NAYS—48.

Adair	Ellis, Mo.	Hayes	O'Connell
Barclay	Ellis, Ore.	Howell, N. J.	Olmsted
Bartlett, Nev.	Fassett	Howell, Utah	Parker, N. J.
Bonyng	Foster, Ind.	Kahn	Payne
Booher	Foulkrod	Kelifer	Smith, Cal.
Boutell	French	Kennedy, Ohio	Sulzer
Butler	Gardner, N. J.	Langley	Thistlewood
Chaney	Gilham	Lloyd	Tirrell
Cushman	Greene	McLachlan, Cal.	Waldo
Dalzell	Haggott	Moore, Pa.	Weeks
Denby	Hall	Murdock	Wheeler
Edwards, Ky.	Hawley	Needham	Wood

ANSWERED "PRESENT"—15.

Bennet, N. Y.	Flood	McGavin	Sabath
Cousins	Goulden	Riordan	Sheppard
Dixon	Lenahan	Rucker	Talbot
Ellerbe	Lever	Russell, Tex.	

NOT VOTING—160.

Allen	Gaines, Tenn.	Landis	Prince
Ames	Gardner, Mass.	Lassiter	Ransdell, La.
Andrus	Gill	Lawrence	Rauch
Bartlett, Ga.	Gillett	Leake	Reeder
Bell, Ga.	Goebel	Lee	Reid
Bennett, Ky.	Goldfogle	Legare	Rhinock
Bingham	Gregg	Lewis	Roberts
Birdsall	Griggs	Lilley	Ryan
Brantley	Gronna	Livingston	Saunders
Brownlow	Hale	Lorimer	Scott
Brumm	Hamill	Loud	Shackleford
Brundidge	Hamilton, Iowa	Loudenslager	Sherman
Burton, Del.	Hardwick	Lovering	Sherwood
Burton, Ohio	Hardy	McDermott	Slomp
Calderhead	Harrison	McGuire	Small
Carlin	Haskins	McKinlay, Cal.	Smith, Iowa
Cary	Hill, Miss.	McLain	Smith, Tex.
Cockran	Hinslaw	McMillan	Snapp
Conner	Howard	McMorran	Southwick
Cook, Colo.	Hubbard, Iowa	Madden	Sparkman
Cook, Pa.	Huff	Madison	Sperry
Cooper, Wis.	Hughes, W. Va.	Malby	Stafford
Coudrey	Hull, Iowa	Marshall	Stanley
Cravens	Jackson	Miller	Stephens, Tex.
Crawford	James, Addison D.	Mondell	Sterling
Davenport	James, Ollie M.	Moon, Pa.	Stevens, Minn.
Davey, La.	Jenkins	Mouser	Tawney
Dawes	Johnson, S. C.	Mudd	Taylor, Ala.
Denver	Jones, Va.	Murphy	Thomas, Ohio
Draper	Kinkaid	Nelson	Townsend
Driscoll	Kipp	Overstreet	Wallace
Dunwell	Kitchin, Claude	Parker, S. Dak.	Washburn
Durey	Kitchin, Wm. W.	Patterson	Watson
Edwards, Ga.	Knapp	Pearre	Weems
Englebright	Knopf	Perkins	Wesle
Focht	Knowland	Peters	Wiley
Fornes	Lafean	Pou	Willlett
Foster, Vt.	Lamar, Fla.	Powers	Williams
Fowler	Lamar, Mo.	Pratt	Wolf
Fuller	Lamb	Pray	Young

So the motion was agreed to.

The Clerk announced the following additional pairs:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

For the balance of the session:

Mr. McGAVIN with Mr. McDERMOTT.

Until further notice:

Mr. ENGLEBRIGHT with Mr. DAVENPORT.

Mr. TAWNEY with Mr. WILLIAMS.

Mr. SNAPP with Mr. RAUCH.

Mr. SMITH of Iowa with Mr. STEPHENS of Texas.

Mr. OVERSTREET with Mr. MURPHY.

Mr. PEARRE with Mr. LEE.

Mr. MALBY with Mr. HARDY.

Mr. LOVERING with Mr. HAMILL.

Mr. HALE with Mr. GRIGGS.

Mr. GILLET with Mr. GILL.

Mr. BURTON of Ohio with Mr. ELLERBE.

Mr. KNAPP with Mr. CRAWFORD.

Mr. BURTON of Delaware with Mr. CARLIN.

Mr. ANDRUS with Mr. BELL of Georgia.

Until Monday:

Mr. LAFEAN with Mr. KIPP.

The result of the vote was announced as above recorded.

AGRICULTURAL LANDS IN FOREST RESERVES.

Mr. SMITH of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 11778)

to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves," with a Senate amendment, and to concur in the Senate amendment.

The Clerk read the Senate amendment.

The SPEAKER pro tempore (Mr. CAPRON). The gentleman from California asks unanimous consent to take from the Speaker's table the bill H. R. 11778 and to concur in the Senate amendment which the Clerk has read. Is there objection?

Mr. CLARK of Missouri. I object.

Mr. SMITH of California. Then, Mr. Speaker, I move to suspend the rules, and take the bill from the Speaker's table and concur in the Senate amendment.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLARK of Missouri. I demand a second.

The SPEAKER pro tempore. Under the rule a second is ordered. The gentleman from California is entitled to twenty minutes and the gentleman from Missouri to twenty minutes.

Mr. SMITH of California. Mr. Speaker, a previous Congress passed a law allowing the Secretary of Agriculture to carve out of forest reserves such lands as he thought should be farmed and permit people to enter it as homesteads. That bill was not made applicable to the arid Southwest or the southern half of California. Subsequently the Forester and the Agricultural Department requested that we place southern California under the operation of that law, and this bill was for that purpose. It passed the House and went to the Senate, and thereupon the city of Santa Barbara called our attention to the fact that a small forest reserve in the counties of Santa Barbara and San Luis Obispo covered the watershed which supplies that city with water, and asked us to exclude that small reserve included in those two counties from the operation of the bill, that there might be no danger of contaminating the water supply of that city. I ask that the amendment of the Senate be concurred in, excluding that small reserve from the operation of the bill.

Mr. CLARK of Missouri. Which committee did this bill come from?

Mr. SMITH of California. Committee on Public Lands.

Mr. CLARK of Missouri. A unanimous report?

Mr. SMITH of California. Yes, sir.

Mr. CLARK of Missouri. And passed the Senate?

Mr. SMITH of California. Passed the House by a large vote and the Senate unanimously, and comes back with that little amendment.

Mr. CLARK of Missouri. I do not think I care for any time.

Mr. SULZER. What does this bill do, briefly?

Mr. SMITH of California. This bill extends to southern California the general law allowing homesteads to be taken in forest reserves when the Secretary of Agriculture segregates little valleys here and there and says it is better to be farmed than to lie idle. The general law applies to all forest reserves in the United States except southern California, and this bill seeks to place southern California under that law.

Mr. SULZER. Is it to be the 160-acre homestead, in accordance with the provisions of the homestead law?

Mr. SMITH of California. Yes; as I explained a moment ago, the Senate amendment excluded Santa Barbara and San Luis Obispo counties in order to protect the watershed that supplies the water to the city of Santa Barbara, and I want to concur in that amendment. I reserve the balance of my time and call for a vote.

The SPEAKER pro tempore. The question is on the motion of the gentleman to suspend the rules, take from the Speaker's table the bill, and concur in the Senate amendment.

The question was taken.

Mr. CLARK of Missouri. Mr. Speaker, I demand the yeas and nays.

Mr. SMITH of California. Mr. Speaker, I make the point of no quorum.

The SPEAKER pro tempore. Undoubtedly the point is well taken. The Chair sustains the point of order. The Doorkeeper will close the doors, and the Sergeant-at-Arms will call in absentees. The question will be taken on the motion to suspend the rules and concur in the Senate amendment. The Clerk will call the roll.

The question was taken, and there were—yeas 179, nays 5, answered "present" 23, not voting 181, as follows:

YEAS—179.

Acheson	Bartholdt	Broussard	Capron
Adair	Bates	Burgess	Carter
Adamson	Beale, Pa.	Burke	Caulfield
Alexander, Mo.	Beall, Tex.	Burleigh	Chaney
Andrus	Bede	Burleson	Chapman
Ansberry	Bell, Ga.	Burton, Del.	Clark, Mo.
Anthony	Bennett, Ky.	Butler	Clayton
Ashbrook	Bonyng	Calder	Cocks, N. Y.
Bannon	Booher	Caldwell	Cook, Colo.
Barchfeld	Bowers	Campbell	Cooper, Pa.
Barclay	Brodhead	Candler	Cooper, Tex.

Cox, Ind.	Haggott	Lindsay	Rosenberg
Crumphacker	Hale	Longworth	Rothermel
Currier	Hamilton, Mich.	Lovering	Russell, Mo.
Cushman	Hamlin	Lowden	Sabath
Dalzell	Hammond	McCreary	Saunders
Davis, Minn.	Hardy	McGavin	Scott
Dawson	Haugen	McKinley, Ill.	Sherley
Denby	Hawley	McKinney	Sims
Diekema	Hayes	McLachlan, Cal.	Slayden
Dixon	Hedlin	Macon	Smith, Cal.
Douglas	Helm	Malby	Smith, Iowa
Dwight	Henry, Conn.	Mondell	Smith, Mich.
Edwards, Ky.	Henry, Tex.	Moon, Tenn.	Snapp
Ellerbe	Hepburn	Murdock	Sterling
Ellis, Oreg.	Higgins	Needham	Sulzer
Esch	Hill, Conn.	Nicholls	Taylor, Ohio
Ferris	Hitchcock	Norris	Thomas, N. C.
Finley	Howard	Nye	Tirrell
Floyd	Howell, N. J.	O'Connell	Tou Velle
Focht	Howell, Utah	Olcott	Underwood
Foss	Hubbard, W. Va.	Olumsted	Volestad
Foster, Ill.	Hughes, N. J.	Overstreet	Vreeland
French	Humphrey, Wash.	Padgett	Waldo
Fulton	Johnson, Ky.	Parker, S. Dak.	Wanger
Gaines, W. Va.	Jones, Wash.	Parsons	Washburn
Gardner, Mich.	Kahn	Payne	Watkins
Gardner, N. J.	Keliher	Porter	Weeks
Gilbams	Kennedy, Iowa	Pou	Wheeler
Gillett	Kennedy, Ohio	Pray	Williams
Graft	Landis	Pujo	Wood
Graham	Langley	Rainey	Woodyard
Granger	Lanling	Rauch	Young
Greene	Lee	Richardson	The Speaker
Hackney	Lindbergh	Robinson	

NAYS—5.

Alken	Garrett	Houston	Webb
Clark, Fla.			
Bennet, N. Y.	Flood	McCall	Russell, Tex.
Boutell	Goldfogle	Madden	Sheppard
Brundidge	Goulden	Morse	Small
Cousins	Humphreys, Miss.	Parker, N. J.	Talbot
De Armond	Knapp	Riordan	Tawney
Driscoll	Lafean	Rucker	

NOT VOTING—181.

Alexander, N. Y.	Foster, Vt.	Kitchin, Wm. W.	Peters
Allen	Foulkrod	Knopf	Pollard
Ames	Fowler	Knowland	Powers
Bartlett, Ga.	Fuller	Küstermann	Pratt
Bartlett, Nev.	Gaines, Tenn.	Lamar, Fla.	Prince
Bingham	Gardner, Mass.	Lamar, Mo.	Randall, Tex.
Birdsall	Garner	Lamb	Ransdell, La.
Boyd	Gill	Lassiter	Reeder
Bradley	Gillespie	Law	Reid
Brantley	Glass	Lawrence	Reynolds
Brownlow	Godwin	Leake	Rhinock
Brumm	Goebel	Legare	Roberts
Burnett	Gordon	Lenahan	Ryan
Burton, Ohio	Glegg	Lever	Shackleford
Byrd	Griggs	Lewis	Sherman
Calderhead	Gronna	Lilley	Sherwood
Carlin	Hackett	Littlefield	Slemp
Cary	Hall	Livingston	Smith, Mo.
Cockran	Hamill	Lloyd	Smith, Tex.
Cole	Hamilton, Iowa	Lorimer	Southwick
Conner	Harding	Loud	Sparkman
Cook, Pa.	Hardwick	Loudenslager	Sperry
Cooper, Wis.	Harrison	McDermott	Spight
Coudrey	Haskins	McGuire	Stafford
Craig	Hay	McHenry	Stanley
Cravens	Hill, Miss.	McKinlay, Cal.	Steenerson
Crawford	Hinshaw	McLain	Stevens, Tex.
Darragh	Hobson	McLaughlin, Mich.	Stevens, Minn.
Davenport	Holliday	McMillan	Sturgiss
Dayey, La.	Howland	McMorran	Sulloway
Davidson	Hubbard, Iowa	Madison	Taylor, Ala.
Dawes	Huff	Mann	Thistlewood
Denver	Hughes, W. Va.	Marshall	Thomas, Ohio
Draper	Hull, Iowa	Maynard	Townsend
Dunwell	Hull, Tenn.	Miller	Wallace
Durey	Jackson	Moon, Pa.	Watson
Edwards, Ga.	James, Addison D.	Moore, Pa.	Weems
Ellis, Mo.	James, Ollie M.	Moore, Tex.	Weisse
Englebright	Jenkins	Mouser	Wiley
Fairchild	Johnson, S. C.	Mudd	Willett
Fassett	Jones, Va.	Murphy	Wilson, Ill.
Favrot	Kelfer	Nelson	Wilson, Pa.
Fitzgerald	Kimball	Page	Wolf
Fordney	Kinkaid	Patterson	
Fornes	Kipp	Pearre	
Foster, Ind.	Kitchin, Claude	Perkins	

So the motion was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. ALEXANDER of New York with Mr. BARTLETT of Nevada.
 Mr. BRUMM with Mr. BURNETT.
 Mr. BURTON of Ohio with Mr. BYRD.
 Mr. CALDERHEAD with Mr. CARLIN.
 Mr. COLE with Mr. CRAIG.
 Mr. DARRAGH with Mr. DE ARMOND.
 Mr. DUREY with Mr. FAVROT.
 Mr. ELLIS of Missouri with Mr. GARNER.
 Mr. FAIRCHILD with Mr. GILL.
 Mr. FASSETT with Mr. GODWIN.
 Mr. FOSTER of Indiana with Mr. GORDON.
 Mr. HARDING with Mr. HACKETT.
 Mr. HOLLIDAY with Mr. HAMILL.

Mr. HOWLAND with Mr. HAY.
 Mr. KÜSTERMANN with Mr. HOBSON.
 Mr. LAW with Mr. HULL of Tennessee.
 Mr. LITTLEFIELD with Mr. JONES of Virginia.
 Mr. MCCALL with Mr. KIMBALL.
 Mr. MCKINLAY of California with Mr. LLOYD.
 Mr. McLAUGHLIN of Michigan with Mr. McHENRY.
 Mr. MANN with Mr. MAYNARD.
 Mr. MOORE of Pennsylvania with Mr. PAGE.
 Mr. PEARRE with Mr. MOORE of Texas.
 Mr. STEENERSON with Mr. SMITH of Missouri.
 Mr. SULLOWAY with Mr. RANDELL of Texas.
 The result of the vote was announced as above recorded.

BROTHERHOOD OF ST. ANDREW.

Mr. BURLEIGH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 16757.

The SPEAKER pro tempore. The gentleman from Maine [Mr. BURLEIGH] asks unanimous consent for the present consideration and passage of the bill which the Clerk will report.

Mr. WILLIAMS. Mr. Speaker, I do not know that I understand the request of the gentleman. Is it for consideration or for passage?

The SPEAKER pro tempore. For consideration and passage.

Mr. WILLIAMS. Then I shall object.

The SPEAKER pro tempore. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 16757) for the incorporation of the Brotherhood of St. Andrew.

Mr. WILLIAMS. If the gentleman from Maine [Mr. BURLEIGH] will ask unanimous consent for the consideration of the bill, that is a different proposition; but if he asks unanimous consent for its passage, I object on the ground of the absolutely unprecedented form of the request, indulged in only for the last two or three days by the House of Representatives. The gentleman can move to suspend the rules. I object to the request as put.

Mr. BURLEIGH. Mr. Speaker, let the matter go over for the present.

The SPEAKER pro tempore. The gentleman from Mississippi objects to the request for unanimous consent.

Mr. CLARK of Missouri. Why not put one-half of it at a time?

Mr. SULZER. The gentleman from Mississippi [Mr. WILLIAMS] said he would not object to unanimous consent for consideration.

Mr. WILLIAMS. The gentleman from Mississippi said he would not object to unanimous consent for consideration, but said he would object to unanimous consent for consideration and passage.

The SPEAKER pro tempore. The Chair understands, and all Members will understand, and the Chair will call attention to the fact that the question might be divided, as the gentleman from Missouri suggests, but two roll calls might follow as the result of taking the method which the gentleman suggests.

Mr. WILLIAMS. Of course the Chair and myself can not enter into any debate about the matter. I merely stated my reason for objecting to that form of a request. I would suggest that the gentleman move to suspend the rules.

Mr. DALZELL. I demand the regular order, Mr. Speaker.

Mr. PAYNE. I think the Speaker can run the House and the order of it without the direction of the gentleman from Mississippi [Mr. WILLIAMS].

The SPEAKER pro tempore. This was continuation of the business that is now on the Speaker's table for consideration. One proposition, the bill of the gentleman from Maine [Mr. BURLEIGH] has been objected to, and the next proposition is one for which the Chair will recognize the gentleman from Missouri [Mr. HACKNEY].

ALLOTTEES OF QUAPAW AGENCY, OKLA.

Mr. HACKNEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 16743) and agree to the Senate amendments.

The SPEAKER. The gentleman from Missouri [Mr. HACKNEY] asks unanimous consent to take the bill known as the "Quapaw bill" from the table and agree to the Senate amendments. The Clerk will report the title of the bill and the Senate amendments.

The Clerk read as follows:

H. R. 16743. An act for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes.

The Senate amendments were also read.

The SPEAKER. Is there objection?

Mr. BOUTELL. I object, Mr. Speaker.

Mr. HACKNEY. I would ask the gentleman to withhold his objection until I can explain this matter and the situation of this bill. Will the gentleman reserve his objection? It is a very important matter.

The SPEAKER. Does the gentleman from Illinois [Mr. BOUTELL] reserve his objection?

Mr. HACKNEY. I will be very glad to make an explanation of this bill.

Mr. BOUTELL. I have no objection to reserving the objection, but I make it.

CONGRESSIONAL CLUB.

Mr. KAHN. Mr. Speaker, I ask unanimous consent for the passage of the bill which I send to the Clerk's desk.

The SPEAKER. The gentleman from California [Mr. KAHN] asks unanimous consent for the consideration of the following bill, of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 22029) to incorporate the Congressional Club. XXX

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, is there a request for unanimous consent for consideration?

The SPEAKER. The Chair understands that it is for consideration and passage.

Mr. WILLIAMS. If it is for consideration and passage, I shall object. I will make no objection to a request for unanimous consent to consider the bill.

The SPEAKER. The Chair would be glad to state that so far as practical, not to bind the gentleman or bind any Member from their constitutional rights, this is a bill of some little length, and the Chair does not desire to recognize it under a motion to suspend the rules if there will probably be a roll call. If consideration means consideration as is usual, without the previous question, and so forth, and without obstruction, except consideration in good faith, and it is the opinion of the gentleman from Mississippi that the yeas and nays will not be ordered, the Chair would be glad to put it as the gentleman desires.

Mr. KAHN. I appeal to the chivalry of the gentleman from Mississippi not to object. [Laughter.]

The SPEAKER. The Chair is not laying a trap for the gentleman.

Mr. WILLIAMS. I understand that.

The SPEAKER. The Chair will be perfectly frank with the gentleman.

Mr. WILLIAMS. Nor is the Chair attempting to bargain with the gentleman from Mississippi; but the Chair wants to know whether "in the opinion" of "the gentleman from Mississippi" there will be a ye-and-nay vote. It is the opinion of "the gentleman from Mississippi" that upon this particular bill there will not be a roll call, because it would cause a great deal of domestic unhappiness in Washington if there were. [Laughter.]

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The Clerk will report the bill.

The bill was read as follows:

A bill (H. R. 22029) to incorporate the Congressional Club.

Be it enacted, etc., That Mrs. James Breck Perkins, of New York; Mrs. John Sharp Williams, of Mississippi; Mrs. Henry Cabot Lodge, of Massachusetts; Mrs. Julius Kahn, of California; Mrs. Champ Clark, of Missouri; Mrs. Joseph Dixon, of Montana; Mrs. J. Sloat Fassett, of New York; Mrs. William M. Howard, of Georgia; Miss E. P. Wood, of New Jersey; Mrs. A. A. Wiley, Mrs. Richmond P. Hobson, and Mrs. O. W. Underwood, of Alabama; Mrs. William B. Cravens, of Arkansas; Mrs. W. F. Englebright, Mrs. Duncan E. McKinlay, Mrs. Joseph R. Knowland, Mrs. James C. Needham, and Mrs. S. C. Smith, of California; Mrs. Simon Guggenheim, Mrs. George W. Cook, and Mrs. Robert W. Bonyne, of Colorado; Mrs. Morgan G. Bulkeley, Mrs. Zalinski, Mrs. Nehemiah D. Sperry, and Mrs. Edwin W. Higgins, of Connecticut; Mrs. Harry A. Richardson, of Delaware; Mrs. Frank D. Clark and Mrs. William B. Lamar, of Florida; Mrs. Alexander S. Clay, Mrs. James M. Griggs, Mrs. Charles L. Bartlett, Mrs. Gordon Lee, and Mrs. Thomas W. Hardwick, of Georgia; Mrs. Weldon B. Heyburn and Mrs. Burton L. French, of Idaho; Mrs. Albert J. Hopkins, Mrs. James R. Mann, Mrs. William W. Wilson, Mrs. Frank O. Lowden, Mrs. Joseph V. Graft, Miss Cannon, Miss Mattis, Mrs. Henry T. Rainey, Mrs. Benjamin F. Caldwell, and Mrs. Pleasant T. Chapman, of Illinois; Mrs. Albert J. Beveridge, Mrs. John H. Foster, Mrs. Jesse Overstreet, and Mrs. Edgar D. Crumpacker, of Indiana; Mrs. J. P. Dolliver, Mrs. John A. T. Hull, Mrs. Walter I. Smith, Mrs. James P. Conner, Mrs. Elbert H. Hubbard, Mrs. William E. Fuller, and Mrs. Brayton, of Iowa; Mrs. C. Curtis, Mrs. Daniel R. Anthony, Mrs. Charles F. Scott, and Mrs. James M. Miller, of Kansas; Mrs. Ollie M. James and Mrs. Ben Johnson, of Kentucky; Mrs. Arsene P. Pujo, of Louisiana; Mrs. Eugene Hale, Mrs. Llewellyn Powers, and Mrs. Charles E. Littlefield, of Maine; Mrs. Isidor Rayner, of Maryland; Mrs. W. Murray Crane, Mrs. Charles G. Washburn, Mrs. Charles Q. Tirrell, Mrs. Samuel W. McCall, Mrs. John W. Weeks, and Mrs. Augustus P. Gardner, of Massachusetts; Mrs. William Alden Smith, Mrs. Gilbert Wilkes, Mrs. Edward L. Hamilton, Mrs. Gerrit J. Diekema, Mrs. Samuel W. Smith, Mrs. Joseph W. Fordney, and Mrs. George A. Loud, of Michigan; Mrs. Halvor Steenerson, of Minnesota; Mrs. Thomas Spight, Mrs. Eaton J. Bowers, and Mrs. Frank

A. McLain, of Mississippi; Mrs. James T. Lloyd, Mrs. Joshua W. Alexander, Mrs. Edgar C. Ellis, Mrs. David A. De Armond, Mrs. Richard Bartholdt, Mrs. Joseph J. Russell, and Mrs. Thomas Hackney, of Missouri; Mrs. Charles N. Pray, of Montana; Mrs. Norris Brown and Mrs. John F. Boyd, of Nebraska; Mrs. Francis G. Newlands, of Nevada; Mrs. Frank D. Currier, of New Hampshire; Miss Kean, Mrs. Frank O. Briggs, Mrs. Henry C. Loudenslager, Mrs. Charles N. Fowler, Mrs. William Hughes, Mrs. Le Gage Pratt, Mrs. Eugene W. Leake, and Mrs. John J. Gardner, of New Jersey; Mrs. Chauncey M. Depew, Mrs. Charles B. Law, Mrs. George E. Waldo, Mrs. William M. Calder, Mrs. W. Bourke Cockran, Mrs. Herbert Parsons, Mrs. J. Van Vechten Olcott, Mrs. Francis B. Harrison, Mrs. William S. Bennet, Mrs. D. S. Alexander, Mrs. John E. Andrus, Mrs. George W. Fairchild, Mrs. James S. Sherman, Mrs. Michael E. Driscoll, Mrs. John W. Dwight, Mrs. Sereno E. Payne, Mrs. Peter A. Porter, Mrs. Edward B. Vreeland, and Mrs. William H. Ryan, of New York; Mrs. John H. Small, Mrs. Charles R. Thomas, and Mrs. Robert N. Page, of North Carolina; Mrs. Porter J. McCumber, of North Dakota; Mrs. Robert L. Owen, of Oklahoma; Mrs. Joseph B. Foraker, Mrs. Nicholas Longworth, Mrs. J. Eugene Harding, Mrs. Timothy T. Ansberry, Mrs. Edward L. Taylor, jr., Mrs. Matthew R. Denver, Mrs. Ralph D. Cole, Mrs. G. E. Mouser, Mrs. Albert Douglas, and Mrs. James Kennedy, of Ohio; Mrs. Willis C. Hawley and Mrs. William R. Ellis, of Oregon; Mrs. Joel Cook, Mrs. J. Hampton Moore, Mrs. William W. Foulkrod, Mrs. George W. Kipp, Mrs. Benjamin K. Focht, Mrs. Daniel F. Lafean, Mrs. George F. Huff, Mrs. J. Davis Brodhead, Mrs. Joseph G. Beale, Mrs. Nelson P. Wheeler, Mrs. William H. Graham, Mrs. John Dalzell, Mrs. James Francis Burke, and Mrs. Andrew J. Barchfeld, of Pennsylvania; Mrs. George P. Wetmore and Miss Granger, of Rhode Island; Mrs. Robert J. Gamble and Mrs. William H. Parker, of South Dakota; Mrs. Robert L. Taylor, Mrs. William C. Houston, Mrs. Thetus W. Sims, and Mrs. Finis J. Garrett, of Tennessee; Mrs. Charles A. Culberson, Mrs. Jack Beall, Mrs. Rufus Hardy, Mrs. A. W. Gregg, Mrs. John M. Moore, Mrs. Albert S. Burleson, Mrs. Robert L. Henry, Mrs. Oscar W. Gillespie, Mrs. James L. Slayden, and Mrs. John N. Garner, of Texas; Mrs. Reed Smott and Mrs. George Sutherland, of Utah; Mrs. David J. Foster, of Vermont; Mrs. Charles C. Carlin, of Virginia; Mrs. William E. Humphrey, of Washington; Mrs. Stephen B. Elkins, Mrs. Nathan B. Scott, Mrs. Harry C. Woodyard, and Mrs. James A. Hughes, of West Virginia; Mrs. Robert M. La Follette, Mrs. Henry A. Cooper, Mrs. James H. Davidson, Mrs. Elmer A. Morse, and Mrs. John J. Jenkins, of Wisconsin; Mrs. Frank W. Mondell, of Wyoming; Mrs. N. G. White, Mrs. Vespasian Warner, Mrs. J. B. Henderson, Mrs. Silas Hare, Mrs. Thropp, Mrs. H. S. Irwin, and Mrs. Z. L. Tanner, of the District of Columbia, and all such other persons as may from time to time be associated with them and their successors, are hereby constituted a body corporate and politic in the city of Washington, in the District of Columbia, by the name of "The Congressional Club." And by that name they and their successors may have perpetual succession, may use a common seal, and alter the same at pleasure, and elect officers and agents, and may take, receive, hold, and convey real and personal estate necessary for the purposes of the association.

Sec. 2. That the object of the club is to promote acquaintanceship among its members, to facilitate their social intercourse, and to provide a place of meeting which may help to secure for them the advantages of life in the national capital. And, in pursuance of said object, it may have a constitution, by-laws, rules, and regulations to carry out the same, and shall have power to change and amend its constitution, by-laws, rules, and regulations at pleasure: *Provided*, That such constitution, by-laws, rules, and regulations, or amendments thereof, do not conflict with the laws of the United States or of any State.

Sec. 3. That Congress reserves the right to alter, amend, or repeal this act.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. KAHN, a motion to reconsider the vote by which the bill was passed was laid on the table.

LAWS AND ORDINANCES OF PORTO RICO.

Mr. PARSONS. Mr. Speaker, I ask unanimous consent to consider and agree to the resolution which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 303.

Resolved, That the Secretary of War be, and he is hereby, requested to transmit to the House of Representatives for its information the laws and ordinances of Porto Rico and the military orders and decrees affecting Porto Rico referred to in section 8 of the act approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes."

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I understand this is a request for unanimous consent to pass the resolution?

The SPEAKER. It is.

Mr. WILLIAMS. I object.

ASSAY OFFICE AT SALT LAKE CITY.

Mr. HOWELL of Utah. Mr. Speaker, I move to suspend the rules, discharge the Committee on Coinage, Weights, and Measures from the further consideration of Senate bill 642, the Senate committee having reported a House bill, and pass the same.

The House bill has been reported by the Committee on Coinage, Weights, and Measures, and is identical with the provisions of the Senate bill, and the House bill is on the Calendar.

The SPEAKER. Has the gentleman the original Senate bill? Mr. HOWELL of Utah. The Senate bill is in the Committee on Coinage, Weights, and Measures.

The SPEAKER. Well, the gentleman had better get possession of the bill.

Mr. BURLESON. There is an original Senate bill on the desk.

BROTHERHOOD OF ST. ANDREW.

The SPEAKER. Wait a minute until the other bill is found. In the meantime the Chair will again submit the request of the gentleman from Maine [Mr. BURLEIGH] for the consideration of the Brotherhood of St. Andrew bill, the title of which was read to the House. The Clerk will report the bill:

The Clerk read as follows.

A bill (H. R. 16757) for the incorporation of the Brotherhood of St. Andrew.

Be it enacted, etc., That James L. Houghteling, of Winnetka, Ill.; John E. Baird, of Philadelphia, Pa.; Edmund Billings, of Boston, Mass.; William C. Sturgis, of Colorado Springs, Colo.; J. C. Loomis, of Louisville, Ky.; Samuel S. Nash, of Tarboro, N. C.; John W. Wood, of New York, N. Y.; H. C. Turnbull, Jr., of Baltimore, Md.; Frank J. Weber, of Detroit, Mich.; Francis H. Holmes, of West Orange, N. J.; Robert H. Gardiner, of Gardiner, Me.; H. R. Braden, of Berkeley, Cal.; W. A. Gallup, of North Adams, Mass.; H. D. W. English, of Pittsburg, Pa.; E. C. Browne, of Omaha, Nebr.; Mahlon N. Kline, of Philadelphia, Pa.; Courtenay Barber, of Chicago, Ill.; E. C. Day, of Helena, Mont.; C. C. Payson, of Brookline, Mass.; Frank V. Whiting, of Cleveland, Ohio; G. Ward Kemp, of Seattle, Wash.; Robert S. Hart, of Baltimore, Md.; Bert T. Amos, of Washington, D. C.; A. M. Hadden, of New York, N. Y.; S. H. Riker, of Lansingburg, N. Y.; A. A. Talmage, of Los Angeles, Cal.; J. G. Bragaw, Jr., of Washington, N. C.; F. W. Rollins, of Concord, N. H.; T. K. Robinson, of Vicksburg, Miss.; C. M. Lovsted, of Honolulu, Hawaii; A. L. Fellows, of Denver, Colo.; James H. Falconer, of New York, N. Y.; B. F. Finney, of Savannah, Ga.; John M. Locke, of Orange, N. J.; W. B. Dall, of Brooklyn, N. Y.; E. H. Bonsall, of Philadelphia, Pa.; William A. Cornelius, of McKeesport, Pa.; George R. Robinson, of Kirkwood, Mo.; Ivanhoe S. Huber, of Shamokin, Pa.; J. L. Houghteling, Jr., of Winnetka, Ill.; Robert E. Anderson, of Richmond, Va.; George T. Ballachey, of Buffalo, N. Y.; George H. Batchelor, of Memphis, Tenn.; Edwin Belknap, of New Orleans, La.; W. B. Dent, of Washington, D. C.; E. A. Fusch, of Nashville, Tenn.; A. A. McKechnie, of St. Paul, Minn.; J. H. Radtke, of Milwaukee, Wis., and their associates, who shall be members in good standing of the Brotherhood of St. Andrew at the time when this act takes effect, and those thereafter associated with them and their successors, be, and they are hereby, incorporated and made a body politic and corporate of the District of Columbia under the name of "The Brotherhood of St. Andrew." And by that name they and their successors may have perpetual succession, may use a common seal, and alter the same at pleasure, and elect officers and agents, and may do business and take, receive, hold, and convey real and personal estate necessary for the purposes of the society.

Sec. 2. That the sole object of said corporation shall be the spread of Christ's Kingdom among men. And, in pursuance of said object, it may have a constitution, by-laws, rules, and regulations to carry out the same, and shall have power to change and amend its constitution, by-laws, rules, and regulations at pleasure: *Provided*, That such constitution, by-laws, rules, and regulations, or amendments thereof, do not conflict with the laws of the United States or of any State.

Sec. 3. That said corporation shall have the right to hold its meetings and meetings of its council at any place within the United States as may be best suited or most advantageous to the carrying out of the purposes for which this corporation is formed.

Sec. 4. That this act shall take effect and said corporation be established when this act shall have been accepted by vote of the Brotherhood of St. Andrew at any of its annual conventions held within three years from November 30, 1907, and a copy of such vote attested by the secretary of said convention and filed in the office of the recorder of deeds of the District of Columbia shall be sufficient evidence of such acceptance. The officers of the corporation shall be elected and its constitution and by-laws adopted at the annual convention of the Brotherhood of St. Andrew at which this act is accepted, acting in accordance with the constitution of said brotherhood as it then exists.

Sec. 5. That Congress may at any time amend, alter, or repeal this act.

Mr. BURLEIGH. Mr. Speaker, the bill was unanimously reported by the Committee on the District of Columbia and approved by the Commissioners of the District of Columbia.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

Mr. HEFLIN. Mr. Speaker—

The SPEAKER. The Chair had reason to suppose there would be objection.

Mr. HEFLIN. I was going to move to suspend the rules. I move to suspend the rules and pass H. R. 21847. It is a bill to prevent falsifications in the collection and compilation of agricultural statistics and the unauthorized issuance and publication of the same.

The SPEAKER. The House is waiting for a bill the original of which was with the committee and will soon be here. The Chair, to be entirely frank with the gentleman, at this time at least can not recognize the gentleman to move to suspend the rules.

Mr. HOWELL of Utah. The committee has the original Senate bill.

Mr. WILLIAMS. Is it in order to call for the regular order?

The SPEAKER. This is the regular order. We are trying to find a bill.

Mr. WILLIAMS. The regular order can not be trying—I suppose you mean, rather, praying. I submit there is nothing before the House by the Speaker's confession.

The SPEAKER. Well, when one sheep was lost it was in order to try to find it, even out on the mountain.

Mr. WILLIAMS. It may have been for the Almighty, but not for the Speaker.

The SPEAKER. After all, it is well to get as close to the Great Father as possible. The Chair recognizes the gentleman from Michigan.

BALTIMORE AND WASHINGTON TRANSIT COMPANY.

Mr. SMITH of Michigan. Mr. Speaker, I move to suspend the rules and pass the Senate bill 3405 as amended.

The Clerk read as follows:

A bill (S. 3405) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896.

Be it enacted, etc., That the Baltimore and Washington Transit Company, of Maryland, a corporation created by the laws of the State of Maryland, and authorized by act of Congress to extend its line into the District of Columbia by an act approved June 8, 1896, be, and is hereby, authorized and required to further extend its line of street railway within the District of Columbia over, along, and upon the following-described route: Beginning where Third street NW. (as said street is designated on the map of the first section of the highway extension plan of said District) intersects the present line of the railway of said transit company; thence south on said Third street to Kennedy street; thence west on said Kennedy street to Colorado avenue; thence southwesterly along said Colorado avenue to the intersection of Fourteenth street NW.: *Provided*, That said company shall not construct its said railway over, along, or upon any portion of the aforementioned route which is not now a public highway of the District of Columbia until it shall have obtained, by dedication or condemnation, title to a right of way not less than thirty feet in width along such portion of said route as is not now a public highway; and before it shall have authority to lay tracks in said right of way it shall dedicate the same to the District of Columbia as a public highway.

Sec. 2. That the said transit company shall be empowered to construct, maintain, equip, and operate a single or double track street railway over said line, with all necessary buildings, switches, machinery, appliances, appurtenances, and other devices necessary to operate the same by electricity, compressed air, storage battery, or other motive power, to be approved by the Commissioners of said District: *Provided*, That if electric power propulsion is used upon said extension or on any other portion of the line or lines of said company no portion of the electrical circuit shall be through the earth, but a return circuit of proper capacity and located similarly to the feed-wire circuit shall be provided for the electrical current, and that wherever the trolley system is used each car shall be provided with a double trolley, and that no earth connection shall be made with any dynamo furnishing power for the road. That section 4 of the act entitled "An act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia," approved June 8, 1896, be, and the same is hereby, repealed: *Provided, however*, That said railway shall be constructed of good material, with rails of approved pattern, and in a neat and substantial manner, subject to the supervision and approval of the Commissioners of the District of Columbia; the standard gauge to be used and the surfaces of the tracks to conform to the grades of the streets established by the Commissioners of the District of Columbia, and where the tracks lie within the streets of the District of Columbia the same to be paved between the rails and two feet outside thereof with such material and in such manner as shall be approved by the said Commissioners, and kept in repair by the said railway company.

Sec. 3. That within sixty days from the approval of this act the company shall deposit \$1,000 with the collector of taxes of the District of Columbia to guarantee the construction of its railway within the prescribed time. If this sum is not so deposited, this charter shall be void. If the sum is so deposited and the road is not in operation as herein prescribed, said \$1,000 shall be forfeited to the District of Columbia and this charter shall be void.

Sec. 4. That failure or neglect to comply with any of the provisions of this act, except as hereinbefore provided for, shall render the said corporation liable to a fine of \$25 for each and every day during which such failure or neglect shall continue, which penalty may be recovered in the name of the District of Columbia by the Commissioners of the said District in any court of competent jurisdiction: *Provided, however*, That unless the line of the said railway shall be completed, with cars running regularly thereon for the accommodation of passengers, within two years from the date of the passage of this act this charter shall be null and void.

Sec. 5. That the said company, in conjunction with the Capital Traction Company, may receive a rate of fare not exceeding 5 cents for each passenger for one continuous ride over the route aforesaid and the route of the said Capital Traction Company within the District of Columbia, or any part thereof, and shall sell tickets at the rate of six for 25 cents.

Sec. 6. That all the powers, rights, duties, and limitations imposed by the act of Congress authorizing said Baltimore and Washington Transit Company to enter the District of Columbia, approved June 8, 1896, shall be applicable to the extension of the line of said company as proposed herein except as said act may be amended by the provisions hereof, it being the intent that said original act shall be applied to this extension in the same manner as if said extension had been included in the original act.

Sec. 7. That the privileges herein granted are granted on the express condition that cars shall be run under such rules as may from time to time be made by the District Commissioners, and any violation of which shall be a misdemeanor, and for any such violation said corporation shall be liable to a fine of not less than \$50 and not to exceed \$200.

Sec. 8. That Congress reserves the right to alter, amend, or repeal this act.

The SPEAKER. Is a second demanded?

Mr. SIMS. I demand a second.

The SPEAKER. Under the rule the second is ordered. The gentleman from Michigan [Mr. SMITH] is entitled to twenty minutes and the gentleman from Tennessee [Mr. SIMS] is entitled to twenty minutes.

Mr. SMITH of Michigan. Mr. Speaker, the amendment to

this bill is confined to the section which provides for the extension of about 2 miles from the end of Fourteenth street to Tacoma Park, and if this line of railroad is built, it will open up a section of territory there that is now practically uninhabited.

The second section provides for the construction and methods of operation, to be approved by the Commissioners of the District.

Section 3 provides that a deposit of \$1,000 shall be made as a guaranty that the road will be in operation within the time and under the terms prescribed in this bill.

Section 4 provides that any failure on the part of the company to comply with the provisions shall be punishable by a fine, and so forth.

Section 5 provides that the rate of fare for a continuous ride over the lines of the company and the Capital Traction Company shall be at the same rate as if the entire distance were traveled on the lines of but one company, with six tickets for a quarter and a straight fare of 5 cents.

Section 6 provides that all limitations imposed by the original charter shall be applicable to the extension herein proposed.

Section 7 provides that the granting of the privileges named is made on the express conditions that cars shall be run under rules to be made from time to time by the District Commissioners.

There is a provision in this bill for the striking out of section 4 of the original charter. Section 4 is nothing more nor less than section 2 of this bill, and section 2 is made much broader than section 4 in the original charter.

Mr. Speaker, I reserve the balance of my time.

Mr. SIMS. Mr. Speaker, I wish to state that I was mistaken as to this bill and that I am in favor of it. The gentleman from Kansas [Mr. CAMPBELL] is opposed to it, and therefore I think he ought to control the time in opposition.

The SPEAKER. The gentleman from Kansas, then, is recognized for twenty minutes.

Mr. CAMPBELL. Mr. Speaker, the title to this bill should be changed. The title should be a bill to further legislate for the purpose of giving a franchise to people who have not yet been able to sell a franchise they got fourteen years ago.

For a number of years there has been an effort on the part of an alleged corporation, that has a corporate name, but little if anything else, to build an interurban railroad between Baltimore and Washington. They have a charter granted under the laws of Maryland, and they have had a franchise over such streets as they wanted to cover in the city of Washington and the District of Columbia, but they have not been able to sell either the franchise which they have under the laws of Maryland or the one that they secured from Congress in the District of Columbia; hence no road is yet built either in the State of Maryland or the District of Columbia.

There was at one time a short piece of track in the District of Columbia built by this company in attempting to comply with the requirements of their franchise. They laid a few rods of rails and put on some old cars. Of course that was a mere pretense of compliance with the requirements, and it resulted in a complete failure to sell their franchise. They got hard up, sold the old cars, and took up the rails and sold them for old iron. There is no railroad yet started between Baltimore and Washington. You would think from the reading of this bill that there was a railroad already built up to the very border of the District, and they were down at the end of Fourteenth street just waiting to come in. As a matter of fact, they have not a rod of operating railroad anywhere, and the company that is asking for this franchise can not build it. They have had the opportunity; they have kept out other people who might have asked for a franchise to build a railroad between here and Baltimore over the same line.

Mr. SMITH of Michigan. Will the gentleman yield for a question?

Mr. CAMPBELL. Yes.

Mr. SMITH of Michigan. The gentleman has been a member of the committee for several years. Does he know anybody else who is trying to get a franchise or has tried to get it?

Mr. CAMPBELL. No; I do not.

Mr. CLARK of Missouri. How long have these people had this franchise?

Mr. CAMPBELL. Since 1896.

Mr. CLARK of Missouri. They never have built any railroad?

Mr. CAMPBELL. Built any railroad? No.

Mr. CLARK of Missouri. How long do they want their charter renewed now?

Mr. SMITH of Michigan. Two years.

Mr. CLARK of Missouri. If they do not build, then this franchise is of no account, is it?

Mr. CAMPBELL. No.

Mr. CLARK of Missouri. What do they want to build, then?

Mr. CAMPBELL. They can not build; they simply want to get the franchise to sell to somebody who can build the road.

Mr. CLARK of Missouri. They have not been able to sell it since 1896?

Mr. CAMPBELL. No.

Mr. MADDEN. Have they ever built any road anywhere under the law proposed?

Mr. CAMPBELL. Oh, yes; they built a few rods of railroad at one time, and have since taken it up and sold it for old iron.

Mr. MADDEN. Is there any road now anywhere with which the proposed line is to be connected?

Mr. CAMPBELL. I think not.

Mr. MADDEN. Is there any grading done anywhere?

Mr. CAMPBELL. Not a bit of it, except the old grades where they have taken up the track they formerly laid.

Mr. MADDEN. Where is that?

Mr. CAMPBELL. That is out here in the District.

Mr. MADDEN. Is there any road built outside of the District and owned by these people?

Mr. CAMPBELL. No.

Mr. MADDEN. How much money has been expended by them in their efforts?

Mr. CAMPBELL. Oh, they did not say.

Mr. SMITH of Michigan. Oh, wait. Did it not appear before the committee that they had expended \$70,000? Certainly.

Mr. CAMPBELL. Not to my knowledge.

Mr. SMITH of Michigan. Oh, yes.

Mr. McMILLAN. Yes; they did.

Mr. SMITH of Michigan. Did not a gentleman from Baltimore appear before the committee and state that they had expended \$70,000?

Mr. CAMPBELL. I did not remember just the amount.

Mr. MADDEN. What was the \$70,000 expended for?

Mr. CAMPBELL. To build this piece of road out here and equip it. They have since taken up the track that was laid by the expenditure of this money.

Mr. MADDEN. They actually spent \$70,000?

Mr. McMILLAN. Will the gentleman tell why they took it up?

Mr. CAMPBELL. I do not know.

Mr. McMILLAN. I do, and at the proper time I will tell. I thought the gentleman did.

Mr. CAMPBELL. It was not because their franchise had run out, because it had not. It was simply because they were not able to sell their franchise or to build the road.

Mr. MADDEN. What advantage would be gained by the construction of a road in the neighborhood proposed by this bill?

Mr. CAMPBELL. There would be an advantage to people out in Takoma Park. It would be quite an advantage to people out there, and if somebody who could do it and would take hold of it and build this road, it would be a good thing for the citizens there.

Mr. MADDEN. Does the gentleman wish to be understood as saying it would be a good idea to have the road built?

Mr. CAMPBELL. Unquestionably.

Mr. MADDEN. Now, what does the gentleman base his opinion on to the effect that these people are not qualified to build the road?

Mr. CAMPBELL. Because they have had twelve years in which to build it and have not a mile of road to-day.

Mr. MADDEN. Does the gentleman know who they are?

Mr. CAMPBELL. I have seen one of them and his attorney.

Mr. MADDEN. Do they represent any capital?

Mr. CAMPBELL. I do not think they represent \$50,000 in capital or that they can raise enough to build the road they ask a franchise for.

Mr. MADDEN. And the opinion of the gentleman is that they can not build the road?

Mr. CAMPBELL. That is my opinion.

Mr. McMILLAN. But that is only the opinion of the gentleman from Kansas.

Mr. CAMPBELL. And it would be absolutely throwing away the franchise that Congress is able to give to further trifle with them in trying them to build the road.

Mr. MADDEN. Will the gentleman answer me one more question? How does it come that the Committee on the District of Columbia reports a bill in favor of the construction of a road, of granting a franchise to people who have not any ability whatever to build?

Mr. CAMPBELL. I confess to the gentleman that I am wholly unable to answer that question.

Mr. MADDEN. The gentleman is a member of the committee.

Mr. CAMPBELL. Yes; and I am a member of the subcommittee on street railways, and we did not have a hearing before the subcommittee, and there never was anything shown before that committee as to the ability of these people to comply with the conditions that are required in this franchise.

Mr. MADDEN. Are they obliged to give bond?

Mr. CAMPBELL. No; they are not obliged to give bond. We simply say they shall deposit \$1,000, that they will begin work within sixty days.

Mr. OLCOTT. Will the gentleman permit? You say they simply put up a thousand dollars; you mean the bill provides they must put up a thousand dollars?

Mr. CAMPBELL. Surely.

Mr. OLCOTT. May I ask this question: Have you heard of anybody else trying to get this franchise at all?

Mr. CAMPBELL. No; not at all.

Mr. OLCOTT. You have not any doubt if the road is constructed it will greatly benefit the citizens of this District?

Mr. CAMPBELL. It will benefit the people in the vicinity of Takoma Park; but while these people have a franchise my contention is nobody else will ask for one and nobody else will pay for a franchise which they secured for nothing. That is the position I take, exactly, and I am opposed to giving away to people who are not able to do what they are required to do the franchises of this city. I reserve the balance of my time.

Mr. SMITH of Michigan. Mr. Speaker, how much time have I remaining?

The SPEAKER. Eighteen minutes.

Mr. SMITH of Michigan. I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, this bill is no stranger in this House. In the Fifty-ninth Congress we had this identical bill up and considered it and passed it, but the House then was very economical, and restricted it by putting on an amendment requiring this street car company to carry passengers for 3 cents. It went over to the Senate, and, of course, was not considered there, and died in that way. I do not remember just how long it has been incorporated or anything at all about it as to that, nor do I care anything about it, because nobody else proposes to build this road. Nobody else is asking for this franchise. These people have spent money and lost it, or it will be absolutely lost if we do not give them the benefit of this legislation which this House passed last winter by a decided majority, but because it carried a 3-cent fare amendment, which was absolutely unjust to put on a new road which had to be built and had to place its bonds on the market to procure the money with which to build, and not put the same limitation as to fares on other roads seeking entrance into the District of Columbia. At that time we did pass another bill authorizing another road to build to the District, and did not put on the 3-cent limitation.

Mr. FITZGERALD. Is the gentleman in favor of this bill?

Mr. SIMS. I certainly am, because these people ought to have an opportunity to save at least what they have invested, especially when nobody else or any other company is here asking an opportunity to build this road. The people of that community need it. Members of the committee, Mr. McMILLAN, Mr. MURPHY, Mr. CARY, and others have made a personal inspection, as has, I believe, also the chairman. Let them have an opportunity to build it. I think the bill ought to pass. [Cries of "Vote!"]

Mr. SMITH of Michigan. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. McMILLAN].

Mr. McMILLAN. Mr. Speaker, I presented this bill at the request of the property owners of Takoma Park, and because of that I have taken a great deal of interest in going over the ground, probably more than Mr. CAMPBELL has, because I think it is one of the most needed improvements in the line of railroad construction that we can give to the people of this District. The burden of Mr. CAMPBELL's complaint is that they could not raise \$50,000 and they were not able to build the road. I have taken the pains to find out who the men are who are backing this railroad, and I say they can raise the money necessary.

Mr. CAMPBELL. Why did they not build the road? They had plenty of time.

Mr. McMILLAN. I know that, because I have taken more pains to know what the people want than the gentleman did—

Mr. CAMPBELL. Do you know why they have not built it in twelve years?

Mr. McMILLAN. Yes; I know the reason why. They were waiting for better conditions and a better right of way.

They took up the railroad in Takoma because the people wanted them to locate it where they would be most benefited by it, and where real estate would be most improved. These people come here honestly. They ask for this honestly. Among them are such men as Winslow Williams, secretary of state of Maryland; such men as Henry Williams, such men as Alexander Brown, of Brown Brothers. That is the class of men that are back of this, and to say that they can not build this railroad is preposterous. They want to build it, they are honest, and the people need it. Nobody else wants it except it may be that some other railroad which now exists in our city wants to build it when it suits its own convenience instead of the public. The time has arrived when the people in outlying districts must be accorded better accommodations, and if the existing companies now in the District fail to afford the desired relief new companies will; because the business interests and the home interests demand it, because it is their right, and the Congress of the United States will give it to them. [Applause.] [Cries of "Vote!"]

The SPEAKER. The question is on suspending the rules and passing the bill.

Mr. SIMS. Mr. Speaker, I demand the yeas and nays.

Mr. SMITH of Michigan. Mr. Speaker, I raise the point of no quorum.

The SPEAKER. Evidently there is no quorum. The Doorkeeper will figuratively close the doors.

Mr. FITZGERALD. And will the Clerk figuratively call the roll?

The SPEAKER. If there is no objection, the bill will be passed.

Mr. HEFLIN. I object.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] objects. The yeas and nays have been demanded by the gentleman from Tennessee [Mr. SIMS] and the point that there is no quorum has been made, and that will cause the vote to be taken. Therefore the Sergeant-at-Arms will bring in absentees. As many as are in favor of the bill will, as their names are called, answer "yea;" as many as are opposed will answer "nay;" as many as are present and not voting will answer "present;" and the Clerk will call the roll.

The question was taken, and there were—yeas 167, nays 16, answered "present" 16, not voting 189, as follows:

YEAS—167.

Adair	Dalzell	Houston	Parker, N. J.
Adamson	Davidson	Howell, Utah	Parker, S. Dak.
Alken	Dawson	Howland	Parsons
Alexander, Mo.	Dixon	Hubbard, W. Va.	Patterson
Andrus	Douglas	Hughes, N. J.	Payne
Ansberry	Dwight	Humphreys, Miss.	Pollard
Bannon	Edwards, Ky.	Johnson, Ky.	Porter
Barchfield	Ellis, Oreg.	Jones, Wash.	Pray
Barclay	Ferris	Kahn	Rainey
Bartholdt	Fitzgerald	Kelifer	Reynolds
Bates	Floyd	Keliber	Richardson
Bede	Focht	Kennedy, Iowa	Roberts
Bell, Ga.	Fordney	Kennedy, Ohio	Rodenberg
Bennett, Ky.	Foss	Langley	Russell, Mo.
Bonyne	Foster, Ill.	Lindbergh	Ryan
Booher	Foster, Ind.	Longworth	Saunders
Boutell	Foulkrod	Loudenslager	Sims
Bowers	French	Lovering	Slayden
Boyd	Fulton	Lowden	Smith, Cal.
Brodhead	Gaines, Tenn.	McCreary	Smith, Iowa
Burgess	Gardner, Mich.	McKinley, Ill.	Smith, Mich.
Burke	Garner	McKinney	Spight
Burleigh	Garrett	McLachlan, Cal.	Stafford
Burleson	Gilham	McLaughlin, Mich.	Stephens, Tex.
Burnett	Gillett	McMillan	Stevens, Minn.
Burton, Ohio	Gordon	Macon	Sturgiss
Butler	Goulden	Malby	Sulloway
Candler	Graft	Mann	Taylor, Ohio
Capron	Graham	Moon, Tenn.	Thistlewood
Caulfield	Granger	Moore, Pa.	Thomas, N. C.
Chapman	Greene	Moore, Tex.	Tirrell
Clark, Mo.	Hackett	Murdock	Tou Velle
Clayton	Hale	Murphy	Volstead
Cocks, N. Y.	Hamilton, Mich.	Needham	Waldo
Cole	Hamlin	Nicholls	Wanger
Cook, Colo.	Hammond	Norris	Washburn
Cooper, Pa.	Harding	Nye	Webb
Cooper, Tex.	Hawley	O'Connell	Williams
Cox, Ind.	Hay	Olcott	Wilson, Ill.
Craig	Hayes	Olsted	Woodward
Currier	Hefflin	Padgett	The Speaker
Cushman	Hill, Conn.	Page	

NAYS—16.

Beall, Tex.	Finley	Jones, Va.	Robinson
Broussard	Helm	Madison	Sabath
Campbell	Henry, Tex.	Randell, Tex.	Scott
Ellerbe	Howard	Rauch	Tawney

ANSWERED "PRESENT"—16.

Acheson	Denby	Knapp	Madden
Bennet, N. Y.	Flood	Lafean	Morse
Cousins	Hardy	Lamb	Sheppard
De Armond	Kimball	McCall	Talbot

NOT VOTING—189.

Alexander, N. Y.	Fairchild	Kinkaid	Pratt
Allen	Fassett	Kipp	Prince
Ames	Favrot	Kitchin, Claude	Pujo
Anthony	Fornes	Kitchin, Wm. W.	Ransdell, La.
Ashbrook	Foster, Vt.	Knopf	Reeder
Bartlett, Ga.	Fowler	Knowland	Reid
Bartlett, Nev.	Fuller	Küstermann	Rhinock
Beale, Pa.	Gaines, W. Va.	Lamar, Fla.	Riordan
Bingham	Gardner, Mass.	Lamar, Mo.	Rothermel
Birdsall	Gardner, N. J.	Landis	Rucker
Bradley	Gill	Laning	Russell, Tex.
Brantley	Gillespie	Lassiter	Shackelford
Brownlow	Glass	Law	Sherley
Brumm	Godwin	Lawrence	Sherman
Brundidge	Goebel	Leake	Sherwood
Burton, Del.	Goldfogle	Lee	Slemp
Byrd	Gregg	Legare	Small
Calder	Griggs	Lenahan	Smith, Mo.
Calderhead	Gronna	Lever	Smith, Tex.
Caldwell	Hackney	Lewis	Snapp
Carlin	Haggott	Lilley	Southwick
Carter	Hall	Lindsay	Sparkman
Cary	Hamill	Littlefield	Sperry
Chaney	Hamilton, Iowa	Livingston	Stanley
Clark, Fla.	Hardwick	Lloyd	Steenerson
Cockran	Harrison	Lorimer	Sterling
Conner	Haskins	Loud	Sulzer
Cook, Pa.	Haugen	McDermott	Taylor, Ala.
Cooper, Wis.	Henry, Conn.	McGavin	Thomas, Ohio
Coudrey	Hepburn	McGuire	Townsend
Cravens	Higgins	McHenry	Underwood
Crawford	Hill, Miss.	McKinlay, Cal.	Vreeland
Crumpacker	Hinschaw	McLain	Wallace
Darragh	Hitchcock	McMorran	Watkins
Davenport	Hobson	Marshall	Watson
Davey, La.	Holliday	Maynard	Weeks
Davis, Minn.	Howell, N. J.	Miller	Weems
Dawes	Hubbard, Iowa	Mondell	Weisse
Denver	Huff	Moon, Pa.	Wheeler
Diekema	Hughes, W. Va.	Mouser	Wiley
Draper	Hull, Iowa	Mudd	Willett
Driscoll	Hull, Tenn.	Nelson	Wilson, Pa.
Dunwell	Humphrey, Wash.	Overstreet	Wolf
Durey	Jackson	Pearre	Wood
Edwards, Ga.	James, Addison D.	Perkins	Young
Ellis, Mo.	James, Ollie M.	Peters	
Englebright	Jenkins	Pou	
Esch	Johnson, S. C.	Powers	

The Clerk announced the following additional pairs:

For the balance of session:

Mr. DENBY with Mr. HOBSON.

Until further notice:

Mr. ANTHONY with Mr. ASHBROOK.

Mr. CALDER with Mr. CARTER.

Mr. CALDERHEAD with Mr. CLARK of Florida.

Mr. CRUMPACKER with Mr. DAVEY of Louisiana.

Mr. GAINES of West Virginia with Mr. GILLESPIE.

Mr. SNAPP with Mr. HACKNEY.

Mr. WEEKS with Mr. HITCHCOCK.

Mr. WEEMS with Mr. LINDSAY.

Mr. WHEELER with Mr. ROTHERMEL.

Mr. WOOD with Mr. SHERLEY.

Mr. YOUNG with Mr. UNDERWOOD.

Mr. HAGGOTT with Mr. WATKINS.

The SPEAKER. On this vote the yeas are 167, nays 16, answering "present" 16, a quorum.

A majority having voted in favor thereof, the rules are suspended and the bill is passed.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 1335. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Cheyenne River and Standing Rock Indian reservations in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect;

S. 2295. An act to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company, under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906; and

S. 6190. An act authorizing a resurvey of certain townships in the State of Wyoming.

ASSAY OFFICE AT SALT LAKE CITY.

Mr. HOWELL of Utah. Mr. Speaker, I move to suspend the rules, to discharge the Committee on Coinage, Weights, and Measures from the further consideration of the bill S. 642, and pass it. I will state that the committee have reported a House bill identical in terms with the Senate bill.

The SPEAKER. The gentleman from Utah moves to suspend the rules, discharge the Committee on Coinage, Weights, and Measures from the further consideration of the bill indicated, and pass the same.

The Clerk read as follows:

A bill (S. 642) to establish an assay office at Salt Lake City, State of Utah.

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and required to establish an assay office of the United States at Salt Lake City, in the State of Utah; said assay office to be conducted under the provisions of the act entitled "An act revising and amending the laws relating to the mints and assay offices and the coinage of the United States," approved February 12, 1873; that the officers of the assay office shall be an assayer in charge, at a salary of \$2,500 per annum, who shall also perform the duties of melter; chief clerk, at a salary of \$1,500 per annum; and the Secretary of the Treasury is hereby authorized to rent a suitable building for the use of said assay office, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$20,000 for salary of assayer in charge, chief clerk, and wages of workmen, rent, and contingent expenses.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. I demand a second.

The SPEAKER. Under the rule a second is ordered; the gentleman from Utah [Mr. HOWELL] is entitled to twenty minutes and the gentleman from Mississippi [Mr. WILLIAMS] is entitled to twenty minutes.

Mr. HOWELL of Utah. Mr. Speaker, the object of this bill is to extend to the producers of the precious metals of Utah the same privilege that is granted by the Government to the producers of the precious metals of every important mining State in the West. There are mints or assay offices in California, Nevada, Montana, Idaho, Washington, Colorado, and South Dakota, yet Utah, one of the great mining States, has never been given the benefit and convenience of an assay office. Salt Lake City is the center of one of the richest mining regions in the world and the metropolis of the intermountain country. In addition to the constantly increasing output, now over \$20,000,000 annually of gold and silver produced in the State of Utah, the valley of the Salt Lake has become the most important smelting section of the whole country. Large quantities of ores from Nevada and other surrounding States are shipped to the smelters in the vicinity of Salt Lake City for reduction.

Mr. STEPHENS of Texas. I wish to ask the gentleman a question. Can the gentleman inform the House how many smelters are tributary to this point where he asks for an assay office?

Mr. HOWELL of Utah. There is the American Smelting Company, the Boston Smelting Company, the Utah Copper Company, and several other smaller smelting companies in the vicinity of Salt Lake City.

Mr. STEPHENS of Texas. What is the output of bullion contributory to Salt Lake City?

Mr. HOWELL of Utah. In 1906 the latest official figures given state that there was an output of \$12,900,000 in gold and silver; but from unofficial but reliable sources the output of gold and silver in 1907 exceeded \$20,000,000.

Mr. STEPHENS of Texas. Now, where does that bullion have to be shipped to and where is it being shipped to from Salt Lake City?

Mr. HOWELL of Utah. To San Francisco, to Denver, to New York, St. Louis, or Philadelphia.

Mr. STEPHENS of Texas. If you had an assay office there would that create at that place a market for the bullion?

Mr. HOWELL of Utah. It would enable the producers to have the same facilities that are afforded by the assay office connected with a mint.

Mr. STEPHENS of Texas. And that would be of great benefit to the men engaged in mining?

Mr. HOWELL of Utah. Undoubtedly it would be of great benefit to those who are engaged in the production of the precious metals.

Mr. STEPHENS of Texas. These smelters do custom work, and that custom work belongs to the independent miners, does it not?

Mr. HOWELL of Utah. They purchase the ores from the producers. I do not think that there is any extensive custom work carried on. The general practice is for the smelting companies to purchase the ore after sampling.

Mr. STEPHENS of Texas. Some of the smelters do custom work, do they not?

Mr. HOWELL of Utah. There may be some; I am not familiar with that fact. I reserve the balance of my time.

Mr. STEPHENS of Texas. That is the usual custom.

The SPEAKER pro tempore. The gentleman reserves the balance of his time.

Mr. TAWNEY. Is it not a fact that no smelter in Utah or in any of the precious-metal States does custom work to any extent whatever? All of the smelters buy the ore and settle direct with the miners, do they not?

Mr. HOWELL of Utah. I think the general practice is to buy the ore from those who produce it; but I am not able to answer definitely.

Mr. TAWNEY. Has this bill been reported from the Committee on Coinage, Weights, and Measures?

Mr. HOWELL of Utah. A House bill similar in its provisions was unanimously reported from the Committee on Coinage, Weights, and Measures.

Mr. TAWNEY. This bill has not been reported?

Mr. HOWELL of Utah. A House bill identical in its provisions was reported by the Committee on Coinage, Weights, and Measures.

Mr. TAWNEY. Will the gentleman from Mississippi yield some time to me?

Mr. WILLIAMS. I yield to the gentleman from Minnesota so much time as he desires.

Mr. TAWNEY. Mr. Speaker, the gentleman from Utah is not entirely accurate in the statement that we have an assay office in each of the precious-metal States. We have assay offices in some of the precious-metal States, and we have offices in States that are not precious-metal States. We have to-day more assay offices than the Government service requires. We have one in St. Louis which the Department has frequently recommended the abolition of, and also one in North Carolina, where about \$200,000 are received annually. We have also one at Deadwood, S. Dak., which is in a precious-metal district, which has also been recommended for discontinuance by the Department. Now, it is not necessary to have an assay office in a State simply because that State produces precious metals. No one is benefited particularly except the owners of the smelters.

Mr. SLAYDEN. I should like to ask the gentleman from Minnesota, in whose remarks I am very much interested, if he can recall any instance where the fact that an office was not required for the public business has led to the abolition of that office, even though its abolition was recommended by the Department.

Mr. TAWNEY. I would say to the gentleman that I do not, but I want to state that two years ago the Committee on Appropriations attempted to abolish some of these assay offices on the recommendation of the Department, and the recommendation of the committee was not received favorably by the House, in the consideration of the legislative appropriation bill. Mr. Roberts, when before the committee two years ago, in speaking of the St. Louis assay office, said:

The St. Louis office is one that we have recommended a great many times to be done away with, because it does a very small amount of business and receives very little bullion from original sources, but the Department has got a little tired of recommending the abolition of offices. One of the principal depositors of the St. Louis assay office lives at Cincinnati, and buys old jewelry and ships it out to St. Louis, and then we ship it from St. Louis to Philadelphia. It is a little cheaper for him to ship it to St. Louis than to Philadelphia.

When an assay office receives bullion and it is treated in the assay office, then it is shipped at the expense of the Government from the assay office to the mint in Colorado or Philadelphia or Carson City, Nev. We have no assay office in Alaska, nor have we any smelters for the smelting of precious ore there. It is all shipped from Alaska down to Seattle, and that was the only reason why, a few years ago, we established an assay office at the city of Seattle. That is the only office that has been established in a great many years. There is no hardship to anyone in requiring bullion to be shipped to existing mints or assay offices, except that the owners of the bullion—that is, the smelting companies—save the expense of transporting their bullion from their smelters to the mint, or to an assay office in some other State.

An assay office involves an establishment of quite an organization. I have here a statement showing the number of employees. In the first place, we have the man in charge, known as "the superintendent," appointed by a Member of Congress or a Senator, who is not the man who does the assaying, who has nothing to do with it, but is a mere superintendent under whom the Government employees and assay officers and men do the work. Mr. Roberts, speaking of the Boise City, Idaho, office, when we attempted to abolish that office for the reason that the necessity for it no longer existed, said:

The man who wears the title of assayer is not the assayer in any one of these offices. The man denominated as the head of the office has never been an assayer. He is the man whom the Senator or Congressman of the State asks to have appointed. He is appointed by the President.

There are a number of employees required. When you establish an assay office you not only incur the expense of equipping it with the necessary instrumentalities for carrying on and doing the work, but you must also provide for a consider-

able force of employees for that purpose, and in view of the fact that the actual miner is not to be benefited by the establishment of this office, for he sells his product, which is the ore extracted from the mine, to the smelter, and the owners of the smelter smelt the ore and pay the amount that it is worth and then ship their products to the assay office or to the mint—in view of that fact I see no necessity for creating this new service and I trust that the bill will be voted down.

Mr. MANN. Will the gentleman yield to me for a question? Will the gentleman tell the House just what they do at an assay office and what is the purpose of it?

The SPEAKER pro tempore. The gentleman's time has expired. Does the gentleman from Mississippi yield further time?

Mr. WILLIAMS. Mr. Speaker, I yield sufficient time to the gentleman from Minnesota to answer the question.

Mr. GOULDEN. And how much it costs to run the office.

Mr. TAWNEY. The work of the assay office is described in a letter written by the Director of the Mint to the chairman of the subcommittee on the legislative appropriation bill two years ago, and if I can turn to it, his description will be much more accurate than any I can give. I do not find the exact paragraph. There are two letters in relation to it. I would say the principal service of the assay office is to carry on the process of ascertaining the proportion of a particular metal in an ore or alloy, especially the determination of the proportion of gold or silver in bullion or coin, and determining its fineness.

Mr. MANN. What I personally desire to obtain information about was not only that, but what part of the machinery the assay office constituted in the transmission of gold and silver into trade or into the money of the country—what part it played.

Mr. TAWNEY. I would say that I am unable to answer the gentleman's questions specifically.

Mr. WILLIAMS. Mr. Speaker, I yield five minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Speaker, from the arguments that have been made on this bill I do not see why it ought to pass. This is another illustration of the gross injustice and of the imperfect and partial manner in which measures are considered by the House of Representatives. It shows that there is a system of legislation here that ought not to prevail. This measure, from the little study that I have been able to give it—and my consideration of it has been limited solely to what I have heard here upon the floor of the House within the last few minutes—this measure, I repeat, seems to be much less meritorious than other measures pending upon the Calendar, which have also been favorably reported, unanimously reported, from the same committee.

In illustration of that fact and as an evidence of the injustice of this system of permitting one man to sit upon a throne and say to the American Congress, "This measure thou shalt consider and that measure thou shalt not consider," I refer to a bill introduced by the gentleman from Georgia [Mr. BELL], the bill (H. R. 14790) to establish an assay office at Gainesville, Hall County, Ga., reported with an amendment April 1, 1908. This bill, in contrast with the measure now under consideration, provides for the establishment of an assay office in the State of Georgia. It carries an appropriation of \$5,000, whereas the measure under consideration, if I am correctly informed, carries an appropriation four times that amount; and the report of the committee, which is No. 1364, made by the gentleman from Illinois [Mr. McKINLEY] shows that the State of Georgia has produced during the past ten years gold of the value of \$1,135,200. Of this sum \$845,138.65 was obtained in eleven counties in the immediate vicinity of the proposed assay office.

Let me ask this House why it is that the gentleman from Utah [Mr. HOWELL] gets recognition for the consideration of a bill which some Members, at least, think is not meritorious, and that neither the gentleman from Georgia [Mr. BELL] nor anyone else can get recognition for the consideration of a bill which is unanimously reported as meritorious.

Mr. LOVERING. May I ask the gentleman a question? Is it not a fact that in the case of the assay office to be established in Georgia the output of gold in that State is constantly decreasing?

Mr. ROBINSON. That is not my information.

Mr. LOVERING. That is the information that came to the committee.

Mr. ROBINSON. The information is not contained in the report made by the committee, but, on the contrary, the report of the committee indicates that the output is rather increasing than decreasing. I desire to insert the report and the bill in the Record as a part of my remarks.

The SPEAKER pro tempore. The gentleman has that privilege.

The bill (H. R. 14790) and report are as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and required to establish an assay office of the United States at Gainesville, in the State of Georgia, said assay office to be conducted under the provisions of the act entitled "An act revising and amending the laws relating to the mints and assay offices and the coinage of the United States," approved February 12, 1873; that the officers of the assay office shall be an assayer in charge, at a salary of \$2,500 per annum, who shall also perform the duties of melter, unless the Director of the Mint designates another officer or employee to discharge the duties of melter; chief clerk, at a salary of \$1,500 per annum. And the Secretary of the Treasury is hereby authorized to rent a suitable building for the use of said assay office, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, for salary of assayer in charge, chief clerk, and wages of workmen, rent, and contingent expenses.

REPORT TO ACCOMPANY H. R. 14790.

The Committee on Coinage, Weights, and Measures, having had under consideration the bill (H. R. 14790) to establish an assay office at Gainesville, Hall County, Ga., respectfully reports as follows:

It appears that the State of Georgia has produced gold during the past ten years to the value of \$1,135,200. Of this sum, \$845,138.65 was obtained in the eleven counties in the immediate vicinity of the proposed assay office, and there is every reason to believe that this amount will be steadily and materially increased in the future.

The value of the gold produced in the State of Georgia during the past ten years is in excess of that produced in the State of North Carolina, where an assay office is now in operation. The production is also greater than that of the State of South Carolina, and for a number of years was greater than that of both States. The value of gold produced in the ten counties which would enjoy the greatest benefit resulting from the establishment of this assay office, during the past ten years, is in excess of that produced in the entire State of North Carolina.

It has been shown to the satisfaction of this committee that there are individual miners in large numbers in this section of Georgia who are forced to sell their product to local merchants for less than its actual value, and who in turn send the gold to the assay office at Philadelphia. It is believed that the establishment of an assay office at Gainesville, at a small cost, will greatly encourage and foster individual mining and stimulate the production of gold, which abounds in great quantities in this section of Georgia.

It has been the policy of Congress to establish assay offices in the important mining States for the encouragement of mining and convenience of miners. Your committee therefore is of the opinion that the same reasons exist for the establishment of an assay office in the State of Georgia as caused Congress to act in the cases where similar offices have been established, and recommend the passage of the bill with the following amendment:

Page 2, line 4, after the words "the sum of," strike out the word "twenty" and insert the word "five."

Mr. WILLIAMS. Mr. Speaker, I now yield five minutes to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Speaker, I shall oppose this bill. The gentleman from Utah is asking for an appropriation of \$20,000. His bill is favorably reported and is now up for consideration. The gentleman from Georgia has a meritorious measure along the same line, and he asked for only \$5,000, and he can not get consideration of his bill. His bill can not find its way to the Calendar for consideration by the Members of this House. It matters not how meritorious his measure may be, unless, sir, he has the ear of the Speaker and can obtain favor with the floor leader on the Republican side, the gentleman from New York [Mr. PAYNE], he can not have consideration of any measure he may desire to have considered. Is not this a sad commentary on the people's House of Representatives?

Mr. CLAYTON. Mr. Speaker, can I ask my colleague a question?

Mr. HEFLIN. Certainly.

Mr. CLAYTON. Is it not a fact the President of the United States some time ago recommended that Congress penalize the premature divulgence of statistics gathered in reference to the cotton crop and other crops of the country by the Agricultural Department, and is not it a fact that the gentleman from Alabama introduced and has a favorable report for a bill which is in accord with the recommendation of the President, which is now on the Calendar—

Mr. OLMSTED. Mr. Speaker, I make the point of order that if the gentleman from Alabama attempts to answer that question he will be out of order, because he will not be discussing the bill before the House.

Mr. CLAYTON. I simply want to call the attention of the country to the fact that on that side you are not carrying out the recommendations of your own President. [Applause on the Democratic side.]

Mr. HEFLIN. Mr. Speaker, what my colleague from Alabama says is true. If for no other reason, sir, I would oppose—

Mr. PAYNE. Mr. Speaker, was not the point of order made? I do not object to the gentleman proceeding by unanimous consent for three minutes on that subject, provided I can have three minutes in which to reply.

Mr. WILLIAMS. But I yielded five minutes to the gentleman from Alabama a few moments ago, and I understand—

Mr. PAYNE. But the point was made that the gentleman from Alabama was not in order—

Mr. HEFLIN. I have five minutes, and I desire to request the Chair not to take out of my time the time the gentleman from New York has taken to make his comment. I did not yield to him. If for no other reason, I would oppose this bill because of the miserable rules that you all have put upon this House. You refuse us the right to consider—

Mr. PAYNE. I call for a ruling on the point of order. I call the gentleman to order; he is not speaking to this bill.

The SPEAKER pro tempore. The point of order of the gentleman from New York is well taken and the gentleman will proceed in order.

Mr. HEFLIN. Mr. Speaker, I am going to proceed in order, but the gentleman from New York can not put words in my mouth. I am giving my reasons for voting against this bill and I serve notice on all of you now that I am going to object to unanimous consent for everything until you grant this relief to the farmers of this country. [Applause on the Democratic side.] I now appeal to the members of the Agriculture Committee on that side to request the gentleman from New York to withdraw his objection to my bill.

Mr. PAYNE. Mr. Speaker, I call the gentleman to order.

The SPEAKER pro tempore. The gentleman from New York demands that the Chair enforce the rule that the gentleman must confine his remarks to the bill.

Mr. RANDELL of Texas. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANDELL of Texas. Can not a Member of this House oppose a bill because of the procedure of the House as well as on any other proposition? Is not that speaking to the bill?

The SPEAKER pro tempore. The Chair would hardly think under the rule that would be considered in order.

Mr. HEFLIN. Mr. Speaker, I am giving my reasons for opposing the bill, and one reason is that you have not treated the gentleman from Georgia with the same consideration that you have treated the gentleman from Utah. Another reason is that you will not allow other Members to bring measures in here that affect for good the whole people and get them considered. I am earnestly in favor of this bill to regulate and safeguard the matter of crop statistics. Why will you not let us pass it?

You have just consumed forty minutes discussing a fish hatchery for Illinois, and forty minutes granting a franchise for a railroad running from Washington to Baltimore, but you refuse to give us one minute in which to pass the bill "To prevent falsifications in the collection and compilation of Agricultural statistics and the unauthorized issuance and publication of the same." [Applause on the Democratic side.]

The SPEAKER pro tempore. The Chair is informed that the time consumed by others has been allowed to the gentleman.

Mr. PAYNE. It is hard to hear the Chair—

Mr. WILLIAMS. Mr. Speaker, I demand the regular order. I would like to ask the gentleman from Utah [Mr. HOWELL] if he will not consume some of his time. How much time have I left, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has two minutes remaining.

Mr. HOWELL of Utah. I yield to the gentleman from Massachusetts [Mr. LOVERING].

Mr. LOVERING. Mr. Speaker, I was chairman of the subcommittee that reported this bill. We had examined as to the facts in the case and decided that an assay office in Utah at this time was most desirable. As a matter of fact, the largest smelting companies in the United States are adjacent to Salt Lake, and it stands to be the largest and most important of all the smelting regions of the country. The output of bullion, as estimated unofficially this year, will be over \$20,000,000. There is no other place that can show such an increase within the last three or four years as has been shown in Utah.

Mr. MANN. Will the gentleman inform the House the comparative figures of the production of gold and of the precious metals in Utah and in Georgia, to which the gentleman from Arkansas [Mr. ROBINSON] referred a while ago?

Mr. RANDELL of Texas. Mr. Speaker—

The SPEAKER pro tempore. Will the gentleman from Massachusetts [Mr. LOVERING] yield to the gentleman from Texas [Mr. RANDELL]?

Mr. RANDELL of Texas. A parliamentary inquiry, Mr. Speaker.

Mr. LOVERING. Mr. Speaker, I can not give exact figures as to this amount. I know the subject of the Georgia assay office was before the committee at the same time that this matter was up, and it was deemed unimportant—so unimportant that they decided against it.

Mr. ROBINSON. Mr. Speaker, will the gentleman yield to a question?

Mr. LOVERING. Yes.

Mr. ROBINSON. I could not hear just the last statement made by the gentleman from Massachusetts. Did I understand you to say that you decided against the Georgia bill?

Mr. LOVERING. The subcommittee?

Mr. ROBINSON. The subcommittee.

Mr. LOVERING. Yes.

Mr. ROBINSON. Is it not a fact that that bill was unanimously reported by the committee?

Mr. LOVERING. It was subsequently.

Mr. ROBINSON. Then the whole committee reversed the action of the subcommittee and reported the bill favorably?

Mr. LOVERING. Yes.

Mr. ROBINSON. Will the gentleman inform me about what the gold-producing area in the State of Utah is?

Mr. LOVERING. I can not. I can answer the gentleman as to the amount of the output of bullion in Utah.

Mr. ROBINSON. But the gentleman can not state what the area of gold-producing land in Utah is? Now, will the gentleman yield for another question? Can he state what the gold-producing area in Georgia is?

Mr. LOVERING. I can not, nor do I think it is important that I should.

Mr. TAWNEY. I will say to the gentleman that there is one assay office at Charlotte, now, in a State adjoining Georgia.

Mr. LOVERING. In regard to the assay office in North Carolina and also in some other places, it may be that they should be discontinued, but that is no reason why an office should not be established at a point where the business will warrant it, as it will in this case.

Why, it was a most phenomenal increase of production in the State of Utah, from \$4,000,000 in 1904 to \$20,000,000 in 1907, and still increasing. It is reasonable to suppose that it will exceed \$30,000,000 within the next year.

Mr. TAWNEY. Will the gentleman permit me to ask him a question?

Mr. LOVERING. Certainly.

Mr. TAWNEY. In what respect is the Government benefited by the establishment of an assay office at Salt Lake City?

Mr. LOVERING. It is always desirable to have an assay office as near to the largest smelting works as possible.

Mr. TAWNEY. For whose benefit?

Mr. LOVERING. For everybody's benefit.

Mr. TAWNEY. For the benefit of the smelter?

Mr. LOVERING. Probably.

Mr. TAWNEY. How far is Salt Lake City from Carson City, Nev.?

Mr. LOVERING. I can not tell you that; I would have to refer you to the gentleman from Utah.

Mr. HOWELL of Utah. The nearest place the bullion could go in the ordinary course of trade would be to Denver, which is about 900 miles.

Mr. TAWNEY. How far is it to Carson City?

Mr. HOWELL of Utah. I can not tell; I can only estimate; about seven or eight hundred miles.

Mr. LOVERING. Undoubtedly this is destined to be the largest smelting region of the United States. I hope the bill will pass.

Mr. HOWELL of Utah. I yield two minutes to the gentleman from Missouri [Mr. BOOHER].

Mr. BOOHER. Mr. Speaker, as a member of the committee from which this bill is reported, I am heartily in favor of it. I would not oppose legislation in this House reported from the committee because some other gentleman is not recognized by the powers that be. That is not the fault of the committee reporting the bill. The committee reported in favor of an assay office in Georgia. After hearing the representatives of that place the committee granted their request and gave them what they asked for, and it is unfortunate for them, under the peculiar rules of the House, they can not get a hearing. But that is no reason, as I understand the duty of a legislator, why we should defeat a meritorious proposition because another meritorious proposition can not get a hearing.

I am in favor of this bill, because the mining interests of the State of Utah are entitled to it; and because it carries a little greater appropriation than the bill for the establishment of the same kind of an office in Georgia is no reason why it should be voted down, when it is shown by the committee report and the evidence before the committee that the mines in the State of Utah are developing year by year and that in a few years Utah will be one of the largest gold and silver producing States in the Union. As I understand it, the closest assay office to

the miners in Utah is Denver, across the mountains, and a long distance away; that great freights have to be paid. These people are certainly entitled to have this Government bring to their door, or as near as possible, the same rights other people in the same line of business have in other sections of the country. I hope this bill will pass. [Applause.]

Mr. WILLIAMS. I yield the remainder of my time to the gentleman from Minnesota.

The SPEAKER pro tempore. The gentleman is recognized for two minutes.

Mr. TAWNEY. Mr. Speaker, when I addressed the House a moment ago I neglected to call attention to the fact that if we are going to establish an assay office in the State of Utah on the theory that that is the only State that now produces precious ore and that has not an assay office, we would be proceeding on a false premise. I would say that the Territory of Arizona has an equal claim, if not a stronger one, than the State of Utah; the Territory of New Mexico would have an equal claim with the State of Utah, and the territory of the district of Alaska would have claim for two or three assay offices more than the State of Utah. The smelters in Utah have access to the mint at Denver, Colo.; they have also access to the mint at Carson City. The transportation, however, on their bullion from the smelter to those mints they must pay, which they would not have to do if an assay office were established at Salt Lake City. The effect of that privilege would be to relieve these smelters of the expense incident to the transportation of their products to those mints. Here we have a proposition to appropriate \$20,000 to pay the salary of the assayer, the chief clerk, and the other clerical assistance required in the operation and management of this assay office, which is to be established for and maintained only for the benefit of the smelters and for the relief from payment they will receive for the transportation on their bullion. I hope that this proposition will not prevail.

The Department has recommended the abolition of a number of assay offices heretofore. We have one in Charlotte, N. C., producing about \$250,000 a year. We have another of about \$400,000 a year in St. Louis, and we have also one at Deadwood, in a mining State, that they have recommended the abolition of, and I can not see why it is necessary for us to establish an assay office in the State of Utah, midway between the mint at Denver and the mint at Carson City, for the benefit of the smelters.

The SPEAKER pro tempore. The time of the gentleman has expired. All time has expired. As many as are in favor of suspending the rules and passing the bill will say "aye."

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays.

Mr. HOWELL of Utah. I make the point that there is no quorum present.

The SPEAKER pro tempore. The gentleman from Utah makes the point that there is no quorum present. Evidently the point of order is well taken. The Clerk will call the roll. The Sergeant-at-Arms will notify absent Members.

The question was taken, and there were—yeas 108, nays 82, answered "present" 14, not voting 183, as follows:

YEAS—108.

Alexander, N. Y.	Dwight	Howell, N. J.	Moore, Pa.
Ashbrook	Ellis, Oreg.	Howell, Utah	Murdock
Barchfeld	Esch	Howland	Overstreet
Bartlett, Nev.	Fairchild	Hubbard, W. Va.	Parker, N. J.
Bede	Fassett	Humphrey, Wash.	Pollard
Bennet, N. Y.	Focht	Jones, Wash.	Porter
Bonyne	Fordney	Kahn	Pray
Booher	Foss	Kelley	Rodenberg
Boyd	Foulkrod	Kelley	Scott
Broussard	French	Kennedy, Iowa	Smith, Cal.
Burke	Gilham	Kennedy, Ohio	Smith, Mich.
Burleigh	Gaines, W. Va.	Kinkaid	Snapp
Burton, Ohio.	Gardner, Mich.	Kuistermann	Spight
Caulfield	Gillett	Laning	Stafford
Chaney	Goulden	Law	Stephens, Tex.
Chapman	Hackney	Lindbergh	Stevens, Minn.
Cocks, N. Y.	Haggott	Longworth	Sturgiss
Crumpacker	Hamill	Lovering	Sulzer
Currier	Hamilton, Mich.	McCreary	Taylor, Ohio
Cushman	Hamlin	McKinlay, Cal.	Thistlewood
Daizel	Harding	McKinney	Volstead
Davidson	Haugen	McMillan	Waldo
Davis, Minn.	Hawley	Madden	Wanger
Dawson	Hayes	Madison	Washburn
Diekema	Henry, Conn.	Malby	Weeks
Douglas	Higgins	Mann	Woodyard
Driscoll	Hill, Conn.	Mondell	Young

NAYS—82.

Acheson	Ansberry	Bowers	Campbell
Adair	Bannon	Brodhead	Candler
Adamson	Beall, Tex.	Burgess	Capron
Aiken	Bell, Ga.	Burleson	Clark, Mo.
Alexander, Mo.	Boutell	Burnett	Clayton

Cooper, Pa.	Granger	Nicholls	Rothermel
Cooper, Tex.	Hardy	Norris	Russell, Mo.
Cox, Ind.	Hay	O'Connell	Sabath
Craig	Hefflin	Olmsted	Saunders
Ellerbe	Helm	Padgett	Sims
Ferris	Henry, Tex.	Page	Slayden
Finley	Hitchcock	Parsons	Tawney
Fitzgerald	Houston	Patterson	Thomas, N. C.
Floyd	Hughes, N. J.	Payne	Tou Velde
Foster, Ill.	Hull, Tenn.	Pearre	Underwood
Garner	Johnson, Ky.	Pujo	Webb
Garrett	Lowden	Rainey	Wheeler
Gillespie	McHenry	Randell, Tex.	Williams
Godwin	Macon	Rauch	Wilson, Pa.
Gordon	Moon, Tenn.	Richardson	
Graham	Moore, Tex.	Robinson	

ANSWERED "PRESENT"—14.

Dixon	Humphreys, Miss.	Morse	Russell, Tex.
Flood	Kimball	Nye	Sheppard
Gardner, N. J.	Knapp	Riordan	
Holliday	McCall	Rucker	

NOT VOTING—183.

Allen	Durey	Kipp	Perkins
Ames	Edwards, Ga.	Kitchin, Claude	Peters
Andrus	Edwards, Ky.	Kitchin, Wm. W.	Pou
Anthony	Ellis, Mo.	Knopf	Powers
Barclay	Englebright	Knowland	Pratt
Bartholdt	Favrot	Lafear	Prince
Bartlett, Ga.	Fornes	Lamar, Fla.	Ransdell, La.
Bates	Foster, Ind.	Lamar, Mo.	Reeder
Beale, Pa.	Foster, Vt.	Lamb	Reld
Bennett, Ky.	Fowler	Landis	Reynolds
Bingham	Fuller	Langley	Rhinock
Birdsall	Fulton	Lassiter	Roberts
Bradley	Gaines, Tenn.	Lawrence	Ryan
Brantley	Gardner, Mass.	Leake	Shackleford
Brownlow	Gill	Lee	Sherley
Brumm	Glass	Legare	Sherman
Brundidge	Goebel	Lenahan	Sherwood
Burton, Del.	Goldfogle	Lever	Slemp
Butler	Graft	Lewis	Small
Byrd	Greene	Lilley	Smith, Iowa
Calder	Gregg	Lindsay	Smith, Mo.
Calderhead	Griggs	Littlefield	Smith, Tex.
Caldwell	Gronna	Livingston	Southwick
Carlin	Hackett	Lloyd	Sparkman
Carter	Hale	Lorimer	Sperry
Cary	Hall	Loud	Stanley
Clark, Fla.	Hamilton, Iowa	Loudenslager	Steenerson
Cockran	Hammond	McDermott	Sterling
Cole	Hardwick	McGavin	Suloway
Conner	Harrison	McGuire	Talbott
Cook, Colo.	Haskins	McKinley, Ill.	Taylor, Ala.
Cook, Pa.	Hepburn	McLachlan, Cal.	Thomas, Ohio
Cooper, Wis.	Hill, Miss.	McLain	Tirrell
Coudrey	Hinshaw	McLaughlin, Mich.	Townsend
Cousins	Hobson	McMorran	Vreeland
Cravens	Howard	Marshall	Wallace
Crawford	Hubbard, Iowa	Maynard	Watkins
Darragh	Huff	Miller	Watson
Davenport	Hughes, W. Va.	Moon, Pa.	Weems
Davey, La.	Hull, Iowa	Mouser	Weisse
Daves	Jackson	Mudd	Wiley
De Armond	James, Addison D.	Murphy	Willott
Denby	James, Ollie M.	Needham	Wilson, Ill.
Denver	Jenkins	Nelson	Wolf
Draper	Johnson, S. C.	Olcott	Wood
Dunwell	Jones, Va.	Parker, S. Dak.	

So the motion was agreed to.

The Clerk announced the following additional pairs:
Until further notice:

Mr. BARTHOLDT with Mr. BYRD.
Mr. BUTLER with Mr. CARTER.
Mr. CALDERHEAD with Mr. CALDWELL.
Mr. COUDREY with Mr. CARLIN.
Mr. DRAPER with Mr. DE ARMOND.
Mr. HALE with Mr. GLASS.
Mr. HEPBURN with Mr. GREGG.
Mr. HUFF with Mr. HAMMOND.
Mr. LORIMER with Mr. HUMPHREYS of Mississippi.
Mr. MCGAVIN with Mr. McDERMOTT.
Mr. MCKINLEY of Illinois with Mr. HOWARD.
Mr. McMORRAN with Mr. JONES of Virginia.
Mr. NEEDHAM with Mr. LASSITER.
Mr. OLCOTT with Mr. LEE.
Mr. ROBERTS with Mr. LLOYD.
Mr. SMITH of Iowa with Mr. MURPHY.
Mr. STERLING with Mr. SMALL.
Mr. STERLING with Mr. SHERLEY.
Mr. WREELAND with Mr. SHERLEY.
Mr. WILSON of Illinois with Mr. WATKINS.
Mr. ANDRUS with Mr. BRANTLEY.
Mr. BRADLEY with Mr. GOLDFOGLE.
Mr. PERKINS with Mr. FORNES.
Until Monday morning:
Mr. CALDER with Mr. LINDSAY.
The result of the vote was announced as above recorded.
The doors were opened.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. HALE, of Tennessee, to withdraw from the files of the House, without

leaving copies, the papers in the case of Thomas J. Wear (H. R. 3899), Fifty-eighth Congress, no adverse report having been made thereon.

ENROLLED BILL SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 11778. An act to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. STEENERSON, for the balance of the session, on account of death in family.

Mr. STERLING, indefinitely, on account of death in family.

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House do now take a recess until 11.59 o'clock a. m. to-morrow.

Mr. HEFLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HEFLIN. Would it be in order at this stage of the proceedings to move to suspend the rules and pass House bill 21827?

Mr. PAYNE. Mr. Speaker, I call for the regular order.

The SPEAKER pro tempore. The Chair thinks the motion of the gentleman from New York takes precedence.

Mr. HEFLIN. I will ask the gentleman from New York to withdraw his motion for a moment.

Mr. PAYNE. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The regular order is demanded. The question is on the motion of the gentleman from New York, that the House do take a recess until 11.59 o'clock a. m. to-morrow.

The question was taken.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays. The yeas and nays were ordered.

Mr. PAYNE. Mr. Speaker, I make the point of no quorum.

The SPEAKER pro tempore. The Chair sustains the point. The Doorkeeper will close the doors; the Sergeant-at-Arms will bring in absentees; the question will be taken on the motion of the gentleman from New York, and the Clerk will call the roll.

The question was taken, and there were—yeas 126, nays 72, answered "present" 9, not voting 181, as follows:

YEAS—126.

Acheson	Douglas	Holliday	Olcott
Adair	Driscoll	Howell, N. J.	Olmsted
Andrus	Dwight	Howell, Utah	Parsons
Bannon	Ellis, Oreg.	Howland	Payne
Barchfeld	Esch	Hubbard, W. Va.	Pollard
Barclay	Fairchild	Humphrey, Wash.	Porter
Bartholdt	Fassett	Jones, Wash.	Pray
Bates	Focht	Kahn	Pujo
Bennet, N. Y.	Fordney	Kelifer	Rodenberg
Bonyng	Foss	Kennedy, Iowa	Saunders
Boutell	Foster, Ind.	Kinkaid	Scott
Boyd	Foulkrod	Küstermann	Smith, Cal.
Burke	Fowler	Laning	Smith, Iowa
Burleigh	French	Law	Smith, Mich.
Burton, Ohio	Gaines, W. Va.	Lindbergh	Snapp
Campbell	Gardner, Mich.	Longworth	Southwick
Capron	Gardner, N. J.	Lovering	Stevens, Minn.
Caulfield	Gilham	Lowden	Sturgiss
Chaney	Gillett	McCall	Tawney
Chapman	Graft	McCreary	Taylor, Ohio
Cocks, N. Y.	Graham	McKinlay, Cal.	Thistlewood
Cole	Greene	McKinley, Ill.	Volstead
Cooper, Pa.	Haggott	McKinney	Waldo
Crawford	Hale	Madison	Wanger
Crumpacker	Hamilton, Mich.	Malby	Washburn
Currier	Harding	Mann	Weems
Cushman	Haugen	Moore, Pa.	Wheeler
Dalzell	Hawley	Morse	Woodward
Darragh	Hayes	Murdock	Young
Davidson	Henry, Conn.	Needham	The Speaker
Dawson	Higgins	Norris	
Diekema	Hill, Conn.	Nye	

NAYS—72.

Adamson	Candler	Garner	Houston
Aiken	Clark, Mo.	Garrett	Hughes, N. J.
Ansberry	Clayton	Gillespie	Hull, Tenn.
Ashbrook	Cox, Ind.	Godwin	Johnson, Ky.
Bartlett, Nev.	Craig	Gordon	Kellher
Beall, Tex.	Dixon	Goulden	McHenry
Bell, Ga.	Ellerbe	Hackney	Macon
Booher	Ferris	Hamlin	Maynard
Bowers	Finley	Hardy	Moon, Tenn.
Brodhead	Fitzgerald	Hay	Moore, Tenn.
Broussard	Floyd	Hefflin	Murphy
Burleson	Foster, Ill.	Helm	Nicholls
Burnett	Fulton	Henry, Tex.	O'Connell

Padgett
Page
Raney
Randell, Tex.
Rauch

Richardson
Robinson
Rothermel
Russell, Mo.
Sabath

Sherley
Sims
Stephens, Tex.
Sulzer
Thomas, N. C.

Tou Velle
Underwood
Webb
Williams
Wilson, Pa.

ANSWERED "PRESENT"—9.

Brundidge
Flood
Humphreys, Miss.

Knapp
Landis

Madden
Riordan

Russell, Tex.
Sheppard

NOT VOTING—181.

Alexander, Mo.
Alexander, N. Y.
Allen
Ames
Anthony
Bartlett, Ga.
Beale, Pa.
Bede
Bennett, Ky.
Bingham
Birdsall
Bradley
Brantley
Brownlow
Brumm
Burgess
Burton, Del.
Butler
Byrd
Calder
Calderhead
Caldwell
Carlin
Carter
Cary
Clark, Fla.
Cockran
Conner
Cook, Colo.
Cook, Pa.
Cooper, Tex.
Cooper, Wis.
Coudrey
Cousins
Cravens
Davenport
Davey, La.
Davis, Minn.
Dawes
De Armond
Denby
Denver
Draper
Dunwell
Durey
Edwards, Ga.

Edwards, Ky.
Ellis, Mo.
Englebright
Favrot
Fornes
Foster, Vt.
Fuller
Gaines, Tenn.
Gardner, Mass.
Gill
Glass
Goebel
Goldfogle
Granger
Gregg
Griggs
Gronna
Hackett
Hall
Hamill
Hamilton, Iowa
Hammond
Hardwick
Harrison
Haskins
Hepburn
Hill, Miss.
Hinshaw
Hitchcock
Hobson
Howard
Hubbard, Iowa
Huff
Hughes, W. Va.
Hull, Iowa
Jackson
James, Addison D.
James, Oille M.
Jenkins
Johnson, S. C.
Jones, Va.
Kennedy, Ohio
Kimball
Kipp
Kitchin, Claude
Kitchin, Wm. W.

Knopf
Knowland
Lafean
Lamar, Fla.
Lamar, Mo.
Lamb
Langley
Lassiter
Lawrence
Leake
Lee
Legare
Lenahan
Lever
Lewis
Lilley
Lindsay
Littlefield
Livingston
Lloyd
Lorimer
Loud
Loudenslager
McDermott
McGavin
McGuire
McLachlan, Cal.
McLain
McLaughlin, Mich.
McMillan
McMorran
Marshall
Miller
Mondell
Moon, Pa.
Mouser
Mudd
Nelson
Overstreet
Parker, N. J.
Parker, S. Dak.
Patterson
Pearre
Perkins
Peters
Pou

Powers
Pratt
Prince
Ransdell, La.
Reeder
Reid
Reynolds
Rhinoek
Roberts
Rucker
Ryan
Shackleford
Sherman
Sherwood
Slayden
Slomp
Small
Smith, Mo.
Smith, Tex.
Sparkman
Sperry
Slight
Stafford
Stanley
Steenerson
Sterling
Sullivan
Talbott
Taylor, Ala.
Thomas, Ohio
Tirrell
Townsend
Vreeland
Wallace
Watkins
Watson
Weeks
Weisse
Wiley
Willett
Wilson, Ill.
Wolf
Wood

the same without amendment, accompanied by a report (No. 1785), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 22206) granting an increase of pension to Jesse McClelland, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. PRAY: A bill (H. R. 22233) to divide the State of Montana into two judicial districts—to the Committee on the Judiciary.

By Mr. FLOOD: A bill (H. R. 22234) to establish a fish-cultural station in the State of Virginia—to the Committee on the Merchant Marine and Fisheries.

By Mr. GOULDEN: A bill (H. R. 22235) providing for the increase of pension for soldiers who lost an arm or a leg—to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 22236) to place agricultural implements upon the free list—to the Committee on Ways and Means.

By Mr. MANN (by request): A bill (H. R. 22237) to amend the act to provide revenue for the Government and to encourage the industries of the United States, approved July 24, 1897—to the Committee on Ways and Means.

By Mr. POLLARD: A bill (H. R. 22238) to create forest reserves in the Southern Appalachian and the White Mountains in order to conserve the waters of navigable streams having their sources in these mountains—to the Committee on Agriculture.

By Mr. MOORE of Pennsylvania: A bill (H. R. 22239) to regulate the conduct of the laundry business in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LANGLEY: Joint resolution (H. J. Res. 195) construing the acts of June 27, 1890, and February 6, 1907—to the Committee on Invalid Pensions.

By Mr. STAFFORD: Joint resolution (H. J. Res. 196) suspending the import duty upon mechanically ground wood pulp except in certain cases—to the Committee on Ways and Means.

By Mr. SABATH: Resolution (H. Res. 430) requesting information from the Attorney-General concerning fees and other moneys received and receivable by officers and officials beyond or in addition to salaries paid out of the Public Treasury—to the Committee on Expenditures in the Department of Justice.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. CALDWELL: A bill (H. R. 22240) granting an increase of pension to Charles H. Barger—to the Committee on Invalid Pensions.

By Mr. CALE: A bill (H. R. 22241) granting an increase of pension to John Hanes—to the Committee on Invalid Pensions. Also, a bill (H. R. 22242) granting an increase of pension to Peter V. Gruesbeck—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22243) granting an increase of pension to Isaac Nesbit—to the Committee on Invalid Pensions.

By Mr. COUSINS: A bill (H. R. 22244) granting an increase of pension to James C. Betts—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: A bill (H. R. 22245) granting an increase of pension to James Wildes—to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 22246) for the relief of Jasper J. Henry—to the Committee on Military Affairs.

By Mr. HOWARD: A bill (H. R. 22247) for the relief of the heirs at law of J. A. Carter, late of Putnam County, Ga.—to the Committee on War Claims.

By Mr. HUFF: A bill (H. R. 22248) to have the name of Robert B. Robinson inscribed on the rolls of Company A, unassigned, United States Colored Troops, as having rendered service in the United States Army from September, 1864, to July, 1865—to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 22249) for the relief of Frank M. Swasey—to the Committee on Claims.

By Mr. KINKAID: A bill (H. R. 22250) to correct the military record of John J. Adams—to the Committee on Military Affairs.

So the motion was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. ALEXANDER of New York with Mr. GRANGER.

Mr. BEDE with Mr. ALEXANDER of Missouri.

Mr. BURTON of Delaware with Mr. PATTERSON.

Mr. KNAPP with Mr. RYAN.

Mr. KENNEDY of Ohio with Mr. SLAYDEN.

Mr. TIRRELL with Mr. SPIGHT.

The doors were opened.

Accordingly (at 4 o'clock and 40 minutes p. m.) the House stood in recess until 11 o'clock and 59 minutes a. m. to-morrow.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MANN, from the Select Committee on Pulp and Paper Investigation, appointed under House resolution No. 344, submitted a preliminary report relative to the investigation on pulp and paper, accompanied by a report (No. 1786), which said report was referred to the Committee of the Whole House on the state of the Union.

Mr. HOWARD, from the Committee on the Library, to which was referred the resolution of the House (H. Res. 198) authorizing the painting in oil of certain portraits of ex-Speakers of the House of Representatives, reported the same without amendment, accompanied by a report (No. 1787), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 22212) granting an increase of pension to Bryon C. Mitchell, Calvin P. Lynn, and Harry Lee, formerly Albert Lee Alleman, reported

By Mr. LANDIS: A bill (H. R. 22251) to correct the military record of Benjamin F. Davis—to the Committee on Military Affairs.

By Mr. LANGLEY: A bill (H. R. 22252) granting an increase of pension to Peter Reed—to the Committee on Invalid Pensions.

By Mr. McCALL: A bill (H. R. 22253) granting a pension to John Good—to the Committee on Invalid Pensions.

By Mr. RICHARDSON: A bill (H. R. 22254) for the relief of R. D. Crosthwaite, administrator—to the Committee on War Claims.

By Mr. SCOTT: A bill (H. R. 22255) granting an increase of pension to Hyrcanus Highley—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BRODHEAD: Petition of Union Council, Knights of Columbus, for H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. BURKE: Petition of Allegheny Council, No. 285, Knights of Columbus, favoring H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. CARTER: Papers to accompany bills for relief of Charles A. Davidson and Charles M. Campbell—to the Committee on Claims.

By Mr. DUREY: Petition of citizens of Glens Falls, N. Y., for amendment to the Sherman antitrust law (H. R. 20584), for the Pearre bill (H. R. 94), for a just and clearly defined general employers' liability law, and for an eight-hour law—to the Committee on the Judiciary.

By Mr. ESCH: Petition of Trades and Labor Council of La Crosse, Wis., favoring amendments to the Constitution providing for election of United States Senators by direct vote and to legalize an income tax, etc.—to the Committee on the Judiciary.

By Mr. FLOYD: Paper to accompany bill for relief of John W. Lay—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of Allegheny Council, Knights of Columbus, for H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

Also, petition of Society of Survivors of the Mississippi Ram Fleet and Marine Brigade, for restoration to their pensionable status under the act of June 27, 1890—to the Committee on Invalid Pensions.

Also, petitions of Germania Savings Bank and Pittsburg Clearing-House Association, advocating one-third of currency commission to be selected outside of Congressmen—to the Committee on Banking and Currency.

By Mr. HAYES: Paper to accompany bill for relief of Jasper J. Henry—to the Committee on Military Affairs.

Also, petition of citizens of San Francisco, Cal., for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. KAHN: Petition of San Francisco Lodge, No. 68, International Association of Machinists, for the passage of the Wilson bill (H. R. 20584), Pearre bill (H. R. 94), employers' liability bill, and labor's eight-hour bill—to the Committee on the Judiciary.

By Mr. LENAHAN: Petition of Local Union No. 488, Brotherhood of Painters, Decorators, and Paper Hangers of America, for H. R. 20584, amendment to Sherman antitrust law; for the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

Also, petition of Polish citizens of Luzerne County, Pa., against expatriation of Polish citizens of Prussia—to the Committee on Foreign Affairs.

By Mr. NEEDHAM: Petition of citizens of San Francisco, Cal., for the enactment of the bills H. R. 94 and H. R. 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done for the Government—to the Committee on the Judiciary.

By Mr. RICHARDSON: Paper to accompany bill for relief of Reuben Copeland—to the Committee on War Claims.

By Mr. WILSON of Pennsylvania: Petitions of Grange No. 1289, Roulette; Grange No. 937, Lawrenceville; Grange No. 1244, Allenwood; Grange No. 1189, Chatham Run; Grange No. 1047, Sebring; Grange No. 1017, Wellsboro; Grange No. 1149, Germania; Grange No. 1251, Coudersport, and Grange No. 1189, Woolrich, all in the State of Pennsylvania, for the passage of the Wilson bill (H. R. 20584)—to the Committee on the Judiciary.

SENATE.

FRIDAY, May 29, 1908.

The Senate met at 11 o'clock a. m.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 642) to establish an assay office at Salt Lake City, State of Utah.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 13465. An act to amend the laws concerning transportation between the ports of the Territory of Hawaii and other ports of the United States;

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew; and

H. R. 22029. An act to incorporate the Congressional Club.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill, and it was thereupon signed by the Vice-President:

H. R. 11778. An act to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of Local Union No. 32, International Brotherhood of Paper Makers, Pulp, Suphite, and Paper Mill Workers, of Glens Falls, N. Y., remonstrating against the repeal of the duty on white paper, wood pulp, and the materials used in the manufacture thereof, which was referred to the Committee on Finance.

Mr. BROWN presented petitions of sundry citizens and labor organizations of Alliance, Lincoln, and Omaha, all in the State of Nebraska, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. BAILEY presented petitions of sundry citizens of Port Arthur, El Paso, Laredo, Dallas, and Ennis, all in the State of Texas, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. OWEN introduced a bill (S. 7267) to amend section 2130 of the Revised Statutes of the United States, which was read twice by its title and referred to the Committee on Indian Affairs.

Mr. WARNER introduced a bill (S. 7268) authorizing the Secretary of War and the Auditor for the War Department to consider and settle the claim of Col. John D. Hall, United States Army, retired, for personal property destroyed in the earthquake at San Francisco, Cal., which was read twice by its title and referred to the Committee on Military Affairs.

Mr. DICK introduced a bill (S. 7269) authorizing the appointment of a commission to collate information concerning the alcoholic liquor traffic and to consider and recommend any needful legislation in relation thereto, which was read twice by its title and referred to the Committee on the District of Columbia.

PHILIPPINE TARIFF.

Mr. DICK submitted an amendment intended to be proposed by him to the bill (H. R. 21449) to amend an act entitled "An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes," approved March 3, 1905, which was referred to the Committee on the Philippines and ordered to be printed.

HOUSE BILL REFERRED.

H. R. 13465. An act to amend the laws concerning transportation between the ports of the Territory of Hawaii and other ports of the United States was read twice by its title and referred to the Committee on Commerce.

BALTIMORE AND WASHINGTON TRANSIT COMPANY.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3405) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896, which were, on page 2, line 2, to strike out "Madison" and insert "Kennedy;" on page 2, line 3, to strike out "Madison" and insert "Kennedy."

Mr. GALLINGER. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

IMMIGRATION STATION AT BOSTON, MASS.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives agreeing to the amendment of the Senate to the bill (H. R. 13851) providing for the purchase of a site and the erection of a new immigration station thereon at the city of Boston, Mass., with an amendment.

Mr. DILLINGHAM. I move that the Senate disagree to the amendment of the House to the amendment of the Senate to the bill, and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the conferees be appointed by the Chair.

The motion was agreed to, and the Vice-President appointed Mr. DILLINGHAM, Mr. LODGE, and Mr. McLAURIN as the conferees on the part of the Senate.

PRINTING OF FINANCIAL STATISTICS.

Mr. CULBERSON. I desire to ask leave to have printed as a Senate document a paper which I have entitled "Expenditures of the United States Government from 1791-1907," being a table compiled by the Director of the Census for the Committee on Appropriations of the House of Representatives. I ask that it be printed as a Senate document.

The VICE-PRESIDENT. The Senator from Texas asks unanimous consent that the document presented by him may be printed as a Senate document.

Mr. GALLINGER. I will not object if there is no objection to my having printed as a Senate document some official statistics showing the excess of revenues over expenditures for a period of years, the interest-bearing debt of the United States, and so forth, and so forth, being figures compiled from official records.

Mr. CULBERSON. I do not desire to accept the leave to print on a condition.

Mr. GALLINGER. Well, I will not object to the Senator's request.

The VICE-PRESIDENT. If there is no objection, it is so ordered.

Mr. GALLINGER. Now, I ask that the paper I alluded to may be printed as a document.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New Hampshire? The Chair hears none, and it is so ordered.

INITIATIVE AND REFERENDUM.

On motion of Mr. OWEN, it was

Ordered, That 20,000 additional copies of Senate Document No. 516, Sixtieth Congress, first session, "Memorial from the Initiative and Referendum League of America, relative to the establishment of a national initiative and referendum," be printed for the use of the Senate document room.

On motion of Mr. OWEN, it was

Ordered, That 20,000 additional copies of Senate Document No. 521, Sixtieth Congress, first session, "Memorial of State Referendum League of Maine, concerning initiative and referendum," be printed for the use of the Senate document room.

On motion of Mr. OWEN, it was

Ordered, That 20,000 additional copies of Senate Document No. —, Sixtieth Congress, first session, "Memorial of Initiative and Referendum League of America, concerning initiative and referendum," be printed for the use of the Senate document room.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 19795. An act concerning locomotive ash pans; and

H. R. 22029. An act to incorporate the Congressional Club.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 13851) providing for the purchase of a site and the erection of a new immigration station thereon at the city of Boston, Mass., with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President.

S. 642. An act to establish an assay office at Salt Lake City, State of Utah;

S. 3405. An act to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896; and

S. 6200. An act granting certain rights of way and providing for certain exchanges of the same.

AMENDMENT OF NATIONAL BANKING LAWS.

The VICE-PRESIDENT. The morning business is closed.

Mr. ALDRICH. I move that the Senate proceed to the consideration of the conference report on House bill 21871.

Mr. DEPEW. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from New York?

Mr. ALDRICH. After the conference report is taken up I will yield.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to, and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 21871) to amend the national banking laws.

Mr. ALDRICH. I will yield to the Senator from New York for the disposition of the bill which the Senator has in charge, if it does not lead to debate.

Mr. DEPEW. I ask the Senate to proceed to the consideration of the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The VICE-PRESIDENT. The Senator from New York asks unanimous consent that the Senate proceed to the consideration of the bill indicated by him.

Mr. ALDRICH. Not to displace the other business.

The VICE-PRESIDENT. Not to displace the consideration of the conference report.

Mr. DEPEW. Not to displace it.

Mr. McLAURIN. I see that the Senator from Georgia [Mr. Bacon] is now in the Chamber. The Senator from Georgia wanted to offer an amendment, I understand, to the bill, and I have two amendments that I myself desire to offer to the bill. It will take a considerable amount of time to dispose of the bill.

Mr. ALDRICH. If it does, I shall have to ask that it be laid aside.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New York?

Mr. McLAURIN. I did not hear the suggestion made by the Senator from Rhode Island.

Mr. ALDRICH. If the bill leads to prolonged discussion I shall be obliged to ask that it be laid aside, but I trust the Senator from Mississippi will not be obliged to discuss his amendment at any length.

Mr. McLAURIN. There are several amendments that will be offered. I have some amendments myself to offer, and the Senator from Georgia has an amendment that I understand he intends to offer. I suggest to the Senator from New York that we had better proceed with the consideration of the conference report that was under consideration yesterday and after the disposition of that report there will be an abundance of time to take up the bill to which he refers. I think that is the better course.

Mr. DEPEW. That means simply that the bill is to be killed. Everybody knows that the moment the conference report is disposed of there will be no other business done by the Congress.

Mr. McLAURIN. I shall have to object to the consideration of the bill until after the consideration of the conference report.

The VICE-PRESIDENT. Objection is made to the present consideration of the bill. The question is on agreeing to the conference report.

Mr. BEVERIDGE. Mr. President, I ask unanimous consent that immediately after the conclusion of the conference report now before the Senate the Senate shall proceed to the consideration of what is known as the "campaign-publicity bill," and shall dispose of it by voting upon it on the day following.

In making this request, I wish to say to Senators upon the other side of the Chamber that if they have any fear of the representation feature being in the bill, they can of course offer a substitute, which must be voted on first, without that provision in it.

Mr. CLAY. Mr. President—

Mr. BURROWS. I did not understand the request of the Senator from Indiana.

Mr. BEVERIDGE. I made the request that immediately after the conclusion of the conference report the Senate shall proceed to the consideration of the campaign-publicity bill. I said to Senators on the other side if they had any fear about the representation feature they could offer a substitute.

Mr. BURROWS. Mr. President, as chairman of the Committee on Privileges and Elections, and as the Senator from Indiana has not been present at meetings of the committee where an understanding has been reached, I rather think the request ought to have come from the chairman of the committee.

Mr. BEVERIDGE. That is true, and I will state this fact to the Senator in explanation and in such apology as may be due therefrom: That first, yesterday when this matter was in the thick of debate I made this request and said that later I should renew the request; and this request this morning is keeping my word.

Now, as to being present at the meetings of the committee, I think I have been present at every meeting I have been notified about. I made this request merely because I made it yesterday, as the Senator may remember if he was here in the thick of the debate, and I said at that time that I should renew it. That is the reason for making it this morning. I am in earnest about this bill.

Mr. BURROWS. If any understanding or arrangement is to be made in relation to this matter now pending before the Committee on Privileges and Elections, I think the suggestion ought to emanate from some other source than from the Senator from Indiana. As chairman of the committee, I think we will be able to arrange it to the satisfaction of the Senator from Indiana. I therefore suggest the propriety of his allowing the chairman of the committee to make such suggestion as he thinks best in relation to it.

Mr. BEVERIDGE. As I said once before, this request was to carry out what I said yesterday. When I first made the request in the thick of the debate I said that it would be made again.

The Senator is probably right in what he said about it being better for him as chairman to have made the request. I have said that. I hope that is satisfactory to the Senator.

Mr. BURROWS. I think the mistake was made when the Senator made the suggestion yesterday.

Mr. BEVERIDGE. I shall take the responsibility for making it yesterday. It was quite appropriate—quite necessary—that the request should have been made yesterday just when I made it. And I am next to the Senator as a member of the committee.

Mr. CULBERSON. I wish to inquire of the Senator from Michigan if the measure alluded to by the Senator from Indiana is now in the Senate? My information is that it is not in the Senate now, but in committee.

Mr. BURROWS. I would say to the Senator that the bill is now before the Committee on Privileges and Elections.

Mr. CULBERSON. I suggest therefore that a request for unanimous consent for its consideration by the Senate is out of order.

Mr. BEVERIDGE. Oh, no. One can make a request for unanimous consent at any time, and unanimous request takes up anything.

Mr. CULBERSON. The bill is not before the Senate.

Mr. BEVERIDGE. My unanimous-consent request was called out by the remarks of the Senator from Texas yesterday, and that is the only reason why it was made at that moment. I said then that I meant to press it, and I say now that I mean to press it. The bill is before the Senate. The committee is only the agent of the Senate. Unanimous consent can take it from the committee and bring it to a vote.

Mr. BURROWS. Mr. President, I call for the regular order.

The VICE-PRESIDENT. The Senator from Michigan demands the regular order. The question is on agreeing to the conference report.

Mr. CULBERSON. Mr. President, the Congress has been in session for six months. It is controlled in both branches by the Republican party, in the Senate by nearly two-thirds and in the House by a willing and substantial majority.

Before the Congress convened in its present session there was a financial panic, originating in October of last year, and since that time and since the convening of the Congress in December the question of the causes of that panic and the remedy to be provided has been considered by the public and by the Congress of the United States.

The House of Representatives passed a measure purporting to remedy that situation and providing for the issue of an asset emergency currency. The Senate, on the contrary, passed a measure providing for an emergency currency based upon bonds of States and municipalities. That matter, I repeat, has been pending here for six months, and notwithstanding the fact that the Republicans control both Houses of Congress they did not agree upon a measure of finance until a few days before it was understood that this Congress would adjourn.

The measures which were passed separately by the two Houses were antagonistic, conflicting, and absolutely irreconcilable upon any sound policy of finance. During the last few days the Republicans have agreed upon a measure which substantially combines both the House and the Senate measures; that is to say, upon an emergency-currency bill authorizing the issue of \$500,000,000 based upon bonds and upon the assets of national banks, aside from bonds.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. CULBERSON. Certainly.

Mr. LA FOLLETTE. It seems to me, Mr. President, that when so great a measure as the currency bill is before the Senate there ought to be a quorum present. As I run my eye over this body I think it is far short of a quorum. Therefore I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clay	Guggenheim	Piles
Bacon	Culberson	Hale	Platt
Bankhead	Cullom	Heyburn	Scott
Beveridge	Daniel	Hopkins	Simmons
Borah	Depew	Johnston	Smoot
Brandegee	Dick	Kean	Stephenson
Briggs	Dillingham	La Follette	Sutherland
Brown	Dixon	Long	Warner
Burkett	Foraker	McLaurin	Warren
Burrows	Frazier	Milton	Wetmore
Carter	Fulton	Nelson	
Clapp	Gallinger	Owen	
Clark, Wyo.	Gary	Overman	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present. The Senator from Texas will proceed.

Mr. CULBERSON. On this side of the Chamber, Mr. President, the opposition to the adoption of the conference report now pending was stated by a member of the committee of conference on yesterday, the Senator from Colorado [Mr. TELLER], by the Senator from Nevada [Mr. NEWLANDS], and by the Senator from Oklahoma [Mr. OWEN]. A political exigency has apparently decreed that this bill shall pass and become a law, but it is not surprising to me that it has not so far found a defender in this Chamber. That at least is a tribute to the intellectual integrity of this body which is most gratifying.

The bill as reported by the conference committee is not only antagonistic, conflicting, and irreconcilable in its provisions, but it violates the fundamental principle that government and not private interests should issue money. Even the basis of the corporation currency which it authorizes is unsound. It provides both for immediate inflation and for immediate and dangerous contraction of the currency. It is, finally, so manifestly in the interest of the great gambling banks of the country, such as can afford to pay the high tax imposed, that the usual subterfuge and hypocrisy of the general welfare has not been suggested.

As a citizen, as a Senator from one of the States of the Union, and as a Democrat who believes in equal rights to all and special privileges to none, my earnest and unqualified protest is entered against the passage of such a measure.

It is opportune, Mr. President, to invite attention to another phase of our fiscal affairs, which opportunity I purpose taking advantage of at this time. As the administration of Federal affairs by President Roosevelt is fortunately approaching its end, it is instructive to count its cost to the American people in mere governmental expenditures and to compare that cost with the nearest preceding six years with which a comparison is legitimate and logical.

Mr. LA FOLLETTE. Mr. President, it becomes my painful duty to call the attention of the presiding officer to the fact that there is no quorum present.

Mr. CULBERSON. I trust the Senator will not raise the question.

Mr. LA FOLLETTE. I regret that I must do so.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Guggenheim	Overman
Bacon	Cullom	Hale	Paynter
Bailey	Curtis	Heyburn	Piles
Bankhead	Daniel	Hopkins	Platt
Borah	Depew	Johnston	Smoot
Brandegee	Dick	Kean	Stephenson
Briggs	Dillingham	Knox	Sutherland
Brown	Dixon	La Follette	Teller
Burkett	du Pont	Long	Warner
Burrows	Frazier	McLaurin	Warren
Carter	Fulton	Milton	Wetmore
Clark, Wyo.	Gallinger	Nelson	
Clay	Gary	Owen	

The VICE-PRESIDENT. Fifty Senators have answered to their names. A quorum of the Senate is present. The Senator from Texas will proceed.

CONGRESSIONAL CLUB.

Mr. GALLINGER. Will the Senator from Texas permit me to ask that a message from the House of Representatives may be laid before the Senate?

Mr. CULBERSON. I yield the floor for that purpose.

The VICE-PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives.

The bill (H. R. 22029) to incorporate the Congressional Club was read twice by its title.

Mr. GALLINGER. I think every Senator knows what this bill is. It is to incorporate the Congressional Club in the city of Washington. I think the wives of thirty-two Senators are named in the bill and the wives of probably more than a hundred Representatives. I ask unanimous consent that it may be now considered without reference to a committee.

The VICE-PRESIDENT. Without objection, the bill will be read for the information of the Senate.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. GALLINGER. On page 2, line 10, I move to strike out the word "and" before the name "Mrs. Pleasant T. Chapman," and after this name to insert "and Mrs. Frank Vrooman." That is the only amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. CULBERSON. I yield to the Senator from Maine [Mr. HALE].

BROTHERHOOD OF ST. ANDREW.

The bill (H. R. 16757) for the incorporation of the Brotherhood of St. Andrew was read twice by its title.

Mr. HALE. That is only a measure incorporating another association. It passed the House unanimously. The witty and brilliant leader of the Democratic party in the House did not call the yeas and nays upon it, but it was passed by unanimous consent. I ask that it may be passed now.

The VICE-PRESIDENT. Without objection, the bill will be read for the information of the Senate.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. HALE. I am obliged to the Senator from Texas.

AMENDMENT OF NATIONAL BANKING LAWS.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 21871) to amend the national banking laws.

Mr. CULBERSON. Mr. President, it is not improper, I think, for me to say that I have a statement of receipts and expenditures of the Government for the last six years and a comparison of those expenditures and receipts with the preceding six years, with which they may be legitimately compared, and I would be glad if I may be permitted to present it consecutively without any interruption for any purpose. It would be gratifying to me for obvious reasons if my associates on this floor would accommodate me in that respect.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. CULBERSON. Certainly.

Mr. LA FOLLETTE. In view of the fact that I had insisted upon the presence of a quorum while the Senator was addressing the Senate, I apprehend that his observation is addressed especially to me.

Mr. CULBERSON. Not specially; but the observation was addressed to the Senator from Wisconsin in connection with other Senators who interrupted me.

Mr. LA FOLLETTE. Oh, certainly; but as desirable as I know it must be for the Senator to make his statement in a consecutive way, it seems to me that the importance of the closing hours of this session are sufficient to warrant the presence of a quorum at all times. While I am always glad to defer to the wishes of any Senator here, I trust that we may have the presence of a quorum and avoid the necessity of a roll call.

Mr. CULBERSON. On the 14th of September, 1901, as I recall, Vice-President Roosevelt assumed the duties of the Presidency, and consequently the first year in which he is fully responsible for the expenditures of the Government as the incumbent of that office is 1903. Beginning with that year, I desire to present at this point a statement of the total revenues and expenditures of the Federal Government yearly as reported or estimated by the Secretary of the Treasury.

Total revenues and expenditures for the years named, as shown by the reports of the Secretary of the Treasury.

1903.	
Revenues	\$694,621,117.64
Expenditures	640,323,450.28
Surplus	54,297,667.36

1904.	
Revenues	684,214,373.74
Expenditures	725,984,945.65
Deficit	41,770,571.91

The sum of \$50,164,500 was paid this year on the Panama Canal. Aside from this amount expenditures increased for the year more than \$35,000,000 over the previous year.

1905.	
Revenues	\$697,101,269.95
Expenditures	720,105,498.55
Deficit	23,004,228.60

Three million nine hundred and eighteen thousand eight hundred and nineteen dollars and eighty-three cents was paid this year on the Panama Canal. It will be observed that, omitting the Panama Canal expenditures for 1904 and 1905, all other expenditures for 1905 exceeded those of 1904 more than \$40,000,000 and those of 1903 more than \$75,000,000.

1906.	
Revenues	\$762,388,904.62
Expenditures	736,717,582.01
Surplus	25,669,322.61

The sum of \$19,379,373.71 was paid this year on the Panama Canal. Omitting all expenditures for the canal, it will be seen that expenditures for all other purposes for 1906 were \$1,151,529.58 greater than for 1905, and about \$77,000,000 greater than for 1903. Including the Canal expenditures, it is found that the total expenditures for 1906 are more than \$16,000,000 greater than for 1905, about \$9,000,000 greater than for 1904, the year when the extraordinary expenditure of \$50,000,000 was made for the canal, and more than \$96,000,000 larger than in 1903.

1907.	
Revenues	\$846,725,339.62
Expenditures	762,488,753.32
Surplus	84,236,586.30

Twenty-seven million one hundred and ninety-eight thousand six hundred and eighteen dollars and seventy-one cents was spent this year on the Panama Canal. Omitting the canal expenditures, it is found that total expenditures for all other purposes for 1907 were \$17,951,926.31 greater than for 1906, and \$94,966,684.33 more than for 1903. Including the canal expenditures, the total for 1907 was \$25,771,171.31 more than for 1906, \$42,383,254.77 more than for 1905, \$36,503,807.67 more than for 1904, and \$122,165,303.04 more than for 1903, or an aggregate increase of total expenditures for the four years over 1903 of \$226,823,536.79, and, omitting total canal expenditures of \$100,661,312.25, an aggregate increase of \$126,162,224.54 over 1903.

1908 (estimated).	
Revenues	\$844,025,581.10
Expenditures	802,025,581.10
Surplus	42,000,000.00

This is \$39,536,827.78 more than the total expenditures for 1907, and \$161,702,130.82 greater than those for 1903.

1909 (estimated).	
Revenues	\$878,123,011.30
Expenditures	912,949,288.96
Deficit	34,826,277.66

This is \$110,923,707.86 greater than the estimated total expenditures for 1908 and \$272,625,838.68 more than the total expenditures for 1903, or an increase of 43.5 per cent in expenditures, while the increase in population during this six-year period, based on a liberal estimate, will not exceed 12 per cent.

I present next a summary of appropriations for the years 1903 to 1909, inclusive:

SUMMARY OF APPROPRIATIONS.

The following table is compiled (except for the year 1909, which is estimated from data now available and believed to be very nearly accurate) from the annual publications made after the close of each session by the clerks of the Appropriations Committees of the Senate and House.

In the table the appropriations made at each session are designated by the word "appropriations;" the permanent specific and indefinite appropriations are given as estimated by the Secretary of the Treasury for the respective years, and are designated "permanent appropriations." All the figures, with the exception noted above, are taken from the annual publications first mentioned.

Year.	Appropriations.	Permanent appropriations.	Grand total.
1903	\$676,703,276.55	\$123,921,220.00	\$800,624,496.55
1904	620,468,686.02	132,589,820.00	753,058,506.02
1905	639,700,555.18	141,471,820.00	781,172,375.18
1906	673,348,314.96	146,836,320.00	820,184,634.96
1907	739,512,865.16	140,076,320.00	879,589,185.16
1908	770,911,823.80	149,886,320.00	920,798,143.80
1909	870,000,000.00	154,000,000.00	1,024,000,000.00

* Includes \$50,130,000 under Isthmian Canal act. †

An increase of \$223,375,503.45 in appropriations for 1909 over 1903.

I have thus presented, Mr. President, a statement of the receipts and expenditures from 1903 to 1909, actual and as estimated by the Secretary of the Treasury, and the total appropriations for the years 1903 to 1908, inclusive, and as estimated for 1909. In a consideration of this extraordinary state of our expenditures, I admit that there is justification for an increase. The youth, the expanding nature, and the progressive spirit of the United States render it natural and inevitable that there shall be some increase in our expenditures each year. The increase shown here, however, is not only unnecessary and extravagant, but in many respects it is in directions inimical to the best interests of a popular and Federal Government. Some of this increase is due to the extension of the functions of government, the encroachments of government upon the natural rights of the people. Some of this increase is due to the unwarranted extension of Federal power into the domain—the reserved domain—of State authority, and some of the increase is due to the colonial policy upon which we have unfortunately entered and under which we seek to establish and perpetuate our control over distant and unwilling and alien races.

Mr. LA FOLLETTE. Mr. President—

Mr. CULBERSON. I decline to yield to the Senator from Wisconsin.

The VICE-PRESIDENT. The Senator from Texas declines to yield the floor.

Mr. LA FOLLETTE. I suggest the absence of a quorum, Mr. President.

The VICE-PRESIDENT. The Senator from Texas [Mr. CULBERSON] has the floor.

Mr. CULBERSON. It would be interesting, if the data were accessible to me now, to trace the increase of expenditures in the three respects to which I have called attention; but my purpose to-day will be accomplished if I show this increase in the wholesale and indefensible creation of new offices and the enlargement of the expenses of the military and naval establishments of the United States.

First, as to the new offices created under President Roosevelt. The figures given in the tables are net, i. e., from the number of specific new offices created each year and the aggregate appropriation therefor there is deducted the number of offices abolished each year and the aggregate of appropriations therefor. So, also, from the amount appropriated each year for indefinite offices there is deducted the amount cut each year from the preceding appropriation for like purposes.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. CULBERSON. I prefer to go on, Mr. President.

Mr. LA FOLLETTE. I rise to a question of parliamentary inquiry.

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. CULBERSON. I prefer—

Mr. LA FOLLETTE. It is not necessary for the Senator from Texas to yield to the Senator from Wisconsin when the Senator from Wisconsin rises to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Wisconsin will kindly state his parliamentary inquiry.

Mr. LA FOLLETTE. It is this, Mr. President: That if at any time during the daily sessions of the Senate a question shall be raised by any Senator—

Mr. NELSON. Mr. President, I rise to a point of order.

Mr. LA FOLLETTE (continuing). As to the presence of a quorum—

Mr. NELSON. I rise to a point of order, Mr. President.

Mr. LA FOLLETTE (continuing). The Presiding Officer shall forthwith direct—

The VICE-PRESIDENT. The Senator from Wisconsin is stating a point of order.

Mr. NELSON. I rise to a point of order, Mr. President.

Mr. LA FOLLETTE. I decline to yield, Mr. President.

The VICE-PRESIDENT. The Senator from Wisconsin will state his point of order.

Mr. LA FOLLETTE. I desire to bring Rule V to the attention of the President of the Senate. Rule V, subdivision 2, provides—

2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

I have been a member of this Senate, Mr. President, but a brief time, but I have on numerous occasions, without any Senator yielding the floor, noted the fact that the attention of the Presiding Officer, under subdivision 2 of Rule V, had been called to the fact of the absence of a quorum, and that thereupon, without the consent of any Senator, either the presence of a quorum was demonstrated or its absence demonstrated by the calling of the roll; and I call the attention of the Presiding Officer to the fact that no quorum is present.

Mr. NELSON. Mr. President, I desire to make a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. NELSON. Mr. President, a parliamentary inquiry is not a point of order under our procedure in the Senate. That is a practice that has grown up in the other House of Members applying to the Chair and asking to make a parliamentary inquiry. Our rules know nothing of the kind. There is no point of order in it. I make the point of order that the Chair is not obliged to respond to any parliamentary inquiry.

Mr. ALDRICH. I make the further point of order that in order to make a parliamentary inquiry a Senator must be in possession of the floor, and that he can not take the floor by asking to make a parliamentary inquiry and then make any motion.

The VICE-PRESIDENT. The Chair—

Mr. LA FOLLETTE. If I may be permitted a suggestion, Mr. President, I had the attention of the Presiding Officer of the Senate. I brought to his attention the fact that there was no quorum present; and under subdivision 2 of Rule V it seems to me that there is but one proceeding open, and that is to ascertain by a roll call, under the direction of the Presiding Officer of the Senate, as to whether or not there is a quorum present.

Mr. GALLINGER. Regular order, Mr. President.

The VICE-PRESIDENT. The Chair is of opinion that the Senator from Texas [Mr. CULBERSON] had the floor, and that he declined to yield to the Senator from Wisconsin [Mr. LA FOLLETTE]. The Chair, therefore, sustains the point of order.

Mr. LA FOLLETTE. I am very reluctant to have to appeal from that decision.

The VICE-PRESIDENT. The Senator from Wisconsin appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. LA FOLLETTE. I suppose I am entitled to a hearing upon that appeal. I do not propose to trust to myself in discussing that question. I simply propose to read into the record of this Senate the rules of the Senate and to take the ruling of the Senate upon that proposition.

Mr. GALLINGER. We are ready to give it.

Mr. LA FOLLETTE. Having obtained the floor, I called the attention of the Presiding Officer of this body to the fact that no quorum was present. Under Rule V, subdivision 2, I find the following:

2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll.

Mr. President, I submit that the proceedings of this Senate and the integrity of its proceedings can never be protected unless that rule be enforced, and enforced rigidly. You are about to make a precedent here, which may return to plague you

some time, because, under a certain leadership, you have set your faces to enact certain legislation. I submit to you that you may go to that extent that you will find yourselves embarrassed greatly in the future. Is it possible that important proceedings in the Senate, if one man can get the floor, may be conducted here for an unlimited period of time in the presence of the Presiding Officer and one single Senator, he declining to yield the floor? It might be possible for him to incorporate into the proceedings of this Senate the most outrageous matters, because there is an organization here that resists whenever an effort is made upon this floor for the great body of the people of this country. Let me say to you Senators who are yet free, that you may go to such an extent as to completely commit yourselves for the future.

Now, I want to read the balance of that rule to this body:

The Presiding Officer shall forthwith—

I am reading from Rule V, subdivision 2—

If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator—

I will undertake to say, Mr. President, that a hundred times in the two years that I have been a member of this body I have seen Senators rise on this floor, call upon the Presiding Officer, and, without any assent upon the part of the Senator who had the floor, raise the question that no quorum was present. I will undertake to say that an examination of the records of this Senate will show that that has occurred during the present session possibly a hundred times.

If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result—

Now, I submit that neither the Presiding Officer nor this body ought to let the decision of that question turn upon the proposition of who raises it—

and these proceedings shall be without debate.

The third subdivision of Rule V is as follows:

3. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, shall be in order.

See, Mr. President and Senators, how carefully the maker of those rules guarded this important question of the presence of a quorum during all the deliberations of this body.

Mr. ALDRICH. Mr. President, it is very evident that a question of this kind can not be raised under the provisions of the rule unless the Senator raising the question has the floor, and I therefore move that the appeal taken by the Senator from Wisconsin be laid upon the table.

Mr. CULBERSON. I hope the Senator will not make that motion now.

Mr. ALDRICH. I think I must make it now.

Mr. CULBERSON. I desire to make a statement.

Mr. ALDRICH. I withhold the motion for the purpose of allowing the Senator to make a statement.

Mr. CULBERSON. Mr. President, in my judgment the decision of the Chair is erroneous. I believe that the question of the existence of a quorum can be raised at any time, even without the consent of the Senator who may at the time hold the floor in debate. The notes of the stenographer will show that, being asked by the Chair if I yielded to the Senator from Wisconsin, I stated that I preferred not to; and that is true. I preferred, as I have stated once or twice, to go on with the financial statement I have to make to the Senate and to the country about the extravagance of the Administration of President Roosevelt and be through with it; but I do not believe—and it has not been my purpose in anything I have said or anything I have done to make such a suggestion—that by asking not to be interrupted I could cut off any Senator from making the point that there was no quorum.

Mr. ALDRICH. I ask for a vote on my motion.

The VICE-PRESIDENT. The Chair will state that Rule XIX provides that—

No Senator shall interrupt another Senator in debate without his consent.

The Chair certainly construed the language of the Senator from Texas [Mr. CULBERSON] to mean that he did not yield to the interruption of the Senator from Wisconsin [Mr. LA FOLLETTE]. The Senator from Rhode Island [Mr. ALDRICH] moves that the motion be laid upon the table. All in favor of that motion will say "aye"—

Mr. LA FOLLETTE. Mr. President, upon that question I demand the yeas and nays.

The VICE-PRESIDENT. The Senator from Wisconsin demands the yeas and nays. Is the demand seconded? [Putting the question.] One-fifth of the Senators present have not joined in the demand.

Mr. LA FOLLETTE. I ask for a division.

The VICE-PRESIDENT. A division is demanded. Those in favor of the motion will rise and stand until counted.

The question being put, there were, on a division—ayes 32, noes 14.

Mr. BACON. Mr. President, I desire to state—

Mr. GORE. Mr. President—

Mr. BACON. I have the floor, I think.

The VICE-PRESIDENT. The Senator from Georgia [Mr. BACON] is entitled to the floor.

Mr. BACON. As I did not have the opportunity to express myself before the vote, and as the motion to lay the appeal upon the table did not permit of an expression, I desire to say that in voting not to lay the appeal on the table I was not unmindful of the old adage that "hard cases make bad law," and I was unwilling to establish a precedent.

Mr. ALDRICH. Mr. President—

Mr. BACON. I hope the Senator will not interrupt me; I will occupy but a minute. I just want to say that, while I voted that way, I do not wish to be construed as being in sympathy in any particular with any obstructive proceedings to-day in regard to the pending matter. I voted that way because I thought that was the correct rule. So far as I am concerned, I prefer that the proceedings of the Senate should go on in the ordinary and usual manner.

Mr. GORE. Mr. President, I submit that the division discloses that there is not the presence of a quorum.

Mr. KEAN. Let us have the regular order, Mr. President.

The VICE-PRESIDENT. The division disclosed the existence of a quorum.

Mr. GORE. It takes forty-seven to constitute a quorum.

Mr. KEAN. Let us have the regular order.

The VICE-PRESIDENT. The Chair is of the opinion that a quorum is present.

Mr. GORE. I should like to say that there are ninety-two members of this body. Half of that number is forty-six. A division disclosed the presence of forty-six. As I understand, it takes one more than half to constitute a quorum.

The VICE-PRESIDENT. There was present a Senator who did not vote. A quorum is present, in the opinion of the Chair.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. The Senator from Texas is recognized.

Mr. LA FOLLETTE. Mr. President, may I make a parliamentary inquiry?

The VICE-PRESIDENT. The Senator from Wisconsin rises to a parliamentary inquiry.

Mr. LA FOLLETTE. It is this: Whether the decision of the President of the Senate at this time establishes the precedent in this body of counting a quorum when the vote discloses that no quorum is present?

The VICE-PRESIDENT. The Chair will read from the decision of the President pro tempore of the Senate on June 19, 1879. The Chair understands that the occupant of the chair at that time was Allen G. Thurman, then a Senator from Ohio. A roll call was ordered and had, whereupon the following occurred:

The PRESIDENT pro tempore. No quorum has voted. The Chair has counted the Senate. There is a quorum present, but no quorum voting.

Mr. HOUSTON. Mr. President, as I understand the construction of Rule No. 2, by the Presiding Officer, whenever it is disclosed on a vote that there is no quorum he may have the roll called.

The PRESIDENT pro tempore. The Chair has usually taken the fact of there being no quorum voting as evidence that there was no quorum present; but the Chair has not decided that it is not possible to ascertain otherwise whether there is a quorum. The Chair does not think the fact that a quorum has not voted is conclusive evidence that a quorum is not present. On the contrary, in the opinion of the Chair, he has a right to count the Senate. He has counted the Senate and found that a quorum is in attendance, but a quorum has not voted.

In the present instance the Chair has counted the Senate, and there is a quorum present.

Mr. KEAN. Regular order, Mr. President.

The VICE-PRESIDENT. The Senator from Texas [Mr. CULBERSON] has the floor.

Mr. CULBERSON. Mr. President, as I have the floor, there will either have to be order on the floor, or I will call for a quorum. I do not suppose there will be any question about that.

The VICE-PRESIDENT. The Senate will be in order.

Mr. CULBERSON. Mr. President, in the tables here presented, where offices with fixed salaries attached are specifically created by law, that fact is indicated by the word "specific." Many other new offices are provided for each year by specific appropriations, but the compensation is not specifically fixed and their number can only be estimated. The average salary of the specific offices created during the series of years given is \$700 per annum, and this amount is used as a basis for estimating the number of offices created by specific appropriations, but with indefinite compensation. These latter are indicated by the use of the word "indefinite."

The tables are prepared from the figures given in the annual publications compiled by the clerks of the Appropriation Committees of the Senate and House:

	Number.	Amount appropriated.
1903.		
Specific offices.....	9,336	\$6,440,600.00
Indefinite offices.....	1,035	724,672.84
Total.....	10,371	7,165,272.84
1904.		
Specific offices.....	9,502	6,989,157.78
Indefinite offices.....	10,487	7,341,139.40
Total.....	19,987	14,330,297.18
1905.		
Specific offices.....	8,415	5,431,865.24
Indefinite offices.....	12,677	8,874,282.12
Total.....	21,092	14,306,147.36
1906.		
Specific offices.....	7,849	4,752,828.00
Indefinite offices.....	8,138	5,697,867.82
Total.....	15,987	10,450,695.82
1907.		
Specific offices.....	1,649	2,605,701.51
Indefinite offices.....	6,469	4,528,585.55
Total.....	8,118	7,134,287.06
1908.		
Specific offices.....	13,319	8,851,759.16
Indefinite offices.....	10,435	7,305,047.00
Total.....	23,754	16,156,806.16

I present now a summary of the new offices created:

SUMMARY.

Year.	Number new offices.	Amount.
1903.....	10,371	\$7,165,272.84
1904.....	19,987	14,330,297.18
1905.....	21,092	14,306,147.36
1906.....	15,987	10,450,695.82
1907.....	8,118	7,134,287.06
1908.....	23,754	16,156,806.16
Total.....	99,319	69,543,506.42

Or an average for the six years of President Roosevelt's Administration of 16,553 new offices, carrying an average appropriation of \$11,590,584.40, created each year.

I do not believe that that includes any of the many commissions which the President has appointed.

No proper comparison may be made of the new offices created during the series of years just given and those created during the four years immediately postdating the outbreak of the Spanish war—i. e., 1899 to 1902, inclusive—because the number of new offices in and the appropriations for the military and naval establishments were enormously augmented by the employment of the volunteers and the increase in and reorganization of the regular establishments during those years. The new offices so created by the extraordinary emergency of the war are not so tabulated that they may be segregated from others created during this period, and because of this the comparison would be misleading.

Mr. HOPKINS. Mr. President—

Mr. CULBERSON. I decline to yield, Mr. President.

The VICE-PRESIDENT. The Senator from Texas declines to yield.

Mr. CULBERSON. I do so with the utmost respect to the Senator from Illinois, inasmuch as I declined to yield to others. I want to get through with this statement.

The VICE-PRESIDENT. The Senator from Texas declines to yield.

Mr. CULBERSON. The tables of offices created under Cleveland and McKinley, which I will now present, give corresponding statistics for the years 1893 to 1898, inclusive, and a comparison of these may be properly made with the six years 1903 to 1908, inclusive, no extraordinary emergencies having arisen during either of these six-year periods demanding the creation of new offices.

	Number.	Amount appropriated.
1893.		
Specific offices.....	95	\$47,609.00
Indefinite offices.....	468	328,250.00
Total.....	563	375,919.00
1894.		
Specific offices.....	813	168,121.00
Indefinite offices.....	1,235	865,112.00
Total.....	2,048	1,033,233.00
1895.		
Indefinite offices.....	2,322	1,625,886.39
Specific offices abolished.....	449	* 581,289.90
Total.....	^b 1,873	1,044,596.49
1896.		
Specific offices.....	1,364	815,476.00
Indefinite offices.....	1,151	805,700.00
Total.....	2,515	1,621,176.00
1897.		
Specific offices.....	834	138,193.50
Indefinite offices.....	1,068	747,952.50
Total.....	1,902	886,146.00
1898.		
Specific offices.....	276	285,741.90
Indefinite offices.....	1,102	771,605.00
Total.....	1,378	1,057,346.90

* Reduction of appropriation.

^b Net increase.

The summary of it is as follows:

SUMMARY.

Year.	Number new offices.	Amount.
1892.....	563	\$375,000.00
1894.....	2,048	1,033,233.00
1895.....	1,873	1,044,596.49
1896.....	2,515	1,621,176.00
1897.....	1,902	886,146.00
1898.....	1,378	1,057,346.90
Total.....	10,279	6,018,417.39

Or an average for the six years of 1,713 new offices, carrying an average appropriation of \$1,003,069.56 created each year.

It appears, therefore, that during the six years of President Roosevelt 89,040 more offices were created than during the six years from 1893 to 1898, inclusive, at an increased expense to the Government of \$63,535,089.03 more than during the period from 1893 to 1898.

Let me now state the expenditures in the military and naval establishments for these two periods, exclusive of pensions. The reports of the Secretary of the Treasury for the years given show these expenditures to have been as follows:

CLEVELAND AND MCKINLEY.

Year.	Military establishment.	Naval establishment.
1892.....	\$46,895,456.30	\$29,174,138.98
1893.....	49,641,773.47	30,130,084.43
1894.....	51,657,929.85	31,701,293.79
1895.....	51,804,759.13	28,797,795.73
1896.....	50,830,920.89	27,147,732.38
1897.....	48,950,267.89	34,561,546.29
Total.....	302,781,107.53	181,518,591.60

Combined total, \$484,299,699.13.

Omitting the expenditures for these establishments for the years 1898 to 1902, inclusive, covering the period of the Spanish war, and the preliminary occupation of Cuba, Porto Rico, and the Philippines and the so-called "pacification" of the latter, and the enormously increased expenditures for these establishments incident to these opera-

tions, the reports of the Secretary of the Treasury for the years given below show the following expenditures for these purposes:

ROOSEVELT.

Year.	Military establishment.	Naval establishment.
1903.....	\$118,619,520.15	\$82,618,034.18
1904.....	115,035,410.58	102,956,101.55
1905.....	122,175,074.24	117,550,308.18
1906.....	117,946,692.37	110,474,264.40
1907.....	122,576,465.49	97,128,469.36
1908 (appropriated).....	122,640,676.75	98,958,507.50
Total.....	718,993,839.58	609,685,685.17

Combined total, \$1,328,679,524.75.

So, the expenditures for the military establishment for the last six-year period exceed those for the first six-year period by \$416,212,732.05, or 137.5 per cent.

The expenditures for the naval establishment for the last period are greater than those for the first period by \$428,167,591.60, or 235.9 per cent.

The combined expenditures for these establishments for the last period exceed those for the first period by \$844,379,825.82, or 174.3 per cent.

A liberal estimate of the increase of population of the United States from 1892 to 1908 would not be greater than 33½ per cent. If, therefore, the expenditures for these purposes had kept pace with the increase of population, there would have been a normal increase of \$161,433,233.04, as against the actual increase of \$844,379,825.82.

The increase of these expenditures has been about five times as great as the growth of population.

Mr. President, this record of extravagance under the Administration of President Roosevelt is astonishing. It should arrest public attention, whether it does or not, and it should provoke immediate and thorough reformation in our governmental expenditures, for it is a menace to the Treasury.

The Government of the United States is rapidly becoming paternalistic, the people office-ridden, and the nation itself threatened with the blight of militarism.

The VICE-PRESIDENT. The question is on agreeing to the report of the committee of conference.

Mr. LA FOLLETTE. What is the question?

Mr. KEAN. Let us have the question.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. The Senator from Wisconsin.

Mr. LA FOLLETTE. Is the Senator from New Jersey in a hurry for the question?

The VICE-PRESIDENT. The Chair has recognized the Senator from Wisconsin.

Mr. LA FOLLETTE. If in order at this time, I should like to suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clapp	Gallinger	Owen
Allison	Clark, Wyo.	Gary	Overman
Ankeny	Clay	Gore	Paynter
Bacon	Culbertson	Guggenheim	Piles
Bailey	Cullom	Hale	Platt
Bankhead	Curtis	Hemenway	Scott
Beveridge	Depew	Heyburn	Simmons
Borah	Dick	Hopkins	Smoot
Bourne	Dillingham	Johnston	Stephenson
Brandeggee	Dixon	Kean	Sutherland
Briggs	du Pont	Knox	Taylor
Brown	Flint	La Follette	Teller
Burkett	Foraker	Long	Warner
Burrows	Frazier	McLaurin	Warren
Carter	Fulton	Nelson	Wetmore

The VICE-PRESIDENT. Sixty Senators have responded to their names. A quorum is present.

Mr. LA FOLLETTE. Mr. President, I should like to have the attention of the Senator from Rhode Island [Mr. ALDRICH] for a moment while I state, in brief, my position with reference to the pending bill.

I believe it, sir, to be a very bad bill. I think it ought not to pass. Portions of it have received legislative consideration both here and in the other branch of Congress, but other portions, I think I may fairly say, have never had any legislative consideration. There was in the bill as originally reported from the Committee on Finance to this body a proposition to make railroad bonds, under certain limitations, a basis for issuing this so-called "emergency currency." This provision remained in the bill for a considerable time. It continued in the bill during the general debate upon the measure, until the 19th day of March, I think, when, perhaps to the surprise of the

Senate—I am quite sure of the country—the Senator from Rhode Island rose and, stating that he represented the views of the Committee on Finance, withdrew this portion of the bill from the further consideration of the Senate.

The VICE-PRESIDENT. The Senator from Wisconsin will kindly suspend for a moment until order is restored in the Chamber.

Mr. LA FOLLETTE. I will say that since I am just recovering from a somewhat protracted illness and wish to make the best use of whatever strength I possess, I shall in what I have to submit with respect to this bill conserve my strength as much as possible.

To resume, Mr. President, I say the Senator from Rhode Island, as chairman of the Committee on Finance, rose here and quite unexpectedly, I think, to the country, and I believe to the great body of the Senate, withdrew the proposition to make railroad bonds a basis of currency issue under this measure. It had been a subject that had excited the attention of the entire country. I think it had been very generally condemned throughout the country. I do not believe that it had any considerable support anywhere in this land except from those who were interested as the holders of that class of securities.

I had had printed and laid upon the desk of the members of the Senate a proposed amendment to the bill. This amendment related to that provision of the bill which the Senator on that morning withdrew, and therefore there was no occasion to offer it. There was really no occasion to discuss that provision of the bill. I did, however, in the remarks which I made upon the bill, submit, at the suggestion of the Senator from Texas [Mr. CULBERTSON] and the Senator from Arkansas [Mr. CLARKE], some matter which I had prepared upon that subject.

It was not pertinent, as I said at the time, and I presented it to the Senate upon the suggestion of those gentlemen, with the acquiescence of others, that they would take some interest in that phase of the discussion, though the provision to which it related had been withdrawn from the bill. I said, however, in presenting it that it might be pertinent later in the debate. Viewing this question as I do, I had little doubt that the great and powerful interests of this country, those that are to be the chief beneficiaries under this legislation and who are largely interested in that class of securities, would be quite insistent upon this particular provision being reinserted in the bill.

But, as I said, the provision was withdrawn here, and therefore had little, if any, legislative consideration. The bill went over to the House. It was there amended by the substitution of another and different bill—the so-called "Vreeland bill," which was rejected by the Senate upon its return to this body. Now, this so-called "Vreeland bill" contained a provision making railroad bonds proper securities upon which to base this so-called "emergency currency." This provision was not discussed, however, it was not debated, it was not considered, I think I may say, by the Senate when they rejected the House bill and sent the whole matter into conference.

Now, Mr. President, it comes back to us in the conference report which has adopted that portion of the Vreeland bill making it possible not only that railroad bonds, but that railroad stocks, not only that railroad stocks, but that mining stocks, warehouse receipts—in fact, anything in the world upon which a bank loans money and which can come in under the general term of "any other securities" may be made the basis for a currency issue, within the discretion, of course, of the association which it is proposed to form of ten or more banks, and within the discretion of the Secretary of the Treasury.

I call to the attention of Senators here and to the attention of the Senator from Rhode Island, which, of course, is quite unnecessary, as he is familiar with it, that portion of the conference report now pending before the Senate beginning on page 3, line 22. I do not know whether I can be heard by the Senator from Rhode Island. I should like to be heard by him, and I do not wish to exert myself, because I want to last as long as possible.

Mr. ALDRICH. I can hear the Senator.

Mr. LA FOLLETTE. But if he does not hear and cares to, he can draw nigh.

On page 3, line 22, of the conference report I find the following:

The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation any securities, including commercial paper.

In order that I shall not be talking upon a misapprehension, I should like to ask the Senator from Rhode Island if under that provision of the conference report it would not be possible to make railroad bonds a basis for this emergency currency?

Mr. ALDRICH. Mr. President, I answered that precise question yesterday when it was asked by the Senator from Texas, and I answered it in the affirmative.

Mr. LA FOLLETTE. I did not quite hear.

Mr. ALDRICH. I answered it in the affirmative.

Mr. LA FOLLETTE. May I ask the Senator further, would it not also be possible to make railroad stocks a basis for the issue of this currency?

Mr. ALDRICH. I hardly think so. National banks do not generally, I think, hold railroad stocks or other stocks. Any securities which were legally held by a bank could, with the approval of the association and of the Secretary of the Treasury, be deposited for the purpose of securing circulation.

Mr. LA FOLLETTE. Let me ask the Senator further, before he takes his seat, does the Senator mean to say that a national bank can not loan money upon railroad stocks as security?

Mr. ALDRICH. That was not the question of the Senator from Wisconsin.

Mr. LA FOLLETTE. That is the question which I now ask.

Mr. ALDRICH. A national bank can undoubtedly loan money and take as collateral security the stocks of any corporation that it sees fit.

Mr. LA FOLLETTE. Is there any difference in the law between the title or control or possession which a national bank may acquire over railroad bonds and over railroad stocks?

CHAIRMAN SAYS STOCKS NOT INCLUDED IN WORD SECURITIES.

Mr. ALDRICH. If the Senator will pardon me, I do not care to go into the question as to what securities a national bank can hold legally, but I will content myself with saying that any securities a national bank can hold legally can be used under the provisions of the first section of this bill for the purposes of the act.

Mr. LA FOLLETTE. Yes; but considering his position at the head of this committee and in charge of this conference report, I am sure the Senator will not decline to inform any Senator upon this floor. I will wait a moment until I can have the attention of the Senator from Rhode Island, who is now giving his attention to the Senator from California [Mr. FLINT].

Mr. ALDRICH. My understanding is that the Comptroller of the Currency has uniformly held that a national bank can not hold stocks in railroads or other corporations.

Mr. LA FOLLETTE. I am not inquiring, just at this time, if the Senator from Rhode Island please, with respect to the banks acquiring the ownership of those stocks. I will wait until I can have the undivided attention of the Senator from Rhode Island, instead of dividing it with the Senator from California. I was about to inquire whether it is the understanding of the Senator from Rhode Island that a national bank can not deposit as security for this emergency currency any security which it holds, whether it holds it as collateral to a loan or whether it owns it?

Mr. ALDRICH. Certainly not without a breach of faith to the borrowers of the bank. They have no more right to use it than they would have to use my property or the property of the Senator from Wisconsin.

Mr. LA FOLLETTE. Let me inquire of the Senator further, if, with the consent of the owner of that security to so use it, he would have any doubt that it could be used as a basis for issuing circulation?

Mr. ALDRICH rose.

Mr. LA FOLLETTE. Now, wait. The Senator was interrupted in his attention to my question, and I will repeat it. I am willing to suspend any time when it is necessary to hold a caucus on that side in order to answer any of my questions. What I want to ask—

Mr. FLINT. I take it for granted the Senator—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from California?

Mr. LA FOLLETTE. Oh, assuredly.

Mr. FLINT. I take it for granted the Senator considers that he does not belong on this side, from the reference he has just made.

Mr. LA FOLLETTE. Well, Mr. President, that occasions a little diversion for me, and I beg the pardon of the Senator from Rhode Island if I suspend for a moment on the line which I was pursuing in my interrogatories to him.

Mr. President, politically—that is, as a member of the Republican party—I do belong on that side. I do not sit on that side, and I do not always keep step to the music that the leadership of that side may play. I am on this floor, commissioned by one of the States of this Union as a representative, not of that State alone, but as a representative here as much of California as of Wisconsin. I want to say to the Senator from California that I never will be found during my term of service on this floor, whether it be long or short,

trimming my views upon legislation to this side or that side. I will vote and I will speak while I have strength left in my body to serve here, and while I am commissioned to serve here, for that interest which I believe to be the interest of the country.

That is the trouble, Mr. President, if I may pause long enough to say so, with the major part of the proceedings, in my humble opinion, in both branches of Congress. It is "this side" and "that side" with respect to legislation. It is not the country; it is not the needs of the different States; it is not the public interest so much as it is political advancement. I do not believe that that is a good thing, and what little I may do here and elsewhere in my brief span of life is going to be done to broaden that representation and make it a little more than "this side" or "that side," to make it, so far as I can in my humble way, the country.

Now, Mr. President, to come back. I miss the genial face of the Senator from Rhode Island. I wanted to ask him something about this bill.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma?

Mr. LA FOLLETTE. Yes, sir.

Mr. GORE. I am sure the absence of the Senator from Rhode Island and other Senators is unwitting. I am unwilling for them to miss any part of the speech of the Senator from Wisconsin. I raise the point of no quorum.

The VICE-PRESIDENT. The Senator from Oklahoma raises the question of a quorum. The Secretary will call the roll.

Mr. LA FOLLETTE. I regret very much to yield for that. If I may ask, Mr. President—

The VICE-PRESIDENT. No debate is in order.

Mr. LA FOLLETTE. I just want to request the Senator to withdraw his point.

The VICE-PRESIDENT. It is too late.

Mr. LA FOLLETTE. He can not do it?

The VICE-PRESIDENT. It is impossible.

Mr. LA FOLLETTE. The Senator from Rhode Island has returned.

Mr. GORE. I withdraw the point I raised, if it is in order.

The VICE-PRESIDENT. It is too late. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Gary	Owen
Allison	Clay	Gore	Overman
Ankeny	Culberson	Guggenheim	Paynter
Bacon	Cullom	Hale	Piles
Bailey	Curtis	Hemenway	Scott
Beveridge	Depeew	Heyburn	Simmons
Borah	Dick	Hopkins	Smoot
Bourne	Dillingham	Johnston	Stephenson
Brandegee	Dixon	Kean	Sutherland
Briggs	du Pont	Knox	Taylor
Brown	Flint	La Follette	Teller
Burkett	Foraker	Long	Warner
Burrows	Frazier	McLaurin	Warren
Carter	Fulton	Milton	Wetmore
Clapp	Gallinger	Nelson	

The VICE-PRESIDENT. Fifty-nine Senators have answered to their names. A quorum is present.

The hour of 1 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. R. 74) suspending the commodity clause of the present interstate-commerce law.

Mr. KEAN. Let the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. Without objection, it is so ordered. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. If I might have the attention of the Senator from Rhode Island I should like to get clearly in my mind, as the Senator understands it, the exact limitation to the provision which I have just read. I ask the Senator from Rhode Island whether he understands that there is no limitation whatever to the loans which a national bank may make upon railroad security, either stocks or bonds?

Mr. ALDRICH. Loans can be made by a national bank upon railroad bonds or railroad stocks as collateral security. There is no question about that.

Mr. LA FOLLETTE. Since that is so, railroad bonds and railroad stocks may be made the basis of a currency issue under this bill.

Mr. ALDRICH. Certainly not. No such inference can be drawn from any statement which I have made. The language of—

Mr. LA FOLLETTE. Will the Senator be kind enough to tell me why not?

Mr. ALDRICH. I suggest to the Senator from Wisconsin

that the language of this section is perfectly clear and definite. I assume that the Senator from Wisconsin can understand it as well as I can. I see no reason myself why I should be asked to place an interpretation upon the bill for the Senator from Wisconsin. There may be some reason why, but it does not appear to me now. I will say to the Senator further that under this law national banking associations can deposit commercial paper without collateral. So the point which the Senator seems to be striving to get at—as to a bank having taken railroad stocks for collateral for a loan—is not an important one. They can deposit the paper itself without any collateral if it contains the names of two responsible parties.

Mr. BAILEY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. LA FOLLETTE. I certainly do.

Mr. BAILEY. I simply suggest to the Senator from Rhode Island that he is mistaken about a bank having the right to separate the collateral from the notes which the collateral is given to secure.

Mr. ALDRICH. I did not mean to make any such statement. I may have been misunderstood. I said the bank may deposit commercial paper without collateral, not a note to which the collateral attached and which was held by the bank as collateral security.

Mr. BAILEY. That is undoubtedly right. But the Senator will find he referred to notes as though they could be separated.

Mr. ALDRICH. I did not intend to make any such statement.

Mr. LA FOLLETTE. Mr. President, I certainly have no desire to try the patience of the Senator from Rhode Island, but as the chairman of the Committee on Finance, as the reputed author of the Aldrich bill, as the chairman of the conference committee, the head and front of this legislation, I submit to him that in fairness he ought to answer any courteous question which any Senator in this body asks him with respect to this bill. I certainly have no disposition to be disrespectful in the interrogatories which I have proposed.

I want to know, and I am going to find out if I can, whether a national bank can, as the holder of railroad stocks and railroad bonds, whether they be held as collateral for a loan or whether they be borrowed for the occasion, take the railroad stocks and the railroad bonds and with the assent of the association, the creation of which is provided for in this bill, together with the approval of the Secretary of the Treasury, have them made the basis for a currency issue.

Now, I want to know that; and I think it is fair to the Senate and to the country and fair to every member of the Senate. I may be the only one who needs to be enlightened upon that subject, but I want it on the record here whether that thing can be done.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Rhode Island?

Mr. LA FOLLETTE. I do.

Mr. ALDRICH. As the Senator from Wisconsin knows, I never fail to answer any courteous question from any member of the Senate, especially upon a measure which I have in charge.

Now, in answer to the question asked by the Senator from Wisconsin, as it is made, I will say no.

Mr. LA FOLLETTE. Well, I wish to ask the Senator further. Will the Senator please explain why that can not be done under the terms of the bill?

Mr. ALDRICH. That is hardly a question within the ordinary rule. I have no disposition nor desire to take up time.

Mr. LA FOLLETTE. Considering that the Senator when he presented this conference report was very brief in explaining the changes that had come since this legislation was formerly before this body, and considering the fact that in making that statement he never adverted to the fact that railroad securities were possible under this bill, is it not fair to every member of this body and to the Senate and to the country that he inform us as to whether it is possible under this bill that railroad securities such as I have named, railroad bonds and railroad stocks, may be made the basis of so-called emergency currency?

Mr. ALDRICH. Mr. President—

Mr. LA FOLLETTE. I yield.

Mr. ALDRICH. The Senator from Wisconsin has advised the Senate that he is laboring under disabilities, and I certainly have no desire or purpose to take up the time of the Senate and his own time by making a speech upon this subject. I have tried to answer the questions of the Senator from Wisconsin as well as I can. Later, before a vote is taken upon this proposition, if it seems to be necessary to answer any of the arguments or suggestions made by those who are opposing this measure,

I certainly shall try to do so fairly and without any evasion of any of the provisions.

Mr. LA FOLLETTE. Well, Mr. President, do I understand the Senator from Rhode Island to say that he will not inform me whether it is not possible under the provisions of this bill that railroad bonds and railroad stocks may be made the basis of a currency issue?

Mr. ALDRICH. Mr. President, I have answered that question at least half a dozen times.

Mr. LA FOLLETTE. I have not understood the answer.

Mr. ALDRICH. Well, I am not responsible for that. I have answered that clearly and definitely in answer to several Senators, and I know of no way by which I can, with my ability, answer it any more clearly.

Mr. LA FOLLETTE. Does the Senator say it is not possible for such securities to be made the basis of loans? I did not understand him.

Mr. ALDRICH. The Senator has asked me that question two or three times already, and I have answered it to the very best of my ability. I know of no way by which I can give an answer which may be satisfactory to the Senator.

Mr. LA FOLLETTE. Will the Senator please say what his answer was? I did not hear him.

Mr. ALDRICH. The Senator asked me a long question and I answered it—

Mr. LA FOLLETTE. I ask it now very shortly.

Mr. ALDRICH. I answered it as quickly as I could—"no;" and I do not know how I can further enlighten the Senator.

Mr. LA FOLLETTE. The question I ask now is a very short one, if the Senator from Rhode Island please. Under the terms of this proposed legislation is it possible for railroad bonds and railroad stocks to be made the basis for an emergency currency?

Mr. ALDRICH. To the question as asked, applying to both stocks and bonds, I again give the answer, "no."

Mr. LA FOLLETTE. Well, Mr. President, I read again the language of the proposed legislation, in connection with the answer of the Senator from Rhode Island, in order that it may appear in the RECORD in juxtaposition to that answer:

The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation any securities, including commercial paper.

Now, Mr. President, I submit to the Senate candidly and fairly that the language of that section does make it possible that railroad bonds and railroad stocks may be made the basis of an issue of emergency currency under the provisions of this act; and I say that that construction is not only warranted, but that no other is possible, that no other can reasonably be made.

I want to ask the Senator from Rhode Island [Mr. ALDRICH] another question. I want to ask him what class of securities, if he will please to tell me, may be made the basis of such circulation under the provision "any securities * * * held by a national banking association." Would the Senator from Rhode Island please enlighten me as to what that term in this conference report is intended to cover?

Mr. ALDRICH. Mr. President, I have stated distinctly in the presence of the Senate at least three or four times my construction of that language. I do not intend to be led into a discussion for the purpose of taking up time or prolonging the debate upon this bill. I have answered clearly and positively the questions which have been asked me by Senators upon the other side as to the purpose of this proposed act and its intention, and I shall have now to decline to go any further into a discussion of it in the time of the Senator from Wisconsin.

Mr. LA FOLLETTE. Well, Mr. President, I do not recall that the question which I have now presented to the Senator from Rhode Island has been answered by him. It is true that the specific question which I asked him with respect to railroad bonds and stocks was answered by him, and he said, if I correctly understood him, that railroad stocks and bonds could not be used as the basis of security for emergency currency under the provisions of this conference report. I now ask him what the significance and meaning of the phrase "Any securities held by national banking associations" is? It surely is there for some purpose. We have this provision:

As a basis for additional circulation any securities, including commercial paper, held by a national banking association.

It seems to me that it is quite apparent that that phrase, "any securities," was added for some specific purpose and that it must be intended to bring in something besides commercial paper, and it does seem to me that a request for information as to the meaning of that phraseology is a fair interrogatory

to submit to the chairman of the Finance Committee having this conference report in charge.

FORMER STATEMENT OF CHAIRMAN.

Well, Mr. President, I am very grateful to somebody who has handed me a copy of the CONGRESSIONAL RECORD of May 28, containing the speech of the senior Senator from Colorado [Mr. TELLER]. I find that during that speech the Senator from Colorado inquired of the Senator from Rhode Island with respect to this same matter. I find in the RECORD of May 28 this language, which seems to me to be a flat contradiction of what the Senator from Rhode Island has just said. I may be wrong about that, and I do not want in any way to put the Senator from Rhode Island in a false position, but I will read it to the Senate.

It may be, Mr. President, that the exigencies of this occasion furnish a warranty for violating the rules of the Senate, the precedents of the Senate, and the decisions of other presiding officers, and also for contradicting statements in the course of this debate; but it would not seem to me that that would be necessary. Surely I have not manifested any such degree of opposition to this legislation as would warrant any such perversion of legislative proceedings as that.

I am leading up to making a proposition to the Senator from Rhode Island with respect to this bill, which I believe to be a very reasonable one, and one which I want to present very soon, but I want first to get the RECORD straight on what this bill covers.

It seems that the Senator from Colorado propounded a question to the Senator from Rhode Island in this same connection. I quote from the RECORD of May 28, page 7508:

I shall have to ask the chairman of the Committee on Finance, who is also chairman of the conference committee, to make some explanations as I go along, because I find it difficult to determine what some of the provisions of this bill mean. If it is not too much to ask the Reporter, I should like to have him read the answer of the chairman to the inquiry of the Senator from Texas [Mr. CULBERSON].

Mr. CULBERSON. As to what the word "securities" meant?

Mr. TELLER. I do not know whether the Reporter who took the notes is now in the Chamber. If not, I suppose the Senator could, perhaps, repeat his explanation.

The VICE-PRESIDENT. The Chair is informed that the Reporter who took the part of the remarks to which the Senator refers has left the Chamber with his notes.

Mr. TELLER. Then I will ask the Senator to repeat it. The Senator from Texas asked what was meant by the word "securities."

Mr. ALDRICH. The Senator from Texas asked me, in effect, whether the word would include railroad bonds. I said, "Undoubtedly, if the bank had bonds that were satisfactory to the national association, and, secondly, to the Secretary of the Treasury."

This differs very slightly from one of the very first questions which I propounded to the Senator from Rhode Island; that is, whether it would be possible for railroad bonds to be made the basis of such securities; and, as I understand him, he has distinctly said no; and yet on May 28 he said that railroad bonds could be made the basis for such securities if the banks had bonds which were, first, satisfactory to the national association and, secondly, to the Secretary of the Treasury.

I quote again from the RECORD of May 28, page 7508:

Mr. CULBERSON. I asked the Senator from Rhode Island to explain the meaning of the term "any securities," and also to state particularly whether it included railroad bonds. I wanted a general explanation and also whether it applied to the specific matter of railroad bonds.

Mr. ALDRICH. The term "securities" would include bonds of any character; would include railroad bonds or any other bonds that the bank held. It includes whatever would be understood to be securities, within the meaning of that term, by the association and the Secretary of the Treasury.

Mr. President, this is a very important part of the discussion, and I am dreadfully afraid that there is not a quorum present. I should like to have the roll called so as to ascertain that.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clay	Guggenheim	Owen
Allison	Curtis	Hale	Overman
Ankeny	Depew	Heyburn	Piles
Bourne	Dick	Hopkins	Smoot
Brandeggee	Dillingham	Johnston	Stephenson
Briggs	du Pont	Kean	Sutherland
Brown	Flint	Knox	Taylor
Burkett	Foraker	La Follette	Teller
Burrows	Frazier	Long	Warner
Carter	Gallinger	McLaurin	Warren
Clapp	Gary	Milton	Wetmore
Clark, Wyo.	Gore	Nelson	

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, when I was interrupted by the roll call I was just calling attention to the apparent discrepancy between the answer which the Senator from Rhode Island made to the Senator from Texas and the answers which

he made to the interrogatories I submitted. I hope the Senator will understand that I mean no discourtesy by making this parallel. I do very much want to find out the scope of this bill, and I am inclined to believe that if a little different spirit were manifested on the other side of the Chamber, an understanding might be arrived at here by which this bill, bad as it is, harmful as it will be—if it ever becomes a law—to the business interests of this country, to commercial banking, to mercantile business, to every class and kind of business in the country—harmful, I say, as it will be if it ever becomes a law—I believe it is possible that there might be an understanding arrived at by which there would be no obstruction to its passage.

OPENLY AVOWS HIS PURPOSE.

I am not for a moment seeking to disguise my purpose here. I stand out openly to avail myself of every single parliamentary right that a Senator may have on this floor to obstruct the passage of this bill, and to do it alone and single-handed to the limit of my physical strength, unless certain features of the bill may be eliminated from it. It is leading up to that that I wanted the attention of the Senator from Rhode Island, and I wanted his unprejudiced response to questions. I wanted an open, frank, and fair-minded response to the questions, because, Mr. President, I am making my inquiries in that spirit and I have taken the floor in that spirit.

Now, to return to the discussion that took place on May 28, page 7109 of the RECORD, I quote:

Mr. TELLER. Then I will ask the Senator to repeat it. The Senator from Texas asked what was meant by the word "securities."

Mr. ALDRICH. The Senator from Texas asked me, in effect, whether the word would include railroad bonds. I said, "Undoubtedly, if the bank had bonds that were satisfactory to the national association and, secondly, to the Secretary of the Treasury."

Mr. CULBERSON. I asked the Senator from Rhode Island to explain the meaning of the term "any securities," and also to state particularly whether it included railroad bonds. I wanted a general explanation and also whether it applied to the specific matter of railroad bonds.

Mr. ALDRICH. The term "securities" would include bonds of any character.

Mr. President, I should like to finish the statement, but I regret very much to be obliged to call the attention of the Chair to the fact that no quorum is present. This is a very important part of the discussion.

The PRESIDING OFFICER. The Chair will order the roll to be called. The absence of a quorum being suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Gore	Paynter
Allison	Clay	Guggenheim	Piles
Ankeny	Curtis	Hopkins	Scott
Bankhead	Daniel	Johnston	Simmons
Borah	Depew	Kean	Smoot
Bourne	Dick	Knox	Stephenson
Brandeggee	Dillingham	La Follette	Sutherland
Briggs	Dixon	Long	Taylor
Browa	Flint	McLaurin	Teller
Burkett	Foraker	Milton	Warner
Burrows	Fulton	Nelson	Warren
Carter	Gallinger	Owen	Wetmore
Clapp	Gary	Overman	

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum of the Senate is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. I had begun, Mr. President, to reread into the RECORD the views of the Senator from Rhode Island as expressed upon this question of the scope and meaning of the words "any securities." As I run my eye over the Chamber I discover that there is not a quorum present, and I raise that question.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Fulton	Overman
Allison	Clay	Gallinger	Paynter
Ankeny	Cullom	Gary	Piles
Bankhead	Curtis	Guggenheim	Scott
Beveridge	Daniel	Hemenway	Smoot
Borah	Depew	Hopkins	Sutherland
Bourne	Dillingham	Johnston	Taylor
Brandeggee	Dixon	Kean	Teller
Briggs	du Pont	La Follette	Warner
Brown	Flint	McLaurin	Warren
Burkett	Foraker	Nelson	Wetmore
Burrows	Frazier	Owen	
Carter			

The VICE-PRESIDENT. Forty-seven Senators have answered to their names. A quorum of the Senate is present.

Mr. LA FOLLETTE. I want if possible to get into the RECORD side by side the position which the Senator from Rhode Island has taken in answer to the interrogatories submitted to him by myself and the position which he took with respect to the

interrogatories submitted by the Senator from Texas [Mr. CULBERSON] and the Senator from Colorado [Mr. TELLER]. I regret very much that the attention of the readers of the RECORD with respect to the varying construction which the Senator from Rhode Island puts upon this important provision of the bill will be diverted by these roll calls. I am satisfied that while of course there are other very important provisions in this bill, there are not many that are more interesting, more momentous, and upon which the country desires information more earnestly than this particular provision upon which I endeavored to interrogate the Senator from Rhode Island—that is, just what is meant by lines 1 and 2, on page 4 of the conference report; that is, "any securities, including commercial paper, held by a national banking association."

I must say that the answers which I got to the questions I propounded were not very direct, and, if I may be permitted to say it, seemed to me not altogether frank and open, such as you would expect, you know, from the chairman of the Committee on Finance, who stands behind and is in a way responsible for legislation so important as this. For this reason I have thought it worth while to read into the RECORD of the proceedings of to-day answers made by the Senator from Rhode Island to questions propounded by other Senators with reference to the same phraseology.

I begin where I left off when I was interrupted by the roll call, raised upon the very important question of the presence of a quorum.

IMPORTANCE OF CURRENCY BASIS.

I can see by the fixed attention in the faces of the Senators who are now on the floor their deep interest in this important question; that is, the meaning of the phrase "any securities." Of course if we are to have an emergency currency, which is to be issued at the discretion of three or five men in any community who may be the happy possessors, through the organizations with which they are connected, of \$5,000,000, together with whoever happens to be Secretary of the Treasury—if we can have under this bill any kind of security upon which a national bank loans money and upon which these men in their discretion may consent to issue an emergency currency, ingrafted upon the currency system of this country, then of course the limitations in the law governing that are of vital importance.

I happened to come into the Senate Chamber yesterday when the Senator from Colorado had the floor and was discussing this very phase of the proposition; and I regret to mention in this connection, in running my eye over the Chamber and counting Senators present, as I recall it now, there were only fourteen. So I am sure the majority of this great body did not get the interpretation of the Senator from Rhode Island of those important and vital words in this bill; as the Senator did not answer me with the same freedom that he manifested when responding both to the Senator from Colorado and the Senator from Texas, I take advantage of the fact that I find in the RECORD something that may help to enlighten my friends, my Republican friends on that side and my Democratic friends on this side, with respect to the true meaning, according to the understanding of the Senator from Rhode Island, of those vital words "any securities, including commercial paper."

This morning, when I asked him whether it was possible that railroad bonds and railroad stocks might be made the basis of security for this circulation, he said "No." I asked him whether it was possible, and I repeated it a good many times. Now, I want to present to you what he said when the Senator from Colorado had the floor and wanted light upon this particular proposition:

Mr. TELLER. Then I will ask the Senator to repeat it.

That is, his construction of this particular phrase.

The Senator from Texas asked what was meant by the word "securities."

Mr. ALDRICH. The Senator from Texas asked me, in effect, whether the word would include railroad bonds. I said: "Undoubtedly, if the bank had bonds that were satisfactory to the national currency association and, secondly, to the Secretary of the Treasury."

Mr. CULBERSON. I asked the Senator—

You see, the Senator from Texas was interested in knowing how broad that phrase is; whether not only railroad stocks and railroad bonds, but also other securities which might be held by the banks, could be accepted by the boards of directors and those in authority in every one of these national banking associations, with the approval of the Secretary of the Treasury. So he pressed the question further:

Mr. CULBERSON. I asked the Senator from Rhode Island to explain the meaning of the term "any securities," and also to state particularly whether it included railroad bonds. I wanted a general explanation and also whether it applied to the specific matter of railroad bonds.

Mr. ALDRICH. The term "securities" would include bonds of any character; would include railroad bonds or any other bonds that the

bank held. It includes whatever would be understood to be "securities," within the meaning of that term, by the association and the Secretary of the Treasury.

That is pretty specific. While the Senator from Rhode Island did not have the goodness to make as clear and ample a response to the interrogatory which I submitted to him this morning, I am glad to find in the RECORD from that authority upon this floor that interpretation of the particular phrase of the bill to which I am now directing the attention of the Senate.

Of course it may be that the Senator from Rhode Island would have a different interpretation for every Senator on this floor. Otherwise I can not quite account for the fact that he answered the questions in a different way when I submitted them this morning. Of course whenever you are looking up an authority and you find conflicting statements, when you find that the same question has been decided differently by the same body of men at different times, it somewhat unsettles your confidence either in the understanding of the interpreting body or in their entire frankness upon the subject.

USE OF COMMERCIAL PAPER LIMITED "BY SECURITIES" UNLIMITED.

Now, fortunately I have had handed to me another interpretation made by the same high authority upon this floor on this same phrase in the bill, and, without knowing what it is, I shall bring it to the attention of the Senate in order that we may have the best possible opinion which we can get from that high authority upon the interpretation of this particular clause—"any securities."

While the Senator from Colorado was still occupying the floor, the Senator from Rhode Island was again interrogated, owing to the fact that his former explanation had not been heard by all Senators; and that happened to be my misfortune, for I was not present when he made the answer to the Senator from Colorado which I have read to-day, and I think it probable other Senators were absent from the floor for just a moment. The interrogation follows immediately the answer made by the Senator from Rhode Island to the Senator from Texas [Mr. CULBERSON] on page 7508 of the RECORD:

Mr. TELLER. There is a wide distinction between securities and commercial paper. Commercial paper is defined distinctly. There is no attempt to define securities.

It will be observed that commercial paper is very carefully defined by the conference report. But "any securities," some way or other escaped definition by the Senators and Members of the House, who were forming what is expected to be important financial legislation for the next six years to come. They did not seem to think it was necessary to define at all the vague and uncertain phrase "any securities," which might mean almost anything—warehouse receipts, receipts for baled hay, receipts for carloads of turnips, receipts for corn and wheat and cotton, chattel mortgages on sheep, swine, and chickens. "Any securities" did not require any definition at the hands of the conference committee. The wide-open phrase was slipped over in the interest of—or at least some interests can avail themselves of it, apparently. But when it came to commercial paper, which, without any definition, is pretty well understood in the commercial world to be certain things, which has some limitations without any being fixed by law, it was found necessary, or thought necessary, apparently, to enter upon a pretty careful definition of what should be admitted under the term "commercial paper" and what should be accepted by the governing body, this national banking association, and by whomever happened to be Secretary of the Treasury, as the basis for currency issue.

CAN USE BONDS OF ANY CHARACTER.

Now, naturally enough, that excited the apprehension and awakened the interest of the Senator from Colorado, and he said:

There is a wide distinction between securities and commercial paper. Commercial paper is defined distinctly. There is no attempt to define securities.

Why not? Nobody can possibly assume, and of course very few Senators upon this floor would believe for a moment, that that was left vague and indefinite for the purpose of getting in a lot of securities which certain great financial interests in this country hold and control—securities which could not be gotten in under that portion of the bill which may be denominated the Aldrich section. The Senator from Colorado said:

There is a wide distinction between securities and commercial paper. Commercial paper is defined distinctly. There is no attempt to define securities. So I assume, myself, that any securities which a bank would take and loan money upon would be securities to be used. Is that correct?

He wanted to know, and he wanted to know directly from the Senator from Rhode Island. The Senator from Rhode Island for some reason or other seemed to be moved by a little

more of the spirit of frankness than he exhibited this morning. He said:

Mr. ALDRICH—

I read from the RECORD—

The term "securities" would include bonds of any character.

Just think of that! "Bonds of any character." I recall that while the Aldrich bill was pending before the Senate some one, in the course of the discussion, raised the question as to whether bonds issued by a street car company or interurban company doing an interstate business would be included, and at once there was protest from every side and upon all hands. I remember especially that the Senator from New Hampshire [Mr. GALLINGER] expressed his disapproval of that sort of security as a basis for currency issue—such securities as the bonds of street railways or of interurban railways. But under the terms of this conference report, as interpreted by the Senator from Rhode Island, any bonds upon which a national bank loans money can be made the basis for a currency issue to meet this so-called emergency. He says:

The term "securities" would include bonds of any character.

Mr. President, think of that for a moment. It is only a little while ago, when the Senator from Rhode Island on this floor solemnly protested against the availability of State and municipal bonds as a basis for making Treasury loans, as a security for Treasury loans. I remember that in the closing hours of the session of 1907, in March, when the bill, which was then called the Aldrich bill, was passed, the bill with respect to the deposits of the Treasury Department in different national banks, the Senator from Rhode Island protested against the proposition of the Senator from Minnesota [Mr. NELSON] to assess a reasonable tax against the deposits of the Government in national banks. Making, in the course of the debate, some comment upon municipal and State bonds as security for making loans, or as security for deposits, he characterized that class of bond issues in language which I want to bring to the attention of the Senate at this time, right in connection with what he says about any bonds which any national bank may hold being made the basis for emergency circulation.

In order to put it before the Senate with the least possible exertion to myself, for I must save my strength for the important work which I am trying to do, I read from an address which I submitted to the Senate on March 17, 19, and 24 of this session. I feel warranted in reading from this address at this time and in this connection, because I see a good many Senators present now who were not here when that argument was submitted to the Senate. I know that they will listen with interest to this portion of the remarks which I made at that time, because some of them have manifested a disposition to attach a good deal of importance to the views of the Senator from Rhode Island upon matters pertaining to financial questions. The Senator from Rhode Island was present when I first touched upon this subject of his views of these bonds two or three years ago. I regret to see that he is not here now, and I am sorry to say that he seemed to be called from the Senate the 19th of last March when I presented the difference between his position upon municipal and State bonds a year or eighteen months ago and his position at this session. Were he here, I am sure he would be much surprised to see what a transition has taken place in his views.

In order to get before him the wide discrepancy in his opinion at these two different times, it may be necessary for me to recur to this again. But I want to give it now to the Senators who are here, and right in this connection, because it bears upon the proposition and upon the particular phrase of this bill to which I am asking attention.

The remarks which I made on the Aldrich currency bill are somewhat protracted and were made at different times. On the 19th of March of the present year I said the following:

Mr. President, a review of the currency legislation as suggested in the foregoing would lead any student to approach consideration of the pending bill with the expectation that it would be found partial in its character to the same favored interests.

I had been discussing the tendency of legislation with respect to the banking business. I had covered a considerable period of time. I had shown by an analysis of these bills that legislation had been somewhat partial to certain interests in this country and especially to the national banking interests; and passing from that discussion to the consideration of the particular bill which was before the Senate, I submitted the following:

Mr. President, a review of the currency legislation, as suggested in the foregoing, would lead any student to approach consideration of the pending bill with the expectation that it would be found partial in its character to the same favored interests.

It proposes—

I was speaking of the Aldrich bill, you will understand.

Mr. President, I am woefully afraid that during this interesting discussion I have lost a quorum. I see some vacant seats over on the Republican side and some on the Democratic side. Therefore I will raise the question as to whether there is a quorum present.

The VICE-PRESIDENT. The Chair has counted the Senators. There is not a quorum present.

Mr. LA FOLLETTE. I am very glad to have the assistance of the Chair.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ankeny	Culberson	Guggenheim	Paynter
Bacon	Cullom	Hale	Piles
Bailey	Curtis	Heyburn	Platt
Bankhead	Depew	Hopkins	Scott
Beveridge	Dillingham	Johnston	Simmons
Brandegee	Dixon	Kean	Smoot
Briggs	du Pont	La Follette	Stephenson
Brown	Flint	Long	Sutherland
Burkett	Foraker	McLaurin	Taylor
Burrows	Frazier	Milton	Teller
Carter	Fulton	Nelson	Warner
Clapp	Gallinger	Newlands	Wetmore
Clark, Wyo.	Gary	Owen	
Clay	Gore	Overman	

The VICE-PRESIDENT. Fifty-four Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, I am glad of the opportunity to submit to Senators, for the first time to many of them, the views which I expressed upon certain phases of this legislation on the 19th of March, 1907.

At that time I said:

Mr. President, a review of the currency legislation as suggested in the foregoing would lead any student to approach consideration of the pending bill—

That was the Aldrich bill—

with the expectation that it would be found partial in its character to the same favored interests.

Then I proceeded to somewhat review the bill. I said:

It proposes an issue of 500,000,000 of additional notes to be issued to national banking associations, such issue to be based upon the securities named in this bill. What are these securities? State bonds, municipal bonds, and—as reported by the committee and advocated by the Senator from Rhode Island [Mr. ALDRICH]—railroad bonds.

Mr. President, by whom are such bonds held? Are they stable securities? Or are they fluctuating in character? If it should appear that such bonds are for any reason chiefly held by a limited number of banks, not available to the great majority of national banks, it would appear that the effect of this legislation, whatever its purpose, would be to confer a benefit upon those banks holding or controlling such securities which form their adoption as the basis for currency issue.

Mr. President, I am very reluctant to call the attention of the presiding officer to the fact that there is no quorum present. It has been very carefully ascertained that there is no quorum present.

The VICE-PRESIDENT. There is no quorum present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clay	Gary	Paynter
Allison	Cullom	Guggenheim	Piles
Ankeny	Curtis	Hemenway	Platt
Bacon	Daniel	Hopkins	Scott
Bailey	Depew	Johnston	Simmons
Bankhead	Dick	Kean	Stephenson
Beveridge	Dillingham	La Follette	Sutherland
Briggs	Dixon	Long	Taylor
Brown	du Pont	McLaurin	Teller
Burkett	Flint	Milton	Warner
Burrows	Foraker	Nelson	Warren
Carter	Frazier	Newlands	
Clapp	Fulton	Owen	
Clark, Wyo.	Gallinger	Overman	

The VICE-PRESIDENT. Fifty-three Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. OWEN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma?

Mr. LA FOLLETTE. I yield.

Mr. OWEN. I present a memorial, which I send to the desk, and ask that it may be printed for the information of the Senate.

The VICE-PRESIDENT. Is there objection to the request? Mr. ALDRICH. Does the Senator desire the memorial printed as a document?

Mr. OWEN. Yes, sir.

Mr. KEAN. What is the character of the memorial?

Mr. OWEN. It is a memorial relating to the initiative and referendum.

Mr. KEAN. I thought the Senator from Oklahoma had that document printed the other day.

Mr. OWEN. This is another one.

The VICE-PRESIDENT. Without objection, the document will be printed.

Mr. OWEN. I ask unanimous consent that 20,000 copies of each of the memorials which I have submitted on this question may be printed. I call the attention of the Senate to the fact that the speech of the Senator from Massachusetts [Mr. LODGE] adverse to this proposition was printed to the extent of 20,000 copies, and I ask that this may be done.

The VICE-PRESIDENT. Is there objection?

Mr. KEAN. I understand the Senator from New York [Mr. DEWEY] also made a reply to it in a birthday speech, and that might also be printed.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Oklahoma [Mr. OWEN] that 20,000 copies of the document mentioned by him be printed as a public document? The Chair hears none, and it is so ordered.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma?

Mr. LA FOLLETTE. Certainly, Mr. President.

ANTI-TRUST LEAGUE MEMORIAL.

Mr. GORE. Mr. President, I present a memorial and ask to have it printed in the RECORD. I do not ask to have it printed as a public document.

The VICE-PRESIDENT. The Senator from Oklahoma asks that the communication presented by him may be printed in the RECORD. Without objection, it will be so ordered.

Mr. KEAN. What is the memorial?

Mr. GORE. It is a memorial of the national committee of the American Antitrust League. It refers to the pending bill and to proposed amendments to the antitrust law, and is expressive of their opposition to both measures.

Mr. ALDRICH. I object to it being printed in the RECORD, but I have no objection to its being printed as a document.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. LA FOLLETTE. Certainly.

Mr. CULBERSON. It occurs to me that a memorial is almost a privileged matter and, if it is printed at all, it ought to be printed in the RECORD.

Mr. ALDRICH. No; I shall have to object to its being printed in the RECORD.

Mr. OWEN. I might ask permission to read it for my colleague, since he can not read it for himself.

Mr. LA FOLLETTE. Mr. President, I will read it, and that will get it into the RECORD. If there is any objection to its being printed in the RECORD, I will read it.

Mr. GORE. Mr. President—

Mr. ALDRICH. I have no objection to the Senator from Wisconsin reading it.

Mr. LA FOLLETTE. I will read it; but I want to say to the Senator from Rhode Island [Mr. ALDRICH] that he need not be under any misapprehension here. My voice will hold out for six weeks and my strength will go along with it. I have tested it.

Mr. GORE. I am in full sympathy with the Senator from Wisconsin [Mr. LA FOLLETTE] and I regard him as Horatius guarding the bridge; but I will accept the kindness at the hands of my colleague [Mr. OWEN], declining it at the hands of the Senator from Wisconsin.

Mr. LA FOLLETTE. I will yield to the colleague of the Senator from Oklahoma that he may read it.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma [Mr. OWEN]?

Mr. LA FOLLETTE. I do.

Mr. GORE. And I desire to state now—

The VICE-PRESIDENT. Does the senior Senator from Oklahoma yield to the junior Senator from Oklahoma?

Mr. OWEN. I do.

Mr. GORE. I desire to say that there is one allusion to myself and to the Senator from Wisconsin [Mr. LA FOLLETTE] in this memorial against which I protested when it was tendered to me, but I was assured that it was the official action of the league or of its officials, and that they would not strike it out at my request.

Mr. LA FOLLETTE. I want to say, Mr. President, that I did not know that I was mentioned in the memorial. I would like to have that statement appear in the RECORD.

Mr. OWEN. The memorial reads as follows:

WASHINGTON, D. C., May 23, 1908.

To the honorable the Senate of the United States:

The undersigned, representing the national committee of the American Anti-Trust League, respectfully call your attention to certain matters

of the greatest and most urgent importance to the Government and the people of the United States, which require action at once, if the most vital interests of the Government and the people are to be safeguarded from the most insidious attack ever planned against the welfare of a free people.

This impending assault upon the public rights takes the form of two pieces of legislation now pending before Congress, one of which is known as the "Hepburn-Warner amendment to the antitrust law," and the other as the "Aldrich-Vreeland emergency-currency bill." No possible excuse can ever be framed by any Senator or Member of Congress which will justify him to the people of America if either or both of these iniquitous bills should be enacted into law by his aid. The injury to the people would be so enormous and irreparable that the legislative offense in passing them would be absolutely unpardonable by the voters of the country when they become fully cognizant of the menace to their interests involved therein.

We mention these two bills together because they are but parts of one wide scheme of plunder and oppression devised by the lawless and predatory individuals who control the great trusts and monopolies of finance, transportation, mining, and manufacturing of our country and who in the pending elections are seeking to buy control of the Government in all its branches.

In the matter of certain dangerous proposed amendments to the antitrust laws, which are commonly known as the "Hepburn amendments" and which were drawn by the officers and attorneys of a great law-breaking monopoly known as the "United States Steel Corporation" after secret conferences between the head officials of said steel trust and certain high executive officers of the United States Government. We call attention to the astounding facts disclosed in the following extracts from the statements of ex-Mayor Low and others, taken from the official report of the hearings before the House and Senate Committees on the Judiciary.

We also call your attention to the remarkable statements made in President Roosevelt's recent message on this subject showing an extraordinary harmony between the opinions of the President and those of the malefactors of great wealth.

We also submit for your consideration the statements of certain Wall street bankers, who are well informed of the inner workings of Wall street and Washington finance, and one of whom is prominently identified with the steel-trust conspiracy in violation of the antitrust law of 1890, as well as with certain great railway combinations, and who was a prominent figure in the manipulation of the made-to-order financial panic of October, 1907. His statement shows the perfect agreement existing between the Wall street plutocrats and the President as to the fact that they both want Taft as the next President of the United States.

We further call your attention to the convincing and weighty evidence of ex-Secretary of the Treasury, Hon. Leslie M. Shaw, for five years a member of President Roosevelt's cabinet, who by virtue of his long experience in that official circle is necessarily well acquainted with the inside relations existing between the Executive Departments of the United States Government and the great combinations and criminal trusts who are looting the entire nation by Presidential permission. Mr. Shaw's statement is positive, definite, and convincing as to the unlawful indulgence granted by President Roosevelt to the steel trust officers to violate the plain provisions of the law in strangling their principal competitor, the Tennessee Coal and Iron Company, through the instrumentality of their self-made panic of October, 1907.

One of the most amazing examples of the immunity to commit crime which is enjoyed by the steel trust coterie, is exhibited in the reports of the meeting of the steel trust officials and others controlling a monopoly of 95 per cent of the steel production of the United States, which have been held in New York during the past week for the purpose of combining to control prices and perfect their monopoly in violation of the statutes of the United States. This, too, in face of the fact that Congress is in session at the time and the President is in full possession of the power to put an end to their offenses.

We direct your attention to the fact that instead of being guided by the stern and just interpretation of the law laid down by Judge Landis in one of the greatest decisions in the history of American jurisprudence, viz. that these great monopolies "are worse than the men who rob the mails or counterfeit the coin of the realm"—and sending the officers of the law to arrest the lawbreakers who attended the steel-trust meeting, the same as he would have done to a group of small counterfeiters, President Roosevelt appears to have been acting in harmony with Gary, Morgan, and Carnegie, the very chiefs of the conspiracy.

This is further shown in the New York World's published report of the understanding, agreement, and combination of influence existing between President Roosevelt and Chairman Gary, of the steel trust, which we submit herewith, the joint results of which are to the campaign advantage of the President's political faction and candidate and the strengthening of the grip on the resources and people of America of the unlawful and oppressive monopoly of the steel corporation.

We also call your attention to the numerous published statements as to the understanding that is reported to have been arranged between the Executive Department and certain great railroad combines whereby the latter were to be allowed to violate the law by the wholesale raising of rates and by the consolidation and control of competing lines.

We also call your attention to the published accounts of the remarkable understanding said to have existed between the President of the United States and the president of the New Haven Railroad, whereby the former was to suspend the operation of the law for the benefit of the latter, who, on a former occasion, in the Presidential campaign of 1904, was one of the first of the gentlemen controlling great lines of transportation to announce his support of the President in that campaign and his contribution of a \$10,000 check to that end.

Another circumstance, showing the close, if not questionable, relations existing between the Executive Departments and the steel trust is indicated in the statements regarding the interference of the agents of the steel combine's armor-plate branch in favor of the President's bill for four battle ships recently before the Senate and the House. For years it has been a public scandal that the armor-plate trust, which is a branch of the steel monopoly, has been operating in brazen violation of the law and looting the Public Treasury by their extortionate prices for armor for the Navy Department.

The Aldrich-Vreeland bill should never be enacted by Congress, because it virtually authorizes and creates a monopolistic trust of banks, which would inevitably be dominated by the great steel trust and Standard Oil banks combination of New York. And still more dangerous is the fact that the Aldrich-Vreeland bill, if enacted into law, would be substantially an abdication by the Government of its high constitutional function of issuing money and the surrender of that essential attribute of national sovereignty to a group of trust

bankers in the great cities who to-day should be standing trial before a jury for their numerous offenses against the laws of the United States.

No currency bill should be enacted by Congress which does not contain the provisions embodied in the amendments offered by Senator LA FOLLETTE, of Wisconsin, and Senator GORE, of Oklahoma, when the bill was last before the Senate.

The utterly indefensible action of a dominant faction of the House of Representatives yesterday in jamming through the House with only thirty minutes of debate of a cunningly and secretly concocted, unprinted bill of such enormous importance as the Aldrich-Vreeland bill should not be tolerated and fully warrants the Senate in sending it back for fuller and fairer consideration. Such a bill could not bear the light of public discussion and honest amendment; hence the secrecy and haste shown in its preparation and passage.

The gravest injury both to the political and business welfare of the people of the United States will surely follow should the steel trust and its affiliated banks and railroads be allowed to name the next President and control the next Congress of the United States. Such a lamentable result may well follow. The passage of the Aldrich-Vreeland bill and the failure of the legislative branch of the Government to take energetic hold of this matter promptly and fully exposes the whole facts in relation to the matters which we have recited herein.

Therefore we most earnestly appeal to your honorable body to defeat the Aldrich-Vreeland bill and to adopt the resolution asked for by the committee of the antitrust league in its verbal request and written letter recently submitted to the Judiciary Committee of the Senate. Plain language and prompt action are absolutely necessary in times of public danger. We have used the one, and, "trusting in the great historic precedents which have proven the legislative branch of the Government to be the defender of popular rights against Executive abuses," we appeal to the Senators and Representatives to protect the people by the other.

Respectfully submitted.

H. B. MARTIN,

Secretary National Committee American Antitrust League.

Mr. OWEN. Mr. President, I have thought it proper to give an opportunity to my colleague to have this memorial inserted in the Record. I had not seen the memorial before I read it to the Senate, and I disclaim any further responsibility in the premises.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. The Senator from Maine.

Mr. LA FOLLETTE. I yield to the Senator from Maine.

Mr. HALE. I do not ask the Senator to yield. The Senator yielded the floor and I secured the recognition of the Vice-President. I only wish to say—

Mr. LA FOLLETTE. I can not hear the Senator from Maine.

Mr. HALE. I will make the Senator hear me. I only wish to say, Mr. President, that while the point was not made when the Senator from Wisconsin yielded to the Senator from Oklahoma, hereafter I shall ask that the rule of the Senate be enforced. There is no practice recognized in the Senate of a Senator farming out his time or yielding to another Senator and still holding the floor. Any Senator speaking can yield to another Senator, but he thereby loses the floor. But Senators will bear me out in saying that we have never recognized here the practice of yielding temporarily, so that a Senator may come in and introduce new matter, extraneous matter, occupy the floor for a time, and then the Senator speaking resume it. Hereafter, first, because the Senator from Wisconsin in speaking to the subject which he has so much at heart can keep to it better than anybody else, and presumably will keep to it, if the Senator seeks to yield the floor, I shall ask that the rule of the Senate be enforced, and that when he yields the floor he can never resume it again except as recognized anew by the President. He can not hold the floor and yield it from time to time to other Senators and then resume it. I do not need to argue this question, because Senators will remember that that has been the invariable rule of the Senate. I shall insist upon it hereafter.

Mr. LA FOLLETTE. Mr. President, I am awfully glad that the Senator from Maine has delivered himself of this. I know he will feel a whole lot better as we progress with this discussion. Now, you know it would not make a particle of difference to me whether I hold the floor continuously for the next two or three weeks or whether I hold it intermittently. I am going to be here for a good while; I will say that to the Senator from Maine.

Mr. HALE. I had in mind the statement—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maine?

Mr. LA FOLLETTE. Surely.

Mr. HALE. I had in mind the statement of the Senator this morning that he was under deep physical infirmity.

Mr. LA FOLLETTE. I am.

Mr. HALE. So we perceive.

Mr. LA FOLLETTE. But I am also under a deep conviction with respect to this legislation, and I will go to the limit of every bit of strength there is in my body to defeat it, unless certain things are taken out of this bill; and as soon as I can reach it, Mr. President, in an orderly way—and I have to do it by a sort of cross-examination of the Senator from Rhode Island

[Mr. ALDRICH], for he will not answer frankly to me and I have got to go over the Record to get his position upon this bill—

Mr. FORAKER. Mr. President, I call the Senator to order under Rule XIX of the Senate.

Mr. LA FOLLETTE. That is all right; certainly, Mr. President.

Mr. FORAKER. And I ask that he be required to take his seat.

Mr. LA FOLLETTE. Certainly; that helps to fill in the time. I will resume my seat and resume the floor again when it is proper.

Mr. FORAKER. When the Senate permits.

Mr. LA FOLLETTE. I am obliged to the Senator from Ohio.

The VICE-PRESIDENT. Subdivision 4 of Rule XIX provides:

4. If any Senator, in speaking or otherwise, transgress the rules of the Senate, the presiding officer shall, or any Senator may, call him to order; and when a Senator shall be called to order he shall sit down, and not proceed without leave of the Senate, which, if granted, shall be upon motion that he be allowed to proceed in order, which motion shall be determined without debate.

Mr. GALLINGER. Let paragraph 2 of that rule be read.

The VICE-PRESIDENT. Paragraph 2 of the same rule provides:

2. No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

Mr. GORE. I move that the Senator from Wisconsin be allowed to proceed in order.

Mr. BEVERIDGE. There has not yet been a ruling of the Chair.

The VICE-PRESIDENT. The Senator from Oklahoma moves that the Senator from Wisconsin be allowed to proceed in order.

Mr. BEVERIDGE. There has been no ruling as yet, and the Senator's motion is premature.

The VICE-PRESIDENT. That is for the determination of the Senate.

Mr. FORAKER. The motion must be determined without debate.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Oklahoma. [Putting the question.] The Chair is in doubt, and will again put the question. [Putting the question.] By the sound the noes seem to have it.

Mr. GORE. I call for the yeas and nays.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays?

Mr. BACON. I desire to make a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Georgia rises to a parliamentary inquiry.

Mr. HALE. The Senator will let me make a suggestion? I hope the Senator from Wisconsin will be allowed to go on.

Mr. ALDRICH. In order.

Mr. HALE. The presumption is—

Mr. FORAKER. The motion is not debatable, Mr. President.

The VICE-PRESIDENT. It is not debatable.

Mr. FORAKER. And it is a motion that ought not to be debatable.

The VICE-PRESIDENT. There can be no debate upon the question.

Mr. LA FOLLETTE. That is right. I do not want to go on by indulgence, either.

Mr. BACON. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Georgia will state his parliamentary inquiry.

Mr. BACON. I desire to know the effect of the motion that the Senator be allowed to proceed in order. My inquiry is whether those who are willing for him to proceed, upon the condition that the rules shall not hereafter be violated, can properly vote in the affirmative with that understanding. I want to know—

The VICE-PRESIDENT. The Chair put the motion in the language of the rule.

Mr. BACON. "Proceed in order." I desire to know what the words "in order" mean as relating to this question—whether they relate to his future language, or whether to the past.

Mr. HALE. To the future.

The VICE-PRESIDENT. The language needs no interpretation, in the opinion of the Chair.

Mr. BEVERIDGE. The motion is not debatable.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered.

Mr. HALE. Will the Chair state the question?

The VICE-PRESIDENT. The motion is that the Senator

from Wisconsin be allowed to proceed in order, upon which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. CLAY (when his name was called). I am paired with the senior Senator from Massachusetts [Mr. LODGE].

Mr. DEPEW (when his name was called). I am paired with the senior Senator from Louisiana [Mr. McENERY].

Mr. DILLINGHAM (when his name was called). Owing to my general pair with the senior Senator from South Carolina [Mr. TILLMAN] I withhold my vote.

Mr. FULTON (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. He being absent from the Chamber, I withhold my vote.

Mr. SCOTT (when his name was called). I have a general pair with the senior Senator from Florida [Mr. TALLIAFERRO], and therefore I withhold my vote.

Mr. WARREN (when his name was called). I announce my general pair with the senior Senator from Mississippi [Mr. MONEY].

The roll call was concluded.

Mr. CLAPP. I have a general pair, but I think I can disregard his absence, and will vote. I vote "yea."

Mr. LA FOLLETTE. Mr. President, I decline to vote, because interested—

Mr. GALLINGER. No debate is in order, Mr. President.

Mr. LA FOLLETTE. Because interested in the determination of this question.

The result was announced—yeas 46, nays 1, as follows:

YEAS—46.

Aldrich	Burrows	Gore	Paynter
Allison	Carter	Guggenheim	Piles
Ankeny	Clapp	Hale	Platt
Bacon	Culberson	Hemenway	Smoot
Bailey	Cullom	Heyburn	Stephenson
Bankhead	Curtis	Johnston	Sutherland
Beveridge	Daniel	Kean	Taylor
Borah	Dixon	Long	Teller
Brandegee	du Pont	Nelson	Warner
Briggs	Filnt	Newlands	Wetmore
Brown	Gallinger	Owen	
Burkett	Gary	Overman	

NAYS—1.

Foraker

NOT VOTING—45.

Bourne	Elkins	McCreary	Scott
Bulkeley	Foster	McCumber	Simmons
Burnham	Frazier	McEnery	Smith, Md.
Clark, Wyo.	Frye	McLaurin	Smith, Mich.
Clarke, Ark.	Fulton	Martin	Stewart
Clay	Gamble	Milton	Stone
Crane	Hansbrough	Money	Talliaferro
Davis	Hopkins	Nixon	Tillman
Depeu	Kittredge	Penrose	Warren
Dick	Knox	Perkins	
Dillingham	La Follette	Rayner	
Dolliver	Lodge	Richardson	

So Mr. GORE's motion was agreed to.

The VICE-PRESIDENT. The Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, I have no desire to transgress the rules of this body, of which I am a member, and I do not believe that I have. I believe that upon the questions which I submitted to the Senator from Rhode Island I was warranted in making the inference which I made when I was interrupted and taken from the floor by the Senator from Ohio.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from New Hampshire?

Mr. LA FOLLETTE. I do, sir.

Mr. GALLINGER. Does the Senator recall the fact that at an earlier hour of the day he spoke of such Senators as are free? I recall that he used that language.

Mr. LA FOLLETTE. Perhaps I did.

Mr. GALLINGER. Yes.

Mr. LA FOLLETTE. I do not recall, however, that I was interrupted in my remarks at that time.

Mr. GALLINGER. The Senator was not. He ought to have been.

Mr. LA FOLLETTE. I take it that the complaint made against me by the Senator from Ohio [Mr. FORAKER] goes directly to what I said at the time when I was interrupted and when I had the floor. Now, I want to say this: I shall observe and respect the rules of this body so long as I am a member of it in so far as I understand those rules. I shall exercise my rights as a member of this body, in so far as I understand them, so long as I am a member of the body. What I said—I do not know whether the Senator from Ohio understood it; in the haste of the discussion he may have misunder-

stood me—I do not think warranted the interruption which he chose to make. He was entirely within the rule—I concede that—in taking me from the floor. That can be done, as I understand the rules, when a Senator is in perfect order if, in the opinion of the Senator complaining, he is not in order.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. I do, sir.

Mr. FORAKER. Has the Senator before him the language he employed?

Mr. LA FOLLETTE. I have.

Mr. FORAKER. Will he be kind enough to read it?

Mr. LA FOLLETTE. I will be glad to.

And I have to do it by a sort of cross-examination of the Senator from Rhode Island [Mr. ALDRICH], for he will not answer frankly to me, and I have got to go over the RECORD to get his position upon this bill.

Mr. FORAKER. I understood the Senator directly to charge that the Senator from Rhode Island had not frankly answered the questions he had directed to him, and I thought that was a reflection on a brother Senator which brought the speaker within Rule XIX, which provides that no Senator shall be allowed to reflect upon any other Senator or upon any State, and that when any reflection is indulged in the Presiding Officer or any Senator may call him to order, in which event he is required under the rule to take his seat and is not allowed to resume his address unless the Senate votes that he may proceed in order.

The Senator had, just before he made that remark, served notice on the Senate that he contemplated, as I understood him, addressing the Senate, if that should be necessary, for the period of six weeks. That made me somewhat anxious, without any feeling about the matter, to end the remarks of the Senator, if I had a right to do so. And unless the Senator shall proceed in order I may be tempted to take exception again.

Mr. LA FOLLETTE. But I do not understand that it has been determined that I was not proceeding in order.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. After a moment. I understand that at any time in the remarks of a Senator on this floor when the Senator objecting to those remarks rises and asks that he be required to take his seat and that the Senate pass upon the question whether he shall proceed or not, he is required to take his seat. I do not understand that the fact that he is obliged to surrender the floor at that time is a determination upon the part of the Senate that he has not been proceeding in order.

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. I do.

Mr. FORAKER. It may be true, as the Senator suggests, that the Senate has not decided that his language is out of order. Certainly the Senate has refused to decide that the Senator should not be allowed to proceed.

Mr. HALE. In order.

Mr. FORAKER. The Senate has decided that he may proceed in order, and the Senator has, I think, a right to deduce from that that the Senate has exonerated him.

Mr. LA FOLLETTE. It seems to me—

Mr. FORAKER. I voted in a minority of one, but it is not the first time, and my mind is not changed by the result of the ballot.

Mr. LA FOLLETTE. I did not apprehend that the Senator from Ohio would change his conviction upon any question because he was alone. He has been alone a whole lot of times. [Laughter.] While I believe that he is generally wrong, I can not help having an admiration for him, not only for the brilliant way in which he defends his untenable position, but for the courage which it takes from any man to assume such a position. [Laughter.]

Mr. President, I certainly intended to keep within the rule, because that is the only way I can go along. I am rather disappointed that the Senator from Ohio, by implication, seems not to be altogether entertained by my remarks.

Mr. FORAKER. Oh, Mr. President, I can assure the Senator that I am accepting his remarks as agreeably as anybody on this side or, perhaps, any other place, and by that I do not mean any reflection.

Mr. LA FOLLETTE. Well, Mr. President—

Mr. FORAKER. The Senator will pardon me for saying that he is consuming a good deal of time on a very hot day, when we were hoping we might adjourn and carry out some engagements Senators have made, myself among the number. It is

a little bit disappointing to be kept here. But I can stay, perhaps, with as little discomfort as the Senator can or anyone else.

Mr. LA FOLLETTE. I am awfully sorry that the Senator is suffering any discomfort whatever from my remarks, because I have not really got started yet. [Laughter.] I have canceled all my engagements, and, as suggested by a Senator, burned my bridges, and I want to discuss this question and discuss it fairly. I can not hope, of course, always to entertain and interest the Senator from Ohio and other Senators, but I will do the best I can.

I want to say to the Senator from Ohio and to my other colleagues in this body and to the whole country, that I am willing to submit my case upon the RECORD as it is transcribed to-day. I want to be within the rules of this body. I have not as intimate an acquaintance with them as have members of longer service here. I do not apprehend that they are designed to muzzle debate, that they are intended to prevent so much of plainness of speech as will at least make the truth apparent here. If they are, then it is very unfortunate for our country. This is a representative Government. Can not this question be argued here pretty plainly and pretty fully? Can we not call a spade a spade, not, I agree, going to the limit for one moment of doing violence to the rules of this body or any other parliamentary body, but, on the other hand, not straining and refining and splitting hairs to put a man before the country as having violated apparently the decencies of debate? I shall not do that.

Now I come back, so far as my best recollections can conduct me, to the point where I was when interrupted, and I want, in view of the fact that I am fortunate in having a pretty good attendance of the Senate now—much better than I had when I delivered my remarks upon the Aldrich bill in March—to bring the attention of Senators to the views of the Senator from Rhode Island [Mr. ALDRICH], as expressed some considerable period ago and in another session, upon the merits of State, county, and municipal bonds, when a bill was before the Senate with respect to deposits of Treasury funds in national banks. And, approaching that, it is necessary for me to read one or two paragraphs in my address which led in a logical and reasonable way up to that question. So I begin at the point where I was interrupted. The question which I was then bringing to the attention of the Senate was this:

What are these securities? State bonds, municipal bonds, and—as reported by the committee and advocated by the Senator from Rhode Island [Mr. ALDRICH]—railroad bonds.

There is some confusion in the Chamber—so much so that I am not able to make the Presiding Officer hear. Mr. President, I say again, there is confusion in the Chamber, and I wish it could be brought to order, to the end that what I am reading may be heard by Senators who are so anxious, I am sure, to get these views.

The VICE-PRESIDENT. The Senate will be in order.

Mr. LA FOLLETTE (reading)—

Mr. President, by whom are such bonds held?

That is, State and municipal bonds.

Are they stable securities?

That is another question.

Mr. President, by whom are such bonds held? Are they stable securities? Or are they fluctuating in character? If it should appear that such bonds are for any reason chiefly held by a limited number of banks, not available to the great majority of national banks, it would appear that the effect of this legislation, whatever its purpose, would be to confer a benefit upon those banks holding or controlling such securities which form their adoption as the basis for currency issue.

I want to say to my colleagues on this floor that I am not going to squander one single scruple of my strength. While speaking I am going to have the attention of the Senate and the attendance of a quorum.

From the present attitude of the Senator from Rhode Island, one would be bound to believe that he considers municipal and railroad bonds as safe and stable investments for banks and a safe and stable basis for currency issue.

What was the opinion of the Senator upon this question one year ago when the Aldrich bill of that session to increase the free deposits of Government money for the group banks was pending in the Senate? At that time, as before stated, the Senator from Minnesota offered an amendment to require national banks to pay taxes upon Government deposits. His amendment was broader than that, and I do not believe that the full breadth of that amendment and its full scope and purpose have yet been brought to the attention of the Senate in this discussion. The amendment provided further that the Treasurer should accept as security for such deposits municipal and railroad bonds, as well as United States bonds, and named the New York and Massachusetts savings bank standard as a criterion. It was thought by the Senator from Minnesota that this amendment would enable banks which could not afford to purchase Government bonds at prevailing high premiums in order to secure Government deposits, to buy municipal bonds and railroad bonds, and, authorizing their acceptance by the Secretary of the Treasury, would thereby permit such banks to share in the benefit of the Government deposits.

In opposition to the amendment of the Senator from Minnesota [Mr. NELSON] the Senator from Rhode Island [Mr. ALDRICH] advanced a skillfully contrived argument embodying the following propositions:

1. That banks could not afford to buy Government bonds at prevailing market prices to secure United States deposits and pay 2 per cent interest on deposits.

2. That under the amendment all United States deposits would go to a few large banks in New York, Chicago, and other large financial centers, which alone carry securities of the kind named in the amendment.

3. That these securities, namely, municipal and railroad bonds, were so unstable in character that no prudent banker could afford to invest in them.

As there was a little confusion in the Senate Chamber when I read that, I presume I will have to reread it, Mr. President.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. It seems to me, Mr. President, that there is some conversation in the galleries. I should like to have it suppressed. I do not wish to use my voice in opposition to the voice of any Senator or spectator in this auditorium.

The VICE-PRESIDENT. The occupants of the galleries will kindly refrain from audible conversation.

Mr. LA FOLLETTE (reading):

3. That these securities, namely, municipal and railroad bonds, were so unstable in character that no prudent banker could afford to invest in them.

I hope that is heard and understood by all the Senators here. It seemed to be the opinion of the Senator from Rhode Island a little more than a year ago that securities which are now admissible in this bill as a basis for a circulating medium were not sufficiently reliable in character to be accepted as security for Government deposits. Now, either the Senator from Rhode Island was wrong at that time, or else this bill that proposes to make that class of securities the basis and foundation for a currency circulation is a pretty bad proposition.

Mr. President, I am advised that by a count of this body there is no quorum present.

The VICE-PRESIDENT. The Chair has counted the Senate. There is no quorum present.

Mr. LA FOLLETTE. I will ask to have a roll call.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll and the following Senators answered to their names:

Aldrich	Culberson	Gore	Platt
Allison	Cullom	Guggenheim	Scott
Ankeny	Daniel	Hale	Simmons
Bacon	Depew	Hemenway	Smoot
Bailey	Dick	Hopkins	Stephenson
Beveridge	Dillingham	Johnston	Sutherland
Brandeggee	Dixon	Kean	Taylor
Briggs	du Pont	La Follette	Teller
Brown	Flint	Long	Warner
Burkett	Foraker	McLaurin	Warren
Burrows	Frazier	Milton	Wetmore
Carter	Fulton	Nelson	
Clark of Wyo.	Gallinger	Paynter	
Clay	Gary	Piles	

The VICE-PRESIDENT. Fifty-three Senators have answered to their names. A quorum of the Senate is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. I am delighted to know that a quorum is present.

The Senator from Rhode Island seemed quite indifferent to the fact brought out in that debate that the Secretary of the Treasury was at that time already accepting securities of the class specified in the amendment of the Senator from Minnesota.

While generously enlightening the Senate from the fullness of his knowledge and experience in the realm of finance as to just what class of banks held the specified securities and where they were located, the chairman of the Finance Committee, in reply to the all-important question of the Senator from Minnesota [Mr. NELSON] as to the character of the bonds then being accepted by the Treasury, contented himself with a weak "I am not advised"—just as he was "not advised" the other day of Mr. Morgan's attitude on the pending bill. It would seem that on a matter which had been officially announced to the banking world by the Secretary of the Treasury; which had been avowed in his official report; which involved most important questions of fiscal policy as well as a questionable construction of law; which was an important subject of legislation before the Senate and before the Finance Committee, and which the Senator himself dignified by an elaborate address—it would seem that as to a matter of this kind the chairman of the important Committee on Finance would have had some curiosity to know the real facts of the case.

It would seem that as the chairman of the Finance Committee he might have asked the Secretary of the Treasury about it. Coming from him it would not have been indelicate or embarrassing. He did not mind asking the Department to construct for him an elaborate computation to show that banks could not afford to pay interest on deposits.

But the Senator wanted to defeat the interest amendment, and to that end argued against the admission of other than United States bonds, because he could not show that the interest would be so burdensome if these bonds were admitted to secure the deposits. He did not profess to know that precisely this character of bonds were already being accepted. Evidently he did not much care. He could argue against their admission, notwithstanding that they were already being admitted, as then stated and as subsequent inquiry confirms. The Senator did know that the banks holding this class of bonds were the big banks of New York and the great financial centers. These banks did not want any law authorizing the deposit of these bonds as security for Government money coupled with an interest charge. So far as the

deposit of bonds was concerned, they didn't need any such law. They had the Secretary's "construction" of existing law, which enabled them to do that already.

[A pause.]

Mr. GALLINGER. Is there a question before the Senate, Mr. President?

Mr. LA FOLLETTE. I am under the painful necessity of calling the attention of the Presiding Officer to the fact that there is no quorum present in the Senate.

Mr. KEAN. Where does the Senator get his information?

The VICE-PRESIDENT. There is no quorum present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Daniel	Hale	Platt
Allison	Depew	Hemenway	Scott
Ankeny	Dick	Hopkins	Simmons
Bailey	Dillingham	Houston	Smoot
Brandegee	Dixon	Kean	Stephenson
Briggs	du Pont	La Follette	Sutherland
Brown	Flint	Long	Taylor
Burkett	Foraker	McLaurin	Teller
Burrows	Frazier	Milton	Warner
Carter	Fulton	Nelson	Warren
Clark, Wyo.	Gallinger	Owen	Wetmore
Clay	Gary	Overman	
Culberson	Guggenheim	Piles	

The VICE-PRESIDENT. Fifty Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE (reading):

In an argument directed mainly against the taxation of deposits, the Senator from Rhode Island informed the Senate that one purpose of the amendment offered by the Senator from Minnesota was to—

And now I quote from the remarks of the Senator from Rhode Island—

spread this money about. * * * His purpose being that there shall be what he would call, I suppose, an equitable distribution of the money deposited throughout the United States.

The Senator from Rhode Island [Mr. ALDRICH] contended that the amendment of the Senator from Minnesota would not accomplish this purpose, but the reverse. "Banks could not afford" to put up Government bonds and pay interest on deposits. The only banks having the other bonds mentioned were the "large banks of the great financial centers."

Continuing, the Senator from Rhode Island proceeded to show that small banks could not afford to hold Government bonds as an investment at all, or to buy them at a premium, as a pledge for Treasury deposits under the proposed law, and then pay 2 per cent tax upon such deposits.

Mr. President, there is some conversation on the floor that requires me to use an excessive amount of voice.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. I neglected perhaps to say that the amendment offered by the Senator from Minnesota proposed to require the national banks to pay 2 per cent interest on Government deposits, and it was that which the Senator from Rhode Island was insistently opposing.

Mr. CULBERSON. This bill requires only 1 per cent.

Mr. LA FOLLETTE. This bill requires only 1 per cent. It will be remembered that when this bill was before the Senate the Senator from Georgia [Mr. CLAY] moved that the tax be made 2 per cent, and a majority of the Senators voted that out. The Senator from Minnesota, at the time to which I am directing the attention of the Senate, offered the proposition in a form that required the national banks to pay 2 per cent interest upon these deposits. That was the question the Senator from Rhode Island was seeking to meet, and in order to defeat that amendment he called attention to the bad character of the State and municipal bonds.

Continuing, the Senator from Rhode Island proceeded to show that small banks could not afford to hold Government bonds as an investment at all, or to buy them at a premium, as a pledge for Treasury deposits under the proposed law, and then pay a 2 per cent tax upon such deposits. He offered a Treasury computation to prove that it would result in loss.

The Senator from Minnesota was quick to see that the argument and the computation to show that the 2 per cent tax would result in loss applied only in fact to Government bonds and, interrupting the Senator from Rhode Island, said:

Mr. NELSON. But that only relates—

Referring to an argument and the figures which had been presented by the Senator from Rhode Island—

Mr. NELSON. But that only relates, if the Senator will allow me, to the matter of Government bonds, and not to these other bonds.

That is to say, municipal and railway bonds.

To which the Senator from Rhode Island replied:

Mr. ALDRICH. I understand. But do you suppose that a bank in your State or in any State is going to buy other bonds and take the chances of fluctuation?

I am continuing the quotation from the distinguished Senator from Rhode Island.

The Government bonds are sold substantially along a certain line. They vary very little in price. The risk of loss growing out of the purchase is infinitesimal as compared with other security.

PROPOSES A FLUCTUATING BASIS.

At the same time he argued that other bonds—State and municipal—were subject to such tremendous fluctuation in value that no prudent banker could afford for a moment to invest in that kind of security. But listen to the Senator from Rhode Island a little further:

Continuing his argument disparaging bonds other than Government bonds as suitable holdings for securing Government deposits, he said: "Take the bonds of the State of Massachusetts to which I have alluded. A few years ago they were selling far above par. Take the bonds of the city of New York; take the large amounts of bonds which have been issued by States and municipalities throughout the Union."

Why, he says:

"In these days they are fluctuating widely." Do you get that? "They are fluctuating widely." These are the bonds that are to be pledged in the Treasury of this Government for a circulating medium, which ought to be supported by constant and unvarying securities, not by those which vary and fluctuate.

In these days they are fluctuating widely.

Listen now to this. It may be I am overinsistent upon this, but you know, it seems to me that it is awfully important that the security offered as a basis for circulation should be pretty good, that it should not be widely fluctuating—up to-day and down to-morrow. I can remember when my colleagues in the Republican party, and I was then a young man, used to rebuke the Democrats because they were not absolutely sound on this proposition of having all of the money of the country redeemable in a standard that was never variable or fluctuating. But here we have this extraordinary proposition submitted to this Senate, and submitted to the country, and we have it well along toward adoption—a proposition to support a circulation by a kind of security, which, according to the highest authority that is behind this bill, is fluctuating widely—security that no prudent banker could afford to buy; or, to complete the statement exactly as it was uttered:

Take the large amount of bonds which have been issued by the States and municipalities throughout the Union. In these days they are fluctuating widely, and no prudent banker could afford to buy bonds other than the bonds of the United States.

I appeal to my friends upon the other side of the Chamber. If these bonds, now proposed to be made the basis of this currency, were eighteen months ago of that dubious character, if they were widely fluctuating, if they were of such a character that no banker could afford to invest in them under any circumstances, are they bonds that we can now afford to incorporate in this bill as a basis for a currency—emergency currency though it be?

But, Mr. President, that was a year ago. Then the Senator from Rhode Island was laboring to defeat, and he did defeat, the amendment of the Senator from Minnesota to assess a 2 per cent tax on Government deposits with national banks. Such a tax would have tremendously reduced the profits of the great system banks which were to be so largely benefited. Quite a different proposition is presented to-day. The bonds which were then so "widely fluctuating" that no "prudent banker" could afford to invest in them are now recommended by the Senator from Rhode Island as "judicious investments."

The Senator from Rhode Island, in the course of his remarks in the Senate on February 10, 1908, said—I quote from his speech. [A pause.] I do not think, Mr. President, that more than one can occupy the floor at a time, with all courtesy to my fellow-Senators here.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maine?

Mr. LA FOLLETTE. Oh, surely.

Mr. HALE. Mr. President, this is the first time I have known a Senator speaking to complain and himself call for order if he could not maintain it by securing the attention of the Senate. The Senator from Wisconsin will get the same kind of attention that is given to other Senators. When it is necessary to engage in conversation about public business, Senators will do it. The Senator will have no additional privilege, and he is not earning it by his course.

I have never before known a Senator himself—though I have known his friends to do it—appeal for order or complain that he could not get the attention of the Senate. The Senator will get the attention that he deserves.

Mr. LA FOLLETTE. I am very much obliged to the Senator from Maine; but I will get some attention that, in the opinion of the Senator from Maine, I do not deserve. I will compel his attention. He will not occupy the floor when I do. I will say that to him.

Mr. President, it may be that I have not any friend here to ask for order for me, but I am going to have it, whether I have such a friend or not; I am going to ask for it for myself and with perfect good feeling. No one else is going to occupy the

floor at the same time that I do. If the Senator from Maine is anxious to confer with the Senator from New Jersey about the public business, he can confer with him without taking the floor and without distracting attention, or he can retire to do it.

Now, Mr. President, I guess I will have to say a word more on this subject. The Senator from Maine says I am getting all the attention I deserve. Well, that may be so; but I am going to have all I am entitled to, whether I deserve it or not. [Laughter.] Under the rules I am entitled to order here, and I am entitled to a quorum, and that I am going to have until I have concluded what I have to say upon this bill. I am going to get it, if I can, with perfect courtesy and with the utmost good feeling to my colleagues upon this floor; but I am going to have it. I am not going to wait for some other Senator to ask it for me, because I might wait in vain. The Senator from Rhode Island [Mr. ALDRICH] nods. In his opinion, I would have to wait. That may be so, but that does not affect me or embarrass me in the least. My course is marked out and I am going to keep in it while I am a member of this body. I shall try to observe the rules. I may slip a bit now and then; I am human, and under an impulse I may overstep them now and then; but I am going to try to observe the rules, not because I love them, but because, as a member of this body, it is necessary for me to do so. There are lots of things that I would like to say that under the rules I can not say. [Laughter.]

I am very sorry, Mr. President, to call the attention of the Chair to the fact that no quorum is present in the Senate at this time.

Mr. GALLINGER. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from New Hampshire will state his point of order.

Mr. GALLINGER. Under Rule XXXIII it is provided that clerks to committees and clerks to Senators when in the actual discharge of their official duties may be in the Senate Chamber. For two hours a clerk has been here who has not been in the discharge of his official duties, but has been counting the Senators in the Chamber and reporting to the Senator from Wisconsin. I ask that that clerk be excluded from the performance of that kind of duty.

Mr. LA FOLLETTE. Mr. President, I am frank to say to the Senator from New Hampshire that the clerk of my committee has been instructed to report to me the absence of a quorum here. We will not have any misunderstanding about that. If it is a violation of the rule that my clerk should be here and do that for me, then, Mr. President, I do not want him here. If it is not in violation of the rule, I do want him. I want a quorum and I want attention, and that is all I ask. I do not propose to put my single-handed strength against the membership of this body when they may go out and take their rest and come back here and wear me out. There shall be a quorum here if I can ascertain what a quorum is. Now, if I am violating the rule in having my clerk here, I do not want him here for a minute.

Mr. GALLINGER. I simply desire that the clerk shall discharge the duties that are permitted him to discharge here under the rules of the Senate.

Mr. LA FOLLETTE. What are they?

Mr. GALLINGER. I complain that he is not in the discharge of his duties when he is counting Senators and interfering with the business of the Senate.

Mr. LA FOLLETTE. No; he is not interfering, I submit, with the business of the Senate. He is simply aiding me, under my direction, in conducting the business of the Senate according to the rule. I want to know whether there is a quorum present?

The VICE-PRESIDENT. The Chair is of the opinion that, under the strict application of the rule relating to clerks, the point raised by the Senator from New Hampshire is well taken. The absence of a quorum is suggested. The Secretary will call the roll.

Mr. KEAN. Since that was done I have had—

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. KEAN. No response has been made.

The VICE-PRESIDENT. No debate is in order.

Mr. KEAN. I do not care to debate, but I rise to a question of order.

The VICE-PRESIDENT. What is the question of order?

Mr. KEAN. Since the statement made by the Senator from Wisconsin one of the officers of the Senate has counted the Senate, and there is a quorum present.

Mr. LA FOLLETTE. I am not going into a contest or to offer evidence here. Under the rule, when I raise the question of no quorum there is but one thing to be done.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Guggenheim	Piles
Allison	Cullom	Hale	Platt
Ankeny	Curtis	Hemenway	Scott
Bacon	Depew	Heyburn	Simmons
Beveridge	Dillingham	Hopkins	Smoot
Brandegee	Dixon	Jahonton	Stephenson
Briggs	du Pont	Kean	Sutherland
Brown	Flint	La Follette	Taylor
Burkett	Foraker	Long	Teller
Burrows	Fulton	McLaurin	Warner
Carter	Gallinger	Milton	Warren
Clark, Wyo.	Gary	Nelson	Wetmore
Clay	Gore	Owen	

The VICE-PRESIDENT. Fifty-one Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. To resume the matter to which I was calling the attention of the Senate when interrupted by the roll call, Mr. President, I wish to present the views of the Senator from Rhode Island upon this same class of securities as expressed by him in his argument upon the Aldrich bill at this session in contrast with the views which he expressed when the amendment of the Senator from Minnesota was pending in the preceding session of the Senate. The Senator from Rhode Island, in the course of his remarks to the Senate on February 10, 1908, in support of the Aldrich bill, said:

It is evident that the banks of the country might wisely and without difficulty or loss invest \$500,000,000 in first-class State, municipal, or railroad bonds. This investment would be an exercise of that care in management which should characterize institutions which have and expect to retain the confidence of the American people.

The bonds which the Senator from Minnesota was seeking to make a legal and statutory basis for acceptance by the Secretary of the Treasury to secure Government deposits were State and municipal bonds. They were State and municipal bonds, according to the amendment of the standard fixed by the statutes of Massachusetts and New York, as lawful investments for savings banks. Therefore it is to be presumed that they were State and municipal bonds of a superior character. Surely, Mr. President, the statutes of New York and of Massachusetts regulating the subject as to savings-bank investments would not permit securities to be accepted of an inferior character. However, in the view of the Senator from Rhode Island at the session of 1907, these securities were of very doubtful value, wildly fluctuating in price, away up to-day and away down to-morrow. But when an emergency-currency bill was reported out by the Senator at this session, designating this very class of securities as a basis for the Treasury notes, in some way or other the securities seemed to have vastly improved and most wonderfully changed in character.

At another point in the course of his speech of February 10, 1908, speaking of the municipal securities which are described in the bill, the Senator from Rhode Island said:

These securities would form a part of the bank's best assets and would constitute from every banking standpoint a judicious investment.

Now, I am wholly at a loss to construe, harmonize, and to make consistent these two statements—the one which he made in disparagement of these securities at the close of the session of 1907, when the amendment of the Senator from Minnesota to charge interest on Government deposits was pending, and the other in the highest praise of this same class of securities, made when his currency bill was pending before the Senate.

I will ask, if you please, Mr. President, for a little better order.

The VICE-PRESIDENT. The Senate will be in order.

Mr. LA FOLLETTE. There is some confusion here in the Chamber, and I can not proceed without overtaxing myself.

The VICE-PRESIDENT. The Senator will suspend until there is order in the Chamber.

MAKE MARKET FOR RAILROAD SECURITIES.

Mr. LA FOLLETTE. Again, in the course of his speech on the 10th of February, 1908, the Senator spoke in the following strong terms in behalf of municipal and railroad bonds:

The Congress, in my judgment—

And you may see foreshadowed here what is to come if you let these bonds be made the basis of circulation. Listen now to this statement:

The Congress, in my judgment, might properly, in the wise exercise of its supervisory control over the investments of national banks, require these institutions to invest a portion of their assets in this class of securities, and this without reference to their use as security for possible note issues or United States deposits. This requirement would be in the interest alike of the public and of stockholders.

Have we reached a point in this country when we are to be called upon to enact a compulsory statute that banks shall pur-

chase and make competitive markets for these securities which are held by a few men of wealth? Why, just consider for a moment, Mr. President, the real significance of this proposition. The chairman of the Committee on Finance of the Senate, the leader upon the Republican side of the Senate, the chairman of the conference committee in charge of this measure, takes the position that national banks should be required to invest a certain part of their funds in railroad bonds. It may be the harbinger and the forerunner, the announcement and proclamation of legislation we are soon to have—the next Aldrich bill—if you begin now by legislating these bonds into our financial system. The Senator from Rhode Island announces here the bold proposition that it would be in the interest of good banking to compel by law the national banks to carry a certain part of their funds in railroad bonds. I can conceive of no better way to boom the market for railroad bonds, no matter what relation they bear to the true value of the property upon which they are issued, than to put behind them the mandate of the law compelling national banks, organized under the laws of Congress, to go into the market and bid for securities of that class.

Is there anything that could be conceived by the ingenuity of man that would more quickly enhance the price of railroad bonds held by a limited number of financial banks and by a few capitalists, or better promote certain great related interests? Is it conceivable, I say, that any proposition could be made that would tend more to augment the wealth in the hands of the few in this country?

Mr. President, it is very disagreeable to me to be obliged to call the attention of the presiding officer to the fact that there is no quorum present.

Mr. KEAN. I ask to have the rule read as to the persons entitled to the privileges of the floor of the Senate.

The VICE-PRESIDENT. The absence of a quorum has been suggested. The Secretary will call the roll.

Mr. LA FOLLETTE. I ask for a roll call under the rule.

Mr. KEAN. I ask that the rule of the Senate be read with regard to admission to the floor.

The VICE-PRESIDENT. Debate is not in order. The only thing in order under the rule is the order of the Chair, based upon the rule, that the Secretary call the roll.

The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Gary	Overman
Allison	Clay	Gore	Piles
Ankeny	Culberson	Guggenheim	Platt
Bacon	Cullom	Hemenway	Scott
Bailey	Curtis	Hoyburn	Simmons
Beveridge	Depew	Hopkins	Smoot
Brandegee	Dillingham	Johnston	Stephenson
Briggs	du Pont	Kean	Sutherland
Brown	Flint	La Follette	Taylor
Burkett	Foraker	McLaurin	Teller
Burrows	Frazier	Milton	Warner
Carter	Fulton	Nelson	Warren
Clapp	Gallinger	Owen	Wetmore

The VICE-PRESIDENT. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. LA FOLLETTE. When I paused to digress for a moment I was discussing the proposition of the Senator from Rhode Island in the remarks that he made on his bill, that it would be entirely justifiable for the Congress to pass a law compelling the national banks of this country to hold railroad bonds as a certain part of their investment. Of course that would make a tremendous market for railroad bonds, and whether it was so intended or not, the inevitable consequence of a thing of that kind would be to vastly enhance the value of those bonds and to multiply the wealth of the holders of those bonds.

It seems to me that that calls for a moment's reflection, and, as I spoke of it, I remembered one day in January, 1891, when I was a young Member of the House of Representatives I learned that a certain Senator was to make a speech in the Senate upon a subject which was of wide general interest. That man, Mr. President, was recognized the country over as one of the foremost members of this body, an accomplished orator, one of the most brilliant writers of the country, a very constant contributor to magazines and periodicals of high character, and whatever he touched with his pen, whatever subject he discussed here or elsewhere, he illuminated with the brilliancy of his mind and the power of his eloquence.

TENDENCY TO MASS WEALTH IN HANDS OF FEW.

I came here to listen to his speech, and I remember one thing in particular which impressed me and which lodged in my mind and has stayed with me since. I remember that he called attention to a statistical report which had recently been issued and was going the rounds through the magazines and

publications of the country. There had been gathered together a statement of all the great fortunes of this country. That was seventeen years ago. I am only stating from recollection, but as I remember the statements of that Senator he directed the attention of the Senate and the country to the fact that up to that time—mark you, January, 1891—the fortunes accumulated by men in this country—and he did not deal with small fortunes, as they were then considered, but started with those of \$500,000 and more, and listed the great fortunes of the country from that up to the man of the largest wealth and fortune in the United States—amounted in the aggregate to something like \$36,000,000,000 in round numbers, and the men who were the possessors of that vast amount of wealth were limited, I think, to some 31,000. Thirty-one thousand of the citizenship of this country had been able to gather what up to that time in the aggregate was a little more than one-half of the total wealth of all the people in the United States.

I remember the deductions which he drew from those facts, and I remember that other Senators upon this floor interrupted—I am speaking now of an address delivered here by Senator Ingalls, of Kansas—in the way of approval of the argument which he was making and the warning which he deduced from his facts. Senator Hoar, of Massachusetts, called attention to the fact, as I now recall it, that a single individual in this country had been able to accumulate more than the total wealth of all the country at the time of the formation of the Union. I know there was not a man on this floor at that time who was not impressed with the seriousness of that condition in this country.

DANGEROUS TO GOVERNMENT.

Sixteen years have gone by. That Senator's voice is forever silenced. What are the conditions to-day with respect to the accumulation of wealth in this country? Have we become calloused and hardened to this thing so that it can make no appeal now as it made sixteen or seventeen years ago in this Chamber? I can recall the serious expression upon the faces of the men, the statesmen of that day. A wonderful change has taken place since that time. I have seen it stated—I believe it can not be contradicted successfully; I hope that the next census will give us the exact facts—that the accumulations of the men who have \$500,000 and more to-day, instead of aggregating a fraction more than one-half of the total wealth of the country, is over 90 per cent of all the wealth in the United States.

What does this tendency mean to our kind of Government? Where is it to be arrested? Is it to continue until a limited and still more limited number of men dominate in every line of business and industrial life of the people of this country? That is the tendency. That is what is happening, and on top of that we have the suggestion of the chairman of the Committee on Finance and majority leader in this body that it would be appropriate legislation and in the interest of the country if national banks were compelled by law to invest in a certain class of securities that are held largely by a very limited number of financial institutions and by a very limited number of men.

I tell you, Senators, that that Government which rests for its perpetuity upon all the people is more secure where you have the best possible distribution of the wealth of the country, not where you have it gathered into the hands of a few men and a few interests, and my opposition to this legislation is based upon the fact that its whole tendency, its whole effect, if enacted, will be to increase the power of the few men into whose hands has been rapidly gathered under the legislation that exists to-day the wealth of the country.

Mr. President, I said in opening that I believe this to be very bad legislation and that it ought not to pass.

It is before the Senate as a conference report, composed in part of portions of the Aldrich bill, which the Senate passed, and in part of portions of the Vreeland bill, which the Senate subsequently rejected without debate, and in part of new matter which neither the Senate nor the House has ever had opportunity to consider or pass upon in any form. The new matter modifies both the portion of the Aldrich bill and the portion of the Vreeland bill retained in this report. Hence, we have presented to us a curious mixture, a sort of legislative hybrid, in the form of this conference report. Under the rules we are not permitted to offer amendments to a conference report. We can have no vote upon any one of the objectionable features contained in it. We can not move to strike out any provision. We can not offer any modification to safeguard any separate section or subdivision. We are tied hand and foot. We have no legislative freedom. We can exercise no discriminating judgment. We must accept the whole of the monstrous compound. We can not reject any part of it, however pernicious and wrongful it may be.

It lets in a flood of light on this while proceeding to note the radical changes which this conference report makes in the Aldrich bill which the Senate passed in March. Every change is for the worse, not the better. Every change will make the legislation more acceptable to Standard Oil-Morgan banks, the great system in control of the country. Every such change aggravating the bad character of this proposed legislation has got to go through as a part of it, if the conference report goes through at all. Observe them carefully!

PROTECTION AGAINST PROMOTION SCHEMES ELIMINATED.

First. When the Aldrich bill was before the Senate it was regarded by its friends as unwise to resist an amendment to prohibit the investment of bank funds in the promotion schemes of the bank's directors, and when I offered such an amendment it was accepted as a matter of course, without a vote upon it. It is left out of this conference report, and no motion is in order to restore it. Such an amendment would have prevented the looting of the Walsh bank and the wrongful investment of bank funds in the stocks and bonds of the many outside corporations promoted by Morse. A very large per cent of the most disastrous bank failures result from the officers and directors investing money belonging to their banks in the watered stocks and bonds of other corporations which these same directors have organized and control. My amendment when offered to the Aldrich bill was so manifestly right that the Senator from Rhode Island felt obliged to accept it without debate. It was a hard blow to the speculating banks of the Standard Oil and Morgan type. They promptly organized a campaign against it by appealing to the country banks for help. As it would occasion some inconvenience to these and other banks in making changes in directorates, many bankers and associations of bankers permitted themselves to be made a cat's-paw for the speculating banks of New York and Chicago and protested against the amendment. An official of one of these banks wrote me upon the subject. I replied as follows:

DEAR SIR, I have your letter and note its contents. I voted against the Aldrich bill and hope to see it defeated in the House.

I note what you say in reference to section 11. This section is designed to prevent investing the bank funds in the stocks and bonds of other corporations, the directors of which are likewise the bank directors. It makes it a crime for a Walsh or a Morse to promote corporations, elect themselves directors, and then issue and sell their watered stocks and bonds to banks of which they were likewise directors.

The provision is bitterly opposed by banks engaged in underwriting and financing speculative concerns, a phase of financial banking so extensively practiced in New York and other allied centers as to become a serious menace. These institutions are now using the commercial banks to defeat this section. The banks engaged in legitimate commercial banking might well be willing to correct some of the abuses which in no small degree were responsible for all of the trouble last fall.

Section 11 is based upon the well-established principle that the custodian of trust funds should not sell them to himself; in other words, that those in control of the bank should not sell to the bank the stocks and bonds of other corporations which they own and control. If this occasions some inconvenience to legitimate banking business it should adjust itself to meet it and thereby sustain a principle respecting trust funds which ought never to be violated, and at the same time restore public confidence in the safety and honest management of the commercial banks of the country.

I offered section 11 as an amendment to the Aldrich bill. As above stated, I hope to see the measure defeated. If it were to become a law, however, section 11 should remain in the bill. I would be willing that any reasonable change be made in its wording that might improve it. But it is right in principle, and I stand by the principle.

Very truly, yours,

The acceptance of this amendment by the Senator from Rhode Island without vote in the Senate and its elimination from this conference report renders it impossible for the Senate to ever have an opportunity to vote directly to place this safeguard about the funds of the depositors of every national bank in the country.

NO PENALTIES FOR FALSE REPORTS OF CIRCULATION.

Second. When the Aldrich bill was before the Senate I pointed out the absence of any penalty for failure on the part of bank officials to report the correct amount of outstanding emergency circulation for taxation, and offered an amendment imposing the penalty of imprisonment for failure to make such report. No one wanted to go on record against such an amendment, and it was accepted without a vote. It has disappeared since the matter went into conference, and it is not in this report. It can not be offered as an amendment now, because a conference report is not subject to amendment. Hence no penalty will be imposed for keeping in circulation an untaxed emergency currency. This omission puts a premium on inflation by the banks favored under this legislation. It leaves these banks free to contract and inflate the currency at will without fear of penalty for so doing.

Third. Until this conference report made its appearance no one ever thought of suggesting that bonds might be accepted by the Secretary of the Treasury as security for emergency

circulation at less than par. But this report provides that any member of one of the banking associations provided for may secure currency for bonds at 90 per cent of the market price *without respect to the par value of such bonds*. And we are not permitted to offer any amendment to change this provision, because this legislation is now presented in the form of a conference report.

DROP PROVISION TO SAFEGUARD RESERVES.

Fourth. Again, Mr. President, in order to pass the Aldrich bill through the Senate its managers found it necessary to promise, in the debate early in February, that before the vote was taken they would submit a proper amendment to prevent the great central reserve city banks from absorbing the reserves of the country banks. It will be remembered that on August 22, 1907—the date of the last Treasury call—the New York banks owed the other banks of the country a net balance of over \$410,000,000. The report of December 3 shows that all the pressure which the country banks applied to force the New York banks to return their reserve money resulted in their being able to get a meager 5 per cent, or about \$20,000,000. They would not have been able to secure a dollar of their own money during that period of their sore distress if the Treasury Department had not loaned the Wall street banks over \$47,000,000 of the public money, out of which the country banks were paid by the New York banks about \$20,000,000. More than half of the \$410,000,000 of reserve money held by these Wall street speculators belonged to the principal crop-producing States of the South, West, and Middle West. It was needed to move the crops and would have been ample for that purpose, but the gentlemen who control the finances and the business of the country had their money, held it, and used it to smash the market and gather in the Wall street harvest at bottom prices.

The demand for legislation to strengthen the bank reserves and check the constant drain upon the surplus capital of the country was universal. To maintain and strengthen these reserves it was necessary to amend the cunning devices of the old law. Such amendment would bolster up the Aldrich bill, help to popularize it, and pass it through the Senate. So with a great show of fairness we were informed that this sorely needed amendment would be forthcoming as soon as agreed upon by the Finance Committee. As the time approached for the vote upon the Aldrich bill the amendment was offered. It was far from satisfactory, but better than nothing and reconciled some Senators to the bill. It aided in passing the Aldrich bill through the Senate. Mr. President, what has become of that amendment? It seems to have served its purpose. The Standard Oil and Morgan banks did not want such an amendment adopted. It has disappeared from the bill and is no part of this conference report. Again, I repeat, we are powerless to correct this wrong, because, under the rules, we are not permitted to amend a conference report. The big system banks are to be permitted to continue to absorb the reserves of the banks of the country, to be used in the Wall street game, while legitimate trade and commerce suffer in consequence.

RAILROAD BONDS ARE SNEAKED BACK INTO THE BILL.

Fifth. Besides all this, Mr. President, the situation is still further aggravated by the conduct of those in charge of this legislation respecting railroad bonds. When the Aldrich bill was originally reported it contained a provision making railroad bonds security for emergency currency. The whole country united in angry protest. It was justly denounced, because it would make a market for railroad bonds solely to benefit the banks and their connected trust companies holding that class of securities. It was condemned because it would serve to bolster a declining market for these bonds at home and abroad, permanently engraft upon the currency system of the country the overcapitalized securities of these common carriers, and forever thwart all effort to reduce transportation to a just basis of reasonable rates, for which the consumers have struggled for a generation of time. It was indefensible. It stirred up a torrent of opposition against the bill from practically every State in the Union excepting New York and Pennsylvania, where the railroad bonds of the country are so largely owned. It weakened the bill every hour. Several Republican Senators declared their opposition to it.

The proposition was still further embarrassed by an amendment which I had offered providing that no railroad bonds should be accepted as security for circulation until the Interstate Commerce Commission had made a complete inventory of all the physical property of the railroads and ascertained the true value of such property.

Before the debate fairly opened against it the Finance Committee were in full retreat upon the railroad-bond provision, and the Senator from Rhode Island hastened to surrender in the

face of an opposition he could not withstand. It was withdrawn from the bill without a vote upon it before it could justly be said to have had legislative consideration, and the Senate denied the opportunity to stamp upon it the seal of its condemnation. That provision, or one in a very much more objectionable and pernicious form, is back again in this proposed legislation. It will be found in this conference report not openly as "railroad bonds," but covered by the phrase "any securities held by a national banking association." It is here, buried in this privileged report where it can not be stricken out, where it can not be modified by amendment, where it can have no independent legislative consideration, and this body can take no independent action upon it.

I shall recur to this provision again as it affects railroad securities, but, sir, I pause now to enter my protest against this method of forcing legislation.

UNFAIR LEGISLATIVE PROCEDURE.

Consider for one moment the proceedings which have led up to this present situation! Here we have thrust in upon the closing hours of this session legislation the most far-reaching in its consequences to the American people of any which Congress has considered for many years. It has been held in conference for many weeks, while the session has been permitted to drag along. Appropriation bills have been gotten out of the way. Bills which found favor with those who control have been allowed to pass. For days and days we have been held here in idleness, while many urgent public measures have been denied consideration. Efforts have been made from day to day to take up important public measures only to encounter the opposition of the leaders who control the proceedings of the Senate. Day after day has been wasted in filibustering, demanding the reading of the Journal at length, making dilatory motions, interposing bills of private and local interest, and all of the many ways known to those who seek to delay legislation have been practiced by those who assume here to direct and control in legislation. Members of both Houses have grown restive and eager to return to their homes, and still this currency legislation was held in conference. From time to time we have been told that there would be no legislation upon this subject; that no conference report would be made. One other measure, the public buildings bill, has likewise been held back. Finally, when the decks are all cleared, to the surprise of everybody the conference report is brought forward in its present form, forced through one branch of Congress with thirty minutes debate on a side, and brought into the Senate, subject to no possible change under the rules, to be swallowed or rejected whole. And, yet, this is called "the greatest deliberative body in the world!"

Is this fair legislative procedure? Is it just to the American people? If it were a good measure in the public interest, would it have been necessary to take this course to pass it? Why have the very best provisions been stricken out? Why has the amendment strengthening and protecting the bank reserves been dropped? Why has the penalty clause to prevent reckless inflation and contraction been omitted? Why was the section to prevent the investment of bank funds in the stocks and bonds of other corporations promoted and controlled by bank directors suppressed? Why is it made possible for a banking association to use bonds as a basis for currency issue without respect to their par value? Why is the railroad-bond provision again thrust in under different phraseology? And, sir, why is all this done at a time and in a form that admits of neither deliberate consideration nor amendment to meet these wrongful changes?

Mr. President, I can not expect, single-handed and alone, to defeat this measure, whatever its character. If it were possible, I should be fully warranted in obstructing its passage in any parliamentary way to secure its everlasting defeat. I can not hope to do this alone. But, sir, I can and do hope—if the proposition which I shall hereafter submit is rejected—to so husband my resources as to hold this measure up to public view long enough to arouse the country and bring public opinion to my support. This course is open to me under the rules, and this course I shall, in the discharge of what I believe to be a public service, pursue to the limit of my impaired physical strength.

Mr. President, I have for the most part confined myself to a discussion of the one phrase to which I sought the attention of the chairman of the Finance Committee and of the Senate at the very outset of my remarks. I want to say that I questioned him with the hope and expectation of being able to arrive at an early understanding of the scope and meaning of this bill as interpreted by him in so far as it relates to railroad securities. I have been able to gather from the statements made by the Senator, as found in the Record, upon this question just what his views were with respect to railroad bonds and their relation to this proposed legislation. But I felt that as a founda-

tion and preliminary to a proposition which I had to submit to the Senator from Rhode Island I wanted right in the Record of this day a definition of that particular phrase. I was unfortunate, perhaps. I am not able now to say why, but I did not succeed in getting it, and was forced to go to the CONGRESSIONAL RECORD to obtain the best definition that I could from the chairman of the Finance Committee.

I am awfully sorry, Mr. President, to be obliged to call your attention to the fact that there is not a quorum present.

The PRESIDING OFFICER (Mr. BACON in the chair). The suggestion being made that a quorum is not present, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Cullom	Gore	Piles
Allison	Curtis	Guggenheim	Platt
Ankeny	Daniel	Hemenway	Scott
Bacon	Depew	Heyburn	Simmons
Beveridge	Dick	Hopkins	Smoot
Brandegee	Dillingham	Johnston	Stephenson
Briggs	Dixon	Kean	Sutherland
Brown	du Pont	La Follette	Taylor
Burkett	Flint	Long	Teller
Burrows	Foraker	McLaurin	Warren
Carter	Frazier	Milton	Westmore
Clapp	Fulton	Nelson	
Clark, Wyo.	Gallinger	Overman	
Culberson	Gary	Paynter	

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, in order that we may have before us the definition of the chairman of the Committee on Finance of this term "any securities" in the conference report, I refer again to the answers made by the chairman of the Finance Committee to questions as they appear in the Record of May 28, page 7508:

Mr. TELLER. There is a wide distinction between securities and commercial paper. Commercial paper is defined distinctly. There is no attempt to define securities. So I assume myself that any securities which a bank would take and loan money upon would be securities to be used. Is that correct?

Mr. ALDRICH. Unquestionably. Anything that the bank could legally take as security for loans would undoubtedly be used, subject to the approval of the association and the Secretary of the Treasury.

Mr. TELLER. In the first place it must have the approval of the local association.

Mr. ALDRICH. Consisting of ten banks.

Mr. TELLER. Then it must have the approval of the Secretary of the Treasury. So exactly what securities you will get depends upon what it is to the interest of the ten banks to put up and then what it is the disposition of the Secretary to take.

Mr. ALDRICH. They must be securities that the banks can legally invest in.

Mr. TELLER. I understand that the banks can take all kinds of securities, pretty much, except real estate. They can take bonds and mortgages, well secured.

Mr. ALDRICH. Not mortgages.

Mr. TELLER. They can not in the first instance, but they can to protect themselves against loans when they have made a loan.

Mr. ALDRICH. When they have already loaned money.

Mr. TELLER. They can take bonds of any kind—of corporations, of individual concerns, of private corporations.

Mr. ALDRICH. Undoubtedly.

Mr. TELLER. So the door is exceedingly wide on securities.

Mr. OVERMAN. Would that include warehouse cotton receipts?

Mr. TELLER. The Senator from North Carolina asks me if it would include warehouse receipts upon cotton, corn, and so forth. It seems to me it would.

Mr. OVERMAN. I should like to know if the Senator from Rhode Island understands that it will.

Mr. TELLER. I understand a man may take the warehouse receipts and go to a bank, and that is the practice.

Mr. OVERMAN. And cotton receipts?

Mr. ALDRICH. I think anything that a bank would take as collateral security under the law could be used for this purpose, under the limitations I have stated.

LIMITATIONS PROVIDED ARE INSUFFICIENT.

Now, what limitations had the Senator from Rhode Island stated? The only limitations which he had stated in answer to the questions which had been theretofore propounded were that the securities offered must be approved by the board of the currency association or the executive committee empowered to act for the association and the Secretary of the Treasury. If that be so, it opens the door to every conceivable kind of security upon which any bank or national banker could possibly be induced to make a loan, as a basis for this emergency currency, subject only to whether the whim or the interest of those who are in control of the currency association should favor using that kind of security and whether the Secretary of the Treasury should be constrained by conditions of impending panic to shut his eyes and take blindly, you might say, anything that was offered in order to sustain the failing credit of the country.

We have had an example in the late financial panic, the one in October, of the conduct of the Treasury Department at such a time, the way in which a high public official even, actuated by

the best of motives, will yield to the pressure of exigency and the stress of a situation as it is made to appear to him.

I want to be understood as saying that in all probability any Secretary situated just as the Secretary was at that time, surrounded as he was with the threatened storm of financial disaster as it appeared to be gathering around the greatest financial center of this continent—I say, situated just as he was, under those conditions, perhaps, any Secretary of the Treasury would have made the concessions that he made to the exigencies of the times.

Mr. President, this is but an evidence and an illustration of what you may have under this law which sanctions by legislative rule the acceptance as a basis for this kind of currency of anything which a national bank may take as security for a loan. The association of banks would be no protection. Why? Because they would be directly interested, and human nature, ever weak, would yield when the stress and the pressure became great in any financial center of the country where such an organization existed.

We know how desperate men become in order to maintain their banks, sustain their credit, and avoid failure and financial ruin. We know it drives men not only to strain legal enactments, but to violate law and to take the chances of all the penalties which the criminal statutes impose. We know that during the time of the financial depression in October and the weeks following and immediately preceding that time, the national banks in New York violated the law with respect to their reserves; that they violated every relation of banking integrity and honor in refusing to return to their depositors, scattered throughout all the West and Middle West and South, money which was theirs upon call.

So I say, Mr. President, if we place in the hands of these men the determination of this question, leaving between a secure and substantial basis for currency and the stress of financial disturbance and panic only the Secretary of the Treasury, who ought, under such circumstances, to be afforded every bulwark against yielding to the pressure under which he finds himself at such time; if we do this, we are embarking upon a course that can result in nothing but disaster and the violation of all the standards that have been heretofore adhered to in the financial policy of this country.

RAILROAD STOCKS AND BONDS UNQUESTIONABLY INCLUDED.

Now, Mr. President, without being able to get directly from the Senator any answer to the question which I propounded and a clear understanding, so far as I myself was concerned, of his views of this particular phrase, but gathering it as best I could from the various responses which he made to other Senators when he or they were in possession of the floor, I am confirmed in my own opinion that it is beyond question that, under this particular phraseology, railroad bonds and railroad stocks, whenever held by a national bank, may be made, under the provisions of this proposed law, the basis for a currency issue. It seems to me, Mr. President, to stand admitted upon the record that, under the language of the conference report, any railroad bonds and railroad stocks which any national bank might take as security for a loan or in which it might invest can be made the basis of a currency issue.

Mr. President, that brings me back to the point where I started. When the Aldrich bill was finally reported from the committee by the Senator from Rhode Island it hedged the railroad bonds about with certain limitations. In the first place, railroad stocks were not to be accepted at all. It never occurred for a moment, I suppose, to the Finance Committee to propose such a thing as that to the country. Indeed I fancy that in their meetings this subject of making railroad bonds a basis for an emergency currency was one which they hesitated somewhat to present to the Senate and to the country. Be that as it may, when they did present it they placed some limitations upon the kinds of railroad bonds which might be accepted by the Secretary of the Treasury.

Speaking from recollection, I believe the bill as they reported it provided that no railroad bonds should ever be used as a basis for emergency currency unless they were the bonds of a railroad company that for a period of at least five years had paid not less than 4 per cent annually, year after year, without interruption, upon all of the stock that they had outstanding, and which reported regularly to the Interstate Commerce Commission.

As I remember, there were other limitations placed upon railroad bonds as a greater protection to the so-called "emergency measure." It seemed to me that there were insuperable objections to incorporating railroad bonds into our currency system, even under the limitations which were provided in the Aldrich bill as reported to this body.

I should oppose the incorporation of this provision in the

conference report, even if it were protected by the same limitations; and when you come to a proposition such as you have here, admitting railroad bonds and railroad stocks of any kind and any road, without limitation—and we have some shocking examples in the country, some instances of national banks even getting loaded with bad securities—when you come to a proposition of this kind it justifies the strongest possible parliamentary protest.

Before I conclude, Mr. President—if there can be no understanding, though I hope there may be with respect to this provision of the bill—I propose to place in the Record a complete and comprehensive statement of the finances of every railroad in the United States, because, if this provision is to stand, I can think of no better service that I can render to the country than to show to it the earning power and the capitalization of these railroads. If their securities are to be made the basis of the currency system of this country, then, let me say to Senators here, you must take and digest—at least you must take—all the facts that are available with respect to the railroads of the country, the number of miles in each line, the stock issue and the bond issue, the preferred stock and the common stock, the capitalization per mile, and every fact which goes to help us determine here the value of railroad securities.

QUESTION IS BROADER THAN EMERGENCY CURRENCY.

I had hoped, Mr. President, when I took the floor this morning, to be able to submit to the Senate and the Senator from Rhode Island, in charge of the conference report, a proposition with respect to this particular question, because, to my mind, it is a great deal bigger and a great deal broader than even this big and broad question of what shall be the security for emergency currency; for, let me say, that incorporating railroad securities into this proposed law affects directly and in a most vital and important way the whole question of reasonable railway rates. We can not thrust railroad stocks and bonds into the currency system of this country as a basis for currency issue without affecting the whole question of just and reasonable railway rates based upon the value of railway property. That question must be thrashed out. That is a part of the bill, let me say.

I am constantly calling it a bill. It is. It comes in here in a most extraordinary way, under the guise of a conference report. When you consider it as an entity, it is really a new proposition. I do not know whether it would have been subject to a point of order or not, but it ought to have gone to a committee and have been considered by a committee of this Senate as a new legislative proposition in its entirety. You can not take one bill out of one House and another bill out of another House, making a sort of legislative combination, and consider it as a single measure without taking into account the bearing of one proposition upon the other. It is different from considering the Vreeland bill alone in this body or in the House of Representatives, or considering the Aldrich bill alone in this body or in the House of Representatives. You unite the two and you get a legislative compound altogether different from either if enacted separately. [A pause.]

Mr. KEAN. We can not hear the Senator from Wisconsin.

Mr. LA FOLLETTE. The reason you can not hear me is that I was looking over the Chamber to see if there is a quorum present. I have ascertained that there is not, and I make that point. You will hear me presently, as soon as there is a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin having suggested the absence of a quorum, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Cullom	Hale	Piles
Ankeny	Daniel	Hemenway	Platt
Bacon	Depew	Heyburn	Scott
Borah	Dillingham	Hopkins	Simmons
Brandegee	Dixon	Johnston	Smoot
Briggs	du Pont	Kean	Stephenson
Brown	Flint	La Follette	Stone
Burkett	Foraker	Long	Sutherland
Burrows	Frazier	McLaurin	Taylor
Carter	Fulton	Milton	Teller
Clark, Wyo.	Gallinger	Nelson	Warner
Clay	Gary	Newlands	Warren
Culberson	Guggenheim	Overman	

The VICE-PRESIDENT. Fifty-one Senators have answered to their names. A quorum is present. The Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, the Senator from Rhode Island and all other Senators must agree with me that the question of railroad bonds or any other railroad securities as a basis for currency issue under this or any other bill which has been before this body has never received any legislative consideration. It is true that it had some consideration in com-

mittee. It was reported in the Aldrich bill and went upon the Calendar; it remained on the Calendar for some little time, but was withdrawn before there was any extended or thorough discussion of the subject—I think it is fair to say before there was any real legislative consideration of it. Therefore it comes before this body for the first time incorporated in this conference report, which, not being subject to amendment, makes it impossible for us under the rules of the Senate to have any vote upon it or any separate consideration of it.

Now, I submit to Senators that this is too important a matter to be disposed of in that way.

Mr. President, I am under the painful necessity of suggesting the absence of a quorum. I regret to be obliged to do it, but I should like the attention of a quorum when I discuss this particular matter.

The VICE-PRESIDENT. The Senator from Wisconsin having suggested the absence of a quorum, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clay	Guggenheim	Overman
Ankeny	Culberson	Hale	Piles
Bacon	Daniel	Hemenway	Platt
Bailey	Depew	Heyburn	Scott
Borah	Dillingham	Hopkins	Smoot
Brandegee	Dixon	Johnston	Stephenson
Briggs	du Pont	Kean	Sutherland
Brown	Flint	La Follette	Taylor
Burkett	Foraker	Long	Teller
Burrows	Fulton	McLaurin	Warner
Carter	Gallinger	Milton	Warren
Clark, Wyo.	Gary	Nelson	Wetmore

The VICE-PRESIDENT. Forty-seven Senators have answered to their names. A quorum of the Senate is present.

Mr. ALDRICH, Mr. KEAN, Mr. CARTER, and others. Question!

The VICE-PRESIDENT. The question is on agreeing to the conference report.

Mr. LA FOLLETTE. I had not quite concluded, Mr. President, what I intended to say. I was just approaching a proposition with respect to which I wish to have the attention of the Senator from Rhode Island. I feel warranted, Mr. President, in making such opposition to this bill as I am able to make so long as it contains a provision concerning which no Senator has ever had an opportunity to move an amendment or upon which no Senator ever has had a chance to vote. It is a fair and reasonable proposition to submit to the Senator from Rhode Island, to the Senate, and to the country, that there should be included nothing in this conference report so important as making railroad securities the basis of a currency issue without the opportunity to have upon that question not only a full, fair, and free discussion, but a direct vote.

It is a subject, Mr. President, to which I have given some consideration. I do not say that boastfully; I say it, I think, with becoming modesty. I have devoted some years of study to it. I have had pending before a committee, of which the Senator from Rhode Island is a member, bills with respect to the amendment of the interstate-commerce law, and particularly a bill with respect to the valuation of railroad property. I conceive—and I shall argue, if I am compelled to argue this question upon the conference report alone—that the proposition to make railway bonds a basis of currency issue goes directly to the value of the property upon which those bonds are issued. I believe this is a question so important that it deserves in this body a direct and specific determination on its merits; not that it be brought in here buried in a conference report.

While other securities may, under the language of the conference report and according to the statements of the chairman of the conference committee, be made the basis of this currency issue, which are, perhaps, quite as objectionable in themselves as railroad bonds and stocks, I give my chief attention to these, because the intrusion of railroad securities into this bill reaches down to the very root of the whole matter of the control of railway rates in this country, and involves the whole problem of the reduction of railway rates to a basis of what is reasonable upon the amount of money invested in the railroads of the country.

PROPOSITION TO ELIMINATE RAILROAD STOCKS AND BONDS.

Mr. President, I do not wish to make any suggestion with respect to the manner in which railroad bonds have been reinserted in this legislation. They had been eliminated from the Aldrich bill. They went out, as Senators may remember, on the morning of the day when by announcement I was to be accorded the floor and had made preparation to discuss that feature of the bill with some thoroughness.

I suggested in the course of my discussion of the Aldrich bill that this proposition to inject these railroad securities into our

currency system was liable to appear again. It has appeared, and, Mr. President, under circumstances which preclude any vote upon it.

Therefore I come now to say what I should have said this morning in fifteen minutes after I took the floor if I might have had as direct answers to the questions which I propounded to the Senator from Rhode Island as he had made to the Senator from Colorado and the Senator from Texas, of which, however, I was not aware at the time. Had I been, I should simply have read those answers into the RECORD and upon that should have submitted to him that which I now submit.

I say to the Senator from Rhode Island that I believe admitting railroad securities as a basis for currency issue is a proposition which in all fairness should be presented to this body directly, to be considered upon its merits by itself. While I am opposed to this bill, while I believe in its operation it will militate against the best interests of the country, while I believe it will augment the power of certain great banking institutions not engaged in commercial banking, not ministering to the wants of trade and commerce in any sense, but engaged in speculation, engaged in financing great institutions in which is invested the money of their depositors—while I believe, I say, that the bill is bad, I will offer, so far as I am concerned, no obstruction to its passage here if, by taking it back to conference, or in any other way, the Senator from Rhode Island will secure the elimination of railroad securities as a basis for currency issue. If that can be done, I will content myself with saying, in the course of fifteen or twenty minutes, the things I have to say in criticism of the bill as a whole, and with voting against it.

I ask the Senator from Rhode Island if he will consent to take this proposition back to conference and eliminate from it railroad bonds and stocks as a basis for currency issue.

Mr. ALDRICH. The whole question before the Senate is whether the conference report which was presented yesterday shall be agreed to. So far as I am concerned that question will remain before the Senate, if necessary, until the 4th day of March, 1909, or until it is disposed of. I have neither the power nor the disposition to make any suggestion as to changes in it.

WATERED RAILROAD SECURITIES ENGRAFTED ON CURRENCY.

Mr. LA FOLLETTE. I accept the determination of the Senator. He says he has not the power or the disposition. I suppose the Senate can do pretty nearly what it chooses to do by unanimous consent. It may be that unanimous consent could not be obtained. It is manifest from the declaration of the Senator from Rhode Island that he would not obtain that consent if he could. And so railroad bonds and railroad stocks of every class and description are to be made a basis of currency issue if this bill passes. That is the decision and the determination of the Senator from Rhode Island.

Mr. President, the engrafting of railroad securities upon our currency system is a proposition which we ought to have been permitted to argue out by itself and vote upon by itself, when it was before the Senate originally in the Aldrich bill. When it was before the Senate in that form it could have been so treated. It became manifest early in the discussion of the bill that there was very general opposition to its railroad-bond feature. Then came the unexpected action of the Committee on Finance in apparent acquiescence with the public demand, in voting unanimously to strike out the objectionable feature, and the Senator from Rhode Island rose in his place on the 17th of March and asked the Senate to concur in the amendment striking out the railroad bonds. That action might have been taken to mean that the committee had abandoned the attempt to work railroad stocks and bonds into our currency system. But it is now evident that such was not its significance. This conference report, Mr. President, clarifies somewhat the explanation made by the Senator when he submitted the amendment of the committee to strike out the railroad-bond provision. He said:

The committee believed when the bill was reported, and they now believe, that it would be desirable to have for use as a basis for these emergency notes as large an amount as possible of available securities. But the committee finds that questions are made and issues raised in regard to the use of railroad bonds which have no reference to the bill now under consideration—questions of the relations between the railroads and the public, and as to the proper regulation of railroads, and of the issue of railroad stocks and bonds. Under all the circumstances the committee have thought it better to ask the Senate to strike out the provisions which pertain to railroad bonds.

By the Senator's own statement the objectionable provision was stricken out because questions were made and issues raised respecting it.

Now, it comes back to the Senate as a distinct proposition in a form which does not permit an issue to be raised or a vote had upon it.

HAMPERED BY THE RULES.

Senators who believe we should have an emergency currency must accept railroad bonds as a basis for it or vote down the entire proposition. Sir, I shall not—I could not within the rules—properly characterize the proceeding by which that has been accomplished. But there is a forum in which that question can be argued out and will be argued out. I accept the decree of the power here and address myself to the proposition itself. I will not, sir, examine too closely the question of how it was taken out and how it reappears. I will pass over that and at best I can discuss the measure itself from an economic standpoint. To this discussion I will ask the attention of the Senate, wearied and exhausted as I know it to be, and out of harmony with my views, as I know that many Senators are.

But, sir, I have my sense of duty, my own conviction, my own obligation to the constituency I represent here. To that I owe my first allegiance, and so long as God gives me the power to hold out with any means which I may legitimately exercise, I shall stay here in opposition to this legislation, that being the only alternative presented.

Mr. President, there is no quorum present.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Gary	Overman
Allison	Cullom	Gore	Paynter
Ankeny	Curtis	Guggenheim	Piles
Bacon	Depew	Hale	Scott
Borah	Dick	Hemenway	Simmons
Brandegee	Dillingham	Heyburn	Smoot
Briggs	Dixon	Hopkins	Stephenson
Brown	du Pont	Johnston	Sutherland
Burkett	Flint	La Follette	Teller
Carter	Foraker	Long	Warner
Clapp	Frazier	McLaurin	Warren
Clark, Wyo.	Fulton	Milton	Wetmore
Clay	Gallinger	Newlands	

The VICE-PRESIDENT. Fifty-one Senators have answered to their names. A quorum is present.

INSUFFICIENCY OF RAILROAD SECURITIES.

Mr. LA FOLLETTE. Upon the question of the fitness of railroad securities as a just and proper basis for currency issue, I shall now bring to the attention of the Senate some matter which I presented here when the Aldrich bill was pending, but which was not heard by a great many of the Senators who are present this evening. As it is very pertinent to this phase of the bill, I shall take the trouble to present it again, with, perhaps, some further reflections and observations upon the subject.

In the first place, I would remind the Senate that in this proposition as embodied in the conference report there is no safeguard whatever provided as to the character of railroad securities which may thereunder be made the basis for currency issue. Any securities whatever which a national bank may own, borrow, or have deposited with it may be used, subject only to the discretion of the executive committee of the currency association, who may be primarily interested in having the securities accepted, and the discretion of the Secretary of the Treasury. So that, as the proposed legislation stands to-day, a body of men directly interested in the securities, interested in enhancing their values, in making them especially privileged as securities, who are the possessors and the owners of them, to whom it is of importance that they should be boomed in the market, are of first parties to pass upon the question whether they shall become a security for currency issue. Then they go to the Secretary of the Treasury, and it is true that if he deem them insufficient or inadequate it would be within his discretion and within his power to reject them altogether. But the Secretary of the Treasury, at a time such as we experienced during the last fall, is subject to all sorts of pressure, to all manner of misrepresentation as to the actual conditions, and he is likely to be misled and likely to do things which he would not do except for the financial stress of the times; and in that way it is possible to work into the currency structure of this country railroad securities that have little real substantial value back of them.

Mr. President, in the investigation which I conducted prior to the withdrawal of this bond proposition from the Aldrich bill I was surprised to find that the Treasury Department had accepted as security for Government deposit under the law which was passed in 1907 railroad bonds of very doubtful value. These bonds were made the basis of very large deposits in the banks that put them up. Generally there would be a very small margin of Government bonds, as a sort of technical compliance with the law requiring the deposits to be secured by

Government bonds and otherwise. In some instances there was not even this technical compliance with the law, and some banks had deposits of Government money without depositing any Government bonds as security therefor.

I am sorry, Mr. President, to be compelled to call attention to the fact that there is not a quorum present.

The PRESIDING OFFICER (Mr. HEMENWAY in the chair). The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Gary	Newlands
Ankeny	Cullom	Gore	Paynter
Bacon	Curtis	Guggenheim	Piles
Borah	Depew	Hale	Scott
Brandegee	Dick	Hemenway	Smoot
Briggs	Dillingham	Heyburn	Stephenson
Brown	Dixon	Hopkins	Sutherland
Burkett	du Pont	Johnston	Taylor
Carter	Flint	Kean	Teller
Clapp	Foraker	La Follette	Warner
Clark, Wyo.	Fulton	Long	Warren
Clay	Gallinger	McLaurin	Wetmore

The PRESIDING OFFICER. Forty-eight Senators have answered to their names. A quorum of the Senate is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, I shall now ask the attention of the Senate to some facts which I presented here relative to the value of railroad bonds which would have been accepted under the terms of the Aldrich bill as the basis for currency issue. Of course, it will be borne in mind that under the terms of the original Aldrich currency bill there were some requirements prescribed as to the character of the bonds to be used, whereas under this conference report there are no limitations or requirements whatever. By the terms of the Aldrich bill the railroad bonds to be acceptable as a basis for currency issue were only the first mortgage bonds of such railroad companies as reported regularly to the Interstate Commerce Commission according to the law, and paid dividends of not less than 4 per cent per annum regularly and continuously on their entire capital stock for a period of not less than five years previous to the deposit of the bonds. Under this conference report any railroad securities, including first, second, and general mortgage bonds, stocks, notes, and debentures, whether representing "water" or value, may be admitted.

I have taken occasion to investigate the nature of the security underlying a few bonds which would or might have been made the basis of currency circulation under the Aldrich bill and which are, of course, admissible under the provisions of this conference report now before the Senate.

EXAMPLES OF BONDS ACCEPTABLE AS CURRENCY BASIS.

Some of these bonds are outstanding as a first lien at an average of twenty-five to one hundred thousand dollars per mile on the line covered. I will not say that these bonds in any case exceed the value of the underlying properties. But, bearing in mind that the average estimated value by reliable authority of all the railroad property of the United States is placed at \$23,500 per mile, and that the average of the railroad properties in three States, by actual inventory, has been found to be less than this estimate, grave questions must arise when we find on any line of road whose value is not known first-mortgage bonds two or three times the estimated average value, bonds which would be admissible as the basis of circulation under this bill. The question is forced whether, in such cases, circulation may not be issued in excess of the value of the security, the real security, the tangible property back of the bonds.

Illinois Central Railroad 3 per cent and 3½ per cent bonds are first-mortgage bonds under the Massachusetts law and are carried by Massachusetts savings banks. This road has been paying dividends since 1901 at 6 to 7 per cent. Among the threes and three-and-a-halves of this road are the St. Louis Division and Terminal first-mortgage gold bonds, which are a first lien on 230 miles of line extending from St. Louis, Mo., to Eldorado, Ill., with branches in Illinois. The total amount of outstanding threes and three-and-a-halves under this mortgage is \$13,375,275, or an average of \$51,779 per mile for the line covered. This is more than twice the amount of the estimated average value per mile of all the railroads of the country.

Mr. President, I am sorry there is not a quorum in constant attendance here. I can not be expected to proceed with nine-tenths of the seats vacant, and I insist upon a quorum being present. I suggest the absence of a quorum under the rule. I dislike to impose upon the clerks, but I would ask my brethren to remain here and listen to this debate.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Curtis	Hale	Scott
Ankeny	Depew	Hemenway	Simmons
Bacon	Dick	Heyburn	Smoot
Borah	Dillingham	Hopkins	Stephenson
Brandeggee	Dixon	Johnston	Sutherland
Briggs	du Pont	Kean	Taylor
Brown	Flint	La Follette	Teller
Burkett	Foraker	Long	Warner
Carter	Frazier	McLaurin	Warren
Clapp	Fulton	Newlands	Wetmore
Clark, Wyo.	Gallinger	Overman	
Culberson	Gary	Piles	
Cullom	Guggenheim	Platt	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum of the Senate is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE (reading)—

Another Illinois Central 3½ per cent bond is the \$22,729,000 Louisville division first-mortgage gold bonds, which are a first lien on 553 miles of line extending from Memphis, Tenn., to near Louisville, Ky., at an average of \$41,100 per mile, nearly twice the average value of railroads in the United States.

Chicago, Burlington and Quincy three-and-a-halfs and fours are first-mortgage bonds carried by Massachusetts savings banks. This road has paid dividends of 7 per cent since 1902. These bonds are outstanding to the amount of \$85,000,000 as a first lien on 1,648 miles of line and terminals in Illinois, Wisconsin, Minnesota, Missouri, and Iowa. They average \$51,578 per mile for the line covered, which is again more than twice the value of the average railway property.

Still those bonds would have been accepted under the restricted and limited provisions of the Aldrich bill. Of course anything would be accepted under the provision of this conference report.

I am just laying these facts before Senators because I know how keen their interest is in this whole subject of the capitalization and overcapitalization of the railroads of the country. I am sure when they come to understand what a vast quantity of this sort of security there is that exceeds a reasonable valuation they will not be in favor of adopting this conference report. I feel reasonably certain of that, and it is because of that that I am bound to place before this interested body of statesmen these very important facts.

Now I come to speak of another road to which I was about to refer when I was diverted for a moment.

The total bonded indebtedness of the Pennsylvania system is \$191,561,271. Of this amount \$19,997,820 is represented by general mortgage sixes, which Moody's Manual says are "a first lien on 459.63, including main line, Harrisburg to Pittsburg; Pennsylvania line, York to Philadelphia; Pennsylvania and various smaller branches; also on the lease of the Harrisburg, Portsmouth, Mount Joy and Lancaster Railroad, extending from Harrisburg to Dillerville and Columbia, Pa." If these securities are held to be first-mortgage bonds within the meaning of the bill—

Of course they would all go under the provisions of this conference report—

they would have been otherwise admissible for deposit. They represent a bonded debt of about \$43,473 per mile for the line upon which they constitute a first mortgage.

The Pennsylvania has paid dividends since 1901 at 6 to 6½ per cent. These bonds are admitted as first-mortgage bonds for savings-bank investment in Massachusetts and would, presumably, have been accepted as a basis for currency circulation under this bill.

Then there is:

The New York, Lackawanna and Western Railway is a part of the Delaware, Lackawanna and Western system, being operated by the latter company under lease and perpetuity. Under this lease the lessee company pays an annual dividend of 5 per cent on the stock of the leased company. There are outstanding among the obligations of the New York, Lackawanna and Western Railway twelve million first mortgage 6 per cent bonds, which are a basis lien on 208 miles of road, Binghamton to International Bridge, N. Y. These bonds are carried as investments by Massachusetts savings banks, although they average \$57,691 per mile, a sum almost two and a half times the average true value of the physical property of railroads in the United States.

I suppose, of course, Mr. President, that Senators are aware of the fact that the capitalization of the railroads of this country aggregates about \$15,000,000,000, and I suppose the well-informed members of this body understand that that represents easily more than twice the value of all the property of all the railroads in the country. There is not the remotest doubt of that. It has been demonstrated and is not open to controversy. I shall place before the Senate before I conclude some detailed facts with respect to the overcapitalization of the railroads of this country. I digress now because I enjoy talking very much more than reading. I turn aside for a moment to speak in a general way of the overcapitalization of railroads.

RAILWAY STOCKS REPRESENT RAILWAY INFLATION.

That question is pertinent to this discussion. Speaking generally, all the railroads of this country have been built, Mr. President, not with the money of the capitalists who control the roads, but with the money which has been raised, in the first place, by the selling of bonds. Speaking roughly, and yet speaking entirely within the mark, the stocks of the railroads of the

country represent the inflation or water in the railroad securities. The bonds constitute an incumbrance placed upon the roads to provide the money with which the roads were built. They represent an imposition and a burden placed upon the transportation of the country by those who own and manage the roads. They levy upon all the business of this country transportation charges high enough to pay what? To pay, in the first place, a dividend on the stock; to pay, in the second place, the interest on the bonds, and enough more besides to create a sinking fund with which ultimately to redeem the bonds; and finally, in addition to that, they levy tribute enough upon transportation to lay by a surplus out of which they make their permanent improvements and extend their lines. These extensions and improvements they, in turn, capitalize, and proceed by the same system to levy tribute upon transportation to pay interest and dividends thereon, accumulate another surplus, pay off the bonded indebtedness, and still further extend and improve their property. So that out of the transportation of this country the interest is paid upon the bonds, the dividends upon the stock, a sinking fund created for the purpose of redeeming the bonded indebtedness, permanent improvements made, the lines extended, and the producers and consumers of the entire country called upon to put up for the whole transaction.

It is a very interesting study. Pursue the history of any one of these railroads from the time of its inception down to the present time, and I undertake to say that you will find in every single instance that the railroads have been built at the public expense; that the public has maintained them; that the public has paid all of the expenses of operation, made all of the improvements, made all the extensions of new lines, and continues to maintain the ever growing and extending systems, with all their burdens.

In this connection, Mr. President, I will have inserted in my remarks some statistics which I presented to the Senate about two years ago in the course of my discussion on the rate bill. These figures are taken from authoritative sources and show instances of the extent to which improvements and betterments have been paid for out of earnings and charged to operating expenses by some of our railroads:

Sometimes partial statements of such improper charges to operating expenses are given in footnotes in reports to stockholders. Financial writers who make a study of these matters, upon careful analysis of such reports, are able to estimate partly the amount of such charges. In Mr. Mundy's manual, *The Earning Power of Railways*, for 1906, are given in notes at the back of the book such statements for a number of companies. Some of these instances are set down in the following table:

Table showing instances of expenditures for improvements and additions to property charged to operating expenses.

Name.	Years.	Amounts.
Central Vermont Railway.....	1899-1905	\$1,398,236
Maine Central Railway.....	1901-1905	2,211,727
New York, New Haven and Hartford Railroad.....	1901-1903	7,697,340
Delaware, Lackawanna and Western.....	1902-1904	4,828,366
Erie Railroad.....	1900-1902	3,588,437
Lehigh Valley.....	1902	1,676,974
New York Central and Hudson River.....	1902-1904	8,553,970
Ann Arbor Railroad.....	1893-1904	2,766,236
Lake Shore and Michigan Southern.....	1902-1904	16,064,973
Louisville and Nashville.....	1895-1905	12,913,557
Nashville, Chattanooga and St. Louis.....	1900-1905	3,741,401

In England the practice of charging betterments to operating expenses, which prevails here, is unknown. English financial writers find it necessary for the information of foreign investors to correct the reported net earnings of the American railways by the addition thereto of the amount of such improper charge against operating. In analyzing the profits of a few of our leading railways the London Statist, in 1904, had a tabulation showing net earnings corrected in this manner. Such corrections made in the reported net earnings of nine roads for the year 1903 amounted to \$21,263,000 on a total reported net earning of \$135,367,000. The correction on these nine roads taken together amounted to 16 per cent of the total net earnings reported. The details are set forth in the following table:

London Statist corrections of reported net earnings of nine American railways for the fiscal year 1903.

Company.	Net income, 1902-3.	Add betterment outlays charged to expenses.	Net income corrected.
Chicago, Milwaukee and St. Paul.....	\$18,045,000	\$2,333,000	\$20,378,000
Denver.....	6,885,000	120,000	7,005,000
Great Northern.....	22,651,000	1,443,000	24,094,000
Lake Shore.....	10,354,000	6,315,000	16,669,000
Louisville and Nashville.....	12,601,000	2,006,000	14,607,000
The New York Central.....	29,419,000	3,256,000	32,675,000
Reading.....	15,946,000	2,196,000	18,142,000
Southern.....	13,763,000	2,500,000	16,263,000
Wabash.....	5,793,000	1,100,000	6,893,000
Total.....	135,367,000	21,263,000	156,630,000

* Year ending December 31, 1903.

There are three States in this Union in which a very careful inventory of the railroad property has been made, and that gives us a fair sort of criterion, if we have no other means of knowing, of the real value of the railroad properties of the country. Those States are Michigan, Wisconsin, and Texas.

Texas was the pioneer in this work. They made a very careful inventory of the railroad property of Texas several years ago, ascertained the value of the rails, the cost of grading, the cost of the construction of the bridges, the cost of the construction of the depots, the cost of moving every shovelful of dirt to make a cut or a fill; indeed, every single step in the process of railroad construction was very carefully gone over by the civil engineers, step by step, to ascertain the true cost and value of the railroads of that State. They also learned the cost of the engines, freight cars, and passenger cars, and the cost of the depots and terminals. Michigan later made a similar inventory of the railroad property of that State.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma?

Mr. LA FOLLETTE. I do for a question or an interruption.

Mr. GORE. I merely suggest that there is not a quorum, unless I am misinformed.

The VICE-PRESIDENT. The absence of a quorum having been suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Curtis	Hale	Platt
Ankeny	Depew	Hemenway	Scott
Borah	Dick	Heyburn	Simmons
Brandegee	Dillingham	Hopkins	Smoot
Briggs	Dixon	Johnston	Stephenson
Brown	du Pont	Kean	Sutherland
Burkett	Flint	La Follette	Taylor
Carter	Foraker	Long	Teller
Clapp	Fulton	McLaurin	Warner
Clark, Wyo.	Gallinger	Milton	Warren
Clay	Gore	Nelson	Wetmore
Culberson	Gugenhelm	Piles	

The VICE-PRESIDENT. Forty-seven Senators have answered to their names. A quorum is present.

WHAT VALUATION IN TWO STATES DISCLOSED.

Mr. LA FOLLETTE. Mr. President, I was just stating, when the absence of a quorum was noted, that the State of Michigan had made a very careful and thoroughgoing inventory of the railroad property in that State. It, like the investigation made in Texas, is not open to question. It was subject to check by comparison with an appraisal made by the railroads themselves at the same time. Its thoroughness and accuracy were such as would commend it to any investigator of this great problem.

In Wisconsin the railroad valuation was made originally to determine the amount of taxes the railroads ought to pay. In this valuation the railroads also cooperated with the State, and the work of the State and the railroads served as a check upon the accuracy of each. The results of this work, the maps, profiles, engineers' reports, and all the details are on file in the office of the tax commissioner at the State capitol, and there can be found the value of the property of any railroad of that State. The Wisconsin valuation, taken in connection with the work of the roads themselves, is a very thorough piece of work.

The average value per mile of road as determined by inventory appraisal of all the railroad property in each of these three States was respectively as follows:

Wisconsin, 1903, 6,656.88 miles; value per mile, \$25,501. Michigan, 1900, 7,813.27 miles; value per mile, \$21,396. Texas, 1893, total mileage in State, value per mile, \$15,759, to which was subsequently added for later improvements \$4,000 to \$8,000 per mile, making a total very much less than \$25,000 per mile.

In addition to these facts, Mr. President, we have very careful estimates of the average value per mile of all the railroads of the country, based upon investigations by impartial experts at home and abroad, which show that the average value of the railroad property is less than \$23,500 per mile, while the capitalization, stock, and bonds outstanding are more than two and a half times that amount.

I am perfectly well aware, Mr. President, that there are portions of the country where it costs a good deal more to construct railroads than it does in Wisconsin or in Michigan or in Texas. I am also aware of the fact that there are portions of the country where railroad construction does not approach in expense that of the two principal roads in Wisconsin. In some portions of the West, in the prairie, level country, where the roads are cheaply constructed, where the ballast is dirt ballast, where the rail is light, where the bridges are of wood, and all depots and all the other property that is taken into account in ascertaining the value of railway property are less

expensive, the cost of construction is not comparable at all to the cost of construction of railroads in Wisconsin or Michigan.

So that I say, Mr. President, we have fairly well established in this country a criterion or standard of value of railroad property. I am entirely within bounds when I say that the bonds of the railroad companies of the United States at the very outside limit represent the total value of the railroad property of the country.

Mr. President, one of the strongest objections to incorporating a provision of this sort into a currency bill is that when once the railroad bonds or stocks—and both may be taken as security under this bill as it stands to-day—become the basis for a currency issue, whether it be temporary or otherwise, that moment we have given to that class of securities certain favor which of necessity must be maintained for them. It will not be possible after you have once permitted a currency issue to be made on that class of securities to withdraw from them this favor, and one of the strongest objections to their being made a basis of currency issue and embedded in the currency of the country is that when that has once been accomplished any attempt on the part of Congress or any other legislative body to ascertain the true value of the railroad property will at once be met with the claim that it will disturb the currency of the country, and that people have been encouraged, because these securities have been accepted as a basis for currency issue, to invest in them, and that for that reason it would be unfair and unjust to such investors to disturb in any way the values which the securities had thus acquired.

Mr. President, manifestly there is not a quorum present. I pause to make that point and to insist upon the attendance of a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Cullom	Hale	Simmons
Allison	Curtis	Hemenway	Smoot
Ankeny	Daniel	Heyburn	Stephenson
Borah	Depew	Hopkins	Stone
Brandegee	Dick	Johnston	Sutherland
Briggs	Dillingham	Kean	Taylor
Brown	Dixon	La Follette	Teller
Burkett	du Pont	Long	Warner
Carter	Flint	Milton	Warren
Clapp	Foraker	Nelson	Wetmore
Clark, Wyo.	Fulton	Piles	
Clay	Gallinger	Platt	
Culberson	Gugenhelm	Scott	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

COMMITTEE FAILS TO REPORT VALUATION BILL.

Mr. LA FOLLETTE. Mr. President, I am very sorry to impose this task upon the clerks, and I appeal to my friends of the Senate to remain within the Chamber and not force me to make this frequent call of the roll in order to procure the presence of a quorum.

On the important question of the valuation of the railway property I found a most excellent little argument in a recently published book which was called to my attention by some one who kindly sent it to me, and I want to read presently the argument I find in the pages of this book called "The Magnet," by Alfred O. Crozier. I am going to pause a moment before I do that to refer to the persistency with which this currency legislation has been forced upon both branches of Congress. Indeed, Mr. President, when this session is over it seems to me—and I am sorry for it—that the majority party will be confronted with serious criticism for having furnished to the country so little legislation of importance at this session. I am not able to recall very many bills of much importance which have been passed by both branches of Congress. But the currency bill had to have the attention of, and legislative action by, both branches to the exclusion of everything else, no matter how important the public interests involved.

On the subject of the valuation of railway property I have had, as I suggested a moment ago, for nearly two years now a bill before the Committee on Interstate Commerce authorizing the Interstate Commerce Commission to make an inventory and determine the value of the railway property of the country.

There is every reason why it should be done. We can not, in the first place, have any proper basis for railway rates; we can not have any proper basis for estimating the value of railway securities if they are to be used as a basis for currency unless we have a valuation of the railway property. Yet it seemed to be utterly impossible to extract from the committee that had possession of that bill any report, whether adverse or otherwise, giving to this body an opportunity to consider and pass upon that important question. That has likewise been true of other very important proposed legislation. I remember a measure

that the Senator from Oregon introduced quite early in the session, a very important bill, the consideration of which it seems to me the committee should have taken up very early. Report should have been made upon it, and the commerce of the country protected against hasty and extravagant increase in transportation charges. Yet that bill has remained in the committee throughout this long session. In fact, I am not able to remember just at this particular moment any bill of public interest that has been reported from the Committee on Interstate Commerce.

Mr. STONE (at 7 o'clock and 5 minutes p. m.). Mr. President—

The PRESIDING OFFICER (Mr. FULTON in the chair). Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. LA FOLLETTE. I do.

Mr. STONE. The Senator from Wisconsin is making a very interesting and instructive address. It seems to me there ought to be a quorum of Senators present to hear it. There is not now.

Mr. LA FOLLETTE. It seems to me that is a good suggestion.

The PRESIDING OFFICER. The Senator from Missouri suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Gallinger	Platt
Ankeny	Cullom	Gary	Scott
Borah	Curtis	Guggenheim	Simmons
Brandegee	Daniel	Hale	Smoot
Briggs	Depew	Hopkins	Stephenson
Brown	Dick	Kean	Sutherland
Burkett	Dillingham	La Follette	Taylor
Carter	du Pont	Long	Teller
Clapp	Flint	Nelson	Warner
Clark, Wyo.	Foraker	Overman	Warren
Clay	Fulton	Piles	Wetmore

The PRESIDING OFFICER. Forty-four Senators have answered to their names. There is not a quorum present.

Mr. ALDRICH. I ask that the names of the absentees be called.

The PRESIDING OFFICER. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators.

Mr. ALDRICH. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant-at-Arms will execute the order of the Senate.

Mr. HEYBURN, Mr. BURROWS, and Mr. HEMENWAY entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. A quorum of the Senate is present.

Mr. HALE. There need be no further proceedings under the call.

Mr. FORAKER. I insist that the Sergeant-at-Arms shall request absent Senators, every one of them, to attend.

Mr. GALLINGER. That is right.

Mr. HALE. That is right. It ought to be done.

Mr. FORAKER. They might as well be here as the others.

The PRESIDING OFFICER. The Senator from Wisconsin will proceed.

DISCUSSION OF A RULE AND PRECEDENTS.

Mr. LA FOLLETTE. Mr. President, if I am at liberty to proceed, I am very glad. I was afraid I was going to be interrupted for some time, while the Senate sent for absentees. I did not understand the proceeding exactly, and I do not like to be off the floor a moment longer than is absolutely necessary to get the attendance of a quorum. And now may I make a parliamentary inquiry before starting in? Suppose it should develop on top of this situation that there is not a quorum present, can I raise the point of no quorum?

Mr. HALE. Clearly the Senator can not raise that point while we are proceeding under the previous call to secure the attendance of Senators by the Sergeant-at-Arms. When the Sergeant-at-Arms reports and that proceeding is ended, then if there is no quorum another call may be made, but it can not be made until those proceedings are completed.

Mr. LA FOLLETTE. Mr. President, I want to remind Senators that you are making precedents now. I have been informed that there is going to be a rule sprung on me before I get through that a Senator, in a single legislative day, can speak only twice upon a question.

Mr. GALLINGER. That is the rule.

Mr. LA FOLLETTE. That is the rule. It has never been enforced since I have been a member of this body.

Mr. FORAKER. The rule is that he can not speak more than twice—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. Surely.

Mr. FORAKER. As I understand it, a Senator can not speak more than twice during the same legislative day on the same subject except by unanimous consent.

Mr. LA FOLLETTE. Yes; and I hardly expect to obtain unanimous consent, if I should yield the floor at any time.

Mr. CULBERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. LA FOLLETTE. I am not sure whether I have a right to the floor or not.

Mr. CULBERSON. I call the attention of the Senator from Ohio to the exact wording of the rule.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield?

Mr. LA FOLLETTE. If I have the floor, I yield to this interruption from the Senator from Texas.

Mr. CULBERSON. I simply wanted to call the attention of the Senator from Ohio to the exact wording of the rule. It is that—

No Senator shall speak more than twice upon any one question in debate on the same day without leave of the Senate.

Mr. FORAKER. I was in error in saying "by unanimous consent." I understand very well, of course, that that is the language of the rule. I want to suggest to the Senator that when he gets to that point he ask the leave of the Senate.

Mr. LA FOLLETTE. Mr. President, of course I understand perfectly well that the Senate would deny me leave to proceed.

Mr. FORAKER. Oh, Mr. President, I do not think the Senator should assume anything of the kind in view of what has occurred to-day. I think the Senate will allow the Senator anything he may ask.

Mr. LA FOLLETTE. The Senator says "in view of what occurred to-day." I do not think that I was given any indulgence to-day at all. I think that I was entirely within my right. And I do not expect any indulgence from the Senate. I never have had any since I have been a member of it.

Mr. FORAKER. The Senator surely was entirely within his right. I was not making any complaint of the Senator, and I am not complaining of anybody, but I was referring to the vote of the Senate on the occasion the Senator has in mind.

Mr. OVERMAN. Mr. President, I rise to a parliamentary inquiry. Can the Senator from Wisconsin proceed until the Sergeant-at-Arms reports?

Mr. HOPKINS. There is a quorum present.

The PRESIDING OFFICER. There is a quorum present, and the Chair is of opinion that the Senator from Wisconsin has the floor and may proceed.

Mr. OVERMAN. The question I raise is whether it has been established that a quorum is present.

The PRESIDING OFFICER. A quorum is present.

Mr. OVERMAN. And at any time can the point of a quorum be raised if there is no quorum?

Mr. GALLINGER and others. Regular order!

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor.

Mr. LA FOLLETTE. I should like to know the Chair's ruling upon that point.

The PRESIDING OFFICER. The Chair is of opinion that the Senator from Wisconsin has the floor and may proceed.

Mr. LA FOLLETTE. That was not the parliamentary inquiry. I would present the parliamentary inquiry to the Chair just presented by the Senator from North Carolina.

The PRESIDING OFFICER. The Chair will determine that question when it arises.

Mr. LA FOLLETTE. Then I will raise the question now—that there is not any quorum present.

The PRESIDING OFFICER. The Chair is of opinion that—

Mr. LA FOLLETTE. It is not a question of the opinion of the Chair.

The PRESIDING OFFICER. There is a quorum present.

Mr. LA FOLLETTE. Mr. President, I submit that when that question is raised it is not for the Chair to state that there is a quorum present.

The PRESIDING OFFICER. The Chair will read clause 3 of Rule V:

3. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attend-

ance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, shall be in order.

This implies, of course, that when a quorum is present the business of the Senate shall proceed. The Senator from Wisconsin has the floor.

Mr. LA FOLLETTE. That was not the parliamentary inquiry presented by the Senator from North Carolina. If it was, I want to present another, and that is this: It having developed that a quorum is present and that the regular legislative business of the Senate may be resumed, I ask, if the question is raised, under subdivision 2 of Rule V, that there is no quorum present, whether it does not then become necessary to ascertain by a roll call whether there is a quorum present. That is my parliamentary inquiry.

Mr. TELLER. Mr. President, I understand the rule to be that when a quorum is found to exist and it is announced business may then proceed, and no Senator can call for a quorum until after some business, at least, has been transacted.

Mr. LA FOLLETTE. I think that is true, Mr. President.

The PRESIDING OFFICER. The Chair is of the opinion that after a quorum is announced the business of the Senate must proceed until there has been some transaction of business.

Mr. LA FOLLETTE. Yes; I think that is true, and I was, perhaps, anticipating somewhat in raising this parliamentary inquiry. But it came up at the suggestion of the Senator from North Carolina, and being a rather interesting question—

Mr. OVERMAN. It came from the Senator from Maine.

Mr. LA FOLLETTE. That is true.

Mr. OVERMAN. I differed with him on the question, and that is the reason why I made the inquiry of the Chair.

Mr. LA FOLLETTE. It will come up in good time and be passed upon, I have no doubt, by the Vice-President.

Now, Mr. President, that we have a pretty good attendance in the Senate, I want to read from Mr. Crozier's book a most excellent argument on the question of the valuation of railroad property. I sincerely hope that Senators will not immediately show a lack of interest in that all-important question by getting up and withdrawing from the Senate Chamber and forcing me to make a point of no quorum again. I do not want to do that, Mr. President. I should like to go along with this argument of mine without interruption. I simply ask a respectful hearing of this body so long as this legislative day continues.

In this book to which I refer, entitled "The Magnet," the author has constructed a situation where he has a railway-valuation bill pending before the United States Senate. It is a most interesting and dramatic situation. The leader of the Senate—in this book which I hold in my hand, which is, of course, a work of fiction, a novel—is interested in the defeat of the measure on the valuation of railway property. He has various outside interests which influence him to oppose the bill.

Mr. President, this conversation on the floor is very distracting, and I should like to have order, and I beg my brethren to remain and listen to this most excellent argument; I am sure they will be vitally interested in it.

I was just going to say that the leader of the Senate, in this novel, who is really opposed, because of his interests, to the valuation of railway property, sees an opportunity to make a handsome profit in stocks and bonds, by creating a scare out of the valuation bill. So he brings about a situation at a great banquet, to which he causes a member of the Senate who is in favor of the legislation to be invited and called on to respond to a toast on the subject of the appraisal of railway property, so as to create a flurry in stocks and enable him to make a great "killing"—which, I believe, is the proper Wall street phrase.

The great banquet came on, and the member of the Senate who had been called upon to respond to this toast took the floor and presented the argument which I am about to read. It is really so good and refreshing that I thought it worth while to submit it as a part of this discussion bearing upon the importance of having railway valuation before we ingraft railway securities upon the currency system of the country. The speech begins as follows:

MR. TOASTMASTER AND GENTLEMEN: You have done me the honor of assigning to me the subject of railroad appraisal, and I shall strictly confine myself to that question.

This is Senator John Hayes. He is the "junior Senator from New York" in this novel.

Mr. TELLER. Mr. President, I should like to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. LA FOLLETTE. I do.

Mr. TELLER. Does this purport to be a real history or is it only fiction?

Mr. LA FOLLETTE. No; I stated that this is a work of fiction. It is a novel.

Mr. TELLER. Who is the author?

Mr. LA FOLLETTE. Alfred O. Crozier, and the title of the book is "The Magnet." It deals very largely with stock manipulations in Wall street. I will remind the Senator—I have no doubt he will recall the fact—that Senator TILLMAN, whose absence we all lament at this time and whose safe return in a wholesome physical condition all of us pray for, presented, while the Aldrich bill was under consideration here, a petition or a remonstrance from Mr. Crozier against the passage of the Aldrich bill. It seems that he has made something of a study of financial and transportation problems and he has written this book. It is true it is a work of fiction, but it deals with these great problems which are now engaging the public attention. As it was so apt and bore so directly and keenly upon this very important question, I was sure that all the Senators would like to hear it. I will continue the reading of the argument:

The bill now pending in Congress—

This is the "junior Senator from New York," who is responding to the toast of "railroad appraisal"—

The bill now pending in Congress is to empower and direct the Interstate Commerce Commission to cause the appraisal of all the railroads of this country which carry interstate commerce; this appraisal to be at legal cash value. Without this the Commission is powerless to determine what are reasonable rates. These are now largely a matter of guess. The law already in force requires the Commission to determine, declare, and enforce reasonable rates, but leaves open the question of the basis upon which passenger and freight rates shall be computed. Shall they be such as will yield a fair income on the issued capital stock and funded securities of the railroads? Or upon the actual cash cost? Or upon the amount for which each road in question could now be duplicated? Obviously no intelligent action can be taken until the Commission has obtained such official appraisal.

I digress just a moment to suggest that the fact that this subject of railroad valuation has been prominently set forth in a work of fiction shows the growing interest in the question. I am told that this book, the publication of which I knew nothing of until two or three copies were sent to me, has had a tremendously large sale, and I bespeak for this argument which I am now reading the serious consideration of the Senate.

The matter is far too important—

Says "the junior Senator from New York" in this book—

The matter is far too important to impose upon the Commission the power and duty to determine the basis for making this appraisal. The results may vary by many billions of dollars, according to which basis of appraisal is used. The annual rate burden upon the people and the yearly revenue to the railroads may be greater or less to the total of hundreds of millions of dollars, according to the basis determined upon for this appraisal; for the rates to be charged will be figured upon the results of such appraisal.

Congress, representing the whole people, should take the responsibility of determining the method and basis to be used by the Commission in making this appraisal of the railroads.

Now, I am going to ask that the conversation upon the floor be suppressed, or subdued at least. My voice is just getting in prime condition and I do not want to strain it at this hour.

Mr. TELLER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. LA FOLLETTE. I yield to the Senator.

Mr. TELLER. I think myself there should be more order in the Senate.

Mr. LA FOLLETTE. I thank the Senator from Colorado.

Mr. TELLER. Senators should take their seats and visitors should, if possible, take their seats.

The VICE-PRESIDENT. The Senate will be in order.

EMINENT DOMAIN A GOVERNMENTAL POWER.

Mr. LA FOLLETTE. Mr. President, I shall continue to read from this interesting work.

This is not an administrative function. It is a legislative duty, subject to final review by the judiciary. If left to the administrative department through the Interstate Commerce Commission, each railroad can challenge the result by appeals to the courts in a multiplicity of suits and endless litigation, causing great delay, expense, and confusion. If it be determined by Congress as provided in the appraisal bill, one suit over the validity of this measure will quickly decide the entire question for all of the railroads and for all time.

If we may deem settled the absolute necessity for an appraisal and the wisdom of Congress determining the basis for making the same, it only remains to consider which method or basis is right, reasonable, just, and lawful.

It is well known that private property can be taken without its owner's consent only for public use. For every other purpose the owner's title and possession are inviolable. The courts and the Government itself are powerless to otherwise disturb the owner of real property. This has been the law from the beginning. The Constitution, the highest written law of the land, expressly guarantees it.

The right of the public, however, to take such property for necessary public purposes by due process of law and on compensation to the owner for its value, is equally well established. This right is founded on the necessities of Government; for otherwise the power of the indi-

vidual citizen would be superior to that of the Government, and he could to that extent paralyze its functions. Within defined limits the rights of the individual are subject to the superior rights of the public. Without this, orderly and progressive government could not exist. Civilization is possible only where this doctrine is recognized and enforced. This is called the power of eminent domain, which is the taking of private property for public purposes. It is one of the most sacred powers of government, and, next to the police power over the person, the most arbitrary. Its exercise can be justified and will be sustained only where the public welfare clearly demands it. This sovereign power can not, even by the Government itself, be delegated to the citizen for his private benefit. Neither can it be delegated to a corporation for the sake of its advantage or profit.

There is but one purpose to justify Government in conferring this great power of eminent domain upon a corporation—that is when it is necessary for the welfare of the people and for their benefit. The benefit to the corporation, as such, is ignored in determining the matter. Only the public interest is considered. Were it otherwise it would be taking private property for private purposes and therefore illegal.

This great power of eminent domain has been conferred by the governments of the various States upon railroad corporations. This has been sustained only on the ground that railroads are common carriers supplying highways of travel and transportation for the people, that they are "clothed with a public interest and engaged in a public business;" that they are a public necessity and for the people's welfare.

So this governmental function has been loaned to railroad corporations, to be by them exercised only for the purposes for which the Government itself could use it, viz, for the benefit of the public.

Its use for any other purpose, or to any extent exceeding what is strictly necessary for public good, would be an unwarranted invasion of private property rather than for public purposes; therefore it would be illegal.

Eminent domain is a loan of governmental power for a specific purpose, instead of a gift—

Now, here is a distinction it seems to me worth while to get into the public mind.

Eminent domain is a loan of governmental power for a specific purpose, instead of a gift of property to be scheduled as an asset of a corporation. Without the power of eminent domain, it would have been impossible to build the great railroads of the country. Without this right of condemnation of private property for railroad uses under the power of eminent domain, exercised because of the public need for railroads, any single property holder could absolutely and permanently block and prevent the completion and use of a railroad a thousand miles long, even after all the balance of the right of way was secured and the road built thereon. This is because no one can be forced to sell private property for private purposes.

Therefore the builders of railroads must invoke the strong arm of the Government; and this can legally be given only on the ground of public benefit and necessity. It must follow that the public, in return, is entitled to fair treatment from the corporation in the way of good service at reasonable cost.

If eminent domain is the loan of a power instead of a grant of property, it would seem clear that it can not be capitalized by the corporation, and that any extra value or profit received by the corporation as the result of exercising that borrowed power must belong to the public—not to the corporation.

This is very refreshing doctrine.

Otherwise, the employment of that power would be for an improper purpose and a fraud upon both the individual whose private property was thus forcibly taken for the purpose of yielding extra private property to another, and upon the public which is made to pay the railroad an extra profit because it has loaned to the corporation this governmental power to relieve its utter helplessness and enable it to make any profit whatever. Therefore, capitalized eminent domain for private profit is both unjust and unlawful.

There can be no foundation in law or reason to justify the action of the railroads of the country in capitalizing for private benefit for billions of dollars the people's power of eminent domain—a franchise—thus loaned without charge, and in then so adjusting their passenger and freight rates as to force the people to pay some hundreds of millions of dollars annually as dividends thereon, in addition to a sum sufficient to pay a liberal net income on the entire actual investment of all railroads and in their properties.

Mr. President, the buzz of conversation is very distracting and trying to my voice.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. This book continues:

To condemn and buy a given property from an unwilling private owner, say for \$100,000, and immediately schedule it in the assets at \$200,000, issuing and selling to the public capital stock for double its cost, and then forcing the people, whose power alone enable the acquiring of the property at all, to pay higher rates for riding or shipping on that railroad so that dividends may be paid on the entire double capitalization would seem an exhibition of suspended business morality—illegal as it is unpatriotic—utterly indefensible on any ground whatsoever. The former owner has thus either been forcibly deprived of his property at half its real value, or he is being charged illegally high rates for using such railroad. And it makes no difference whether he gave up his property in actual condemnation proceedings or under express or implied threat thereof.

It must be kept clearly in mind that railroads are common carriers. They are quasi-public corporations. As such, they have duties and obligations to the people entirely different from those of other corporations. In return for such broad delegated powers obtained from the Government, without which they could not proceed, they are legally obligated to give the people good service at reasonable charge. This is the basis of governmental regulation of railroads. This is the reason the Constitution was made to confer upon the Federal Government control over interstate commerce.

On the other hand, an ordinary private corporation, like an individual, can sell its goods or service at any price it may fix; and the public must pay the price or do without the goods or service. The Government will not and can not interfere unless such corporation attempts to enter with others into an illegal conspiracy in restraint of trade and competition and for purposes of deliberate extortion, or capitalizes against public policy an unlawfully obtained monopoly.

Mr. President, I must ask to have the confusion and the undue buzzing of conversation in the Chamber stopped.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. This author continues:

Such a corporation has incurred no obligation or duty to the public by borrowing the powers of government, like eminent domain, to enable it to conduct its business. Therefore it has the right to capitalize its property, good will, and business for any amount it desires and to earn and pay as large dividends as possible, subject only to the statutes respecting the relation of such corporations to public policy and providing that no fraud shall be practiced on those investing in its securities by misrepresentation as to its capitalization, business, assets, and profits.

But common carriers are legally entitled to charge rates which will yield only sufficient to pay a reasonable net income upon the capital necessarily invested to enable good service to the public. Any regulation by Federal or State governments as to rates for service resulting in impairment of the earnings below that point would be confiscation, therefore illegal.

It must, then, follow that failure on the part of the Federal Government, under its control over interstate commerce, or of the States, under their recognized authority, to so regulate such common carriers as to prevent—

I will pause, Mr. President, until there is better order in the Chamber.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. I will go back a little, Mr. President, because I am certain Senators do not want to lose any of this:

It must, then, follow that failure on the part of the Federal Government, under its control over interstate commerce, or of the States, under their recognized authority, to so regulate such common carriers as to prevent collection from the people of rates for service which will yield more than enough to pay a reasonable net income on the actual cash investment is a fraud upon the rights of the people to that extent. And this failure, if unduly continued, makes the people's government itself a party to the fraud.

The doctrine of the lawfulness of a reasonable rate implies the unlawfulness of an unreasonable rate. If this reasonable rate is to be ascertained by computation upon securities aggregating double the actual cost of the railroads, by the same token it can be computed upon four times or even ten times the actual cash investment, provided sufficient paper securities are issued and sold to the public as innocent parties. There can be no innocent parties as against the public welfare, based on practices always unlawful, no matter how long indulged in; for all are presumed to know the law. On the other hand, if Congress shall declare—not determine—and the courts sustain, that a reasonable rate always has been one which will yield only a reasonable net income on the actual just value of the railroads, then it follows that the "unearned increment" belongs to the people and should never be capitalized against them.

Of course this would be scouted as pretty novel doctrine if it were presented to railway officials or to railway attorneys, but it is founded in correct principles both in equity and in law.

Nor should good will and earning power be capitalized, for these may be merely the products of illegal rate extortion. Had rates been regulated and adjusted to yield only a reasonable net income, there would have been no excess earning power to capitalize.

Mr. President, I am again under the painful necessity of suggesting the absence of a quorum. I am very reluctant to do so, but I feel obliged to have the rule enforced.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Cullom	Gary	Nelson
Ankeny	Curtis	Gore	Paynter
Beveridge	Daniel	Guggenheim	Piles
Borah	Depeu	Hale	Scott
Bourne	Dick	Hemenway	Smoot
Brandegee	Dillingham	Heyburn	Stephenson
Briggs	Dixon	Hopkins	Sutherland
Brown	du Pont	Johnston	Teller
Burkett	Flint	Kean	Warner
Burrows	Foraker	La Follette	Warren
Carter	Frazier	Long	Wetmore
Clapp	Fulton	McLaurin	
Clark, Wyo.	Gallinger	Milton	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

Mr. LA FOLLETTE. I want to resume, Mr. President, my reading of this most excellent speech on the subject of the valuation of railroad properties, and the importance of that valuation in order to determine anything about the value of railroad securities. That is, the bearing it has upon this legislation. Of course, I will be glad to have my suggestion made early in this discussion understood at all times. I do not remember at what hour, for I have lost the run of time, but some two or three hours ago I brought to the attention of the distinguished Senator from Rhode Island the suggestion that, although I regard this whole bill as very bad, I am contending here for a particular principle. There is incorporated in this bill a provision which will make railroad bonds and railroad stocks of every character and description the basis of currency. It does not make any difference whether there is 10 or 15 or 30 per cent of value in that security, this proposed legislation permits it to be made the basis of a currency issue.

Mr. President, the railroad-bond proposition has been worked into this conference report under conditions that make it im-

possible for us to have a direct vote upon it. It was in the bill as originally reported from the Committee on Finance, and when it was about to be argued here and the facts presented with respect to it it was suddenly taken out of the bill, the Senator from Rhode Island arising in his place and saying that he was authorized by the unanimous vote of the Committee on Finance of the Senate to withdraw the provision in regard to railroad securities. The provision had been the subject of very spirited and persistent attack on the part of the press of the country; and its withdrawal must have been considered as absolutely essential to save the bill.

Now, that action gave us no opportunity, you know, to consider that phase of the question in any legislative way, to have real legislative consideration of that provision, and to have a vote upon it. So here we are confronted with a conference report, and in this conference report we find provisions which will enable not only railroad bonds, such as were incorporated in the Aldrich bill in the beginning, but railroad bonds of any character, no matter to what extent they have been watered, and, on top of that, railroad stocks as well, to be made the basis of a currency issue. I do protest, Mr. President, that the present procedure does not give us any good, fair chance to have a decision on that question. It does seem to me that we ought to have an opportunity to meet that fairly and squarely and have the record made so that all the country might see it.

NO SUPPORT FOR PLAN TO MAKE RAILWAY BONDS CURRENCY BASIS.

I am not a parliamentarian myself, but the Senator from Rhode Island is a great parliamentarian, as he demonstrates every time he takes the floor here, you know, and it does seem to me that he ought to be able in some way to plan out a method, either by some sort of unanimous consent arrangement or otherwise, by which this conference report could be taken back to the conference committee and this railroad proposition eliminated.

I must say, Mr. President, that in the investigation that I made with respect to the question I never found a periodical or a newspaper of any standing the country over that supported the proposition to make railroad bonds, even under the limitations fixed in the Aldrich bill, the basis of a currency issue, emergency or otherwise. Yet here we find such a provision in this conference report, and it is not guarded and protected as it was to some slight extent by the Aldrich bill, but the gate is left wide open.

I say to you, Mr. President and Senators, it is fearfully important. It is not merely a question of getting some bad securities, some doubtful securities, worked into our currency system; but if you ever let this be done, if you ever make railroad bonds by legislative enactment, by legislative declaration, such as here provided, a basis for currency, and then attempt to get a railway valuation such as this most excellent argument demonstrates is so important to the country, instantly there will arise, I would almost venture to prophesy, the Senator from Rhode Island and other Senators here and say, "That is a very dangerous proposition; the railway bonds and the railway stocks under the laws which Congress has solemnly passed have been made the subject of investment."

Large sums of money have been put into this class of securities by great national banking institutions of this country because they were recognizable as a basis for this kind of issue. The Government itself has invited this. It has asked, nay, it was suggested in the speech of the Senator from Rhode Island, that we ought to go so far as to compel the banks of the country to invest in this class of securities.

But taking it just as we find it now in the conference report, what will happen when we try to get a valuation of the railroad property? Does any Senator—put the question to yourselves here on this floor—does any Senator think for a moment, can you persuade yourselves, that you will not have to meet that question, that you will not have to provide for a valuation of railway property? You never can get away from it in the world. You may postpone it a while, you may keep it shut up in the committee room upstairs, but you must have a valuation of railway property. The people of this country are going to know the value of the railroads of the country. They are not going to pay transportation charges for all time upon whatever amounts railroad corporations may see fit to fix upon as their capitalization. That is preposterous. As the junior Senator from New York—in this work of fiction—says, if they can capitalize at twice the value, they can capitalize at four times the value.

I ask to have the conversation in the Chamber cease. I do not expect to be able to interest everybody. It is fair that I have a chance. I am within the rules. I am doing the best I can under difficulty. I suppose the Senator from Maine thinks

I ought to be in my place. Is that the rule? If the Senator invokes that, I will get back. I need a ration now, anyway.

Mr. HALE. I do not ask for the enforcement of the rule. But the Senator—

Mr. LA FOLLETTE. Oh, no. I will retire to my seat. It will not be necessary to draw that rule on me.

Mr. HALE. The Senator will be too far away.

IMPORTANCE OF LEGISLATION IS JUSTIFICATION FOR ACTION.

Mr. LA FOLLETTE. I will be able to make myself heard in any place in this body not only to-night, but to-morrow. [Laughter.]

But I submit, and I do it in all seriousness, that this is not an unimportant matter for me to undertake the work I have here. It is a serious matter. We are dealing with legislation that is vital to the interests of the country, the far-reaching effects of which we are going to be made sensible of before next November. I contend that it is a reasonable proposition that we should have an opportunity in this body to meet this one great question, the engrafting of railroad bonds and railroad stocks without limitation and without qualification upon the currency system of this country. We never have been accorded that opportunity; and I announce again, as I expect to from time to time when I think of it, that I am not here obstructing legislation without reasonable justification for my course. I have never been permitted to have a vote on this question. I have never been permitted to offer an amendment to this railroad-bond proposition, requiring the valuation of railroad property before those bonds are made the basis of currency. That is a fair proposition. You may not agree with me, but that does not matter. I was entitled to have an opportunity to present that proposition to this body, to argue it out and have a vote upon it, and that was avoided on the morning of the day that I was to have made the argument upon that question by slipping the railroad-bond proposition out of the bill.

I said that this proposition would appear again. I ventured that prediction. It is a rather perilous business to engage in prophecy. I said it because, as I studied the construction of that measure, as I watched the market reports, as I got my information from New York from day to day, it seemed almost certain that it would reappear. It had been built, as it were, around a class of securities that were declining rapidly and had been declining for two years, which had been going down, down, down both in this country and in Europe. Mr. Stuyvesant Fish called attention to this decline in an interview that was widely read and commented upon, and in which he suggested that the overcapitalization of these great institutions of this country had brought us to the very brink of peril.

Mr. President, I say now, while I regard this bill as a measure which will prove most unfortunate to the business interests of this country, I stand ready, as I did at the time I took the floor, to withdraw my opposition to its passage if the railroad propositions in it can be eliminated, but I will expend every ounce of energy and power there is in me to prevent that becoming a part of the legislation of this country.

Mr. President, I want to resume my reading of this most excellent speech. I do not know how I was diverted. There is a good deal of conversation here on the floor or in the galleries—I can not tell which. I do not want to use my voice against it. I only want a fair amount of order.

The VICE-PRESIDENT. Audible conversation in the galleries will cease.

Mr. STONE. A good many Members of the House have honored us with their presence, but I do not believe there is a quorum of the Senate present.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. LA FOLLETTE. Certainly.

Mr. STONE. I do not think there is a quorum of the Senate present. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Missouri suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Gallinger	Owen
Allison	Cullom	Gary	Overman
Ankeny	Curtis	Gore	Paynter
Beveridge	Daniel	Guggenheim	Piles
Brandegee	Depew	Hale	Scott
Briggs	Dick	Hemenway	Smoot
Brown	Dillingham	Heyburn	Stephenson
Burkett	Dixon	Johnston	Sutherland
Burrows	du Pont	Kean	Taylor
Carter	Flint	La Follette	Teller
Clapp	Foraker	Long	Warner
Clark, Wyo.	Frazier	McLaurin	Warren
Clay	Fulton	Nelson	Wetmore

The VICE-PRESIDENT. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. LA FOLLETTE. If I may now have the attention of the Senate, I will resume this most excellent speech made by the junior Senator from New York in this work of fiction.

If a railroad can lawfully and permanently double the volume of its securities based on good will and excessive earning power resulting solely from the double profits realized from increased tonnage in good times, then in bad times, when tonnage declines and profits are cut, it must necessarily be allowed to recoup by doubling its rates to maintain payment of the permitted reasonable income on its increased capitalization. Otherwise investors will be forced to accept an unreasonably low income, because the rates charged are insufficient to yield the reasonable income. Then when times become again prosperous, increasing tonnage and such doubled rates will once more create excessive profits, this increased earning power to be in turn permanently capitalized. And so on, over and over, always increasing, but never decreasing, the capitalization on which rates must be computed. It is a jug-handled proposition, a palpable injustice and fraud upon the entire people.

Obviously the legal remedy is to hold that a common carrier can possess no capitalizable property right in good will or earning power. All excess profits, except perhaps sufficient to create an adequate fund to equalize and make stable from year to year the payment of a reasonable income on actual investment, must go to the public through reduction of rates or otherwise.

Mr. President, I will suspend until the Senate is in order. I am in no hurry about this business.

The VICE-PRESIDENT. The Senate is in order.

Mr. LA FOLLETTE. I have all the time that anybody else has.

The VICE-PRESIDENT. The Chair is of the opinion that the Senate is in order.

Mr. LA FOLLETTE. I entirely agree with the Chair, and shall resume.

The VICE-PRESIDENT. The Senator from Wisconsin.

Mr. LA FOLLETTE. To resume the reading:

For the railroads to obtain the use of the power of eminent domain solely because it is to be for the public welfare, then use it to take by condemnation private property for its corporate purposes on pretense that it is for the people's benefit, then charge the people such excessive rates as to create an earning power sufficient to pay a reasonable net income on double the entire cost of the property, capitalizing this illegally obtained earning power by doubling the volume of securities without another dollar of outlay, and then try to force the people permanently to pay not only a reasonable income upon the actual investment, but also as much more by way of dividends on a fictitious and fraudulently capitalized earning power, would be a proceeding unjustifiable in morals and repugnant to law and justice. Yet this is precisely what we have seen accomplished. And this was done at the peril of the investors, for ignorance of the law excuses no man, and it never has been lawful for common carriers to charge more than a reasonable rate.

The doctrine of the reasonable rate, however, should be abandoned legally, or else charges for passenger and freight service should be readjusted to yield only sufficient to pay a reasonable net income on the actual cash value of the physical assets of the railroads, but not including the unearned increment. The law and general railroad practice must be made to conform to each other. Constant violation of law and justice breeds general discontent and worse, and it may subject the railroads to suspicion, prejudice, and unjust reprisals.

How can any other basis for appraisal than the one here stated be justified? The fact that for years an excessive rate has been charged, causing quotation prices of railroad securities to advance beyond their intrinsic values, is no reason for continuing the collection of unjust rates. The public can lose no rights through laches. Delay in righting the wrong has constituted no waiver of the right to do so. It can lose nothing by sleeping on its rights, except perhaps the excessive rates collected and carried away while it slumbers.

I will ask for a little suppression of the conversation on the floor.

The VICE-PRESIDENT rapped with his gavel.

Mr. LA FOLLETTE. To resume the reading:

Delay in righting the wrong has constituted no waiver of the right to do so. It can lose nothing by sleeping on its rights except perhaps the excessive rates collected and carried away while it slumbers. The statute of limitations does not run against the Government. That can not be pleaded against the people by corporations which have, without legal warrant, adjusted their capitalization and dividends to earnings unduly large because based on excessive and illegal rates, and which do not now desire to be driven from their comfortable position. Is it not more important to reestablish justice, to have the Government discharge its full duty under the Constitution and protect the whole people against the extortion of excessive charges, than it is to enable the stockholders of railroads to go on receiving larger dividends than legally they are entitled to?

All public-service corporations occupying public streets under franchises are subject to the same control and regulation by the governmental authority issuing such franchises as are the railroads, and for the same reasons. Franchises are not property to be taxed, scheduled as assets, and capitalized to force the public (which issued them gratis) to pay higher rates for service. A franchise is not a contract—it is a mere license, a conditional permit to occupy the streets for public benefit, subject always to the implied right of the issuing authority to alter or amend or cancel the same whenever public policy demands. The public may at the time or afterwards impose a reasonable charge for such uses of the streets. This is not a tax—it is a rental. The public may at any time fix the rates charged for service, provided the same are not made insufficient to yield a reasonable income on the actual cash investment necessarily required to furnish such service. This inherent right can not be bargained away, not even by public servants. Any attempt to do so would be void on the ground of public policy. Only thus can the people prevent their franchises being used as instruments for their own spoliation.

That is a very good statement of that principle, and it reminds me that once, when the subject was up in the Senate, the Senator from Nevada raised this question as to whether the public had not lost its rights to squeeze the water out of the overcapitalization of the railroads of this country, because the representatives of the people here in the Senate and in the House had neglected to provide any means by which that overcapitalization should be reduced and had left the public to go on investing money in these watered securities. It seems to me that the Senator from Indiana—when the question of valuation was being discussed at one time in the Senate, raised that same point. And I remember that the Senator from Mississippi [Mr. MONEY] made a very apt rejoinder to it. The proposition and principle are very well stated here indeed. Every lawyer in this body must recognize that.

Every investment based on a legislative permission or a municipal franchise is made with implied notice that it is subject to such constant governmental regulation and control as will make it conform to the fair interests of the people as to both service and rates. This is the meaning of public policy—that great and powerful and just guardian of the people, before which all contracts, rules, and laws must give way where not in accord with public welfare.

Mr. President, most of this is mighty wholesome doctrine, doctrine which it is quite worth while to keep uppermost in the public mind until these great questions which go to the control of the highways of commerce and trade are settled, and settled right.

PROPER BASIS FOR RAILROAD CHARGES.

I remember, Mr. President, when the rate bill was pending here in the Senate about two years ago, and the amendment which I offered to the bill, authorizing the Interstate Commerce Commission to make an inventory of the railway property, was rejected, receiving only the votes of seven Republican Senators and the votes of the Democratic Senators except two or three, I ventured, new in my service as I was, to suggest to this august body that the issue presented by that amendment would never be put aside or disposed of until the railway property of the country had been inventoried, until its true value had been ascertained, and ascertained under circumstances and conditions that would leave no ground for impeachment or suspicion as to the correct value of the property so ascertained. Although the question has been deferred and although it has been almost impossible, apparently, to secure from the Interstate Commerce Committee any report of a bill upon that subject, I am nevertheless strong in my belief, as I was at that time, that this question can never be disposed of and that the discussion and agitation of the rights of the people over the roads of the country leading to their markets will continue to be active and insistent, until there is an accurate determination of the true value of railway property.

Of course, if there were but one persistent individual from a single State in this Union urging the consideration of that question, it might be one which you could treat with contempt. But that is not the situation. There is all over this country a clearly defined understanding in the public mind that the railroad and transportation companies of the country are entitled to only a fair net return upon the amount which they have actually invested in their business.

Go into any community and ask any man what he ought to pay for a business. He will tell you that he can not tell how much he ought to pay until there is an inventory of the property.

There is no confusion at all about that. The people know that the railroads of the country are entitled, in the first place, to pay the operating expenses of their roads. They know that the railroads are entitled to a fair profit upon the actual investment in the business, and that, after paying a fair profit upon the capital invested and paying the expenses of operation, with perhaps a margin for lean years, they are not entitled to charge a farthing more for conducting the transportation business of the country.

There is no way to avoid this question of railway valuation. You have constantly confronting you here the urgent demands of the Interstate Commerce Commission that this valuation be made. I have the advance copy of the last report of the Commission, and I turn aside for a moment from this most excellent address—I refer, of course, to the address of the Senator from New York—in this work of fiction. I will recur to it again. I know you are all interested in it, and I do not want anybody to be apprehensive that I am going to overlook any part of it, for I am not. But I pause just for a moment to emphasize a bit this important question of the valuation of the railroad property. I want to enforce upon the attention of Senators the fact that they have got to settle it.

I did not know how well I was until I got to talking. If I had known, I should have called up a resolution which I have pending here. I had not any idea when I took the floor this morning

that I would be able to get along as well as I have done. I feared my voice would not hold out, for I have been troubled with that for several weeks, and I was a little bit worried about my strength. If I had known that I had so much, I think I would have started in three or four days ago by calling up the resolution to discharge the Committee on Interstate Commerce of the Senate from the further consideration of my bill for the valuation of railway property, which has been pending in that committee during two sessions, and I would have had a vote upon it. If there is time enough after we get through with this report, and there may be, we will get up that question yet.

LONG STRUGGLE OF PEOPLE TO CONTROL.

You see there is not anything more important for this great body to consider than the question of the valuation of railroad property. Of course, the Senate well understands that the people of this country pay to the railroad companies of the country somewhere in the neighborhood of two thousand million dollars for transportation charges. About fifteen hundred million dollars of that is paid for freight and about five hundred million dollars of that is paid for carrying passengers. About four or five hundred millions of dollars of this total is extortion and overcharge, over and above what the roads are justly entitled to charge.

There must be some just and fair standard by which the rates can be measured. Now, what is it? It is the cost of operation and a fair measure of profit upon the actual investment. Those are the things to be considered when you seek to determine the rate that any public-service corporation has a right to charge. That is all any telegraph company has a right to charge. It is all any express company has a right to charge. It is all any telephone company has a right to charge. It is all any railroad company has a right to charge.

Thirty-four years ago the people of this country undertook to establish that principle in law and to get legislation that would enforce the rates upon that basis. That struggle has been protracted down to the present time. The great interests have been so powerful in the legislative bodies of the different States, excepting in two or three States, and they have been powerful enough in Congress through all those years, that to-day, notwithstanding the rate legislation that was secured here two years ago, you have absolutely no basis upon which you can fix a single rate as a reasonable rate or upon which you can fix any class of rates as reasonable rates to the people of this country.

Is not that a humiliating situation under a representative form of government? And why, Mr. President? We have on the statute books at the present time a rate law, and that rate law as it stands to-day empowers the Interstate Commerce Commission to fix reasonable rates. It says that any unreasonable rates shall be unlawful. But it withholds from the Interstate Commerce Commission all authority by which it can possibly ascertain what a reasonable rate is.

This body two years ago defeated the proposition which would have enabled the Interstate Commerce Commission to have ascertained that fact. It does no good to clothe the Interstate Commerce Commission with power in so many words, to say that rates shall be reasonable, that any unreasonable rate shall be unlawful, and that the Interstate Commerce Commission shall fix reasonable rates. It can not fix reasonable rates until it knows the value of the railway property. I plead and argued with this body for what? Just for the adoption of a proposition to clothe the Interstate Commerce Commission with authority to ascertain the value of the railroad properties of the country. That is the basis and foundation of rate making.

HISTORY OF WISCONSIN'S EXPERIENCE.

Pardon me if I am a bit provincial now. Up in Wisconsin we have a railroad rate commission. That rate commission has decided some 400 cases since it was established. Out of these 400 cases only one has been appealed. They have reduced transportation charges there on grain shipped within the State and subject to State control that makes a saving of \$700,000 a year to the people of Wisconsin in shipping grain to the Lake ports within the confines of that State. They have likewise reduced the transportation charges on live stock and on coal shipped within the State. On dairy products and other traffic they have ordered reductions. They have exercised control in the public interest not only of rates but of services. They have said to the railroad companies of that State, "You must run so many freight trains. You must furnish freight trains to this shipping point and freight trains to that shipping point. We have complaints from this shipper and from that shipper that you are not furnishing sufficient cars." And when their orders have been issued the trains have been run and cars have been furnished. In some instances they have required new depots to be built, where facilities provided were inadequate

for the public convenience. In every instance, but one, the railroad companies have obeyed the orders of the commission of Wisconsin. In one case, as to whether a certain limited train should stop at a certain small station in northern Wisconsin, the Soo road took an appeal to the supreme court of the State and that appeal is pending.

Now, why have the railroads accepted the decision of the Wisconsin commission? Because we have the value of the railroad property of that State, and our commission is in a position to make orders based upon exact knowledge, and the carriers know that an appeal would avail them nothing. That is the reason. Your commission here, which you have created and to which you have given the limited powers accorded under the act of two years ago, is simply scratching the surface of this great rate question, and you must know it. How powerless are the shippers of this country! What is the situation to-day? Only a few days ago a great body of shippers met in Chicago to make an appeal to the railroads of the country against the increase in the transportation charges with which the whole country is threatened, an increase of something like \$200,000,000 that is to be loaded upon the transportation of the country. Shippers from all over the great West assembled there in convention, filed their protest, and made their appeal that before there should be an increase in these rates the roads should file with the Interstate Commerce Commission an application for such an increase; that a hearing should be had upon it, and it should be approved by the Commission. Nothing of the kind, of course, can be accorded to them; under the law they are utterly powerless. That is exactly what is contemplated by the bill introduced by the Senator from Oregon [Mr. FULTON] and retained throughout this entire session by the Committee on Interstate Commerce while all the lumber business of that great State and adjoining States languishes. The mills are shut down and thousands and thousands of men are thrown out of employment because there has been an increase in the freight rates. As I remember the figures, and it is only from my general reading that I retain anything respecting it, something like \$30 a car has been added to the transportation charges, which is prohibitory to the lumber business of that great section of the Northwest country.

INTERSTATE COMMERCE COMMISSION POWERLESS.

Mr. President, when any appeal is made to the Interstate Commerce Commission with respect to any particular class of rates, what does the Commission do? It can not determine whether the rates are reasonable. The bill says that it shall ascertain reasonable rates and enforce them. It can not do it. Why? Because it has no standard with which to compare any rate which is challenged as a reasonable rate. It can not compare it except as it compares it with some other existing rate. It can not ascertain whether any rate or any given schedule of rates is reasonable except as it knows the value of the property and the cost of operation and determines what would be a fair measure of profit upon the capital invested. Those things it must know. Those things it has been denied by this legislative body the right to inquire into.

For two years I have had sleeping up here in the committee room of the Interstate Commerce Committee a bill asking merely the privilege of ascertaining the value of the railroad property of the country. Such a bill is now in the possession of the Interstate Commerce Committee. I am not able to get it out. It has the sanction and approval of the Interstate Commerce Commission, because every time, Mr. President, that they have issued a report for some years they have appealed to Congress to give them the authority to ascertain the value of the railway property of the country. I want to read you just what they said at the time that we came together here at the present session. The people of the country know about this. They think it is very strange we do not pass this legislation; it is so sensible, it is so reasonable. They have said that no tribunal—now mark—no tribunal, whether it be legislative, administrative, or judicial, can determine reasonable rates without taking into account the value of the railway property employed in transportation. That is, of course, so manifestly right that it needs only to be stated to find instant approval in any unbiased mind. Yet the Interstate Commerce Commission has pleaded and pleaded with Congress for legislation to empower and authorize them to ascertain the value of the railway property of the country. For years they have been asking this. Their appeals have been unanswered. Just this last December they said these important words on this subject:

Reference has been made in previous reports to the importance of a physical valuation of railway properties.

I am reading now from the advance copy of the twenty-first annual report of the Interstate Commerce Commission, Decem-

ber 23, 1907. You see that is just last December. This is a very fresh document. The Committee on Interstate Commerce had this up in their rooms, together with my railway-valuation bill, which has the support and approval of the Interstate Commerce Commission. I read from page 149 of the advance copy of the report of the Interstate Commerce Commission:

Reference has been made in previous reports to the importance of a physical valuation of railway properties. The considerations submitted in favor of such a valuation need not be repeated at this time.

Surely they have been repeated a good many times.

Reference has been made in previous reports to the importance of a physical valuation of railway properties. The considerations submitted in favor of such a valuation need not be repeated at this time. It may, however, be proper to call attention to the fact that the introduction into operating expenses of a set of depreciation accounts brings prominently into view an added necessity for an inventory of railway property. The chief purpose of the depreciation accounts is to protect the investor against the depletion of his property by an understatement of the cost of maintenance, and to protect the public against the maintenance of unduly high rates by charging improvements to cost of transportation.

It is absolutely wrong for a railroad company to make its improvements out of transportation charges. That makes the public pay transportation rates to furnish the capital for building the railroad. It makes the public contribute the original capital, as a matter of fact. That is what the railroad companies of the country, as I said some time ago, have been doing ever since railroad building began in this country. They have assessed the public rates high enough to make the public pay for the capitalization of the railroads, for all permanent improvements, and for all extensions. There is no justification for it. It is villainous, and it is wrong for it to be perpetuated. The way to stop it is to have a valuation of the railway property so as to bring this business to a fixed basis between the public and the railroads.

No one should desire to see the railroad companies or their properties treated unjustly in any way.

We want the best service in the world, and we are ready to pay for it, and to pay for it roundly, but how stupid we are to hold our hands up and allow the railroad companies of this country to reach into our pockets at their will and take out what they please to capitalize the roads, to build them, to pay their expenses, and make all their improvements, and then to acquire all the natural resources of this country—coal, lumber, and everything else—and assess the public for it.

Mr. President, I am sorry to be reminded that there is not a quorum here and to call attention to that fact.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clapp	Gallinger	Nelson
Ankeny	Clark, Wyo.	Gary	Overman
Bacon	Culberson	Gore	Paynter
Bailey	Curtis	Guggenheim	Piles
Bankhead	Depew	Hale	Scott
Beveridge	Dick	Hemenway	Smoot
Borah	Dillingham	Heyburn	Stephenson
Brandeggee	Dixon	Hopkins	Sutherland
Briggs	du Pont	Johnston	Teller
Brown	Flint	Kean	Warner
Burkett	Foraker	Long	Wetmore
Burrows	Frazier	McLaurin	
Carter	Fulton	Milton	

The VICE-PRESIDENT. Fifty Senators have answered to their names. A quorum is present.

COMMISSION SAYS NEW LAW IS NOT ADEQUATE.

Mr. LA FOLLETTE. When interrupted, Mr. President, I was just calling the attention of the Senate to the language of the Interstate Commerce Commission in urging upon this body the importance of legislation authorizing the valuation of railway property. It will be remembered that by section 20 of the interstate commerce act, we authorized the Interstate Commerce Commission to supervise the bookkeeping of the railroad companies of the country, to enforce upon them a uniform system, and to establish that system. They say in that connection here:

It may, however, be proper to call attention to the fact that the introduction into operating expenses of a set of depreciation accounts brings prominently into view an added necessity for an inventory of railway property. The chief purpose of the depreciation accounts is to protect the investor against the depletion of his property by an understatement of the cost of maintenance, and to protect the public against the maintenance of unduly high rates by charging improvements to cost of transportation.

So that the Senate will readily see that this valuation of the railroad properties is important not only to the shipping public, the consuming public, but also to the investors in railway securities, because it throws around them some protection with respect to this system of accounts, and prevents the mixing of operating expenses with the depreciation account. They say further:

These accounts, which serve so important a purpose, require for their proper and safe administration complete and accurate information rela-

tive to the value of the property to which they apply, and this information can only be secured by a formal appraisal embracing all classes of railway property.

They say further:

Yet another reason may be submitted. Before the close of the present fiscal year the Commission will be in position to prescribe a standard form of balance sheet. The purpose of a balance sheet is to disclose the financial standing of a corporation, and this it does by placing in parallel columns a statement of assets and of liabilities. But in the case of railway companies the Commission is unable to test the accuracy of the assets reported, and there is no feasible means of providing such a test other than by a detailed inventory of the property which the assets represent.

Why, Mr. President, it is generally conceded by those competent to pass a just criticism upon the legislation of 1906, that the best thing in it was section 20, the provision which gave to the Interstate Commerce Commission some supervision over the accounts of the railroad companies of this country. I recall that Judge Prouty said in a magazine article, shortly after the law was enacted, that the most important thing in connection with that piece of legislation—I am not quoting his exact language, but I will give the substance of it—was section 20. Indeed it is about the only great progressive step in that measure; but it is rendered utterly futile and useless because it has not been followed up by the legislation suggested by the Interstate Commerce Commission providing for railway valuation.

They say:

But in the case of the railway companies the Commission is unable to test the accuracy of the assets reported, and there is no feasible means of providing such a test other than by a detailed inventory of the property which the assets represent.

Mr. GORE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Oklahoma?

Mr. LA FOLLETTE. I do, Mr. President.

Mr. GORE. I make the point of order that there is no quorum.

The VICE-PRESIDENT. The Senator from Oklahoma suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Gary	Paynter
Ankeny	Culberson	Gore	Piles
Bacon	Curtis	Guggenheim	Scott
Bailey	Depew	Hemenway	Smoot
Beveridge	Dick	Heyburn	Stephenson
Borah	Dillingham	Hopkins	Sutherland
Brandeggee	Dixon	Johnston	Teller
Briggs	du Pont	Kean	Warner
Brown	Flint	La Follette	Warren
Burkett	Foraker	Long	Wetmore
Burrows	Frazier	McLaurin	
Carter	Fulton	Milton	
Clapp	Gallinger	Nelson	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

Mr. LA FOLLETTE. To resume, Mr. President, my reading of this important communication from the Interstate Commerce Commission to this body. The Commission says:

But in the case of railway companies the Commission is unable to test the accuracy of the assets reported, and there is no feasible means of providing such a test other than by a detailed inventory of the property which the assets represent.

That certainly looks like a very reasonable proposition. I should like to have some Senator get up right here now and tell me why we have failed to enact legislation in accordance with this recommendation, so sensible, so reasonable, and so much in the interest of the general public? I wish some one would explain why it is that legislation which the great system banks of the country want can be so readily passed, but we can not secure a line of legislation to ascertain the true value of the railway property of the country, so that you may do two things of paramount public importance; first, to enforce accurate railway accounting in accordance with section 20 of the interstate commerce law, which we passed with a tremendous flourish two years ago, and, second, establish reasonable railway rates based upon the fair value of railway property. I know of no satisfactory reason why that should not be done when it is so manifestly in the public interest, and I have never heard any argument offered by anybody why it should not be done.

WHY HAS NOT VALUATION BILL BEEN REPORTED?

I have been warned by a Senator on this floor that it would be a long time before I could get through any measure to ascertain the value of the railway property of the country. Maybe it will, but, you know, I have supreme confidence in democracy. I believe in a republican form of government; I everlastingly believe in the people of this country; and I tell you that sooner or later they will have that legislation, which is right and just and in the public interest, and sooner or later they will

sweep from power all the men who obstruct it. Now, listen a little further:

If Congress designed, by the provision which it made for a prescribed system of accounts, that the Commission should do what lies in its power to guarantee the sound financing of the railways, the making of an inventory appraisal of railway property can no longer be delayed.

Tell me why it is that the Committee on Interstate Commerce has locked up in its room a bill for the valuation of the railway property of the country. Why, sir, three times from my sick room I have addressed communications to that committee asking for the report of that bill, or some measure that would bring that subject before this body for its action. All through the session preceding this I had such a bill pending in that committee. I hunted this Capitol over time after time and day after day, Mr. President, to secure, if possible, a meeting of that committee, in order that I might have consideration of that bill. You can get a bill for a panic currency to meet the demands of a Wall street panic; why can you not get a bill to ascertain the fair value of the railway property of the country?

CAN NOT GET POSTAL SAVINGS BANK LAW.

Why can you not get a bill to establish postal savings banks? Is there any argument to be made against them? Is it not in the interest of the great public of this country that we should have that kind of legislation—a safe system for the small depositor, something that will encourage the laboring man to save what he has earned, and deposit it day by day? Every postal savings bank system in the world has been shown over and over and over again by the statistics to be conducive to economical habits in the community in which it was established. For forty years Postmasters-General have knocked at the doors of Congress, have gone to committees, have sent their reports and pleaded and begged for that kind of legislation. They could not get it. Why? If the big national banks of this country want any legislation, it is forthcoming. If the great centralized financial institutions of New York City, dominated by Morgan on the one hand and Rockefeller on the other, want certain legislation, that legislation is reported out of committee, it gets before Congress, and is enacted into law.

Mr. President, I do not know why it is, but I am constrained to inquire why we can not have a currency commission different from that provided for in this bill? For instance, you have got a proposition in here to appoint a certain number of members of the Senate and a certain number of Members of the House to inquire into the currency situation and to frame up something that shall look to the complete revision of the currency laws of this country. Mr. President, that proposition, in all probability, commits to the very men who have reported out this kind of legislation the reconstruction of the currency laws of this country.

SHOULD HAVE PROPERLY CONSTITUTED CURRENCY COMMISSION.

Now, there are some things that are reasonable. In the first place, everybody within the sound of my voice knows that every Senator here will leave this session of Congress pretty well fagged and worn out—I do not mean this particular session, but I mean the final adjournment. [Laughter.] You are getting a kind of rest out of this particular session. Nobody is doing any work except myself; but I mean that when the final adjournment comes everybody will go home utterly exhausted. Now, do you really expect any good, efficient work out of a currency commission composed of Members of the House and members of the Senate to take up the study of this great question? Is there any reason in the world, Mr. President, why there should not have been a commission provided to be composed of financial experts and trained economists and business men, representing every kind and class of legitimate business and every section of the country, representing the best talent this great land can furnish? Is there any reason why we should not have had that sort of a commission? Oh, you will be told, likely enough, that the commission that is created here by this proposed bill—a committee of the Senate and a committee of the House—can summon those men and examine them as witnesses. But we require more than their testimony. They are the men who should conduct the investigation. If you want good service, if you want something of real value, bring to the consideration of this great question the trained minds of the country and require them to devote all their time to the important work committed to them. I am not disparaging the members of the Finance Committee of the Senate. They are able men, but they are pretty busy, and have many things to do.

They serve on other committees. I do not know how many members of the Finance Committee are on the Committee on Interstate Commerce, but some of them are. The chairman is, I know.

But they are all upon the more important committees of this body, and anyone who knows the exactions that such committee service make upon a Senator, knows that when the gavel falls adjourning this session Senators will go home in great need of rest, but in fact not to rest. The public service is an exacting service. Its demands are constant and pressing. Each Senator must study the problems of legislation with which the various committees of which he is a member must deal in another session. Those problems are many; they cover a wide range of important subjects.

Now, tell me how you are going to get out of any commission raised to investigate the currency question from a membership of the Senate and a membership of the House. Such a thoroughgoing investigation of that great question should occupy the time of its members for the ensuing year without interruption.

EVERY GREAT GOVERNMENT PROVIDES FOR INVESTIGATIONS.

When the proposal to establish commissions to make investigations in aid of better legislation came up from time to time during the past session, I noticed a seeming jealousy on the part of the members of this body against having any commission appointed to collect information as a basis for legislation. It seems to me that that is not a proper spirit for the Senate to manifest upon that subject.

Every great government of the world excepting this calls into its service the most eminent scientists, the foremost educators, the leading investigators in every department of learning and progress, when that talent can be employed to the advantage of the government. Is there any reason in the world why we should not have the benefit of such assistance? Would it not be rational to expect better service from such men if we call them in and clothe them with responsibility as members of commissions rather than to summon them as mere witnesses for a brief examination?

If we want the best talent, if we want the best results, put men of the highest type the country can furnish upon these commissions and let us have the benefit of their services as honored associates in promoting the best interests of this great Government.

Mr. President, service here is important enough. It carries with it honor enough and power enough so that we need not be jealous of any assistance from any commission that can be established to furnish information upon which to legislate. Mr. President, if we were to have a currency commission composed of members of the Senate and Members of the House, if that had to be, I regret more than I can say that there is not to be added to such commission at least an equal number of men, to be selected by the President from out of the great body of the enlightened citizenship of this country; men, I say, who could bring into such a commission their profound learning, their research, their investigative ability, not as mere witnesses, but as men charged with full responsibility as members of the commission, taking a pride in the work which they were to turn out, and have them submit to the Congress the result of their investigation. But, Mr. President, we have not been able to secure a report in favor of any such commission. The Finance Committee evidently wants that matter under its own control.

It is the same respecting a tariff investigation. I regret very much that we could not have reported from the Finance Committee a bill which I introduced providing for the appointment of a tariff commission. That bill provides for the appointment of a permanent commission, to be composed of men trained for the work. Such a commission, sir, would be able, fearless, and impartial. It would give its full time to the work, increase its usefulness day by day, becoming more and more efficient and expert.

I appeal to my Republican associates on this floor, What are we to say when we are asked to give an accounting of the legislation of this session? We could not pass a bill for the valuation of the railroad property of the United States in the interest of the shipper and of the consumer. We could not get reported out and passed at this session a postal savings bank bill. We can, it seems, pass an emergency-currency bill, which will serve especially and particularly the great interests in Wall street. We could not get an independent, free-handed tariff commission, although the manufacturing associations of the country came to this Congress, staggering under the burdens of excessive tariff charges, pleading for some relief, in order that they might not only hold their place in the markets of this country, but make a place for themselves in the markets of the world. They asked for the appointment of a tariff commission that would go to the root of the matter, ascertain the exact difference in the cost of production in this country

and competing countries, and then fix customs and bring the tariff duties to measure that difference in cost.

HOW THE MCKINLEY COMMITTEE MADE A TARIFF.

I served during my time in the House of Representatives upon a committee that made the McKinley tariff bill. I know something of the embarrassments and the difficulties that confront any committee which engages in that great undertaking. I know how difficult it was in 1889 and 1890 to ascertain the facts upon which to get at the cost of production. The Ways and Means Committee of the House of Representatives at that time was composed, with the exception of myself, of as able men as there were in that branch of the Congress. Major McKinley was at the head of it. Other able and industrious men were upon the committee. I know that it labored early and late, month after month, in its endeavor to lay the foundation for a just measure of duties that should protect American industries in all of its important lines and yet be fair to the great body of consumers. But I know that that committee was compelled in large measure to take the mere statements of the men who appeared before it representing the various industries as to the cost of production in their respective lines. In no instance—and I undertake to say that is true of every tariff bill ever made in the history of this Government—were the books of the protected interests produced or competent accountants employed to examine them and ascertain the exact cost of production. Yet that is the only way in which to lay the foundation for tariff duties. That work must be done in this country with respect to the cost of production in this country. It must be done in competing countries with respect to the cost of production in those countries, and then you will have some rational and just and legitimate standard by which to measure the protection which should be accorded home industries in various lines. If it costs more to produce in this country, then the duties should be so levied as to make that production absolutely safe for those engaged in producing in this country.

COMPETITION NECESSARY TO SAFEGUARD CONSUMERS.

In the last sixteen or eighteen years wonderful economic changes have taken place in America. Mr. President, while I am on this subject I am going to say a few words more about it. I did not intend to discuss the tariff or tariff legislation, but having touched upon it I am going to say a word more.

From Alexander Hamilton to Henry Clay, and from Henry Clay to William McKinley, there never was a great advocate of the American tariff policy who did not say, in answer to the claim that protection would build up monopoly and that monopoly would impose unjust burdens upon the consumers, that this matter would be regulated and safeguarded by competition within the protected industries of the country. It was answered that we would always have competition at home, and a reasonable price would always be insured to the consumer. Hamilton said it in the beginning and, from the father of the protective system down, there has never been a protectionist who did not offer that defense for protection. Indeed, since the time of Alexander Hamilton nobody has been able to furnish any argument or to offer any objection to the protective-tariff policy which that illuminating mind did not cover and flood with light. And from Hamilton down to this time it seems to me that there have been but poor gleanings in the field of argument upon both sides.

Hamilton said in reply to the criticism that a protective tariff would build up great monopolies in this country, "No; it never will do that, and for this reason: You will always have competition between the protected industries, and that competition will lower the price to the consumer down to the lowest point at which reasonably good wages can be paid to the men employed in the business and production be maintained." Clay and Blaine and McKinley made the same argument—affirmed the same doctrine. Every one of them said over and over again that the handmaid of protection, the corollary of any protective tariff law, was free, open competition between the protected industries.

CHANGE IN INDUSTRIAL CONDITIONS.

* But, Mr. President, about 1890 there came into this country the beginnings of a new system. There were up to the time of the passage of the Sherman Act in 1890 only a few great trusts and combinations—beef and coal and oil. The trusts were just beginning to take possession of the great natural resources of this country. But following 1897, within three years more than 150 trusts and combinations were formed. What effect had they upon the competition which had been the great protection to the consumers of this country against exorbitant and extortionate charges upon protected products—that which Hamilton and Clay and Blaine and McKinley said would ever and always afford protection to the consumer against any extortionate

charges on the part of protected interests? That protection was taken away. Competition was eliminated. The protected interests began to contract one with another that there should be no competition, combining to smother and suppress competition. In certain industries where that was not done by agreement with rival corporations great monopolies were built up by acquiring ownership of rival plants, thus destroying with equal completeness all competition. This is absolutely true of iron and steel. To-day there is not a manufacturer in the United States who buys steel billets or merchantable bar iron as his raw material who is not condemned to take his steel, the basic product of his manufacture, at the dictation of an absolute monopoly—the steel trust—which can make for him such terms and prices as it will.

STEEL BUSINESS AN ABSOLUTE MONOPOLY.

I stand here to-night to say that any manufacturer of steel buying his raw material from the United States Steel Corporation is paying 100 per cent more for his basic product than he was paying January 1, 1898. If we had a tariff commission that would go thoroughly and fully into this subject, an examination would show that the United States Steel Corporation has such an absolute monopoly of all the basic products that go into the manufacture of certain classes—take, for instance, merchantable bar iron and steel—that they have acquired such an absolute control of all that entire field that they are able to say to every manufacturer in this country, "You pay our price."

Outside of the United States Steel Company there are but four companies to-day that could make any approach to competition with them. And with respect to those four companies the competition is absolutely suppressed by a gentlemen's agreement. There has not been in the last eight years a variation in the price of steel among any one of those companies. If to-day the United States Steel Company makes a change in the price of merchantable bar steel, for instance, each one of the other four companies quotes on the same day exactly the same price to the fraction of a cent.

DEMANDS OF MANUFACTURERS NOT COMPLIED WITH.

You leave the manufacturers of this country under that terrible burden. They have been here month after month asking not for tariff revision; they know too much about it to ask for tariff revision. They know that no just tariff, no tariff that will afford just and reasonable protection to the industries of this country, no tariff that will deal in a thoroughgoing way with the great trust problem, can be wrought out in a few weeks or in a few months. Every one of these men who has made a study of this question understands perfectly well that there must be a commission, composed of able, independent, fearless men, with expert knowledge, who will devote not the vacation between the closing hours of Congress and the meeting of the next to a superficial investigation of this question or to sending out some clerk from the Treasury Department to skim over the surface, but men who will take hold of this great problem with all the knowledge of the business which years of contact with it can give; men who will spend every moment of the time; men who will make a careful and searching investigation of the subject in this country and abroad; men who will be clothed with some sanction of authority by the Congress of the United States to conduct such an investigation; men who can not be denied the right to inspect the books and learn the costs of production to the United States Steel Corporation and every other corporation asking protection.

And yet, Mr. President, the great manufacturing interests of this country, when they came here asking for that sort of legislation, were given instead the vague promise of an investigation by the Finance Committee of the Senate—which will also insist upon controlling the investigation of the currency question. The Committee on Finance does not propose to allow any of these important investigations to get beyond its control. Ah, but there is the Committee on Ways and Means of the House; it is going to do some investigating, too. Well, I surmise that most of the members of that committee will be pretty busy from now until next November getting themselves reelected.

TRIFLING WITH A GREAT QUESTION.

Mr. President, it is trifling with a great subject affecting all the people of this country. It will mislead no one. Already the press of the country condemns it as a political expedient, devised to meet criticism for a manifest determination to "stand pat" on the tariff.

But, sir, there are measures which can secure consideration. Here is this scheme for a Wall street emergency. Then there is that patriotic measure, the "pork barrel"—public funds for every State—a public building in almost every Congressional district.

Mr. President, Congress has been kept in session day after

day waiting for a conference report to be squeezed out—waiting for one great legislative body to be coerced into supporting it, while the public buildings' bill is held back as a great big club to aid in making a currency law. Mr. President, it is less than forty-eight hours since a member of a legislative body other than this, to which I can not make more definite reference without violating the rules—a gentleman who has something to do with controlling public buildings legislation—suggested to me that Wisconsin had some pork in that barrel and was not likely to get it out until currency legislation had been enacted. I reminded him that our training in the Badger State had established a standard of citizenship which regarded as an insult any proposition to trade off one's conviction for a public building appropriation.

WHY NOT CONSERVE OUR NATURAL RESOURCES?

Mr. President, we can pass an emergency-currency measure, which it seems to me as I study the legislation, will be chiefly beneficial to the great group banks of New York, headed on the one hand by the Standard Oil interests and on the other by the Morgan interests—we can enact that sort of legislation; we can get consideration for it at any time; we can protract the legislative session in order to enact it into law; but we do not seem to be able to pass a postal savings-bank bill. It is impossible to secure a tariff commission, an independent currency commission, a waterways commission. The Senator from Nevada [Mr. NEWLANDS], who does not seem to be present just at this moment, has been insisting early and late that we ought to have some legislation to promote the improvement of our great waterways, but he has been blocked and sidetracked day after day.

Mr. President, if this discussion of mine does not lead to anything else it is going to conduce—I should judge, from the many conferences which are being held from time to time—to a better understanding of parliamentary law. [Laughter.]

Mr. President, to continue what I was saying, there is the Waterways Commission. I am not able to understand why, if we can get an emergency currency suitable to Wall street in panic times, we can not have some consideration of legislation for the development of the waterways of this country.

Sir, the faithful Senator from Nevada [Mr. NEWLANDS] has been on this floor day after day, pleading for the consideration of legislation upon that important subject. But the chairman of the conference committee on this bill for an emergency currency, as a counter to the Senator from Nevada, who tried repeatedly to secure consideration of the Waterways Commission bill to appropriate \$20,000 to keep that important commission in existence, called for the reading of the Journal to block it.

Mr. President, I am not sure but that at least a good round legislative day has been consumed by reading the Journal to prevent consideration of legislation very much more in the public interest than is this legislation. Of course legislation of general public interest is not so popular in Wall street, but it is nevertheless entitled to some consideration at the hands of Congress.

Then, there is the Appalachian and White Mountain forestry reservation bill. It is true we have another one of these makeshift Congressional commissions appointed to investigate this proposed forestry reservation. Is not that a fact? Is it not proposed that a commission to be made up of Members of Congress shall undertake that investigation also? The Senator from New Hampshire [Mr. GALLINGER] nods.

Mr. GALLINGER. The Senate has passed it.

Mr. LA FOLLETTE. I do not understand the sign language of the Senator from New Hampshire, but if he will indicate to me that there is a glimmer of hope anywhere for that legislation to get through I will be very much comforted.

Mr. GALLINGER. I will say to the Senator that the Senate has passed the Appalachian and White Mountain Forest Reservations bill, but, of course, I am not able to state what another body will do with that bill. I hope it will pass it.

Mr. LA FOLLETTE. Oh, yes; but it is my recollection that the "other body" hung it up by the heels, and has passed a resolution, like the currency commission proposition, turning over to Members of Congress the investigation of the proposed forestry reservation demanding expert knowledge and ability.

Mr. President, it looks like an agreement to do nothing toward establishing the Appalachian Forestry Reservation.

I say, Mr. President, that legislation for the conservation of the natural resources of the country could have been passed at any hour whenever it was the will of those who dominate Congress that it should pass. But they have yielded to no appeal for legislative consideration of this most important matter. They have set their faces sternly in one direction and ridden down everything in the way.

Then there is the publicity bill. I do not know how this emergency money measure got in ahead of the publicity bill, but it did. I do not know why it should—that is, I do not know of any good reason why it should.

NEED LEGISLATION TO COMPEL PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

Mr. President, the prevention of improper contributions to campaign funds or the improper use of money in elections and in the preliminaries to elections is vital to the preservation of representative government. Yesterday or the day before I noted that the Senator from Ohio [Mr. FORAKER] emphasized the importance of this publicity legislation and of its being broadened so that it would deal with campaign contributions for the election of delegates making nominations as well as in the control of elections. I know of no reason why it should not be so broadened. We have a publicity law in Wisconsin which requires an explicit statement of the amount expended by a candidate or in his interest in contesting for nominations as well as in contesting for election to office.

And why not? The nomination is the foundation in a democracy. Our system does not start with the election; it begins with the nomination. If you pollute the stream of American politics at its source, where the nominations are made, it does not avail anything to set up a publicity system to purify it down where the elections are held. Through the use of money, the purchase of delegates, and the control of conventions corruption creeps into a system at the beginning. What avail is it to the country to make some publication of expenses in the election of the candidate when the nominations, perhaps, upon both sides have been controlled through corruption?

I quite agree with the Senator from Ohio that we need a publicity bill. We need it so broad that it will make every candidate tell what he spent in getting the delegates in his State or in any other State for the Presidential or any other nomination. I believe, Mr. President, we ought to go a little further and make him tell who contributed to the fund.

Is there any reason why we should not have a publicity bill at this session and have had it in advance of this legislation? Is there anything more important to this people than purifying their elective system?

You can get legislation here which deals with dollars. You can get legislation in which the great banking organizations of the country are interested. Why can we not have something to make our election and nominating systems clean and representative?

NO SYMPATHY WITH TRICK OF COUPLING IT WITH OTHER MEASURES.

Mr. President, I am going to say now that I have not one bit of sympathy with the trick of yoking up the publicity bill with a proposition to lay a foundation for reducing the Congressional representation of the Southern States, no matter how just and sound that proposition may be. I would vote for that proposition, but when you tie them together, when you combine the publicity bill with something that you know can not get legislative consideration without meeting an opposition that means defeat, then you are fairly chargeable with desiring defeat. I say that is despicable politics when dealing with a great subject vital to the life of this nation. Out upon it, Mr. President! Let every proposition stand on its own merits.

I do not believe that Senators coming from the Southern States can justify claiming a representation that does not bear any relation to the principles upon which this Government was founded. But I do not think that you will fool the people of this country by combining that kind of a proposition, which men—wrongly, I believe—will defend to the last extremity, with a subject upon which all men ought to agree. I do not believe that there is a vote in this Senate, I do not believe there is a Senator upon either side, who would take the chances of going on record against a publicity bill broad, specific, sweeping, far-reaching. It may be that I am mistaken about that, but I think not. I do not believe there would be a vote on the Democratic side, I do not believe there would be a vote upon the Republican side, against it.

Now, why not pass that legislation? The plain, honest, sober-minded people of this country are intelligent; they are discriminating; they know. They will not be fooled by such jugglery.

SLIGHT CONSIDERATION OF LABOR INTERESTS.

Mr. President, I know of no reason why this Congress should not have enacted legislation to meet the needs of labor. Labor has been cuffed by the Federal courts and slapped by the State courts, and this body to which it looked for aid has done nothing in its behalf.

The year has been a very hard one for labor, Mr. President. In the first place, large numbers of men have been out of em-

ployment for unusually protracted periods. This inevitably means hardship when there is a family to take care of, rent day coming round, and grocers and coal bills to be paid. Labor has no great reserve to draw from, as must be seen from the most casual study of the average earnings of the wage-workers of the country.

In the second place, the cost of living has increased enormously. I have here Dun's schedule of prices, which shows that the increase in wages does not begin to keep pace with the increased cost of living.

Mr. President, I see Senators smile! It is not a matter for levity on anybody's part. I know it is very easy when one utters a word in behalf of labor, or offers a proposition in its interest, to cry demagogue. It is a mighty sight easier to serve the other side, but in some way or other the bare cold facts of this proposition take hold of me. In round numbers \$400 will measure the average yearly earnings of the wage-worker of this country, on which he shall take care of a family. And this with the cost of living as it stands to-day!

Surely it would seem that the legislation which labor has asked might at least have been given consideration. But no; such measures have been swept aside. The Aldrich bill, the emergency-currency measure, can get its hearing, can have its right of way, but these other great questions that go to the preservation of the principles of this Government, that go to the preservation of our natural resources, that are founded in good economic principles, have to go over. They can not be heard.

Now, I should like to stay here, for my part, and I appeal to my Republican associates to stay here and give proper consideration to some of these things. I do not care if it takes a month. In my opinion there is every reason for such action on our part.

Why, Mr. President, I did not know I was making this appeal to only twenty-six Senators. There is not a quorum here. It is too bad that I shall have to make this speech all over again. [Laughter.]

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Gallinger	Nelson
Ankeny	Culberson	Gary	Owen
Bacon	Curtis	Guggenheim	Piles
Beveridge	Depew	Hale	Scott
Borah	Dick	Hemenway	Simmons
Brandegee	Dillingham	Heyburn	Smoot
Briggs	Dixon	Hopkins	Stephenson
Brown	du Pont	Kean	Sutherland
Burkett	Flint	La Follette	Warner
Burrows	Foraker	Long	Warren
Carter	Frazier	McLaurin	Wetmore
Clapp	Fulton	Milton	

The VICE-PRESIDENT. Forty-seven Senators have answered to their names. A quorum is present. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, I was just noting some of the legislation that seemed to me might well have been given consideration over the conference report that is now pending in this body. I was speaking of the labor legislation; that is, the legislation that has been urged in the interest of labor organizations, legislation to prevent the abuse of the injunction, legislation going as far as we can constitutionally in the enactment of a general employers' liability law, legislation extending the statute of limitations with respect to hours of service, and then that legislation which has been pending for some days before this body for protection and relief to the Government employees. I have seen it announced in the press, I do not know whether on authority or not, that the leaders had decided that we might pass the bill for the protection of Government employees.

The Senator from Indiana [Mr. BEVERIDGE] nods his assent to that proposition. I am glad if that is true. If it has been determined that this legislation is to be enacted, it makes me very happy, although the bill is a pretty poor makeshift.

Mr. BEVERIDGE. I have to make an excuse to the Senator that what I was nodding at just then was the remark of his colleague [Mr. STEPHENSON]. I did not happen to hear the particular remark of the Senator and I do not know what the Senator said. Perhaps I might have nodded my head and perhaps I might not; but, as a matter of fact, I was nodding at something the Senator's colleague, who has been sitting at my side, said.

Mr. LA FOLLETTE. I did not know whether the Senator was nodding because he was going to sleep or whether he was nodding in assent to my proposition. What I said was, that I had seen it announced in the morning papers that the leaders were going to permit us to enact a Government employees' liability bill; and when I said "leaders" I looked at the Sena-

tor from Indiana, and he nodded his head [laughter]; and I thought he had been informed.

Mr. BEVERIDGE. Mr. President—

Mr. LA FOLLETTE. Wait just one moment. Mr. President, I thought probably the Senator had been encouraged by the gentlemen who have been opposing his strenuous efforts to get this legislation. I refer to the older leadership of the Senate, who have by calling for the reading of the Journal, prevented his getting the floor to urge this legislation. He started early enough, so that he should, with a fair chance, have gotten through a good proposition which he announced that he would offer as a substitute for this makeshift bill.

But we have had the reading of the Journal, as well as the reading of messages that came over from the House. In this way a good deal of time has been used here to prevent action upon this Government employees' bill, which was being urged by the Senator from Indiana.

COMMITTEES IN THE HANDS OF A FEW.

I do hope that the leaders have decided to let us have that legislation. That is the only way we can get it; at least that was the way the morning papers presented it. I am not very experienced here; I have not been in this body very long; but it has rather seemed to me that, some way or other, unless it met the approval of a very limited number of men in this body, whatever a Senator introduced was referred to some committee and pigeonholed. In that way, I suppose, it falls within the power of a very limited number of men, who are the leaders, to be in control of legislation. It has rather seemed to me, Mr. President, that this was not exactly the sort of government that our fathers planned for us. It has always been my idea—it was before I came down here, you know—that the States were represented here; that there was an equality of representation; that the Senator from Missouri and the Senator from Rhode Island were on a plane of equality with respect to legislation. I had had only a limited service over in the House. It was not then just as it is now, and all the while I have labored under a sort of impression that if any Senator came here with an absolutely good proposition; if he stuck to it and was loyal to it and hammered away at it, it would get consideration just the same as if it was introduced by somebody else. But a couple of years here brings me quite a bit of enlightenment on that subject.

LIGHT ON LEGISLATIVE METHODS.

I attended a caucus at the beginning of this Congress. I happened to look at my watch when we went into that caucus. We were in session three minutes and a half. Do you know what happened? Well, I will tell you. A motion was made that somebody preside. Then a motion was made that whoever presided should appoint a committee on committees; and a motion was then made that we adjourn. [Laughter.] Nobody said anything but the Senator who made the motion. Then and there the fate of all the legislation of this session was decided.

The Senator from Indiana [Mr. BEVERIDGE], in an able speech which he made in advocacy of the creation of a tariff commission here, turned a little light upon the legislative methods of this body. In speaking of the impossibility of the Finance Committee taking up the great tariff question and giving to it the study necessary to make a thorough investigation upon scientific and economic lines, establishing a just basis for a tariff, one under which the business interests of the country can thrive and rest in security, one which will be stable, one which will be unassailable, one which will be honest to the manufacturers and honest as well to the consumers, the Senator pointed out the facts and called attention to the number of places that the members of the Committee on Finance had upon the other important committees of this body and to the tax which that made upon their time and upon their service. It was unanswerable; but it was more than that. I want to carry the thing a step farther than the Senator from Indiana did. He cited the fact and applied it to this particular piece of legislation; but, Mr. President, if you will scan the committees of this Senate, you will find that a little handful of men are in domination and control of the great legislative committees of this body and that they are a very limited number.

I have heard this talk about seniority and all the like explanations, but I want to tell you, Senators, that this is a representative Government. California and Wisconsin and Maine are entitled to equal representation here; and the hour will come when this system which you have inaugurated to lodge the power of legislation in the hands of a dozen men in this body can no longer be maintained; and it ought not to be maintained. It is not democratic; it is not republican; it is not right. It places upon those members burdens which they are unable to carry, if they take proper care of the great interests committed to

those committees. If that be not so, then you may as well dispense with two-thirds, practically, of the membership of this body.

INTERSTATE COMMERCE COMMISSION'S REPORT.

Mr. President, I digressed. That is one of my faults. I was reading from the report of the Interstate Commerce Commission.

I now come back to the report of the Commission, because I do not want to leave out any of the good things which I know my colleagues are so very anxious to have laid before them. This report continues:

If Congress designed, by the provision which it made for a prescribed system of accounts, that the Commission should do what lies in its power to guarantee the sound financing of railways, the making of an inventory appraisal of railway property can not longer be delayed.

I am glad to come back to this subject of the valuation of railway property, because I can understand how absorbingly interesting it is to Senators. The Commission says further:

From whatever point of view this question of valuation be regarded, whether of reasonable capitalization, of a reasonable schedule of rates, of effective administration of the depreciation accounts, or of the correct interpretation of the balance sheet, one is forced to conclude that an authoritative valuation of railway property is the next important step in the development of governmental supervision over railway administration.

Why, Mr. President, I recall—I am glad I thought of it, too—that when the Aldrich bill was pending here in this body and the junior Senator from Michigan [Mr. SMITH] was speaking upon that measure, some question arose which caused the Senator from Rhode Island to come quickly to the front and to assert that the railway-bond proposition which was in the Aldrich bill at that time was amply safeguarded under the terms of section 20 of the interstate-commerce act; that the prescribed system of bookkeeping covered the whole situation and afforded ample means for ascertaining the value of railroad bonds. But it is shown from the language which I have just read that the Interstate Commerce Commission believes that in order to construe railway accounts it is necessary for them to have this valuation of railway property. They say:

From whatever point of view this question of valuation be regarded, whether of reasonable capitalization, of a reasonable schedule of rates, of effective administration of the depreciation accounts, or of the correct interpretation of the balance sheet, one is forced to conclude that an authoritative valuation of railway property is the next important step in the development of governmental supervision over railway administration.

Mr. President, on that subject of valuation, I want to resume my reading of that most excellent speech of the junior Senator from New York in Mr. Crozier's book, *The Magnet*.

For the railroads to obtain the use of the power of eminent domain solely because it is to be for the public welfare, then use it to take by condemnation private property for its corporate purposes on pretense that it is for the people's benefit, then charge the people such excessive rates as to create an earning power sufficient to pay a reasonable net income on double the entire cost of the property, capitalizing this illegally obtained earning power by doubling the volume of securities without another dollar of outlay, and then try to force the people permanently to pay not only a reasonable income upon the actual investment—

That would be all right, of course—

but also as much more by way of dividends on a fictitious and fraudulently capitalized earning power, would be a proceeding unjustifiable in morals and repugnant to law and justice. Yet this is precisely what we have seen accomplished. And this was done at the peril of the investors—for ignorance of the law excuses no man, and it never has been lawful for common carriers to charge more than a reasonable rate.

The doctrine of the reasonable rate, however, should be abandoned legally, or else charges for passenger and freight service should be readjusted to yield only sufficient to pay a reasonable net income on the actual cash value of the physical assets of the railroads, but not including the unearned increment. The law and general railroad practice must be made to conform to each other. Constant violation of law and justice breeds general discontent and worse, and it may subject the railroads to suspicion, prejudice, and unjust reprisals.

Mr. President, I am sorry to be obliged to call the attention of the Presiding Officer to the fact that there is no quorum present.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Gary	Piles
Ankeny	Curtis	Guggenheim	Scott
Bacon	Daniel	Hale	Simmons
Beveridge	Depew	Hemenway	Smoot
Borah	Dick	Heyburn	Stephenson
Brandegee	Dillingham	Hopkins	Sutherland
Briggs	Dixon	Johnston	Taylor
Brown	du Pont	Kean	Warner
Burkett	Flint	La Follette	Warren
Burrows	Foraker	Long	Wetmore
Carter	Frazier	Milton	
Clapp	Fulton	Nelson	
Clark, Wyo.	Gallinger	Owen	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

Mr. LA FOLLETTE. Mr. President, the extract I was reading continues:

How can any other basis for appraisal than the one here stated be justified? The fact that for years an excessive rate has been charged, causing quotation prices of railroad securities to advance beyond their intrinsic values, is no reason for continuing the collection of unjust rates. The public can lose no rights through laches.

Delay in righting the wrong has constituted no waiver of the right to do so. It can lose nothing by sleeping on its rights, except, perhaps, the excessive rates collected and carried away while it slumbers. The statute of limitations does not run against the Government. That can not be pleaded against the people by corporations which have without legal warrant adjusted their capitalization and dividends to earnings unduly large because based on excessive and illegal rates, and which do not now desire to be driven from their comfortable position. Is it not more important to reestablish justice, to have the Government discharge its full duty under the Constitution and protect the whole people against the extortion of excessive charges, than it is to enable the stockholders of railroads to go on receiving larger dividends than legally they are entitled to?

All public-service corporations occupying public streets under franchises are subject to the same control and regulation by the governmental authority issuing such franchises as are the railroads, and for the same reasons. Franchises are not property to be taxed, scheduled as assets, and capitalized to force the public—which issued them gratis—to pay higher rates for service. A franchise is not a contract—it is a mere license, a conditional permit to occupy the streets for public benefit, subject always to the implied right of the issuing authority to alter or amend or cancel the same whenever public policy demands. The public may, at the time or afterwards, impose a reasonable charge for such uses of the streets. This is not a tax—it is a rental.

The public may at any time fix the rates charged for service, provided the same are not made insufficient to yield a reasonable income on the actual cash investment necessarily required to furnish such service. This inherent right can not be bargained away, not even by public servants. Any attempt to do so would be void on the ground of public policy. Only thus can the people prevent their franchises being used as instruments for their own spoliation.

This inherent right can not be bargained away, not even by public servants.

It has been described by the Supreme Court in one of its decisions as an indefeasible right that belongs to the people.

Every investment based on a legislative permission or a municipal franchise is made with implied notice that it is subject to such constant governmental regulation and control as will make it conform to the fair interests of the people as to both service and rates.

So there is not any possibility of harm or wrong to any public carrier. They have not acquired any rights. The people, through the negligence of Congress in the years that have gone by, have not lost any rights. The whole subject is as fresh today as it ever was in the history of transportation.

This is the meaning of public policy—that great and powerful and just guardian of the people before which all contracts, rules, and laws must give way where not in accord with public welfare.

For public policy is the great unwritten constitution of the people. It is over and above and even dominates their written Constitution.

The people have an absolute and primary right to good service at the hands of common carriers and of every public service corporation invoking the power of eminent domain or operating over, upon, or under public streets or property by legislative or municipal permission; and at such charges as will yield only a reasonable net income on the money necessarily employed for the purpose.

WHAT RAILROADS SHOULD GIVE AND RECEIVE.

Mr. President, it is an inherent right of every community to have from every public carrier three things—adequate services, impartial services, and, third, to have adequate and impartial services at reasonable rates. For more than a generation of time it has been the adjudicated and written law of this land that every community is entitled first of all to adequate services from public-service corporations; second, to impartial services; third, to these services at reasonable rates—and yet there is hardly a community in the country that has these rights. There is hardly a community in the country which is not dominated by a public-service corporation which gives it inadequate services, which is not controlled by a public-service corporation which denies to it impartial services, and there are only a few communities in this broad land which, after a struggle now almost a generation old, have reasonable rates; that is, rates that are based upon the fundamentally correct and right economic proposition of paying operating expenses, of maintaining the service, building new engines when the old engines wear out, building new cars when the old cars wear out, keeping up the depots, maintaining tracks, paying for the legs and arms of operators that are cut off—the public has to do all that; it all comes in as part of the maintenance and of giving a fair return on the capital invested.

But I say to you that when you have done all that, when you have paid the operating expenses, when you have paid for the maintenance of the road, and when you have given to the railroad company a fair and reasonable return on the amount invested in the business, that is all they are entitled to; and yet there is hardly a community in America to-day, after a struggle of thirty-four or thirty-five years, that approaches it. I can look over this body here to-night and see Senators representing States that are suffering the grossest injustice at the hands of transportation companies.

I see Senators here representing States which are paying on goods brought into those States transportation rates computed by adding to the through rate to certain favored localities, situated hundreds of miles beyond, perhaps, the local rates from those favored centers back to the point of destination, a system that has suppressed the growth of great cities; a system that has builded up centers just where the railroads wanted them; a system that has interfered with the development of States, and that can not be justified upon any equitable basis.

The railroads have interfered in that way with the development of States. The railroads are not interested in building States. The railroads are interested in building great centers, widely remote. They are interested in the long haul. They are interested in making transportation pay. They are interested in dividends. The State is interested, or ought to be interested, in building up a lot of small cities well distributed over it. That Commonwealth is best developed, that Commonwealth is best grounded for perpetuity and good government that is built upon that principle—moderate-sized cities distributed over the State instead of having one or two centers where the population is congested.

Returning again to this most excellent address, the junior Senator from New York, in this work of fiction, says:

Failure by the corporation to perform this implied duty strictly at all times makes it liable to the penalties. Forfeiture of rights and eviction of the corporation and its property, suit for damages, or mandamus to compel performance are not the only remedies possessed by the public against such defaulting corporations. All of these might fail to obtain the main thing desired and imperatively needed, viz, good service at reasonable cost.

Had perpetual franchises been granted on every available route in New York City, for instance, to corporations which insisted on furnishing only the old horse-car service instead of modern rapid transit, it would be ridiculous to hold that the public had no power to remedy simply because public servants in the past had ignorantly or criminally omitted to insert clauses in the franchise reserving to the people that power.

I am tempted all the while, Mr. President, to elevate my voice and unduly strain it, I am afraid, in order to reach Senators in the remote parts of the Chamber and to carry this admirable argument over the buzz and hum of conversation, so that all may enjoy it. It occurs to me that I might save considerable stress and exertion if the Senators who are especially interested would draw nearer to my seat, and they might in that way prolong my strength and my speech upon this interesting occasion. It was suggested earlier in the evening by one of the Senators upon the other side, who has not an overplus of sympathy with my views, that I should take a desk nearer the center of the Chamber, but as I glanced over toward the median line I met the frowning glances of the Senator from Maine [Mr. HALE], and I retreated to this position. But I suppose there would not be any objection to the Senator from Maine and other Senators who are following me closely in this address this evening coming over to this side. [Laughter.] There are some vacant places here, and I would be glad to have them neighborly. The rush for seats admonishes me that we may be crowded out. [Laughter.]

If, to obtain for the people adequate and suitable service at reasonable cost, it should become necessary for the governmental authority to even seize and operate (by itself or an authorized agent) the entire property of such corporation necessarily employed in rendering such public service, there is not the slightest doubt but what it may legally do so on the broad ground of public policy.

That seems to me pretty extreme doctrine. I do not know how it strikes the minds of lawyers who are following me in the reading of this address. I am willing to listen to any expressions of approval or disapproval. [A pause.] Evidently what I am reading meets with pretty general approval here.

Of course, it must then pay to the owners the reasonable cash value of the actual property thus seized. And this principle applies to railroads as well as to all kinds of such public-service corporations.

That makes the doctrine a little more wholesome.

There is no vested interest in any property employed in such undertakings which can grant immunity from this fundamental principle, for every such investment is made subject to this implied sovereign right. It is to be hoped that the necessity for exercising this radical remedy will never occur. And it will be less likely to if such corporate owners clearly understand the existence of this power in the people as an every ready and legal remedy, for such knowledge will restrain them from acts or omissions which violate the people's right to good service at reasonable cost. This great principle is the chief bulwark of the people for their protection against tyranny.

I strongly suspect, Mr. President, that there is not a quorum here, and I have a lurking suspicion that some Senators are taking a nap in the cloak room. I do not think that is altogether fair. I make the point that there is not a quorum in attendance.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Culberson	Guggenheim	Piles
Ankeny	Curtis	Hale	Scott
Bacon	Daniel	Hemenway	Simmons
Beveridge	Depew	Hopkins	Smoot
Borah	Dick	Johnston	Stephenson
Brandegee	Dillingham	Kean	Sutherland
Briggs	Dixon	La Follette	Taylor
Brown	du Pont	Long	Warner
Burkett	Flint	Milton	Warren
Burrows	Foraker	Nelson	Wetmore
Carter	Fulton	Owen	
Clapp	Gallinger	Overman	
Clark, Wyo.	Gary	Paynter	

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

Mr. LA FOLLETTE (reading):

This great principle is the chief bulwark of the people for their protection against tyranny and extortion by their corporate creatures, that otherwise would successfully defy the power whose laws gave them being and whose licenses and franchises enable them to enjoy the fruits of their existence and activity. As to a franchise or legislative privilege obtained by fraud or corruption, the possessor should have no more right thereunder than to a stolen horse.

In the appraisal of railroads it would be utterly impracticable to use any basis other than that of cash value of their actual necessary investment. Their capitalization furnishes no guide. As the proceeds of their funded debts are employed in construction and for equipment, their bonds should be treated as capital and included with the stock in ascertaining the capitalization. In fact it has been said that many if not most of the lines could be easily duplicated or paralleled for an amount less than the total of their respective bond issues, leaving their entire capital stock representing no cash investment whatever. Such roads are often able to earn enough to pay dividends on the fictitious stock, in addition to a good rate of interest on the actual cash investment as represented by their bonds. Where this is caused by the absence of competition at most points along the line, enabling the imposition of excessive rates, often hidden by the complex scheme of classification, and the making of inordinate profits through charging "all the traffic will bear" instead of a reasonable rate, as is the practice for all noncompetitive points, or where several lines in collusion cornered the supply of a staple commodity, like coal, destroying the canals built by the people at the cost of millions, and thus obliterating the competition of cheap water transportation, and then double freight rates and arbitrarily advance the price of the cornered commodity to consumers—I say that where these conditions make possible the payment of excessive dividends, capitalization based on and enjoying the fruits of such questionable practices is nothing more nor less than illegally capitalized cash.

On what principles of right, justice, or law can this be claimed as an asset in appraising the railroads to determine the lawful rates which, as common carriers, they may charge the people for good service at a reasonable cost?

Where railroad promoters who, as corporate directors, vote to let the contract for building the line to construction companies owned by themselves, as is often done, and this at a price vastly higher than others would do it for, it is a fraud on the corporation and its nonparticipating stockholders and an injustice to the public. This immediate and illegal profit, instead of the claimed patriotic desire to build up the country, is what induces many to engage in railroad building and consolidation.

What legal right have they to schedule this prenatal corporate graft as an asset, capitalizing the same, and then charging the people higher transportation rates that permanent dividends may be paid thereon?

Mr. President, I am sorry to deliver this address to less than a quorum. There is not a quorum present, and I am compelled to make that point.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clark, Wyo.	Fulton	Piles
Ankeny	Culberson	Gallinger	Scott
Bacon	Curtis	Guggenheim	Simmons
Borah	Daniel	Hale	Smoot
Brandegee	Depew	Hemenway	Stephenson
Briggs	Dick	Heyburn	Sutherland
Brown	Dillingham	Hopkins	Taylor
Burkett	Dixon	Johnston	Warner
Burrows	du Pont	Kean	Warren
Carter	Flint	Long	Wetmore
Clapp	Foraker	Nelson	

Mr. ALDRICH. Has a quorum answered to the roll call?

The VICE-PRESIDENT. A quorum has not answered.

Mr. ALDRICH. I move that the Sergeant-at-Arms be directed to request, and, if necessary, to compel the attendance of absent Senators.

Mr. CULBERSON. I desire to state that my colleague [Mr. BAILEY] is absent from the Senate on account of illness. I ask that he may be excused from attendance on the Senate to-night.

Mr. KEAN and others. No objection.

The VICE-PRESIDENT. The Senator from Texas requests that his colleague [Mr. BAILEY] be excused from attendance on the Senate on account of illness. Is there objection to the request? The Chair hears none, and he is excused.

Mr. ALDRICH. I make the same request in behalf of the Senator from Illinois [Mr. CULLOM] and the Senator from Iowa [Mr. ALLISON].

The VICE-PRESIDENT. The Senator from Rhode Island makes the same request with regard to the Senator from Illi-

nois [Mr. CULLOM] and the Senator from Iowa [Mr. ALLISON]. Without objection, they are excused.

Mr. FORAKER. I make the same request in behalf of the Senator from New York [Mr. PLATT].

Mr. ALDRICH. I make the same request in regard to the Senator from Colorado [Mr. TELLER].

The VICE-PRESIDENT. Without objection, the Senator from New York [Mr. PLATT] and the Senator from Colorado [Mr. TELLER] are excused.

Mr. CLAPP. I ask that the senior Senator from Indiana [Mr. BEVERIDGE] be also excused.

The VICE-PRESIDENT. Without objection, it is so ordered. The question is on agreeing to the motion of the Senator from Rhode Island that the Sergeant-at-Arms be directed to request, and, if necessary, to compel, the attendance of absent Senators.

The motion was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms will execute the order of the Senate.

Mr. CLAY entered the Chamber and answered to his name.

Mr. ALDRICH. I ask that the names of the absent Senators be called.

The VICE-PRESIDENT. The Secretary will call the names of the absent Senators.

The Secretary called the names of the absent Senators, and Mr. FRAZIER, Mr. LA FOLLETTE, Mr. MILTON, Mr. OVERMAN, and Mr. STONE answered to their names.

The VICE-PRESIDENT. Forty-nine Senators have answered to their names. A quorum of the Senate is present. The Senator from Wisconsin will proceed.

Mr. ALDRICH. Mr. President, I rise to a question of order. I hope the Sergeant-at-Arms will pay attention to the character of the order made by the Senate.

The VICE-PRESIDENT. The Sergeant-at-Arms will execute the order of the Senate.

Mr. STONE. What is the order of the Senate?

The VICE-PRESIDENT. To request, and, if necessary, to compel the attendance of absent Senators, except those who have been excused.

Mr. CULBERSON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Texas will state his point of order.

Mr. CULBERSON. The third clause of Rule V provides that—

Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel, the attendance of the absent Senators.

I understand the Chair to announce that a quorum is present.

The VICE-PRESIDENT. A quorum is now present.

Mr. ALDRICH. That announcement was not made until after the order of the Senate.

The VICE-PRESIDENT. It was not made until after the order of the Senate.

Mr. CULBERSON. Now, further, if the Senator from Rhode Island will permit me, I am not endeavoring to delay the proceedings, but to enforce the rule—

And pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, shall be in order.

A quorum is present. I see no reason why the order should be executed. In fact the object of the order has been accomplished by the presence of a quorum. In other words, there being a quorum, there is no authority to issue the order.

Mr. ALDRICH. If the Chair will permit me, I will state that it has been the uniform practice of the Senate for the Sergeant-at-Arms to enforce the order of the Senate until a motion is made and adopted by the Senate that no further proceedings shall be taken under the call.

The VICE-PRESIDENT. The Chair is of the opinion that it being the order of the Senate, it is not within the province of the Chair upon his own motion to suspend or modify it. If the Senate desires to recall the order, it is competent to do so.

Mr. STONE. Mr. President, I move that the further execution of the order be suspended.

The VICE-PRESIDENT. The Senator from Missouri moves that the further execution of the order be suspended.

Mr. FORAKER. Mr. President, I hope that will not be done. It is entirely proper that we should have Senators come here and be in their seats and ready to answer to their names, and thus have as a margin something more than a mere quorum. If there should happen to be forty-seven Senators present we are certainly not under obligations to excuse everyone else from performing the duty in which we are engaged. I hope the Senate will not recall the order. It will not do any harm to have fifty-seven Senators here, if we have that many in the city and can get them here without unreasonable trouble,

Mr. STONE. Mr. President, is the motion debatable?

Mr. ALDRICH. I do not think it is.

Mr. KEAN and others. No.

Mr. GALLINGER and others. Question!

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Missouri.

Mr. STONE. I think the importance of proceeding is so much greater than the delay incident to the execution of the order that it ought to be manifest to the Senate without a moment's further consideration.

Mr. HEMENWAY. I hope the Senator will speak louder. We can not hear him on this side.

Mr. ALDRICH. Mr. President, I will have to raise the point of order that the motion is not debatable. No motion pertaining to a call of the Senate or proceedings under it is debatable.

Mr. STONE. A motion is pending at all events.

The VICE-PRESIDENT. The question is on the motion of the Senator from Missouri that the order be recalled. The question is on agreeing to the motion. [Putting the question.] The yeas have it, and the Sergeant-at-Arms will continue to execute the order.

Mr. GALLINGER. Regular order!

The VICE-PRESIDENT. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President—

Mr. OVERMAN. Mr. President, I rise to a question of order. Is debate in order until the Sergeant-at-Arms shall make his report, acting under the order of the Senate? The rule says—

The VICE-PRESIDENT. The Chair is of the opinion that, a quorum of the Senate being present, the Senator from Wisconsin may proceed.

Mr. LA FOLLETTE. I am very glad indeed to proceed as long as I can have a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, I had not yet finished the reading of this very excellent address and I resume it at a point where the reading was interrupted by the roll call:

While actual physical conditions—

says the "junior Senator from New York" in this work of fiction—

may make some lines cost more per mile to build than others, the capitalization of the various railroads of the country in no sense represents costs of construction or present value; and that of one road bears no scientific relation to that of any other.

That will be made to appear, Mr. President, more conclusively as I take up the capitalization of the different roads of the country as shown in this work which I hold in my hand, prepared by Mr. Floyd W. Mundy, entitled "The Earning Power of Railroads for 1908." To return to the Magnet:

In fact the volume of securities issued by any given railroad to a degree represents merely the whim or idea of the original promoters or subsequent manipulators who capitalized everything in sight or hoped for, to an extent limited only by their judgment of public credulity and by their opinion of their own genius for marketing such securities and then outfiguring the public in the matter of charges for the service to be rendered.

We behold quotation prices of the stocks of many roads soaring far above par, or perhaps often several times the real cash investment. This is because of unduly large dividends paid from excess earnings due to excessive charges for service. Both justice and law decree that instead of increasing the dividends the rates for service should have been reduced; this is the plain legal obligation of every common carrier, and ultimately it will be the governmentally enforced practice of every railroad in the United States.

I do not know whether all the Senators in the Chamber caught that or not. That is a very important statement and I should like to impress it upon them, and so I will reread it.

Both justice and law decree that instead of increasing dividends the rates for service should have been reduced. This is the plain legal obligation of every common carrier, and ultimately it will be the governmentally enforced practice of every railroad in the United States.

It would seem that any patron who is a citizen and the State or Federal Government can raise the issue by enjoining the corporation from paying such excessive dividends, and obtain a decree requiring a reduction of rates to such a point that they will not yield more profits than necessary to pay a reasonable return on the cash investment. The courts, perhaps, should require return of all excessive past dividends, that the same may enable reduction of rates for service.

I am very sorry, Mr. President, to raise the question of no quorum, but I do want an audience here. This is an exceptionally fine address.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Brown	Clay	Dillingham
Ankeny	Burkett	Culbertson	Dixon
Bacon	Burrows	Curtis	du Pont
Borah	Carter	Daniel	Flint
Brandagee	Clapp	Depew	Foraker
Briggs	Clark, Wyo.	Dick	Fulton

Gallinger
Gary
Guggenheim
Hale
Hemenway
Heyburn

Hopkins
Johnston
Kean
La Follette
Long
Milton

Nelson
Overman
Paynter
Piles
Scott
Simmons

Smoot
Stephenson
Sutherland
Warner
Warren
Wetmore

The VICE-PRESIDENT. Forty-eight Senators having answered to their names, a quorum is present.

FIGURES AS TO RAILROAD STOCKS AND BONDS.

Mr. LA FOLLETTE. Mr. President, I shall continue to read from this enlightening address:

This is to be the great issue of the future between the American people and the railroads: Shall the holders of railroad securities receive reasonable dividends on a valuation approximating the actual value of the investment, or shall the entire people of the country submit permanently to being arbitrarily forced to pay more for transportation than is necessary or authorized by law? This is a Republic of the people, not of the railroads nor even of their stockholders. And there can be but one final outcome of this great, all-important, and irrepressible struggle.

These official figures show the striking inequality in capitalization which has existed between several of the most important railroad systems. Capitalization, including bonds, per mile of road was, in 1906, as follows:

Reading is bonded at \$176,639—mark you, this is per mile. The Reading is bonded per mile at \$176,639. It is stocked per mile at \$140,000. The total capitalization of the Reading road is \$316,639 per mile.

The New York Central is bonded at \$61,053 per mile; stocked at \$35,043 per mile; total \$96,096 per mile in 1906.

The Pennsylvania is bonded at \$52,206 per mile; stocked at \$81,521 per mile; total \$133,727.

The St. Paul is bonded at \$16,721 per mile; it is stocked at \$15,311 per mile; total \$32,032 per mile.

The Lake Shore is bonded at \$66,660 per mile; it is stocked at \$32,895 per mile; total \$99,555.

The Burlington is bonded at \$19,510 per mile; it is stocked at \$12,416 per mile; total \$31,926.

The Chicago and Alton is bonded at \$77,698 per mile; it is stocked at \$41,119; total \$118,817.

Just look at the wide discrepancy of the capitalization of these roads. Then, when you come to state the dividends paid and interest paid upon bonds, the injustice and wrong of this capitalization becomes apparent, in fact, perfectly grotesque. It never can be permitted to stand.

The Canadian Pacific is bonded at \$14,030 per mile; it is stocked at \$14,667 per mile; total capitalization \$28,697.

The Erie is bonded at \$103,068 per mile. That is one of the roads that has been jobbed to death, you know. It is stocked at \$81,948; total \$185,016 per mile.

The Great Northern is bonded at \$34,890 per mile; it is stocked at \$25,104 per mile; total \$59,994.

The Union Pacific is bonded at \$41,150 per mile; it is stocked at \$47,323 per mile; total \$88,473.

The Southern is bonded at \$32,213 per mile; it is stocked at \$23,940 per mile; total \$56,162.

Mr. President, I suggest the absence of a quorum.

Mr. ALDRICH. Mr. President, I rise to a question of order. The suggestion of the Senator from Wisconsin is not in order. We have had 32 roll calls within a comparatively short time, all disclosing the presence of a quorum. Manifestly a quorum is in the building. If repeated suggestions of the want of a quorum can be made without intervening business, the whole business of the Senate is put in the hands of one man, who can insist upon continuous calls of the roll upon the question of a quorum. My question of order is that, without the intervention of business, a quorum having been disclosed by a vote or by a call of the roll, no further calls are in order until some business has intervened. I should be glad if the Vice-President would submit that question of order to the Senate.

I call the attention of the Chair to a decision in a case, which is on all fours with this, made on March 3, 1897, when this precise question was raised by the then Senator from New York, Mr. Hill, who sustained it by the same argument which I am now calling the attention of the Chair to; and the point made by the Senator from New York was sustained. It is found on page 2737 of volume 29, part 3, of the RECORD, second session, Fifty-fourth Congress. The language was—

Mr. HILL. My point is, that the presence of a quorum was determined by the last roll call, and that a Senator can not immediately thereafter suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator mean to embrace the feature that no business has intervened?

Mr. HILL. Yes; that no business has intervened.

The PRESIDING OFFICER. The Chair sustains the point of order.

The VICE-PRESIDENT. Will the Senator from Rhode Island kindly restate his point of order?

Mr. ALDRICH. It is that the roll call of the Senate having disclosed the presence of a quorum and no business having intervened, the suggestion of the absence of a quorum is not in order.

The VICE-PRESIDENT. The Chair submits to the Senate the question of order raised by the Senator from Rhode Island, which is that, the roll call of the Senate having disclosed the presence of a quorum and no business having intervened, the suggestion of the absence of a quorum is not in order.

Mr. LA FOLLETTE. Mr. President, I just wish to suggest, in order that it may appear upon the RECORD that debate has intervened since the last roll call.

Mr. ALDRICH. That is not business.

Mr. LA FOLLETTE. I just wish that to appear upon the RECORD.

Mr. ALDRICH. My suggestion was that debate was not business.

Mr. LA FOLLETTE. And I want to remind Senators here to-night, before this vote is taken, that every precedent you establish to-night will be brought home to you hereafter.

Mr. GALLINGER. Mr. President, I simply desire to add to what has been said, that if the entire business of the Senate can be put in the hands of one man, that one man could destroy the Government; he could prevent appropriations being made to carry on the governmental machinery, and it is absurd to suppose that it was ever so intended.

Mr. CULBERSON. Mr. President, I understood the Senator from Rhode Island to read from subdivision 2 of Rule V.

Mr. ALDRICH. I did not read any rule. I make the point upon the ordinary parliamentary law, which governs this body in the absence of rules, that the Senate itself has decided this precise point upon, I think, two or three occasions. I have one precedent before me, which is exactly on all fours with the present situation.

Mr. CULBERSON. The Senator then read from a decision on the question?

Mr. ALDRICH. Yes; I called attention to a case which appears in the RECORD.

Mr. CULBERSON. Mr. President, that refers to a particular proceeding of the Senate. I simply want to read the rule, which provides:

2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

It not only provides that it shall be done at any time during the daily sessions, but provides that the proceedings shall be had without debate.

The VICE-PRESIDENT. The question is on the point of order submitted by the Senator from Rhode Island [Mr. ALDRICH].

Mr. LA FOLLETTE. Mr. President, I ask for the yeas and nays upon that question.

The VICE-PRESIDENT. Upon that question the Senator from Wisconsin demands the yeas and nays. Is there a second? In the opinion of the Chair there is, and the yeas and nays are ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I announce my pair with the senior Senator from Massachusetts [Mr. LODGE].

Mr. DEPEW (when his name was called). I am paired with the Senator from Louisiana [Mr. McENERY], but I transfer that pair to the senior Senator from New York [Mr. PLATT], and vote. I vote "yea."

Mr. FRAZIER (when his name was called). I announce my pair with the junior Senator from South Dakota [Mr. KITTREDGE], who is absent. I therefore withhold my vote.

Mr. NELSON. I am authorized to release the Senator from his pair, if he will vote.

Mr. FULTON (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. He is not present, and I transfer that pair to the junior Senator from Oregon [Mr. BOURNE], and vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. I will transfer that pair to the junior Senator from Maine [Mr. FRYE] and vote. I vote "yea."

The roll call was concluded.

Mr. SCOTT (after having voted in the affirmative). I have a general pair with the senior Senator from Florida [Mr. TALIAFERRO], but I voted. I will transfer that pair to the Senator from Nevada [Mr. NIXON] and allow my vote to stand.

Mr. DILLINGHAM (after having voted in the affirmative). I have a general pair with the senior Senator from South Carolina [Mr. TILMAN]. I did not suppose that pairs would be observed on a question of this character, and so I voted. But

as I see that others have observed their pairs, I transfer my pair to my colleague [Mr. STEWART], and will let my vote stand. The result was announced—yeas 35, nays 5, as follows:

YEAS—35.

Aldrich	Curtis	Gallinger	Piles
Ankeny	Dugew	Guggenheim	Scott
Brandeggee	Dick	Hale	Smoot
Briggs	Dillingham	Hemenway	Stephenson
Burkett	Dixon	Heyburn	Sutherland
Burrows	du Pont	Hopkins	Warner
Carter	Flint	Kean	Warren
Clapp	Foraker	Long	Wetmore
Clark, Wyo.	Fulton	Nelson	

NAYS—5.

Brown	Johnston	Paynter	Taylor
Gary			

NOT VOTING—52.

Allison	Cullom	La Follette	Penrose
Bacon	Daniel	Lodge	Perkins
Bailey	Davis	McCreary	Platt
Bankhead	Dolliver	McCumber	Rayner
Beveridge	Elkins	McEnery	Richardson
Borah	Foster	McLaurin	Simmons
Bourne	Frazier	Martin	Smith, Md.
Bulkeley	Frye	Milton	Smith, Mich.
Burnham	Gamble	Money	Stewart
Clarke, Ark.	Gore	Newlands	Stone
Clay	Hansbrough	Nixon	Talliaferro
Crane	Kittredge	Owen	Teller
Culbertson	Knox	Overman	Tillman

The VICE-PRESIDENT. A quorum has not voted.

Mr. FORAKER. Mr. President, I ask if it is not a rule of the Senate that all Senators in the Chamber when the roll is called shall vote unless they be excused by the Senate? I noticed quite a number of Senators in the Chamber who were in the Chamber when the roll was called who did not answer in any way to their names.

The VICE-PRESIDENT. Rule XII covers the question raised by the Senator from Ohio. It reads in part as follows:

1. When the yeas and nays are ordered, the names of Senators shall be called alphabetically; and each Senator shall, without debate, declare his assent or dissent to the question, unless excused by the Senate.

Mr. HOPKINS. I ask that the Secretary call the names of the Senators present who have not answered, so as to give them an opportunity to answer.

The VICE-PRESIDENT. The Secretary will call the names of those Senators who have not voted.

The Secretary called the names of Messrs. ALLISON, BACON, BAILEY, BANKHEAD, BEVERIDGE, BORAH, BOURNE, BULKELEY, BURNHAM, CLARKE of Arkansas, CLAY—

Mr. CLAY (when his name was called). "Here." I have already announced my pair with the senior Senator from Massachusetts [Mr. LODGE].

Mr. HOPKINS. The Senator votes "present."

The Secretary called the names of Messrs. CRANE, CULBERTSON—

Mr. HOPKINS. I observe the Senator from Texas [Mr. CULBERTSON] is present, and I should like to have a record of that fact made. The Senator from Texas is present in the Chamber.

Mr. GALLINGER. You would prefer to have him vote, would you not?

The VICE-PRESIDENT. For the information of the Senate, the Chair will read section 2 of Rule XII. It is as follows:

2. When a Senator declines to vote on call of his name, he shall be required to assign his reasons therefor, and having assigned them, the Presiding Officer shall submit the question to the Senate: "Shall the Senator, for the reasons assigned by him, be excused from voting?" which shall be decided without debate; and these proceedings shall be had after the roll call and before the result is announced; and any further proceedings in reference thereto shall be after such announcement.

The Secretary will continue to call the roll of absent Senators.

The Secretary called the names of Messrs. CULLOM, DANIEL—

Mr. DANIEL (when his name was called). I vote "nay."

The Secretary called the names of Messrs. DAVIS, DOLLIVER, ELKINS, FOSTER, FRAZIER—

Mr. FRAZIER (when his name was called). I announced my pair with the junior Senator from South Dakota [Mr. KITTREDGE].

The Secretary called the names of Messrs. FRYE, GAMBLE, GORE, HANSBROUGH, KITTREDGE, KNOX, LODGE, MCCREARY, MCCUMBER, MCENERY, McLAURIN, MARTIN, MILTON—

Mr. MILTON (when his name was called). I am paired with the senior Senator from New York [Mr. PLATT].

The Secretary called the names of Messrs. MONEY, NEWLANDS, NIXON, OWEN, OVERMAN—

Mr. OVERMAN (when his name was called). I have a gen-

eral pair with the senior Senator from California [Mr. PERKINS], and therefore withhold my vote.

The Secretary called the names of Messrs. PENROSE, PERKINS, PLATT, RAYNER, RICHARDSON, SIMMONS, SMITH of Maryland, SMITH of Michigan, STEWART, STONE—

Mr. STONE (when his name was called). I vote "nay."

The Secretary called the names of Messrs. TELLER and TILLMAN.

The VICE-PRESIDENT. Senators—

Mr. ALDRICH. Before the Chair makes the announcement, I desire to raise the question of order that there is a quorum present in the Chamber. Several Senators have announced their pairs. The Senator from Texas [Mr. CULBERTSON] is present and has not voted; and whatever may be the result, it can not be nullified by the absence of a quorum.

The VICE-PRESIDENT. Thirty-five Senators have voted in the affirmative and eight in the negative. There is a quorum present, the roll call having disclosed that fact.

Mr. ALDRICH. I ask for a vote upon the question of the approval of the report of the conference committee.

Mr. LA FOLLETTE. Mr. President, when I was interrupted I had just given the capitalization on some twelve different roads, and that capitalization shows a variation of from \$28,697 per mile to \$316,639 per mile. It will be seen—

Mr. OVERMAN. Mr. President, is it in order to call for a report from the Sergeant-at-Arms?

Mr. GALLINGER. Not until he gets ready to make it.

Mr. OVERMAN. I see the Sergeant-at-Arms on the floor of the Senate, and I ask that he make his report.

The VICE-PRESIDENT. The Sergeant-at-Arms has not yet reported.

Mr. OVERMAN. He is here and can report, and I insist that he make a report.

Mr. ALDRICH. I raise the question of order that no business is in order except by unanimous consent.

The VICE-PRESIDENT. The Sergeant-at-Arms is executing the order of the Senate. It has not been executed.

Mr. LA FOLLETTE. Mr. President—

Mr. OVERMAN. Has he not the report in his hands?

The VICE-PRESIDENT. He has not.

Mr. OVERMAN. As I understand, then—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. OVERMAN. I rise to a parliamentary inquiry, Mr. President.

The VICE-PRESIDENT. The Senator from North Carolina will state his parliamentary inquiry.

Mr. OVERMAN. Is it possible under the rules that if there should be but one man on the floor and the Sergeant-at-Arms does not make his report, it is not in order to call for a quorum?

The VICE-PRESIDENT. The roll call just had disclosed the presence of a quorum.

Mr. OVERMAN. The question is whether, after a speech has been made, I could not raise the question of a quorum at any time?

The VICE-PRESIDENT. The Chair is of the opinion that that is not in order.

Mr. OVERMAN. And it would not be in order if there were but one man on the floor and the Presiding Officer in the chair, and the Sergeant-at-Arms refused to make the report?

Mr. HOPKINS. That emergency has not arisen.

Mr. ALDRICH and Mr. GALLINGER. Regular order!

Mr. OVERMAN. I think I am entitled to have that inquiry answered.

The VICE-PRESIDENT. The Chair will ask the Senator to again state his inquiry.

Mr. OVERMAN. If it should be evident to the Chair that there were but two men on the floor and the Presiding Officer in the chair, and the Sergeant-at-Arms should refuse for twenty-four hours to make a report, is it possible that the point could not be then raised that there is no quorum present?

The VICE-PRESIDENT. The Chair will answer that question when it arises. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. I should like to have order, Mr. President. I shall be delighted to resume my reading.

It will be seen that some railroads were capitalized for from two to ten times as much per mile as other roads.

Capitalization of the various surface street railways of New York City makes even a worse showing. A 1-cent fare would pay liberal dividends on actual cost.

A more simple and less complex method for reaching the same end may be to so ascertain the legal value by appraisal and then limit the payment of dividends to a reasonable rate on that principal sum.

There is so much confusion in the Chamber that I can hardly hear myself.

The VICE-PRESIDENT. The Senate is in order.

Mr. LA FOLLETTE. To resume:

This plan would utterly ignore capitalization and make immaterial the quantity of stock and bonds outstanding, so far as fixing rates to yield the allowed legal dividends is concerned.

The number of shares outstanding would represent merely so many parts of the appraised legal value. If the par value of the total were double such appraised value, it would only reduce by half the size of the dividend paid on each share.

It would then only be necessary to see that the investing public knew the appraised value and the number of shares issued to represent that value, so that it could figure out the intrinsic value of each share and the size of the dividend it could lawfully receive. Deception as to these facts should be made unlawful. This plan would seem to avoid the interminable labyrinth into which readjustment of rates to the unequal and ununiform capitalizations would plunge the country, and provide a direct, expeditious, and just basis for legislation and judicial determination respecting the entire rate problem for railroads and every other kind of public-service corporation.

Any adjustment of this question of appraisal and rates not based upon law and justice will not be a settlement. In the end the people will surely get just what they are lawfully entitled to—railroad and street railway transportation affording good service at rates yielding only enough to pay a reasonable net income on the actual capital necessarily employed for the purpose.

I hope I can have the attention of Senators on this paragraph. I am sure it will be very interesting to all of them:

The American people do not need or desire to own and operate the railroads. They prefer to have this done by private enterprise, and are willing to pay capital a fair return for its money. They only desire and intend to regulate the railroads as common carriers so as to obtain reasonable rates and good service and to prevent their being employed as instruments for the promotion of monopoly by unjust discrimination as between shippers. Railroad corporations must by law be made to realize and constantly to recognize that they are common carriers and nothing else, bound as such to discharge their obligations to the public.

So long as the people possess full power of regulation, there is no need and it would seem unwise to incur the risk and dangers which might attend the doubtful experiment of ownership and operation of all the railroads by the Government. Regulation will give the people sufficient benefit, without the hazard or labor. With the right to regulate in full force, there will be no demand on the part of the people for public ownership. In fact, they will rather incline toward opposition to that policy.

There is far greater danger that those who now control and are consolidating into vast combinations the great railroad systems of the country, confronted as they will be sooner or later by inevitable shrinkage of profits in the readjustment of rates to yield only a reasonable net income on necessary cash investment, will seek to unload their holdings upon the Government in an attempt to realize something for the alleged excess earning power, unearned increment, good will, and special privileges.

The time will come, and it may not be many years off, when the very financial giants of the railroad world, who now loudly declaim against the dangers of Government ownership, will be earnestly urging that the Government purchase from them the railroads of the country on the ground that transportation charges can then be reduced one-half because the Government will be able to borrow on its bonds the necessary money at one-half or one-third the interest rate now paid on railroad securities; for those able and far-sighted gentlemen would dearly love to relieve themselves of further care and labor, shift their responsibilities, and exchange at good prices their railroad stocks and bonds for the interest-bearing bonds of the United States.

I am sure, Mr. President, that the Senate will regret that this most excellent, argumentative, cogent, closely reasoned speech is at an end. I refer to the speech of the junior Senator from New York in this work of fiction by Mr. Crozier. I am not speaking of my own address. I am just beginning.

FACTS IN REGARD TO RAILROAD EARNINGS.

I ask attention to the following important facts with respect to railroad earnings, because if we are to have railroads as the basis of a part of the currency system of the country, we ought to be thoroughly and completely informed with respect to the different railroad properties, the securities of which are likely to come into the Treasury and be held there as a basis for currency issue. I have here a work of very high authority, well recognized among all students of corporation securities. I will take up the roads in the alphabetical order as they appear here:

The Bangor and Aroostook Railroad in the year 1906-7 operated 482 miles; its gross earnings were \$3,221,606; its surplus was \$296,291; its capitalization per mile was \$39,818, and its net earnings per mile were \$2,258.

The Boston and Maine Railroad in the year 1906-7 operated an average of 2,288 miles; the gross earnings were \$40,879,653; its surplus was \$2,599,106; its gross earnings per mile were \$17,867, and its net earnings per mile were \$4,332.

In 1906-7 the Central Vermont Railway operated 536 miles; its gross earnings were \$3,833,088 and its surplus was \$1,813. Its total capitalization per mile was \$27,390; its gross earnings per mile, \$7,151; its net earnings, \$1,477.

Mr. KEAN. Is that the Vermont Central road?

Mr. LA FOLLETTE. Yes; this is the Central Vermont Railway. I am sure the Senator is very much interested in that road.

The Maine Central Railroad operated in 1906-7 an average mileage of 845, not including the mileage of the Portland and

Rumford Falls Railway, leased in May, 1907, which brings the total up to 931 miles. Its gross earnings were \$8,200,630; its capitalization was \$19,977 per mile; its gross earnings were \$9,705 per mile, and its net earnings \$3,002 per mile.

The New York, New Haven and Hartford Railroad in 1906-7 operated 2,060 miles of road; its gross earnings were \$55,601,936; its surplus, \$8,893,042; its common stock, \$97,080,400; its debentures and bonds, including merged companies, \$179,304,400; its debentures and bonds of subsidiary companies, \$49,405,000; its gross earnings were \$55,601,936, or \$26,991 per mile; the net earnings were \$8,617 per mile.

The Rutland Railroad operated in 1906, 468 miles. Its capital stock was \$9,257,000, or \$19,780 per mile; bonds, \$11,640,000, or \$24,872 per mile; total capitalization, \$20,897,000, or \$44,652 per mile. The net earnings of this line of road per mile were \$1,818.

The St. Johnsbury and Lake Champlain Railroad, operating 131 miles, had gross earnings of \$367,996. It turns up with a deficit of \$44,067. It would be very sad, Mr. President, if the securities of this line should get into the Treasury Department as a basis for circulation, but I suppose that might happen under certain contingencies. It is not probable, but possible. The capitalization of this important line of 131 miles is \$50,723 per mile. I suppose that is the reason it worked out a deficit. It is capitalized at over \$50,000 a mile.

The Somerset Railway is 94 miles long. Its gross earnings were \$199,860. This road is capitalized at \$3,278,000, or \$34,874 per mile. Its net earnings are \$603 per mile.

Now, I come to quite an interesting line of road, the Baltimore and Ohio. I am sure the Senate will be very much entertained by these figures of the earnings of this important line of road, and it will be instructive to incorporate in the records of this discussion these facts:

In 1906 the Baltimore and Ohio operated an average of 4,006 miles. Its gross earnings were \$82,243,922, with a surplus of \$18,545,611. It has common stock to the amount of \$152,174,829. It has preferred 4 per cent stock amounting to \$60,000,000; fixed interest bonds, \$260,385,611. This includes assumed bonds and \$17,834,610 of company's bonds held in the Treasury, and also \$7,635,050 of Pittsburgh division 3½ per cent bonds deposited with trustees. Interest is not paid on these deposited bonds. This road is stocked at \$212,174,829, bonded at \$260,385,611, making a total of \$472,560,440, or \$117,962 per mile.

Now, this is very interesting additional information: The fixed charges include about \$1,000,000 interest on bonds not shown among the liabilities of the Baltimore and Ohio Railroad proper, and therefore not included above. The fixed charges also include \$249,051, the net earnings of the Washington branch included in the system earnings. The gross earnings for the past year were \$82,243,922, or \$20,530 per mile. The net earnings were \$27,363,831, or \$6,830 per mile.

The Buffalo and Susquehanna Railroad in 1906 operated 256 miles; gross earnings, \$1,853,857. It was capitalized at \$70,570 a mile. The gross earnings were \$7,242 per mile and net earnings \$2,248 per mile.

The Buffalo, Rochester and Pittsburgh Railway in 1906 operated an average of 569 miles. Its gross earnings were \$8,595,916. Its surplus was \$1,539,203. It is capitalized at \$59,745 per mile. Its gross earnings were \$15,107 per mile and net earnings \$6,070 per mile.

I come now to the Central Railroad of New Jersey. I am looking for the Senator from New Jersey [Mr. KEAN]. I am glad to see that I have him as an attentive listener.

I am now about to submit to the Senate some facts with respect to the Central Railroad of New Jersey. It operates 610 miles. Its gross earnings were \$22,772,568. Its surplus last year was \$5,782,879. Its stock was \$27,436,800 and bonds \$54,260,000, or a total capitalization of \$81,696,800, or \$133,929 a mile.

NO CONTROL IN NEW JERSEY.

I should like to ask the Senator from New Jersey for information in this connection, whether you have any State commission in New Jersey that controls railroad rates?

Mr. KEAN. I am happy to say we do not.

Mr. LA FOLLETTE. I will not ask whether the railroads control New Jersey. Does the Senator happen to know the gross and net earnings of this road per mile? The gross earnings last year were \$37,332 per mile and the net earnings were \$17,891 per mile.

Mr. KEAN. Has the Senator read the cost of the road?

Mr. LA FOLLETTE. Nobody knows its cost or value. It has a capitalization of \$133,000 per mile. It is quite apparent to me, from these figures, that there is not any power in New

Jersey which puts any limitation whatever on the capitalization or charges of the Central Railroad of that State.

The Cumberland Valley Railroad: In 1906 it operated 163 miles; gross earnings, \$2,904,990; capitalization, \$13,177 per mile; net earnings, \$6,660 per mile.

The Delaware and Hudson Company operates 843 miles of railroad, with gross earnings in 1906 of \$20,225 per mile and net earnings of \$8,033 per mile.

The Delaware, Lackawanna and Western Railroad in 1906 operated 770 miles of road, with gross earnings of \$32,962,880. The net earnings of this line were \$18,264 a mile.

Mr. CULBERSON. From what is the Senator reading?

Mr. LA FOLLETTE. I am reading, I will say to the Senator from Texas, from Mr. Mundy's manual, *The Earning Power of Railroads*, published in 1908, a very late authority upon this subject, published by James H. Oliphant & Co., bankers, 20 Broad street, New York.

The Erie Railroad in 1906-7 operated 2,151 miles. Its gross earnings were \$51,194,113; its surplus, \$5,903,658. Its capitalization amounts to \$186,077 per mile. Its net earnings were \$8,189 per mile.

The Lehigh and Hudson River Railway in 1906 operated 97 miles; gross earnings, \$844,335; surplus, \$43,387. The capitalization of this line is \$47,505 per mile; net earnings, \$3,137.

The Lehigh Valley Railroad operated last year 1,443 miles of road. Its gross earnings were \$36,068,432, and its surplus \$8,204,794. Its total capitalization was \$172,476,400, or \$119,526 per mile. Its gross earnings were \$24,995 per mile, and net earnings were \$9,670 per mile.

The Long Island Railroad in 1906 operated 392 miles; gross earnings, \$9,595,596; deficit, \$28,359; capitalization, \$152,979 a mile.

The New York Central and Hudson River Railroad operated an average of 3,784 miles. It had gross earnings of \$92,089,769 and a surplus of \$12,275,908. The gross earnings of this line of road were \$24,337 per mile, and its net earnings, \$7,171 per mile.

The New York, Ontario and Western Railway operated 546 miles last year; gross earnings, \$8,202,360; surplus, \$1,654,782. It was capitalized at \$156,258 a mile. That is awful! Its gross earnings were \$15,023 per mile, and its net earnings, \$5,041 per mile.

The New York, Susquehanna and Western Railroad in 1906-7 operated 236 miles; gross earnings, \$3,017,049; surplus, \$3,238; capitalization, \$176,326 per mile; gross earnings, \$12,784 per mile; net earnings, \$4,560 per mile.

Northern Central Railway: Average miles operated, 462; gross earnings, \$11,632,633; surplus, \$2,715,789. The capitalization of this road is \$56,894 a mile; its gross earnings were \$25,179 per mile, and net earnings, \$5,745 per mile.

The Pennsylvania Railroad operates 3,897 miles; has gross earnings amounting to \$148,239,882, and a surplus last year of \$35,674,301. Its gross earnings per mile were \$38,039, and net earnings \$11,915 per mile.

I am doing the best I can, Mr. President, to keep everybody awake here, but I am not succeeding entirely. I appreciate the fact that these figures depend somewhat upon the constitution of the mind. Now, men mathematically inclined fairly feast on statistics. I am rather fond of them myself.

FACTS PERTINENT BECAUSE OF SECURITIES BILL ACCEPTS.

But I am presenting these important facts to this interested and attentive audience of Senators because, Mr. President, they are made vital owing to the little words which I had so much trouble to get defined during the morning session. I am reminded by the Senator from Idaho [Mr. BORAH] that that was yesterday morning. I believe this is a continuous session, and the same legislative day still continues.

I think I submitted the facts with respect to the Pennsylvania Railroad, and I now give the statement which Mr. Mundy next incorporates with reference to the Pennsylvania Company.

The Pennsylvania Company operates 1,411 miles of railroad. Its gross earnings last year were \$46,036,806; its surplus, \$8,933,888; total capitalization per mile, \$170,236; gross earnings per mile, \$32,628, and net earnings per mile, \$10,317.

The Philadelphia and Erie Railroad operated 307 miles. It has a capitalization of \$98,397 a mile. Its earnings last year were \$27,175 a mile and its net earnings \$7,067 per mile.

The Reading Company is a thousand miles long. Its gross earnings, 1906-7, were \$42,676,278; its surplus was \$11,934,616; its capitalization was \$316,504 per mile; its gross earnings were \$42,676 and net earnings \$16,787 per mile.

The Ulster and Delaware Railroad, operating an average of 129 miles, had gross earnings last year of \$888,770 and a sur-

plus of \$49,000. It is capitalized at \$37,985 per mile. Its net earnings are \$1,649 per mile.

The West Jersey and Seashore Railroad in 1906 operated 358 miles; gross earnings, \$5,206,284; surplus, \$797,648; capitalization, \$46,729 per mile; net earnings, \$3,490 per mile.

The Ann Arbor Railroad in 1906 operated 296 miles; gross earnings, \$2,182,518; surplus, \$377,473; capitalization, \$48,142 per mile; net earnings, \$2,591 per mile.

The Chicago and Alton operated 970 miles last year. Its gross earnings were \$12,809,426; its surplus, \$1,827,561. It is capitalized at \$117,810 per mile. Its net earnings last year were \$4,934 per mile.

The Chicago and Eastern Illinois operated in 1906-7 948 miles; gross earnings, \$11,337,714; surplus, \$1,670,168; capitalization, \$65,698 per mile; net earnings, \$4,390 per mile.

The Chicago and North-Western Railway operated in 1906-7 7,551 miles; gross earnings, \$68,878,931; surplus, \$15,740,566; capitalization, \$38,038 per mile; net earnings, \$3,190 per mile.

In 1906-7 the Chicago, Burlington and Quincy Railroad operated 9,122 miles, with gross earnings of \$82,473,251; surplus, \$13,158,207. It is capitalized at \$30,643 per mile and its net earnings were \$2,584 per mile.

The Chicago Great Western operated in 1906-7 818 miles; gross earnings, \$9,139,087; surplus, \$414,026; capitalization, \$139,318 per mile; net earnings, \$3,125 per mile.

The Chicago, Indiana and Southern Railway in 1906 operated 340 miles, with gross earnings of \$2,332,732; surplus, \$283,160; capitalized at \$102,500 per mile; net earnings, \$1,487 per mile.

The Chicago, Indiana and Louisville Railway in 1906-7 operated 600 miles; gross earnings, \$5,988,867; surplus, \$995,026; capitalization, \$50,833 per mile. Its net earnings were \$3,482 per mile.

The Chicago, Milwaukee and St. Paul Railway in 1906-7 operated 7,050 miles; its gross earnings were \$60,548,554 and its surplus was \$13,866,775. It is capitalized at \$36,710 per mile. Its net earnings last year were \$3,134 per mile.

The Chicago, Peoria and St. Louis Railway operated last year 225 miles; gross earnings, \$1,685,856; surplus, \$30,374; capitalization, \$52,709 per mile; net earnings, \$1,009 per mile.

The Chicago, St. Paul, Minneapolis and Omaha Railway operated in 1906-7 1,705 miles; gross earnings, \$14,035,309; surplus, \$2,843,233; capitalization, \$34,018 per mile; net earnings, \$2,966 per mile.

The Chicago Terminal Transfer Railway operated 102 miles last year. Gross earnings, \$1,716,491; deficit, \$95,034; capitalization, \$453,813 per mile; net earnings, \$6,479 per mile.

Cincinnati and Muskingum Valley Railroad is 148 miles long. Its gross earnings in 1906 were \$845,396 and surplus \$119,739. It is capitalized at \$25,338 per mile; net earnings, \$1,256 per mile.

Cincinnati, Hamilton and Dayton Railway in 1906-7 operated 1,038 miles; gross earnings, \$8,946,935; deficit, \$861,354; capitalization, \$60,887 per mile.

Cincinnati Northern Railway operated 248 miles; gross earnings, \$1,027,728; surplus, \$165,195; capitalization, \$16,129 per mile; net earnings, \$1,151 per mile.

Cleveland and Marietta Railway operated 110 miles last year; gross earnings, \$967,632; surplus, \$193,403; capitalization, \$20,544 per mile; net earnings, \$2,579 per mile.

Cleveland, Akron and Columbus Railway operated 210 miles; gross earnings, \$2,046,567; surplus, \$293,992; capitalization, \$35,691 per mile; net earnings, \$2,512 per mile.

Cleveland, Cincinnati, Chicago and St. Louis operated in 1906, 1,983 miles; gross earnings, \$24,594,916; surplus, \$2,064,732; capitalization, \$57,293 per mile; net earnings, \$3,108 per mile.

Cleveland, Lorain and Wheeling Railway in 1906-7 operated 194 miles; gross earnings, \$4,608,901; surplus, \$1,243,130. It is capitalized at \$118,005 per mile, and it had net earnings last year of \$9,319 per mile.

Mr. CULBERSON. Mr. President, I have counted the Senators on the floor and there are thirteen. I suggest the absence of a quorum.

Mr. ALDRICH. Mr. President, does the Senator from Texas have the floor?

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. CULBERSON. I make the point of order without reference to the pending discussion—

Mr. LA FOLLETTE. I do not yield, Mr. President.

The VICE-PRESIDENT. The Senator from Wisconsin does not yield.

Mr. LA FOLLETTE. That is, I will yield for the purpose—

Mr. ALDRICH. I will, Mr. President—

Mr. LA FOLLETTE. I make the point that there is no quorum present.

Mr. ALDRICH. I raise the same question that was previously raised in the Senate to-night.

Mr. HALE. The Senate has already decided that.

Mr. CULBERSON. I make this point of no quorum in order to have spread on the RECORD the whole proceedings of the Senate to which the Senator from Rhode Island referred a few moments ago, showing the two points that the Chair decided in that case. That is all I make this point of order for. The Chair decided in that case, first, that he was absolutely without authority to count a quorum; and, second, that the point of order, which was sustained as to the second call for a quorum, was upon the ground that the suggestion of the lack of a quorum was made immediately after the roll had been called, showing the presence of a quorum, and no other business had intervened.

The VICE-PRESIDENT. The Chair is of the opinion that the Senate this evening decided this question, and that that decision stands.

Mr. CULBERSON. I call the attention of the Chair to my request, and ask that it be granted, that there may appear in the RECORD the marked portions of the CONGRESSIONAL RECORD which I have before me, showing this entire proceeding.

Mr. ALDRICH. Mr. President, I ask if the Senator from Texas has the floor?

The VICE-PRESIDENT. The Chair asked the Senator from Wisconsin if he yielded the floor.

Mr. LA FOLLETTE. Oh, no; I do not yield the floor.

Mr. ALDRICH. Then, I raise the question of order that this is not in order.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. LA FOLLETTE. Perhaps, Mr. President, I will be permitted myself to read this interesting matter which I find in the CONGRESSIONAL RECORD of the Senate proceedings of March 3, 1897, being that to which the Senator from Texas [Mr. CULBERSON] just called attention, and which the Senator from Rhode Island [Mr. ALDRICH] prevented him from incorporating in the RECORD:

WILLIAM H. HUGO.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1602) for the relief of William H. Hugo.

The PRESIDING OFFICER (Mr. BACON in the chair). The bill is in the Senate as in Committee of the Whole. If there be no amendment as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate without amendment.

Mr. QUAY. Before the final vote is taken upon the bill, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania suggests the absence of a quorum. The Secretary will call the roll.

Mr. WILSON. A parliamentary inquiry. Is it possible in the midst of a question being put to raise the question of the absence of a quorum, the presence of a quorum having just been announced?

The PRESIDING OFFICER. The Chair will state that a question was not being put.

Mr. WILSON. Mr. President—

The PRESIDING OFFICER. The Chair will hear the Senator from Washington.

Mr. WILSON. The presence of a quorum had just been announced; not two seconds had intervened.

Mr. QUAY. Other business had been transacted.

Mr. HILL. What was the other business?

Mr. WILSON. What was the further business?

Mr. QUAY. A half dozen questions were put.

Mr. WILSON. I have no recollection of a half dozen questions.

Mr. QUAY. I refer to the Presiding Officer.

Mr. WILSON. I raise the question that we had just had a call of the Senate; the presence of a quorum had just been announced; the Chair had just announced it; not two seconds had intervened, and the question was being put on the passage of the bill. I raise the point of order whether the Senator has a right to raise the question of no quorum until the transaction of some other business.

The PRESIDING OFFICER. The Chair requests the Senator from Washington to state his request concisely, so that the Chair may rule upon it if necessary. Does the Senator make the point that a question was then being put?

Mr. WILSON. Yes, sir; I make that point of order.

The PRESIDING OFFICER. The Chair will state that a question was not being put. The Chair was stating the condition of the bill. The Chair stated that the bill was in Committee of the Whole, and stated that the committee had made no amendment. The bill had then been reported to the Senate, but the Chair had not propounded any question to the Senate. If that is the point of order, simply that a question was then being put, the Chair will be constrained to overrule it.

Mr. PEPPER. I understand the point of order is that no business had intervened, and that therefore another call was not in order.

Mr. QUAY. The Chair is perfectly aware that a number of perfunctory motions and questions had been put to the Senate after the previous call of the roll.

The PRESIDING OFFICER. The Chair will state to the Senate that the title of the bill had been reported to the Senate by the Secretary, which was intervening business. In addition to that, the Chair will state that according to the rule no intervening business is required; that the rule is that at any time a Senator may raise the question, and it must be immediately determined.

Mr. HILL. There can not be two calls in succession. With all due deference to the Chair, must not the rule have an intelligent and reasonable construction? There must be some business which is business.

The PRESIDING OFFICER. The Chair ruled there has been intervening business.

Mr. HILL. By the announcement of it?

The PRESIDING OFFICER. By the bill being reported by the Secretary to the Senate.

Mr. GORMAN. Call the roll.

The PRESIDING OFFICER. And a message was also received from the other House. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Allen	Dubois	Mantle	Sherman
Bacon	Faulkner	Martin	Shoup
Bate	Gallinger	Mitchell, Wis.	Smith
Berry	Gibson	Morgan	Stewart
Butler	Gorman	Nelson	Teller
Call	Hansbrough	Palmer	Thurston
Cannon	Hawley	Peffer	Tillman
Carter	Hill	Perkins	Vest
Chandler	Hoar	Pettigrew	Vilas
Chilton	Jones, Ark.	Platt	Walthall
Cockrell	Lindsay	Pugh	Warren
Daniel	McBride	Roach	Wilson

The PRESIDING OFFICER. Upon the call of the roll forty-eight Senators have answered to their names, and a quorum is present.

The Chair wishes to state, as this question may recur, that the ruling of the Chair in this instance was put distinctly upon the fact that the bill had been reported from the Committee of the Whole to the Senate, which was a fact of making progress, and therefore was intervening business. While the rule itself does not say so, the Chair is inclined to the opinion that the suggestion made by several Senators upon the floor that there must be some intervening business is correct. But in this instance there had been intervening business.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE D. MOWATT—VETO MESSAGE.

Mr. GALLINGER. I ask for the regular order.

The Senate proceeded to reconsider the bill (H. R. 1139) granting a pension to Caroline D. Mowatt, which had been returned by the President to the House in which it originated with his objections to the same.

Mr. QUAY. I suggest that there is not a quorum of the Senate present. The PRESIDING OFFICER. The Senator from Pennsylvania suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Allen	Cockrell	Mantle	Shoup
Allison	Cullom	Martin	Smith
Bacon	Dubois	Mitchell, Wis.	Stewart
Baker	Faulkner	Morgan	Teller
Bate	Gallinger	Nelson	Thurston
Berry	Gibson	Palmer	Vest
Blanchard	Hansbrough	Peffer	Vilas
Brown	Hill	Perkins	Walthall
Butler	Hoar	Pettigrew	Warren
Call	Jones, Ark.	Platt	White
Chandler	Kyle	Pugh	Wilson
Chilton	Lindsay	Roach	
Clark	McBride	Sherman	

The PRESIDING OFFICER. Fifty Senators having answered to their names, a quorum is present.

Mr. QUAY. What is the status of the bill before the Senate?

The PRESIDING OFFICER. The Chair was about to state that the bill is before the Senate, vetoed by the President of the United States. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding. The Secretary will call the roll.

Mr. WHITE. What is the bill before the Senate?

The PRESIDING OFFICER. The title of the bill will be read.

The SECRETARY. A bill (H. R. 1139) granting a pension to Caroline D. Mowatt.

The PRESIDING OFFICER. The Secretary will proceed with the call of the roll.

The Secretary proceeded to call the roll.

Mr. BLANCHARD (when his name was called). I again announce my pair with the Senator from North Carolina [Mr. Pritchard].

Mr. WALTHALL (when his name was called). I am paired with the Senator from Pennsylvania [Mr. Cameron].

The roll call was concluded.

Mr. McBRIDE. I have a general pair with the Senator from Mississippi [Mr. George], but I will vote to make a quorum. I will vote "yea."

The result was announced—yeas 39, nays 7, as follows:

YEAS—39.

Allen	Faulkner	Mitchell, Wis.	Roach
Allison	Gallinger	Morgan	Sherman
Butler	Gorman	Nelson	Shoup
Call	Hansbrough	Palmer	Stewart
Cannon	Hoar	Peffer	Teller
Carter	Jones, Ark.	Perkins	Thurston
Chandler	Kyle	Pettigrew	Tillman
Chilton	McBride	Platt	Warren
Dubois	Mantle	Pugh	White
	Martin	Quay	

NAYS—7.

Bacon	Berry	Hill	Vest
Bate	Gray	Lindsay	

NOT VOTING—44.

Aldrich	Daniel	Irby	Proctor
Baker	Davis	Jones, Nev.	Sewell
Blackburn	Elkins	Kenney	Smith
Blanchard	Frye	Lodge	Squire
Brice	Gear	McMillan	Turpie
Brown	George	Mills	Vilas
Burrows	Gibson	Mitchell, Oreg.	Voorhees
Caffery	Gordon	Morrill	Walthall
Cameron	Hale	Murphy	Wetmore
Chilton	Harris	Pasco	Wilson
Cockrell	Hawley	Pritchard	Wolcott

The PRESIDING OFFICER. More than two-thirds having voted in the affirmative, the bill is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. QUAY. I suggest that there is not a quorum of the Senate present.

Mr. SHOUP. Mr. President—

Mr. QUAY. I suggest that there is not a quorum of the Senate present.

Mr. HOAR. I rise to a question of order.

The PRESIDING OFFICER. The Senator from Massachusetts will state his question of order.

Mr. HOAR. My question of order is that the suggestion of the want of a quorum is out of order; that the matter of the intervention of business has nothing to do with it. In the case of the repeated motions to adjourn, the Senate having done something, they are motions for the Senate to do something, to wit, to adjourn, and the previous motion to adjourn may have been voted down for the very purpose of doing the thing which has intervened, and then they may be ready. But it never was intended that it should be put into the power of one man to prevent eighty-nine men from doing business.

The intervention of business, therefore, has nothing to do with it. The proper and reasonable application of the rule of the Senate is that if the Chair, on inspection, sees that since the presence of a quorum has been ascertained in the way provided by the rules there has been no substantial change in the condition and composition of the Senate, and that the quorum which was ascertained continues here, he is bound to refuse to entertain the suggestion and allow the eighty-nine men to go on with their business.

Mr. HILL. Mr. President, without discussing the general question, it is sufficient now that no business has intervened since the announcement showed a quorum when the Senator from Pennsylvania made his point. I insist upon it that the Senator can make no point of the want of a quorum. The Senator from Idaho [Mr. Shoup] is entitled to be recognized, having addressed the Chair to make a motion.

Mr. QUAY. Those who were present in the Senate pending the discussion of the bill for the repeal of the silver clause of the Sherman Act will remember that a majority of the Senate were held up by the Senator from Idaho [Mr. Dubois] and the entire minority, and the precedent was adopted and sustained that anyone, at any time after intervening business, could suggest the absence of a quorum. I ask the Senator from Colorado [Mr. Teller] if that is not true?

Mr. HILL. I rise to a point of order, which I will state. The Chair announced the vote. That vote showed the presence of a quorum. No business has intervened. We need not go further and raise a point upon an imaginary case. The Senator from Idaho [Mr. Shoup] rose and asked to be recognized by the Chair.

The PRESIDING OFFICER. The Chair will state to the Senator from New York that two points of order can not be pending at once unless the second point of order is addressed to something contained in the first. The Senator from Massachusetts has suggested an independent substantive point of order. The point of order suggested by the Senator from New York is an independent point on a different principle.

Mr. HILL. No. The question I raise is that the Senator from Pennsylvania can not raise the question of a quorum when the roll call had immediately before disclosed the presence of a quorum. That is the point I should like to have decided, and if it is decided in my favor the Senator who addressed the Chair is entitled to be recognized. Is not that right?

The PRESIDING OFFICER. The Chair feels constrained to rule that the point submitted by the Senator from Massachusetts has to be disposed of unless the Senator from Massachusetts waives it.

Mr. HILL. It is the same point of order, except the Senator from Massachusetts went further; that is all. Having the two points both involving the same question, the Senator from Massachusetts went further.

Mr. VEST. I should like to hear the rule read. I ask for the reading of the rule.

The PRESIDING OFFICER. The Senator from Missouri asks for the reading of the rule. The Secretary will read the rule.

Mr. QUAY. I desire to say that while to the public at large, to the people of the United States, it may seem that I am wantonly obstructing business, Senators on this floor know that I am doing it in the interest of millions of Pennsylvania capital and the wages of thousands of Pennsylvania workmen.

Mr. HILL. Pennsylvania capital can not override the plain rules of the Senate or the country.

Mr. HOAR. I say again that in my judgment the question of the intervention of business is not a decisive test. It is the question whether the Chair sees that the composition of the Senate as made up, as ascertained by the roll call, remains substantially unchanged and a quorum continues. The other rule is to put eighty-nine men, representing this whole country, in the power of one.

Mr. QUAY. The Senator from Massachusetts knows that when he and I were striving to sustain the credit of the Government pending the controversy over the repeal of the purchasing clause of the Sherman Act the rule was interpreted as it is being interpreted by the Chair tonight.

Mr. HOAR. I never heard it interpreted in that way.

Mr. QUAY. My recollection is that the Senator from Idaho [Mr. Dubois] time and again suggested the absence of a quorum, and we were compelled to sit here and to take vote after vote. We were held, I think, one month in that controversy by those obstructive tactics.

Mr. HOAR. I never considered what was done at that time parliamentary or proper on the subject of the points raised or thought of.

Mr. HILL. Mr. President, is this ancient history in order?

Mr. DUBOIS. Inasmuch as the Senator from Pennsylvania has alluded to me, I would say that during that debate on the repeal of the Sherman Act I never called for a quorum once when there was a quorum of the Senate in their seats. The Senator from Pennsylvania complained about that, and he stands here now and says he wants to protect some

capital in Pennsylvania. They did not care much then when they struck down all of that Western country. But even through that fierce fight, which was a fight for the people of this country and not for a few capitalists in Pennsylvania, men who have millions and whom you are trying to give more millions to unjustly—even through that fierce fight I never asked for a quorum in the Chamber when there was a majority of the Senate in their seats; and no advocate of silver on this floor and none of those who were opposing the repeal of the Sherman Act asked for a quorum when there was a quorum present.

Mr. QUAY. My recollection is—

Mr. HILL. Can we not have the decision of the Chair on the point of order?

Mr. QUAY. I may be mistaken and the Senator from Idaho may be correct, but my recollection is that time and again, I can not say the Senator from Idaho personally suggested the absence of a quorum, but those who were subordinate to him and were acting in concert with him when there was a quorum present, and at times when there was not a quorum present the Senator from Idaho sat in his seat and refused to vote, and efforts were made to force him to vote, without success, because the Senator from Idaho stood bravely up and refused to vote, and the Senate had no recourse.

Mr. SEWELL. I do not know anything about the controversy then existing, but I want to know the rules of the Senate. I ask for the reading of rule V in relation to the matter, and I ask for a decision of the Chair.

The PRESIDING OFFICER. The Secretary will read the rule indicated. The Secretary read as follows:

"RULE V.

"QUORUM—ABSENT SENATORS MAY BE SENT FOR.

"1. No Senator shall absent himself from the service of the Senate without leave.

"2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the presiding officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

"3. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, shall be in order."

Mr. HILL. Mr. President, that rule expressly says that a question of a quorum can not be raised if the roll call has just disclosed the presence of a quorum, and that is the only question that is now pending. If that is so, then the Senator from Pennsylvania could not raise the question, and the Senator from Idaho was entitled to be recognized by the Chair.

Mr. SEWELL. In answer to the Senator from New York, the rule very explicitly shows that this point can not be maintained. Here it is in plain English:

"2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result."

Mr. HILL. The calling of the roll, no matter whether it is upon a regular roll call, upon the passage of a measure, or whether it is upon a direct suggestion of the want of a quorum, is a roll call, and that has just taken place. That is the fact which determines the presence of a quorum. Otherwise when it is called a suggestion can be made that there is no quorum, and you can keep right on forever. It can not be done, Mr. President, under these rules. Bad as these rules are, they will not permit such a farce as that. I submit the question that when the roll call discloses the presence of a quorum, then the Senator who has addressed the Chair is entitled to proceed. That is the question I want decided by the Chair.

Mr. SEWELL. The rules of the Senate may be wrong—

The PRESIDING OFFICER. The Senator from New Jersey will suspend a moment. The Chair will state that two points of order have been made. Only one can be entertained at a time. The point of order before the Senate (after which the point of order made by the Senator from New York will be entertained) is the point of order made by the Senator from Massachusetts. It is that the Chair should by inspection ascertain whether there is a quorum present, and if he finds such to be the case that he shall rule the call out of order.

Mr. HILL. That is an abstract question.

The PRESIDING OFFICER. The Chair is ready to hear any debate on that question. If there is none, the Chair is ready to rule upon it.

Mr. SEWELL. The rule does not give the Chair that right. The rule is absolute.

Mr. HILL. Mr. President, we have enough difficulties here without imagining them. I am one of those willing to go to the extent of holding that the Chair can, even under these rules, substantially count a quorum; but it is not necessary to go so far until we reach that point. That question does not arise. You are not called upon to decide the question whether at any time the Chair can discover that immediately after the roll call there had been any change, as the Senator from Massachusetts says. You are not called upon to decide that question; it is an abstract question which may arise hereafter.

The question that was presented here was simply to test the accuracy of the last roll call. The last roll call disclosed the presence of a quorum, and a Senator can not immediately arise and say, "I suggest the want of a quorum."

I pause here to say that for the integrity of the proceedings of the Senate it seems to me it is to be regretted that this entire matter was not read before the Senate voted upon that proposition. I read further:

That is the practical question and the only one now before the Senate to decide. The other is an abstract question which has not yet arisen, but which may arise before this evening's performance is over.

Mr. LINDSAY. Mr. President, I suggest to the Senator from New York a very important fact, that may settle this question of order, and that is the information that the other House has receded from its disagreements all along the line so far as the naval bill is concerned.

Mr. HILL. That is not a parliamentary question; that is a motive for the proceeding.

Mr. LINDSAY. It lacks now only the signatures of the presiding officers of the two Houses and of the President of the United States to make it a law.

The PRESIDING OFFICER. The Chair is constrained to rule that when a Senator presents a point of order the Chair can not refuse to rule upon it on the ground that it is an abstract question. If a Senator presents a point of order, it is within the province of the Chair to rule upon it; but the Chair can not rule upon more than one point at a time. After having ruled upon one question, if the other still survives, the Chair will decide it. The Chair will then rule on the point of order submitted by the Senator from New York.

Mr. HOAR. The point of order is that the suggestion is out of order. I stated one reason for the point, and the Senator from New York stated another—two reasons in favor of the same point. My proposition was that, after having done this, the provision of the rule has been exhausted, and if the Chair sees, upon an inspection, that the composition of the Senate remains unchanged, it can not be successfully put every two minutes; otherwise, if I should be held to be wrong, it is very evident, it seems to me, that the rule would require the Chair to put it again and again, without any intervening business whatever.

The PRESIDING OFFICER. The point of order made by the Senator from Massachusetts is that, after there has been a roll call, in case there has been no intervening business and there is another suggestion of the absence of a quorum, the Chair should rule that point out of order if, upon a personal inspection of the Senate, he should determine that there had been no substantial change in the number present. The Chair knows no way in which such an inspection could be made, except by counting; and the Chair does not know of any rule in the Senate which justifies or authorizes the Presiding Officer to count a quorum. So the present occupant of the chair is now ready to pass upon the question submitted by the Senator from New York.

Mr. HILL. My point is that the presence of a quorum was determined by the last roll call and that a Senator can not immediately thereafter suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator mean to embrace the feature that no business has intervened?

Mr. HILL. Yes; that no business has intervened.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. HILL. The Senator from Idaho can now make his motion.

Mr. GALLINGER. Regular order, Mr. President.

[The remarks of Mr. LA FOLLETTE are continued in Senate proceedings of Saturday, May 30, 1908.]

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 29, 1908.

ASSISTANT TREASURER.

Clarence S. Hebert, of Louisiana, at New Orleans, La.

COLLECTOR OF INTERNAL REVENUE.

Robert S. Sharp, of Tennessee, for the district of Tennessee.

POSTMASTERS.

NORTH CAROLINA.

Evander Mc. Moore, at Burgaw, Pender County, N. C.

S. Arthur White, at Mebane, Alamance County, N. C.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 29, 1908.

[Continuation of legislative day of Tuesday, May 12, 1908.]

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 59 minutes a. m.

GRANTING AN INCREASE OF PENSION TO BYRON C. MITCHELL, ETC.

Mr. CALDERHEAD. Mr. Speaker, I ask unanimous consent for the present consideration of the pension bill which I send to the Clerk's desk.

The SPEAKER. The gentleman from Kansas asks unanimous consent to pass the following House bill, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 22212) granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Alleman.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Byron C. Mitchell, late of Company F, One hundred and thirty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

And the name of Calvin P. Lynn, late of Company G, One hundred and fortieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

And the name of Harry S. Lee, formerly Albert Lee Alleman, late of Company F, One hundred and twenty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The SPEAKER. Is there objection?

Mr. HEFLIN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Alabama objects.

NEW IMMIGRATION STATION, BOSTON, MASS.

Mr. O'CONNELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 13851, and concur in the Senate amendment with an amendment.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to take from the Speaker's table the following House bill and concur in the Senate amendment with an amendment, which the Clerk will report.

The Clerk read as follows:

The bill (H. R. 13851) providing for the purchase of a site and the erection of a new immigration station thereon in the city of Boston, Mass.

The Senate amendment was read.

The proposed amendment was read, as follows:

In lieu of the matter stricken out by the Senate amendment insert the following: "except on Castle Island; and the sum authorized under section 2 is hereby provided out of the immigrant fund."

The SPEAKER. Is there objection?

Mr. KELIHER. Mr. Speaker, reserving my right to object, I ask unanimous consent for about seven minutes to make a statement.

Mr. PAYNE. Mr. Speaker, I object to that and also object to the unanimous consent.

The SPEAKER. The Chair will recognize the gentleman from Massachusetts a little later.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 19795. An act concerning locomotive ash pans;

H. R. 21003. An act fixing the compensation of certain officials in the customs service, and for other purposes; and

H. R. 21052. An act to amend sections 11 and 13 of an act entitled "An act to establish a Bureau of Immigration and Naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States."

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 2295) to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company under the provisions of the act of Congress approved March 2, 1889, as amended by the act of Congress approved June 28, 1906.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 17228. An act to promote the safe transportation in interstate commerce of explosives and other dangerous articles and to provide penalties for its violation;

H. R. 19462. An act to amend section 5438 of the Revised Statutes;

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew; and

H. R. 22029. An act to incorporate the Congressional Club.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 6200) granting a perpetual easement and right of way to Salt Lake City, Utah, for construction, operation, maintenance, repair, and the renewal of a conduit and pipe line and valve houses upon and across the Fort Douglas Military Reservation.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 3405) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896.

The message also announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5164. An act to provide for the improvement of the Platt National Park, situated at Sulphur, Okla.;

S. 6919. An act to establish a home for feeble-minded, imbecile, and idiotic children in the District of Columbia, and for other purposes; and

S. R. 99. Joint resolution providing for assistance to the people of the storm-swept district of Oklahoma.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 1385) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Cheyenne River and Standing Rock Indian reservations in the States of South Dakota and

North Dakota, and making appropriation and provision to carry the same into effect.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 5083) to amend section 1 of the passenger act of 1882, had asked a conference with the House of Representatives on said amendments, and had appointed Mr. DILLINGHAM, Mr. LODGE, and Mr. McLAURIN as the conferees on the part of the Senate.

LOCOMOTIVE ASH PANS.

The SPEAKER. The Chair lays before the House the following House bill with Senate amendments, which the Clerk will report.

The Clerk read as follows:

The bill H. R. 19795, an act concerning locomotive ash pans.

The Senate amendments were read.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendments.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the House concur in the Senate amendments.

Mr. MANN. I ask unanimous consent.

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I understand this is the bill to which we gave unanimous consent the other day.

Mr. MANN. It is the ash-pan bill.

Mr. WILLIAMS. And the only amendment to it is that they have provided these ash pans may not necessarily be required to be placed under locomotives that use oil or something that does not make any ashes.

Mr. MANN. That is the amendment, with the exception of the amendment to the title. The bill related to locomotive ash pans, and the amendment of the title is to make it in relation to safety appliances, so that, in the opinion of some gentlemen, it will be more likely to agree with the employers' liability act.

Mr. WILLIAMS. For the same reason that led me not to object to the bill upon its original passage I shall not object now.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Senate amendments are agreed to.

NEW IMMIGRATION STATION, BOSTON, MASS.

Mr. O'CONNELL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment with an amendment to the bill H. R. 13851.

The SPEAKER. The gentleman from Massachusetts moves to take the bill H. R. 13851 from the Speaker's table, to suspend the rules, and concur in the Senate amendment with an amendment, which was just read. Is a second demanded?

Mr. FINLEY. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FINLEY. Yes.

The SPEAKER. The gentleman from Massachusetts is entitled to twenty minutes and the gentleman from South Carolina to twenty minutes.

Mr. O'CONNELL. I will ask the gentleman from South Carolina to take his time. I will reserve my time.

Mr. FINLEY. Mr. Speaker, I think the gentleman from Massachusetts should explain the bill and explain the necessity for this procedure.

Mr. O'CONNELL. Briefly, Mr. Speaker, this bill passed the House unanimously two weeks ago and passed the Senate practically three different times. It is now in such form that, with the amendment now proposed by me to the Senate amendment, the differences between the two Houses will be adjusted and the bill finally passed. This bill calls for a station required by the immigration department in Boston and is recommended by the Secretary of Commerce and Labor; it is also recommended by the Commissioner-General of Immigration and by the commissioner in Boston. We need it there very badly because of the condition of the station as it now exists. It is, beyond question, practically a danger place for every man, woman, and child who may be confined within it. The fire underwriters in Boston have urged time after time that a new station be afforded to the immigrants that come in there, and I can not urge upon this House any too strongly the absolute necessity, so far as humanity is concerned, of abandoning the present inadequate and unfit station and in giving to us a suitable one. The income from the port of Boston, so far as the immigration fund is concerned, in the last two years has been largely in excess of the sum asked for in this bill, viz, \$250,000. In justice to the immigrants coming to the port of Boston, in justice to the officers and men who are engaged in administering the duties of the Department, suitable and commodious

quarters should be given to all parties concerned. The proposed exemption of Castle Island is in accordance with the wishes of the people of South Boston, who have protested against converting that island—now used as a public park—into a place for the landing and detention of immigrants, and in this feature of my amendment, which was part of my original bill, but stricken out by the Senate, I am particularly and deeply interested. [Applause.]

I reserve the balance of my time.

Mr. FINLEY. Mr. Speaker, I believe that the immigration laws of this country can best be administered by having a comparatively few immigrant stations. There is no question about the fact that in times past the immigration laws have been administered in a very lax and loose sort of way. I think that to limit the number of stations would bring about the better administration of the laws to the end that the requirements of the immigration laws of this country be strictly administered.

I know, as does every other gentleman on this floor, that hundreds of thousands of people come into this country every year who under a strict administration of the law are not entitled to come. I believe in a strict enforcement of the immigration laws. I regret that they are not more onerous in point of qualification for immigrants than they are. If I had my way, the Gardner bill providing an educational test would be on the statute books in this country to-day. I would exclude mixed and colored races. If I had my way, immigrants coming to this country would possess the qualifications necessary to make good citizens. But the law is not as I would have it.

Mr. Speaker, the real reason for the demand made on Congress to enlarge and equip the various immigrant stations throughout the country is that the number of immigrants has greatly increased during the past twenty years. The immigration laws in this country should be so framed as to exclude all persons who have not the necessary qualifications to make good American citizens. America has become the dumping ground for the world. It is probably true that more immigrants came into the United States during the last fiscal year than all other countries received during the same time. It is the standard of citizenship that makes the United States the great country it is; and when the bars are let down, as they are in the present immigration laws and the loose and lax administration of those laws, we find that several hundred thousand undesirable immigrants came to this country last year.

The time has come for the American people to consider this great question and to deal with it in a proper way. No fault has been found with the class of immigrants we received from France, Germany, Switzerland, and Great Britain in the early days of the Republic—and, in fact, the great majority of immigrants coming to the United States came from those countries. These people and their descendants are the ones who laid the foundations, and by their continued efforts have made this country great. But these countries no longer furnish the proportion of immigrants they did formerly.

In 1887 the number of immigrants from France numbered 5,034; in 1894, 3,150, and in 1896, 5,578. In 1887 Germany furnished 106,865 immigrants; last year, 37,807. In 1887 Switzerland, 5,214; last year, 3,748. Sweden in 1887, 42,836; in 1907, 20,589. In 1887, England, 72,855; Ireland, 68,870; Scotland, 18,699; Wales, 1,820. In 1907, England, 56,637; Ireland, 34,530; Scotland, 19,740; Wales, 2,660. These are the countries that in the past have furnished the best class of immigrants coming into this country.

On the other hand, Austria-Hungary in 1887 furnished to this country 40,265 immigrants; in 1907, 338,452. Italy in 1887, 47,622; in 1907, 285,731. Portugal in 1887, 1,360; in 1907, 9,608. Russian Empire in Europe in 1887, 30,766; in 1907, 253,943. Turkey in Europe in 1887, 206; in 1907, 20,707. China in 1887, 10; in 1907, 961. Japan in 1887, none; in 1907, 30,226. Other countries in Asia in 1887, 605; in 1907, 9,337.

This comparison can be carried much further with like results, showing beyond question that in recent years we are obtaining the bulk of our immigration from countries in Europe bordering on the Mediterranean, the Black, and Caspian seas. To a great extent the people coming from southern Europe, northern Africa, and the Turkish Empire are of mixed races, and the coming of this people to this country will necessarily add to the race issue here. A very large percentage of these people are both ignorant and vicious.

The table on following page shows the number of immigrant aliens admitted during the fiscal year ended June 30, 1907, taken from report of the Commissioner of Immigration.

Immigrant aliens admitted, fiscal year ended June 30, 1907, by races or peoples.

Race or people.	Sex.			Age.			Illiteracy, 14 years and over.		Money.			Have been in the United States before.
	Male.	Female.	Total.	Under 14 years.	14 to 44 years.	45 years and over.	Can read, but can not write.	Can neither read nor write.	Allens bringing—		Total amount of money shown.	
									\$50 or over.	Less than \$50.		
African (black).....	8,332	1,908	5,235	500	4,510	225	20	750	649	3,184	\$125,052	956
Armenian.....	1,874	770	2,644	371	2,174	99	2	544	215	1,557	66,270	118
Bohemian and Moravian.....	8,142	5,412	13,554	2,539	10,446	569	15	216	1,134	8,043	337,911	234
Bulgarian, Servian, and Montenegrin.....	26,423	751	27,174	296	26,358	520	38	11,908	539	25,494	427,088	437
Chinese.....	706	64	770	85	662	23	65	51	367	251	60,784	26
Croatian and Slovenian.....	40,538	7,288	47,826	1,694	45,167	965	65	16,721	982	42,329	635,687	2,501
Cuban.....	3,747	1,728	5,475	790	4,305	580	6	561	1,359	1,394	102,445	2,339
Dalmatian, Bosnian, and Herzegovinian.....	7,061	332	7,393	109	7,075	209	6	3,612	353	6,440	141,606	149
Dutch and Flemish.....	8,362	4,105	12,467	2,560	9,249	658	17	400	2,430	5,184	443,359	619
East Indian.....	1,056	16	1,072	4	1,055	13	3	487	255	745	39,278	27
English.....	23,100	18,026	41,126	7,982	29,061	4,083	66	536	18,724	17,937	2,465,531	7,804
Finnish.....	10,326	4,534	14,860	967	13,559	334	78	351	801	11,788	270,417	987
French.....	5,425	3,967	9,392	1,002	7,844	546	5	170	3,911	3,058	606,465	1,530
German.....	56,170	36,766	92,936	14,845	73,379	4,712	172	5,310	16,882	44,809	3,356,684	5,225
Greek.....	44,647	1,636	46,283	819	45,169	295	19	13,883	2,365	38,945	967,972	1,041
Hebrew.....	80,530	68,652	149,182	37,696	108,779	7,707	438	31,885	7,213	56,594	1,996,091	1,759
Irish.....	21,871	16,835	38,706	2,243	35,316	1,147	51	713	4,701	26,219	380,933	2,950
Italian (north).....	40,949	10,615	51,564	4,008	46,089	1,467	15	4,741	5,160	37,533	1,237,668	4,183
Italian (south).....	190,905	51,592	242,497	24,890	207,339	10,268	88	115,803	7,864	185,926	3,197,245	16,195
Japanese.....	27,845	2,979	30,824	249	30,251	324	14	9,654	7,017	23,427	953,942	1,589
Korean.....	36	3	39	1	38	—	—	—	11	25	1,179	4
Lithuanian.....	13,716	7,168	20,884	1,563	23,928	393	1,017	14,256	585	20,900	271,867	384
Magyar.....	44,804	15,267	60,071	4,384	54,064	1,623	60	5,779	1,475	48,468	1,012,686	2,995
Mexican.....	74	17	91	7	78	6	—	—	47	18	5,164	53
Pacific Islander.....	2	1	3	—	3	—	—	—	1	1	75	—
Polish.....	100,700	37,233	138,033	9,602	125,904	2,527	3,091	49,842	2,369	110,616	1,537,572	4,058
Portuguese.....	5,812	3,836	9,648	2,431	6,581	636	4	5,524	721	5,678	129,423	540
Roumanian.....	17,779	1,421	19,200	248	18,314	638	38	7,373	199	17,944	267,037	539
Russian.....	15,005	1,712	16,807	740	15,774	293	147	6,998	726	13,646	242,686	264
Ruthenian (Russniak).....	18,451	5,630	24,081	731	22,952	398	114	12,030	209	21,460	274,282	1,366
Scandinavian.....	34,164	19,261	53,425	4,840	46,006	1,979	63	475	4,955	88,171	1,120,208	4,026
Scotch.....	13,666	6,850	20,516	3,242	16,060	1,214	18	149	6,495	7,369	895,936	2,398
Slovak.....	28,951	13,090	42,041	3,766	37,319	956	101	8,130	751	35,067	580,850	4,219
Spanish.....	7,268	2,227	9,495	1,506	7,491	408	31	2,617	2,465	5,006	352,511	1,214
Spanish-American.....	734	326	1,060	159	803	98	1	16	658	80	92,053	344
Syrian.....	4,276	1,604	5,880	664	5,044	172	14	2,870	1,259	3,134	182,634	447
Turkish.....	1,855	47	1,902	18	1,863	21	1	1,262	108	1,723	39,362	71
Welsh.....	1,852	902	2,754	466	2,114	174	6	18	854	1,059	124,997	281
West Indian (except Cuban).....	778	608	1,386	179	1,083	119	4	16	520	423	54,922	361
All other peoples.....	1,954	104	2,058	68	1,965	35	1	929	173	1,679	71,931	49
Total.....	929,976	355,373	1,285,349	138,344	1,100,771	46,234	5,829	337,573	107,502	873,923	25,569,893	74,282

It will be observed that the number of English unable to read and write is only 536; of French, 170; of Germans, 5,310; of Irish, 713; Italians from the southern part of Italy, 115,803; of the Poles, 49,842; and altogether footing up a total of 337,573 persons over 14 years of age unable to read and write.

In the report of the Commissioner-General of Immigration this statement is made:

What will be the effect if the present phenomenal immigration continues is a question that is constantly being asked. With regard more particularly to quantity, the question may be answered by the following illustration: China proper is the thickly populated portion of the Chinese Empire and is the country popularly thought of as representing the limit of density of population. With a net increase to our population by immigration of 1,000,000 per annum, which is less than the present rate, and the present rate of natural increase—14.66 per cent per decade—the United States would reach the density of China proper in about four generations, or, more particularly, in one hundred and thirty-four years, at which time we would have a population of 950,000,000. This is in no sense an estimate of future population; it is simply an illustration of the present pace.

2. SOURCES OF AND INDUCEMENTS TO IMMIGRATION.

The figures given in the tables covering the immigration of the past year do not necessitate any particular modification of what was said under this heading in the report for 1906 (pp. 59-61). Another year's experience but emphasizes and confirms the conviction that a considerable part of the large immigration of the past few years is forced or artificial. Two separate and distinct factors are, from interested motives, responsible for such of the immigration as is not natural: First, the violators and evaders of the contract-labor feature of the law (treated of particularly under subtitle 5 hereof, p. 67); and, second, the steamship runners and agents, to a discussion of whose activities and operations considerable space was devoted in the last report of the Bureau (p. 60) and in the report for 1905 (pp. 48-57). An influence which perhaps has not heretofore been accorded the recognition to which its importance entitles it is the "letter to the home folks," written by the alien temporarily or permanently domiciled here. These letters constitute the most extensive method of advertising that can be imagined; almost innumerable "endless chains" are thus daily being forged link by link. A letter is written to his brother, father, or other relative by an alien who, after a few months' employment here, has been able to save \$150 or \$200—a small fortune in the eyes of the Italian or Hungarian peasant—picturing in homely but glowing terms the opportunities of this country for money making. That letter is read by or to every inhabitant of the village, or, perhaps, even passed on to other neighboring hamlets. Others are thus induced to migrate—selling their belongings, mortgaging their property, almost enslaving themselves to procure the amount of the passage. They come, and employment at what seems to them fabulous wages, write letters home; and so the process goes on and on, until some of the rural districts of such countries as Italy and Hungary are almost depopulated.

Many of the immigrants coming to this country have no intention of remaining. Thousands of them come seeking temporary employment; others with the fixed intention of returning to their own country when they have accumulated what at home would be regarded a competency.

To a large extent the ignorant and vicious alien fills the prisons and almshouses of the country. He is unfit to participate in the government of the country, yet in many of the States he can file his declaration of intended citizenship and vote. It is a notorious fact that the work of making citizens out of this class of people has been carried on in an outrageous and criminal way. It was found necessary many years ago to pass a Chinese exclusion law. It is necessary now to extend this law to people other than the Chinese. In the last Congress the Committee on Immigration in the House reported a bill, and an effort was made to pass a law restricting immigration. In the present Congress no bill of this character has been reported by the Committee on Immigration and none will be reported, for the very good reason that the personnel of the committee has been changed. Why any man in this country, native or immigrant, should wish the present stream of immigration continued I can not understand. The Republican party professes the greatest friendship for and promises the greatest protection to labor, and then places the American laborer in competition with the cheapest labor of the world. The Republican party professes to stand for high ideals in American citizenship, and then brings in hundreds of thousands of people who are ignorant and vicious and unfit in every way for citizenship.

The American people are alive to this question, and I do not think it will be long until there is a law on the statute book properly regulating the question of immigration.

As I have stated, I am in favor of the Gardner bill. In fact, in many respects I would make the law more stringent than is proposed in this bill.

Mr. KELIHER. Mr. Speaker, I rise in no spirit of hostility to the acceptance of these amendments or passage of this measure. I rise simply to call the attention of the House to the fact that few bills of equal merit have had such a rough passage as this one has had up to its present stage and to remark that this was in no way due to the fault of the bill, but rather to its gross mismanagement.

The original measure was introduced by me in January. Early in February I appeared before the committee, argued in its favor, convinced that body, which voted to report it. But lo and behold, on May 29, in the extraordinary confusion attending the closing of this peculiar session of Congress, it is called up, amended, again to be sent over to the Senate to a fate which any ordinarily well-informed Member can predict.

Mr. Speaker, the purpose of the bill is most praiseworthy, which emphasizes the outrage of playing picayune politics with a measure of so great moment to humanity. Politics of the lowest order alone explains why this meritorious measure was not enacted into law long since. To sustain this contention I need but to call attention to the fact that a bill of a similar nature, providing a like station at Philadelphia, was introduced early in the session, reported without any restrictions as to location, passed through this body, and soon after became a law.

Yet, Mr. Speaker, there passed through the port of Philadelphia in 1907 but 30,000 immigrants, while through Boston in the same year 70,000 entered. Why this easy passage for the Philadelphia project and stormy voyage for the more worthy one intended for Boston? Simply because the former measure was considered upon its merits, because no one seeking glory or notoriety interfered with the work of the proponent of the measure; in short, the Philadelphia bill was treated in a sound, businesslike way and politics were not allowed to enter into the consideration of it. And so, Mr. Speaker, Boston's fire-trap detention station will undoubtedly continue to house the unfortunate detained immigrants because a budding legislator demands that his name attach to a measure which is appealed for by every official connected with the immigration service, philanthropists, sociologists, clergymen, health and fire officials, and our citizens in general.

Mr. Speaker, twice has this measure passed the Senate in a form essentially different from that which the amendment puts it in. An item carrying the amount necessary for it was inserted in the sundry civil appropriation bill, only to be knocked out in conference by the senseless persistency of my colleague. Now, Mr. Speaker, with every bill appropriating money out of the way, this measure is called up and this unusual method of doing business in the House resorted to. When you pass this bill you give us but the shadow; the substance has been lost. Upon the flimsy excuse that Castle Island must be saved, my colleague has juggled this bill for three months using the power vested in him by membership upon the committee which reports it. Mr. Speaker, the Castle Island which the pending amendment would save is a beautiful part of the park system of Boston, which is enjoyed by over 300,000 people a year. Nobody would dare lay despoiling hands upon it, and, what is more, nobody ever contemplated so doing. And yet a project of the magnitude of the one involved has been kept from passing in order to permit my colleague single-handed to prosecute sanguinary battle against the mythical invaders of that island spot.

Let us see, Mr. Speaker, what the officials have said in regard to the seizing of this island. Everyone acquainted with the administrative features of the Immigration Service knows that Commissioner-General Frank P. Sargent is the potent force. As head of that branch of the Service in the Commerce and Labor Department, his judgment is invariably deferred to by Secretary Straus. As evidence that he never seriously considered taking the island that this amendment specifically exempts, let me read his views, as expressed in the following correspondence:

HOUSE OF REPRESENTATIVES,
Washington, May 15, 1908.

Hon. F. P. SARGENT,
Commissioner-General of Immigration:

MY DEAR MR. SARGENT: I have frequently made the statement before the Committee on Immigration and Naturalization that there was not the remotest probability of Castle Island being used for a site for the proposed immigration station at Boston. This statement has been challenged by but one person, namely, my colleague, Representative O'CONNELL.

Will you kindly state to me whether, in your opinion, any fear need be entertained that Castle Island shall be selected for the purpose of locating the proposed station? By so doing you will greatly oblige.

Very truly, yours,

JNO. A. KELIHER.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION AND NATURALIZATION,
Washington, May 15, 1908.

Hon. JOHN A. KELIHER, M. C.,
House of Representatives, Washington, D. C.

MY DEAR MR. KELIHER: I am in receipt of your letter of this date, and I am very much surprised that any question has arisen regarding the probability of the location of the immigration station on Castle Island, Boston Harbor. Anyone who was with the Secretary of the Department of Commerce and Labor on his recent visit to that port can not fail to understand that it was not intended at any time to trespass upon any portion of the island now used by the city of Boston as a recreation park. It has never by me been considered as feasible, and I believe that

I am safe in saying that there is not the least possibility of the Government taking any action that will result in the establishment of the station on that island.

I sincerely hope that the bill for the establishment of a suitable immigrant station in the port of Boston will be passed at this session. It is a necessity, and I have clearly set forth in my annual report reasons sufficient to warrant the appropriation at this particular time.

Sincerely, yours,

F. P. SARGENT.

And Secretary Straus himself proclaimed in a public speech in Boston, which was printed in all the dailies of that city, that Castle Island would not be sought by the Federal Government, and I briefly read from the Boston Transcript of February 24:

NOT ON CASTLE ISLAND—SECRETARY STRAUS SAYS IMMIGRATION STATION WILL NOT BE PLACED THERE IF IT IS NOT WANTED THERE.

If Boston citizens want Castle Island for a public park, Secretary Straus says they probably will be allowed to retain it for that purpose. He looked over the ground, in connection with his inspection for a site for the proposed new immigration bureau.

The Secretary made his inspection with the aid of the Government tug *Winnisimmet*, in company with Frank P. Sargent, Commissioner-General of Immigration, Commissioner George P. Billings, Deputy Commissioner Jeremiah J. Hurley, and Dr. M. Victor Safford, of the Immigration Office. The first point visited was the Otis Wharf property, where the appraisers' stores will be located.

Crossing the harbor the tug skirted the shores of Governors Island, and then proceeded to the Cunard dock in East Boston, where the facilities for handling immigrants were inspected. Previous to leaving for New York the Secretary said:

"The \$250,000 which will be appropriated for building the new station will be used in constructing the building and equipping it. The land will be given by the Government, or if the State desires to donate a location on some of its property it will be very acceptable. The appropriation will not cover the cost of the land and the building both."

Our local immigration commissioner, Col. George B. Billings, whose voice would naturally have great weight, because of his long and efficient service in that capacity in Boston, in a public interview on May 25, said, relative to the talk of taking Castle Island:

This much I will say: That dispute over the Castle Island site was settled two months ago. It was understood then by everybody that no one would lay violent hands on that ground. It was understood then that the whole matter was a dead issue.

Besides the denials of the above official, upon whom will devolve the duty of selecting a site for the new station, that Castle Island was even being considered, let me quote Senators LODGE and CRANE, and every Member of Congress from Massachusetts, as bitterly opposed to the mere suggestion of such an idea.

Now, the question might well be asked, What objection can be offered to exempting Castle Island in the bill? I will state the objection. The officials of the Immigration Service asked me to make no reference to location when drafting my bill. They told me of the trouble and delay that were occasioned by specifying certain locations. For the erection of a station in the city of Galveston money was appropriated over two years ago, and in the bill was a provision as to the manner in which the site was to be obtained. As a result the work of erecting that station has not started and is not likely to for some time. A similar trouble occurred at Charleston, S. C., where a prolonged and aggravating delay has resulted from handicapping the Department in selecting the most desirable site. Sound business policy dictates leaving this important work to the intelligence and experience of the immigration officials, and it is because I have kept faith with Commissioner-General of Immigration Sargent that I have resisted this cheap attempt to incorporate an exclusion provision in my bill. Senator LODGE has taken the same attitude and will resist any attempt to deviate from this established policy of the Department.

Mr. Speaker, the holding up of this bill was for the sole purpose of manufacturing a political issue. The Representative from the district which adjoins mine has been fooling himself, not the good people of his district. Intelligence soon detects buncombe, and all this child's play over this bill has been pure buncombe and unmistakable rot.

I note a flash of intelligent thought in this eleventh-hour revision of the bill. As originally reported, it excluded all the islands of Boston Harbor, thereby precluding the use of a great maritime section of our city, as well as available islands in our harbor. I congratulate my city upon this spasm of broad-mindedness and the Federal Government that it has recourse to one of its unused islands, if the purchase of a location upon the mainland should prove prohibitive.

Mr. Speaker, the present station is in my district. Every ship that lands an immigrant in the port of Boston docks at wharves located within my district. Knowing the imperative needs of a new station, I will not allow my indignation at the reprehensible methods which have characterized the management of this bill to restrain me from supporting it.

Mr. Speaker, emphatically reiterating that it is a damnable shame that such a measure should be tinkered and tampered

with for pecayune political purposes, I urge the passage of the bill.

Mr. Speaker, I offer in support of the brief argument which I have made in favor of this bill and my position in the matter the following editorials from Boston newspapers:

[From the Boston Post, February 8, 1908.]

BOSTON IMMIGRATION STATION.

Congressman KELIHER's bill for the purchase of a site and erection of an immigration station at the port of Boston provides for facilities which are imperative here. The present structure on Long wharf is woefully inadequate and is frequently so overtaxed as to render impossible the exercise of precautionary measures necessary for the prevention of disease. Proper sanitation can not be provided.

The early suggestion that Castle Island should be taken for the purpose was apparently made to frighten off the demand for a proper location. But Castle Island can not be surrendered, and this fact has been made clearly to appear. As it stands to-day, in the provisions of Mr. KELIHER's bill, the appropriation of \$250,000 is made for the site and building under the discretion of the Secretary of Commerce and Labor. This will probably be sufficient to secure the facilities of which there is such great need at this port.

The bill—which looks to taking the cost from the head-tax fund, now amounting to \$3,000,000—has already passed the Senate and awaits only the concurrence of the House. Its enactment is demanded by public sentiment here in Boston.

[From the Boston Globe, February 10, 1908.]

DEMAND FOR A NEW STATION.

Public sentiment in Boston heartily indorses the efforts that have been made in Congress to provide a new immigration station that will be worthier of the port. To the structure on Long wharf, a wooden building leased by the Department of Commerce and Labor, which is now used as a station, there are a number of serious objections. It might easily be destroyed by fire, and its facilities for the handling of Boston's great volume of immigration are so inadequate that the maintenance of satisfactory sanitary conditions frequently is impossible.

In the House Committee on Immigration and Naturalization is pending a measure, introduced by Congressman JOHN A. KELIHER, which provides for a new immigration station that will meet the demands of the port of Boston. The cost—\$250,000—is to be taken from the immigrant fund, accumulated from the head tax, which now amounts to \$3,000,000.

This measure has been favorably acted upon by the Senate and has the warm approval of the immigration department. It would supply the necessary relief of a condition which, if unremedied, must become more, and not less, objectionable.

[From the Boston Herald, February 6, 1908.]

A FAIR WARNING.

Congressman KELIHER's point that the Treasury authorities in Washington should proceed carefully and with due regard for all interests concerned before finally and definitely deciding on the site for the new immigrant station in Boston is well taken, as is also his suggestion that the Government's experience in selecting a site for the appraisers' stores should serve as a warning to act with caution. If wisdom is gained by awkward experience in the matter of selecting locations for Government buildings here, further bungling ought to be avoided, for a while, at least.

[From the Boston Herald, February 24, 1908.]

OUR IMMIGRATION STATION.

Secretary Straus leaves us in no doubt as to what the attitude of the Government is to be with reference to the site for the new immigration station to be erected here. According to his description of the situation, no part of the \$250,000 appropriation can or will be paid for the site. That must be furnished free of charge by either the national, State, or local government. This narrows the choice of locations down to public territory, and there seems to be a disposition to allow the people of Boston to take their pick, having due regard for the Government's convenience, of course. The choice must ultimately fall on some one of Uncle Sam's islands in the harbor. The only question is, Which one?

[From the Boston American February 25, 1908.]

NO IMMIGRANT QUARTERS ON CASTLE ISLAND—COMMITTEE FAVORS ESTABLISHING A STATION ON OTIS WHARF, GOVERNMENT PROPERTY.

That Castle Island has been eliminated as a possible site for the new \$250,000 immigration station and that the Immigration Committee of the National House of Representatives strongly favors a site on the Government's property on Otis wharf was stated to-day to a Boston American reporter by Congressman JOHN A. KELIHER after a conference of the Immigration Committee at the office of Col. George B. Billings, immigration commissioner for Boston.

The SPEAKER. The question is on suspending the rules and agreeing to the Senate amendment with an amendment.

Mr. WILLIAMS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. O'CONNELL. I raise the point of no quorum.

Mr. HEFLIN. I make the point of no quorum.

The SPEAKER. In the opinion of the Chair there is not a quorum present. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absent Members; those in favor of the motion will, as their names are called, answer "yea;" those opposed will answer "nay;" those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 192, nays 20, answered "present" 21, not voting 154, as follows:

YEAS—192.

Acheson	Davis, Minn.	Henry, Conn.	O'Connell
Adair	Dawson	Henry, Tex.	Olmsted
Adamson	De Armond	Hitchcock	Page
Aiken	Dixon	Holliday	Parker, N. J.
Alexander, Mo.	Douglas	Houston	Parsons
Alexander, N. Y.	Dwight	Howard	Patterson
Ansberry	Edwards, Ky.	Howell, Utah	Pollard
Barchfeld	Ellerbe	Howland	Porter
Barclay	Ellis, Mo.	Hubbard, W. Va.	Pray
Bartholdt	Ellis, Oreg.	Hughes, N. J.	Prince
Bartlett, Nev.	Fassett	Hull, Tenn.	Pujo
Bates	Ferris	Humphrey, Wash.	Rainey
Beale, Pa.	Fitzgerald	James, Oille M.	Randall, Tex.
Beall, Tex.	Floyd	Johnson, Ky.	Rauch
Bede	Focht	Jones, Va.	Reeder
Bell, Ga.	Foster, Ind.	Jones, Wash.	Reynolds
Booher	Foulkrod	Kahn	Richardson
Bowers	Fowler	Kelher	Roberts
Brodhead	French	Kennedy, Iowa	Robinson
Broussard	Gaines, Tenn.	Kennedy, Ohio	Rodenberg
Burgess	Gardner, Mich.	Kinkaid	Rothermel
Burke	Garner	Landis	Russell, Mo.
Burleigh	Garrett	Langley	Russell, Tex.
Burleson	Gilham	Law	Ryan
Burnett	Gillespie	Lee	Sabath
Burton, Del.	Gillett	Lindbergh	Saunders
Calderhead	Glass	Lloyd	Sherley
Caldwell	Godwin	Loud	Sims
Candler	Gordon	Loudenslager	Smith, Cal.
Capron	Goulden	Loving	Smith, Mich.
Carter	Graft	McCall	Smith, Mo.
Cary	Graham	McCreary	Sparkman
Chapman	Granger	McHenry	Spight
Clark, Fla.	Greene	McKinley, Ill.	Stevens, Minn.
Clark, Mo.	Hackett	McKinney	Sullivan
Clayton	Hackney	McLain	Sulzer
Cocks, N. Y.	Hale	McLaughlin, Mich.	Thistlewood
Cole	Hall	McMillan	Thomas, N. C.
Cook, Colo.	Hamill	Macon	Tou Velle
Cooper, Pa.	Hamilton, Mich.	Madison	Underwood
Cooper, Tex.	Hamlin	Maynard	Waldo
Cox, Ind.	Harding	Mondell	Wanger
Craig	Hardy	Moon, Tenn.	Washburn
Crawford	Haugen	Moore, Tex.	Weems
Crumpacker	Hay	Morse	Williams
Cushman	Hayes	Needham	Wilson, Ill.
Davenport	Heidin	Nicholls	Wilson, Pa.
Davey, La.	Heim	Nye	Woodyard

NAYS—20.

Bennett, Ky.	Caulfield	Haggott	Norris
Bonyng	Dalzell	Hammond	Payne
Boyd	Davidson	Hawley	Scott
Burton, Ohio	Esch	Malby	Sturgiss
Butler	Gaines, W. Va.	Murdock	Young

ANSWERED "PRESENT"—21.

Bennet, N. Y.	Foster, Ill.	Lever	Talbot
Brundidge	Gardner, N. J.	Madden	Watkins
Calder	Humphreys, Miss.	Mann	Webb
Driscoll	Kimball	Padgett	
Finley	Knapp	Riordan	
Flood	Lamb	Sheppard	

NOT VOTING—154.

Allen	Fornes	Lamar, Fla.	Ransdell, La.
Ames	Foss	Lamar, Mo.	Reid
Andrus	Foster, Vt.	Laning	Rhinock
Anthony	Fuller	Lassiter	Rucker
Ashbrook	Fulton	Lawrence	Shackelford
Bannon	Gardner, Mass.	Leake	Sherman
Bartlett, Ga.	Gill	Legare	Sherwood
Goebel	Goldfogle	Lenahan	Slayden
Boutell	Gregg	Lewis	Slemp
Birdsall	Lilley	Lindsay	Small
Bradley	Griggs	Littlefield	Smith, Iowa
Brantley	Gronna	Livingston	Smith, Tex.
Brownlow	Hamilton, Iowa	Longworth	Snapp
Brumm	Hardwick	Lorimer	Southwick
Byrd	Harrison	Lowden	Sperry
Campbell	Haskins	McDermott	Stafford
Carlin	Hepburn	McGavin	Stanley
Chaney	Higgins	McGuire	Steenerson
Cockran	Hill, Conn.	McKinlay, Cal.	Stephens, Tex.
Conner	Hill, Miss.	McLachlan, Cal.	Sterling
Cook, Pa.	Hinshaw	McMorran	Tawney
Cooper, Wis.	Hobson	Marshall	Taylor, Ala.
Coudrey	Howell, N. J.	Miller	Taylor, Ohio
Cousins	Hubbard, Iowa	Moon, Pa.	Thomas, Ohio
Cravens	Huff	Moore, Pa.	Tirrell
Currier	Hughes, W. Va.	Mouser	Townsend
Darragh	Hull, Iowa	Mudd	Volstead
Daves	Jackson	Murphy	Vreeland
Denby	James, Addison D.	Nelson	Wallace
Denver	Jenkins	Olcott	Watson
Diekema	Johnson, S. C.	Overstreet	Weeks
Draper	Keifer	Parker, S. Dak.	Welsse
Dunwell	Klipp	Pearre	Wheeler
Durey	Kitchin, Claude	Parkers	Wiley
Edwards, Ga.	Kitchin, Wm. W.	Peters	Willlett
Englebright	Knopf	Pou	Wolf
Fairchild	Knowland	Powers	Wood
Favrot	Küstermann	Pratt	
Fordney	Lafean		

The Clerk announced the following pairs:

For the remainder of this session:

Mr. CURRIER with Mr. FINLEY.

Mr. BENNET of New York with Mr. FORNES.

Mr. DENBY with Mr. HOBSON.
 Mr. JENKINS with Mr. LAMB.
 Mr. CONNER with Mr. JOHNSON of South Carolina.
 Mr. DAWES with Mr. TAYLOR of Alabama.
 Mr. COUSINS with Mr. FLOOD.
 Mr. WATSON with Mr. SHEPPARD.
 Mr. BOUTELL with Mr. GRIGGS.
 Mr. SHERMAN with Mr. RIORNAN.
 Mr. MCGAVIN with Mr. McDERMOTT.
 Mr. FOSS with Mr. PADGETT.
 Mr. HIGGINS with Mr. KIMBALL.
 Until further notice:
 Mr. CHANEY with Mr. FOSTER of Illinois.
 Mr. KNAPP with Mr. RHINOCK.
 Mr. KÜSTERMANN with Mr. LEAKE.
 Mr. BRADLEY with Mr. BYRD.
 Mr. ANDRUS with Mr. ASHBROOK.
 Mr. BANNON with Mr. BRANTLEY.
 Mr. COOPER of Wisconsin with Mr. CARLIN.
 Mr. COUDREY with Mr. COCKRAN.
 Mr. DRAPER with Mr. EDWARDS of Georgia.
 Mr. FAIRCHILD with Mr. CRAVENS.
 Mr. GOEBEL with Mr. FAVROT.
 Mr. GRONNA with Mr. FULTON.
 Mr. SPERRY with Mr. HARRISON.
 Mr. HEPBURN with Mr. GILL.
 Mr. HOWELL of New Jersey with Mr. GOLDFOGLE.
 Mr. HUBBARD of Iowa with Mr. GREGG.
 Mr. HUFF with Mr. HAMILTON of Iowa.
 Mr. HUGHES of West Virginia with Mr. HILL of Mississippi.
 Mr. HULL of Iowa with Mr. CLAUDE KITCHIN.
 Mr. ADDISON D. JAMES with Mr. WILLIAM W. KITCHIN.
 Mr. KNOWLAND with Mr. LASSITER.
 Mr. LANING with Mr. LEGARE.
 Mr. LAWRENCE with Mr. LEWIS.
 Mr. LONGWORTH with Mr. MURPHY.
 Mr. LOWDEN with Mr. RANDELL of Louisiana.
 Mr. MCGUIRE with Mr. STANLEY.
 Mr. MILLER with Mr. PETERS.
 Mr. MOON of Pennsylvania with Mr. REID.
 Mr. OLCOTT with Mr. SLAYDEN.
 Mr. OVERSTREET with Mr. SMALL.
 Mr. PEARRE with Mr. SMITH of Texas.
 Mr. SLEMP with Mr. STEPHENS of Texas.
 Mr. SMITH of Iowa with Mr. WILEY.
 Mr. SOUTHWICK with Mr. WILLET.
 Mr. STEENERSON with Mr. WALLACE.
 Mr. VREELAND with Mr. WOLF.
 Mr. LORIMER with Mr. HUMPHREYS of Mississippi.
 Mr. FULLER with Mr. DENVER.
 Mr. AMES with Mr. BARTLETT of Georgia.
 Mr. MOUSER with Mr. SHERWOOD.
 Mr. BROWNLOW with Mr. BRUNDIDGE.
 Mr. TOWNSEND with Mr. SHACKLEFORD.
 Mr. MADDEN with Mr. HARDWICK.
 Mr. BINGHAM with Mr. LIVINGSTON.
 Mr. POWERS with Mr. PRATT.
 Mr. HASKINS with Mr. RUCKER.
 Mr. MUDD with Mr. TALBOTT.
 Mr. ALLEN with Mr. LEVER.
 Mr. KNOPF with Mr. WEISSE.
 Mr. DUNWELL with Mr. LAMAR of Florida.
 Mr. BIRDSALL with Mr. LAMAR of Missouri.
 Mr. HINSHAW with Mr. LENAHA.
 Mr. FOSTER of Vermont with Mr. POU.
 Mr. DIEKEMA with Mr. WEBB.
 Until Monday morning:
 Mr. LAFEAN with Mr. KIPP.
 Mr. CALDER with Mr. LINDSAY.
 Mr. FINLEY. Mr. Speaker, has the gentleman from New Hampshire, Mr. CURRIER, voted?
 The SPEAKER. He has not.
 Mr. FINLEY. I voted in the negative and will change my vote and answer "present."
 The SPEAKER. On this vote the yeas are 192, the nays 20, answered "present" 21. A quorum is present, and the motion is agreed to. The Doorkeeper will open the doors.

THE CONGRESSIONAL CLUB.

The SPEAKER laid before the House the bill (H. R. 22029) to incorporate the Congressional Club, with Senate amendments thereto.

Mr. KAHN. I move to concur in the Senate amendments.
 The motion was agreed to.

FORT PECK INDIAN RESERVATION.

Mr. PRAY. Mr. Speaker, I move to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (S. 208) for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment, and pass the same with amendments, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the lands embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and to cause an examination of the lands within such reservation to be made by the Reclamation Service and by experts of the Geological Survey, and if there be found any lands which it may be deemed practicable to bring under an irrigation project, or any lands bearing lignite coal, the Secretary of the Interior is hereby authorized to construct such irrigation projects and reserve such lands as may be irrigable therefrom, or necessary for irrigation works, and also coal lands as may be necessary to the construction and maintenance of any such projects.

Sec. 2. That as soon as all the lands embraced within the said Fort Peck Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all Indians belonging and having tribal rights on said reservation; and there shall be allotted to each such Indian 320 acres of grazing land, and there shall also be made an additional allotment of not less than 2½ acres nor more than 20 acres of timber land to heads of families and single adult members of the tribe over 18 years of age: *Provided*, That should it be determined as feasible, after examination, to irrigate any of said lands, the irrigable land shall be allotted in equal proportions to such only of the members of said tribe as shall be living at the day of the beginning of the work of allotment on said reservation by the special allotting agent, and such allotment of irrigable land shall be in addition to the allotments of grazing and timber lands aforesaid, but no member shall receive more than 40 acres of such irrigable land; and to pay the costs of examination provided for herein and for the construction of irrigation systems to irrigate lands which may be found susceptible of irrigation, there is hereby appropriated \$200,000, to be immediately available, the said sum and any and all additional sums hereafter appropriated to pay the cost of such examination and irrigation systems to be reimbursed from proceeds of sales of lands within the said reservations: *Provided, however*, That any land irrigable by any system constructed under the provisions of this act may be disposed of subject to the following conditions: The entryman or owner shall, in addition to the payments required by section 8 of this act, be required to pay for a water right the proportionate cost of the construction of said system in not more than fifteen annual installments, as fixed by the Secretary of the Interior, with a view to the return of all moneys expended thereon, the same to be paid at the local land office, and the register and receiver shall be allowed the usual commissions on all moneys paid.

The entryman of lands to be irrigated by said system shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay the charges apportioned against such tract, nor shall any such lands be subject to mineral entry or location. No right to the use of water shall be disposed of for a tract exceeding 160 acres to any one person, and the Secretary of the Interior may limit the areas to be entered at not less than 40 nor more than 160 acres each.

A failure to make any two payments when due shall render the entry and water-right application subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys paid thereon. The funds arising hereunder shall be paid into the Treasury of the United States and be added to the proceeds derived from the sale of the lands. No right to the use of water for lands in private ownership shall be sold to any landowner unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land, and no such right shall permanently attach until all payments therefor are made.

All applicants for water rights under the systems constructed in pursuance of this act shall be required to pay such annual charges for operation and maintenance as shall be fixed by the Secretary of the Interior, and the failure to pay such charges when due shall render the water-right application and the entry subject to cancellation, with the forfeiture of all rights under this act as well as of any moneys already paid thereon.

The Secretary of the Interior is hereby authorized to fix the time for the beginning of such payments and to provide such rules and regulations in regard thereto as he may deem proper. Upon the cancellation of any entry or water-right application, as herein provided, such lands or water rights may be disposed of under the terms of this act and at such price and on such conditions as the secretary of the Interior may determine, but not less nor more than the cost as originally fixed.

In every case in which a forfeiture is enforced and the land and rights of an entryman are made the subject of resale then, after the payment of the balance due from the entryman and the cost and charges, if any, attendant on the forfeiture and resale, any surplus remaining out of the proceeds of such sale shall be refunded to said entryman or his heirs.

The land irrigable under the systems herein provided, which has been allotted to Indians in severalty, shall be deemed to have a right to so much water as may be required to irrigate such land without cost to the Indians for the construction of such irrigation systems. The purchaser of any Indian allotment purchased prior to the expiration of the trust period thereon shall be exempt from any and all charge for construction of the irrigation system incurred up to the time of such purchase. All lands allotted to Indians shall bear their pro rata share of the cost of operation and maintenance of the irrigation system under which they lie; and the Secretary of the Interior may withhold from any Indian a sufficient amount of his pro rata share of any moneys subject to distribution to pay any charge assessed against land held in trust for him for operation and maintenance of the irrigation system.

When the payments required by this act have been made for the major part of the unallotted lands irrigable under any system, and subject to charges for construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense, under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

All appropriations of the waters of the reservation shall be made under the provisions of the laws of the State of Montana.

SEC. 3. That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed, and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided, however,* That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes: *And provided further,* That the Secretary of the Interior is hereby authorized and directed to reserve 2.07 acres of land in the town of Poplar, on said reservation, now occupied for public school purposes, and issue patent in fee for the same to the school trustees of the school district in which said land is situated.

The Secretary of the Interior is hereby authorized and directed, when the said lands are surveyed, to issue to the Great Northern Railway Company a patent or patents conveying for railroad purposes such lands at such point or points as in the judgment of the said Secretary are necessary for the use of said railway company in the construction and maintenance of water reservoirs, dam sites, and for right of way for water pipe lines for use by said railway company in operating its line of railroad over and across said reservation; the said lands so to be conveyed not to exceed 40 acres at any one point and not to exceed one tract for each 10 miles of the main line of said railway as now constructed within said reservation, and said lands shall be selected in such manner as not to unnecessarily injure or interfere with the selection and location of town sites hereinafter provided for; the said patent or patents to be delivered to said company upon payment by said company, within thirty days after notification of the issuance of patent, of the reasonable value of said lands, not less than \$2.50 per acre, and also upon payment by said company to said Secretary of any and all damages sustained by individual members of said tribe by reason of the appropriation of said lands for the purposes aforesaid; all moneys so paid for the value of said lands to be deposited in the Treasury of the United States to the credit of said Indians, and the moneys received by said Secretary as damages sustained by individual members of said tribe shall be by him paid to the individuals sustaining said damages.

SEC. 4. That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior, said commission to be constituted as follows: One of said commissioners shall be a person holding tribal relations with said Indians, one a representative of the Indian Bureau, and one a resident citizen of the State of Montana.

SEC. 5. That within thirty days after their appointment said commissioners shall meet at some point within the Fort Peck Reservation and organize by election of one of their number as chairman. Said commission is hereby empowered to select, subject to the approval of the Secretary of the Interior, such clerks and assistants as may be necessary in the performance of their duties herein specified, the compensation of each such clerk and assistant to be fixed by said Secretary. In no case shall any such clerk or assistant receive a salary exceeding \$6 per day. In addition to the compensation of said clerks and assistants and in addition to the salaries hereinafter provided for the said commissioners, they shall each receive their actual necessary expenses incurred during such time only as they shall be engaged in the performance of their respective duties on said reservation.

SEC. 6. That said commissioners shall then proceed to personally inspect and classify and appraise by the smallest legal subdivisions of 40 acres each all of the remaining lands embraced within said reservation. In making such classification and appraisal said lands shall be divided into the following classes: First, agricultural land; second, grazing land; third, arid land; fourth, mineral land, the mineral land not to be appraised; that said commissioners shall be paid a salary of not to exceed \$10 per day each while actually employed in the inspection and classification of said lands, such inspection and classification to be completed within nine months from the date of the organization of said commission.

SEC. 7. That when said commission shall have completed the classification and appraisal of said lands and the same shall have been approved by the Secretary of the Interior the lands shall be disposed of under the general provisions of the homestead, desert-land, mineral, and town-site laws of the United States, except sections 16 and 36 of each township, or any part thereof, for which the State of Montana has not heretofore received indemnity lands under existing laws, which sections, or parts thereof, are hereby granted to the State of Montana for school purposes. And in case either of said sections, or parts thereof, is lost to the State by reason of allotment thereof to any Indian or Indians, or by reservation or withdrawal under the provisions of this act or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other unoccupied, unreserved, nonmineral lands within said reservation, not exceeding two sections in any one township, which selections must be made within the sixty days immediately prior to the date fixed by the President's proclamation opening the surplus lands to settlement: *Provided,* That the United States shall pay to the said Indians for the lands in said sections 16 and 36, so granted, or the lands within said reservation selected in lieu thereof, the sum of \$1.25 per acre.

SEC. 8. That the lands so classified and appraised as provided shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided,* That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars and the Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged, but no entry shall be allowed under section 2306 of the Revised Stat-

utes: *Provided further,* That the price of said lands shall be the appraised value thereof, as fixed by said commission, which in no case shall be less than \$1.25 per acre for agricultural, grazing, and arid land, and shall be paid as follows: Upon all lands entered or filed upon under the provisions of the homestead law, there shall be paid one-fifth of the appraised value of the land when entry or filing is made, and the remainder shall be paid in five equal annual installments in one, two, three, four, and five years, respectively, from and after date of entry or filing, and when an entryman shall have complied with all the requirements of the homestead law and shall have submitted final proof within seven years from date of entry and shall have made all required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided,* That aliens who have declared their intentions to become citizens of the United States may become such entrymen, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof: *And provided further,* That the fees and commissions at the time of commutation or final entry shall be the same as are now provided by law where the price of land is \$1.25 per acre: *Provided,* That nothing in this act shall prevent a citizen of the United States from commuting his homestead entry under the provisions of section 2301 of the Revised Statutes by paying for the land entered the price fixed by said commission, receiving credits for payments previously made.

SEC. 9. That entrymen under the desert-land law shall be required to pay one-fifth of the appraised value of the land in cash at the time of entry, and the remainder in five equal annual installments, as provided in homestead entries; but any such entryman shall be required to pay the full appraised value of the land on or before submission of final proof: *Provided,* That if any person taking any oath required by the homestead or desert-land laws or the regulations thereunder, shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury and shall forfeit the money which he may have paid for said land and all right and title to the same, and if any person making homestead or desert-land entry shall fail to comply with the law and the regulations under which his entry is made, or shall fail to make final proof within the time prescribed by law, or shall fail to make all payments or any of them required herein, he shall forfeit all money which he may have paid on the land and all right and title to the same, and the entry shall be canceled.

SEC. 10. That if, after the approval of the classification and appraisal, as provided herein, there shall be found lands within the limits of the reservation deemed practicable for irrigation projects deemed practicable under the provisions of the act of Congress approved June 17, 1902, known as the reclamation act, said lands shall be subject to withdrawal and be disposed of under the provisions of said act, and settlers shall pay, in addition to the cost of construction and maintenance provided therein, the appraised value as provided in this act, to the proper officers, to be covered into the Treasury of the United States to the credit of the Indians.

SEC. 11. That all lands hereby opened to settlement remaining undisposed of at the end of five years from the date of President's proclamation to entry shall be sold to the highest bidder for cash at not less than \$1.25 per acre, under regulations to be prescribed by the Secretary of the Interior; and any lands remaining unsold ten years after said lands shall have been opened to entry shall be sold to the highest bidder for cash, without regard to the minimum limit above stated: *Provided,* That not more than 640 acres shall be sold to any one person or company.

SEC. 12. That the lands within said reservation, however classified, shall, on and after sixty days from the date fixed by the President's proclamation opening said lands, be subject to exploration, location, and purchase under the general provisions of the United States mineral and coal land laws at not less than the price therein fixed and not less than the appraised value of the land, except that no mineral or coal exploration, location, or purchase shall be permitted upon any lands allotted to Indians or withdrawn under the provisions of this act.

SEC. 13. That nothing in this act contained shall in any manner bind the United States to purchase any part of the land herein described, except sections 16 and 36, or the equivalent in each township, that may be granted to the State of Montana, the reserved tracts hereinafter mentioned for agency and school purposes, or to dispose of lands except as provided herein, or to guarantee to find purchasers for said lands, or any part thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

SEC. 14. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks, not less than 40 acres of said lands at the present settlement of Poplar, and at such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlement. That such town sites shall be surveyed, appraised, and disposed of as provided in section 2381 of the United States Revised Statutes: *Provided,* That any person who, at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter, at any time prior to the day fixed for the public sale and at the appraised value thereof, such lot and any four additional lots of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further,* That before making entry of any such lot or lots the applicant shall make proof, to the satisfaction of the register and receiver of the land district in which the land lies, of such residence, possession, and ownership of improvements, under such regulations as to time; notice, manner, and character of proofs as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further,* That in making their appraisal of the lots so surveyed, it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry, in their regular order, with the other unimproved and unoccupied lots. That no lot shall be sold for less than \$10: *And provided further,* That said lots, when surveyed, shall approximate 50 by 150 feet in size.

SEC. 15. That after deducting the expenses of the commission of clas-

sification, appraisement, and sale of the lands, and such other incidental expenses as may necessarily be incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands, in conformity with the provisions of this act, shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe, to draw 4 per cent per annum, the principal and interest to be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians in their education and civilization, the construction and maintenance of irrigation ditches, should such be determined as feasible and beneficial to said allottees, and suitable per capita cash payments. The remainder of all funds deposited in the Treasury, realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall, within three years after the completion of the irrigation systems to be constructed under the provisions of section 2 hereof, be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by the Secretary of the Interior.

Sec. 16. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the amount appropriated in section 2, the sum of \$100,000, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency and school purposes, at the rate of \$1.25 per acre; also the sum of \$100,000, or so much thereof as may be necessary, to be immediately available, to enable the Secretary of the Interior to survey, allot, classify, and appraise the lands in said reservation as provided herein; and also to defray the expense of the appraisement and survey of town sites, the latter sums to be reimbursable out of the funds arising from the sale of said lands.

The SPEAKER. Is a second demanded?

Mr. STEPHENS of Texas. Mr. Speaker, I demand a second.

The SPEAKER. A second is ordered under the rules. The gentleman from Montana is entitled to twenty minutes and the gentleman from Texas to twenty minutes.

Mr. PRAY. Mr. Speaker, the purpose of this bill is to provide for the survey of the lands of the Fort Peck Indian Reservation, situated in the northeastern part of the State of Montana, and for the allotment of the lands in severalty to the Indians and for the sale and disposal of the surplus lands after allotment. This reservation consists of 1,776,000 acres of land. It runs about 80 miles east and west, and about 40 miles north and south. In the summer of 1907, Major McLaughlin, who has been connected with the Indian Service for the past thirty-seven years, met the Indians in a conference or general council as it is termed, and the matters to which this bill relates were thoroughly discussed at that council and the Indians were made to understand just what it was proposed to do. All the details were fully discussed. As a result an agreement was entered into which was ratified by 95 per cent of the Indians of the reservation. Pursuant to that agreement a bill was prepared in the Indian Office which was introduced in the Senate by the Senator from Montana [Mr. DIXON] and passed, it having previously been referred to the Secretary of the Interior and having his approval. It came to the House and was referred to the Committee on Indian Affairs of the House, where several amendments were made to the bill, to conform more fully to the agreement entered into with the Indians on the part of Major McLaughlin in the summer of 1907.

I might also say at this point that Major McLaughlin was present during the hearings before the subcommittee and the full committee of the House Committee on Indian Affairs, and made many valuable suggestions, and had there the agreement which was entered into with the Indians, so that this bill could be made to conform in every respect to the wishes of the Indians, as expressed in the agreement.

The bill provides that 320 acres of grazing land shall be allotted to each Indian, and from $2\frac{1}{2}$ to 20 acres of timber land and 40 acres of irrigable land. It is not known just what amount of timber land will be found until the surveys are made, but the allotment will amount to from $2\frac{1}{2}$ to 20 acres, in accordance with the amount of timber land found there.

The only appropriation the bill carries that is not reimbursable is the one providing for the payment of \$1.25 an acre to the Indians on account of sections 16 and 36, granted to the State of Montana for school purposes, and certain tracts reserved for agency and school purposes.

Mr. GAINES of Tennessee. Mr. Speaker, are these public lands never, never to get to be worth more than \$1.25 an acre?

Mr. PRAY. I will say that I think it is a very fair valuation for this land. It is probable that some portions of sections 16 and 36 are worth more, but many portions are worth less.

Mr. GAINES of Tennessee. If the gentleman will go back and look at the old Indian statutes, passed in the early days of the Republic, he will find that the value of the land was then fixed at \$1.25. Millions of people have gone out into these Indian countries, and millions of people have made those States, and yet these Indian lands and other lands are being sold at \$1.25 per acre. I do not understand it.

Mr. PRAY. I will say to the gentleman from Tennessee that the lands he refers to are very much more valuable. He

refers to Eastern lands, no doubt, which were obtainable at the same price at first, and in some instances for much less, but were made more valuable through settlement and use.

Mr. HACKNEY. Mr. Speaker, I will state to the gentleman that in disposing of these lands they were to be appraised by a commission which is to be appointed. The lands are to be surveyed, and the only lands sold at \$1.25 are the school lands, unless after a certain period they can not be disposed of, and then they are to be offered at public auction. But \$1.25 an acre is the minimum limit, and the maximum is the appraised value, made by the commission.

Mr. GAINES of Tennessee. Well, I am glad to know that we are to have in this bill a kind of policy that will give some chance to get the real market value of this land for the Indians.

Mr. PRAY. I hope the gentleman will understand that \$1.25 is fixed for sections 16 and 36, the school lands granted to the State of Montana. The value of the other lands depends upon the appraisement fixed by the commission.

Mr. GAINES of Tennessee. I do not understand why it is that we have been selling Indian lands for nearly one hundred years for \$1.25 an acre.

Mr. MANN. They would not be worth any more than \$1.25 an acre if it was not for the settlement made by the whites.

Mr. GAINES of Tennessee. Mr. Speaker, if the gentleman will indulge me, I submit that the Western territory has been peopled—

Mr. PRAY. Mr. Speaker, I can not allow the gentleman to use all of my time.

Mr. GAINES of Tennessee. Mr. Speaker, all right, I will get some time over here.

Mr. PRAY. I yield five minutes to the gentleman from Missouri [Mr. HACKNEY].

Mr. HACKNEY. Mr. Speaker, the gentleman from Montana has stated the terms of this bill correctly, and it seems to me there is no question but that the bill should pass as amended. I was on the subcommittee that gave attention to this bill for a number of weeks, and I reported it to the House with the amendments. We conferred with the Commissioner of Indian Affairs and his assistants, particularly with Major McLaughlin, who had gone into Montana among these Indians last year, and after spending considerable time had a written agreement with them in regard to the disposal of this reservation, and the amendments, which are quite lengthy here, were drawn for the purpose of making this bill conform to the terms of that written agreement in every essential detail. The greater portion of the land is grazing land. We give the Indians more than they asked for in the contract, as we raised the allotment from 280 acres to 320 acres of grazing land. Now, with regard to the disposition of the land. A commission shall go there and appraise this land after the allotments are made. Then the land shall not be disposed of at less than the appraised value, and in no event shall any land be disposed of at less than \$1.25 an acre.

Mr. FERRIS. Will the gentleman permit a question? What did the facts develop in the committee with reference to the degree of intelligence of these Indians?

Mr. HACKNEY. The reports are that these Indians are capable now of assuming the duties of citizenship. They are a very intelligent class of Indians.

Mr. FERRIS. How many are there?

Mr. HACKNEY. There are a little less than 2,000. The last census showed a little over 1,700. There are now between 1,800 and 2,000 Indians.

Mr. FERRIS. What did the proof show the land to be reasonably worth?

Mr. HACKNEY. This land is mostly grazing land. There is Government land subject to entry under the Government land laws all around this reservation. Yet on this reservation there is some nice land. There will be about 80,000 acres capable of irrigation.

Mr. FERRIS. Are the committee satisfied with this commission that this bill refers to, one from the State, one from the tribe, and one from the Department?

Mr. HACKNEY. Yes; that is provided for in the contract with the Indians.

Mr. FERRIS. There is a treaty of that kind?

Mr. HACKNEY. A contract signed by over 95 per cent of the Indians on the reservation. In fact, an amendment was made to the bill to conform to that contract with respect to the commissioners. We reduced the number from five to three, as provided in the contract. Now, we provide for giving to the school funds of the State of Montana, sections 16 and 36, as is usual in such cases, for which the Government pays the Indians \$1.25 per acre. We also provide for an irrigation project. After survey by the Geological Survey of the land, if they

find those lands or any part of them irrigable, then the Reclamation Service will take hold of and handle the irrigation project. Now, this reservation runs down to the Missouri River. It lies just north. Poplar Creek runs through the reservation also. There has been some little irrigation already by the Indians of their lands heretofore, but it is thought we could irrigate about 80,000 acres. We provide for the distribution of those irrigable lands by allotment to the Indians, no allotment to be more than 40 acres.

The irrigable land is to be divided pro rata among them if the land is not sufficient to give each one 40 acres. Those lands to be thus allotted are in addition to the grazing lands. Then, as has been said by the gentleman from Montana, there is provision here about timber land. There is but little timber. We do not know the exact number of acres, but that will be given to the Indians also, so that they may have the right to the use of such timber as is there. The committee had this bill under consideration for, I think, something like a couple of months and gave every detail the most careful consideration. In addition to that we consulted frequently with the Senators from Montana, who are familiar with the situation.

Senator Dixon, who had gone over the land last summer and made an examination of it, was consulted in regard to all of these amendments. The amendments are satisfactory to the Indian Bureau, to the Secretary of the Interior, to the Reclamation Service, to the Representatives from the State of Montana, and to the Indians, and the bill as thus amended should pass.

Mr. MONDELL. Mr. Speaker, I have gone over this bill, and I believe it has been very carefully prepared. Inasmuch as it is necessary to begin at the very foundation in this case and to provide, first, for allotments, then for opening the lands to settlement, and for their irrigation, the bill is quite a long one. I think the committee has given the bill careful consideration, and it seems to me its provisions are excellent. It does justice to the Indians, and I believe will promote the interests of the incoming settlers.

The provision for the irrigation of the irrigable lands of this reservation reminds me of the good work that is being done for the reclamation of arid lands under other laws, and I desire to take the time of the House for a few moments for the purpose of removing an erroneous impression which some Members undoubtedly obtained by reason of statements made by several Members of the House a few days ago, when a bill making available more lands under the Carey Act was under discussion. I am confident that the statements made would not have been made had the gentlemen making them been better informed.

Unfortunately, I was not able to secure time before the close of the debate to correct those misstatements; therefore avail myself of the first opportunity that offers to do so, and I shall take as my text a statement made by a Member at the time I refer to. His exact language was: "Wyoming has done nothing under the original Carey Act worth mentioning." As this same thought was echoed by two or three other gentlemen and undoubtedly had some effect on the vote taken, I feel that I owe it to my State and to the House to correct the false impression thus produced.

Whatever credit there may be in the passage of the Carey Act, and in the successful irrigation of large areas of desert lands under it, belongs to Wyoming, and Wyoming has accomplished more for and under the act than all of the other arid States combined. It was a Wyoming Senator, Hon. Joseph M. Carey, who wrote the act and who was instrumental in having it placed upon the statute books. The act became a law August 18, 1894, as section 4 of the sundry civil act of that year, and at the session of the Wyoming legislature the following January the State formally accepted the provisions of the act and enacted legislation for the purpose of carrying it into effect. I was a member of that legislature and take pride in the fact that I had something to do with this legislation which has made the Carey Act the means of bringing about the reclamation of a large acreage of public lands both in Wyoming and other arid-land States.

The national act is simple in its terms, but in order to carry out successfully the reclamation contemplated by it there must be adequate State machinery, a wise, just, and equitable code of State irrigation laws, and a complete, comprehensive, and workable State statute. With the possible exception of Colorado, Wyoming was the only one of the arid States which, at the time of the passage of the Carey Act, had the necessary State organization to accomplish the reclamation contemplated by the act. Wyoming's water laws were founded on correct principles, and the State legislation enacted for the purpose of promoting development under the Carey Act was wise, carefully drawn, and equitable, and this law has become the pat-

tern for similar State legislation elsewhere. Its principles were later adopted by Idaho, and, at a still later period, as I understand it, by Colorado. In this as in other irrigation legislation Wyoming has been a lawgiver in the arid regions.

I hold in my hand an article recently published by the Star in this city, written by William E. Curtis, in which he tells of the transition of barren soils into fertile fields under the provisions of the Carey Act as follows:

What is known as the "Carey Act," passed by Congress in 1894, authorized the Secretary of the Interior to grant to the different States of the Union as much arid land as they would agree to irrigate and sell to actual settlers up to a limit of a million acres. This legislation was intended to promote the redemption of the vast area of desert land in the mountain States by affording private enterprise an opportunity to construct irrigation reservoirs and ditches and make a reasonable profit by the sale of water rights.

Under that act up to and including the 15th of March, 1908, there have been patented in Idaho 76,000 acres, in Montana 18,000 acres, and in Oregon 50,000 acres, which means that the area named has been entirely paid for and all conditions complied with. And it is expected that a very large amount of land will be patented during the present year, as many large irrigation schemes are being carried out, particularly in Idaho and Wyoming.

After referring to the operations under the act in other States, Mr. Curtis has this to say of the operations under the act in Wyoming:

In Wyoming the following enterprises have been undertaken under the Carey Act:

	Acreage.	Price of water rights.
Cody Canal.....	14,000	\$15
Big Horn Basin.....	238,000	30
Big Horn Irrigation Company.....	16,000	40
Hanover Canal Company.....	11,000	30
North Platte Company.....	14,424	30
Wheatland Company.....	12,000	30
Sahara Ditch Company.....	7,920	30
La Poudre Company.....	20,000	30
Big Horn Colonization Company.....	20,000	30
Boulder Canal Company.....	6,120	30
Lovell Irrigation Company.....	50,000	30
North Platte Encampment Company.....	92,608	30
Eden Company.....	22,522	30
Medicine Wheel Company.....	36,620	30
Hubbard Canal Company.....	54,600	50
Paint Rock Canal.....	7,000	30
Hammitt Ditch.....	18,171	30
Western Land Company.....		
Total.....	640,983	

The Cody Canal has been completed and has been turned over by the company to the settlers. The Big Horn Basin Development Company will offer about 140,000 acres ready for irrigation. The 16,000 acres of the Big Horn Irrigation Company are nearly all occupied, and the same may be said of the lands of the Hanover and North Platte companies. The land of the Wheatland Company will be open to settlement this spring. The Big Horn Basin and Colonization Company and the Lovell Irrigation Company are Mormon community enterprises and are not open to the general public.

All of these projects are said to be very successful, so far as they have gone. Indeed, they are so much so that several other companies are being organized and are applying for lands, which the State officials are not able to furnish without further grants from Congress, and therefore the resolution authorizing the Secretary of the Interior to give the State another million acres has been adopted by Congress.

Discussing the effect of these projects on general development, Mr. Curtis writes as follows:

It is hard to estimate the far-reaching effect of these developments on the State as a whole. A vast amount of capital has already been invested, and enough success has been attained to warrant the investment of a great deal more. The colonization of land must be followed by other investments and various enterprises. Railways have been extended. New lines have been built. An area has already been opened up for settlement under these projects almost sufficient to double the population of the arid portion of the State. The works, after their completion, will be owned and managed by the settlers. There is no disposition on the part of the construction companies to retain possession for any length of time. All of these projects will undoubtedly pass through the usual troubles, but the people themselves will be directly responsible, and success will ultimately result without doubt.

Not only is Wyoming entitled to the credit due her Senator for having the Carey Act placed upon the statute books, for having been the first State to accept the terms of the act, for having written the State statute, since adopted by her sister States, which has made development possible under it, but she has accomplished more in actual reclamation under the act than any other State, as the gentleman who under the erroneous statements to which I have referred might have discovered if they had taken the trouble to have read the last annual report of the Commissioner of the General Land Office on the subject, from which they would have learned that of applications filed and lands temporarily segregated the area in Wyoming at the time the report was written was 792,303 acres, as against 713,603 acres in Idaho, the only other State which has made any considerable showing under the act; that of lands patented and

approved the State of Wyoming leads all others, having had at the time of the issuance of that report over 50,000 acres so patented; that, according to that report, there had been approved, though not yet patented, 682,915 acres in Wyoming, as against 588,434 acres in Idaho. In addition to this, at the time of the report there was an application for over 26,000 acres pending in the Department, and since that time other applications have been made which, if allowed, practically consume the million acres made available under the original law.

Mr. GAINES of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. I will be glad to yield.

Mr. GAINES of Tennessee. Wyoming got a million acres of this land to reclaim, did she not?

Mr. MONDELL. The original Carey Act grant provided that the States should have such lands as they should reclaim within ten years of the passage of the act, not to exceed a million acres to each State. As the end of the ten-year period approached the act was amended on the lines of a bill introduced by me, so that the general ten-year limitation was removed and the limitation was made ten years from the date of any particular segregation, thus making the act a continuing one instead of merely a temporary one.

Now, as I have shown, Wyoming has under segregation practically all of her first 1,000,000 acres. We have had sixteen projects. Several of those projects, as shown by this article of Mr. Curtis, are complete, the lands settled upon, cultivated, reclaimed, the works turned over to the farmers, and under their management and control.

Mr. GAINES of Tennessee. The gentleman has talked about some statements I made from the lips of the gentleman from Kansas [Mr. REEDER] and from others, calling attention to the fact that Wyoming had not reclaimed the million of acres that she had the right to reclaim, and yet she came in here and wanted a million more. I want to get at the actual facts.

Mr. MONDELL. My complaint is that the gentlemen should have made those statements that mislead the House without full information. Why, Mr. Speaker, there could not have been an acre properly irrigated under the Carey Act at the time it passed in any other State except the States of Wyoming and Colorado. Because Wyoming, with the exception of Colorado, was at that time the only arid-land State which had water laws framed on a just and equitable foundation, and which attached the water right to the land and under which no man could become a water lord, and a State organization such as is necessary to supervise operations under the act.

The people of the State of Wyoming have reason to be proud of the fact that under the influence of wise and just men learned in the best theory and practice of irrigation Wyoming was the first American Commonwealth to adopt fully the sound principle that the waters of an arid country belong to all the people; that the only right an individual can secure is the right to use those waters for beneficial purposes, and that no man should be allowed to acquire a personal property right in water such as would enable him to become a water lord and tax another for the use of the same. Under her laws waters used in irrigation attach to the land irrigated, and the landowner and the legal water user must be one and the same.

Not only this, but on this just foundation of laws she has established an administrative system under which the State, on behalf of its people, controls the use and distribution of water and protects the humblest citizen in the enjoyment of his right. Such a legislative and administrative system was necessary to the carrying out of the purpose of the Federal Government in authorizing the States to provide for the reclamation, cultivation, and settlement of arid lands.

Under the Wyoming statute carrying out the provisions of the Carey Act the settler is protected, the rights of all the people of the State are safeguarded, and the State faithfully and conscientiously fulfills her obligation to the nation in securing the irrigation and settlement of the lands as contemplated by the national statute.

As stated by Mr. Curtis in his article, the Cody Canal, near the town of Cody, in Big Horn County, has been completed and turned over by the company which constructed the works to the settlers, and they are now the sole owners and proprietors of the project. The large fertile area covered by this project, which before reclamation was as arid and uninviting as a region could well be, is now cut up into farms of 160 acres or less, with good buildings and improvements, and the major portion of the land is already under cultivation.

The lands under the Cincinnati and Lovell canals are all occupied in farms of from 40 to 100 acres, a large portion of which are in a high state of cultivation. The Hanover Canal Company has made good progress in the reclamation and settle-

ment of its large tract of land along the Big Horn River. The Big Horn Irrigation Company's tract along the south side of the Big Horn River is now entirely supplied with water and the lands are rapidly being taken up by settlers. The Oregon Basin project, near Cody, is well toward completion and a large area of land under this project was opened to entry some time ago. This splendid enterprise will furnish homes in the near future to many thousands of people. The Wheatland Carey Act project is practically completed and the lands are about to be opened to settlement. The La Poudre project, near Douglas, is nearing completion, the lands are already largely occupied by settlers, and development is going on rapidly. The Eden Company, in Sweetwater County, has made splendid progress with its project; the first of its lands are being irrigated this spring. With one or two exceptions all of the other projects contemplated in the State are under construction and making good progress, and within a very few years Wyoming will have reclaimed the full million acres included in the first Carey Act grant.

The Carey Act, supplemented by wise State legislation, has made possible the development of large areas which otherwise would have remained desert for an indefinite period of time, as without the provisions of the act private enterprise would not have been justified in undertaking the irrigation of these lands. While some of the lands irrigated under the Carey Act might ultimately have been irrigated under the national irrigation law, conditions were such that several of the areas would probably never have been reclaimed by the Federal Government and, in any event, owing to the lack of funds it would have required many years for the National Government to have reached any of these projects.

It is difficult to make even an approximate estimate of the sums which have been expended on projects in Wyoming up to this time under the Carey Act, but it is a conservative estimate to place the property values which will be created by the irrigation of a million acres of these lands at \$50,000,000. The population which Wyoming has already obtained on projects under the Carey Act runs into the thousands and when her first million acres shall have been fully reclaimed and settled they will easily support from fifty to seventy-five thousand people.

The irrigation works constructed under the law have in the main, been substantial and well-suited to their purpose, the lands have been settled upon and cultivated in accordance with both the letter and the spirit of the law, and vast areas of desert wastes have been transformed into fruitful fields.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman from Tennessee.

Mr. GAINES of Tennessee. Mr. Speaker, a few minutes ago I made an inquiry of the gentleman in charge of the bill as to why this Republic, which is now far beyond a century in age, was still selling the public land at \$1.25 an acre, the same price that the men who made this Republic fixed it at about a century ago. Now, I am not against this bill.

Mr. CARTER. I think I can explain in a minute, and I will take the time out of the other side.

Mr. GAINES of Tennessee. Now, what is your question?

Mr. CARTER. I wanted to make an explanation.

Mr. GAINES of Tennessee. Well, you can go ahead then in his time. I do not know anything about the merits of this bill; I dare say it is all right. I am not criticising the bill. I am glad to notice that the committee has fixed the minimum at \$1.25, which will give the Indian a chance to take any advantage of a rise in the market value of his land.

It is an absurdity to talk about these Indian lands being worth \$1.25 only an acre, when they were worth that a century ago, when the great West was a wilderness, before there was any railroad that ran through it; when the price was fixed for Western lands before we owned the Louisiana purchase; before we acquired the golden land under the Administration of that great statesman, once Speaker of this House, James K. Polk, whose ashes lie in the district I have the honor in an humble way to represent. [Applause.] Here we have a great empire in the West. We have St. Louis, we have Dubuque, we have Chicago, we have San Francisco, we have Omaha, we have Denver, we have a territory from which we have built up the great municipalities of this Republic. Then we, too, have annexed the Republic of Texas, and made it a part of this country; and yet here we are, gentlemen, at the present moment, selling these lands, after civilization has established these great cities in that country, from which we are sending out trade and commerce; yet here we are, Mr. Speaker, throwing away this trust land at a dollar and a quarter an acre. I protest against it. I am glad to see that there is a step toward saving the Indian land for the Indian. This is a matter that

belongs to them; it is a trust in the hands of this country for their benefit. And if we consent to these sales, we should see that it is sold at its market value. Tell me that the Indian lands in Montana are not worth more than \$1.25 an acre? They were worth a dollar and a quarter an acre when we acquired that land. Tell me that the lands in Mississippi are not worth more than \$1.25 an acre; and yet the fathers established that price when it was nothing but a wilderness. Tell me the public lands and the private lands in Tennessee, worth a dollar and a quarter an acre a century ago, are not worth more than that now? The white people and the cities, the civilization, and trade, and commerce, and schools, and churches, and splendid citizenship have made it worth all the way from a dollar and a quarter an acre a century ago to five thousand and ten thousand dollars a foot. The West is peopled and growing in all respects, and these lands are obliged to be worth more than when the reverse was true years ago.

Why, Mr. Speaker, if I had the time to go back and produce the record and show what these lands sold for when it was a howling wilderness, and then parallel that with what we still sell these lands for, with the West built up as she is now, I fear it would be a reflection upon the honesty of Congress, of which I am a Member. Now, whether I am right or wrong about it—

Mr. HACKNEY. Will the gentleman yield for a suggestion? Mr. GAINES of Tennessee. Yes.

Mr. HACKNEY. On page 16 of the printed bill we find a proviso that the price of said lands shall be the appraised value thereof, as fixed by said Commission, which in no case shall be less than \$1.25 per acre for agricultural, grazing, and arid lands. That does not dispose of the land at \$1.25 an acre.

Mr. GAINES of Tennessee. I am glad to know that the minimum price is \$1.25 instead of the flat price, which has been the price fixed in nearly every bill brought before the Committee on the Public Lands, of which I am a member. I am going to try to prize up the price, and I am going to keep on trying. I appeal to your sense of justice that you watch the public-land matters that come in here, and that you demand that the Indian, our ward, be treated justly, and that we deal fairly with our own consciences.

Mr. STEPHENS of Texas. I yield the remainder of the time on this side to the gentleman from Oklahoma [Mr. FERRIS].

The SPEAKER pro tempore. The gentleman has four minutes remaining.

Mr. CARTER. Will the gentleman yield to me for a moment?

Mr. FERRIS. I yield to my colleague [Mr. CARTER], who wishes to reply to the gentleman from Tennessee.

Mr. CARTER. Mr. Speaker, I think the position of the gentleman from Tennessee is the result of his misunderstanding the character of a reservation this is. This is an Executive order reservation, and is distinguished from a treaty reservation.

Mr. GAINES of Tennessee. I am not talking about this bill. I am going to vote for it.

Mr. CARTER. Very well; I want the Members to understand at any rate how the price of sections 16 and 36 here comes to be \$1.25 an acre. Most of the Western Members understand the difference between an Executive order reservation and a treaty reservation, but I take it there are a great many people living in the East and not near any Indian reservation who do not understand that question. An Executive order reservation is one which the Indians occupy and possess by Executive order, and a treaty reservation is a reservation which the Indians occupy and possess by some treaty stipulation, in which there is a consideration, in which the Indians have made some concessions for those lands. The other, the Executive order reservation, is held purely by the good graces of the Federal Government and is in a manner a gift to the Indians, without any corresponding consideration on their part. When you are dealing with the Indian's land which he acquired by treaty or agreement, then you have no right to take the land from him and pay him only \$1.25 an acre for it, in my opinion; but if you want to take back the land which you have simply allowed the Indian to live upon as a reservation by Executive order, then I can see no impropriety in the United States Government taking back its own land and paying the Indian \$1.25 an acre, which is really nothing more nor less than a gift to the Indian of \$1.25 an acre.

Mr. GAINES of Tennessee. Does the gentleman think \$1.25 an acre, as a horizontal price, is a just price?

Mr. FERRIS. I have only four minutes, and I can not yield to gentlemen further to discuss this matter.

Mr. GAINES of Tennessee. I beg the gentleman's pardon.

I thought the gentleman from Oklahoma [Mr. CARTER] had the time.

Mr. PRAY. Mr. Speaker, how much time is remaining on this side?

The SPEAKER pro tempore. The gentleman has eight minutes.

Mr. PRAY. I yield two minutes additional to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. I have listened with a good deal of interest to the different remarks made upon this measure, and living in an Indian country, and living in a homestead country, I should feel recreant to my duty if I did not give the House the benefit of the observations I have made with reference to Indian lands and with reference to homestead lands. I desire to say that in looking over this bill hurriedly in the last few minutes I have seen some little changes that I might make were I to draw the bill myself. I want to say, in the first place, in response to my fellow-Member from Tennessee, that this is not a proposition to sell the lands for \$1.25 an acre. It provides for a commission to appraise these lands, and it is not an unfair commission that is to make the appraisal. It consists of one resident member of the Commonwealth of Montana, one member of the Indian tribe, and a third member from the Department of the Interior or Indian Affairs.

That constitutes a board that goes upon these lands and appraises them and classifies them; and it is not a partisan board, it is not a partial board, nor need we presume that they will deal in any unfairness, but, on the contrary, one from the State, one from the Indian tribe, one from the Department—a board that I submit will make a fair appraisal of these lands. Immediately following the appraisal this bill provides that the lands may be purchased and homesteaded so that settlers may go there and help build up that State, and I am one citizen who desires to see that done not only in Montana, but everywhere. I think we should open up the Indian reservation and let homesteaders and home builders come in, and there is no unfairness in that to the Indian. On the contrary, it helps the Indian. It helps him by rendering his property more valuable; it helps him by giving him an opportunity for education and association with the white settlers that come in with their thrift and energy and progress.

The time has come in the history of the United States when it is not advisable, not desirable, nor right to leave Indians huddled together on a reservation. They are to be our coequals as citizens. They were the first citizens here. We owe them our respect. They are clothed with the power of the ballot and with other powers of citizenship that entitle them to the other enlightened and beneficent conditions that the white people enjoy. They can not have these advantages huddled together on an Indian reservation. They need to go onto an individual tract or onto an allotment to make it a home; they need to have the other vacant lands in that community occupied, and let home owners and home builders come in with their influence and make the Indian citizen what we all hope for him and all expect him to be. I feel an interest in this bill. I believe it will aid the State of Montana. I believe it will aid the Indian. I believe that it will even aid this Congress to open up those lands and let them be settled by home builders and home owners. [Applause.]

Mr. PRAY. Mr. Speaker, I yield three minutes to the gentleman from Texas [Mr. STEPHENS].

Mr. STEPHENS of Texas. Mr. Speaker, I gave out all of the time on this side, and consequently have none left. I thank the gentleman for yielding to me. This bill is on all fours with all of the bills of this character opening up Indian reservations. More than ten years ago Congress entered on the general policy of requiring the Secretary of the Interior, through the Commissioner of Indian Affairs, to send allotting agents on the various reservations and allot to each Indian a certain amount of land in accordance with the treaty made with that Indian tribe. In pursuance of that policy we have opened up a great many reservations in the United States, and I hope we will follow out this policy and that in a few years there will not be a single Indian reservation left in the borders of this whole country. [Applause.]

This Fort Peck Indian Reservation had a treaty made by Major McLaughlin through the Interior Department, one of our most careful Indian inspectors and agents. This treaty agreement has been ratified by Congress in this bill. It sets aside to each Indian his allotment of individual land, and it provides that a commission of three persons, one a citizen of Montana, one an Indian belonging to the tribe, and one an agent from the Interior Department, shall value the remainder of the land, and that the lands remaining after allotment and

valuation shall be sold and the proceeds turned over to the Indians. It further provides that the Indians shall have a right to select not more than 40 acres of irrigable land, and not more than 20 acres of timber land, and 320 acres of grazing land. That will give each Indian his pro rata part of all of the lands on that reservation. It provides that the rest or surplus of the lands shall be thrown open to settlement and sale. That bill will develop that part of the State of Montana, and it will be of great benefit to the Indians and the State as well. It will cause this country to settle up with white settlers, and mix them among the Indians, and it will thus tend to civilize the Indians and will be at the same time of benefit to the entire country. I therefore hope the bill will pass.

Mr. PRAY. I have already covered the general features of the bill, and at this time perhaps one of the best arguments that could be made in favor of its passage would be to make a complete statement in ordinary and concise terms of the provisions of the bill. In the first place, the Secretary of the Interior is directed to have surveyed all the lands included within the limits of the Fort Peck Indian Reservation. He is also required to have an examination of the lands made by the Reclamation Service and by experts of the Geological Survey, and if he finds that an irrigation project is feasible, he is authorized to construct such project. If it should appear upon examination that there are any lands bearing lignite coal, the Secretary is authorized to reserve whatever amount of land may be necessary and of use in the building and maintenance of such irrigation works. After the lands have been surveyed it shall then be the duty of the Commissioner of Indian Affairs to have such lands allotted in accordance with the provisions of the allotment laws of the United States to all Indians belonging on the reservation and having tribal rights thereon.

Under such allotment each Indian shall receive 320 acres of grazing land, and in addition to that not less than 2½ acres, nor more than 20 acres of timber land, shall be allotted to heads of families and single adult members of the tribe who are over 18 years of age. After the lands have been surveyed and examined, if it should be considered feasible and desirable to irrigate any of such land, the project shall be constructed and the irrigable lands shall be allotted in equal proportion to the members of the tribe who are living on the day the work of allotment commences. The allotment of irrigable land is in addition to the allotments of grazing and timber land. But it is provided that no member of the tribe shall receive more than 40 acres of irrigable land. This bill carries an appropriation of \$400,000, \$100,000 of which, or so much as may be necessary, shall be immediately available, so that the Secretary of the Interior may survey, allot, classify, and appraise the lands as provided in this bill; also \$100,000, or so much of that amount as may be necessary, is appropriated to pay the Indians for the lands granted to the State of Montana and for lands reserved for agency and school purposes, the balance, being the sum of \$200,000, is an appropriation for the construction of irrigation systems on the reservation, and it is provided that it shall also be immediately available.

But in this connection it must be understood that all sums of money appropriated hereby, save and except \$100,000, or so much thereof as may be necessary, to pay for the lands granted to the State and the lands reserved for agency and school purposes, shall be reimbursable out of the proceeds of the sales of the surplus lands, or, in other words, the unallotted lands. After the allotments have been made a commission shall be appointed by the President, consisting of three persons, whose duty it shall be to inspect, classify, appraise, and value the unallotted land and such lands as have not been reserved by the Secretary of the Interior. The commission shall consist of one person holding tribal relations with the Indians, one representative of the Indian Bureau, and one resident citizen of the State of Montana. The commission shall be empowered to employ, subject to the approval of the Secretary of the Interior, such clerks and assistants as may be necessary to enable it to properly perform its duties. After the commission is organized and properly constituted, in accordance with the provisions of this act, it shall then be in order to make a personal inspection, classification, and appraisal of the balance of the land by the smallest legal subdivisions of 40 acres each.

For the purpose of classifying and appraising these lands they shall be divided into classes—agricultural lands will come first, grazing lands second, arid lands third, and mineral lands fourth. But none of the mineral lands shall be appraised. For their services the commissioners shall be paid not more than \$10 a day while actually employed in the inspection and classification of the lands, and their work must be completed within nine months after the organization

of the commission. After the work of the commission is completed and has received the approval of the Secretary of the Interior, the lands shall be disposed of in accordance with the provisions of the homestead, desert-land, mineral, and town-site laws of the United States. Sections 16 and 36 of each township are, of course, excepted. Also any part thereof for which the State of Montana has not received indemnity lands under existing law. But it is provided that in case sections 16 or 36 or any part thereof should be lost to the State by reason of allotment to an Indian, or by reservation under the provisions of this bill, the governor of Montana, with the approval of the Secretary of the Interior, can select other unoccupied, unreserved, nonmineral lands within said reservation not exceeding two sections in any one township. But the selection must be made within sixty days before the date fixed by the President for opening the unallotted lands to settlers.

The proclamation of the President opening the lands to settlement shall prescribe the time and manner of occupancy by those persons who are entitled to enter such lands. The rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars and the Philippine insurrection shall in no manner be abridged. The price of the land is the value fixed by the commission, which in no case shall be less than \$1.25 per acre for agricultural, grazing, and arid lands.

Where the lands are filed upon under the provisions of the homestead law, one fifth of the appraised value of the land shall be paid when the filing is made and the remainder shall be paid in five equal annual installments, terminating in the fifth year after the date of entry. After the entryman has complied with all the requirements of the homestead law and has made his final proof, which must be made within seven years of the date of entry, he shall receive patent for his land. An alien who has declared his intention of becoming a citizen of the United States may file upon land, but no patent shall be issued to him unless he is a full citizen at the time of making final proof. A citizen may commute his homestead entry under the provisions of law for that purpose by paying for the lands the price fixed by the commission. A person who enters under the desert-land law is required to pay one-fifth of the appraised value of the land at the time of entry and the balance as in the case of homestead entries.

There is also a provision in the bill to the effect that if any person taking any oath required by the homestead or desert-land laws or regulations in respect thereto shall swear falsely, he shall be subject to a prosecution for perjury and shall forfeit the money which he has paid for the land and all right and title to the land; and if he shall fail to comply with the law under which his entry is made or shall fail to make proof within the time required by law, he shall forfeit all the money that he has paid and all right and title to the land. The Secretary is authorized to withdraw from entry to be disposed of under the provisions of this act such lands as he may deem desirable for the construction of an irrigation system, and settlers upon such lands shall be required to pay their proportionate share of the cost of construction and maintenance in addition to the price of the land as fixed by the commission, all of which sum shall be paid into the Treasury of the United States to the credit of the Indians.

If any of the lands remain undisposed of at the end of five years from the date of the President's proclamation they shall be sold to the highest bidder for cash at a price not less than \$1.25 per acre. And any lands left over at the end of ten years shall be sold to the highest bidder for cash for whatever price they will bring, but not more than 640 acres shall be sold to one person or company. On and after sixty days from the date fixed by the President's proclamation for opening the lands they shall be subject to exploration, location, and purchase under the mineral and coal land laws at not less than the appraised value of the lands. But it is provided that no mineral or coal locations shall be made upon any lands allotted to the Indians or withdrawn under the provisions of the bill. In considering the bill it is important to note that nothing therein shall be so construed as to bind the United States to purchase any part of the land within the reservation except sections 16 and 36 or the equivalent in each township and the reserved tracts for agency and school purposes. Nor does any obligation rest upon the United States except as provided in the bill to find purchasers for these lands or any part of them.

The United States is constituted a trustee for the Indians and is required to dispose of the lands and to expend and pay over the proceeds received from the sale of surplus lands in the manner and for the purposes provided in the bill. The Secretary is also required to reserve and set aside for town-site

purposes and to survey and plat into town lots, streets, and so forth, not less than 40 acres at the present town of Poplar and at other places on the reservation wherever he may deem it desirable or convenient to establish town sites. These town sites shall be surveyed, appraised, and disposed of under section 2381 of the Revised Statutes of the United States. The entryman upon irrigated lands shall be required to pay for water right the proportionate cost of construction of the irrigation works in not more than fifteen annual installments, and in addition to compliance with the homestead laws shall reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, but no right to the use of water shall be disposed of for a tract to exceed 160 acres to any one person, and the Secretary of the Interior may limit the use of water to not less than 40 acres. The Indians shall be allowed a right to so much water as may be required to irrigate their lands without cost except annual charges for operation and maintenance.

Whatever lands may be necessary for agency, school, and religious purposes may be reserved by the Secretary of the Interior for so long a time as they may be needed for such purposes and as long as such institutions are maintained for the benefit of the Indians. But missionary and religious organizations who have heretofore been engaged in mission or school work on the reservation shall be given such lands as have been heretofore set apart to such organizations for mission or school work. Other lands are to be set apart to the railroad company for the construction and maintenance of water tanks, reservoirs, dam sites, and for right of way for pipe lines for use of the company in operating its line of railroad over said reservation. The Great Northern is the only railroad crossing the reservation. The company is required to pay for the lands not less than \$2.50 per acre, and the amount to be selected and the places where the same is to be selected shall be determined by the Secretary of the Interior, and he is given wide latitude and discretion in this matter.

The bill was amended in several particulars by the House Committee on Indian Affairs, so as to make it conform more nearly to the agreement entered into with the Indians, to which I have already alluded. After the bill was favorably reported and placed on the Calendar of the Whole House on the state of the Union I received information from an authentic source showing that no provision had been made in respect to a small tract of land at the settlement of Poplar occupied for public school purposes.

The Indian Office had for several years authorized the use of this land for a public school, and some time ago a fine school building was erected there costing about \$10,000. This matter was called to the attention of the gentleman from New York [Mr. SHERMAN], chairman of the House Committee on Indian Affairs, and to other members of the committee, and it was thought that inasmuch as a very small tract of land was involved and valuable improvements had been erected thereon, which had been of benefit to the Indians as well as others residing on the reservation, that the land should be turned over to the school trustees of that district for school purposes. In view of this understanding I introduced a bill in the House which is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to reserve 2.07 acres of land in the town of Poplar, on the Fort Peck Indian Reservation, in Valley County, Mont., now occupied for public school purposes, and issue patent in fee for said land to the school trustees of the school district within which said land is situated.

I have offered this bill or the substance of it as an amendment to the measure which is now under consideration by the House, and believe that it should be adopted, as many precedents can be found where land has been disposed of in like manner for school and religious purposes.

In my judgment this is a meritorious bill, and should receive universal approval. It makes ample provision for the protection of the rights of the Indian, and, so far as I can see, it will have a tendency to promote the general welfare and advancement of the Indians. It will stimulate the habit of industry, thrift, and economy to an extent hitherto unknown under old conditions. After the surplus lands are disposed of and the cost and expenses provided for in the bill deducted the balance of the moneys shall be paid into the Treasury of the United States and placed to the credit of the Indians. The money shall draw interest at the rate of 4 per cent per annum, and the principal and interest may be expended from time to time by the Secretary of the Interior in such manner as he may deem advisable for the education and civilization of the Indians. The remainder of all funds deposited in the Treasury realized from the sale of these lands, together with the remainder of all other funds now placed to the credit of or that shall hereafter be-

come due to the Indians shall within three years after the completion of the irrigation works be allotted in severalty to the members of the tribe, and the Secretary of the Interior shall determine what persons are members and entitled to such distribution.

Aside from the benefits that will manifestly accrue to the Indians by reason of the passage of this bill, opportunity will be given to hundreds of worthy men and women of the East to build up desirable homes in my State, and that, to my mind, is an exceedingly important argument in favor of the bill. Mr. Speaker, every Member who has addressed the House during the consideration of this measure has spoken in its favor, and being confident of the outcome, I therefore call for a vote.

The SPEAKER. The question is on suspending the rules, agreeing to the amendments, and passing the bill.

The question was taken.

Mr. STEPHENS of Texas. Mr. Speaker, I demand the yeas and nays.

Mr. PRAY. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The point is sustained. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absentees. The question will be taken on the motion to suspend the rules, agree to the amendments, and pass the bill as amended. The Clerk will call the roll.

The question was taken, and there were—yeas 179, nays 5, answered "present" 19, not voting 185, as follows:

YEAS—179.

Adair	Dalzell	Howard	Payne
Aiken	Darragh	Howell, N. J.	Pollard
Alexander, Mo.	Davenport	Howell, Utah	Porter
Andrus	Davis, Minn.	Howland	Pou
Ansberry	Dixon	Hubbard, W. Va.	Pray
Barchfeld	Douglas	Hughes, N. J.	Pujo
Barclay	Dwight	Humphrey, Wash.	Rainey
Bartholdt	Edwards, Ky.	Humphreys, Miss.	Reynolds
Bartlett, Nev.	Ellis, Oreg.	Jones, Wash.	Richardson
Bates	Fassett	Kahn	Robinson
Beale, Pa.	Ferris	Kelifer	Rodenberg
Beall, Tex.	Finley	Kelther	Rothermel
Bede	Floyd	Kennedy, Iowa	Russell, Mo.
Bell, Ga.	Focht	Kennedy, Ohio	Russell, Tex.
Bonyngue	Foster, Ind.	Kinkaid	Ryan
Booher	Foulkrod	Landis	Scott
Bowers	French	Lanling	Sherley
Boyd	Fulton	Law	Sims
Brodhead	Gaines, Tenn.	Lindbergh	Slayden
Burke	Gaines, W. Va.	Lloyd	Smith, Cal.
Burton, Del.	Gardner, N. J.	Longworth	Smith, Mich.
Burton, Ohio	Gilham	McCall	Snapp
Butler	Gillespie	McCreary	Spight
Byrd	Gillett	McKinlay, Cal.	Stephens, Tex.
Calderhead	Godwin	McKinley, Ill.	Stevens, Minn.
Caldwell	Gordon	McKinney	Sturgiss
Candler	Graham	McLaughlin, Mich.	Sullivan
Capron	Hackett	McMillan	Sulzer
Carter	Hackney	Macon	Taylor, Ohio
Caulfield	Haggott	Madison	Thistlewood
Chapman	Hale	Moon, Tenn.	Thomas, N. C.
Clark, Fla.	Hall	Moore, Pa.	Tou Velle
Clark, Mo.	Hamilton, Mich.	Moore, Tex.	Underwood
Clayton	Hamlin	Morse	Volstead
Cocks, N. Y.	Hammond	Murdock	Waldo
Cole	Harding	Needham	Washburn
Cook, Colo.	Hardy	Nicholls	Watkins
Cooper, Pa.	Haugen	Norris	Weeks
Cooper, Tex.	Hawley	Nye	Wheeler
Cox, Ind.	Hayes	O'Connell	Williams
Craig	Henry, Conn.	Olcott	Wilson, Pa.
Crumppacker	Henry, Tex.	Olmsted	Wood
Currier	Hill, Conn.	Page	Woodyard
Cushman	Holliday	Parker, S. Dak.	The Speaker
	Houston	Parsons	

NAYS—5.

Granger	Heflin	Helm	Johnson, Ky.
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ANSWERED "PRESENT"—19.

Adamson	Cousins	Knapp	Riordan
Bennet, N. Y.	De Armond	Madden	Sheppard
Burleson	Foster, Ill.	Murphy	Talbot
Boutell	Goulden	Overstreet	Webb
Calder	Kimball	Padgett	

NOT VOTING—185.

Acheson	Campbell	Durey	Gill
Alexander, N. Y.	Carlin	Edwards, Ga.	Glass
Allen	Chaney	Ellerbe	Goebel
Ames	Cockran	Ellis, Mo.	Goldfogle
Anthony	Conner	Englebright	Graff
Ashbrook	Cook, Pa.	Esch	Greene
Bannon	Cooper, Wis.	Fairchild	Gregg
Bartlett, Ga.	Coudrey	Favrot	Griggs
Bennett, Ky.	Cravens	Fitzgerald	Gronna
Bingham	Crawford	Flood	Hamill
Birdsall	Davey, La.	Fordney	Hamilton, Iowa
Bradley	Davidson	Fornes	Hardwick
Brantley	Dawes	Foss	Harrison
Broussard	Dawson	Foster, Vt.	Haskins
Brownlow	Denby	Fowler	Hepburn
Brumm	Denver	Fuller	Higgins
Brundidge	Diekema	Gardner, Mass.	Hill, Miss.
Burgess	Draper	Gardner, Mich.	Hinshaw
Burleigh	Driscoll	Garner	Hitchcock
Burnett	Dunwell	Garrett	Hobson

Hubbard, Iowa	Lenahan	Mudd	Smith, Tex.
Huff	Lever	Nelson	Southwick
Hughes, W. Va.	Lewis	Parker, N. J.	Sparkman
Hull, Iowa	Lilly	Patterson	Sperry
Hull, Tenn.	Lindsay	Pearre	Stafford
Jackson	Littlefield	Perkins	Stanley
James, Addison D.	Livingston	Peters	Teenserson
James, Ollie M.	Lorimer	Powers	Sterling
Jenkins	Loud	Pratt	Tawney
Johnson, S. C.	Loudenslager	Prince	Taylor, Ala.
Jones, Va.	Loving	Randell, Tex.	Thomas, Ohio
Kipp	Lowden	Randsell, La.	Tirrell
Kitchin, Claude	McDermott	Rauch	Townsend
Kitchin, Wm. W.	McGavin	Reeder	Vreeland
Knopf	McGuire	Reid	Wallace
Knowland	McHenry	Rhinock	Wanger
Küstermann	McLachlan, Cal.	Roberts	Watson
Lafean	McLain	Rucker	Weems
Lamar, Fla.	McMorran	Sabath	Weisse
Lamar, Mo.	Malby	Saunders	Willey
Lamb	Mann	Shackelford	Willitt
Langley	Marshall	Sherman	Wilson, Ill.
Lassiter	Maynard	Sherwood	Wolf
Lawrence	Miller	Slemp	Young
Leake	Mondell	Small	
Lee	Moon, Pa.	Smith, Iowa	
Legare	Mouser	Smith, Mo.	

So the motion was agreed to.

The Clerk announced the following additional pairs:
Until further notice:

Mr. BANNON with Mr. OLLIE M. JAMES.
Mr. WILSON of Illinois with Mr. SPARKMAN.
Mr. WEEMS with Mr. SMITH of Missouri.
Mr. WANGER with Mr. ADAMSON.
Mr. TAWNEY with Mr. SAUNDERS.
Mr. JACKSON with Mr. BROUSSARD.
Mr. STERLING with Mr. SABATH.
Mr. ROBERTS with Mr. RAUCH.
Mr. REEDER with Mr. RANDELL of Texas.
Mr. PRINCE with Mr. PATTERSON.
Mr. PERKINS with Mr. MAYNARD.
Mr. MILLER with Mr. McLAIN.
Mr. MANN with Mr. JONES of Virginia.
Mr. MALBY with Mr. MCHENRY.
Mr. McLACHLAN of California with Mr. HULL of Tennessee.
Mr. LOVERING with Mr. HITCHCOCK.
Mr. LITTLEFIELD with Mr. HAMILL.
Mr. LAWRENCE with Mr. GLASS.
Mr. GREENE with Mr. GARRETT.
Mr. GRAFF with Mr. GARNER.
Mr. ENGLEBRIGHT with Mr. FITZGERALD.
Mr. DUREY with Mr. ELLERBE.
Mr. DAWSON with Mr. DE ARMOND.
Mr. LOUDENSLAGER with Mr. BURLESON.
Mr. BURLEIGH with Mr. DAVEY of Louisiana.
Mr. ALEXANDER of New York with Mr. CRAWFORD.
Mr. ACHESON with Mr. BURNETT.
For the session:
Mr. BRADLEY with Mr. GOULDEN.
The result of the vote was announced as above recorded.
The doors were opened.

SENATE BILLS AND JOINT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5164. An act to provide for the improvement of the Platt National Park, situated at Sulphur, Okla.—to the Committee on Appropriations;

S. 6919. An act to establish a home for feeble-minded, imbecile, and idiotic children in the District of Columbia, and for other purposes—to the Committee on Appropriations.

S. R. 99. Joint resolution providing for assistance to the people of the storm-swept district of Oklahoma—to the Committee on Military Affairs.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 19462. An act to amend section 5438 of the Revised Statutes;

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew;

H. R. 17228. An act to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation;

H. R. 19795. An act to promote the safety of employees on railroads; and

H. R. 22029. An act to incorporate the Congressional Club.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3405. An act to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896;

S. 6200. An act granting certain rights of way and providing for certain exchanges of the same; and

S. 642. An act to establish an assay office at Salt Lake City, State of Utah.

COMPENSATION OF CERTAIN OFFICIALS IN CUSTOMS SERVICE.

Mr. DALZELL. Mr. Speaker, I move to suspend the rules, disagree to the Senate amendments, and ask for a conference on the bill H. R. 21003.

The SPEAKER. The gentleman from Pennsylvania moves to suspend the rules, take from the Speaker's table the bill H. R. 21003, and disagree to the Senate amendments. The Clerk will read the title of the bill and the Senate amendments.

The Clerk read as follows:

The bill (H. R. 21003) fixing the compensation of certain officials in the customs service, and for other purposes.

The Senate amendments were read.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

Mr. MADDEN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Pennsylvania is entitled to twenty minutes and the gentleman from Mississippi to twenty minutes.

Mr. DALZELL. Mr. Speaker, this is a bill reported to the House by the Ways and Means Committee, and fixes the compensation of certain officials in the Customs Service. It covers the salaries of laborers, of inspectors, appraisers, deputy collectors, and so on. The Senate struck out all of our bill with the single exception of inspectors, and whereas we have fixed the salaries of the inspectors and authorized the Secretary of the Treasury to give them a compensation not exceeding \$5 a day, the Senate increases it to \$6 a day at certain designated places.

Mr. MADDEN. What places?

Mr. DALZELL. New York, Chicago, Boston, and San Francisco, and also adds a section whereby they increase the salary of the Treasurer of the United States to \$8,000 per annum. My motion is to disagree to the Senate amendments and ask for a conference.

I reserve the balance of my time.

The SPEAKER. The question is on disagreeing to the Senate amendments and asking for a conference.

Mr. CLARK of Missouri. The yeas and nays, Mr. Speaker.

Mr. DALZELL. I make the point of no quorum, Mr. Speaker.

The SPEAKER. The point is well taken. The Doorkeeper will close the doors; the Sergeant-at-Arms will bring in absentees. Those in favor of disagreeing to the Senate amendments and asking for a conference will, as their names are called, answer "yea," those opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 131, nays 53, answered "present" 17, not voting 187, as follows:

YEAS—131.

Adair	Davidson	Henry, Conn.	Olcott
Barchfeld	Davis, Minn.	Hepburn	Olmsted
Barclay	Dawson	Howland	Overstreet
Bartholdt	Dixon	Hubbard, W. Va.	Parker, N. J.
Bartlett, Nev.	Dwight	Hughes, N. J.	Parker, N. Dak.
Bates	Ellis, Mo.	Humphrey, Wash.	Parsons
Beale, Pa.	Ellis, Oreg.	Jones, Va.	Payne
Bede	Esch	Jones, Wash.	Porter
Bennet, N. Y.	Ferris	Kahn	Reeder
Bonyne	Fitzgerald	Keifer	Reynolds
Boutell	Focht	Kellher	Robinson
Boyd	Fordney	Kennedy, Iowa	Rodenberg
Brodhead	Foster, Ind.	Kinkaid	Rothermel
Burke	Foulkrod	Landis	Ryan
Burleigh	Fowler	Langley	Scott
Burton, Del.	French	Lanling	Smith, Iowa
Butler	Galnes, W. Va.	Law	Stevens, Minn.
Calder	Gardner, Mich.	Lindbergh	Sulzer
Caldwell	Gilhams	Loud	Taylor, Ohio
Carter	Gillespie	McCall	Thistlewood
Cary	Gillett	McCreary	Tirrell
Caulfield	Goulden	McKinlay, Cal.	Volstead
Chapman	Graff	McKinley, Ill.	Wanger
Cocks, N. Y.	Graham	McKinney	Washburn
Cole	Greene	McLaughlin, Mich.	Weeks
Cook, Colo.	Hackney	McMillan	Weems
Cooper, Pa.	Haggott	Malby	Wheeler
Crumpacker	Hale	Mann	Wilson, Ill.
Currier	Hall	Mondell	Wood
Cushman	Hamilton, Mich.	Moore, Pa.	Woodyard
Dalzell	Harding	Murdock	Young
Darragh	Hawley	Norris	The Speaker
Davenport	Hayes	O'Connell	

NAYS—53.

Adamson
Alexander, Mo.
Ansberry
Beall, Tex.
Bell, Ga.
Boother
Bowers
Byrd
Candler
Clark, Mo.
Cooper, Tex.
Cox, Ind.
Crawford
De Armond

Ellerbe
Finley
Floyd
Fulton
Galnes, Tenn.
Garrett
Godwin
Granger
Hackett
Hamlin
Hammond
Hardy
Hay
Heflin

Helm
Henry, Tex.
Houston
Johnson, Ky.
McHenry
Macon
Maynard
Moon, Tenn.
Moore, Tex.
Murphy
Rainey
Rauch
Richardson
Russell, Mo.

Russell, Tex.
Sabath
Saunders
Sims
Slayden
Spight
Stephens, Tex.
Thomas, N. C.
Underwood
Watkins
Williams

ANSWERED "PRESENT"—17.

Bannon
Burleson
Clark, Fla.
Clayton
Cousins

Flood
Foster, Ill.
Garner
Humphreys, Miss.

Knapp
Lever
Madden
Morse

Nicholls
Padgett
Riordan
Sheppard

NOT VOTING—187.

Acheson
Alken
Alexander, N. Y.
Allen
Ames
Andrus
Anthony
Ashbrook
Bartlett, Ga.
Bennett, Ky.
Bingham
Birdsall
Bradley
Brantley
Broussard
Brownlow
Brumm
Brundidge
Burgess
Burnett
Burton, Ohio
Calderhead
Campbell
Capron
Carlin
Chaney
Cockran
Conner
Cook, Pa.
Cooper, Wis.
Condrey
Craig
Cravens
Davey, La.
Dawes
Denby
Denver
Diekema
Douglas
Draper
Driscoll
Dunwell
Durey
Edwards, Ga.
Edwards, Ky.
Englebright
Fairchild

Fassett
Favrot
Fornes
Foss
Foster, Vt.
Fuller
Gardner, Mass.
Gardner, N. J.
Gill
Glass
Goebel
Goldfogle
Gordon
Gregg
Griggs
Gronna
Hamill
Hamilton, Iowa
Hardwick
Harrison
Haskins
Haugen
Higgins
Hill, Conn.
Hill, Miss.
Hinshaw
Hitchcock
Hobson
Holliday
Howard
Howell, N. J.
Howell, Utah
Hubbard, Iowa
Huff
Hughes, W. Va.
Hull, Iowa
Hull, Tenn.
Jackson
James, Addison D.
James, Ollie M.
Jenkins
Johnson, S. C.
Kennedy, Ohio
Kimball
Kipp
Kitchin, Claude
Kitchin, Wm. W.

Knopf
Knowland
Küstermann
Lafean
Lamar, Fla.
Lamar, Mo.
Lamb
Lassiter
Lawrence
Leake
Lee
Legare
Lenahan
Lewis
Lilley
Lindsay
Littlefield
Livingston
Lloyd
Longworth
Lorimer
Loudenslager
Lovering
Lowden
McDermott
McGavin
McGuire
McLachlan, Cal.
McLain
McMorran
Madison
Marshall
Miller
Moon, Pa.
Mouser
Mudd
Needham
Nelson
Nye
Page
Patterson
Pearre
Perkins
Peters
Pollard
Pou
Powers

Pratt
Pray
Prince
Pujo
Randell, Tex.
Ransdell, La.
Reid
Rhinoek
Roberts
Rucker
Shackelford
Sherley
Sherman
Sherwood
Slemp
Small
Smith, Cal.
Smith, Mich.
Smith, Mo.
Smith, Tex.
Snapp
Southwick
Sparkman
Sperry
Stafford
Stanley
Steernerson
Sterling
Sturgiss
Sulloway
Talbot
Tawney
Taylor, Ala.
Thomas, Ohio
Tou Velle
Townsend
Vreeland
Waldo
Wallace
Watson
Webb
Weisse
Wiley
Willett
Wilson, Pa.
Wolf

bill H. R. 21052, concur in Senate amendments numbered 1, 2, 3, 4, and 6, and disagree to Senate amendment numbered 5. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 21052) to amend sections 11 and 13 of an act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States."

The Senate amendments were read.

The SPEAKER pro tempore. Is a second demanded?

Mr. MANN. I demand a second.

The SPEAKER pro tempore. Under the rule, a second is ordered. The gentleman from New York [Mr. BENNET] is entitled to twenty minutes, and the gentleman from Illinois [Mr. MANN] is entitled to twenty minutes.

Mr. BENNET of New York. Mr. Speaker, when this bill passed the House it consisted of two parts—a provision permitting an appeal and a provision correcting what was almost a clerical error in the act of June 29, 1906.

Mr. MANN. Can the gentleman refer us to what the House bill reported in reference to raising the fees?

Mr. BENNET of New York. If the gentleman will permit me just a second.

In the Senate the provision permitting an appeal was stricken out and a provision increasing the fees from \$5 to \$10 was added. The motion is to agree to all the Senate amendments except the one increasing the fees, and to disagree to that, leaving simply the bill that was reported by Mr. MOORE of Texas, correcting the technical error in the law of 1906. I reserve the balance of my time.

Mr. MANN. Mr. Speaker, I would like to have the gentleman explain the Senate amendments in my time. I do not think the explanation he has made yet explains.

Mr. BENNET of New York. I will be glad to answer any questions.

Mr. MANN. What are the amendments?

Mr. BENNET of New York. The amendments of the Senate are to strike out the provision of the House bill permitting an appeal and the adding of a provision increasing the fees.

Mr. MANN. Permitting an appeal to where and on what?

Mr. BENNET of New York. To the circuit court of appeals.

Mr. BONYNGE. On an application for naturalization.

Mr. BENNET of New York. We agree to that amendment. There are other amendments. There are only two amendments that are substantial.

Mr. MANN. What are they?

Mr. BENNET of New York. The first amendment strikes out a provision permitting an appeal; the second amendment strikes out the words "section 2;" the third amendment inserts the word "such" in front of the word "fees," page 2, in line 24.

Mr. MANN. Why do you agree to that amendment if you disagree to the amendment about the fees?

Mr. BENNET of New York. Because it affects an entirely different proposition and because it is in the middle of the amendment to the provision which simply corrected the technical error in the bill of 1906. The fourth amendment strikes out the words "permanently" before the word "appropriated," and the fifth amendment adds a section increasing the fees from \$5 to \$10; and the sixth amendment amends the title. We agree to that.

Mr. MANN. The Clerk read a long amendment in reference to fees.

Mr. BENNET of New York. Yes; I will read it:

SEC. 2. That section 13 of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," is hereby amended by striking out the following: "That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding: For receiving and filing a declaration of intention and issuing a duplicate thereof, \$1; for making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, \$2; and for entering the final order and the issuance of the certificate of citizenship thereunder, if granted, \$2," and inserting in lieu thereof the following: "That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding: For receiving and filing a declaration of intention and issuing a duplicate and triplicate thereof, \$4; for making, filing, and docketing the petition of an alien for admission as a citizen of the United States, for making a duplicate thereof, and for the final hearing thereon, \$3; and for entering the final order upon all petitions filed subsequent to June 30, 1908, including the issuance of a certificate of citizenship thereunder, if granted, \$3. The provisions of this paragraph shall take effect July 1, 1908."

Mr. MANN. Now, let me ask the gentleman. The Senate amendment numbered 5 strikes out the existing provision of the law and inserts a provision which would raise the clerk's fees.

Mr. BENNET of New York. Raise the fee to be paid by the applicant, and incidentally the clerk's fees.

The Clerk announced the following additional pairs:

Until further notice:

Mr. PERKINS with Mr. FORTNE.

Mr. ANTHONY with Mr. AIKEN.

Mr. BRADLEY with Mr. ASHBROOK.

Mr. BURTON of Ohio, with Mr. BROUSSARD.

Mr. CALDERHEAD with Mr. BURGESS.

Mr. CAMPBELL with Mr. CLAYTON.

Mr. COOK of Pennsylvania with Mr. CRAIG.

Mr. DRISCOLL with Mr. GLASS.

Mr. FASSETT with Mr. GORDON.

Mr. HOLLIDAY with Mr. LEE.

Mr. HOWELL of New Jersey with Mr. LLOYD.

Mr. HOWELL of Utah with Mr. NICHOLLS.

Mr. KENNEDY of Ohio with Mr. PAGE.

Mr. LOVERING with Mr. PUJO.

Mr. SMITH of Michigan with Mr. SHERLEY.

Mr. SULLOWAY with Mr. TOU VELLE.

Mr. WALDO with Mr. WILSON of Pennsylvania.

The SPEAKER. Upon this vote the yeas are 131, nays 53, answering "present" 15—a quorum. The Doorkeeper will open the doors.

The Senate amendments are disagreed to, and a conference requested. The Chair appoints the following conferees: Mr. PAYNE, Mr. DALZELL, and Mr. UNDERWOOD.

BUREAU OF IMMIGRATION AND NATURALIZATION.

Mr. BENNET of New York. Mr. Speaker, I move to suspend the rules, take from the Speaker's table the bill H. R. 21052, concur in Senate amendments numbered 1, 2, 3, 4, and 6, and disagree to Senate amendment numbered 5.

The SPEAKER pro tempore (Mr. BEDE). The gentleman moves to suspend the rules, take from the Speaker's table the

Mr. MANN. The fees are paid to the clerk?
Mr. BENNET of New York. He gets them; but half goes to the United States.

Mr. MANN. They are paid to the clerk, no matter what becomes of them.

Mr. BONYNGE. They are not clerk's fees; they are naturalization fees.

Mr. MANN. That you propose to disagree to?

Mr. BENNET of New York. Yes, sir.

Mr. MANN. Mr. Speaker, I had a misapprehension from the reading of the amendments; I have no opposition to the motion, and I will yield my time to any gentleman who is opposed to the motion.

Mr. BENNET of New York. I reserve the balance of my time.

Mr. GAINES of Tennessee. Will the gentleman answer a few questions? I want to get a little light. A few minutes ago the gentleman said that he had a bill reported—and I want to know if this is the bill—wherein it was provided that proposed emigrants shall be examined by an American officer in the foreign country from which they come before they shall be allowed to come to the United States.

Mr. BENNET of New York. That is not this bill. This is not an immigration bill.

Mr. GAINES of Tennessee. I do not know what bill this is. I understood this was an immigration bill.

Mr. BENNET of New York. No; it is not.

Mr. GAINES of Tennessee. Well, tell me about that bill anyhow. I am very anxious to have that kind of a law passed, because it would work pretty well.

Mr. BENNET of New York. If the gentleman and the House will pardon me, the gentleman is a very busy man, and he is confusing a statement that I made here on this floor with a conversation that he and I had in the street car.

Mr. GAINES of Tennessee. I always remember what the gentleman says whether we are upon the highway or here, because he says it so well, and there is generally something in it. I should like to ask the gentleman, Where is that bill and what has become of it?

Mr. BENNET of New York. In view of the high compliment paid to me by the gentleman, I will say that I said to him that the Immigration Commission was working on a scheme to prevent undesirable aliens leaving the other side at all, and the gentleman said he thoroughly agreed that that was a good proposition.

Mr. GAINES of Tennessee. Where is that bill?

Mr. BENNET of New York. There is no such bill.

Mr. GAINES of Tennessee. I understood the gentleman to say that he had a bill with that kind of a proposition in it.

Mr. BENNET of New York. Oh, no; that is a part of the work of the Immigration Commission.

Mr. GAINES of Tennessee. Is the gentleman a member of the Immigration Commission?

Mr. BENNET of New York. I am.

Mr. GAINES of Tennessee. I hope the gentleman will put that in.

Mr. BENNET of New York. I think before we get through we will.

Mr. GAINES of Tennessee. I should like to have something good in some Republican bill.

Mr. BENNET of New York. I reserve the balance of my time.

Mr. ADAIR. If your motion prevails, as I understand, and this bill shall become a law according to your proposition, it will not make any real change in the law except a correction of the old law?

Mr. BENNET of New York. The gentleman states the position exactly.

Mr. ADAIR. There would be no change.

Mr. BENNET of New York. Except that the law would be put where we thought we had put it in 1906.

Mr. ADAIR. That is what I mean.

Mr. BENNET of New York. Yes.

Mr. MACON. It increases the fees.

Mr. ADAIR. No; it does not increase the fees.

Mr. BENNET of New York. It does not.

Mr. ADAIR. And it strikes out the provision for an appeal.

Mr. MANN. I yield to the gentleman from Wisconsin [Mr. MURPHY] five minutes.

Mr. MURPHY. I should like to simply ask the gentleman in charge of this, in order to find out what the situation of the bill now is, as to appeals.

Mr. BENNET of New York. The Senate has stricken that out, and my motion is to agree to that.

Mr. MURPHY. To agree to the action of the Senate striking that out?

Mr. BENNET of New York. Yes.

Mr. MURPHY. That is all I desire to know. I yield back the time.

Mr. BENNET of New York. I call for a vote.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New York [Mr. BENNET] to agree to amendments Nos. 1, 2, 3, 4, and 6, and disagree to amendment 5.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays.

Mr. BENNET of New York. I make the point of order that there is no quorum present.

The SPEAKER pro tempore. Evidently no quorum. The doors will be closed; the Sergeant-at-Arms will notify absentees. As many as are in favor of the motion of the gentleman from New York will as their names are called say "aye," those opposed "no," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 165, nays 12, answered "present" 22, not voting 189, as follows:

YEAS—165.

Adair	Dwight	Holliday	Parker, N. J.
Andrus	Ellerbe	Houston	Parsons
Barchfeld	Ellis, Oreg.	Howell, Utah	Payne
Barclay	Esch	Howland	Pollard
Bartholdt	Fassett	Hughes, N. J.	Porter
Bates	Fitzgerald	Humphrey, Wash.	Pou
Beale, Pa.	Floyd	Johnson, Ky.	Pray
Beall, Tex.	Focht	Jones, Wash.	Rauch
Bede	Fordney	Kahn	Reeder
Bell, Ga.	Poster, Ind.	Kelker	Reynolds
Bennet, N. Y.	Foulkrod	Kellher	Richardson
Bonyne	French	Kennedy, Iowa	Roberts
Bowers	Gaines, Tenn.	Kennedy, Ohio	Rothermel
Brodhead	Gaines, W. Va.	Knapp	Russell, Mo.
Broussard	Gardner, Mich.	Landis	Ryan
Burke	Garner	Langley	Sabath
Burleigh	Garrett	Lanling	Saunders
Burnett	Gilliams	Law	Scott
Burton, Del.	Gillespie	Lee	Slms
Butler	Gillet	Lindbergh	Smith, Iowa
Byrd	Glass	Longworth	Smith, Mich.
Calderhead	Godwin	Loud	Stanley
Candler	Goldfogle	Lovering	Sulzer
Capron	Goulden	McCall	Taylor, Ohio
Caulfield	Graff	McCreary	Thistlewood
Chapman	Graham	McHenry	Thomas, N. C.
Clark, Mo.	Granger	McKinley, Ill.	Tirrell
Cocks, N. Y.	Greene	McKinney	Tou Velle
Cole	Hackett	McLaughlin, Mich.	Underwood
Cooper, Pa.	Hackney	McMillan	Waldo
Cooper, Tex.	Haggott	Macon	Wanger
Cox, Ind.	Hamilton, Mich.	Malby	Washburn
Crawford	Hamlin	Mann	Weeks
Crumpacker	Harding	Moore, Tex.	Weems
Currier	Haugen	Murdoch	Wheeler
Cushman	Hawley	Murphy	Williams
Dalzell	Hay	Needham	Wilson, Ill.
Davenport	Hayes	Nicholls	Young
Dawson	Hefflin	Norris	The Speaker
De Armond	Helm	Olcott	
Dixon	Henry, Conn.	Olmsted	
Douglas	Hitchcock	Overstreet	

NAYS—12.

Adamson	Burgess	Finley	Henry, Tex.
Aiken	Carter	Hammond	Patterson
Alexander, Mo.	Ferris	Hardy	Rainey

ANSWERED "PRESENT"—22.

Bannon	Flood	Padgett	Smith, Cal.
Burleson	Foster, Ill.	Page	Talbott
Calder	Humphreys, Miss.	Riordan	Watkins
Cary	Lever	Russell, Tex.	Webb
Clark, Fla.	Moon, Tenn.	Sheppard	
Clayton	Morse	Slayden	

NOT VOTING—189.

Acheson	Cravens	Hale	Knowland
Alexander, N. Y.	Darragh	Hall	Kustermann
Allen	Davey, La.	Hamill	Lafean
Ames	Davidson	Hamilton, Iowa	Lamar, Fla.
Ansberry	Davis, Minn.	Hardwick	Lamar, Mo.
Anthony	Dawes	Harrison	Lamb
Ashbrook	Denby	Haskins	Lassiter
Bartlett, Ga.	Denver	Hepburn	Lawrence
Bartlett, Nev.	Diekema	Higgins	Leake
Bennett, Ky.	Draper	Hill, Conn.	Legare
Bingham	Driscoll	Hill, Miss.	Lenahan
Birdsall	Dunwell	Hinsaw	Lewis
Boehrer	Durey	Holston	Lilly
Boutell	Edwards, Ga.	Howard	Lindsay
Boyd	Edwards, Ky.	Howell, N. J.	Littlefield
Bradley	Ellis, Mo.	Hubbard, Iowa	Livingston
Brantley	Englebright	Hubbard, W. Va.	Lloyd
Brownlow	Fairchild	Huff	Lorimer
Brumm	Favrot	Hughes, W. Va.	Loudenslager
Brundidge	Fornes	Hull, Iowa	Lowden
Burton, Ohio	Foss	Hull, Tenn.	McDermott
Caldwell	Foster, Vt.	Jackson	McGavin
Campbell	Fowler	James, Addison D.	McGuire
Carlin	Fuller	James, Ollie M.	McKinlay, Cal.
Chaney	Fulton	Jenkins	McLachlan, Cal.
Cockran	Gardner, Mass.	Johnson, S. C.	McLain
Conner	Gardner, N. J.	Jones, Va.	McMorrin
Cook, Colo.	Gill	Kimball	Madden
Goebel	Goebel	Kinkaid	Madison
Cooper, Pa.	Gordon	Kipp	Marshall
Cooper, Wis.	Gregg	Kitchin, Claude	Maynard
Coudrey	Griggs	Kitchin, Wm. W.	Müller
Cousins	Gronna	Knopf	Mondell
Craig			

Moon, Pa.	Randell, Tex.	Snapp	Townsend
Moore, Pa.	Ransdell, La.	Southwick	Volstead
Mouser	Reid	Sparkman	Vreeland
Mudd	Rhinoek	Sperry	Wallace
Nelson	Robinson	Spight	Watson
Nye	Rodenberg	Stafford	Welss
O'Connell	Rucker	Steenerson	Wiley
Parker, S. Dak.	Shackelford	Stephens, Tex.	Willett
Pearre	Sherley	Sterling	Wilson, Pa.
Perkins	Sherman	Stevens, Minn.	Wolf
Peters	Sherwood	Sturgiss	Wood
Powers	Slemp	Sulloway	Woodyard
Pratt	Small	Tawney	
Prince	Smith, Mo.	Taylor, Ala.	
Pujo	Smith, Tex.	Thomas, Ohio	

So the motion was agreed to.

The clerk announced the following additional pairs:
Until further notice:

Mr. DAVIS of Minnesota with Mr. SPIGHT.
Mr. WOODYARD with Mr. ROBINSON.
Mr. STEVENS of Minnesota with Mr. RANDELL of Texas.
Mr. SNAPP with Mr. PUJO.
Mr. NYE with Mr. LASSITER.
Mr. KINKAID with Mr. MAYNARD.
Mr. HEPBURN with Mr. HOWARD.
Mr. GARDNER of Massachusetts with Mr. FULTON.
Mr. BOUTELL with Mr. GRIGGS.
Mr. ALEXANDER of New York with Mr. BOOHER.
Mr. CARY with Mr. RUSSELL of Texas.
The result of the vote was announced as above recorded.
The doors were opened.

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House do now take a recess until 6 o'clock this evening.

Mr. WILLIAMS. Mr. Speaker, would it be in order to move an amendment to that?

The SPEAKER. The recollection of the Chair is that the amendment is not in order under the special rule. The Chair will look.

Mr. WILLIAMS. I wish the Chair would look, because if we are going to take a recess until that hour, it is just the hour that would interfere with dinner.

The SPEAKER. The Chair will answer the gentleman's question and state that under the special rule the motion is not subject to amendment.

Mr. PAYNE. Mr. Speaker, I withdraw that motion and move that we take a recess until 7 o'clock this evening.

Mr. HEFLIN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. HEFLIN. I make the point of order that there is no quorum present.

The SPEAKER. That is what we are about to find out. [Laughter.] The question is on the motion of the gentleman from New York that we take a recess until 7 o'clock this evening.

Mr. WILLIAMS. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. The gentleman from Alabama makes the point of no quorum. The Chair sustains the point. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absentees, and the question will be taken on the motion of the gentleman from New York. The Clerk will call the roll.

The Clerk began the calling of the roll.

Mr. PAYNE. Mr. Speaker, if I can have the attention of the House, I ask unanimous consent to dispense with the further roll call, and also, the point of order being withdrawn, to modify the motion, and make it 8 o'clock this evening.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. One moment, Mr. Speaker. The Chair did not put the request.

The SPEAKER. Yes; the Chair did.

Mr. FITZGERALD. The Chair did not.

The SPEAKER. The Chair asked if there was objection, and then said "The Chair hears none."

Mr. FITZGERALD. The Chair stated, "There is no objection." But, Mr. Speaker, the Chair must state the request.

The SPEAKER. The Chair did state it.

Mr. FITZGERALD. The Chair stated, "Is there objection?" But nobody heard the Chair make the statement.

Mr. HEFLIN. I did not hear the request.

Mr. FITZGERALD. And I object.

The SPEAKER. The gentleman from New York asks unanimous consent to modify his motion by making it 8 o'clock instead of 7 o'clock. Is there objection?

Mr. HEFLIN. I object, Mr. Speaker. I did not hear the request, but it comes from the gentleman from New York [Mr.

PAYNE], and I am sure that it is to the best interest of the people for me to object.

The question was taken, and there were—yeas 123, nays 67, answered "present" 17, not voting 181, as follows:

YEAS—123.

Adair	Ellis, Oreg.	Kennedy, Ohio	Parsons
Alexander, Mo.	Esch	Kinkaid	Payne
Ames	Fassett	Knapp	Pollard
Barchfeld	Focht	Landis	Porter
Barclay	Fordney	Langley	Pray
Bartholdt	French	Law	Reeder
Bates	Gardner, Mich.	Lindbergh	Roberts
Beale, Pa.	Gardner, N. J.	Longworth	Rodenberg
Bede	Garner	Loud	Scott
Bonyng	Gilham	Lovering	Slayden
Boutell	Gillett	McCall	Smith, Cal.
Boyd	Graff	McCreary	Smith, Iowa
Burke	Graham	McKinlay, Cal.	Smith, Mich.
Burleigh	Greene	McKinley, Ill.	Snapp
Burton, Del.	Haggott	McKinney	Tawney
Burton, Ohio	Hale	McLaughlin, Mich.	Taylor, Ohio
Butler	Haugen	McMillan	Thistlewood
Capron	Hawley	Malby	Tirrell
Caulfield	Hayes	Mann	Volstead
Chapman	Henry, Conn.	Maynard	Vreeland
Cole	Henry, Tex.	Moon, Tenn.	Waldo
Cooper, Pa.	Hepburn	Moore, Pa.	Wanger
Cooper, Tex.	Hill, Conn.	Morse	Washburn
Cox, Ind.	Howell, Utah	Murdock	Weems
Crawford	Howland	Needham	Wheeler
Crumppacker	Hubbard, W. Va.	Norris	Willson, Ill.
Currier	Humphrey, Wash.	O'Connell	Wood
Dalzell	Jones, Wash.	Olcott	Woodyard
Davidson	Kahn	Olmsted	Young
Dawson	Keller	Overstreet	The Speaker
Douglas	Kennedy, Iowa	Parker, N. J.	

NAYS—67.

Adamson	Dixon	Hefflin	Rothermel
Ansberry	Ferris	Hitchcock	Russell, Mo.
Beall, Tex.	Finley	Houston	Sabath
Bell, Ga.	Fitzgerald	Hughes, N. J.	Saunders
Booher	Floyd	Johnson, Ky.	Sherley
Bowers	Gaines, Tenn.	Kelher	Sims
Brodhead	Garrett	Lee	Smith, Mo.
Broussard	Gillespie	Macon	Spight
Burgess	Godwin	Moore, Tex.	Stephens, Tex.
Burnett	Gordon	Murphy	Sulzer
Caldwell	Goulden	Nicholls	Thomas, N. C.
Candler	Granger	Patterson	Tou Velle
Carter	Hackett	Ralney	Watkins
Clark, Mo.	Hackney	Randell, Tex.	Webb
Craig	Hamlin	Rauch	Williams
Davenport	Hardy	Richardson	Wilson, Pa.
De Armond	Hay	Robinson	

ANSWERED "PRESENT"—17.

Bannon	Clayton	Goldfogle	Riordan
Bennet, N. Y.	Flood	Humphreys, Miss.	Russell, Tex.
Brundidge	Foster, Ill.	Madden	Sheppard
Burleson	Fulton	Padgett	Talbott
Clark, Fla.			

NOT VOTING—181.

Acheson	Edwards, Ky.	James, Ollie M.	Nelson
Aiken	Ellerbe	Jenkins	Nye
Alexander, N. Y.	Ellis, Mo.	Johnson, S. C.	Page
Allen	Englebright	Jones, Va.	Parker, S. Dak.
Andrus	Fairchild	Kimball	Pearre
Anthony	Favrot	Kipp	Perkins
Ashbrook	Fornes	Kitchin, Claude	Peters
Bartlett, Ga.	Foss	Kitchin, Wm. W.	Pou
Bartlett, Nev.	Foster, Ind.	Knopf	Powers
Bennett, Ky.	Foster, Vt.	Knowland	Pratt
Bingham	Foulkrod	Kuftermann	Prince
Birdsall	Fowler	Lafean	Pujo
Bradley	Fuller	Lamar, Fla.	Ransdell, La.
Brantley	Gaines, W. Va.	Lamar, Mo.	Reid
Brownlow	Gardner, Mass.	Lamb	Reynolds
Brumm	Gill	Lanning	Rhinoek
Byrd	Glass	Lassiter	Rucker
Calder	Goebel	Lawrence	Ryan
Calderhead	Gregg	Leake	Shackelford
Campbell	Griggs	Legare	Sherman
Carlin	Gronna	Lenahan	Sherwood
Cary	Hall	Lever	Slemp
Chaney	Hamill	Lewis	Small
Cockran	Hamilton, Iowa	Lilley	Smith, Tex.
Cocks, N. Y.	Hamilton, Mich.	Lindsay	Southwick
Conner	Hammond	Littlefield	Sparkman
Cook, Colo.	Harding	Livingston	Sperry
Cook, Pa.	Harrison	Lloyd	Stafford
Cooper, Wis.	Haskins	Lorimer	Stanley
Coudrey	Helm	Loudenslager	Steenerson
Cousins	Higgins	Lowden	Stevens, Minn.
Cravens	Hill, Miss.	McDermott	Sturgiss
Cushman	Hinsaw	McGavin	Sulloway
Darragh	Hobson	McGuire	Taylor, Ala.
Davey, La.	Holliday	McHenry	Thomas, Ohio
Davis, Minn.	Howard	McLachlan, Cal.	Townsend
Dawes	Howell, N. J.	McLain	Underwood
Denby	Hubbard, Iowa	McMorrin	Wallace
Denver	Huff	Madison	Watson
Diekema	Hughes, W. Va.	Marshall	Weeks
Draper	Hull, Iowa	Miller	Weisse
Driscoll	Hull, Tenn.	Mondell	Wiley
Dunwell	Jackson	Moon, Pa.	Willett
Durey	James, Addison D.	Mudd	Wolf
Dwight			
Edwards, Ga.			

So the motion was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. CALDERHEAD with Mr. BARTLETT of Nevada.

Mr. DARRAGH with Mr. CARLIN.

Mr. DRISCOLL with Mr. CLAYTON.

Mr. DWIGHT with Mr. HAMMOND.

Mr. FOSTER of Indiana with Mr. HELM.

Mr. FOULKROD with Mr. JONES of Virginia.

Mr. HAMILTON of Michigan with Mr. McHENRY.

Mr. LOWDEN with Mr. McLAIN.

Mr. MILLER with Mr. PAGE.

Mr. REYNOLDS with Mr. UNDERWOOD.

Mr. CAMPBELL with Mr. BYRD.

The result of the vote was announced as above recorded.

The doors were opened.

Mr. PAYNE. Mr. Speaker, I ask unanimous consent that the House stand in recess until 8 o'clock this evening instead of 7 o'clock.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I regret very much to feel compelled to object to that. I would like to agree to it.

The SPEAKER. The gentleman from Mississippi objects.

Accordingly (at 3 o'clock and 29 minutes p. m.) the House stood in recess until 7 o'clock p. m.

AFTER RECESS.

The recess having expired, the House was called to order at 7 o'clock p. m. by the Speaker.

Mr. PAYNE. Mr. Speaker, I move that the House do now take a recess until to-morrow at 11 o'clock a. m.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

Mr. THISTLEWOOD. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. The point is well taken. Evidently a quorum is not present. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absentees. As many as favor the motion to take a recess will, as their names are called, answer "yea;" as many as are opposed will answer "nay;" those present and not voting will answer "present;" and the Clerk will call the roll.

The question was taken, and there were—yeas 123, nays 65, answered "present" 11, not voting 189, as follows:

YEAS—123.

Adair	Douglas	Kahn	Parker, N. J.
Alexander, Mo.	Driscoll	Keifer	Parker, S. Dak.
Ansberry	Dwight	Kennedy, Iowa	Parsons
Barchfield	Edwards, Ky.	Kinkaid	Payne
Barclay	Ellis, Mo.	Knapp	Pollard
Beale, Pa.	Ellis, Oreg.	Laughey	Reeder
Bede	Esch	Lanin	Roberts
Bennett, Ky.	Fassett	Law	Rodenberg
Bonyng	Focht	Lindbergh	Scott
Boutell	French	Longworth	Smith, Cal.
Boyd	Gaines, W. Va.	Loud	Smith, Iowa
Bradley	Gardner, N. J.	Loudenslager	Smith, Mich.
Burke	Garner	Lovering	Snapp
Burleigh	Gilhams	McCreary	Southwick
Burton, Del.	Graft	McKinlay, Cal.	Stevens, Minn.
Burton, Ohio	Graham	McKinley, Ill.	Sturgiss
Butler	Haggott	McKinney	Taylor, Ohio
Calderhead	Hale	McMillan	Thistlewood
Campbell	Hamilton, Mich.	Madison	Tirrell
Capron	Harding	Malby	Volstead
Chapman	Hawley	Mann	Vreeland
Cocks, N. Y.	Hayes	Mondell	Wanger
Cole	Henry, Conn.	Moore, Pa.	Washburn
Cook, Colo.	Hepburn	Morse	Weeks
Cooper, Tex.	Hill, Conn.	Murdock	Weems
Cox, Ind.	Holliday	Needham	Wheeler
Crumpacker	Howell, N. J.	Norris	Wilson, Ill.
Cushman	Howland	Nye	Wood
Dalzell	Hubbard, W. Va.	Olcott	Young
Dawson	Humphrey, Wash.	Olmsted	The Speaker
De Armond	Jones, Wash.	Padgett	

NAYS—65.

Adamson	Ferris	Houston	Russell, Mo.
Bartlett, Nev.	Fitzgerald	Hughes, N. J.	Sabath
Beall, Tex.	Floyd	Johnson, Ky.	Saunders
Bell, Ga.	Fulton	Kelher	Sims
Boober	Garrett	McHenry	Smith, Mo.
Bowers	Gillespie	Macon	Spight
Broussard	Godwin	Moore, Tex.	Stephens, Tex.
Burgess	Gordon	Murphy	Sulzer
Burleson	Goulden	Nicholls	Thomas, N. C.
Caldwell	Granger	O'Connell	Tou Velle
Candler	Gregg	Page	Watkins
Carlin	Hackett	Pon	Webb
Carter	Hackney	Rainey	Williams
Clark, Mo.	Hamill	Randell, Tex.	Wilson, Pa.
Clayton	Hamlin	Rauch	
Craig	Hefflin	Robinson	
Dixon	Henry, Tex.	Rothermel	

ANSWERED "PRESENT"—11.

Bennet, N. Y.	Foster, Ill.	Lever	Russell, Tex.
Calder	Humphreys, Miss.	Madden	Sheppard
Flood	Kimball	Rucker	

NOT VOTING—189.

Acheson	Ellerbe	James, Ollie M.	Pearre
Aiken	Englebright	Jenkins	Perkins
Alexander, N. Y.	Fairchild	Johnson, S. C.	Peters
Allen	Favrot	Jones, Va.	Porter
Ames	Finley	Kennedy, Ohio	Powers
Andrus	Fordney	Kipp	Pratt
Anthony	Fornes	Kitchin, Claude	Pray
Ashbrook	Foss	Kitchin, Wm. W.	Prince
Bannon	Foster, Ind.	Knopf	Pujo
Bartholdt	Foster, Vt.	Knowland	Ransdell, La.
Bartlett, Ga.	Foulkrod	Kiistermann	Reid
Bates	Fowler	Lafean	Reynolds
Bingham	Fuller	Lamar, Fla.	Rhinock
Birdsall	Gaines, Tenn.	Lamar, Mo.	Richardson
Brantley	Gardner, Mass.	Lamb	RJordan
Brodhead	Gardner, Mich.	Landis	Ryan
Brownlow	Gill	Lassiter	Shackelford
Brumm	Gillett	Lawrence	Sherley
Brundidge	Glass	Leake	Sherman
Burnett	Goebel	Lee	Sherwood
Byrd	Goldfogle	Legare	Slayden
Cary	Greene	Lenahan	Slomp
Caulfield	Griggs	Lewis	Small
Chaney	Gronna	Lilly	Smith, Tex.
Clark, Fla.	Hall	Lindsay	Sparkman
Cockran	Hamilton, Iowa	Littfield	Sperry
Conner	Hammond	Livingston	Stafford
Cook, Pa.	Hardwick	Lloyd	Stanley
Cooper, Pa.	Hardy	Lorimer	Steenserson
Cooper, Wis.	Harrison	Lowden	Sterling
Coudrey	Haskins	McCall	Sulloway
Cousins	Haugen	McDermott	Talbott
Cravens	Hay	McGavin	Tawney
Crawford	Helm	McGuire	Taylor, Ala.
Currier	Higgins	McLachlan, Cal.	Thomas, Ohio
Darragh	Hill, Miss.	McLain	Townsend
Davenport	Hinshaw	McLaughlin, Mich.	Underwood
Davey, La.	Hitchcock	McMorran	Waldo
Davidson	Hobson	Marshall	Wallace
Davis, Minn.	Howard	Maynard	Watson
Dawes	Howell, Utah	Miller	Weisse
Denby	Hubbard, Iowa	Moon, Pa.	Wiley
Denver	Huff	Moon, Tenn.	Willett
Diekema	Hughes, W. Va.	Mouser	Wolf
Draper	Hull, Iowa	Mudd	Woodyard
Dunwell	Hull, Tenn.	Nelson	
Durey	Jackson	Overstreet	
Edwards, Ga.	James, Addison D.	Patterson	

During the roll call:

Mr. HEFLIN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. HEFLIN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. There is a roll call pending.

Mr. HEFLIN. Would it be in order at this time—

The SPEAKER. There is nothing in order but to finish the roll call.

Mr. HEFLIN. I was going to ask the Speaker a parliamentary—

The SPEAKER. The gentleman is not recognized.

Mr. HEFLIN. Not for a parliamentary inquiry?

The SPEAKER. No; not pending a roll call. There is a motion pending that the House do recess, and the roll call is progressing. Nor is there a quorum present. Nothing is pending but the determination of whether or not a quorum is present.

The Clerk announced the following additional pairs:

For this vote:

Mr. FORDNEY with Mr. HAY.

Mr. CALDERHEAD with Mr. BURNETT.

Mr. CAULFIELD with Mr. BYRD.

Mr. CHANEY with Mr. CLARK of Florida.

Mr. COOPER of Pennsylvania with Mr. CRAWFORD.

Mr. COOK of Pennsylvania with Mr. DAVENPORT.

Mr. CURRIER with Mr. FINLEY.

Mr. DAVIDSON with Mr. ELLERBE.

Mr. DRAPER with Mr. GAINES of Tennessee.

Mr. DUREY with Mr. GOLDFOGLE.

Mr. FAIRCHILD with Mr. HAMMOND.

Mr. BARTHOLDT with Mr. BRODHEAD.

Mr. ANTHONY with Mr. BRANTLEY.

Mr. ANDRUS with Mr. ASHEROOK.

Mr. ACHESON with Mr. AIKEN.

Mr. GARDNER of Michigan with Mr. HELM.

Mr. GILLETT with Mr. HITCHCOCK.

Mr. GREENE with Mr. LEE.

Mr. OVERSTREET with Mr. MOON of Tennessee.

Mr. MCCALL with Mr. PATTERSON.

Mr. TAWNEY with Mr. RICHARDSON.

Mr. WOODYARD with Mr. RYAN.

Mr. WALDO with Mr. SLAYDEN.

Mr. HAUGEN with Mr. UNDERWOOD.

The SPEAKER. On this vote the yeas are 123, nays 65, answering "present" 11—a quorum. The Doorkeeper will open the doors.

The motion was agreed to.

Accordingly (at 7 o'clock and 54 minutes p. m.) the House took a recess until 11 o'clock a. m. to-morrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Doorkeeper of the House of Representatives, transmitting a list of public property under his charge in the various committee rooms of the House (H. R. Doc. 972)—to the Committee on Accounts and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting a summary of Parts II and III of the report of the Commissioner of Corporations on cotton exchanges—to the Committee on Interstate and Foreign Commerce and ordered to be printed.

A letter from the Secretary of the Interior, transmitting a statement in response to the inquiry of the House as to railroads in Alaska (H. R. Doc. 973)—to the Committee on the Territories and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CUSHMAN, from the Committee on Private Land Claims, to which was referred the bill of the Senate (S. 437) for the relief of D. J. Holmes, reported the same without amendment, accompanied by a report (No. 1788), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SIMS: A bill (H. R. 22256) to make it unlawful for certain public officials to own capital stock or bonds in any and all public-service corporations doing business in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HUBBARD of West Virginia (by request): A bill (H. R. 22257) to amend the pension laws by increasing the pensions of soldiers and sailors who may have served in any war prior to 1866, and of widows and orphans of such soldiers and sailors—to the Committee on Invalid Pensions.

By Mr. RAINEY. A bill (H. R. 22258) to place watch cases and watch movements on the free list—to the Committee on Ways and Means.

By Mr. LANGLEY: A bill (H. R. 22259) to prohibit the interstate shipment of spirituous, vinous, or malt liquors from one State, Territory, or District of the United States to any point within another State, Territory, or District thereof where the law prohibits the sale of same—to the Committee on the Judiciary.

By Mr. BURLEIGH: A bill (H. R. 22260) to provide for the purchase of a site and the erection of a public building thereon at Hallowell, Me.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 22261) to provide for the purchase of a site and the erection of a public building thereon at Skowhegan, Me.—to the Committee on Public Buildings and Grounds.

By Mr. COOK of Colorado: Resolution (H. Res. 431) directing the Attorney-General and the Secretary of the Interior to transmit certain information to the House—to the Committee on the Public Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURKE: A bill (H. R. 22262) granting an increase of pension to D. D. Barclay—to the Committee on Invalid Pensions.

Also, a bill (H. R. 22263) granting an increase of pension to J. J. McKenna—to the Committee on Invalid Pensions.

By Mr. FORNES: A bill (H. R. 22264) granting a pension to Nora Fitzgerald—to the Committee on Pensions.

By Mr. LANGLEY: A bill (H. R. 22265) to correct the military record of Solomon Back—to the Committee on Military Affairs.

By Mr. COOPER of Wisconsin: A bill (H. R. 22266) to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes"—to the Committee on Insular Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BURKE: Papers to accompany bills for relief of Maj. D. D. Barclay and John J. McKenna—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: Petitions of W. B. Sullivan, of Bar Harbor, and citizens of Bar Harbor and Madison, Me., for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. BURTON of Delaware: Petition of sundry members of labor organizations, for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. CAULFIELD: Petition of W. J. Gutweiler, for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. COUDREY: Petition of Mechanics' American National Bank, favoring selection of one-third of currency commission outside of Congress—to the Committee on Banking and Currency.

By Mr. GRAHAM: Paper to accompany bill for relief of James Kane—to the Committee on Military Affairs.

Also, petition of Pittsburg Board of Trade, favoring the name *Pittsburg* for one of the new battle ships—to the Committee on Naval Affairs.

By Mr. HENRY of Texas: Petition of Cuauhtemoe Union, No. 240, for the amendment to the Sherman antitrust law (H. R. 20584), for the Pearre bill (H. R. 94), for a just and clearly defined general employers' liability law, and an eight-hour law—to the Committee on the Judiciary.

By Mr. HUBBARD of West Virginia: Paper to accompany bill for relief of Martin Metzger—to the Committee on Invalid Pensions.

Also, petitions of Abraham Woodward and 328 others, John W. Marshall and 329 others, and William Hamilton and 132 others, in support of House pension bill introduced by Mr. HUBBARD of West Virginia on May 29, 1908—to the Committee on Invalid Pensions.

Also, petitions of John W. Marshall and 329 others and Abraham Woodward and 328 others, soldiers at the Danville Branch of the National Soldiers' Home, favoring the Hubbard pension bill introduced May 29, 1908—to the Committee on Invalid Pensions.

By Mr. SHERMAN: Petition of various councils, for H. R. 7559, making the 12th of October a national holiday—to the Committee on the Judiciary.

By Mr. SMITH of Iowa: Petition of citizens of Montgomery County, Iowa, for legislation stopping collection of internal revenue from "speak easies" in no-license territory or granting them Federal liquor tax receipts—to the Committee on the Judiciary.

Also, petition of citizens of Montgomery County, Iowa, for an antipolygamy amendment to the Constitution—to the Committee on the Judiciary.

Also, petition of citizens of Montgomery County, Iowa, for legislation suppressing the opium traffic—to the Committee on the Judiciary.

Also, petition of citizens of Montgomery County, Iowa, for legislation prohibiting sale of liquor on Government property—to the Committee on Alcoholic Liquor Traffic.

Also, petition of citizens of Montgomery County, Iowa, favoring Littlefield original-package bill—to the Committee on the Judiciary.

SENATE.

SATURDAY, May 30, 1908.

[Continuation of legislative day of Friday, May 29, 1908.]

At 2 o'clock and 25 minutes a. m. Saturday, May 30,

Mr. LA FOLLETTE said: Mr. President, I now suggest the absence of a quorum.

Mr. HOPKINS. That has been decided.

The VICE-PRESIDENT. The Chair is of the opinion that the Senate has already decided that question. It has decided that roll calls of the Senate having disclosed the presence of a quorum and no business having intervened, the suggestion of a lack of a quorum is not in order.

Mr. LA FOLLETTE. It is two hours since that decision was made, and during that time a considerable amount of business has intervened. I, of course, am always reluctant not to acquiesce in the ruling of the Chair, but I think I shall have to take an appeal from that ruling.

The VICE-PRESIDENT. The Senator from Wisconsin appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. LA FOLLETTE. I ask for a division.

The VICE-PRESIDENT. Upon that question division is demanded. Those in favor of sustaining the decision of the Chair will rise. *[After counting.]*

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. The Senator from Rhode Island.

Mr. CULBERSON. I rise to a point of order. Nothing is in order pending a division.

Mr. ALDRICH. There has been no announcement made by the Chair.

Mr. CULBERSON. The Senate is dividing.

Mr. ALDRICH. Have I the floor, Mr. President?

The VICE-PRESIDENT. The Chair did not hear the Senator.

Mr. ALDRICH. The result has not been announced.

The VICE-PRESIDENT. The result has not been announced.

Mr. ALDRICH. I ask if I have the floor.

The VICE-PRESIDENT. The Senator from Rhode Island.

Mr. ALDRICH. In my own right? I am recognized, I suppose, in my own right.

The VICE-PRESIDENT. The Senator from Rhode Island.

Mr. ALDRICH. Then I desire to make some remarks upon this subject.

Mr. CULBERSON. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Texas will state his point of order.

Mr. CULBERSON. It is that nothing is in order when the Senate is dividing. The rule is plain.

The VICE-PRESIDENT. That is correct.

Mr. ALDRICH. Until the result is announced I think I am entitled to the floor.

The VICE-PRESIDENT. The Chair did not hear the Senator.

Mr. ALDRICH. I say, until the result is announced I think I am entitled to the floor. While the roll is being called no debate is in order, but that presents an entirely different question. I propose to discuss the question of the appeal from the decision of the Chair.

The VICE-PRESIDENT. The Senator from Rhode Island—

Mr. CULBERSON. Mr. President—

Mr. ALDRICH. Mr. President, I make the point that I am entitled to the floor.

The VICE-PRESIDENT. The Senator from Rhode Island.

Mr. ALDRICH. I desire to discuss this appeal in my own right.

I have no question whatever that the decision made by the Senate is a correct decision. The Record read by the Senator from Wisconsin discloses plainly that the question decided in that case was almost the precise question decided in this case, which was that a call of the roll having disclosed the presence of a quorum no point of the absence of a quorum may be made until business has intervened. I made the point upon the distinct ground that debate was not business, and the point was sustained by the Senate. I therefore believe that the appeal from the decision of the Chair should not be sustained, and I move that the appeal be laid on the table.

Mr. CULBERSON. Mr. President—

Mr. KEAN. A motion to lay on the table is not debatable.

The VICE-PRESIDENT. The Chair recognizes the Senator from Texas.

Mr. CULBERSON. Mr. President, "a question of order may be raised at any stage of the proceedings, except when the Senate is dividing," page 20, Rule XX. The Senator from Rhode

Island undertook to interrupt the proceedings when the Senate was in the act of dividing, and was undoubtedly out of order. The count had been made on one side only, and I ask the Presiding Officer to put the opposite of the question.

The VICE-PRESIDENT. The Senator from Wisconsin appealed from the decision of the Chair. The question then was, Shall the decision of the Chair stand as the judgment of the Senate? Upon that question a division was demanded. Under the rule, the Chair asked those in favor of sustaining the decision of the Chair to rise and stand until they were counted. Twenty-eight voted in the affirmative.

Mr. ALDRICH. But no announcement had been made.

The VICE-PRESIDENT. No announcement had been made.

Mr. CULBERSON. Mr. President—

Mr. HOPKINS. Mr. President—

Mr. CULBERSON. I submit that of course no announcement had been made, because the Chair had not called for the negative vote, and the Senator from Rhode Island undertook to interrupt the division. I call him to order.

The VICE-PRESIDENT. The Chair is of the opinion that there can be no interruption during a division, under the rule.

Mr. ALDRICH. I ask that the rule may be read.

The VICE-PRESIDENT. The Secretary will read the rule.

Mr. CULBERSON. It is Rule XX, on page 20.

The SECRETARY. Rule XX, page 20:

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the presiding officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the presiding officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the presiding officer.

Mr. ALDRICH. I did not raise a question of order. I made no suggestion of that kind.

Mr. CULBERSON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. CULBERSON. It is that the Senator from Rhode Island is out of order when the Senate is dividing. I call attention to the fact that he was discussing a point of order as well as raising one.

Mr. ALDRICH. I beg the Senator's pardon. I never discussed the point of order. I was proposing to address the Senate upon the question of the appeal from the decision of the Chair.

Mr. CULBERSON. That is the point of order.

Mr. ALDRICH. I expressly stated that when I rose and asked the Presiding Officer to recognize me in my own right, which he did. I was not raising any point of order.

Mr. OVERMAN. The Senator can not speak when the Senate is dividing.

Mr. ALDRICH. There is no rule that prevents it. After the roll call has been started and there has been a response debate is shut off. But up to that time debate is in order always upon any question that is debatable.

Mr. BRANDEGEE. The Senator has moved to lay the appeal on the table.

Mr. ALDRICH. I did, afterwards.

Mr. BRANDEGEE. That is not debatable.

Mr. ALDRICH. No; it is not debatable.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the appeal from the decision of the Chair.

Mr. LA FOLLETTE. On that I ask for a division.

There were on a division—ayes 33, noes 8.

Mr. ALDRICH. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to my colleague [Mr. STEWART] and will vote "yea."

Mr. OVERMAN (when his name was called). I am paired with the Senator from California [Mr. PERKINS].

The roll call was concluded.

Mr. CLARK of Wyoming (after having voted in the affirmative). I have a general pair with the senior Senator from Missouri [Mr. STONE]. As that Senator is absent, I transfer the pair to the Senator from Nevada [Mr. NIXON] and will allow my vote to stand.

Mr. WARREN (after having voted in the affirmative). I announced early in the evening that I have a general pair with the Senator from Mississippi [Mr. MONYER], but that I would transfer the pair to the Senator from Maine [Mr. FRYE]. I

again make that announcement and will say that may stand for the present session.

The roll call was concluded.

Mr. ALDRICH. I ask that the names of the Senators who have not voted be called.

The VICE-PRESIDENT. The Secretary will call the names of the Senators who have not voted.

The Secretary read the names of the Senators not voting.

Mr. CLAY. I am paired with the senior Senator from Massachusetts [Mr. LODGE], but I believe I will take the liberty of voting for the purpose of making a quorum. I vote "nay."

Mr. OVERMAN. I am paired with the Senator from California [Mr. PERKINS]. As announced heretofore, I transfer my pair to the junior Senator from Massachusetts [Mr. CRANE] and I will vote. I vote "nay."

The result was announced—yeas 35, nays 13, as follows:

YEAS—35.

Aldrich	Clark, Wyo.	Fulton	Nelson
Ankeny	Curtis	Gallinger	Piles
Beveridge	Depew	Guggenheim	Smoot
Brandegee	Dick	Hale	Stephenson
Briggs	Dillingham	Hemenway	Sutherland
Burkett	Dixon	Heyburn	Warner
Burrows	du Pont	Hopkins	Warren
Carter	Elint	Kean	Wetmore
Clapp	Forker	Long	

NAYS—13.

Brown	Gary	Milton	Taylor
Clay	Gore	Overman	
Culberson	Johnston	Paynter	
Daniel	La Follette	Simmons	

NOT VOTING—44.

Allison	Davis	McCreary	Platt
Bacon	Dolliver	McCumber	Rayner
Bailey	Elkins	McEnery	Richardson
Bankhead	Foster	McLaurin	Scott
Borah	Frazier	Martin	Smith, Md.
Bourne	Frye	Money	Smith, Mich.
Bulkeley	Gamble	Newlands	Stewart
Burnham	Hansbrough	Nixon	Stone
Clarke, Ark.	Kittredge	Owen	Tallaferro
Crane	Knox	Penrose	Teller
Cullom	Lodge	Perkins	Tillman

So the appeal from the decision of the Chair was laid on the table.

BUSINESS INTERESTS OPPOSE THE BILL.

The VICE-PRESIDENT. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, I would not weary the Senate with statistics. I received in my mail this morning a letter which I am sure will be interesting in connection with this discussion. It is dated at New York, May 28, 1908, and is as follows:

SIR: To enact the Aldrich-Vreeland currency bill would be to place machinery of inflation in the hands of the Secretary of the Treasury and the banks and would lead to the greatest political corruption since Rome. We have seen the results of the infallible judgment of an ill-advised Secretary of the Treasury, who, in 1906, by the use of United States Treasury funds to facilitate the importation of gold "to relieve the monetary stringency," inflated the markets of the country and intensified the force of the panic and depression which had to come. We are now suffering from the effects of too much Secretary of the Treasury.

Our present currency system, one which furnishes us with the cheapest and most economic circulating medium yet used by any nation, sufficient for our daily needs, yet forcing a period of inflation to take place upon a currency based dollar for dollar on gold, has worked properly and efficiently. It forced the Standard Oil crowd to their knees, and made the stock gamblers and commodity speculators let go. It has checked the inflation, which if fed with more currency would have gone on expanding till it exhausted the loanable capital of the country and even impaired its operating capital, resulting in a greater congestion of capital and a period of stagnation and depression from which it would have taken years to recover and during which labor would have been scantily employed. This system has reduced the cost of the necessities of life, making the speculators, who by hoarding had forced them to exorbitant figures, sell out, and is now protecting us from a long depression. The common people have benefited, and it is the only protection they have. And now it is to be taken away by the Aldrich-Vreeland political emergency currency bill. The experiences of last fall are infinitely to be preferred to a system which would promote the concentration of wealth in the hands of those managing the new currency and increase the burdens of the common people for the benefit of speculators and prolong these periods of depression.

The men who are urging this new bill might as well urge a currency to be issued by the Standard Oil, redeemed by the steel trust, secured by a prior lien on the New York Stock Exchange, and to bear on its face the picture of John D. Rockefeller and on its back the inspiring motto "Let us alone." It is to be remembered that those who furnish the security get the currency, and what hindrance would a 5 per cent, or even 10 per cent, tax be to those who were making 100 per cent out of "booming the markets" and unloading on a financially ignorant public. The experience of the German nation has proven the fallacy of a tax restricting speculators. It is only the fear of an experience like last fall that forces the bankers to conduct sound business; remove that fear and we will have the wildest inflation this country has ever known.

Respectfully,

A. N. JORDAN,

No. 211 East Thirty-third street, New York City.

HON. ROBERT LA FOLLETTE,
United States Senate, Washington, D. C.

I am not acquainted with the writer. The letter was not marked "personal," and I have taken the liberty of reading it into the RECORD.

I also received in my mail this morning this letter dated at Philadelphia, written upon the letter head and signed by the firm of Paul Brothers, boot, shoe, and rubber dealers, Philadelphia.

PAUL BROTHERS,
Philadelphia.

Senator LA FOLLETTE.

SIR: No legitimate business needs an elastic currency. There is no depression of legitimate business needing an emergency currency. There is no demand from the common people for an emergency currency. There is a demand from the allies of Wall Street—stock speculation gambling—that asks for this ruinous emergency currency to enable the "haves" to issue shinplaster money and loan it for usury to the shorts. Divorce the Treasury from the Wall street gambling syndicate and there will be no panics, as then each will have to depend upon his own resources for means to meet obligations, and thus, being on a level with the common citizen, the chance of using the United States Treasury to rescue the market from ruin will be impossible.

Panics must cease, and just ordinary, common, everyday failures will come and go. And those who gamble and lose will go under, and the rest of the world go on and attend to the ordinary business of the day.

For the sake of all legitimate business, fight this iniquitous emergency currency bill as the most vicious and ill-advised measure ever attempted to be foisted on the masses for the benefit only of the stock-gambling class.

God grant that the honorable Senate may have wisdom and strength to preserve our beloved country from the baneful effects of this monumental effort to aid Wall street at the expense of all legitimate business enterprises of all the rest of the people.

So prayeth your humble servants.

PAUL BROTHERS.

Mr. WARREN. We can not hear the speaker.

The PRESIDING OFFICER (Mr. DIXON in the chair). The Senator from Wyoming asks the Senator from Wisconsin to speak louder. He says he can not hear.

Mr. LA FOLLETTE. I will endeavor to be heard. Of course it would be very easy for the Senator to come over here on this side and get a nearer seat. I know he does not want to miss any of this, and I want to save my voice as much as possible. It might add to the interest of this occasion, as there has been no discussion of any constitutional question involved here, and, as that is always a favorite question with this body, to consider for a few moments in this connection some of the defects of our Constitution as viewed by one of the great jurists of the country. As I desire to keep my audience here fresh and interested, I will vary the programme a little and present to them an address that I am sure it will be quite worth their while to hear.

SOME DEFECTS IN THE CONSTITUTION OF THE UNITED STATES.

AN ADDRESS TO THE LAW DEPARTMENT OF THE UNIVERSITY OF PENNSYLVANIA, DELIVERED ON APRIL 27, 1906.

[By the Hon. Walter Clark, Chief Justice of North Carolina.]

Philadelphia is one of the great cities of the world. To the student of history who remembers that Nineveh and Palmyra, Carthage and Thebes, and many another, have been great, populous, and wealthy, and then have passed entirely away from the thoughts and lips of men, Philadelphia has yet a glory that shall live always. Mohammedanism has its Mecca, the cradle and the acme of its hopes. Jew and Christian alike turn to Jerusalem. But to the utmost verge of earth, and to the last syllable of recorded time, in whatever language liberty and freedom shall be honored among men, in whatever accents government "of the people, by the people, and for the people" shall be asserted, these Philadelphia shall be remembered as the cradle of its birth. Her streets at some far distant day may be overgrown with grass and her ruined and tottering buildings may become the home of bats and birds of night; but around her name will linger a luster that shall never depart.

Here, on July 4, 1776, was proclaimed "Liberty throughout all the land and to all the inhabitants thereof." And here, too, eleven years later, was another notable event, when on September 17, 1787, was issued to the world the Constitution of these United States. It is of the latter—"its defects and the necessity for its revision"—that I shall speak to you to-night.

Just here it is well to call to mind the radical difference between these two conventions. That which met in 1776 was frankly democratic. Success in its great and perilous undertaking was only possible with the support of the people. The Great Declaration was an appeal to the masses. It declared that all men were "created equal and endowed with certain inalienable rights—among them life, liberty, and the pursuit of happiness—to secure which rights governments are instituted, deriving their just powers from the consent of the governed; and that when government becomes destructive of these ends, it is the right of the people to alter or abolish it, and institute a new government in such form as shall seem most likely to effect their safety and happiness." Never was the right of revolution more clearly asserted or that government existed for the sole benefit of the people, who were declared to be equal and endowed with the right to change their government at will when it did not subserve their welfare or obey their wishes. Not a word about property. Everything was about the people. The man was more than the dollar then. And the convention was in earnest. Every member signed the Declaration, which was unanimously voted. As Doctor Franklin pertinently observed, it behooved them "to hang together or they would hang separately."

The convention which met in 1787 was as reactionary as the other had been revolutionary and democratic. It had its beginning in commercial negotiations between the States.

Wearied with a long war, enthusiasm for liberty somewhat relaxed by the pressing need to earn the comforts and necessities of life whose stores had been diminished, and oppressed by the ban upon prosperity

caused by the uncertainties and impotence of the existing government of the Confederacy, the Convention of 1787 came together. Ignoring the maxim that government should exist only by the consent of the governed, it sat with closed doors, that no breath of the popular will should affect their decisions. To free the members from all responsibility members were prohibited to make copies of any resolution or to correspond with constituents or others about matters pending before the convention. Any record of yeas and nays was forbidden, but one was kept without the knowledge of the Convention. The journal was kept secret, a vote to destroy it fortunately failed, and Mr. Madison's copy was published only after the lapse of forty-nine years, when every member had passed beyond human accountability. Only twelve States were ever represented, and one of these withdrew before the final result was reached. Of its sixty-five members only fifty-five ever attended, and so far from being unanimous, only thirty-nine signed the Constitution, and some actively opposed its ratification by their own States.

That the Constitution thus framed was reactionary was a matter of course. There was, as we know, some talk of a royal government with Frederick, Duke of York, second son of George the Third, as king. Hamilton, whose subsequent great services as Secretary of the Treasury have crowned him with a halo, and whose tragic death has obliterated the memory of his faults, declared himself in favor of the English form of government with its hereditary executive and its House of Lords, which he denominated "a most noble institution." Falling in that, he advocated an Executive elected by Congress for life. Senators and judges for life, and governors of States to be appointed by the President. Of these he secured, as it has proved, the most important from his standpoint, the creation of judges for life. The Convention was aware that a constitution on Hamilton's lines could not secure ratification by the several States. But the Constitution adopted was made as undemocratic as possible, and was very far from responding to the condition, laid down in the Declaration of 1776, that all governments derive their just powers from the consent of the governed. Hamilton, in a speech to the Convention, stated that the members were agreed that "we need to be rescued from the democracy." They were rescued. Thomas Jefferson unfortunately was absent as our minister to France and took no part in the Convention, though we owe largely to him the compromise by which the first ten amendments were agreed to be adopted in exchange for ratification by several States which otherwise would have been withheld.

In truth, the consent of the governed was not to be asked. In the new Government the will of the people was not to control and was little to be consulted. Of the three great departments of the Government—legislative, executive, and judiciary—the people were intrusted with the election only of the House of Representatives, to wit, only one-sixth of the Government, even if that House had been made equal in authority and power with the Senate, which was very far from being the case. The Declaration of 1776 was concerned with the rights of man. The Convention of 1787 entirely ignored them. There was no Bill of Rights and the guarantees of the great rights of freedom of speech and of the press, freedom of religion, liberty of the people to assemble, and right of petition, the right to bear arms, exemption from soldiers being quartered upon the people, exemption from general warrants, the right of trial by jury and a grand jury, protection of the law of the land and protection from seizure of private property for other than public use, and then only upon just compensation; the prohibition of excessive bail or cruel and unusual punishment, and the reservation to the people and the States of all rights not granted by the Constitution—all these matters of the utmost importance to the rights of the people were omitted, and were inserted by the first ten amendments only because it was necessary to give assurances that such amendments would be adopted in order to secure the ratification of the Constitution by the several States.

The Constitution was so far from being deemed satisfactory, even to the people and in the circumstances of the time for which it was framed, that, as already stated, only eleven States voted for its adoption by the Convention, and only thirty-nine members out of fifty-five attending signed it, some members subsequently opposing its ratification. Its ratification by the conventions in the several States was carried with the greatest difficulty, and in no State was it submitted to a vote of the people themselves. Massachusetts ratified only after a close vote and with a demand for amendments; South Carolina and New Hampshire also demanded amendments, as also did Virginia and New York, both of which voted ratification by the narrowest majorities and reserving to themselves the right to withdraw, and two States rejected the Constitution and subsequently ratified only after Washington had been elected and inaugurated—matters in which they had no share.

George Washington was president of the Convention, it is true, but as such was debarred from sharing in the debates. His services, great as they were, had been military, not civil, and he left no impress upon the instrument of union so far as known. Yet it was admitted that but for his popularity and influence the Constitution would have failed of ratification by the several States, especially in Virginia. Indeed, but for his great influence the Convention would have adjourned without putting its final hand to the Constitution, as it came very near doing. Even his great influence would not have availed but for the overwhelming necessity for some form of government as a substitute for the rickety "Articles of Confederation," which were utterly inefficient and whose longer retention threatened civil war.

An instrument so framed, adopted with such difficulty and ratified after such efforts, and by such narrow margins, could not have been a fair and full expression of the consent of the governed. The men that made it did not deem it perfect. Its friends agreed to sundry amendments, ten in number, which were adopted by the first Congress that met. The assumption by the new Supreme Court of a power not contemplated, even by the framers of the Constitution, to drag a State before it as defendant in an action by a citizen of another State, caused the enactment of the eleventh amendment. The unfortunate method prescribed for the election of President nearly caused a civil war in 1801 and forced the adoption of the twelfth amendment, and three others were brought about as the result of the great civil war. The Convention of 1787 recognized itself that the defects innate in the Constitution and which would be developed by experience and the lapse of time, would require amendments, and that instrument prescribed two different methods by which amendments could be made.

Our Federal Constitution was adopted one hundred and nineteen years ago. In that time every State has radically revised its constitution, and most of them several times. Indeed, the constitution of New York requires that the question of a constitutional convention shall be submitted to its people at least once every twenty years. The object is that the organic law shall keep abreast of the needs and wants of the people and shall represent the will and progress of to-day, and shall not, as is the case with the Federal Constitution, be hampered by provisions

deemed best by the divided counsels of a small handful of men in providing for the wants of the Government of nearly a century and a quarter ago. Had those men been gifted with divine foresight and created a Constitution fit for this day and its development, it would have been unsuited for the needs of the times in which it was fashioned.

When the Constitution was adopted in 1787 it was intended for 3,000,000 of people, scattered along the Atlantic slope, from Massachusetts to the southern boundary of Georgia.

We are now trying to make it do duty for very nearly 100,000,000, from Maine to Manila, from Panama and Porto Rico to the Pole. Then our population was mostly rural, for three years later, at the First Census, in 1790, we had but five towns in the whole Union which had as many as 6,500 inhabitants each, and only two others had over 4,000. Now we have the second largest city on the globe, with over 4,000,000 of inhabitants, and many that have passed the half million mark, some of them of over a million population. Three years later, in 1790, we had 75 post-offices with \$37,000 annual post-office expenditures. Now we have 75,000 post-offices, 35,000 rural delivery routes, and a post-office appropriation of nearly \$200,000,000.

During the first ten years the total expenditures of the Federal Government, including payments on the Revolutionary debts, and including even the pensions, averaged \$10,000,000 annually. Now the expenditures are 75 times as much. When the Constitution was adopted Virginia was easily the first State in influence, population, and wealth, having one-fourth the population of the entire Union. North Carolina was third, and New York, which then stood fifth, now has double the population of the whole country at that date, and several other States have now a population greater than the original Union, whose very names were then unheard and over whose soil the savage and the buffalo roamed unmolested. Steamboats, railroads, gas, electricity (except as a toy in Franklin's hands), coal mines, petroleum, and a thousand other things which are a part of our lives to-day, were undiscovered.

Corporations, which now control the country and its government, were then so few that not till four years later, in 1791, was the first bank incorporated (in New York), and the charter for the second bank was only obtained by the subtlety of Aaron Burr, who concealed the banking privileges in an act incorporating a water company—and corporations have had an affinity for water ever since.

Had the Constitution been perfectly adapted to the needs and wishes of the people of that day, we would still have outgrown it. Time has revealed flaws in the original instrument, and it was, as might be expected, wholly without safeguards against that enormous growth of corporations, and even of individuals, in wealth and power, which has subverted the control of the Government.

The glaring defect in the Constitution was that it was not democratic. It gave, as already pointed out, to the people—to the governed—the selection of only one-sixth of the Government, to wit, one-half—by far the weaker half—of the legislative department. The other half, the Senate, was made elective at second hand by the State legislatures, and the Senators were given not only longer terms, but greater power, for all Presidential appointments and treaties were subjected to confirmation by the Senate.

The President was intended to be elected at a still further remove from the people, by being chosen by electors, who, it was expected, would be selected by the State legislatures. The President thus was to be selected at third hand, as it were. In fact, down till after the memorable contest between Adams, Clay, Crawford, and Jackson, in 1824, in the majority of the States the Presidential electors were chosen by the State legislatures, and they were so chosen by South Carolina till after the civil war, and, in fact, by Colorado in 1876. The intention was that the electors should make independent choice, but public opinion forced the transfer of the choice of electors from the legislatures to the ballot box, and then made of them mere figureheads, with no power but to voice the will of the people, who thus captured the executive department. That department, with the House of Representatives, mark to-day the extent of the share of the people in this Government.

The judiciary were placed a step still further removed from the popular choice. The judges were to be selected at fourth hand by a President (intended to be selected at third hand) and subject to confirmation by a Senate chosen at second hand. And to make the judiciary absolutely impervious to any consideration of the "consent of the governed," they are appointed for life.

It will be seen at a glance that a Constitution so devised was intended not to express, but to suppress, or at least disregard, the wishes and the consent of the governed. It was admirably adapted for what has come to pass—the absolute domination of the Government by the "business interests" which, controlling vast amounts of capital and intent on more, can secure the election of Senators by the small constituencies, the legislatures which elect them, and can dictate the appointment of the judges, and if they fail in that, the Senate, chosen under their auspices, can defeat the nomination. Should the President favor legislation and the House of Representatives pass the bill, the Senate, with its majority chosen by corporation influences, can defeat it; and if by any chance it shall yield to the popular will and pass the bill, as was the case with the income tax, there remains the judiciary, who have assumed, without any warrant, express or implied in the Constitution, the power to declare any act unconstitutional at their own will and without responsibility to anyone.

The people's part in the Government in the choice of the House of Representatives, even when reinforced by the Executive, whose election they have captured, is an absolute nullity in the face of the Senate and the judiciary, in whose selection the people have no voice. This, therefore, is the Government of the United States—a Government by Senate and judges—that is to say, frankly, by whatever power can control the selection of Senators and judges. What is that power? We know that it is not the American people.

Let us not be deceived by forms, but look at the substance. Government rests not upon forms, but upon a true reply to the question, "Where does the governing power reside?" The Roman legions bore to the last day of the Empire upon their standards the words, "The Senate and the Roman People," long centuries after the real power had passed from the curia and the comitia to the barracks of the Pretorian Guards, and when there was no will in Rome save that of their master. There were still Tribunes of the People, and Consuls, and a Senate, and the title of a Republic; but the real share of the people in the Roman Government was the donation to them of "bread and circuses" by their tyrants.

Years after the victor of Marengo had been crowned Emperor and the sword of Austerlitz had become the one power in France, the French coins and official documents still bore the inscription of "French Republic"—"République Française."

In England to-day there is a monarchy in form, but we know that in truth the real Government of England is vested in a single House of Parliament, elected by the people, under a restricted suffrage; that the real Executive is not the King, but the Prime Minister and his cabinet, practically elected by the House of Commons and holding office at the will of the majority in that House; that the King has not even the veto power, except nominally, since it has not been exercised in a single instance for more than two hundred years, and that the sole function of the House of Lords—a club of rich men representing great vested interests—is in the exercise of a suspensive veto (of which the King has been deprived), which is exercised only till the Commons make up their mind the bill shall pass—when the House of Lords always gives way, as the condition upon which their continued existence rests. So in this country we retain the forms of a republic. We still choose our President and the House of Representatives by the people; but the real power does not reside in them or in the people. It rests with those great "interests" which select the majority of the Senate and the judges.

This being the situation, the sole remedy possible is by amendment of the Constitution to make it democratic and place the selection of these preponderating bodies in the hands of the people.

First, the election of Senators should be given to the people. Even then consolidated wealth will secure some of the Senators; but it would not be able, as now, at all times to count with absolute certainty upon a majority of the Senate as its creatures. Five times has a bill, proposing such amendment to the Constitution, passed the House of Representatives by a practically unanimous vote, and each time it has been lost in the Senate; but never by a direct vote. It has always been disposed of by the chloroform process of referring the bill to a committee, which never reports it back, and never will. It is too much to expect that the great corporations which control a majority of the Senate will ever voluntarily transfer to the people their profitable and secure hold upon supreme power by permitting the passage of an amendment to elect Senators by the people. The only hope is in the alternative plan of amendment, authorized by the Constitution, to wit, the call of a constitutional convention upon the application of two-thirds of the States, to wit, thirty States. More than that number have already instructed in favor of an amendment to elect Senators by the people.

It may be recalled here that in the convention of 1787 Pennsylvania did vote for the election of Senators by the people. A strong argument used against this was that the farming interest, being the largest, would control the House and that the Senate could only be given to the commercial interests by making its members elective by the legislatures—which was prophetic—though the deciding influence was the fear of the small States that if the Senate was elected by the people its membership would be based on population.

It is high time that we had a constitutional convention, after the lapse of near a century and a score of years. The same reasons which have time and again caused the individual States to amend their constitutions imperatively require a convention to adjust the Constitution of the Union to the changed conditions of the times and to transfer to the people themselves that control of the Government which is now exercised for the profit and benefit of the "interests." Those interests, with all the power of their money and the large part of the press which they own or control, will resist the call of such a convention. They will be aided, doubtless, by some of the smaller States who may fear a loss of their equal representation in the Senate. But in truth and justice it may be that there might be some modification now in that respect without injury to the smaller States. There is no longer any reason why Delaware, or Nevada, or Rhode Island should have as many Senators as New York, or Pennsylvania, or Illinois. It would be enough to grant to every State having a million of inhabitants or less one Senator, and to allot to each State having over one million of inhabitants an additional Senator for every million above one million and for a fractional part if over three-quarters of a million. This, while not putting the Senate frankly on the basis of population, would remove the dissatisfaction with the present unjust ratio and would quiet the opposition to the admission of new States whose area and development entitle them to self-government, but whose population does not entitle them to two Senators.

The election of President is now made by the people, who have captured it, though the Constitution did not intend the people should have any choice in naming the Executive. The dangerous and unsafe plan adopted in 1787 was changed in consequence of the narrowly-averted disaster in 1801. But the method in force still leaves much to be desired. It readily lends itself to the choice of a minority candidate. It is an anomaly that 1,100 votes in New York (as in 1884) should swing 70 electoral votes (35 from one candidate to the other) and thus decide the result. The consequence is that while, nominally, any citizen of the Republic is eligible to the Presidency, only citizens of two or three of the larger States, with doubtful electoral votes, are in fact eligible. All others are barred. For proof of this, look at the history of our Presidential elections. For the first forty years of the Union the Presidents came from two States—Virginia and Massachusetts.

Then there followed a period when the growing West requiring recognition, Tennessee, Ohio, and New York commanded the situation for the next sixteen years. The Mexican war gave us a soldier who practically represented no State, and was succeeded by a New Yorker. Then for the only time in our history "off States" had a showing, and Pennsylvania and New Hampshire had their innings. Since then the successful candidates have been again strictly limited to "pivotal States"—New York in the East and Illinois, Indiana, and Ohio in the West.

This condition is unsatisfactory. The magnetic Blaine from Maine was defeated, as was Bryan from Nebraska. Had the former hailed from New York and the latter from Illinois, the electoral votes and influence of those States would have secured their election.

It would be dangerous, and almost a certain provocation of civil war, to change the election of President to a per capita vote by the whole Union. Then a charge of a fraudulent vote at any precinct or voting place, however remote, might affect the result; and as frauds would most likely occur in those States where the majorities are largest—as in Pennsylvania or Texas, Ohio or Georgia—a contest would always be certain. Whereas, now, frauds in States giving large majorities, unless of great enough magnitude to change the electoral vote of the whole State, can have no effect. The remedy is, preserving the electoral vote system as now, and giving the smaller States as now, the advantage of electoral votes to represent their Senators, to divide the electoral vote of each State according to the popular vote for each candidate, giving each his pro rata of the electoral vote on that basis, the odd elector being apportioned to the candidate having the largest fraction. Thus, in New York, Mr. Blaine would have gotten 17 electoral votes and Mr. Cleveland 18. Other States would have also divided, more or less

evenly; but the result would be that the choice of President would no longer be restricted to two or three States, as in our past history, and is likely to be always the case as long as the whole electoral vote of two or three large pivotal States must swing to one side or the other and determine the result. This change would avoid the present evil of large sums being spent to carry the solid electoral vote of "pivotal" States, for there would cease to be "pivotal" States. At the same time this would avoid the open gulf into which a per capita ballot by the whole Union would lead us. While the electoral vote of a State should be divided, pro rata, according to the popular vote for each candidate, it is essential that each State should vote as one district, since its boundaries are unchangeable. To permit the legislature of each State to divide it into electoral districts would simply open up competition in the art of gerrymandering.

By the convention of 1787 the term of the President was originally fixed at seven years and he was made ineligible for reelection. This was reduced to four years by a compromise that he could be reelected without limitation. This was done in the interest of those who favored a strong government and a long tenure. Washington imposed a limitation by his example which will not always be binding. An amendment making the term six years and the President ineligible to reelection has long been desired by a large portion of the public. Indeed, when the constitutional convention of the Union shall assemble, as it must do some day, to remodel our Constitution to fit it to face the dangers and conform to the views of the people of this age, with the aid of our experience in the past, it is more than probable that the powers of the Executive will be more restricted. His powers are now greater than those of any sovereign in Europe. The real restrictions upon Executive power at present are not in constitutional provisions, but in the Senate and Judiciary, which often negative the popular will, which he represents more accurately than they.

And now we come to the most important of the changes necessary to place the Government of the Union in the hands of the people. By far the most serious defect and danger in the Constitution is the appointment of judges for life, subject to confirmation by the Senate. It is a far more serious matter than it was when the Convention of 1787 framed the Constitution. A proposition was made in the Convention—as we now know from Mr. Madison's Journal—that the judges should pass upon the constitutionality of acts of Congress. This was defeated June 5, receiving the vote of only two States. It was renewed no less than three times, *i. e.*, on June 6, July 21, and finally again for the fourth time on August 15, and though it had the powerful support of Mr. Madison and Mr. James Wilson, at no time did it receive the votes of more than three States. On this last occasion (August 15) Mr. Mercer thus summed up the thought of the Convention: "He disapproved of the doctrine, that the judges, as expositors of the Constitution, should have authority to declare a law void. He thought laws ought to be well and cautiously made, and then to be incontestable."

Prior to the Convention, the courts of four States—New Jersey, Rhode Island, Virginia, and North Carolina—had expressed an opinion that they could hold acts of the legislature unconstitutional. This was a new doctrine never held before (nor in any other country since) and met with strong disapproval. In Rhode Island the movement to remove the offending judges was stopped only on a suggestion that they could be "dropped" by the legislature at the annual election, which was done. The decisions of these four State courts were recent and well known to the Convention. Mr. Madison and Mr. Wilson favored the new doctrine of the paramount judiciary, doubtless deeming it a safe check upon legislation, to be operated only by lawyers. They attempted to get it into the Federal Constitution in its least objectionable shape—the judicial veto before final passage of an act, which would thus save time and besides would enable the legislature to avoid the objections raised. But even in this diluted form, and though four times presented by these two very able and influential members, this suggestion of a judicial veto at no time received the votes of more than one-fourth of the States.

The subsequent action of the Supreme Court in assuming the power to declare acts of Congress unconstitutional was without a line in the Constitution to authorize it, either expressly or by implication. The Constitution recited carefully and fully the matters over which the courts should have jurisdiction, and there is nothing, and after the above vote four times refusing jurisdiction there could be nothing, indicating any power to declare an act of Congress unconstitutional and void.

Had the Convention given such power to the courts, it certainly would not have left its exercise final and unreviewable. It gave the Congress power to override the veto of the President, though that veto was expressly given, thus showing that in the last analysis the will of the people, speaking through the legislative power, should govern. Had the Convention supposed the courts would assume such power, it would certainly have given Congress some review over judicial action and certainly would not have placed the judges irretrievably beyond "the consent of the governed" and regardless of the popular will by making them appointive, and further clothing them with the undemocratic prerogative of tenure for life.

Such power does not exist in any other country and never has. It is therefore not essential to our security. It is not conferred by the Constitution, but, on the contrary, the Convention, as we have seen, after the fullest debate, four times, on four several days, refused by a decisive vote to confer such power. The judges not only have never exercised such power in England, where there is no written constitution, but they do not exercise it in France, Germany, Austria, Denmark, or in any other country which, like them, has a written constitution.

A more complete denial of popular control of this Government could not have been conceived than the placing such unreviewable power in the hands of men not elected by the people, and holding office for life. The legal-tender act, the financial policy of the Government, was invalidated by one court and then validated by another, after a change in its personnel. Then the income tax, which had been held constitutional by the court for an hundred years, was again so held, and then by a sudden change of vote by one judge it was held unconstitutional, nullified and set at naught, though it had passed by a nearly unanimous vote both Houses of Congress, containing many lawyers who were the equals if not the superiors of the vacillating judge, and had been approved by the President and voiced the will of the people. This was all negated (without any warrant in the Constitution for the court to set aside an act of Congress) by the vote of one judge; and thus \$100,000,000, and more, of annual taxation, was transferred from those most able to bear it and placed upon the backs of those who already carried more than their fair share of burdens of government. Under an untrue assumption of authority given by thirty-nine dead men, one man nullified the action of Congress and the President and the will of 75,000,000 of living people, and in the thirteen years since has taxed

the property and labor of the country, by his sole vote, \$1,300,000,000, which Congress, in compliance with the public will and relying on previous decisions of the court, had decreed should be paid out of the excessive incomes of the rich.

In England one-third of the revenue is derived from the superfluities of the very wealthy, by the levy of a graduated income tax, and a graduated inheritance tax, increasing the per cent with the size of the income. The same system is in force in all other civilized countries. In not one of them would the hereditary monarch venture to veto or declare null such a tax. In this country alone, the people, speaking through their Congress, and with the approval of their Executive, can not put in force a single measure of any nature whatever with assurance that it shall meet with the approval of the courts; and its failure to receive such approval is fatal, for, unlike the veto of the Executive, the unanimous vote of Congress (and the income tax came near receiving such vote) can not avail against it. Of what avail shall it be if Congress shall conform to the popular demand and enact a "rate regulation" bill and the President shall approve it, if five lawyers, holding office for life and not elected by the people, shall see fit to destroy it, as they did the income-tax law? Is such a government a reasonable one, and can it be longer tolerated after one hundred and twenty years of experience have demonstrated the capacity of the people for self-government? If five lawyers can negative the will of 100,000,000 of men, then the art of government is reduced to the selection of those five lawyers.

A power without limit, except in the shifting views of the court, lies in the construction placed upon the fourteenth amendment, which passed, as every one knows, solely to prevent discrimination against the colored race, has been construed by the court to confer upon it jurisdiction to hold any provision of any statute whatever "not due process of law." This draws the whole body of the reserved rights of the States into the maelstrom of the Federal courts, subject only to such forbearance as the Federal Supreme Court of the day, or in any particular case, may see fit to exercise. The limits between State and Federal jurisdiction depend upon the views of five men at any given time; and we have a government of men and not a government of laws, prescribed beforehand.

At first the court generously exempted from its veto the police power of the several States. But since then it has proceeded to set aside an act of the legislature of New York restricting excessive hours of labor, which act had been sustained by the highest court in that great State.

Thus labor can obtain no benefit from the growing humanity of the age, expressed by the popular will in any State if such statute does not meet the views of five elderly lawyers, selected by influences naturally antagonistic to the laboring classes and whose training and daily associations certainly can not incline them in favor of restrictions upon the power of the employer.

The preservation of the autonomy of the several States and of local self-government is essential to the maintenance of our liberties, which would expire in the grasp of a consolidated despotism. Nothing can save us from this centripetal force but the speedy repeal of the fourteenth amendment or a recasting of its language in terms that no future court can misinterpret it.

The vast political power now asserted and exercised by the court to set aside public policies, after their full determination by Congress, can not safely be left in the hands of any body of men without supervision or control by any other authority whatever. If the President errs, his mandate expires in four years, and his party as well as himself is accountable to the people at the ballot box for his stewardship. If members of Congress err, they too must account to their constituents. But the Federal judiciary hold for life, and though popular sentiment should change the entire personnel of the other two great departments of government, a whole generation must pass away before the people could get control of the judiciary, which possesses an irresponsible and unrestricted veto upon the action of the other departments—irresponsible because impeachment has become impossible, and if it were possible it could not be invoked as to erroneous decisions unless corruption were shown.

The control of the policy of government is thus not in the hands of the people, but in the power of a small body of men not chosen by the people and holding for life. In many cases which might be mentioned, had the court been elective, men not biased in favor of colossal wealth would have filled more seats upon the bench, and if there had been such decision as in the income tax case, long ere this, under the tenure of a term of years, new incumbents would have been chosen, who, returning to the former line of decisions, would have upheld the right of Congress to control the financial policy of the Government in accordance with the will of the people of this day and age, and not according to the shifting views which the court has imputed to language used by the majority of the fifty-five men who met in Philadelphia in 1787. Such methods of controlling the policy of a government are no whit more tolerable than the conduct of the augurs of old who gave the permission for peace or war, for battle or other public movements, by declaring from the flight of birds, the inspection of the entrails of fowls, or other equally wise devices, that the omens were lucky or unlucky—the rules of such divination being in their own breasts and hence their decisions beyond remedy.

It may be that this power in the courts, however illegally grasped originally, has been too long acquiesced in to be now questioned. If so, the only remedy which can be applied is to make the judges elective, and for a term of years, for no people can permit its will to be denied and its destinies shaped by men it did not choose, and over whose conduct it has no control by reason of its having no power to change them and select other agents at the close of a fixed term.

Every Federal judgeship below the Supreme Court can be abolished by an act of Congress, since the power which creates a Federal district or circuit can abolish it at will. If Congress can abolish one it can abolish all. Several districts have from time to time been abolished, notably two in 1801; and we know that the sixteen circuit judges created by the judiciary act of 1801 were abolished eighteen months later.

It is true that under the stress of a great public sentiment every United States district and circuit judge can be legislated out of office by a simple act of Congress, and a new system recreated with new judges. It is also true, as has been pointed out by distinguished lawyers, that while the Supreme Court can not be thus abolished it exercises its appellate functions "with such exceptions and under such regulations as Congress shall make" (Const., Art. III, sec. 2), and as Congress enacted the judiciary act of 1789 it has often amended it and can repeal it.

Judge Marshall recognized this in *Marbury v. Madison*, in which case in an *obiter* opinion he had asserted the power to declare an act of Congress unconstitutional, for he wound up by refusing the logical

result, the issuing of the mandamus sought, because Congress had not conferred jurisdiction upon the Supreme Court to issue it.

In 1831 the attempt was made to repeal section 25 of the Judiciary Act of 1789, by virtue of which writs of error lay to the State supreme courts in certain cases. Though the section was not repealed, the repeal was supported and voted for by both Henry Clay, James K. Polk, and other leaders of both of the great parties of that day. But what is needed is not the exercise of these powers which Congress undoubtedly possesses and in an emergency will exercise, but a constitutional revision by which the Federal judges, like other public servants, shall be chosen by the people for a term of years.

It may be said that the Federal judges are now in office for life and it would be unjust to dispossess them. So it was with the State judges in each State when it changed from life judges to judges elected by the people; but that did not stay the hand of a much-needed reform.

It must be remembered that when our Federal Constitution was adopted, in 1787, in only one State was the governor elected by the people, and the judges in none, and that in most, if not all, the States the legislature, especially the senate branch, was chosen by a restricted suffrage. The schoolmaster was not abroad in the land, the masses were illiterate, and government by the people was a new experiment and property holders were afraid of it. The danger to property rights did not come then, as now, from the other direction—from the corporations and others holding vast accumulations of capital and by their power crushing or threatening to crush out all those owning modest estates.

In the State governments the conditions existing in 1787 have long since been changed. In all the States the governor and the members of both branches of the legislature have long since been made elective by manhood suffrage. In all the forty-five States save four (Delaware, Massachusetts, New Hampshire, and Rhode Island), the judges now hold for a term of years, and in three of these they are removable (as in England) upon a majority vote of the legislature, thus preserving a supervision of their conduct which is utterly lacking as to the Federal judiciary. In Rhode Island the judges were thus dropped summarily, once, when they had held an act of the legislature invalid. In thirty-three States the judges are elected by the people, in five States by the legislature, and in seven States they are appointed by the governor with the consent of the senate. Even in England the judges hold office subject to removal upon the vote of a bare majority in Parliament—though there the judges have never asserted any power to set aside an act of Parliament. There the will of the people, when expressed through their representatives in Parliament, is final. The king can not veto it, and no judge has ever dreamed he had power to set it aside.

There are those who believe and have asserted that corporate wealth can exert such influence that even if judges are not actually selected by the great corporations, no judge can take his seat upon the Federal bench if his nomination and confirmation are opposed by the allied plutocracy. It has never been charged that such judges are corruptly influenced. But the passage of a judge from the bar to the bench does not necessarily destroy his prejudices or his predilections. If they go upon the bench knowing that this potent influence, if not used for them, at least withheld its opposition to their appointment, or their confirmation, and usually with a natural and perhaps unconscious bias from having spent their lives at the bar in advocacy of corporate claims, this will unconsciously, but effectively, be reflected in the decisions they make.

Having attempted as lawyers to persuade courts to view debated questions from the standpoint of aggregated wealth, they often end by believing sincerely in the correctness of such views, and not unnaturally put them in force when in turn they themselves ascend the bench. This trend in Federal decisions has been pronounced. Then, too, incumbents of seats upon the Federal circuit and district bench can not be oblivious to the influence which procures promotion; and how fatal to confirmation by the plutocratic majority in the Senate will be the expression of any judicial views not in accordance with the "safe, sane, and sound" predominance of wealth.

As far back as 1820 Mr. Jefferson had discovered the "gapping and mining," as he termed it, of the life-tenure, appointive Federal judiciary, owing no gratitude to the people for their appointment and fearing no inconvenience from their conduct, however arbitrary, in the discharge of such office. In short, they possess the autocratic power of absolute irresponsibility. "Step by step, one goes very far," says the French proverb. This is true of the Federal judiciary. Compare their jurisdiction in 1801, when Marshall ascended the bench, and their jurisdiction in 1906. The Constitution has been remade and rewritten by the judicial glosses put upon it. Had it been understood in 1787 to mean what it is construed to mean to-day, it is safe to say that not a single State would have ratified it.

An elective judiciary is less partisan, for in many States half the judges are habitually taken from each party, and very often in other States the same men are nominated by both parties, as notably the recent selection by a Republican convention of a Democratic successor to Judge Parker. The organs of plutocracy have asserted that in one State the elective judges are selected by the party boss. But they forget that if that is true, he must in such a condition of affairs name the governor, too, and through the governor he would select the appointive judges. If the people are to be trusted to select the executive and the legislature, they are fit to select the judges. The people are wiser than the appointing power which, viewing judgeships as patronage, has, with scarcely an exception, filled the Federal bench with appointees of its own party. Public opinion, which is the corner stone of free government, has no place in the selection or supervision of the judicial augurs who assume power to set aside the will of the people when declared by Congress and the Executive. Whatever their method of divination, equally with the augurs of old they are a law to themselves and control events.

As was said by a great lawyer lately deceased, Judge Seymour D. Thompson, in 1891 (25 Am. Law Review, 288): "If the proposition to make the Federal judiciary elective instead of appointive is once seriously discussed before the people, nothing can stay the growth of that sentiment, and it is almost certain that every session of the Federal Supreme Court will furnish material to stimulate that growth."

Great aggregations of wealth know their own interests, and it is very certain that there is no reform and no constitutional amendment that they will oppose more bitterly than this. What, then, is the interest of all others in regard to it?

Another undemocratic feature of the Constitution is that which requires all Federal officials to be appointed by the President or heads of departments. This is a great evil. Overwhelming necessity has compelled the enactment of the civil-service law, which has protected

many thousands of minor officials. But there has been no relief as to the 75,000 postmasters. When the Constitution was adopted there were only 75 postmasters, and it was contemplated that the President or Postmaster-General would really appoint. But this constitutional provision is a dead letter. The selection of this army of 75,000 postmasters, in a large majority of cases, is made by neither, but in the unconstitutional mode of selection by Senator, Member of the House, or a political boss.

There is no reason why Congress should not be empowered by amendment to authorize the Department to lay off the territory patronizing each post-office as a district in which an election shall be held once in four years, at the time a Member of Congress is chosen, and by the same machinery, the officer giving bond and being subject to the same supervision as now. Thus the people of each locality will get the postmaster they prefer, irrespective of the general result in the Union, relieving the Department at Washington of much call upon its time, which can be used for the public interest in some better way; and, besides, it will remove from the election of President and Members of Congress considerations of public patronage. Elections will then more largely turn upon the great issues as to matters of public policy.

Another obstruction to the effective operation of the popular will is the fact that, though Congressmen are elected in November, they do not take their seats (unless there is a called session) for thirteen months, and in the meantime the old Congress, whose policy may have been repudiated at the polls, sits and legislates in any event till March 4 following. This surely needs amendment, which fortunately can be done by statute. In England, France, and other countries the old parliament ceases before the election, and the new assembly meets at once and puts the popular will into law.

In thus discussing the defects of the Federal Constitution I have but exercised the right of the humblest citizen. Few will deny that defects exist. I have indicated what, in my opinion, are the remedies. As to this, many will differ. If better can be found, let us adopt them. But could the matter be more appropriately discussed than on the spot where the original Constitution was debated?

For my part, I believe in popular government. The remedy for the halting, halfway popular government which we have is more democracy. When some one observed to Mr. Gladstone that the "people are not always right," he replied, "No; but they are rarely wrong." When they are wrong, their intelligence and their interests combine to make them correct the wrong. But when rulers, whether kings, or life judges, or great corporations, commit an error against the interest of the masses, there is no such certainty of correction.

The growth of this country in population and in material wealth has made it the marvel of the ages.

"But what avail the plow or sail,
Or land or life, if freedom fail?"

The government and the destinies of a great people should always be kept in their own hands.

Mr. President, I have read since the beginning of this session many editorials discussing business conditions and the panic. We have all of us read and have heard criticism of the President. Repeatedly the charge has been laid at his door that his policies, his recommendations, his public utterances, have produced the conditions which caused the panic. Whatever one may believe as to the cause of the panic, this editorial which I have from Puck, it seems to me, suggests the right attitude to be taken regarding the disturbed business conditions and the great questions which confront the American people and this Congress. The editorial is entitled "Full steam ahead." I will read it:

"FULL STEAM AHEAD!"

Some people do not understand Puck. They think it is our pleasure, or our peculiar duty, to laugh at everything and everybody. Nothing of the sort.

The men who put this paper together mean business. We appreciate a good joke; we know a good joke when we see one; and whether anybody else will see it, we do not pause to consider—we seek no levity of intelligence, aim at no "average reader." But we also know that the only humor that is worth while—the only humor that ever was worth while—is the humor that has a serious foundation. In addition to a sense of humor we have certain convictions of what is right and wrong in government, in business, in life. And that is why we do not choose, or feel obliged, to laugh at everything and everybody. Take the cartoons, for example. Sometimes they are intended to be humorous; more frequently they are not so intended. In short, when this paper is serious it expects to be taken seriously; when humorous—you may take it as you please.

We wish to add that at no time in its career has Puck been more in earnest than the present, at no time has jocularity had a more serious basis. We believe that the men who have discovered wrong and injustice and cried it aloud have rendered their country an incalculable service, and, further, that there never was greater need of their labors than at the present moment, when a half-awakened public conscience is debating whether to turn over and go to sleep again.

Not "Slow down!" but "Full steam ahead!" is the command of a clear conscience and a sound head. We believe that, absolutely. For this reason: If the experiment of democracy in this country is not to end in crash and failure, the Republic must be upheld, or rebuilt, on lines of rigid honesty. No compromise! Compromise is a serviceable weapon, but this is not the time for it. This is the time for the naked sword of Honesty. That now—or the torch of revolution for our children.

Business has been hurt; yes. Business may be further hurt; yes, again. But we are taking our share of the hurt. Take yours. Puck has no respect for business, big or little, that is not honest business. Neither have you—nor you. Then, why not say so? That is all that is necessary—enough people saying a thing. It goes then.

Puck's motto is, "What fools these mortals be!"—not "What knaves!" Fools we may be; but here and there a wise man lifts his voice, and Puck gives ear and stretches out a hand. We are for the cause—your cause. And our wish, our purpose, is to extend, as far as lies in our power, the influence of the men who are battling for honest government in the best country under the sun.

Mr. President, I have before me a work entitled "American Finance," by W. R. Lawson, author of "Spain of To-day," "American Industrial Problems," "British Economics," "Regu-

lating the Money Market," the "Bank of England," etc. Mr. Lawson is one of the leading contributors to the Bankers' Magazine and to London and American periodicals upon finance and economics. As related to the subject under discussion, I read from a chapter entitled "The Millionaire Moloch," and I will read it as having some application to the bill under consideration.

"THE MILLIONAIRE MOLOCH."

Though President Roosevelt is not and never has been a financier, he is one of the most prominent and powerful figures in the financial world to-day. He has entered it not as a reorganizer, or a consolidator, or a merger man, but as a crusader. The late Speaker of the House of Representatives, "Tom" Reed, said of him in the early part of his career, that he had the greatest pleasure in regarding himself as the discoverer of the Ten Commandments. If "Tom" Reed had lived to witness the President's latest crusade against the "trusts" he might have admitted that new discoverer of the Ten Commandments was making good use of them.

In his strenuous championship of the "square deal" against "trust" and "ring" methods, Mr. Roosevelt is working himself up to a state of biblical fervor. He is, unconsciously perhaps, producing an American parallel to the commencement of Josiah's reign over Judah. Josiah's predecessors had, like the oil and iron kings of our own day, "done evil in the sight of the Lord." Among their other iniquities they had served heathen idols and worshipped them. Close to Jerusalem itself they had set up altars to strange gods; "to Ashtoreth, the abomination of the Zidonians; to Chemosh, the abomination of the Moabites, and to Moloch, the abomination of the children of Ammon." All these heathen temples the royal reformer Josiah forthwith destroyed. "He brake in pieces the images and cut down the groves and filled their places with the bones of men." If Mr. Roosevelt were to carry out this Hebrew analogy to the letter, he would have the Chicago packing houses converted into cemeteries.

The most greswome of the heathen gods whom Josiah thus rudely disestablished was Moloch. He has been described as a "calf-headed brazen image, in which children were burned alive." In order to reach this terrible death, the victims had to pass through outer circles of fire. The name "Moloch" is thus not one to be used in modern society unless under strong provocation. It has been applied of late to the Chicago meat packers and other classes of millionaires, who apparently would risk the lives of their fellow-beings rather than miss a dollar of profit.

The "millionaire Moloch" has in the recent fat years been so gorged with sacrifices that we might expect him to feel satiated, but apparently his appetite grows with what it feeds on. Every new million he devours only makes him more voracious. It is quite possible to conceive of millionaires making good use of their wealth. They may even administer it with greater benefit to society at large than a hundred other men could do were it divided equally among them. They may be, and often are, a conservative factor in the social systems to which they belong. They may even be, though they seldom are, bulwarks of sound finance. But the new race of multimillionaires in the United States has few such redeeming features.

The "millionaire Moloch," as exhibited in Wall street and Chicago, is a destructive, not a conservative, force. When a man accumulates only for himself, the chances are that it will be all scattered again at his death. When he sacrifices everybody else to his own enrichment he is simply a financial juggernaut. Those whom he tramples down in cold-blooded greed may often be better men than himself, wiser men, and more useful citizens. What does he ever amount to from a public point of view? What is he apart from the millions he heaps up? What effect has the heaping up of millions on his own mind and soul? Let the billion-dollar "trusts" of five years ago (1901), the life insurance scandals of last year, and the meat-packing exposures of the past few months bear witness. They are characteristic landmarks in the progress of the "millionaire Moloch." They show that he is fast losing the elementary qualities of manhood, and becoming a purse-proud ghoul.

"Frenzied finance" is not in my line—I leave it willingly to my Boston namesake. Neither have I any taste for the horrors of "The Jungle." The "millionaire Moloch" is to me a mere freak of high finance, a passing accident of exceptional circumstances and conditions. The worst thing about him is the merciless hold he has got on the staple industries of the country, and on its reserves of raw material. While he retains that hold he has the American people at his mercy. As producers, traders, and consumers, they are completely in his power. If the nations reserves of raw material were as unlimited as the spread-eagle American believes them to be, there might be no immediate danger in a monopoly of them. But their exhaustion, or at least a serious diminution of them, is no mere academic question. It may within a generation or two become a business proposition and have to be treated accordingly.

Some nations die of creeping paralysis, while others prefer the nobler alternative of a general smash up. There is nothing paralytic about American finance, nor is there ever likely to be. But it has vast and varied possibilities of internal convulsion. Its explosive risks are double those of other nations. They threaten it from above as well as from below. Of the two the anarchists on top are much more dangerous than those at the bottom. The most formidable bomb that has yet been manufactured can spread death and destruction over only a limited area. It is reserved for the millionaire anarchist to make havoc of national interests and industries.

There is no call on us for Rembrandt portraits of Wall street ogres, or lurid details of their secret conspiracies. Such revelations, whether true or false, can only yield ephemeral gratification to a morbid curiosity. The ogre himself and his future possibilities are the true objects of interest, not his secret maneuvers and adventures. Bearing in mind that essential distinction, I do not turn aside to revel in the "muck-rake" episode of the past few months. The previous chapters have been written to a running accompaniment of sensational scandals—life insurance, railroad rebates, Chicago meat packers, and many other smaller fry. It would have been easy to work up spicy narratives out of such a glut of salacious material, and to offer them as typical of American finance of to-day. But let us hope that such episodes are only for to-day, and that their blighting influence will not extend far into the future.

On the other hand, it is to be feared that the "millionaire molochs" have got such a firm hold not only on the financial machinery of the United States but on all the staple trades and industries that no ordinary effort will ever shake them off. They have so many opportunities of tightening their grip and of stretching out their tentacles farther

and father that there is no immediate prospect of its being relaxed. The coming generation are probably destined to feel the iron grip of the millionaire grip more keenly than any of us have ever done. It is this threatened growth of his malign power that renders him alarming. So far we have only seen him in his cradle where he has reversed a mythical rôle of Hercules and the Serpent. In the American edition of this classical fable, it is the Serpent that strangles Hercules. The thrilling question is, What is he to be when full grown?

Imagination reels at the thought of a second generation of Morgans, Harrimans, and Schwabs wielding inherited millions with an accumulation of inherited skill and daring. The financial feats of their fathers may seem mere child's play to them—the rudiments of an art whose evolution has only begun. It will no longer be enough for them to control one or two departments of national life. They will be continually reaching out for more until the whole nation is brought within their toils. I can remember when the modest ambition of a Wall street banker was to get on the board of a trunk railroad. It was a point of vantage for him in many ways. When a little "pool" went wrong it could be passed on to the railroad, and when the railroad had anything cheap to sell another little "pool" could be formed to buy it and dress it up for the public.

The railroad reorganizations of 1894-1896 filled not a few pockets in Wall street with bursting. Wall street itself was so carried away by the prosperity they helped to create that stocks had only to be hoisted fast enough in order to attract buyers. New millionaires sprung up faster than mushrooms, while old millionaires found themselves literally overwhelmed by floods of fresh wealth. Anything in the way of financial conjuring became possible. Combinations, conversions, "communities of interest," mergers, pools, syndicates all called out for some one to come forward and perform them. They were as easy as playing poker, and every one of them had millions in it. From 1897 to 1903 Wall street gave itself up to a carnival of financial wizards. It had begun with the railroads, but it did not stop there long. Very soon the insurance companies were drawn into it. The banks, of course, could not resist the temptation. Nor could the trust companies. The churches kept out of it with difficulty and were much divided in opinion as to the propriety of accepting "tainted money." The hotel lobbies and the drinking saloons had no theological scruples. They hung over the ticker as if the fate of the country depended on it. Congress was not indifferent to the great game of speculation going on all around it. Neither Senators nor Representatives were mere academic observers of the rise and fall of prices. The remotest State legislature exchanged a good deal of wireless telegraphy with New York. The latest development of the speculative fever is said to be among western farmers. Instead of putting their savings on deposit in the local banks, as they used to do, they now intrust them to a "commission house" for a flutter in stock.

Under the fascination of this wide-spreading craze the Americans are becoming a nation of speculators. They may retort on us that speculation in wheat and stocks is at least more dignified and rational than universal betting on horse races. So it is, but it may for that very reason be much more dangerous to the nation. Betting in England is the vice of working men and boys, who have not much to lose by it. Among the educated and propertied classes it is comparatively rare. Speculation in America is much more extensive. All classes are more or less under its spell, and the amount of money staked on it is beyond comparison larger than what is staked in England on the turf.

Between speculation and betting there is another cardinal difference. Betting is simply a personal vice, the effects of which are limited to the bettors and their families. But speculation of the American sort in lands, stocks, produce, and property of every kind affects the entire community. It diverts trade from its natural course. It disturbs all the normal operations of business. It creates false markets and fictitious prices. It offers an irresistible temptation to organize the industries of the country on a speculative rather than on a commercial basis. Every business concern is capitalized with an eye to Wall street, and Wall street too often has the chief voice in its management.

Worst feature of all in a speculative state of society is the predominant power possessed by the moneyed interest. This would be a fatal drawback even if the moneyed interest was scrupulously fair and honest. In any kind of a gamble the long purse has a great advantage over the short purse, from the mere fact of being able to hold out longer. But when the moneyed interest has, as appears to be the case in America, no scruple, no sense of fairness, not even common honesty, to say nothing of moral shame, it becomes a case of professional sharpers against amateur punters. Can there be a shadow of doubt as to the issue? A rage for colossal speculation must sooner or later bring disaster on any community, however wealthy. But colossal speculation conceived in fraud and inventing rogueries at every turn may threaten shame as well as ruin.

If the colossal speculators were a class by themselves who rooked each other and said no more about it, there would be some hope of their dying out in time. But the Napoleonic operators in Wall street are not mere gamblers. They are also the financial leaders of the nation, its bank presidents, its railroad directors, and the heads of its great industrial organizations. They have a finger in every pie—social, political, and commercial. Wherever there is an honest profit to be got, they have the first chance of it. But that is not enough for them. They are continually scheming for unfair advantages and secret "pulls" over other traders. The meanest tricks and dodges are resorted to against competitors. And when all else fails, they can stoop to the grossest forms of corruption.

Any self-respecting man would be ashamed to avail himself of all the special advantages which American law heaps on the capitalist as such. If he happens to be a manufacturer he is protected to the extent of 20, 40, 60, or 100 per cent; he gets rebates of 40 or 50 per cent on all the traffic he gives to the railroads; he is allowed a drawback of 90 per cent on all the foreign material he works up and reexports; he can, if he likes, charge one price for his goods at home and another price abroad. If he is a banker, he can claim a share of the Treasury deposits; he has a free hand to rake in money from the public, and use it for speculation; he is also free to organize speculative pools and syndicates, to conduct bull campaigns, and to assist in financing his bullish confederates. If he is an insurance director, he can see that his insurance company keeps large cash balances for his bank, or his railroad, or his soap trust to draw upon for their little deals.

Any reasonable man should be satisfied with such a long start over his competitors. The heathen Chinese could have won every game with only half as many cards up his sleeve as a millionaire operator has all the time. No human being, therefore, has less excuse than the millionaire operator for sharp play. With such chances as his it should be almost impossible for him to miss anything in sight. The wonder is that he should think it worth his while to be a sharper. As

to the fact, however, there can unfortunately be no doubt. One sickening revelation after another demonstrates it. Rather than miss a cent he will bribe, cheat, and lie for it. Formerly he only fleeced the public, but now he poisons them at the same time.

Men of this stamp are the millionaires of Wall street, the so-called money power of the country. They have a very large proportion of the national wealth in their keeping, and can use or abuse it as they please. The millions they play with are not their own; 70, 80, or it may be as much as 90 per cent of the money is borrowed. They have time loans and call loans running at different banks. One pool they may finance in New York, another in Boston, and another in Chicago. Apart from these they may have blocks of stock pawned in London, Paris, and Amsterdam. Their simple and innocent rule is to borrow at every open door, and they never stand on matters of form. If they can not raise a loan they will negotiate a bill or coax an acceptance out of some foreign bank. It is literally true at the present moment that the big plungers in Wall street have their hands in everybody's pocket. They owe Europe a few hundred million dollars as a small supplement to their home loans.

Mr. President, I believe that this legislation will operate to increase that power. What ten banks will be organized into the national association which will be formed in New York City? It will be composed, of course, of the two leading groups of banks of that city. Under this proposed measure no other banking association can be formed in New York City. Those banks will control the situation. Their board of directors, the three men constituting the executive committee, the real power in that organization, will be men whose interest it is to make war on and gather in different banks that seek admission to that organization, and sooner or later to take them over just as they in the last panic took over and absorbed certain banks in New York. This writer says further:

However many fortunes may be made in this way, no nation can ever be permanently enriched by them. It is more likely to be impoverished, for they are signs of decay and not of progress, they are suicidal elements in national economy. Lest this should be considered too sweeping a judgment, I hasten to qualify it with the remark that it applies only to the Wall street section of the millionaire oligarchy, there being honest millionaires, doubtless, but not many of them frequent Wall street. When they go there, it is neither for their health nor for the public good.

Besides being a colossal gambler, the Wall street millionaire has another peculiarity that bodes ill for the future of the nation. He is a born and ingrained monopolist. His keenest pleasure is to feel that he has left nothing behind him for anyone else. A Rockefeller will spend his whole life in building up a monopoly that defies law and decency alike. He makes himself a human boa constrictor, whose movements are watched with fascinated horror as he swallows his victims one after another. A Steel Trust will deliberately set itself to capturing all the chief sources of its raw material, and every year it recounts with pride the thousands of acres of iron deposits that have been added to its territory. It may require only another ten or twenty years to corral all the best iron ore in the United States.

With the acquisition of the holdings of the Tennessee Coal and Iron Company the United States Steel Company has to-day practical control and ownership of 90 per cent of all of the known iron-ore deposits of this country. This writer continues:

By that time, too, all the copper ore worth mining may be in the hands of one omnivorous combine; the cotton crop may be pooled by a planter's ring; west of the Mississippi there may be a minimum price for wheat, and the acreage sown may be carefully regulated in order to maintain it.

Mr. President, I am rather reluctant to surrender the floor for the time being, but as others desire to speak and are in waiting, I yield the floor for the present.

Mr. ALDRICH. Mr. President, I hope we shall be able to get a vote upon the conference report without further discussion, and I ask that a vote be taken by the yeas and nays.

The VICE-PRESIDENT. The Senator from Rhode Island asks that the vote upon the adoption of the conference report be taken by yeas and nays.

Mr. STONE. Mr. President—

Mr. ALDRICH. I have not yielded the floor, Mr. President. The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Missouri?

Mr. ALDRICH. I do not.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays?

Mr. STONE. Mr. President, I desire to discuss the conference report.

Mr. ALDRICH. That is all right. Was there a second to my demand for the yeas and nays?

The VICE-PRESIDENT. In the opinion of the Chair there was a second.

Mr. ALDRICH. Now I yield to the Senator, if he desires to discuss the report.

The VICE-PRESIDENT. The Senator from Missouri.

Mr. STONE. Mr. President, I desire to make a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Missouri rises to a parliamentary inquiry. He will state his parliamentary inquiry.

Mr. STONE. The Senator from Rhode Island stated that he desired to have a vote on the report, and that it should be a yeas-and-nays vote, and he asked for a second.

Mr. CLAPP. We can not hear the Senator. I trust he will speak a little louder.

Mr. STONE. The Chair said there was a second. My inquiry is to ascertain from the Chair just what the status of the measure is under that request.

The VICE-PRESIDENT. The Chair did not hear the Senator from Missouri distinctly. Will he kindly repeat his request?

Mr. STONE. I should like to know what progress was made by the request of the Senator from Rhode Island, which the Chair said was seconded.

The VICE-PRESIDENT. The demand being made by the Senator from Rhode Island, the Chair asked if there was a second. The Constitution requires that the yeas and nays shall be taken upon the desire of one-fifth of the Senators present. More than one-fifth of the Senators present seconded the demand. The Chair recognizes the Senator from Missouri.

Mr. STONE. I gather from what the Chair says that we are about where we were before the request was made.

Mr. ALDRICH. Just a little further ahead.

Mr. STONE. Mr. President, in one of the morning papers I find a statement that the junior Senator from Arkansas [Mr. DAVIS] has sent me a telegram in this language:

Hold the fort, for I am coming.

I desire to say that I have not received any such telegram from the Senator from Arkansas, or any telegram whatever from him. The statement in this journal, therefore, is the creation of an active reportorial imagination.

Mr. President, an impression seems to have gone forth—

Mr. SCOTT. I have no doubt the Senator is saying something important, but we can not hear it.

Mr. STONE. I fear I can not employ a sufficient volume of voice to reach the ears of the Senator from West Virginia. If he is sufficiently interested in my remarks to wish to hear them, he will have to come forward. I can not go back.

An impression has gone abroad that there was a disposition on the part of some Senators to adopt filibustering methods to defeat the passage of this measure.

I am inclined to think that some Senators even have that impression. They act as if they had, and speak as if they had. So far as I am concerned I have no desire to engage in methods of that kind or to unduly delay the Senate in the transaction of its business. But I do think that this is a measure which ought to be very deliberately and exhaustively discussed. The attention of the country ought to be fixed upon it and it ought to be thoroughly understood by the people everywhere. It is a piece of vicious legislation, the worst we have had before the Congress for many years.

However, filibustering, in the full meaning of that term, can hardly be defended, much less justified, except when some great constitutional question involving the integrity of our institutions and the liberties of the people is at issue. It can not properly be resorted to and persisted in to defeat mere economic measures of legislation merely because we may regard them as unsound and extremely bad. But a measure like that now before the Senate should be kept here and held up to public attention long enough to enable the people of the country to understand what it means. I will go further and say that if any economic question would justify methods intended to procrastinate and to defeat legislation by delay it seems to me we have that question before us now. Still it is not my purpose to press this fight beyond reasonable limits.

Mr. President, I have been asked if I intend to follow the "filibusterer," so called, from Wisconsin. I am cooperating with him now. Moreover, I am willing to say that in this instance I am following his leadership.

The Senator from Wisconsin is a Republican, eminent in his party councils. He represented for a number of years a Republican constituency in the House, was afterwards the Republican governor of his State, and now holds a commission in this body by Republican favor. When a Republican leader of such long public service and distinguished ability rises in the Senate not only to protest, but to make open and aggressive war against a measure of legislation like this brought in here now as a party measure, when he evinces courage enough to denounce it as vicious and dangerous and thus excite the hostility of his party associates, I am willing not only to cooperate with him, but to accept and within reasonable limits to follow his leadership.

The Senator from Wisconsin often expresses views I do not accord with. He does some things in public life that do not have my approval. But in this instance I am in accord with his purpose to expose this bill and, if possible, to defeat it. I do not suppose it will be defeated. I do not think it will be. But it ought to be. It will not be defeated, because the Re-

publican House has already passed it and because the Republican Senators who control this body are determined to pass it, and because the President is ready to sign it.

However, it will not be passed, and should not be, after only a mere perfunctory opposition to it. The country must know what the bill is, and it must be discussed long enough to rivet public attention upon it to the end that later an enlightened public judgment may be pronounced upon it.

Mr. President, there is a point on which I desired to address myself more particularly to my Democratic colleagues, but they do not seem to be here. Am I at liberty under the rules to suggest the absence of a quorum?

Mr. ALDRICH. Mr. President, I would suggest that it is clearly not permitted under the decision of the Senate.

Mr. STONE. There has been intervening business.

Mr. ALDRICH. Not that I know of.

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). The Chair does not understand that there has been any intervening business.

Mr. STONE. The Chair rules that it can not be done?

The PRESIDING OFFICER. The Chair rules that it can not be done at this time.

Mr. STONE. Well, I will say what I wanted to say anyhow. I will speak to the absent ones.

Mr. BURKETT (in his seat). Give them absent treatment.

Mr. STONE. I will give them absent treatment. I see two Democratic Senators on the floor and ten Republican Senators—twelve in all.

Mr. BURKETT. Mr. President, if the Senator will permit me, I will say that he perhaps does not realize that during the last few weeks the Senators on both sides of the Chamber have been carefully attending to the duties here. The Senator may not have observed it, as he has been away of late, but they have been attending the sessions very closely and have been working very hard, I will say to the Senator, on a good many matters of importance, and especially on this bill. I suppose in a good many years there has not been as close attention to the public duties, both day and night, as there has been very recently in the Senate. That may account, I will say to the Senator, for the absence this morning of some of his Democratic colleagues and also of some Republicans. It is not fair to have the Senate as a whole charged with any lack of attention to public business without having some sort of explanation made. Since the Senator himself, having been absent, has not perhaps been personally cognizant of the close attention that the Senate has been giving to this question.

Mr. STONE. I am glad that the Senator from Nebraska has spoken a word in defense of the Senate; and, whatever else he accomplishes by that vigorous statement, it is now made manifest in the Record that he was one of the ten present on the other side. Mr. President, I have been at home for a week—

Mr. BURKETT. Mr. President, if the Senator will permit me—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. STONE. I am always glad to yield.

Mr. BURKETT. I did not have that intention, I will say to the Senator, for we have had abundance of opportunity in the last twenty-four hours to demonstrate our presence. That was not my object. My object in rising was to have it go into the Record that there are at least some of us who are not guilty of the conviction the Senator has made in his remarks of inattention to this bill. There are some of us who for the last seven or eight weeks have been staying here and studying this legislation and giving it attention. While it may not be satisfactory, nevertheless it is not the result of inactivity or lack of attention; and while there may be some, perhaps, who have been away necessarily, as the debate in the last few hours has shown, they have not realized just the work that has been given by those who have stayed.

That was my intention in rising. It was to call to the attention of the Senator the fact that this matter had been given consideration and that there are some who were absent during that time.

Mr. ALDRICH. Will the Senator yield to me for a moment?

Mr. STONE. I am delighted to yield.

Mr. ALDRICH. I think the entire absence of the Senator's Democratic colleagues is owing to the fact that they were not aware he was going to speak on this subject this morning.

Mr. STONE. Mr. President, the Senator from Rhode Island is facetious. If he has any reputation for signal ability in any special line, it is of being a wit. I thank him for his witty compliment, which I know was entirely sincere. Sincerity, by the way, is another distinguishing trait of the Senator from Rhode Island.

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Oklahoma?

Mr. STONE. Certainly.

Mr. GORE. I merely desire to suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The suggestion is not in order at this time.

Mr. GORE. If I am in order, I appeal from the decision of the Chair.

Mr. ALDRICH. The Senator can not appeal from a suggestion that can not be made.

The PRESIDING OFFICER. The Chair thinks an appeal is not in order.

Mr. GORE. What is the ruling of the Chair?

The PRESIDING OFFICER. The Chair holds that an appeal is not in order.

Mr. GORE. I submit that the very object of the appeal is to see whether the suggestion was in order or out of order. This is an arbitrary proceeding and it ought not to be indulged here or elsewhere. It is absolutely without precedent in this, or, I believe, in any other branch of the Government. Is it only questions that are in order from which a Senator can appeal? No appeal would lie in those cases, because none would be desired.

Now, sir, I appeal from the decision of the Chair, to determine the very question as to whether or not the suggestion was in order. The Senator from Missouri has commenced speaking since the ruling of the Chair on this point before.

The PRESIDING OFFICER. The Chair has already held that the appeal of the Senator is not in order. The Senator from Missouri will proceed.

Mr. STONE. Mr. President, we are making progress in the Senate. We have got to a point where the Chair can deny an appeal to the body of the Senate. A Senator rises and makes a point of order. The Chair says that he is wrong. Then the Senator asks to take the judgment of the Senate upon it, and the Chair says he can not do it and he will not be permitted to do it. We are making progress, and I suppose that the next step will be a previous question or a cloture rule.

The Senator from Nebraska [Mr. BURKETT] spoke a moment ago in defense of the Senate. If we go on at this rate it will need defense, and you know it. There is not a Senator sitting over there who does not know that you are using force for the exigency of this moment, but, remember, it may come home later to plague you.

Mr. BURKETT. Mr. President, I want to be clearly understood. I only spoke in defense of the Senators who have been attending the Senate for the last several weeks. That was all of my remark.

Mr. STONE. Well, Senators who attend the Senate need not to be defended or apologized for on that account.

Mr. President, if it subjects me to criticism to say that I follow the lead of the Senator from Wisconsin [Mr. LA FOLLETTE] because he is a Republican, I am more than willing to take the consequences of the criticism. I wish my Democratic colleagues around me, or who ought to be around me, but whose seats are vacant, would stand here in the Senate to speak against this legislation and fight it as it ought to be fought.

Mr. President, I have said this is bad legislation. That is an opinion quite generally concurred in, if we can judge by the editorial expressions of many of the leading newspapers of the country. I have here an editorial from the Philadelphia North American that I want to read. It is as follows:

THE CURRENCY CRIME.

"Dead and damned!" was the epitaph which a famous Democratic editor once wrote at the close of a Democratic Congress which had proved itself the enemy of the common interest and the servant of public enemies.

Are there not three or four Republican Senators big enough, broad enough, farsighted enough, and sufficiently patriotic to save us the humiliation of being compelled by honesty to repeat that epitaph when this present Congress dies—none too soon?

Are there as many as three or four? One has spoken; only one. Is he the only Republican Senator who stands against this iniquity? One of your great journals is crying out to you, and so far there is but one response from the Republicans of this body—

The Republican party is about to go before the people with the mongrel, hybrid, cheating, swindling thing labeled the "Aldrich-Cannon currency bill" as its claim to the ballots of American workers and business men, already long-suffering and embittered victims of the gamblers of New York.

It has been whipped through the House, to the shame of the men who have stilled their own convictions and crouched cowards under the lash of the vulgar tyrant in the Speaker's chair for fear of his threat to deprive them of their slices from "the pork barrel"—their appropriation in the omnibus building bill.

It will be whipped through the Senate in like fashion, in all likelihood, thanks to the feebleness of the Democratic minority, playing the donkey's rôle as usual in their inability to see the chance to gain favor by a filibuster that would be patriotic statesmanship.

Worst of all, we believe that Roosevelt will make the bill a law by signing it. He will hurt his country and his party not because of lack of courage or of good intent. He will do this sin because of lack of understanding.

In grasp of financial questions he is an infant. He trusted Cortelyou. That was excusable. But he continued to trust him after last December. And now again, with the best of motives, he will commit one of those blunders which Taftleyrand rightly called "worse than a crime."

Are there not two or three men in the United States Senate not too deaf to hear the stern warning of all the legitimate business interests of America?

Has not Roosevelt enough friends there to save him from himself?

Are there not enough loyal Republicans to keep the party from being rushed into gravest peril by this foisting upon the people at the dictates of a Wall street a law immeasurably worse than the one condemned by practically every organized body of business in the nation?

Even the original Aldrich bill was better than this iniquity.

And it was better, bad as it was.

It was only eighteen months or so ago that ALDRICH on the floor of the Senate made this declaration regarding municipal and railroad bonds: "In these days they are fluctuating widely, and no prudent banker could afford to buy bonds other than the bonds of the United States."

But that was before he had new orders from 26 Broadway and the National City Bank, and before J. P. Morgan's office boy in Washington received the message that illegal bond issues would be needed for Wall street's convenience in addition to \$250,000,000 deposits of the people's money.

Those high financiering banks of New York owed outside banks \$410,000,000 just before last fall's panic. From August until December the country could squeeze only 5 per cent of its own money from New York's clutches. And Wall street made a virtue of paying \$20,000,000 of its \$400,000,000 indebtedness to the distressed country, during a period when the accommodating Cortelyou increased the Treasury deposits in New York banks \$47,000,000.

But Wall street had bonds in plenty—railroad and municipal bonds unsalable, unacceptable by savings banks, and so speculative and unstable that many of them fluctuated from 10 to 20 per cent within a year.

New York was the defaulter of the nation, with its illegal clearing-house certificates. But there were bonds to build new skyscrapers in Broad street if heaped in bundles, flotation upon flotation.

There were bonds enough when Mr. Cortelyou opened the Treasury doors to them to increase the deposits of railroad and municipal bonds with the Government from \$87,000,000 in October to \$200,000,000 in December. And still Wall street gasped for breath under its load of dubious securities.

It was to dump upon the Government that load that ALDRICH introduced the bill that he did not himself dare defend except as a makeshift. And it was that bill which brought forth an outburst of indignation from every board of trade and commercial body throughout the land.

The protest was so universal that ALDRICH voluntarily withdrew his proposal to accept railroad bonds as security for currency. He did so in an attempt to forestall LA FOLLETTE's tremendous indictment, of which this was an essential clause:

"For us to pass laws here that lend Government credit to railroad financiering schemes that guarantee, in a measure, railroad securities and adopt railroad securities, good, bad, and indifferent, into the currency system of the country, without either discrimination or investigation, could not be justified under any pretext of serving the public interest."

But on that same March day the Wisconsin Senator warned the country that the vicious proposal had been dropped only temporarily and would be revived. He was right. ALDRICH and his clique even then were preparing to prove themselves tricksters and faith breakers.

Mr. KEAN. Mr. President, it is impossible to hear the Senator.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. STONE. I can not afford to yield. I must object.

Mr. KEAN. I am very anxious to hear the Senator, and I can not hear him.

The PRESIDING OFFICER. The Senator from Missouri declines to yield.

Mr. STONE. I decline to yield. It is against the proprieties for interjections of that kind to be made.

The anger of the people was lulled to sleep. The public watched with contemptuous indifference the Senate's passage of the emasculated Aldrich bill and the acceptance by the House of the spineless Vreeland measure, the latter, at least, having the merit of recognizing in a small way the only true basis of emergency currency—commercial paper.

And now, at the eleventh hour, the conspirators deliver their stab at the commerce of the country. They rush forward a bill well described as "half Senate infamy and half House infamy," embodying every rotten Wall-street device that lay in the earlier bills and discarding every amendment for the protection of honest banking and legitimate business.

Commercial paper is mentioned, and railroad bonds are not. Oh, the wisdom of these pirates, thinking they can mask their purpose with such word twisting! Just as if the business men of this country would not understand the meaning of "other bonds" and "any securities, including commercial paper."

State, county, and municipal bonds to be accepted at 90 per cent of their market value. "Other bonds" and commercial paper to be taken at 75 per cent only after arranging complicated and elaborate associations feasible only for the New York banks.

And even should such machinery be formed and the entire assets of the banks pledged, they could issue only 30 per cent of the unpaired capital and surplus on the security of commercial paper, while on "other bonds" the only limitation placed is that the issue, together

with the circulation based on United States bonds, must not exceed the aggregate capital and surplus of the issuing bank.

This law will mean the turning over of the Treasury of the United States to the gamblers of the New York Stock Exchange for a period of six years.

It will mean the making of "good times" and "bad times," of "bull" markets and "bear" markets, according to the pleasure of Rogers and Rockefeller in the National City Bank and J. P. Morgan in the National Bank of Commerce.

It will mean not the slow and certain movements of contraction and inflation by the natural laws of commerce, but sharp changes forced at will by the master gamblers.

It will mean the gift to the chief enemies of the nation of the power to issue or retire half a billion of dollars, exciting speculation or compelling disaster, according to whichever best suits their betting book.

What the effect will be upon the coming elections we do not know. We do not know what measure of punishment a long-suffering people will inflict upon their betrayers.

It is not the time to think of politics or partisanship. A thing is being done which will affect every employer and every employee in America, every banker, merchant, manufacturer, clerk, and mechanic.

We wish merely to warn one and all. The country will be in the condition of a convalescent to whom drugs that are powerful stimulants, but poisonous, would be administered.

There will be a boom—a feverish but false activity. The issue of half a billion of fiat greenbacks or 16-to-1 silver would have the same effect. And then, after the North American and the few like us have been mocked at as false prophets and pessimists, pay day will come. And the price will be a bitter one.

Mr. President, I desire to read, for the edification and enlightenment of the Senate, one or two other editorial expressions from leading journals of yesterday and to-day.

Mr. KEAN. Mr. President, I hope the Senator will read a little louder. I am trying to follow him.

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. STONE. I must yield to the Senator.

Mr. KEAN. I am trying to follow the Senator, and I should like him to read a little bit louder. It is very hard to hear him.

Mr. STONE. Will the Senator from New Jersey sit right here beside me?

Mr. KEAN. With pleasure; I always like to sit at the feet of the Senator from Missouri.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Certainly.

Mr. ALDRICH. I suppose I can get a little nearer the Senator, but I am very anxious to hear him, as I understand—I have seen it in the newspapers, though I do not vouch for the accuracy of the statement—that the Senator from Missouri is here with a mission from a Presidential candidate.

Mr. STONE. The Senator must also speak loud enough to be heard.

Mr. ALDRICH. I say I have seen a newspaper statement—I do not vouch for the statement, but I have seen it in the newspapers—that the Senator from Missouri is here with a mission to speak in behalf of one of the Presidential candidates; and, if that be so, I think it is quite important that we should hear his statement. [Laughter.]

Mr. STONE. Mr. President, I have no commission—

Mr. ALDRICH. Mission.

Mr. GALLINGER. Permission.

Mr. STONE. I have no commission or permission or request from any candidate for the Presidency to speak for him. Will the Senator from Rhode Island please indicate what candidate for the Presidency he refers to? Let us be specific, if it is worth attention at all.

Mr. ALDRICH. I saw in the headlines of the newspapers—and I rarely get a chance to read any more than the headlines—that Mr. Bryan had asked the Senator from Missouri to come here as his especial representative. I do not vouch for the accuracy of the statement.

Mr. STONE. I did not see any such statement in the newspapers; I did not see what the Senator saw; but I will say to him it is one of those rare instances in which the newspapers are wrong. [Laughter.] Now, here is an article from the New York World.

Mr. GALLINGER. A Democratic paper—

Mr. STONE. Such a Democratic paper as I always quote with reluctance.

Mr. KEAN. That evidently shows that you are not bearing the commission which was referred to.

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. STONE. Mr. President, let it be taken for granted now, just to avoid these oft-repeated inquiries, that the Senator from Missouri yields to anybody at all times.

This article is headed "A vicious currency bill." It is as follows:

Having been railroaded through the conference at the eleventh hour in the spirit of political humbuggery, the Aldrich-Vreeland compromise currency bill naturally is more of a campaign than a financial measure.

That is the literal truth, even though it appears in the World. It is a campaign document, a reaching out and groping for something to go before the country with, and this because you feel you must do something; but, in the name of heaven, why you should want to take this to the country I can not understand.

All the Aldrich features of the compromise bill had been formally rejected by the House as unsound, and all the Vreeland features had been roundly condemned by the Senate as unsafe. Conservative banking interests and recognized currency authorities counseled postponing action until a commission could report after careful consideration. As for offering relief in time of emergency, for which purpose the Aldrich-Vreeland bill is ostensibly drawn, in many respects it promises to be wholly unworkable and ineffective.

From the Aldrich bill the Republican conferees lifted the provision making bonds other than those of the United States a basis for circulation. When pressed by Senator CULBERSON yesterday in debate, Senator ALDRICH admitted that railroad bonds could be deposited as security.

And on yesterday also the Senator from Rhode Island admitted that railroad stocks could be deposited.

Mr. ALDRICH. I beg the Senator's pardon.

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Certainly.

Mr. ALDRICH. I beg the Senator's pardon. I made no such admission.

Mr. STONE. It is so printed in the papers this morning.

Mr. ALDRICH. That is another evidence of the unreliability of the newspapers at times.

Mr. STONE. Well, I will ask the Senator if a bank should happen to be the holder of railway stocks—

Mr. KEAN. A bank can not hold any stocks under the national bank law.

Mr. STONE. I know; but it might have them as security for a loan.

Mr. KEAN. That is different.

Mr. LONG. We can not hear the colloquy between the Senators.

Mr. STONE. I should like to know whether such stock can not be used as a basis of circulation?

Mr. ALDRICH. Under which contingency does the Senator mean?

Mr. STONE. Under any contingency.

Mr. ALDRICH. Mr. President, the national banks would not have railroad stocks in the first contingency, and, in the second case, they would not be permitted to pledge collateral which they hold for a customer to secure a loan.

Mr. STONE. Does the Senator from Rhode Island mean to say that the banks do not loan on stocks?

Mr. ALDRICH. That was not the question of the Senator from Missouri.

Mr. STONE. Well, then, I ask him now.

Mr. ALDRICH. I think they do.

Mr. STONE. Then they do?

Mr. ALDRICH. Yes, sir.

Mr. STONE. Now, if they put up their notes with the association as a basis for currency, would not the stocks go as security?

Mr. ALDRICH. I think not. It would not be within the province of the banks to pledge securities which they held under certain conditions for their own purpose, outside of loans. It would not be necessary for a bank to put up, under the provisions of the first section of this bill, stocks as collateral, because the notes themselves, if they contained two good names, would be available for that purpose.

Mr. STONE. Mr. President, I can not accept that interpretation, although it comes from so high a source. If stocks are held as security for a note, and the note should be offered to the association and accepted, it seems to me conclusive that the security would accompany it.

Mr. ALDRICH. If it did, Mr. President—

Mr. STONE. And the note might not be taken except for the security.

Mr. ALDRICH. If it were possible, as I think it is not, and I am clearly of that opinion, it certainly would not hurt the notes to have railroad stocks or any other securities for collateral, provided they contained the names of responsible parties and otherwise answered the provisions of the first section of this bill.

Mr. STONE. Nevertheless the fact remains, if my contention is correct, that railroad stocks, as well as railroad bonds, are indirectly, at least, the basis of currency.

Mr. ALDRICH. Mr. President, there can no such inference be drawn either from the bill or from any remarks which I have made. That is one thing that is perfectly clear. It has been decided time after time that a bank can not use for its own purposes collateral which is attached to a loan which they have made for a private person or a corporation.

Mr. STONE. How would you separate the security from the notes?

Mr. ALDRICH. You can not separate them.

Mr. STONE. Can not?

Mr. ALDRICH. No, sir.

Mr. STONE. If the note is put up, does not the security go with it?

Mr. ALDRICH. But the note can not be put up with that kind of collateral.

Mr. STONE. Well, that is a mere matter of assertion. Of course it does not seem to me to be a correct view. It is utterly untenable from my point of vision. However, we pass that now and proceed:

When his original bill was under discussion in the Senate he consented that this concession be stricken out. Now he—

This article uses a word I will not use. I will say, "gets it back in disguise."

As he values the bill, it is to be made serviceable to a coterie of banks and railroad financiers who are interested in bolstering up the bond market, in which they operate from the inside.

In securing for the banks the additional privilege of making commercial paper the basis of their circulation Mr. VREELAND won the main contention of the House, to which the Senate Committee on Finance, under Senator ALDRICH, had sworn it would never accede.

That is what you did. The Senator shakes his head. I did not mean to say, Mr. President—

Mr. ALDRICH. I took that means of dissenting.

Mr. STONE. I did not mean to say that he literally swore that he did not do it, because he never swears.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. To be sure.

Mr. ALDRICH. I took that means of dissenting because I did not like to interrupt the Senator's remarks.

Mr. STONE. Well, we all know that the Senator from Rhode Island was very emphatically opposed to the asset-currency feature and the commercial-paper feature of the Vreeland bill. I do not know that he ever swore by all the gods at once, or by any single god, great or small, that he would never accede to that; but that was understood to be his position all around here. I am tempted to quote what everybody seems to be quoting, namely, "Swearing he would ne'er consent, consented."

Commercial assets, under proper restrictions, could be safely used as the basis of note issues, as they are in Great Britain and France, but Senator ALDRICH has so contrived as to give preference to State, county, municipal, and railroad bonds, while obstacles to the quick use of commercial paper in the crisis of a currency stringency are so multiplied as to make it virtually unavailable. The compromise is thus, in effect, the Aldrich bill with its original iniquities coated with such added provisions as might render it palatable to the majority in the House.

By creating a commission and limiting the life of their compromise bill to six years, the authors of it confess that there is no need for haste and that their work is done merely for political effect on the eve of a national campaign.

Now, I am going to read something from the New York Times of May 29:

THE EMERGENCY BILL.

Nobody attempts to defend the emergency bill.

Is not that literally true? Is there anyone here who attempts to defend it? The Senator from Rhode Island explained it the other day; but does he defend it, does he justify it, does he approve it in all its provisions?

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. I am always glad to yield to the Senator.

Mr. ALDRICH. I certainly approve it, or I should not have signed the conference report. It is not strange, perhaps, as the Senator from Missouri has been unavoidably absent from the Senate, that he should not have known just what has transpired here.

Mr. STONE. That is an exceedingly luminous answer to my question, and out of a delicate regard for the feelings of my distinguished friend I will not press it; but, still it would be interesting if the Senator could find consent in his own mind to tell us just whether he does approve this bill in all of its provisions, and defends it and justifies it, and whether it has the entire approval of his wise judgment.

Mr. ALDRICH. Mr. President, if I had myself been constructing the bill it would have been different from this in some respects, but as all legislation, especially when there are differences between the Houses, is a matter of compromise, I would say that the bill in its present form does meet with my approval or else I should not have placed my name on this conference report.

Mr. STONE. Well, the New York Times says, "Nobody attempts to defend the emergency bill." Now, what the Senator

has just said will go to the Times, and I shall look to-morrow to see the Times' interpretation of his defense.

Even the preposterous proposal bears upon its face a limitation in time, which is the same as saying that it neither can nor should be endured longer. Yet this unendurable proposal is itself an alleviation of the erstwhile perfect currency system of the Republican party, to which it has pointed with pride uncounted times. With what scorn has our cherished Uncle Joe ridiculed those who advocated a "rubber" currency, and yet the genial old gentleman turns up smiling in favor of adding a half billion dollars to an already excessive volume of currency, whose merit but yesterday was the statutory prohibition of retirement when not wanted.

Now, that is true. This House passed what is known as the "Aldrich bill." It ought never to have passed it, but it did, and the House of Representatives struck out everything in the bill except the enacting clause, and they ought to have stricken that out. They then put in this Vreeland bill and sent it over here to the Senate. You know what you did with it. And so the Times is literally correct when it says:

Each House is on the record as formally condemning the proposals of the other House. The very gentlemen who sign the conference report combining all the faults do so apologetically. Upon this the Republicans propose to go to the country, and set themselves up stolidly for the ridicule of the judicious.

However, the thing is before the country, and respect for our lawmakers requires that some attention be paid to the ripe—not to say overripe—fruit of their half year's labors. The first thing which occurs is to compare it with the practice of bankers under conditions which make correct conduct a matter of financial life and death. It appears that the bill reverses what our bankers did. They accepted as a basis for clearing-house certificates commercial paper in the proportion of 3 to 1 of bonds. This bill makes the proportion of commercial assets acceptable 30 per cent of capital and surplus, leaving 70 per cent for bonds.

The editor further says:

Surely some of the Congressmen must have read Job. Bearing in mind that this is a bill exclusively for the regulation of financial cyclones, it is well to quote the seer who had almost as much cause for patience as we with Congress:

"Canst thou draw out leviathan with a fishhook, or press down his tongue with a cord? Canst thou put a rope into his nose, or pierce his jaw through with a hook? Will he make many supplications unto thee, or will he speak soft words unto thee? Will he make a covenant with thee that thou shouldst take him for a servant forever? Wilt thou play with him as with a bird, or wilt thou bind him for thy maidens?"

When these things happen to leviathan, then will financial cyclones follow the metes and bounds of this worthless defense against emergencies.

Now, here is an editorial from the Evening Post, of New York, of the 28th instant:

THE ALDRICH-CANNON EMERGENCY BILL.

"This bill," remarked the Democratic leader of the House of Representatives, when the latest currency measure arrived from the conference committee, "ought to be called the Aldrich-Cannon political emergency bill." This is in truth the exact definition of the hybrid measure which went through the House under the party lash yesterday afternoon by a majority of only twenty-six, and with thirteen Republican Representatives voting against it. Whether the "political emergency" has been met, in view of the jobbery, insincerity, economic ignorance, and defiance of the protests of the banking community which have attended every step in the legislation, remains to be seen. Speaker CANNON evidently thinks it has; so does Senator ALDRICH; and it appears that Mr. Roosevelt also has lent his aid, on the ground of a crisis for the party.

Think of the incomparable Roosevelt lending his aid to the passage of a bill merely to bridge over a crisis for the party! Oh, how often have we been told that he does everything from purely patriotic motives and with exalted purposes, and that he cares nothing about the small things of politics.

But now he comes—this wonderful man—and joins hands with the Senator from Rhode Island, and even with the Senator from Ohio, for mere party's sake. After all, he, like the rest of us, is of the earth, earthy. But even from the low plane of a mere party exigency you are blundering. When the attention of the country is fixed on the bill and the people come fully to comprehend what you have done, you will find it to be a blunder; and I intend to do what I can to attract the attention of the country to this miserable business. But I will read the remainder of this article:

With the Members of the House who yesterday voted for the bill, the case is very similar. Most of them, we imagine, will read the printed drafts of the bill to-day with as much curiosity as will the general public. They were summoned to vote for the new "conference measure" two minutes after it had been printed and when none of them knew what it contained, and they were allowed only one hour of debate. The strongest argument which its sponsor, Mr. VREELAND, had to offer to them for its passage, was that "it has been agreed to at a Republican conference of House and Senate managers," and that "it therefore ought to be adopted by this Republican House." There was a stronger argument, and one which undoubtedly insured the vote, but it was an argument which Mr. VREELAND would not have cared to commit to the pages of the CONGRESSIONAL RECORD. It was Congressman BARTHOLOMEW's open declaration of Monday: "I have the report of the conference on the public buildings bill in my pocket, and I am going to keep it there until a satisfactory currency bill has been passed," which settled the question with the unwilling House.

At the moment, it seems probable that the bill in its present shape will pass the Senate; it commands, in any case, the Republican majority, and could be defeated only through filibustering tactics. Supposing its enactment, the two questions are, first, the result in the

electoral campaign, and second, the aspect of the bill as a financial measure. We believe that, as a political maneuver, this currency legislation is a blunder.

The theory on which the politicians base their expectations is plain enough; the public would be informed on the stump that a critical emergency existed, that immediate return of last autumn's financial crisis and currency famine was at hand, and that the Republican party had enacted a preventive. This would be well enough, from a political point of view, if the public could only have been kept in ignorance of the facts, or in a state of indifference to them.

But the long and sensational Washington controversy; the protests of bankers and commercial organizations; the rebellion of the best-informed experts of the House of Representatives; the fracas in the House conference, which almost came to blows; the attempts to practice fraud on the public by calling the new-fangled bank groups "clearing houses;" the alternate use, in the last resort, of political bulldozing and corruption, and the permeating atmosphere of stock-jobbery which has existed from the first—all these incidentals have been blazoned forth on the pages of every newspaper. It is difficult to see how any voter who reads the daily press can have been left in ignorance as to the nature of the affair. Not least, as a practical appeal to the voter's common sense, will stand the obstinate and at length successful refusal of the Aldrich-Cannon clique to allow a single outside expert on the commission named to draft permanent currency legislation.

I have one more editorial, part of which I desire to read into the RECORD.

Mr. CLARK of Wyoming. What is it from?

Mr. STONE. From the Philadelphia Record of May 29.

Senator ALDRICH has been determined that emergency circulation should be issued only upon a deposit of bonds, supplementing bonds of the United States with the bonds of States, counties, and municipalities; and originally he specified railroad bonds.

And originally he specified a particular class of railroad bonds, too. But under this bill any kind of a railroad bond can be offered. Why did the Senator from Rhode Island, I wonder, enlarge that provision? Why did he not stick to the original idea? He does not seem to care to tell us.

The Republican House caucus agreed by a very large majority to the principle of accepting commercial paper as security for circulation. This is in accordance with the recommendations of most of our high Treasury officials, the currency committee of the New York Chamber of Commerce, and the currency commission of the American Bankers' Association.

The two coordinate branches of Congress, then, ALDRICH and the caucus, being at variance, and the party leaders feeling it unsafe to go into the campaign without some legislation to avert the currency stringency which occurs almost every fall, the only way in which an agreement could be reached was to fix up a bill containing both these propositions.

In order to carry out the views of the caucus, section 1 provides that not less than ten national banks, with not less than \$5,000,000 of capital and surplus, may form a national currency association. Any member of the association having notes secured by Government bonds to the amount of 40 per cent of its capital, and having a surplus equal to 20 per cent of its capital, may deposit with the association, "as a basis for additional circulation, any securities, including commercial paper, held by a national banking association," which is the legal description of a national bank. The association may then, in behalf of the bank that wishes additional circulation, apply to the Comptroller of the Currency for an amount not exceeding 75 per cent of the cash value of the securities or commercial paper so deposited.

At this point, however, ALDRICH begins to get his work in. This appears in the provision that "upon the deposit of any of the State, city, town, county, or other municipal bonds described in section 3 of this act (which imposes safeguards upon the character of the bonds), circulating notes may be issued to the extent of not exceeding 90 per cent of the market value of such bonds," and no bank "shall be authorized in any event to issue circulating notes based on commercial paper in excess of 30 per cent of its unimpaired capital and surplus."

Here is a very radical discrimination in favor of banks depositing bonds and against those depositing commercial paper: commercial paper alone, 30 per cent; commercial paper and bonds, 75 per cent; bonds alone, 90 per cent. Senator LA FOLLETTE is reported to be greatly exercised over the possible use of railroad bonds; but, so far as we can see, they will only come in with "any securities, including commercial paper," which a bank may deposit with a currency association. The provision in section 8 that the Secretary of the Treasury shall "from time to time furnish information to national banking associations as to such securities as would be acceptable under the provisions of this act" would, of course, afford a very valuable advertisement of such railroad and other securities as he should accept.

But ALDRICH's main work comes in in section 3, which would permit any bank having the surplus and bond-secured circulation already stipulated for, without going into a currency association, to deposit Government, or State, county, city, and town bonds which meet certain conditions and get notes to the amount of 90 per cent of the market value, not to exceed par, of the bonds deposited.

Probably this patchwork measure, annexed to the greatly patched present system, would facilitate an increase of circulation in an emergency. But the discrimination against commercial paper is unwarranted and would in a measure defeat the purpose of the act.

I read these editorials not because I think they are all of them right in statement or conclusion, but to show a somewhat general consensus of opinion among the leading journals of the Northeast—even that this is unwise legislation. What the journals of the West and South may say about it remains to be seen.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Certainly.

Mr. ALDRICH. The Senator called attention to the fact that the newspapers from which he has read are the leading journals of the Northeast. Does he consider them leading authorities in political matters as well as financial?

Mr. STONE. They are of course influential political journals. I do not know that they are authorities particularly.

Mr. President, I pass from these utterances of newspapers to a consideration of the opinions expressed by leading men in the financial world.

I have some documents here that contain hearings had within the last month or so before the Committee on Banking and Currency of the House.

Mr. ALDRICH. What committee is it?

Mr. STONE. The Committee on Banking and Currency.

Mr. ALDRICH. Of the House of Representatives?

Mr. STONE. Yes; that is the only Banking and Currency Committee I know of.

Mr. ALDRICH. Does the Senator consider the Banking and Currency Committee of the House a leading authority upon such questions?

Mr. STONE. I am not reading the opinions of the Banking and Currency Committee. I am reading the opinions of some gentlemen who appeared before it and expressed themselves on the so-called "Aldrich bill." The chairman of the committee said:

Now, gentlemen, we would like to hear from others with regard to this Aldrich bill who come here with the American Bankers' Association. We would like to have you gentlemen heard first, and I would like to call you up one after another and have you direct your remarks, if you will, to the measure, and as concisely as possible, since we have so many here who must be heard.

Mr. PRINCE. Let the record show that you are a banker and that you were formerly president of the American Bankers' Association, if such be the facts.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Missouri yield further to the Senator from Rhode Island?

Mr. STONE. Delighted.

Mr. ALDRICH. Does the Senator think that Congress, in the enactment of currency legislation, ought to follow the interests or the opinions of the bankers of the United States?

Mr. STONE. Oh, I do not think we ought to follow them, nor do I think Congress ought to disregard them. The opinions of bankers who have given much attention to currency questions are entitled to thoughtful consideration.

Mr. ALDRICH. Undoubtedly.

Mr. STONE. I think so, but at the same time we should not forget that sometimes bankers have such special interests at stake as might bias their judgment. They are in that respect just like other people. I would not follow them. I would simply listen with respect to their opinions.

Mr. ALDRICH. That is my view, too. There have been times when the people in the section of country the Senator from Missouri represents were not inclined to accept the opinions of bankers as conclusive upon their judgment.

Mr. STONE. What does the Senator mean by saying that that condition existed in the section of country from which I come? Is that any more true of the States of the Middle West than it is of the section from which the Senator comes?

Mr. ALDRICH. From a political standpoint I should say yes. I think the people of Missouri generally, and of the States in that section, have not been so favorable to banks and to bankers generally as have the people of the East.

Mr. STONE. I do not think we have followed them quite so blindly as have some of the people of the East. We have exercised greater independence of bank influence and bank dictation, but there is not any more enlightened public sentiment on the question of banking or of its uses and importance in the section the Senator comes from than in the section I come from.

Mr. ALDRICH. I was wondering whether the fact that the Senator was reading, with approbation, statements from leading bankers was an indication of a change of opinion on the subject in the community which the Senator so ably represents.

Mr. STONE. There is no change of opinion in my section, so far as I know, nor have I said I am reading with approbation. The Senator from Rhode Island can not suppress his bubbling humor. He overflows with it. If I thought he was really serious in what he said about the difference of opinion between the East and West concerning banks and bankers, I might say more about it. But his remark was only an irresistible outburst of Rhode Island humor. All I can do is to laugh and then read:

Mr. PRINCE. Let the record show that you are a banker and that you were formerly president of the American Bankers' Association, if such be the facts.

Mr. HAMILTON. Yes. I am a private banker, and the only member of this commission who does not come from a reserve city, and I am also a member of the currency commission of the American Bankers' Association.

I do not know that there is much that I can say in opposition to this measure more than what has already been said by Mr. Forgan and Mr. HEPBURN and others. This bill, as we view it, is of absolutely no benefit to the country banking institutions. It works as great a

hardship on the officers and directors of those institutions as it will on those of the commercial centers, and in many instances I believe it works a greater hardship, for the principal officers of the country banks are usually interested in other industries, and must, of necessity, do business with the institutions with which they are connected as officers, and the statement made by Mr. Forgan as to the amount of capital belonging to industries of directors and officers of his bank would apply about in the same proportion to the capital of institutions controlled by the smaller banks of the country. This bill, if enacted into law, would, in Illinois, take about three-fourths of the directors from the national banking institutions of that State. The reason that I happen to know of this is that during the last session of the legislature in Illinois a similar measure was introduced in that State relative to the State banking institutions, in which a clause very similar to this was proposed. I had occasion thus to look up the statistics on the matter and we found it would practically take a majority of the directors of the State institutions from those boards and leave them without the best men on their boards to conduct the business of those State institutions. The same rule will apply to both classes of banks.

Mr. ALDRICH. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. ALDRICH. I suppose the Senator is aware that the provisions which are being criticised by this gentleman are not in the bill.

Mr. STONE. Yes; but the substance of it is in the bill.

Mr. ALDRICH. Oh, no; not the substance of it.

Mr. STONE. Well, it is good reading anyhow. He says:

There is an objection to this measure, in my mind, that has not been brought up, and that is that it is within the power of the Secretary of the Treasury to discriminate against the country banking institutions.

Mr. ALDRICH. Will the Senator permit me to make a suggestion? The provision which the gentleman referred to was the amendment of the Senator's new political leader.

Mr. STONE. Whose?

Mr. ALDRICH. The Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. TELLER. The Senator from Wisconsin [Mr. LA FOLLETTE] offered the amendment.

Mr. STONE. Then it is not necessary to read it.

Mr. TELLER. You might see some new beauties in it.

Mr. STONE. I am not surprised that it was objected to. Do I understand the Senator from Rhode Island to say that the provision Mr. Hamilton was criticising was a provision offered by the Senator from Wisconsin?

Mr. ALDRICH. It was.

Mr. STONE. What was the provision as the Senator from Wisconsin offered it?

Mr. ALDRICH. It was the eleventh section of the Senate bill, which forbade loans to directors.

Mr. STONE. Did the Senator from Rhode Island agree to it?

Mr. ALDRICH. I agreed to it pro forma, but I did not agree to it in judgment. I did not expect that it would be a part of the bill when it was passed, and it is not a part of the bill.

Mr. STONE. Well, it ought to be.

I am going to read that through so that the Senator from Wisconsin can comment upon it when he has occasion to do so. He might desire to make some observations.

Mr. Hamilton says:

There is an objection to this measure, in my mind, that has not been brought up, and that is that it is within the power of the Secretary of the Treasury to discriminate against the country banking institutions and give to the commercial centers the benefit of the note issue. Under the provisions of this bill it provides that the Secretary of the Treasury may permit these notes to be issued if in his judgment an emergency exists. The failure of any national bank to apply for its pro rata share of such notes takes from it the possibility of securing these notes unless applied for within such period as may be directed by the Secretary of the Treasury, and he has the authority, under the provisions of the bill, to give this note-issuing privilege to centers applying for it within the immediate vicinity.

I believe the sentiment is universally against the Aldrich bill; and, in fact, I know it is, for the reason that I have taken the matter up by correspondence with thousands of bankers throughout the United States, and have been doing that end of the work, and received on an average of 100 letters a day from all sections of the country, from every class and description of bankers, and they have universally opposed this measure and believe, and so state, that it would be a menace to the financial interests of the country should it be enacted; and, with your permission, I would like to call your attention to the Vreeland bill.

Mr. ALDRICH. What was the last sentence read?

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Certainly.

Mr. ALDRICH. I should like to have the Senator reread the last sentence.

Mr. STONE. He remarked—

With your permission, I should like to call your attention to the Vreeland bill.

Mr. PRINCE. That, Mr. Hamilton, in effect, is really the Aldrich bill, except as to sections 8 and 11.

Mr. HAMILTON. Yes, sir.

Mr. PRINCE. And a new section numbered 4.

Mr. HAMILTON. Yes; there is practically no change in the bill from the Aldrich bill with the exception that sections 8 and 11 have been omitted from the bill and these other sections have been added. The tax on circulation, and so forth, is the same in both measures. The notes to be issued under this bill are a distinctive note, differing from the present national-bank note issued, and one of the serious objections to the measure is this: That it provides that a clearing-house association may be organized by ten national banks. If it is the intention of this bill to confine it to the cities having ten national banks, then it eliminates all but seven cities in the United States from the possibility of issuing such notes. Those seven cities are Baltimore, Boston, Cincinnati, Chicago, Philadelphia, Pittsburg, and New York. St. Louis and San Francisco could not come in in this list for the reason that they have not a sufficient number of banks. The city of Washington, D. C., can not come in under this provision. There is not a single city in the South that can come in under this list. If it is the intent of the bill that it shall be confined to such commercial cities, then that is limiting its scope to too few cities to be of any great benefit to the commercial interests of the country.

That, of course, has been provided for in the newly constructed bill, so that that objection does not obtain.

Mr. WEEKS. Why would it be to the detriment of the small institutions? You would go to your reserve agency and get your currency, would you not?

Mr. HAMILTON. Yes, sir.

Mr. WEEKS. Well, how is it going to harm you?

Mr. HAMILTON. It puts it within the power of the central agencies, of the combination of capital, to control the situation. It puts it within their power, with the right kind of man as the Secretary of the Treasury favorable to those institutions, to compel every banking institution in the United States to go to those centers for their relief.

Here is a statement made by E. F. Swinney, president of the First National Bank of Kansas City, and member of the Currency Commission of the American Bankers' Association. I have the pleasure of knowing Mr. Swinney. I will read what he says:

Mr. SWINNEY. Mr. Chairman and gentlemen of the committee, I only care to mention one section of this bill which we have under consideration and to show you to my mind the utter fallacy of the proposition of bonds for reserve, and in order to do so I will have to be a little bit personal, but I believe that we are here to take up these questions and discuss them to the point. The largest bank west of St. Louis, in the way of deposits, is in Kansas City. The president of that institution always went on the ground that he would keep a secondary reserve in the way of high-grade bonds, such as we have called for in this bill, as a part of the reserve—

Mr. ALDRICH. Mr. President, it is impossible to hear the Senator even from this distance.

Mr. STONE. I am trying my best to reach the ears of the Senator.

And he carried some \$5,000,000 of bonds of that class on hand at all times and advertised them. As representing the First National Bank, I had a number of discussions with him regarding the subject, and always told him that I was not in favor of the proposition; that I believed that the banks should have their assets in a more liquid state. Last fall, when the trouble came on, or when it was coming on, about the middle of October, he had these bonds on hand. We had about \$1,500,000 of commercial paper on hand falling due between that time and the 10th day of December. The National Bank of Commerce in Kansas City was compelled to sell their bonds. On the 10th day of December, Doctor Woods told me that they had sold \$3,000,000 of those bonds at a loss of \$300,000. On the 10th day of December, the First National Bank had collected every dollar of this commercial paper without one dollar of loss.

Mr. ALDRICH. Mr. President, I am not over 20 feet away from the Senator and I can not hear a single word he says, and I have no idea what he is discussing.

Mr. STONE. I am discussing the Aldrich-Vreeland bill.

Mr. ALDRICH. I supposed the Senator was, but I was not sure of it.

Mr. STONE. Well, I give the Senator assurance of it.

The PRESIDING OFFICER. The Senator from Missouri will proceed.

Mr. STONE. It affords me pleasure, Mr. President. I am reading somewhat at random from these hearings. All of the things I read as I go along I find are not entirely pertinent to the immediate question before the Senate, but they are instructive, and they cover the general subject and ought to go into the permanent Record.

Here are some hearings had before the House Committee on Banking and Currency on April 14 last. Here is the statement of Charles G. Dawes, esq., of Chicago, Ill. We all know Mr. Dawes, or know of him. I do not know just what he has said here; I glanced over it very hurriedly; but I will read a part of it anyhow.

Mr. PRINCE. Mr. Dawes, will you give your name and residence?

Mr. DAWES. Charles G. Dawes, Evanston, Ill.

The CHAIRMAN. What is your occupation?

Mr. DAWES. I am president of the Central Trust Company of Illinois.

The CHAIRMAN. Located at Chicago?

Mr. DAWES. Located at Chicago.

Mr. PRINCE. You were formerly Comptroller of the Currency?

Mr. DAWES. Yes, sir.

Mr. PRINCE. Between what years?

Mr. DAWES. From 1898 to 1901, I believe.

Mr. PRINCE. Is the bank of which you are president a commercial bank?

Mr. DAWES. The bank of which I am president is a State bank. Yes; we do a commercial business.

Mr. PRINCE. Does it do a regular commercial business?

Mr. DAWES. Yes. We do not take commercial paper. We loan only on collateral; but we do a regular commercial business, with checking accounts.

Mr. PRINCE. You do a checking-account business?

Mr. DAWES. Yes. Just here, gentlemen, let me say—

Mr. PRINCE. Just let me ask you one or two more preliminary questions, to get them clear in the record.

Mr. DAWES. Yes; go ahead.

Mr. PRINCE. If this Aldrich bill, that is now under discussion, should become a law, would you avail yourself of its privileges?

Mr. DAWES. I do not know; I have not considered that matter as yet.

Mr. PRINCE. Could the bank of which you are president avail itself of its privileges now?

Mr. DAWES. Ours is not a national bank; therefore we could not avail ourselves of its provisions.

Mr. PRINCE. That is what I am getting at. Let me ask you a further question: If this bill should become a law, would you change your present form of bank into a national bank in order to get the privileges of it?

Mr. DAWES. I do not know. Mr. PRINCE. I have come here to speak from a general standpoint about the Aldrich bill. It is a matter of no interest to this country as to whether my bank would avail itself of the provisions of the Aldrich Act or not. If you will please let me proceed now with a general statement upon this bill, after I get through I shall be very glad indeed to answer any questions that I am able to answer. But I would like, if I can without interruption, to make a statement upon this bill as I see it from its general standpoint, not with reference to my bank or any particular bank, but with reference to the interests of the country as a whole.

Mr. PRINCE. All that I wanted, Mr. Dawes, was to have the House and the country know exactly the conditions as they appear before the committee. I do not wish to catechise you, and I do not wish to interrupt you. Go on now in your own way. I simply wanted to show the facts as they exist.

Mr. DAWES. In the first place, I want to say, in connection with the Aldrich bill, which has passed the Senate, that I do not appear as advocating the passage of that bill in its entirety. I believe, as do most of those who have appeared before this committee, that the section relating to loans upon securities in which directors of the banks are interested—the number of the section I have forgotten—is unwise.

Mr. PRINCE. It is section 11.

Mr. TELLER. I wish to say that I think a Senator who makes a speech ought to be heard by the Senate, and I think I will call the Senator to order if he does not enable those of us who sit within 15 feet of him to hear what he is saying.

The PRESIDING OFFICER. The Senator from Missouri will try to raise his voice so that he may be heard.

Mr. STONE. Mr. President, if it so happens that a Senator's voice is feeble and weak, I should think he would still have a right to speak.

Mr. TELLER. I suggest to the Senator that if he is physically unable to read, under the rules of the Senate the clerks may read for him.

Mr. STONE. I do not know of any rule of the Senate by which I can have that done, with all due respect to my distinguished and amiable friend.

Mr. TELLER. There is a rule on the subject. Of course the reading at the desk can be objected to.

Mr. STONE. I do not know of any rule of the Senate that requires a Senator on the floor to pitch his voice at any particular key. But we have had some innovations on the rules in the last few days, and possibly we have reached a point now where the Senate or the Presiding Officer may determine just what volume of voice shall be used by one addressing the Senate. However, until that rule is made it can not be enforced.

Mr. PRINCE—

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. I do.

Mr. ALDRICH. The statement from which the Senator is reading is, I think, a very carefully prepared and a very comprehensive statement upon this whole question, and I should be glad if the Senator would ask to have it inserted in full as part of his remarks.

Mr. STONE. I would rather read what I have to submit. I would lose all the pleasure of the engagement. Still, if that is something the Senator wishes to insert in the RECORD, I will let it go and take up something else. I wish to be accommodating.

The junior Senator from Illinois [Mr. HOPKINS] does not appear to be in his seat. I am sorry to call attention to the fact. It was inadvertently done. I have a copy of a speech here in my hand delivered on March 25 last by the junior Senator from Illinois, and I am going to read a little from it. The Senator from Illinois said in the debate:

Mr. President, only a year ago, by an amendment that was offered by the Senator from Georgia [Mr. BACON], it was provided that in designating the Government depositaries the Secretary of the Treasury should consider all sections of our common country. Why was it? Was it to benefit some individual bank? Not at all. It was for the purpose of distributing this large sum of money that daily and weekly

and monthly comes into the Treasury of the United States all over this country for the benefit of the people themselves.

Mr. NELSON. Will the Senator from Illinois allow me to ask him a question?

Mr. HOPKINS. I will.

Mr. NELSON. Do not the banks loan out the money which is deposited with them by the Government to the public and charge interest for it? They do not conduct that part of the business as an eleemosynary institution, as a matter of charity. Does the Senator undertake to say that the money which the Government leaves with the banks is left there as a matter of charity for the banks to distribute among the people? Do they not mix it with their other funds and loan it out and get interest on it?

Mr. HOPKINS. Of course they do; and that is the intention when the money goes into the various banks. But I want to know how the Senator from Minnesota is going to obtain any consolation from that. If the money was kept in the banks the people would not get any benefit from it. Does the Senator suppose that if an interest charge of 1½ per cent or 2 per cent is made on the Government deposits the banks are going to pay it? Not at all. The people who borrow money will be compelled to pay it in the extra interest that is charged. It is an utter impossibility to regulate this by legislation here. If the banks are required to take this money as Government depositaries and pay 1½ or 2 per cent interest upon it, then the person who goes to the bank to obtain any part of that money will be required to pay that much more interest. So nothing will be gained for the general public. It comes right back to the proposition—

Mr. NELSON. Will the Senator yield to me for a question?

Mr. HOPKINS. I will.

Mr. NELSON. If these large city banks can afford to pay 2 per cent on the balances of the country banks, why can they not afford to pay the Government a little? They mingle the money they get from the country banks with Federal money and loan it out and speculate and make profit on it. Why is it any greater hardship for the banks to pay interest to the Government than it is for the banks to pay interest to the country banks?

Mr. HOPKINS. The Senator from Minnesota misconceives this proposition entirely. It is not a question whether the banks can afford to do it or can not afford to do it. It is a question whether the people from whom this money is taken by the reserve system we have shall be required to pay a greater rate of interest when they go to the banks to borrow money than they would under other conditions.

Mr. NELSON. Will the Senator yield to me?

Mr. HOPKINS. I will.

Mr. NELSON. Does the Senator have any information that the banks which get this money from the Government loan it to the people at any less rate than they do any other money?

Mr. HOPKINS. That is aside from the question entirely. It has no bearing upon it. It does not make any difference whether they do or do not. We know that if the banks are required to pay interest on the deposits, they will put the money out at a profit. We know that. If they do put it out at a profit, they are going to charge the person who borrows the money a higher rate of interest than they otherwise would.

There is another proposition in connection with this to which I desire to call the attention of the Senator from Minnesota and other Senators who feel as he does, that interest should be paid on these Government deposits, and that is this: Under the decisions of the Supreme Court of the United States, and under the clear reading of the statute itself that permits national banks to become Government depositaries, the Government never loses control of the money.

The money in a bank that is made a Government depositary is public money as much as that in the subtreasury or in the Treasury itself, and section 5489 of the Revised Statutes of the United States makes the banker an embezzler if he is unable to pay that money whenever it is demanded by the Secretary of the Treasury. You change that relation entirely—

Mr. FLINT. Mr. President—

Mr. HOPKINS. Just a moment. You change entirely the relation between the Government and the banks the moment you undertake to charge interest upon the Government deposits. Under present conditions the banks are simply fiscal agents of the Government of the United States. They hold the same relation to the Secretary of the Treasury as does the subtreasury at Chicago or New York or wherever those subtreasuries are located. They are governed by the same rules and the same regulations, and the money that they have is the money of the Government of the United States the same as the money in the subtreasuries.

Mr. President, you change that and require interest and you establish a contractual relation between the banks and the Government. You make a contract between them which entirely destroys this fiscal agency that has always been the marked feature of these deposits, and make the relation of debtor and creditor to exist between the two. In other words, you destroy the power of the Government of the United States to make an embezzler of a banker if he fails to respond with the money. His relation then to the Government is that of any other person who makes a deposit and makes an arrangement by which he is to have a certain compensation for it.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from California?

Mr. HOPKINS. I do.

Mr. FLINT. The Senator seems to have answered the question which I wanted to ask him when I rose. I should like to ask him, however, whether in his opinion, if this amendment is adopted, making a charge of 1½ per cent interest, or not less than that, it would change the relation, so that the banker could not be prosecuted if he embezzled the money?

Mr. HOPKINS. I undertake to say that if that arrangement is made, section 5489 can not apply to it. That applies—

Mr. FLINT. I want to ask the Senator a question. Then we simply ought to amend that section, too?

Mr. HOPKINS. Very well; you have to revise the criminal code of the United States in order to do that.

Mr. FLINT. We certainly ought to amend that section if this amendment is adopted.

Mr. HOPKINS. You have to do it if it is to be made a crime for the banker to fail to return the money on a contract to borrow money and pay interest upon it, a relation this amendment makes.

But I want to suggest to the Senator from California: Would it not be an anomaly in criminal law to make an embezzler of a man when you make a contract with him and require that he shall pay you a certain amount for the use of money, if he does not return it? Has the

Senator in his whole experience as a lawyer ever met an example of that kind? Is there either in the Federal or the State courts a case of the kind?

I maintain, Mr. President, there is not; and the reason why we can hold the banker as an embezzler under existing law is because this is public money and not the money of the bank. The bank is a fiscal agent of the Government.

Mr. NELSON. Will the Senator allow me a question?

Mr. HOPKINS. I will.

Mr. NELSON. Do not the bankers who receive this public money mingle it with their other money? Do they keep it as a special deposit? If they mix it with their own money and handle it as they do their other funds, is not that practically a conversion? And if the Senator's theory is correct, is it not true that every national bank that has received Government deposits, the moment it uses those deposits and mingles them with their other funds, is guilty of embezzlement?

Mr. FLINT. Mr. President—

Mr. HOPKINS. One at a time, please.

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from California?

Mr. HOPKINS. Only one at a time.

The VICE-PRESIDENT. The Senator from Illinois declines to yield.

Mr. HOPKINS. Of course a banker who takes the money of the Government on deposit takes it at his hazard, and if he is unable to respond when the Government calls on him, under the section of the statutes to which I have referred he is an embezzler. That is one of the hazards taken by the banker. It is no secret among people managing national banks that the great majority of national banks are not anxious to take deposits of this kind. The hazard is too great even under existing conditions for them to take the money and be ready to respond at any time to any demand that may be made by the Secretary of the Treasury. The hazard, however, would be increased if the criminal law should be changed as suggested by the Senator from California and interest be required upon Government deposits.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from California?

Mr. HOPKINS. I do.

Mr. FLINT. I simply want to state to the Senator from Illinois that I do not suggest that the criminal law be amended. On the contrary, I do not think it needs to be amended. I was answering the Senator by stating that if his contention were true, all that would be required would be to change one section of the statute.

Mr. HOPKINS. If my contention is true, all you have to do is to make a new criminal code and then let the courts determine whether it can be enforced. It would be an anomaly, I say, to make a criminal of a man who takes money, agreeing to pay interest, if he does not repay that money when demanded.

Mr. FLINT. I want to ask the Senator a question. If the Secretary of the Treasury requires the proper security, as it is presumed he will, how is there any possibility of the Government making any loss in connection with these deposits?

Mr. HOPKINS. The Secretary of the Treasury in 1837, and for a number of years thereafter, while he was making deposits in State banks, supposed he was taking the necessary security to make his Government deposits safe, but there was \$24,000,000 of money in the State banks that the Secretary was unable to get, and that led, as I stated before, to the establishment of what is known as the Independent Treasury system in this country.

Then the Senator from California [Mr. FLINT] interposed again.

I am glad to know, Mr. President, that in this conference report at last a provision has been inserted for the payment of interest by public depositaries on public moneys placed with them. That is the one redeeming feature of the bill. I read this part of the colloquy between the Senator from Illinois [Mr. HOPKINS] and the Senator from California [Mr. FLINT], with a view to asking the Senator from Illinois, hoping he would be here, what he had now to say about that provision in view of the fact that he was so bitterly opposed to putting it in before. [A pause.]

The PRESIDING OFFICER. Does the Chair understand that the Senator from Missouri has yielded the floor?

Mr. STONE. I have not yielded the floor—not yet. I shall do so presently. There are some important matters that I have here that I want placed in the Record.

Mr. President, I hold in my hand several consular reports on money and prices in foreign countries, giving a general idea of the monetary systems of those countries, which, it seems to me, would be very pertinent to this discussion. Here is something concerning the Argentine Republic. Mr. William I. Buchanan, our minister there, has made a report from which I wish to read:

ARGENTINE REPUBLIC.

I have lately received many inquiries from different parts of the United States with regard to the wages paid here in different trades and the effect produced on the earnings of the farmer and workman by the constant fluctuations in the premium on gold. In order that I might reply to these inquiries in the form of a report, I had been collecting information on the subject for several weeks when I received your circular of July 25 regarding the same topic. I beg, therefore, to submit the following, with the explanation that it was prepared before your circular was received.

In all instances I have endeavored to get my information regarding wages and prices from first hands, believing the result would thus be more satisfactory and more nearly correct than it would were I to rely on published statistics. I think the figures given herein can be relied upon, as they have been obtained in each case from responsible sources and from a sufficient number of persons to verify their approximate correctness.

It may be asked whether in the prices quoted I have made any allowance for the changes that must have occurred from year to year in the import duties on and in the foreign cost of articles mentioned. My answer is that I have compared yearly rates of duty for the period covered and find but few changes worthy of note; these I have, in each

case, referred to in a footnote. With regard to the rise or decline in the foreign cost of articles quoted, it can be broadly stated that each change has been in the direction of lowering their cost. With the exception of live animals, this is equally true regarding the exports from this country.

It seems proper in the beginning, in order that the country's present financial system may be better understood, to glance briefly at the history of Argentine monetary standards and financial legislation during the past fifty years.

MONEY IN THE ARGENTINE REPUBLIC.

When the people of this country secured their independence from Spain in the year 1816 they found themselves heirs to a monetary system that had been in existence for more than a hundred years in all the Spanish colonies in South America.

Under that system the Spanish gold ounce and silver peso were the units of value; and inasmuch as this country produced neither gold nor silver and confined its first coinage attempts (in 1813-14) to simply changing the design of the existing Spanish silver peso, the same units remained the measure of values for many years. Indeed it can be said that, notwithstanding the fact, as will be seen hereafter, that the circulating medium of this country up to the year 1881 was a conglomerate mass of foreign coins of all kinds, convertible and inconvertible provincial paper notes, and several kinds of copper token coins, the Spanish-American gold ounce was the final unit and measure of value.

Outside of the province of Buenos Aires, which conducted its affairs until the year 1862 as an independent State, and in which paper money, based on a gold quotation, has been almost the entire circulating medium for nearly sixty years, the remainder of this country was dependent for many years after its independence upon foreign coin for a circulating medium. Owing to the trade that was continually kept up between the northern provinces of this country and their old colonial but new republican neighbors, Chile, Peru, and Bolivia, the new coinage of these latter mineral-producing countries found its way into and became, in fact, the dominating element in the money in circulation in the interior of this country.

This Chilean, Peruvian, and Bolivian coinage consisted of the Spanish-American gold ounce of 27 grams 875 fine, officially valued by this Government in 1855 at \$17, in 1859 at \$16, in 1862 at \$17, in 1863 at \$16, and in 1876 at \$15.75; the Chilean condor, a gold coin of 15.253 grams 900 fine, valued in the years above mentioned at \$10, \$9.30, \$9.75, \$9.25, and \$9.15, respectively; and the Chilean, Peruvian, and Bolivian silver pesos, each of 25 grams 900 fine, valued alike as follows: 1855, \$1; 1875, 92 cents; June 6, 1876, 92 cents; September 18, 1876, 82 cents; 1878, 88 cents; 1879, 82 cents. In addition there were the Chilean, Peruvian, and Bolivian 20-cent pieces of 5 grams each 900 fine, their official value being more or less 2 cents on the dollar lower than the peso.

Unfortunately, however, for the peace of mind of those who had to handle these regular-weight coins, Peru and Bolivia issued pesos and cuatros of a lower weight and put them into circulation with their standard coins. These light-weight coins were of 20 grams 900 fine for the peso, 5 grams below standard, and of 4.491 grams 900 fine for the 20-cent pieces. These coins, or "melgarejos," as they were called, were valued by this Government in 1875 and June, 1876, at 74 cents for the peso; in September, 1876, at 65 cents; in 1877, at 69 cents, and in 1879 at 65 cents.

The name "melgarejo" was given these coins by reason of their having been first coined by a Bolivian President of that name, who induced the people of his country to accept them at par with the Bolivian full-weight coins by shooting several prominent merchants.

That is a very interesting historical statement, that ought to be preserved. I will read that again, so that it will not be overlooked:

The name "melgarejo" was given these coins by reason of their having been first coined by a Bolivian President of that name, who induced the people of his country to accept them at par with the Bolivian full-weight coins by shooting several prominent merchants.

Mr. GALLINGER. Shooting?

Mr. STONE. Shooting.

Mr. GALLINGER. That is interesting.

Mr. CARTER. That is a tragedy.

Mr. STONE. It is tragical, it is interesting, and I am very glad to call the attention of my distinguished friend from Montana to this historical occurrence, which he can use some day to adorn his splendid oratorical flights.

Mr. CARTER. In what jurisdiction did that shooting occur?

Mr. STONE. Somewhere down in Bolivia. The exact spot is not indicated.

Mr. GALLINGER. Were they shot to death, I will ask the Senator?

Mr. STONE. I am going to go a little further, and see if that be true. They were shot.

He thus gave the new peso his name, furnished a good definition for "curso forzoso," and for a time regularized the circulation of the melgarejos. But his success was short lived.

Mr. CARTER. That would indicate that he had received a deadly wound.

Mr. STONE. Mr. President, I must object to too much levity in the discussion of a serious question.

Mr. CARTER. Far be it from me to provoke any levity.

Mr. STONE. To renew the reading:

He awoke one day to realize that commerce paid no attention to his decree giving a fictitious value to a piece of metallic money, the demonstration being the fact that almost all of his short-weight pesos insisted on returning to his own country, while the full-weight pesos left it and found their home in this and other countries.

When the present Argentine coinage law came into force in 1881 these Bolivian coins were a source of great trouble in the operation of the new law, and to withdraw them from circulation Doctor Romero, the minister of hacienda, fixed a price at which they would be received at about 4 cents above their actual value, and within a few months was thus enabled to ship more than \$1,000,000 of them to Europe.

In addition to the above coins, there were in circulation here at the same time the United States eagle, valued at \$10.03 in 1876; the French Napoleon, valued at \$3.87; the English sovereign, valued at \$4.88; the Spanish doubloon, valued at \$5; the Brazilian 20 milreis, valued at \$10.96, together with a considerable amount of United States, Mexican, Central American, French, Brazilian, Belgian, and Spanish silver coins.

The constant fluctuation in the foreign and local value of these different coins was a continual menace to legitimate trading. Not only were they not received at the same value by any two provinces, but very frequently their value was radically different in cities in the same province. For instance, while the generally accepted rate at which the 25-gram silver peso was received in this country in 1876 was 21 to 22 to the gold ounce, a valuation below that fixed officially, as will be seen above, it required in Mendoza 13½ to 15 silver pesos to purchase a Chilean gold condor, worth \$9.15, while the same condor could be purchased in Rio Cuarto, 150 miles from Mendoza, for from 1 to 1½ pesos less.

This confused and confusing condition of the metallic money in circulation in the country up to the year 1881 not only forced merchants and producers alike to submit to ruinous rates of exchange on every hand, but necessitated the settlement of accounts by weight where metallic money was used. In consequence, the scale became a fixture in all countinghouses and shops, and the gold ounce, or some other gold coin, the final arbiter and measure of value, no matter how calculated, whether in silver pesos, "hard" dollars, subsidiary coin, or other moneys.

There is yet to be added to the above chaotic condition the paper money issued prior to 1881 by the Bank of the Province of Buenos Ayres and by those of several of the other provinces.

The issue of the Bank of the Province of Buenos Ayres consisted of an emission of \$795,247,656 of inconvertible paper and about \$10,000,000 of gold notes.

There is a note at this point which I will read:

In describing these notes throughout this report the term "gold notes" is used because of the fact that while in reality "metallic notes," it was always understood that what was meant by the latter term was gold, for the reason, as will be seen herein, that this was the only metal in circulation when they were issued.

Resuming the text:

The first sum was subsequently reduced \$96,790,000 by applying to that purpose part of the customs receipts, the province controlling the custom-house prior to 1862.

By the law of January 3, 1867, the provincial bank was authorized to redeem the above inconvertible notes at the rate of 25 to 1. This it did; but instead of paying out gold it paid out gold notes, which were accepted by everyone without question.

This method of conversion continued for several years. Meanwhile, as a result of the contraction thus brought about in the volume of currency, the wild-cat land boom of 1870, 1871, and 1872, and the Uruguayan crisis, public confidence in the ability of the bank became shaken, as it was seen that, by its course in paying out gold notes for its own paper, it was not accumulating gold to provide for their redemption. This feeling of insecurity grew rapidly. The bank's gold notes commenced to pour over its counters for redemption, and gold began to leave the country. Every effort was made by decrees to stop the outflow, but to no avail; gold rose to a premium, and then came the suspension of conversion on May 16, 1876.

The nation then stepped in and agreed with the province to issue \$10,000,000 of gold notes and to guarantee the \$12,000,000 of gold notes that had thus been issued by the province. All these were made "curso legal" and were accepted at the custom-house to the extent of 50 per cent in any one payment, the remainder to be paid in gold. In addition, the National Government agreed to pay 4 per cent on these notes and to prohibit the issuance of any other notes by any bank in the nation.

On September 29, 1875, a new monetary law was passed and a new unit of value, the peso fuerte, created. This peso fuerte was a gold coin of 1½ grams 900 fine. Notwithstanding the fact that this coin was never issued, it became the measure of value for six years.

With the exception of the influx of some foreign gold, as a result of loans, and saving the wide and erratic fluctuations in the value of all commodities as a consequence of the financial upheaval the country had witnessed, the monetary condition remained unchanged until 1881, when the law was passed creating the present monetary standard.

At that time the financial condition of the country, so far as it relates to its circulating medium, was about as follows:

Fiduciary paper emissions of all provincial banks	\$39,170,000
Fiduciary paper notes of private banks	790,000
	\$39,960,000
Foreign gold in Buenos Aires banks	8,939,583
Argentine gold in national bank	900,000
Silver in provincial banks	2,355,233
Silver estimated to be in circulation	4,000,000
	16,194,813
Making a total of	56,154,816

I will read the résumé and lay aside this interesting document from the pen of our able and accomplished minister.

Mr. CARTER. The present minister, or Mr. Buchanan, the former minister?

Mr. STONE. The former minister, Mr. Buchanan.

As will have been seen from the above, the national currency is inconvertible paper, with no redemption fund behind it other than the good faith of the nation.

It is a legal tender at par for all debts, except the payment of customs dues, for which it is daily received at a changing rate based on the current gold premium.

Under the monetary law of 1881 the nation has issued to August 1 of this year \$31,716,545 in gold coin, \$2,805,839 in silver coin, and \$876,871 in copper coin.

No silver is in circulation, for the reasons given herein, and very little exists in the country, certainly not above \$100,000.

Counting the national gold currency and the national inconvertible paper currency both at par, and the population of the country at 4,100,000, gives a per capita circulation of \$80.

The amount of gold estimated to be in the country at this time is \$25,000,000.

The gold rate advanced from 1.40 in January, 1886, to 4.20 in May, 1894, and has declined between the latter date and the present month to 2.70.

There is something here about wages, the prices of commodities, and so on, but I want to read only those things particularly pertinent to the question under consideration—matters relating to finance. So I will pass this over. I may have occasion to go back to it a little later on, on other phases of the subject, but not now.

Here is a report from Daniel W. Maratta, consul-general at Melbourne. He gives very valuable information concerning the financial system in vogue in New South Wales and Australasia generally. He says:

AUSTRALASIA.

NEW SOUTH WALES.

In accordance with the instructions contained in the circular of July 25 and received at this consulate on the 1st instant, I have now to report as follows:

I.—Standard of value.

Gold is the only standard metal in New South Wales. Sovereigns and half sovereigns are legal tender to any amount, provided that the pieces are not worn below 122.5 and 61.125 grains, respectively. The standard fineness of gold is eleven-twelfths fine gold, or decimal fineness 0.91666, and one-twelfth copper alloy. Silver coinage is legal tender to the amount of 40 shillings (\$9.74) only. The standard fineness of silver is fixed at thirty-seven fortieths fine silver, or the decimal fineness 0.925, and three-fortieths copper. Bronze coin is legal tender to the amount of 1 shilling (25 cents). Bronze is a mixed metal, 95 parts copper, 4 parts tin, and 1 part zinc. The coinage act does not prescribe the proportions, but the alloy used is as stated. The foregoing is based upon statute law (colonial) passed in 1854 and exists in practice.

The above information has been obtained from the reports of the royal mint.

II.—Amount in circulation.

The total amount of money in circulation in New South Wales, specifying the amounts in gold coin, in silver coin, and in paper, for 1894 was as follows:

Gold	£1,790,000=	\$8,699,400
Silver	350,000=	1,701,000
Bronze	30,000=	145,800
Note issue	1,153,250=	5,604,795
Total	3,323,250=	16,150,995

These are all bank issues. There is no State issue at present in this colony. The notes of the banks are payable to bearer on demand in gold or silver coin, according to the wish of the holder. These notes have no special provision for their redemption, neither are they legal tender in New South Wales.

III.—Per capita circulation.

The estimated population of New South Wales on June 30, 1896, was 1,289,770, so that the amount of money in circulation, £3,323,250 (\$16,150,995), was £2 11s. 6.24d. (\$12.53) per capita. (From government statistician of New South Wales.)

IV.—Changes in the system.

There has been no change in the monetary system of this colony, except that the notes of the banks of issue have ceased to be legal tender by effluxion of time. These notes, under the authority of the bank-note act, 1893, of the colonial legislature, were legal tender within New South Wales from April 9, 1894, to October 9, 1895, except at the head or chief offices of the banks in Sydney. At the expiration of this period the legislature did not deem it necessary to renew these provisions, which accordingly lapsed. At the most acute stage of the financial crisis of 1893 the colonial legislature passed a measure of relief called the "bank-issue act of 1893," which constituted the notes of banks named therein a legal tender as well as a first charge upon the assets of a bank in case of liquidation. It was partly in substitution of this measure that the bank-note act of 1893 was passed.

The balance relates to manufactures and wages, and I think I will pass it over, and then I shall have something to say about the money standard in New Zealand:

NEW ZEALAND.

I.—Standard of value.

Gold is the standard of value in New Zealand, the British system of coinage being in full force.

II.—Amount in circulation.

The approximate amount of gold coin in circulation is £100,000* (\$500,000); of silver coin, £75,000 (\$375,000), and of bank notes £965,000 (\$4,825,000).

The Government issues a limited quantity of postal notes through the post-office, which are found to be very useful in the transmission of money by business people. These postal notes are received at the banks the same as any other form of bank note, but are not held by any of the banks for any length of time for the reason that there is no special provision made for their redemption. Neither is there any restriction on the issue of bank notes, which are, however, a first charge on the assets of the issuing bank. Notes are payable in gold only at the branch of the bank from which they are dated—usually one of the four chief centers of population in the colony. The banks pay the Government a tax of 2 per cent per annum on their circulation, estimated quarterly on the average weekly circulation, which must be sworn to by one of the principal officers of the bank. The banks of the colony hold in coin £3,202,000 (\$16,010,000), of which about £3,125,000 (\$15,625,000) is gold.

III.—Per capita circulation.

The average circulating medium per capita is about £1 12s. 4½d. (\$7.88). The reason for this small average per capita is wholly due to the extension of the check system, which is used in payment of

* In his reductions the consul values the pound sterling at \$5; the United States Treasury valuation is \$4.866½.

even small accounts. A person rarely pays an account exceeding £1 except by check. The check system does not, however, apply so much to the business transactions of the working classes as it does to business people and the well to do, who invariably discharge their liabilities in this manner.

IV.—Coinage.

There are no mints in the colony; gold is coined at the mints in Sydney and Melbourne, in the neighboring colonies of New South Wales and Victoria. Only gold bullion is received, gold being paid for at the rate of £3 17s. 10½ d. (\$18.93) per ounce of the fineness of .9166, and the silver contained in the bullion at the rate of 1s. 9d. per ounce fine (44 cents), less a small charge for mintage.

V.—No change in the system.

As there has been no change in the monetary system of the country, as regards the abandonment or curtailment of the use of silver or paper currency, no statement can be made as to the effect of the present system (gold standard) on manufacturing industries and the prevailing rates of wages, beyond saying that the country is prosperous.

That is all there is on the subject of finances there. Here is an interesting little item about Victoria:

VICTORIA.

I.—Standard of value.

The standard of value in the currency of the colony of Victoria, like all the Australasian colonies, is exactly the same as the British standard, viz, the gold sovereign, with subsidiary coinages of silver and bronze, silver being legal tender to 40s. (\$9.73) and bronze to 1s. (24 cents).

II.—Amount in circulation.

There are absolutely no data upon which to base an estimate of the amount of money in circulation. The Government statist, however, gives the amount of gold, silver, and other metals in Victorian banks and the amount of notes in circulation (payable on demand in gold) at the end of 1895 as follows: Coined gold, silver, and other metals in banks of issue, £7,751,782 (\$37,723,947); notes in circulation, £960,300 (\$4,673,300).

III.—Per capita circulation.

These figures show the following:

Average per head of the population of the amount held by the banks	£6 11s. 2d.—\$31.90
Average per head of the notes in circulation	16s. 3d.— 3.95

Total per capita circulation 7 7s. 5d.— 35.85

There are no government notes in circulation in Victoria, these notes being issued by the banks of the colony, upon whose assets they are a second charge, the debt to the government, if any, ranking, first. But as the amount of notes in circulation is at all times small in comparison with the amount of gold usually held by the banks, ample provision is made for their redemption.

IV.—No change in the system.

There has been no change in the monetary system of the colony in the abandonment or curtailment of the use of silver or paper currency.

That is all there is upon that subject as to that colony. Here is another article of later date, made in 1896, from another minister of the United States to Bolivia, Mr. Thomas Moonlight:

It is not possible to answer in full, or even clearly, many of the points suggested, as there are very limited financial statistics for Bolivia, practically none on agriculture and none on manufacture. I have conversed with many intelligent men on the subjects embraced in the Department's instruction, and impart the information based on the best authority obtainable. I am quite sure it will be found reasonably reliable.

I.—Standard of value.

The standard of value in Bolivia is and always has been the silver unit, and the following letter from the director of the mint at Potosi, under date of September 9, 1896, will show the number of grams of fine silver in the boliviano, and the alloy; also the different pieces coined, with the amount of fine silver and the alloy in each:

"SIR: I have the honor to answer your attentive note of the 19th past, giving a solution to your questions. At present bolivianos are not coined, but those which some time ago were coined had the weight of 25 grams, of which 22.50 were fine silver and 2.50 of copper alloy, so that the bolivianos were hard. At present there are only coined one-half and one-fifth bolivianos, with the ponderal tolerance of 8 per cent, so that the one-half boliviano has a weight of 11.50 grams; that is, 10.35 fine and 1.15 copper. The one-fifth of a boliviano has 4.60 grams, or 4.14 fine and .46 copper.

"ADOLFO BONIFAZ, Director."

The actual value to-day in London exchange is 20 pence (40 cents) for the boliviano of 319.4486 grains troy of fine silver, but it is continually fluctuating.

The silver unit is determined by law and exists in practice.

The Government coins all the silver at the Potosi mint, but the 5-cent and 10-cent nickels, to the amount of nearly 500,000 bolivianos, were ordered in Europe. To supply the Potosi mint with silver for national-coinage purposes all silver reduction works are required to send one-fifth of their production to the mint, and the Government pays with paper from the banks at something less than the current market value of silver; but the law is continually evaded, and when there is not in the mint silver for coinage as the banks require it they have to buy in open market and pay for the coinage.

II.—Amount in circulation.

The total amount of money in circulation is as follows: Gold coin, none; silver coin, about 4,500,000 bolivianos (\$2,205,000), including the nearly one-half million in nickel money; paper money, 5,200,000 bolivianos (\$2,548,000).

Of the 4,500,000 of silver coin in circulation, including the nickels, the banks hold about 2,000,000 (\$980,000) as a redemption fund, and the balance of 2,000,000, which is only a supposition based upon the best information, is used in the small hand-to-hand trading, mostly outside of the banks.

The banks of Bolivia are chartered by the General Government and are of two classes, viz, banks of emission, deposit, and discount, and

mortgage banks. At present there are two of the former and three of the latter, with branches in all the leading cities of the country, as will be more fully shown by the semiannual reports up to June 30, 1896, for which and much valuable information I am indebted to Mr. Thomas H. Moore, of Sucre, connected with the Banco Nacional.

The Government issues no paper money; there are no private banks, and the two chartered banks, the Banco Nacional and the Banco Francisco Argandoña, issue all the paper money in circulation as authorized by law up to 150 per cent of their paid-up capital or paid-up capital stock, and the same must be redeemed in silver when called for. The Government receives semiannually from these banks for the charter privilege, at the rate of 9 per cent per annum on all profits, and assumes no risks, no liabilities, and no responsibilities, but employs an inspector to examine into the affairs of the banks; and the banks must make semiannual statements to the Government, which are embraced in the annual reports of the minister of finance. These profits to the Government reach to nearly 60,000 bolivianos (\$29,400) a year. Without banks of issue no business could be carried on, because the silver disappears nearly as fast as coined. The banks receive very little silver in deposits and have to supply themselves from the mint from time to time, at quite a loss sometimes, so as to keep up the redemption fund, which, it will be seen, is not over 40 per cent of the outstanding paper.

Now, here is a peculiar feature of this system down there:

MORTGAGE BANKS.

Of these there are three, the Credito Hipotecario de Bolivia, the Banco Garantizador de Valores, and the Banco Hipotecario Nacional. The first has branches in all the leading cities, the second is in Sucre and has no branches, and the third is in Cochabamba, with only an agency in La Paz.

These banks have no power to issue money or do a general banking business, and are chartered by the General Government to do only a mortgage business, which is very profitable. The rate of interest charged is usually 10 per cent, and one-half per cent commission. The Government exacts, as in the case of the banks of issue, 9 per cent annually, paid semiannually, of all the profits and in addition 60 cents (29.4 cents United States) on every 100 bolivianos (\$4.90) of interest—that is, the holder of the mortgage bonds has to pay to the Government through these banks where all the business is transacted 6 bolivianos (\$2.94) out of every 100 bolivianos (\$49) he receives in interest. The annual profits of the Government are about 50,000 bolivianos (\$24,500), without any risk or responsibility, as in the banks of issue, except the same inspector. Attached find official semiannual statement of the banks of issue, through the kindness of Mr. Moore; also find attached official semiannual statement of the mortgage banks, through the kindness of Mr. Moore.

III.—Per capita circulation.

There is no way of arriving at the exact amount of money in circulation per capita. Approximately it is less than 4 bolivianos (\$1.96). There never was a reliable enumeration of the inhabitants, and practically no pretense at classification; but it is generally believed that there are less than 2,000,000 of people, of which one-half are civilized Indians. The wild Indians on the headwaters of the Amazon are not considered. The most of these civilized Indians are under a sort of a semisystem of peonage, and they, with the Cholos, or half-breeds, are great hoarders of silver, so that not more than 2½ per cent of the silver coinage of the country for the seventy-one years past can be considered in circulation or can be reached for the ordinary purposes of business. Of course much of this coinage has been shipped out of the country, although the Government places a tax of 4 per cent on all coin exported; but the law is evaded in nearly every instance. The best informed believe that at least 15 per cent of the entire silver coinage for the seventy-one years is hoarded and hidden away in small amounts among the Indians and Cholos.

There have been no dollar pieces of silver coined for some years, and they are now very rare. There has been no coinage of gold for forty years, and it is almost impossible to procure a gold coin of any denomination. The coinage of gold was never at any time of any importance. The total coinage of gold, commencing in 1831, was only 2,435,864 bolivianos (\$1,193,573). A boliviano (49 cents in United States) is 100 cents.

That is all dealing with the financial situation down there. I think if we get these systems before the Senate it may serve a good purpose by way of comparison and aid us in the work we have to do in reforming our monetary system. We are entering upon the policy now of having the Government abdicate the sovereign function of coining and making money and of delegating that high prerogative to a few national banking associations. It is opportune, therefore, that we should study the financial systems of the world.

Now, here is something from Brazil:

Law No. 514 of October 24, 1848, originates the present monetary system. Gold is adopted as the standard, with silver as subsidiary. The ratio of 15½ to 1 between the two metals is fixed and silver made legal tender to the amount of 20 milreis (par, \$10.80).

Neither gold nor silver circulates, the depreciation of the paper currency having driven both metals from the country.

II.—Amount of circulation.

The paper circulation on December 31, 1895, as given in the report of the treasury department, was:

	Milreis.
Government notes	337,351,527
Bank paper	340,714,370

Total 678,065,897
equivalent to \$135,613,179.40 United States currency.*

Now follows a table which I will have to ask permission to have inserted in the Record.

Mr. BURKETT. I think I will object. I think I should like to have the Senator read the paper.

* This makes the paper milreis worth 20 cents, while the gold milreis is valued at 54.6 cents.

Mr. STONE. It is too complicated. I will just have it put in the RECORD:

Year.	Volume of currency.	Exchange.
	<i>Milreis.</i>	<i>Pence.</i>
1876	149,379,750	27 to 23
1877	149,347,859	25 to 23
1878	181,279,057	24 to 21
1879	189,253,354	23 to 19
1880	188,199,591	24 to 19
1881	188,155,455	23 to 20
1882	188,110,973	22 to 20
1883	188,041,087	22 to 21
1884	187,936,661	22 to 19
1885	187,843,725	19 to 17
1886	194,282,585	22 to 17
1887	184,335,294	23 to 21
1888	188,961,263	26 to 22
1889	179,371,166	28 to 24
1890	171,031,414	26 to 20
1891	171,031,414	21 to 10
1892	215,111,964	16 to 10
1893	285,744,750	13 to 10
1894	367,358,652	13 to 9
1895	337,351,527	11 to 9

It will not, however, be fair to assume that the constantly increasing volume of paper has alone lowered the rate. The causes are manifold, but those that made an additional issue necessary have tended to lower the rate of exchange.

The evils—

I wish to direct the attention of the Senator from Nebraska to this language—

The evils of a depreciated currency are so well known in our country, especially to the older generation, that it is unnecessary to detail them here.

Mr. BURKETT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. STONE. Certainly.

Mr. BURKETT. I am satisfied the Senator does not want to create a wrong impression in this body. I think it is only fair to the Senate, since perhaps nobody may have access to the document he has imported for this occasion, as I do not suppose there is another volume anywhere in this country except the one the Senator has—

Mr. STONE. It is the only one I know of.

Mr. BURKETT. It is the only one the Senator knows of, and I think he ought at least to be fair in this matter and read the entire document, because it does create a wrong impression in omitting the tables referred to in what the Senator previously read.

Mr. STONE. I had unanimous consent to insert the tables.

Mr. BURKETT. I did not observe that. Of course if unanimous consent is given to insert them it is all right.

Mr. STONE. I assumed that I had it. I said that by unanimous consent I would insert it, and nobody objected. If the Senator objects—

The VICE-PRESIDENT. Is there objection to the request of the Senator from Missouri?

Mr. BURKETT. I should like to hear the table read. I think it ought to be read.

The VICE-PRESIDENT. Objection is made.

Mr. STONE. Mr. President, I must decline to read it, but I will loan this book to the Senator when I have concluded this comprehensive argument.

Mr. BURKETT. Will it shorten the Senator's speech if I let him insert it all in the RECORD?

Mr. STONE. Oh, no. I want to read it so that the Senate may have the immediate benefit of such instruction as these articles can impart.

Now, here is the per capita circulation:

III.—Per capita circulation.

The population of Brazil is estimated at 15,000,000; with a gross circulation of 678,065,897 milreis. There is a per capita circulation of 45.200 milreis, equivalent in United States currency, estimating the milreis at 9 pence (18 cents) to \$8.11.

IV.—Changes in the system.

There has been no material change in the monetary system of Brazil recently, although every effort is being made to again reach a metallic basis—

Here we are going to a wild-cat asset currency. Our Republican friends are changing positions on many questions—

The constantly maturing obligations of the Government abroad, the large imports, and the returns on foreign capital invested here make Brazil a large debtor nation.

Mr. BURKETT. I have not yet understood just the Senator's position. He complains of this bill and of what has been done. Which position does the Senator take? Do I understand him to take the position that no legislation is needed?

Mr. STONE. Oh, I think we ought to have some legislation. Mr. BURKETT. Then I will ask the Senator what bill that is pending or what kind of legislation does he think better than this legislation?

Mr. STONE. I think none could be worse than this.

Mr. BURKETT. That might be, but the Senator does not answer the question. What is better?

Mr. STONE. We will take that up presently. The Senator is trying to divert me from the line of my argument.

Mr. BURKETT. No; I am trying to reach in this discussion the best possible legislation we can get.

Mr. STONE. I will say this to the Senator in general terms, that if additional money is needed for the uses of our business and the maintenance of our commercial interests or for any reason the Government of the United States ought to exercise its constitutional sovereign function and make the money our people have and not transfer or delegate that sovereign right and function to an individual or a corporation.

Mr. BURKETT. Does the Senator refer to what are commonly known as "greenbacks?"

Mr. STONE. Yes; greenbacks are all right. I have no objection to greenbacks. Has the Senator from Nebraska? Does the Senator from Nebraska lift his voice against greenbacks as an unsound currency?

Mr. BURKETT. He does not.

Mr. STONE. Which would the Senator from Nebraska rather have, which does he think would be better, a currency provided by the Government itself or a currency provided by a corporation?

Mr. BURKETT. I will say to the Senator that the question is a double one. He asks me if I like greenbacks. I take it, of course, that the greenbacks we are now having are no other than stable currency. Yet, in my opinion, this bill meets the condition a good deal better than a still further extension of greenbacks.

Mr. STONE. I am very much obliged to the Senator for helping me along with this matter.

Mr. President, I want to read now for the information of the Senate the official statement furnished from Cape Colony. Before I do that, it has been suggested to me aside to make an inquiry of my distinguished friend from Nebraska. He wanted to know my position, and I want to know his, because he is a wise legislator and a very experienced one, and it might help me very much in walking the devious path that is being marked out to have his enlightened opinion distinctly and clearly expressed. I desire to ask the Senator from Nebraska if he favors railroad bonds as a basis for bank currency. If the question is embarrassing, I will not press it.

Mr. BURKETT. Did the Senator ask some question?

Mr. STONE. I did ask a question.

Mr. BURKETT. I did not hear the Senator.

Mr. STONE. I asked the Senator to state whether he favors railroad bonds as the basis for a currency.

Mr. BURKETT. I will say to the Senator that I did not originally, and I was one of those who did what I could to help keep it out of the original bill. But after we got it out we had no support for that bill, as I recollect, from the Senator from Missouri.

Mr. STONE. I was opposed to the whole bill, and I am yet. Has the Senator from Nebraska changed his views? Is he now in favor of railroad bonds as a basis for currency?

Mr. BURKETT. I will say to the Senator that I am not.

Mr. STONE. You are not?

Mr. BURKETT. No, sir; I am not; but I will say to the Senator that there are restrictions which are thrown about the possibility of using railroad bonds in this bill, and it is a good deal different bill even from the provision originally suggested and planned in the other bill.

Mr. STONE. The Senator favors it in its present form?

Mr. BURKETT. Yes, sir.

Mr. STONE. Well, we have got that much information. It might have a good deal of influence on many people to know that the Senator thinks that way.

Now, I am going to read something for the Senator's attention, returning to the coining system in Cape Colony:

CAPE COLONY.

I.—Standard of value.

The standard of value throughout South Africa (save the Portuguese protectorates) is the British pound, gold.

II.—Amount in circulation.

The total amount of money (coin) in circulation it is impossible to arrive at, owing to the shifting nature of the population, the fondness of country people for hoarding coin in old stockings, holes in the ground, and other hiding places; but the totals given below are approximately correct, the figures being partly from official sources and partly the result of special inquiries.

On June 30, 1896, the returns of the five banks doing business in Cape Colony were—

	English currency.	United States currency.
Assets:		
Paid-up capital and reserve.....	£3,630,687	\$13,153,435
Notes in circulation.....	1,519,666	7,598,330
Fixed deposits.....	6,238,340	31,191,700
Floating deposits.....	19,516,919	97,584,595
Liabilities:		
Coin in coffers of these banks.....	7,914,426	39,572,130
Government securities.....	2,827,403	14,137,015
Bills under discount.....	6,415,314	32,076,570
Advances and loans other than bills discounted.....	10,896,790	54,483,950

Here follows a table. If the Senator from Nebraska insists upon it, I will read it, or I will have it inserted in the RECORD.

Including miscellaneous items not mentioned above, the total of the liabilities and assets of these banks was returned on June 30 last as £40,976,624 (\$204,883,120).

The Cape government issues no notes. The standard banks of South Africa, are the Cape government bankers.

The Cape Colony laws require every bank doing business within the colony to deposit with the treasury government securities to the amount of its note issue; but in case the securities so deposited should be found insufficient to cover all notes issued, the colonial government has a first lien upon the assets of the bank in respect of any deficiency. The notes issued by the various banks are for £20 (\$100), £10 (\$50), £5 (\$25), and £1 (\$5), respectively, and these notes are legal tender at all places except the head office of the issuing bank, where they are redeemable in sterling gold.

The remainder of that article concerns wages and the prices of commodities, which are not exactly pertinent to this discussion.

Now I come to consider the monetary system of China—

Mr. BURKETT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. STONE. I do.

Mr. BURKETT. Do I understand the Senator from Missouri to favor the Cape Colony monetary system and the monetary system of China over the monetary system of the United States?

Mr. STONE. No; the Senator does not understand that; at least I did not intend that he should. My purpose, as I have stated, is, in reading from this volume, to get before the Senate the various monetary systems in vogue in the different countries of the world. There seems to be a pretty widespread belief that the system we have built up here in this country is inadequate, that it is very defective. We are now entering, through this measure, upon the work of reforming and re-creating, or newly creating, a financial system. Now, does it not occur to the Senator from Nebraska that when he comes to so great and important a work as that of making a new financial system for this Government, with its virile, active, intense population, we ought to study the systems prevailing in other countries. I am reading this into the RECORD so that the Senator from Nebraska and others may have the benefit of it.

Here is a report signed by Mr. Charles Denby. This is what he has to say:

I.—Standard of value.

No standard of value and no unit of value are established by law in China. The money of the country consists of gold, silver, copper, and paper. Gold and silver are commodities which circulate by weight. The ratio of value between them fluctuates constantly.

Copper is coined into small coins, about 1,260 of which are worth one Shanghai tael, or ounce, of silver, Shanghai weight, the Shanghai tael being now worth 73½ cents United States currency. The real standard of value in China for small transactions in copper, which has been used many centuries in the payment of wages, in the purchase of food, etc. The stability of the copper currency is accounted for by the fact that the goods it is employed to represent commercially remain just what they were year by year. Rice and wheat are brought to market every season after the employment of the same amount of labor and skill on the part of the farmer, and their value is practically measured by the same amount of coin.

In practice, silver by weight is the standard for all commodities bought in large quantities, interchanged between provinces, or imported from abroad.

The standard of value in China is therefore copper coin locally and for small transactions, silver by weight for larger commercial transactions and trade between distant places.

The commercial supremacy of Shanghai makes the Shanghai tael, or ounce, practically the standard for other places. It is 513.0572 grains silver fine and its actual present value, London exchange, is 2s. 11.1715d. (71 cents).

II.—Amount in circulation.

No statistics exist as to the amount of money in circulation, and no estimate can be made. No paper money is issued by the Government. No provision is made by law for the redemption of the paper notes of the private banks. Their circulation rests on the credit of each bank.

It seems to me as if we were heading that way.

III.—Per capita circulation.

The amount of money in circulation per capita can not be ascertained.

IV.—Changes in the system.

There has been no change in the monetary system of the country in recent decades, nor has there been any abandonment or curtailment of the use of silver or paper currency. Mints have been established by

imperial decree for the coinage of silver dollars and subsidiary silver coins. These circulate at their value as bullion in the cities of China. On account of the greater convenience of coined money, the tendency is to its wider adoption.

V.—Currency and wages.

It is noticeable that while silver has depreciated abroad, its purchasing power in China for articles of domestic production and its value for the payment of wages have not diminished. The appreciation of gold abroad, enhancing the cost in silver of manufactured articles, has tended, however, to stimulate the manufacture of such articles in China. This is particularly noticeable in the cotton trade, and the same cause will produce like effects in other industries. The wages of skilled and unskilled labor have not been increased, but the creation of manufacturing industries has opened a new field to labor, the greater extension of which may lead to higher wages.

The actual rate of wages in China seems small to one unacquainted with the cheapness of the necessities of life here and unfamiliar with the narrow scope of a Chinese laborer's needs. Agricultural laborers are paid in copper the equivalent of about \$1.50 to \$2 United States currency per month. Unskilled laborers in the city are paid about 2½ cents per diem and supplied with two meals. Skilled carpenters receive 20 to 30 cents per day, masons and painters the same, domestic servants \$3 to \$10 per month, hostlers \$3.50 per month. In all branches of labor it is difficult to give exact figures. The minimum at which a laborer can be hired is the actual cost of the most frugal subsistence.

It goes on, then, into the question of wages and the prices of commodities, which I will omit; and I will take up Hongkong. Hongkong is a very beautiful town—one of the most beautiful in the world.

Mr. OVERMAN. An English town?

Mr. STONE. Yes; it is an English town, governed by the English. The English have a governor and other officials there. This report proceeds:

I have the honor to make the following report upon the currency of Hongkong in compliance with Department circular of July 25:

I.—Standard of value.

The currency of Hongkong is a silver one, the Hongkong, British, and Mexican dollar being a legal tender, but of these the first named has almost disappeared. The standard coin of Hongkong, as laid down by an order of Her Britannic Majesty in council, dated February 2, 1895, is the Mexican dollar of 417.74 grains standard weight, 902.7 millesimal fineness, while the British and Hongkong dollars are scheduled as additional coins, and each of 416 grains standard weight and 900 millesimal fineness.

II.—Amount in circulation.

As to the total amount of silver coin in circulation in the colony of Hongkong, it is not possible to form any accurate estimate. The average bank notes in circulation are published every month in the Government Gazette and in the local press.

In respect of the note issue, the issuing banks have to deposit with the Government in silver and approved securities one-third of the amount of the notes issued and pay a duty to the Government of 1 per cent per annum on the average issue.

The following are the returns of the average amount of bank notes in circulation and of specie in reserve in Hongkong during the month ended July 31, 1896, as certified by the managers of the respective banks:

Bank.	Average amount.	Specie in reserve.
Chartered bank of India, Australia, and China.....	\$1,856,748	\$1,000,000
Hongkong and Shanghai Banking Corporation.....	4,632,672	2,500,000
National Bank of China (Limited).....	375,976	285,000
Total.....	6,865,396	3,785,000

It is utterly impossible to give any reliable estimate as to the per capita circulation of Hongkong; and it is a great pity.

Now, Mr. President, we will go over to Europe for a little while. First, let us take up Denmark:

I.—Standard of value.

The standard of value in Denmark is gold; the unit of value (kroner, in the plural kroner) is fixed by law. Gold coins are made in 10 or 20 kroner pieces only. Silver coins are in pieces of 2 kroner, 1 kroner (nominal value, 100 øre, 50 øre, 25 øre, and 10 øre. The actual value of the metal in the silver coins is far below the nominal value at the present market rate of silver; indeed, the 25 øre and 10 øre pieces are composed mainly of copper or some other base metal, as clearly indicated by their appearance.

II.—Amount in circulation.

The estimated circulation is:

Gold coin (about 5,000,000 kroner).....	\$1,340,000
Silver coin (about 18,000,000 kroner).....	4,824,000
Bank notes (about 80,000,000 kroner).....	21,440,000

Total circulation..... 27,604,000

The bank notes are issued exclusively by the National Bank, but they are not notes of the State. The bank alone is responsible for them. They are redeemable in gold on demand. The bank gold reserve is about 60,000,000 kroner (\$16,080,000).

III.—Per capita circulation.

At the last census, in 1890, the number of inhabitants was given at 2,172,000, which would give about \$12.70 per capita of money in circulation.

IV.—Changes in the system.

The standard was changed from silver to gold, and the unit of value from rix-dollar to kroner by legislative act May 23, 1873. One of the reasons for changing the unit of value was to introduce the decimal system and bring the currency of the three Scandinavian countries into harmony, which was effected by that act. Opinions now vary as to what reasons impelled the change of standard.

V.—Whether mints are open to both metals.

The royal mint coins only gold for the public. The mint price is 2,480 kroner (\$664.64) per kilogram fine gold, as fixed by section 2 of the mint act. The charge for coinage is one-fourth of 1 per cent for 20-crown pieces and one-third of 1 per cent for 10-crown pieces.

Now, Mr. President, for the better enlightenment of the Senators who are giving me their very close attention, I want to read them a little about the monetary system of India.

Mr. KEAN. Mr. President, has the Senator—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. STONE. I do.

Mr. KEAN. Did I understand the Senator from Missouri to say that he was about to conclude? He began at 7 o'clock this morning, and I thought he was going to speak briefly on this subject. It is now 11 o'clock.

Mr. STONE. Mr. President, what did the Senator say?

Mr. KEAN. I did not know whether I understood the Senator from Missouri to say that he was about to conclude.

Mr. STONE. I do not know what the Senator understood. I know what I said; I did not say that.

I.—Standard of value.

The standard of value throughout India is a silver unit, i. e., the rupee; standard weight, 180 grains troy; fineness eleven-twelfths, 165 grains silver, 15 grains alloy. Its sterling value at to-day's rate of exchange on London is 1s. 2½d. (28.8 cents). The unit is determined by law and exists in practice. (Sec. V, act 23 of 1870, of Governor-General in Council.)

II.—Amount in circulation.

The total amount of money in circulation is 1,539,406,990 rupees (\$363,300,050) made up as follows: Paper currency (notes), 259,406,990 rupees (\$61,220,050), as shown in the report of 1895-96 from the head commissioner of the paper currency department to the secretary, government of India; silver coin, 1,280,000,000 rupees (\$302,080,000), as shown in the latest statement of accountant-general.

The paper currency department of the country is divided into eight circles, viz: Calcutta, Allahabad, Lahore, Bombay, Karachi, Madras, Calcut, and Rangoon. The government paper is issued direct by the government, one-half the value of which is held in actual coin or silver bullion.

Mr. KEAN. Mr. President, let us have order. It is very difficult to hear the Senator from Missouri.

The VICE-PRESIDENT. The Senate will be in order.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Oh, the Senator from Rhode Island always has the floor.

Mr. ALDRICH. From what particular document is the Senator now reading?

Mr. STONE. From which one?

Mr. ALDRICH. Yes.

Mr. STONE. I will give the Senator the official title. It is a document to which I invite the careful and prayerful attention of the Senator from Rhode Island. It is entitled "Money and Prices in Foreign Countries," and it contains reports from ministers and other American representatives in many foreign countries on the different systems of finance prevailing in those countries; and I stated a moment ago—

Mr. ALDRICH. I was laying the foundation for a question. I will ask the Senator if it would inconvenience him to have this public document printed in the Record?

Mr. STONE. Will it inconvenience me?

Mr. ALDRICH. Yes.

Mr. STONE. To have the extracts printed?

Mr. ALDRICH. To have them printed. I did not know but that the Senator might prefer that course.

Mr. STONE. I am having them arranged now for printing. I am trying to get them in. [Laughter.] I am putting them in order, so that they will be convenient for the use of the Senator from Rhode Island. He is making us a new monetary system, and I thought he would like to familiarize himself with the systems of other countries.

III.—Per capita circulation.

The amount of money in circulation per capita of population is 5.35 rupees (\$1.26), being based on the census of 1891, which is the latest.

That is almost as bad, indeed a little worse, than it is in the Philippines. I think there is about \$2 per capita in the Philippines. By the way, speaking of the per capita circulation in India—

Mr. ALDRICH. In England?

Mr. STONE. In India. We will get them all, and come to England presently. In India I found the per capita was about a dollar and twenty-six cents, and I remarked that that was really a little worse than it is in the Philippines, where, I think, they have about \$2 per capita; and now I desire to propound an inquiry to my distinguished friend, the chairman of the Finance Committee, in order to ascertain whether Philippine railroad bonds, if held by banks up here, could be used as a basis for emergency currency?

Mr. ALDRICH. Mr. President, in what part of the bill does the Senator understand that Philippine bonds are provided for?

Mr. STONE. Under the terms "securities." If they were held by a national bank and had a market value—and I suppose they would have—I am inquiring whether they could be used as a basis for currency, not that it makes any particular difference, so far as the bill is concerned, but it might be of some value to the people of the Philippines to know about it.

Mr. ALDRICH. To know who holds them?

Mr. STONE. To know whether the bonds are available as a basis for currency.

Mr. ALDRICH. I understood the Senator from Missouri, who is good enough authority for me, to say that they would be.

Mr. STONE. Do you say they would be?

Mr. ALDRICH. I should agree with the Senator from Missouri upon that point.

Mr. STONE. That they would be?

Mr. ALDRICH. Yes; under the general provisions of the first section of this bill, but not under the Senate bill.

Mr. STONE. Well, that will be good news, perhaps, to the Filipinos.

Now, Mr. President, it might be edifying to look a little bit into the financial system prevailing in Japan.

This report about Japan was made by a consul-general, I believe:

To make an adequate and impartial report on the subject of the currency of Japan in relation to the industry and prosperity of the country is a matter of no little difficulty. The battle of the standards, though not fought with that vigor in oriental nations that we find in the nations of the West, is nevertheless of sufficient importance to divide parties into two main groups. The result is, that in making what would appear to be a bare statistical investigation men's minds are frequently influenced by a bias, conscious or unconscious, and their conclusions are affected by their preconceived notions. Some writers even defend this position. They declare that statistical inquiries can be made instructive only when based on a certain general theory, and that without some postulate or point of view already formed no useful conclusions can be established. However this may be, the general purpose of this report is to eliminate, as far as possible, the element of personal equation, and to give a strictly impartial account of the financial and industrial conditions of Japan. No one is likely to succeed in divesting his mind entirely of some element of preconception, but he can at least steadily aim to be as impartial as possible. Accordingly, in the following report it has been a constant purpose to omit disputable points; to confine the inquiry to matters of general agreement; to let facts, as far as possible, speak for themselves, and to avoid all arbitrary conclusions.

I.—The money standard of Japan.

Japan is a practical example of a country under the silver standard, the unit of value being the Japanese dollar or yen, weighing 416 grains, nine-tenths fine, or 374.4 pure. The standard coin of the Empire is therefore slightly heavier than the American silver dollar. This silver yen is unlimited legal tender, and its exchange value at the present date (September 19, 1896) on London is 2s. 1d., and on New York \$0.51. At the present rate, therefore, we may say that the American gold dollar is, roughly, equivalent to two Japanese silver dollars. For practical purposes the silver yen is the complete standard unit of value. All business, all industry, all banking, commerce, and, with one exception, all national obligations are conducted on a silver basis. Legally, however, Japan may be said to be a bimetallic country, as the gold yen, containing one and a half grams of pure gold (20-yen piece=30 grams pure), is also legal tender.

There have been some material changes since it was written. Still it is historically interesting.

The history of Japanese currency during the past thirty years is very complex, and if given in detail would require a volume. For the purpose of this report it is sufficient to say that, in 1871, the Japanese Government, under foreign, and at that time chiefly American, advice, determined to go over to the single gold standard, and for this purpose chose the gold yen piece of one and a half grams pure (25.72 grains, nine-tenths fine) or the 20-yen piece of 30 grams pure as the standard of value. As at that time, however, the actual money of the country (except in the open ports, where the Mexican dollar was the standard medium of exchange) was composed mainly of depreciated currency, issued both by the national and local governments, the gold dollar did not circulate within the country.

In 1877, when the Satsuma rebellion broke out, the demand of the Government for means with which to carry on the war was so great that a very large amount of inconvertible legal-tender notes was issued. The gold premium rose rapidly, and averaged 12 per cent for the year 1878, and nearly 55 per cent for the year 1880. Under the circumstances all specie tended to disappear from the country and neither gold nor silver was seen in active circulation. These great issues of paper money were intended to satisfy only a temporary purpose. In May, 1878, a Government ordinance declared that the silver yen of 416 grains was to be coined as soon as circumstances permitted, and that this coin was to be full legal tender for all debts, public and private, on an equality with the gold yen previously coined. From this time Japan was, legally speaking, on a bimetallic basis, as both gold and silver were equally legal tender. In 1881-82 serious efforts were made by the Government to return to a specie basis. In various ways, by contracting the currency, by purchasing silver abroad, etc., the premium on silver began to fall, and finally, in 1885, disappeared. On the 1st of January, 1886, the Government formally announced the resumption of specie payments in silver, and since that time all Japanese money, Government legal-tender notes, notes of the national banks, and notes of the Central Bank (Nippon Ginko) have been convertible into silver. Gold is never seen in circulation, and is not held even as reserve by the banks, with the exception of a certain amount in the Central Bank (Nippon Ginko).

II.—History, description, and amounts of money in Japan.

Before stating the total amount and various kinds of money in circulation in Japan it will greatly aid in clearing up this division of the subject if we give some account of the finances of the Japanese Gov-

ernment in the past and of the banking institutions existing in the Empire, in this way considering certain points which might perhaps be better described under a separate heading. It has already been explained that during and after 1877 a very large amount of legal-tender paper was thrown into circulation. In 1876, just before the Satsuma rebellion, there was issued about 94,000,000 yen of Government notes, which circulated nearly, though not quite, at par with gold and silver. In 1877 this amount was increased by 27,000,000 yen, making a total of 121,000,000 yen. At this time the premium on silver, and still more on gold, began to rise slowly. At the end of February, 1877, the premium (agio) was 2 per cent on silver and 4½ per cent on gold. The average premium on silver for the year 1877 was 3½ per cent. During the next year there was a further issue of Government notes, with the result that the value of the paper fluctuated wildly. The actual amount of Government issues at this time is hard to determine, since it is now officially stated that the figures then given were too low. At the end of 1879, from the best account, the amount of Government legal-tender notes was not far from 140,000,000 yen. But these were only the fiat issues of the Government. Besides these there were the notes of the national banks established on the model of the American system.

The first national-bank law was promulgated in 1872. The object was to supply a credit currency to the business and manufacturing interests. As the notes of the banks were to be convertible into gold, and as at this time paper stood at a slight discount compared with gold, the notes of the banks hardly came into circulation. Only four banks were established, all of which, with one exception, soon came to grief. In 1876 a new national-bank law was promulgated. The chief object of this new law was to create a market for the Government bonds, which were issued mainly for the purpose of paying off the old nobles for the loss of their estates. The notes of these banks were to be convertible, not into specie, but into lawful money, i. e., Government legal-tender notes. Without tracing the history of these banks in detail, it is enough to say that they increased rapidly after 1876, and especially during the period of the Satsuma rebellion, when the Government was increasing its own issues. The Government was, moreover, making large issues of bonds, and with every augmentation of this national obligation the national banks saw a chance for enhanced profits. At the end of 1879 there were in active operation 153 of these banks, with a total issue of more than 34,000,000 yen. In the year 1880, according to the best authorities, the entire circulation of the Government and bank paper stood at between 160,000,000 and 170,000,000 yen, not counting copper and bronze subsidiary coin. The following table presents the amount of paper in circulation and the premium on silver:

Year.	Amount in Government and bank notes.	Premium on silver.
	Yen.	
1877	120,000,000	108½
1878	160,000,000	109½
1879	170,000,000	121½
1880	160,000,000	147½
1881	158,000,000	170½

At this time (1879-1881) the fluctuations of exchange were so great, the periodical changes, expansions, and depression so unlooked for and the whole condition of business so uncertain that the Japanese Government began once more to study the currency question. It was finally determined to establish a central bank, or banking system, instead of a national-bank system. This Central Bank (Nippon Ginko) was founded in 1882. It was organized mainly on the plan of the Royal Bank of Belgium. The capital of the bank was 10,000,000 yen, one-half of which was paid up. In 1887 the capital of the bank was doubled (20,000,000). In August, 1895, it was agreed to increase the capital of the bank to 30,000,000 yen, or 10,000,000 more than before. It was also agreed to call up 5,000,000 yen at once, making a paid-up capital of 15,000,000 yen. Later on 7,500,000 more were called in, and in the semiannual report for February, 1896, the account stood:

	Yen.
Subscribed capital	30,000,000
Paid-up capital	22,500,000
Unpaid capital	7,500,000

It is needless to go into the details of the organization of this bank, interesting and important as they are. The bank is the financial agent of the Government, must assist the Government on all necessary occasions, and hold the deposits of the Government. Its uncovered note issue was limited to 70,000,000 yen in 1882, but this was increased to 85,000,000 yen in 1887. Beyond this limit the bank must hold cash (formerly legal-tender notes, but now silver) for its notes. An important and wise provision, however, on this point is that the bank can at any time increase its note issue beyond this limit, provided it pays a 5 per cent tax to the Government on the excess. With this permission to exceed a fixed limitation, the bank can at any time give accommodation to the business community, especially at critical times, when such accommodation is of paramount importance. The advantage of this provision was abundantly proved during the late war with China, when the bank frequently issued in excess of the legal limit without the slightest question from the public as to the perfect convertibility of the notes. On the contrary, it was the unanimous opinion expressed within business circles and in the press that these issues were an immense relief to all kinds of business interests at a time when there was a great deal of uncertainty and even at times trepidation pervading society.

The new bank was established with the avowed purpose of superseding the old national-bank system. It was understood that if the new bank was a success, it would in time assume the entire authority of issuing notes in Japan. Accordingly, a law was passed that the power of note issue should be withdrawn from the national banks as soon as their charters expired—after twenty years. Many of these charters expire in the present year, 1896, but the majority not until 1897 and 1898. The vacuum thus created will be filled by the notes of the Nippon Ginko. It is therefore clear that the Government was dissatisfied with the working of the national-bank system, and it is an interesting point to inquire just what the objections were which the Government found in the old system.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. STONE. Delighted.

Mr. ALDRICH. The Senator from Missouri prefaced his remarks with the statement that he desired to call the attention of the country to the character of this legislation, and he has been engaged for three hours in reading all sorts of documents pertaining to all sorts of subjects. Now, does he expect in that way to enlighten the American people upon the pending legislation?

Mr. STONE. I am endeavoring now to put some matter into the RECORD for the use of the Senate itself a little later on. Presently I will take up the particular features of the bill, but I wanted to get into the RECORD some data in a concise and systematic way.

The chief fault to be found with the old system of national banks in Japan was the instability of its credit. The notes were amply secured and always circulated at their full value. Nor is there a case of a note holder having suffered through the failure of a bank or any illegal act. In all respects the holders of the national-bank notes were as fully secured as the holders of the national-bank notes of the United States or of any European bank of issue. The difficulty lay, not in the uncertainty of the value of the notes, but in the entire system of credit provided by the Japanese national banking system. It was found by bitter experience that the banks rapidly extended credit at a time when they should, perhaps, have curtailed it, and at the very moment when business required a certain amount of accommodation these institutions were forced to refuse it. At times of expansion and confidence in the business world, the national banks found it easy to provide any amount of loans to their customers, but as soon as revulsion or lack of confidence appeared each bank found itself forced to protect itself by refusing even the ordinary amount of credit. So long as each bank was forced to look out for itself by the ordinary laws of competition, it would begin to withdraw its assistance from the public just when the public needed it most. In other words, the national-bank system emphasized the extremes of business variations; it indeed stimulated confidence at times of speculation and expansion, but it no less surely strengthened the fears of the public at critical moments of panic. In establishing the central banking system the Government wished mainly to remedy this evil. Its first object was to organize and control the unification of credit in its most sensitive part, viz, the issue of notes.

Such centralization the Japanese to-day believe is as necessary to the issue of money as it is to the Government itself, and on this point they claim all European authorities are with them. If the market is overspeculative, the bank can moderate its action through its issue, at least to a considerable degree, and when a crisis appears, a panic is averted by an extension of the same power. That there were other motives at work in establishing this system can not be denied, as, for instance, the desire to have a bank for Government deposits, but these were secondary. In corroboration of this view, that the Central Bank was established mainly to remedy the intolerable evils of the national banking system, we may quote the words of Mr. Soyeda Juichi, now at the head of the public debt department, an excellent authority in this country on all matters of finance. He is a graduate of Cambridge University, England, and has lately published a work on finance in Japanese. He has been asked recently to write the history of banking and currency in Japan for some New York financiers who propose to issue a large work on the history of banking in the world. In answer to an inquiry on the specific point raised above, he writes:

"The defects in the working of the national-bank system in Japan were very great. These banks lacked the power of cooperation at critical times, and often neglected banking business proper. The Nippon Ginko was established after a careful and wide study of all Western banking systems, and, though mainly copied from the Royal Bank of Belgium, it was modified to suit the special conditions of Japan. Since the foundation of the Nippon Ginko its merits have been universally acknowledged in Japan. It has altogether fulfilled the expectations of its founders, and is as necessary to the business interests of Japan as the Bank of England is to those of England."

It has already been explained that when the Nippon Ginko was established the country was under a system of depreciated money. It was believed that this bank would in a great degree, by its unified powers, be of assistance to the Government in bringing about specie payments, and in this hope the Government was not mistaken.

Mr. ALDRICH. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his question of order.

Mr. ALDRICH. There are not two Senators who can hear what the Senator has said for the last half hour, or the last two hours, possibly. I would not want to designate this kind of a proceeding by a harsh name, but it seems to me that if the Senator proposes to discuss this question he ought to discuss it in a way in which we can hear him.

Mr. STONE. Well, we had that suggestion made not long ago, Mr. President. I can not help it if the Senator's hearing is bad.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield further to the Senator from Rhode Island?

Mr. STONE. I always yield to the Senator.

Mr. ALDRICH. My hearing is exceedingly good, and I venture to say that the Senators within 6 feet of the Senator from Missouri are not able in any way to appreciate what he is saying, or to understand him.

Mr. STONE. Oh, well, the Senator from Rhode Island assumes that my distinguished friends from Montana [Mr. CARTER] and from Kansas [Mr. LONG] and from North Carolina [Mr. OVERMAN], sitting here in touch of me, do not hear what I say. He ought to know by the intent way in which they are watching that they not only hear me, but that they are appreciative of what I say. [Laughter.] There is a look of profound interest on the faces of these Senators. If the Senator from

Rhode Island will come over and get under the drippings of the altar, I will try to say something that even he can hear, and which I hope will be for his good.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. It is useless to ask me; I do.

Mr. ALDRICH. I observe that the Senator now raises his voice so that he can be heard even half way across this side of the Chamber, and I congratulate him upon the recovery of his voice.

Mr. STONE. I should like to ask the Chair to rule on the point of order, and in doing so to have the Chair state whether there is a rule of the Senate now in force that fixes the exact volume of voice a Senator in addressing this body must use. In other words, will the Chair determine at what key the voice should be pitched? I will conform to any rule that the distinguished Presiding Officer of this body may lay down.

The VICE-PRESIDENT. The Chair knows of no written rule governing the subject to which the Senator from Missouri refers.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. STONE. Certainly.

Mr. GALLINGER. With reference to the volume of voice that should be used in debate, does it not follow, as a matter of fact, that a Senator should speak in a tone of voice sufficiently loud that the Presiding Officer should hear him, for the reason that a Senator might be using language for which he ought to be called to order? I do not know that the Senator has used any such language, but it might be so; and it would be a very unfortunate circumstance if we permitted matter to go into the Record that ought to be kept from it because of the fact that a Senator is whispering a speech.

Mr. STONE. Mr. President, if I am using language that ought not to be in the Record, it seems to me that I am doing a very proper thing to whisper it, to speak it with bated breath. I know my friend from New Hampshire would not care to have me or any other Senator speak out loud anything that ought not to be uttered in the presence of the Senate. However, I will assure the Senator that I have not used any language that the Chair should take note of.

Mr. DEPEW. Will the Senator allow me?

Mr. STONE. With pleasure.

Mr. DEPEW. Mr. President, in my active railroad days there was a great complaint because the brakemen or trainmen did not announce through the cars clearly, loudly, and distinctly the stations. I issued an order that they should do so, whereupon I received a letter wanting to know whether I expected to get a clear tenor voice for \$50 a month. [Laughter.] Mr. President, it seems to me that if \$50 a month was hardly sufficient to fill a railway car at the time it was approaching the stations, and yet did tolerably well, \$7,500 a year ought to fill this Chamber. [Laughter.]

Mr. STONE. Well, Mr. President, after this delightful by-play, we will resume where we left off. [Laughter.]

It has already been explained that when the Nippon Ginko was established the country was under a system of depreciated money. It was believed that this bank would, in a great degree, by its unified powers, be of assistance to the Government in bringing about specie payments, and in this hope the Government was not mistaken. The Government notes were gradually withdrawn, the premium on silver quickly declined, and by August, 1885, had practically disappeared. The statistics of the circulation of paper, both Government notes and national-bank notes, are as follows:

Year.	Premium on silver.	Circulation.
		Yen.
1883	126 1/2	138,400,000
1884	108 1/2	125,500,000
1885	106 1/2	120,500,000
1886	100	108,600,000

We have to note, therefore, a triple process operating since 1882, and particularly since the resumption of specie payments in January, 1886. First, a gradual diminution of the inconvertible legal-tender notes issued by the Government; second, a similar withdrawal of national-bank notes, though not so rapid as the first; third, a gradual increase in the issues of the notes of the Nippon Ginko, combined with, since 1886, an increase of silver yen in circulation.

Then follows a very interesting table, but it is a little too long:

Government paper in circulation on—	Yen.
January 1, 1876	94,000,000
January 1, 1880	140,000,000
January 1, 1886	90,000,000
January 1, 1889	47,000,000
August 31, 1896	9,888,000

National-bank notes in circulation on—	Yen.
January 1, 1878	13,000,000
January 1, 1881	34,400,000
January 1, 1886	30,500,000
January 1, 1889	27,600,000
August 1, 1896	19,700,000

Nippon Ginko notes in circulation on—	Yen.
January 1, 1883	3,000,000
June 30, 1886	18,300,000
June 30, 1887	39,500,000
June 30, 1889	62,900,000
August 1, 1896	164,176,000

The above statistics show, in some degree, the amount of paper circulation in Japan. From these figures are omitted silver coins of full legal tender (1 yen), and subsidiary coinage (silver, 50 sen, 20 sen, 10 sen; nickel, 5 sen; copper, 2 sen, 1 sen, 5 rin, 2 rin, 1 rin).

The Government report for August 1, 1896, for the total circulation of all kinds of money is as follows:

Mr. KEAN. I should like to ask the Senator from Missouri what is the total?

Mr. STONE. I was going to read the total, but the Senator from Kansas [Mr. Long], at my left, suggested that he would like to have me read the entire table; and since he is interested, I will do it:

Circulation (including reserves in national and private banks):	Yen.
Gold coin	5,346,873.00
Silver coin	53,176,257.50
Nickel and copper	15,392,029.62
Total	73,915,160.12

Reserve in Nippon Ginko:	Yen.
Gold bars	81,923,900.00
Silver coins and bars	28,837,479.00
Total	110,761,379.00
Specie	184,676,539.12

Mr. LONG. Will the Senator explain the term "yen?" I think I understand it, but there are other Senators who perhaps do not.

Mr. STONE. It is a Japanese silver coin of about the size of an American dollar—not quite so large. It has some designs stamped on it that I can not very well describe, but Japanese figures, and it has a value, I understand, of about 50 cents of our money in gold. Is that sufficiently satisfactory to the Senator?

Mr. LONG. I think that explains it.

Mr. STONE. Then we will proceed.

Note circulation:	Yen.
Government notes	9,888,277.75
National-bank notes	19,777,706.00
Nippon Ginko notes	164,176,844.00
Total issue	193,842,827.75

Grand total (specie and paper)	378,519,366.87
Subtracting specie reserve in Nippon Ginko	110,761,379.00

Money in circulation. 267,757,987.87

From the above figures it is easy to deduce the amount of money per capita in circulation. The population of Japan, excluding Formosa, is about 42,000,000, and dividing the total money in circulation by this figure we get an average circulation of a little over 6 yen per capita.

That is very little. They are a poor people as individuals, but, collectively, a wonderful nation.

The population of Formosa is about 3,000,000; but as the amount of money in circulation there is still small, it could hardly change the result materially. An average of 6 yen per capita can not be far out of the way. An estimate made in 1889, by a very competent authority, puts the circulation at 5 yen per capita for that year. It is wholly likely that an increase of 1 yen per capita has taken place during the interval between 1889 and 1896, especially since the close of the war with China.

Now, that is hardly pertinent to the question immediately under consideration, and so I will pass over that and take up something else. Here is Persia. I have never familiarized myself with the Persian monetary system, and I doubt if anyone here has. I think I am doing a public service, therefore, in laying this particular matter before the Senate.

PERSIA.

INTRODUCTORY.

For a long series of years the value of the circulating and exchange medium in Persia has been on a more or less continuous decline, while wages or remuneration in the lower scales of labor and the prices of the ordinary necessities of life have been rising. The causes for this disturbance of the equilibrium in the earlier stages were doubtless various and might be hard to determine, and possibly had but little relationship to the abnormal influences which have produced and are now producing such results.

The Persian currency has, no doubt, in the course of the last two or three centuries, like most European currencies, passed through many phases in size, shape, value, and metal. Its exchange—

Mr. LONG. Mr. President, I am sitting within 6 feet of the Senator, and I am deeply interested in his remarks. I can hear the first part of each sentence, but I have great difficulty in hearing the latter part. I hope the Senator will speak so that at least I can understand.

Mr. STONE (reading)—

Its exchange and marketable value was calculated on other methods than those now employed. Three centuries ago trade with Europe was practically unknown, and the highly organized system of exchange which now governs the markets of the world had then no article in the Persian financial creed. Foreign trade was confined to the principal countries of Asia, Eastern Europe, and Egypt, and was carried on chiefly by an exchange of commodities, possibly supplemented by a transfer of gold, which the merchant usually took with him. This statement receives many illustrations in the stories and romances in Persian literature of a few centuries back. Saadi, in one of the stories of the Gulistan, in order to expose the inordinate love of gain and the extravagant boasting of the traders of his day, relates a series of expeditions which one of them told him he proposed to make before he retired from business. After mentioning several investments in which he was interested, he continued:

"I shall take Persian sulphur to China, where it sells for a high price; China vessels to Room (Constantinople); Room stuffs to India; steel from India to Aleppo; mirrors from the latter place to Yemen, and Yemen cloth to Fars (the southern province of Persia). Then I shall give up my travels and settle down in my shop."

In many of the stories the difficulties of the position are frequently caused by the bags of money the trader is carrying with him, and on which the success of his enterprise and his future comforts in life depend.

It will be evident from this that in estimating the value of the Persian gold coin in times more or less remote from the present it will be necessary to look for other methods and means than those now current. The Hon. G. Curzon, in his work, *Persia and the Persian Question*, says that in the middle of the seventeenth century the toman was equal to £3 10s.; and Sir John Malcolm, in a note to his *History of Persia*, says that in his time (probably in 1810) the toman, a nominal coin, was estimated to be the equivalent of £1, and that it was formerly double that value, and was even then so in Khorassan and Afghanistan. In Richardson's *Persian, Arabic, and English Dictionary*, revised by Francis Johnson up to the 8th of October, 1829, the toman is given "as the equal of 10,000 Arabic silver drachmas, which are about one-third less than those of the Greeks; also the equivalent of \$15."

This coin (toman), although existing, yet out of practical circulation, is the most convenient and perhaps the safest standard for fixing the actual value of the kran, now the current coin of the realm. It should be remarked that among Persians, both in the Government departments and also with private individuals, salaries and wages are fixed at so many toman per year, month, and week, as the case may be. It is only Europeans who express totals in kran.

In determining the value of the toman in the beginning of this century, or at former periods in its history, the purchasing power, relatively considered, was probably an important factor in the calculation. It has, moreover, varied in size and weight at different times, and consequently has changed in its numerical value. Possibly the subsidiary silver coin was increased in proportion to keep up its decimal relation. It has also had a fictitious value altogether outside the commercial one. As a curiosity or a remnant of antiquity, rare coins might, in those days as well as now, be traded for several times their face value.

The question of supply and demand could have entered but little into the ratio of comparison. So far as my knowledge of authentic Persian history goes, I know of no period when such a superfluity of gold existed as would give to it such an excess in value over that of Europe.

Ignorance and superstition might at times have been elements of a disturbing nature; but these would soon pass away if the foreign gold were found to be genuine or free from the effects of magic, or if it could be purified from ceremonial defilement. It would therefore seem that the value ascribed to the gold toman was not altogether calculated on ordinary foreign mercantile exchange.

From the beginning of this century we pass through a period of fluctuations, ascertained by more clearly defined commercial principles, and reach the year 1873. During the previous fifty years trade relations with foreign countries had been considerably extended. European merchants had brought their wares and come to settle in different parts of Persia, and the necessity of a convenient method of exchange in the shape of bills had come to be recognized—at first with some trepidation, but afterwards with the most satisfactory confidence. During the sixties the telegraph, both for international and local traffic, had been introduced, opening up to the native mind wider and more interesting sources of observation and making palpable breaches in the old fields of bigotry and exclusiveness. Systems change slowly in Persia, and adaptations to new methods only reach their ends by tedious and trying processes. If the study of political economy is but rarely undertaken, the application of the principles is being carried forward.

For the purpose of showing the decline in the Persian currency and for instituting comparisons of its effects on the commercial and industrial life of the country I propose to take as my first starting point the year 1873. There is a manifest advantage in this, as it will cover the whole period of decline. By adopting 1886 as the point of comparison, it makes an unequal partition of the whole divergence from the equilibrium of exchange which existed in 1873. Between 1873 and 1886 there was a fall in the Persian currency in relation to foreign exchange of 8 kran to the pound sterling, but from 1886 to September, 1896, there has been a fall of 17 kran to the pound, making in the whole period a decline of 25 kran.

There have been, no doubt, other causes than the depreciation of silver to bring about this result. Excess of imports over exports, scarcity of money, want of confidence, and a lack of support to native industries have doubtless all tended to produce financial stagnation, as well as an absolute confusion of ideas in the minds of the people. The laboring man blames the farmer for selling his wheat so dear; the farmer the shopkeeper for so frequently raising his prices; the shopkeeper throws the blame on the merchant for supplying inferior articles at a higher rate than formerly, and the merchant accuses the Government of being the chief offender. He does not know exactly why, and does not think it necessary to inquire.

The Government at various times has attempted to mitigate the severity of the situation by fixing, by law or proclamation, the price of the chief necessities of life; but other and more inexorable laws have supervened, and the last state has generally been worse than the first. Two days ago a decree was issued regulating the price of mutton for the whole year on a kind of sliding scale for the different seasons—on the whole, in favor of the consumer.

Mr. KEAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. STONE. I do.

Mr. KEAN. I heard something about the price of mutton. Where was that?

Mr. STONE. It is in this volume.

Mr. KEAN. I meant in what foreign country?

Mr. STONE. It is in Persia. I am reading about Persia; about the financial system of Persia. This is quite an interesting history of it.

Mr. KEAN. I think so; but, Mr. President, it is very hard to hear it.

Mr. STONE. The consumer always gets the worst of it over here, but in Persia, it seems, in the case of mutton, the eaters get a little the better. Now, if the Senator will give me his attention, this reads:

But this will most likely be upset by withdrawing the flocks of sheep from the neighborhood—a move which has had many precedents and has always succeeded. Persian tradesmen, without knowing any formulas of the creed, are strict trades-unionists, and when they combine for a common object nearly always succeed. They may be beaten or cursed for their obstinacy and selfishness, but they hold out until they have obtained the object of the strike.

Mr. CARTER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Montana?

Mr. STONE. I do.

Mr. CARTER. The Senator, who has doubtless given very close attention to the text, can inform us whether the Government fixes the price of mutton to be purchased by the Government or the price of mutton in the general market? That seems important to the pending bill, and it ought to be considered at the present time. [Laughter.]

Mr. STONE. Well, Mr. President, I am inclined to agree with my friend from New Hampshire [Mr. GALLINGER], who was kind enough to give it, as his opinion, that that was to fix the price of mutton to the consumer.

Mr. GALLINGER. To the common people.

Mr. STONE. To the common people.

Mr. CARTER. I did not hear the statement of the Senator from New Hampshire, nor did I know that the Senator from Missouri approved the construction given to the statement by the Senator from New Hampshire. Had I known of the views of the Senator from New Hampshire and the approval thereof by the Senator from Missouri, I would not have asked the question. I did not desire to interrupt the Senator, but merely asked for information, which it seemed was essential to the consideration of the bill, as I before suggested.

Mr. STONE. If the Senator from Montana will come over and sit here again, then he will hear better and have the benefit of the counsel of the Senator from New Hampshire, who does me the honor to listen very intently to this interesting theme.

Mr. CARTER. Mr. President, the voice of the Senator from Missouri is quite distinct all over the Chamber, but the voice of the Senator from New Hampshire was at fault, I think. [Laughter.] He ordinarily speaks in clear and distinct tones; but in the case under consideration he manifestly did not speak with that degree of force which he ordinarily uses.

Mr. STONE. Mr. President, I am glad the Senator from Montana has called the Senator from New Hampshire to task, for it was but a moment ago that the latter Senator was administering on me for speaking in a whisper, intimating that it was possible that I might be saying something to which the Chair would object as being against the rules of this body.

In a review of the state of the Persian currency, we can have no help whatever from official statistics, for the Government neither collects nor compiles any. The utility of this very important branch of the administration has not yet come to be recognized. If there were such an institution as a chamber of commerce, merchants might, for the sake of their own interests, be induced to enter upon this path of improvement; but as there is not, this source of information does not exist. The gold coins still considered in the Persian currency are 1-toman, half and quarter toman pieces. There are 2-toman pieces, but they hardly count. The silver coins are 2-kran, 1-kran, 10-shahi, and 5-shahi pieces. Copper, 2-shahi, 1 shahi, and pool or half shahi.

Toman signifies 10,000, and actually means 10,000 dinars, possibly so named from the Roman denarius, and at one time perhaps the same in value. One thousand dinars equal 1 kran, which is frequently called hazar dinar (1,000 dinars and 10 kran equal 1 toman). It is often called an ashrâfî, from the fact of its being coined by one of the Afghan princes who ruled the country in the beginning of the eighteenth century. These coins have practically gone out of circulation, but are bought and sold or passed in payment for services or goods at the local exchange price of the day.

I.—Standard of value.

The silver kran is the standard of value in Persia in all transactions, and is equal to 20 shahis copper money, although it is at a premium of 5 shahis, exchanging for 25 shahis. The currency is therefore monometallic, with a silver standard.

Originally the gold toman was the standard of value in exchange, with a free use of silver, and was so used for some decades in the present century; but during the fifties and sixties great quantities of the coined metal were exported, which had the effect of throwing it out of circulation.

Monometallism and bimetalism do not appear to have been questions that ever agitated the administrative or the public mind, and no doubt both gold and silver were used in exchange as suited the convenience or requirements of the parties interested. Under those conditions the currency was practically bimetallic, and only ceased to be so when there were no more gold to circulate or when silver ceased to hold its proportionate equality with gold. There was always some difficulty in minor transactions in using the gold, for storekeepers rarely kept sufficient silver in their tills to give change for a toman. It was this state of things which called into existence the large numbers of money changers, locally called "sarrafs," which means one who deals in discounts, and who were and are still settled at almost every turning in the streets and bazaars. Formerly they exchanged silver for gold, but now copper for silver.

The Persian kran, under normal conditions, was about the equivalent of the franc (19.3 cents), and in 1873 25 krans were exchanged for an English pound (\$4.86), and 2½ gold toman were of equal value. At the present date the gold coin retains its original position on the exchanges of the world, while 50 krans are the measure of an English pound.

The gold toman contains 42 grains of pure gold and 4½ grains of alloy of copper. The other gold coins are in the same ratio. It is equal to about 8 shillings English money (\$2).

The kran contains 67 grains of pure silver and 7½ grains of copper alloy, and at the present rate of exchange equals within a fraction 5 pence (10 cents).

The weight and proportion of the metals with the alloy are settled for the coinage by the Government.

There is another point I had better omit.

One of the evils inherent in the Persian currency system is the farming of the mint by private individuals, who, it is to be expected, will consider their own profit rather than the purity of the coinage and the interests of the public. Moreover, the Government tax on the enterprise leaves too little margin for the fluctuations in the price and uncertainties in the delivery of the silver to protect the farmer at all times from loss in the manipulations of that metal. Consequently, copper, which is less variable in price, is coined in quantities out of all proportion to the requirements of the country, and greatly to the demoralization of the currency. At the present time, on account of the scarcity of silver, it is used in the purchase of most of the necessities of life, of materials for the purposes of ordinary industries, and the payment of wages, plus 25 per cent on the kran. This dislocation of the general methods of finance and currency has contributed seriously to the degeneracy of trade, dissatisfaction and confusion in the public mind, and loss to the country at large.

II.—Amount of circulation.

In the absence of statistics on the subject, it is evident that any attempt to form an estimate of the amount of gold and silver money in circulation in Persia could be nothing more than a surmise or a guess, and would consequently be utterly valueless and misleading. Providing such statistics were forthcoming, they would, under the present system of trade and social conditions, be entirely worthless. This statement will apply also to the per capita circulation.

Regarding notes or paper money the case is different. The Imperial Bank of Persia, established in 1889, has a capital of £650,000 (\$3,250,000), and issues notes against a reserve, under Persian Government control, of 33 per cent to an amount equal to the extent of its capital. The notes are of various denominations, inscribed in both English and Persian, from 1 toman up to 100 toman. There are notes of a higher value, but they seldom get into circulation.

The Persian Government issues no notes as a circulating medium; but all Government officials in the civil service receive, in the early part of the fiscal year, which commences on the 21st of March, a certificate for their salary for the whole year, payable by the treasury department, and these are negotiated by native bankers to a considerable extent. The Imperial Bank, being a foreign institution, is prohibited from dealing in this species of security.

III.—Changes in the system.

The monetary system of this country has during the last twenty-three years been undergoing a steady and radical economic, rather than a statutory, change. From being a practically gold standard, it has almost degenerated into a copper one. This will appear from remarks already made. Twenty-three years ago, or even less, gold and silver interchanged at their normal ratios; but at the present time gold has gone out of circulation and has dwindled into a doubtful marketable commodity, and this not through any arbitrary act of the Government or any assignable paramount cause. Doubtless there have been many contributory causes to bring about the result. The Government of past years can not be held blameless in the matter, though it may not have observed the force of laws which were acting so adversely to the continued stability of the equilibrium. If twenty years ago, when gold was plentiful and the downward tendency possible of arrest, the Government of the day had made a complete reorganization of the currency on the basis of a revised gold coinage, Persia would at the present day have a monetary system greatly superior to that of any Asiatic country, and more than equal to that of some European countries. But the opportunity was allowed to pass, and the decline has been going on from year to year with undeviating and unresisted regularity, until the coinage has reached just half its original value, and Persia is much poorer than she was twenty-three years ago. Half the capital of the country has vanished, and without any corresponding benefit whatever.

The establishment of the Imperial Bank of Persia, an English institution, and the issue of notes payable on demand can not be considered as a change in the monetary system of the country. But it has, to some extent, facilitated business operations in towns, although country districts are quite unaffected by it. The notes, even in towns, are under some disabilities, and are still looked upon by the people as a doubtful equivalent for coin. The country is embarrassed with two silver coins of equal circulating value, called the old and the new kran. The old coin is of barbarous shape, and large quantities are debased in quality. This ought to have been long since withdrawn from circulation and recoined in the more modern form. The bank notes are held at par with the old coin, and if new is required, the holder has to accept at the least 1 out of the 10 krans in copper money. This applies to bazaar methods. It will thus be seen that a radical change has within the last twenty-three years been effected in the currency of Persia, and the Government has not, either by statute or decree, interfered one way or the other. This is one of the most curious revolutions of currency that has occurred during the century. While most

* Population of Persia, estimated, in 1894 was 9,000,000.

countries have endeavored either to preserve their gold standard or substitute silver for gold, Persia has allowed hers to degenerate from a gold to a silver one.

It may be interesting and possibly useful to know that the fall in the value of the Persian kran has been closely concurrent with that of the Indian rupee both in time and ratio. But while the rupee has shown a slight upward tendency within the last few weeks, the kran remains stationary. How far the same causes have contributed to like results I have not the means to ascertain. The difference between the relative values of the two coins is, however, in the case of the rupee due to artificial causes, which have not been brought into action in favor of the kran.

The remainder of that article relates to wages, prices of commodities, and the like. Now, here there are some short articles on Peru.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Certainly.

Mr. ALDRICH. I should like to give a suggestion which may meet the convenience of the Senator from Missouri. Owing to the evident precarious condition of the Senator's voice, and the impossibility of making himself heard, I would suggest that the document which he is now reading be printed in the RECORD without being read further.

Mr. STONE. Well, the Senator's solicitude is very affecting. It touches me deeply. I am so much affected by it that I am almost tempted to follow his suggestion, but for fear that Senators would not read the article, the only sure way I have of getting it before them is to read it myself. I am inclined to think I had better proceed in the regular order. Here is something from Minister McKenzie from Peru:

Minister McKenzie, in a dispatch dated Lima, August 18, 1896, informed the Department that he had asked the Peruvian foreign office for data to enable him to prepare a report, but up to January 12, 1897, no report had been received by the Department. According to the Director of the United States Mint (report for 1894, p. 347), the unit of Peruvian currency is the silver sol, weighing 25 grams, 900 fine, and equal to the French 5-franc piece, or about \$1 United States. Gold coins exist also, of 2, 5, 10, and 20 sols. Their fineness is 900, and the 20-sol piece weighs 32.258 grams. This gives a ratio of silver to gold of 1 to 15½. "For a long time," adds the Director of the Mint, "the country had an inconvertible paper money, but since the war [with Chile] this paper has become almost worthless, and in consequence only hard sols are now in circulation, valued according to the price of silver." The value of the Peruvian silver sol in United States currency, according to the statement of the Director of the Mint, October 1, 1896, is 49 cents.

In a report prepared for Commercial Relations Consul Jastremske, of Callao, says, under date of September 14, 1896:

"The government of President Pierola is inspiring a growing confidence in its purposes to promote the industries and general welfare of the country. In consequence a general improvement in trade is noticeable. The banks are reported to be in a healthy condition and to have a greater line of deposits than they have had for a considerable time. Capital appears to be available for all enterprises promising good results. Recently two insurance companies were formed in Lima—the Italia and the Rimac. In both cases all the stock was immediately taken, and it is said that the offerings of subscriptions exceeded the amount required."

"Reports of the discovery of rich gold deposits in the provinces of Sandia and Carabaya have excited considerable interest, and some capital is being invested in this direction."

"Meanwhile, from July 1 to September 3 silver has fluctuated on the London market from 31½d. to 30½d. the troy ounce. Strangely enough, exchange showed but slight variation, i. e., from 23½d. to 23½d. in Peruvian sols, on London, and from 209 to 210 in Peruvian sols for American dollars, on New York. I can account for this only by the great difference in the buying and selling price, which ranges from 2 to 4 per cent silver."

"Laborers in cities receive from 50 cents to \$1 per day; domestic servants from \$5 to \$12.50 per month; clerks in stores and offices from \$20 to \$75 per month; bookkeepers from \$1,000 to \$1,500 per annum; mechanics from 50 cents to \$2.50 per day."

"There are no notable changes in tariff or port charges to report. "As to cost of living, a good table d'hôte meal in the leading clubs of Lima, elegantly served and well prepared, is had at a cost of from 40 to 50 cents. Good Bordeaux table wine is served extra at from 45 to 50 cents per bottle. Day board and lodging at the best hotels is from \$1.50 to \$2 per day. From this an idea may be formed as to the cost of common living. Yet chickens sell at from 75 to 90 cents apiece; eggs, 35 to 40 cents a dozen; beef, 10 to 15 cents per pound; butter, from 35 to 60 cents per pound; ham, from 40 to 50 cents per pound."

"These prices are computed on the gold basis. They are to be doubled on the silver basis."

Well, now, here is something about Portugal:

PORTUGAL.

I.—Standard of value.

The monetary unit in Portugal is a simple money of account, with no actual existence, called a real. When at par, its value is one five hundred and sixty-three thousand eight hundred and fifty-sixths of the kilogram of gold of the standard of eleven-twelfths; in exchange on London its present value is one seven hundred and fifty-five thousand seven hundred and sixths.

Mr. ALDRICH. Mr. President—

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. I yield to the Senator from Rhode Island; surely.

Mr. ALDRICH. Mr. President, the course of the Senator from Missouri in this matter is so at variance with his good sense and with the manner in which he has carried on debate in this Chamber heretofore that I ask to call his attention to a rule of the Senate, with the hope that he will see the importance of carrying on this debate, if it is to be carried on, in a different manner. I will read from Jefferson's Manual, which is the recognized parliamentary authority for the Senate of the United States, the following:

For the same reason a member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

A member has not a right even to read his own speech unless he has the consent of the House. This movement, of which I regret to find that my friend the Senator from Missouri has become an attachment, is confined not to debate, but to reading extraneous articles upon all sorts of subjects. I hope the Senator from Missouri will see that this is against the spirit of the rules of the Senate, if it is not against the letter, and that he will discontinue the practice.

Mr. STONE. Does the Senator from Rhode Island make a point of order?

Mr. ALDRICH. I do not at this stage.

Mr. STONE. When I was interrupted, Mr. President, I was about to read or was reading a description of the financial system prevailing in Portugal, and had got down to part 2 of this report, which relates to the amount of circulation:

Since 1891, when specie payments were suspended, neither gold nor silver has been in circulation in the Kingdom of Portugal. Its entire currency consists of paper issued by the Bank of Portugal in denominations of 500 reis, 1 milreis, 5 milreis, 10 milreis, and the highest, 20 milreis. None of these notes contain any promise to pay. The entire wording of the large notes is as follows:

"Bank of Portugal. Twenty milreis. Gold."

Signed by the governor and the director.

The smaller notes are worded in the same way, except the word "silver" is substituted for "gold."

The Bank of Portugal is a private corporation. The Government is not connected with it except in exercising supervision over it.

Mr. HALE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Maine?

Mr. HALE. For a moment, that I may appeal to him. I shall not take much of the Senator's time.

Mr. STONE. I do always.

Mr. HALE. Mr. President, I think all of us who have had the pleasure of serving with the Senator from Missouri have found him a reasonable contributor to good debate, a practical legislator, invariably courteous, and open to fair appeal. The Senator, I think, must realize the situation as much as I or any other Senator. We are running to what everybody admits is the close of the session. There is a great desire on the part of Senators to be released, and the arrangements of a great many Senators have been interfered with who were prepared for leaving and had so made their plans. This very important bill, fraught with either good or evil to the country, is entitled to real discussion; but when the Senator from Rhode Island introduced it, rather, under the circumstances, than to consume time, after making a clear and succinct statement of the provisions of the bill, he refrained from consuming time.

The Senator from Texas [Mr. CULBERSON] addressed himself to the bill, to its defects, as they exist in his mind, and the Senate listened with attention and, presumably, profit.

Then the Senator from Wisconsin [Mr. LA FOLLETTE] obtained the floor. I am not going to characterize him or his speech, especially in his absence, but the Senator knows that we were treated to eighteen hours of consumption of valuable time, an entire prostrating and heated night session, and no contribution to the merit or demerits of the bill until at last he left the floor, having reached the end of his rope under the rules, and the night and day had gone.

The Senator from Missouri, not the Senator to resort to such methods, the Senator capable of clear, trenchant debate and capable of making an instructive speech in a reasonable time, has been speaking—I do not say this reproachfully, but he himself is probably unaware of it—for something like six hours, and I ask the Senator himself to take to himself this consideration: Has he contributed in these six hours to such debate or analysis or dissection of the bill as he is eminently capable of?

I appeal to the Senator. The Senate is anxious to take a vote on this matter. The time has been consumed, not as I have known time to be consumed on important bills in what might be called filibustering, where an entire party had set itself in array against a bill, and, believing it ought not to pass, claimed the right of debate upon the subject to clear it and illustrate it. But we have had nothing of that kind, although this may be as important a bill as any bill that heretofore has arrayed a

great party against a measure that had, as it has, a right to resort to all its rights under the rules.

I wish the Senator would bear in mind what has helped heretofore to contribute to the discussion. He has joined with me in opposing every effort to curtail the proper privileges of the Senate or to embody in our rules any form of cloture. He and I heretofore have stood here facing each other and making the same declaration that the beauty of the rules of the Senate is that the Senate can always get a vote after reasonable debate. That is what saves the Senate from the attempt that at any time may be made to throttle us and our proceedings by putting a cloture upon us. It is such things as have happened in the last twenty-four hours that give rise to apprehension that some day some party in power may resort to cloture and throttle the right of speech in the Senate.

Now, I appeal to the Senator, to his good nature, for he has plenty of it; to his humor, which has lightened his speech and of which he is full—I appeal to the Senator, not, if he desires to discuss this measure upon its merits and contribute to the opposition as he can by throwing light upon it, to refrain from doing that, but I do appeal to him not to continue to keep Senators here by continuing what he has been doing in the reading of essays, printed publications upon subjects not in the least dealing with this bill or anything in it, and which he must see, as we all see, has only one result—the consumption of valuable time.

I do not think the Senator ought, in justice to himself, to engage in that form of delay upon this matter when everybody wants to vote, simply with that result—consumption of time. I have felt concerned, although I have taken no time in this matter, and have a hesitation now, and the Senator may think I am intruding, but I am saying what I have said with the best of feeling and with a real regard and respect for the Senator, which he has earned from me by our association together here.

Mr. STONE. Mr. President, the speech made by the Senator from Maine has been so attractively said that I do not hesitate to say I am touched by the appeal he makes. I have a very high opinion of the Senator from Maine, as all of us have for his great ability, his experience in public life, particularly as a legislator, and anything said by him along the line of his suggestion made of any Senator here would have weight, as it has with me.

Mr. President, I am not occupying the time of the Senate with the idle purpose of wasting the time, and certainly not with the idea of imposing upon the good nature of Senators, although perhaps I am doing both. I do think that this is an extremely unwise and vicious legislative proposition, and I have not felt that a mere brief perfunctory opposition to it should be made, covering two or three hours of debate, and then let it go upon the statute books. I felt that a sufficiently vigorous opposition should be made to it as would result in attracting in a special way the attention of the country to its provisions.

I know the bill will be passed; I have not any doubt about it. I am not occupying the time of the Senate with any hope of defeating its passage. I agree with the Senator from Maine that it will pass. But I do indulge the hope that the attention of the country will be attracted to this filibuster, which can not continue indefinitely, but should go far enough to accomplish the purpose I have indicated.

I intend presently, before I am through with the discussion, to say something about the exact provisions of the bill. Then I have preferred—and still do, with all due deference—to pursue the course I have marked out in my own thought. I think I can do well to incur the temporary displeasure of the Senate if I can accomplish or be instrumental in helping to accomplish the end I have in view, of riveting the attention of the country upon this measure, so that it will be discussed at the firesides and in the shops as well as in the banks.

Mr. President, I feel constrained to proceed in my own way, regretting deeply if in doing so I offend the Senator from Maine or any other Senator on the floor.

Mr. President, the Senator from Nebraska asked me this morning what kind of currency I would favor; being against this bill, what bill would I favor; and I said I would prefer a currency issued directly by the Government. Now, I want to read something upon that subject.

Mr. FORAKER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. STONE. I do.

Mr. FORAKER. Mr. President, I dislike to interrupt the Senator, especially when he has stated to the Senate that he has a well-defined plan which he has mapped out in his mind which he prefers to follow in making the remarks he desires to submit to the Senate. Because I dislike to interrupt him I have sat here patiently listening while he read at great length from

the pamphlet that he held in his hand for so many hours. I was thinking all the while, knowing how obliging the Senator is and how much consideration he has for his colleagues, that he would soon come to the end of that pamphlet, and I hoped that would be the end of the reading. But now he has picked up a volume which I should think contains three or four and may be five hundred pages of printed matter. He says he is practically through with the pamphlet. I do not know whether he is entirely through with it or not. He is practically through with it, however, he tells us. Now, he desires to read from this other volume.

I want to be as lenient as I possibly can be, having due regard for the comfort of Senators and for the common concern of us all, and I would not object if I thought the Senator intended to read only briefly. But after we have listened to six or seven hours of this reading and after he passes from the small pamphlet to this large volume, I must confess that under all the circumstances I become somewhat nervous.

I rise, therefore, Mr. President, to call the attention of the Chair as well as the attention of the Senator to the fact that we have rules governing the proceedings of this body which I think have direct application to this case. I think all our rules may be said to have been adopted for the purpose of facilitating the transaction of business, and that none of these rules, properly construed, will admit of delay or of the doing of anything that is not within the spirit of the proceedings that we are expected ordinarily to have in this Chamber.

Now, this is not an ordinary occasion. The Senator has told us that he expects this bill to pass, but that he does not want it to pass. He does not want his colleagues in the Chamber to be permitted to vote until he has prosecuted what he himself calls a filibuster to such an extent as he may think necessary to attract the attention of the country to the character of this legislation. I am of the opinion that the filibuster has already been conducted to that point; that the country is taking notice, in all probability. Certainly it has been prosecuted to the entire satisfaction of the great majority of the members of this body.

But whether that is true or not, we have it on the authority of the Senator himself that he is speaking in behalf of a filibuster. There is no rule of this or any other parliamentary body that was intended to facilitate a filibuster or to promote a filibuster or to enable those engaged in one to unduly prolong it, or, in fact, to allow them to engage in a filibuster at all.

This is the first time, Mr. President, in the time I have been a member of this body, that I have ever heard a Senator state on the floor of the Chamber that he was engaged in a filibuster.

Mr. STONE. Mr. President, I do not think the Senator from Ohio quite fairly states what I said. The Senator from Maine, it will be remembered, said, among other things, that that happened when a party, or the great majority of a party, would make opposition continuously resisting the passage of a bill, and he spoke of it as a filibuster, and I referred to it, having in my mind what he had said.

Mr. FORAKER. Mr. President, the Senator knows I would not misrepresent anything that he said. I understood the Senator to say in so many words that this is a filibuster in which he and others are engaged. If that be not a correct representation of what the Senator said, I withdraw it of course.

Mr. STONE. I think the Senator will find that I said, "This filibuster, if you please to so call it."

Mr. FORAKER. If the Senator said, "If you please," it seemed to me the Senator pleased, and I felt that we had a right to regard this proceeding as a filibuster without regard to what the Senator said when we were kept here through the whole of last night, not by speaking, not by debating, but by simply reading; reading all kinds of literature, reading on all kinds of subjects, reading hour after hour, and hour after hour, reading in violation of the rules of the Senate, and reading, as the Senator from New Hampshire [Mr. GALLINGER] suggests to me, out of a book of fiction, for the instruction of the Senate.

We were of opinion that that was a filibuster; that it was being engaged in for the purpose of killing time and for the purpose, if possible, of defeating this bill or compelling it to be amended in such a way as the Senator from Wisconsin might suggest. Certainly we were so warranted in believing when the Senator from Wisconsin, in the course of his remarks, made the statement that he would keep the Senate here six weeks if necessary to accomplish the purpose he had in view, whatever that purpose may have been.

Now, we indulged the Senator from Wisconsin because of the courtesy that uniformly prevails in this Chamber. My colleagues were more indulgent than I thought they ought to be. There was a time in the course of his remarks when I thought he had transgressed one of the rules of the Senate and that we

had a right then and there to put an end to his remarks. That was after he had notified us that he expected to keep us here for six long weeks, and after for more than three hours he had been reading to us out of the works to which I have referred. But we indulged him all through the day and all through the night until he himself took himself off the floor.

Mr. STONE. Mr. President—

Mr. FORAKER. I rose to a point of order and I am going to state it in a moment.

The VICE-PRESIDENT. The Senator from Ohio will state his point of order.

Mr. FORAKER. Did the Senator from Missouri want to ask me a question?

Mr. STONE. I did not. I wanted to resume.

Mr. FORAKER. I do not expect the Senator will resume in the way he has been resuming—not, at least, if I can make the point of order as clear to the Presiding Officer as it is in my mind.

In the same spirit in which we indulged the Senator from Wisconsin we have been indulging the Senator from Missouri, because of our high regard for him as a man and as a Senator and because of our exceedingly pleasant relations with him. Because of the warm feeling of esteem in which we hold him, we have been loath to call his attention to the rules that are binding upon him as well as upon us.

But, Mr. President, we have come to a time when if we have any rules that are available it is our duty to avail ourselves of them, and it is our duty not only to every member of this Chamber to do that, but it is a duty to 391 Members of the House of Representatives who are being kept here by the undue prolonging of this debate.

I call attention to the fact that there is no rule which permits a Senator to rise in his place and address the Chair and receive recognition, and then hold the floor against other Senators, except only for the purposes of debate.

What is meant by debate? I eliminate, of course, getting the floor to make a motion to adjourn or to make any other motion. What is meant by debate? I call attention to Rule XIX:

When a Senator desires to speak—

Not read—

When a Senator desires to speak he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him. No Senator shall interrupt.

And so forth.

I have read enough to make clear the point to which I wish to call the attention of the Chair and the Senator from Missouri, that the privilege of the Senator is under Rule XIX to speak, to address the Senate by speaking, not to rise in his place and read a newspaper, not to rise in his place, as the Senator from Wisconsin did, and read from works of fiction and other works, going over the whole field of literature, whereby he was enabled to consume hours and hours and hours of time that we patiently surrendered to him.

It is not the privilege, in other words, of the Senator from Missouri, who has been addressing the Senate for the last six hours, to continue to hold us here while he will read first from this pamphlet at the great length which he has read from it, taxing our patience in doing so, because of the manifest irrelevancy of that which he has been reading to the question under consideration. Much less is it his privilege now to take up a volume of four or five hundred pages of printed matter and start in upon that, with a view, evidently, of inflicting all of it, or practically all of it, upon us to the full extent he may see fit to indulge in reading from it, and all for the purpose of delay.

Mr. President, there is no rule, except the one I have read, among the standing rules of the Senate that has application to this case. I call attention to the fact that the Senator is not, under that rule, authorized to read anything; he is authorized to speak, and I remind the Chair of the fact that it is the uniform practice in this Chamber, when a Senator is addressing the Senate and desires to have any extended or important paper read at the desk, or to read it himself, to state what his desire is, and the Chair uniformly announces that, without objection, it may be read, in recognition of this rule and in recognition of the construction that I put upon it.

But we are governed not alone by the standing rules; we are governed also by Jefferson's Manual. Turning to page 109, we find another provision that is applicable, and it is a controlling provision directly applicable. I commence reading at the foot of page 109, section 2, entitled "Reading papers:"

Where papers are laid before the House or referred to a committee, every Member has a right to have them once read at the table before he can be compelled to vote on them.

And so on to the end of that paragraph, the last sentence of which is—I will not delay to read all of it:

There is, indeed, so manifest a propriety of permitting every Member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information and not for delay, the Speaker directs it to be read without putting a question, if no one objects; but if objected to, a question must be put.

Now, the next paragraph:

It is equally an error to suppose that any Member has a right, without a question put, to lay a book or paper on the table, and have it read, on suggesting that it contains matter infringing on the privileges of the House.

Now I come to what is directly applicable. I have read what precedes only that what I am now about to read may be fully understood:

For the same reason, a Member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

A member has not a right even to read his own speech, committed to writing, without leave. This is also to prevent an abuse of time, and therefore is not refused but where that is intended.

These two paragraphs, Mr. President, were read a moment ago by the Senator from Rhode Island. They are directly applicable to this case. They fit it precisely. Nowhere in the standing rules, therefore, I repeat, and nowhere in Jefferson's Manual itself, that together constitute all the rules governing this body, can there be found a rule or a provision that authorizes a Senator, without the leave of the Senate, to read for mere delay in his place any paper or any book or any other document in the manner in which the Senator has been reading here to-day, and in which the Senator from Wisconsin was reading here yesterday and last night.

The fact that it is every day indulged in by Senators does not change the rule, for the indulgence is always granted by the Senate. It is by leave of the Senate, and the Chair uniformly announces, as I have already said, "Without objection, the paper will be read."

The only privilege, in other words, that a Senator has is a privilege to speak. That is the language of the rule. It is not a privilege to read a newspaper, a pamphlet, a volume, or anything else, except only by leave of the Senate.

Mr. President, I make the point of order that without leave of the Senate the Senator from Missouri has no right to continue the reading in the way in which he has been continuing it this morning. We have granted him leave until now by simply sitting silent in our seats, as is customary. These rules are well understood, their binding force is recognized, but nevertheless for the accommodation of Senators, and, as I said a moment ago, because of that courtesy which prevails here we generally allow a Senator to read anything he may want to read without objection, trusting to the Senator himself not to abuse the privilege we thus grant him.

I know the Senator from Missouri, when his attention is called to this matter as it has now been called to it, will not insist upon violating the rule, if I am correct, as I think I am. In any event, I shall call upon the Chair at the proper time to make a ruling upon this subject.

Mr. ALDRICH. Mr. President, I desire to make a motion affecting the comfort of the Senate.

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. I do.

Mr. FORAKER. Let me read just one other section that the Senator from Nebraska [Mr. BURKETT] has called my attention to. It is found in section 39 at the foot of page 127. It is a part of Jefferson's Manual.

But in small matters, and which are, of course, such as receiving petitions, reports, withdrawing motions, reading papers, etc., the Speaker most commonly supposes the consent of the House where no objection is expressed, and does not give them the trouble of putting the question formally.

That is simply confirmatory of what I said. I withhold the point of order for the present.

Mr. ALDRICH. Will the Senator from Missouri yield to me to make a motion touching the comfort and convenience of Senators?

Mr. STONE. I certainly will.

Mr. ALDRICH. I move that the Senate take a recess—

Mr. STONE. I want to hold the floor.

RECESS.

Mr. ALDRICH. I move that the Senate take a recess for thirty minutes. Many of us have been here for more than twenty-four hours continuously—nearly thirty-six hours, I think—and, speaking for the majority of the Senate, we may stay here many days longer. We certainly shall if occasion requires it. For the comfort of Senators, I ask that a recess may be taken that we may have the ventilation of this Hall and that Senators

may have an opportunity to get luncheon without being called to the Senate. I move that the Senate take a recess for thirty minutes.

The VICE-PRESIDENT. The Senator from Rhode Island moves that the Senate take a recess for thirty minutes.

The motion was agreed to; and at the expiration of the recess (at 2 o'clock p. m.) the Senate reassembled.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 208) for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 21003) fixing the compensation of certain officials in the customs service, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. PAYNE, Mr. DALZELL, and Mr. UNDERWOOD managers at the conference on the part of the House.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 21052) to amend sections 11 and 13 of an act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," Nos. 1, 2, 3, 4, and 6, and had disagreed to the amendment of the Senate No. 5.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew;

H. R. 17228. An act to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation;

H. R. 19462. An act to amend section 5438 of the Revised Statutes;

H. R. 19795. An act to promote the safety of employees on railroads; and

H. R. 22029. An act to incorporate the Congressional Club.

AMENDMENT OF NATIONAL BANKING LAWS.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 21871) to amend the national banking laws.

The VICE-PRESIDENT. The question is on agreeing to the conference report.

Mr. STONE. Mr. President, the Senator from Ohio [Mr. FORAKER] intimated that he would make a point of order against my right, or claim of right, to read from this book I have lying open before me, the one he described as being very voluminous. I desire to enter a very broad and positive protest against the position assumed by the Senator from Ohio. It is an infringement of and an attempt at curtailment of the right of debate in the Senate. The rule of the Senate is that a Senator may speak to any question pending. There is nothing in the rule referred to, or in any rule, that undertakes to define the limit of debate, what a Senator may say, or how he shall proceed. Whatever may be in Mr. Jefferson's Manual, I undertake to say, to start with, that that Manual is not a governing authority in this body. It has never been so. It is an authority, as would be the work of any other writer on the subject of parliamentary law. I do not concede the right of the Senator from Ohio, acting singly, or the right of the majority of the Senate acting with him, to prescribe what a Senator may say in debate or how he shall proceed.

Mr. President, it has been the uniform practice of the Senate, without a precedent to the contrary, so far as I am advised, that a Senator may read from his desk any paper or anything he cares to read, if in his judgment it tends to illustrate or enforce the argument he makes. The Senator from Ohio or the Senator from Rhode Island may be of the opinion that what one of their colleagues in this body reads is inapplicable and impertinent; but by what token do they undertake to say and do they assume to prescribe, or by what right does any Senator or do any number of Senators, under the rules and practices of this body, undertake to say what is illustrative or what tends to enforce an argument? Shall some other Senator or some other member set up the standard which is to govern the Senator who holds the floor and is debating a proposition?

It is the rule, or the practice at least, if a paper is sent to the desk to be read, that it is read by consent. If it is placed in the RECORD without reading, it is done by consent; but it has never been contended, even on the floor of the Senate, I undertake to say, that a Senator occupying his own place, at his own desk, can not read anything that is proper to be read that does not violate the proprieties of the Senate, if, in his judgment—and in his judgment alone—it is calculated to illustrate and enforce the points in the argument that he is attempting to develop. I shall enter my protest against any claim of that kind.

But, Mr. President, even though the position in the abstract were well taken, it does not apply to the case now in hand. The Senator from Ohio rose and objected, making the point of order, which later he withdrew.

Mr. FORAKER. The Senator is mistaken in the statement that I later withdrew the point of order. I did not withdraw the point of order.

Mr. STONE. I understood the Senator to say so.

Mr. FORAKER. No; I said that I made the point of order, but I would not press for a decision upon it until Senators were heard, if they so desired.

Mr. STONE. Then the Senator still has his point of order before the Senate?

Mr. FORAKER. I so understand.

Mr. STONE. Well, I simply misunderstood the Senator as to that.

Mr. FORAKER. Yes.

Mr. STONE. Very well. Then the Senator from Ohio makes a point of order in the form of an objection to my reading something from a book, without knowing what I am going to read or knowing anything about its applicability to the measure pending before the Senate. Therefore he must base his objection upon the broad ground that a Senator has no right under the rules and practices of this body to read anything from his desk without first obtaining the leave of the Senate. Against that I protest as being in violation of the uniform and unbroken and immemorial practice of the Senate.

Mr. President, I stated just before the recess that during the course of the debate the senior Senator from Nebraska [Mr. BURKETT] had interrogated me about the form of currency that ought to be issued. Inasmuch as I was declaring myself against the bank issue as provided for in the pending bill, he asked me if I would tell him in general terms what kind of money I would rather have issued, and I explained in general terms that I favored the issuance of money directly by the Government and opposed the delegation of the power and duty of the Government to issue money to individuals or to corporations. Is not that pertinent to the discussion of a bill that proposes to change the whole theory of our monetary system? Anyway I think so; and though every Senator on this floor might hold to the contrary, I claim the right, by virtue of the commission I hold here, to take my own view of that subject. I insist that I have a right to read a page or two, if I care to do so, of something which, in my opinion, is well written and strongly put, which is an argument of force better than I can make or hope to make, in defense or in advocacy of the contention I make. Now, Mr. President, is a Senator to be denied that right?

The question of order is before the Chair, and I think that is all I care to say.

Mr. BACON. Mr. President, I trust the Senate will not, for the purpose of relieving themselves of any temporary inconvenience or embarrassment or on account of any dissatisfaction, take action which may have influence not simply with what we do to-day, but which must very nearly concern what we shall do and have a right to do in the future.

The question raised by the point of order raised by the Senator from Ohio [Mr. FORAKER] is a very important one, one which would be very far-reaching if the construction put by him on the rule, as stated by him, should be adopted by the Senate. It is a matter which would manifestly require long debate.

Mr. FORAKER. Mr. President—

Mr. BACON. And I simply wish to make, if the Senator will pardon me just a moment, that—

Mr. FORAKER. I only wanted to explain to the Senator.

Mr. BACON. I want to suggest to the Senator from Ohio—

Mr. FORAKER. Very well.

Mr. BACON. That we pretermitt that question, and if there is any rule to be adopted in the future, that it shall then be done. But I wish to suggest to the Senator—premising that I differ with him utterly and totally in his construction of the right of a Senator to read a paper, while agreeing with him fully as to the impropriety of reading immaterial papers—

premising that, I wish to suggest to the Senator the withdrawal of the point of order at this time, and to let us proceed, in the hope that the suggestion made by him may be taken up possibly at some future time, when we shall have a better opportunity to consider it, and that possibly by the withdrawal of his point of order now, we may proceed to a satisfactory conclusion during the present legislative day.

Mr. TELLER. Mr. President, I will join the Senator from Georgia in the request, because I think this is a question of sufficient importance to be debated and considered, but I should not like to see it hastily disposed of. I hope the Senator from Ohio will for the present withdraw his point of order.

Mr. FORAKER. Mr. President, I recognize the importance of this question; I recognize that it is far-reaching. It was in recognition of that fact that I called attention, as I did, to the fact that the Senator from Missouri [Mr. STONE] had read from a pamphlet at such great length, to the extent of consuming hours of time, and had then taken up another large volume, which made me nervous, because he had accompanied the taking up of the volume with a remark which indicated that he was about to proceed to read that; and inasmuch as it contains probably four or five hundred pages, that, taken in connection with other matters, indicating a purpose to delay, made me feel that it was an appropriate time for the interposition of the point of order which I made.

Now, I recognize that this is, in view of the practice we have had heretofore, a very important question, and I recognize that Senators naturally want to debate it fully. Therefore I will not press the point of order at this time, but I will simply reserve my right to offer it again if anything shall develop in the further progress of the debate that may cause me to feel that the situation is such as to call for the pressing of the point of order and the taking of a ruling upon it. For the present I will withhold it.

The VICE-PRESIDENT. The Senator from Ohio withholds his point of order for the present. The question is on agreeing to the conference report.

Mr. STONE. Mr. President, I think for the present I will yield the floor, as I understand that the Senator from Oklahoma [Mr. GORE] desires to address the Senate.

The VICE-PRESIDENT. The Senator from Missouri yields the floor. The Senator from Oklahoma is recognized.

Mr. GORE. Mr. President, I desire to say in the beginning that I have always professed myself a stalwart and unfaltering friend of organized labor. I have always been a stalwart and unfaltering advocate of the eight-hour law, and I desire to bear witness here and now that I do not voluntarily violate that rule on this occasion. [Laughter.] My transgression may be aggravated by the fact that I violate another rule of organized labor in that I am not receiving "time and a half" for overtime during the last night and to-day. [Laughter.]

I desire, Mr. President, to disclaim any responsibility for any protraction of this debate. It has been the unusual eagerness for discussion and for the enlightenment of the other side of the Chamber which has caused this debate to drag its slow length along. I desire now to assure any Senator on the other side that if he should wish at any time during my brief remarks to submit a motion to adjourn, reluctantly, sir, I should yield to the Senator for that purpose. [Laughter.]

Now, Mr. President, I make another promise in the beginning, that I myself shall not violate the rule which forbids reading in this Senate. Being the youngest member of my party and the youngest member of this Senate, I have desired to observe the traditions of this body. I have desired to appear here, first, under more auspicious circumstances than those which now prevail. I confess, sir, that I have been ambitious to appear here for the first time without exciting, I may say, the least unfavorable consideration on the part of both sides of this Chamber; but, sir, I do not think that sentimentality should reign and rule here over my sense of duty on this occasion.

I regard the pending measure as a pernicious measure. I think the pending bill is as bad as the limitations of human intelligence could make it, and for that reason I would, if I could, compass the defeat of this conference report.

I would, if I could, sir, take the Greeks at Thermopylae for my shining example; aye, sir, I would prefer the illustrious example of the Texans at the Alamo, when not one survived to tell the tale of slaughter and of disaster; but I realize that the infirmities of human nature make it impossible to defeat the pending bill, and I shall, therefore, give expression to my views as briefly as I can; and I hope that the brevity of my remarks will challenge the admiration of Senators on the other side, at least when compared with the suggestions of the Senator from Missouri [Mr. STONE] and the fleeting observations of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. President, I presume that no one will suspect that I am guilty of any purpose of filibustering on this occasion. I protest, sir, a loftier motive. I have two hopes in my heart. One is that we can persuade the most potent, grave, and reverend "seigneurs" upon the other side of this Chamber to return to their former conviction, that railroad bonds should not be included in the measure now pending. That was the sentiment prevalent upon that side only a few fleeting weeks ago; and I presume a conviction founded upon a deliberate judgment and matured consideration.

Our purpose is to persuade those Senators to return to that commendable conviction or else persuade them to tell this side and to tell the country what overpowering argument, what subtle reasoning, what controlling authority has in a very brief time caused them to abandon their settled convictions and their fixed and resolute purpose. Either we want to persuade them to return to their convictions or persuade them to enlighten this side as to the arguments and the authorities which have occasioned the change over there. Possibly they might occasion the same change on this side; possibly they might justify all of us in passing this measure unanimously, and might justify the country in greeting the enactment of this measure with one universal acclaim of approbation and of applause.

It seems to me almost unfair for those gentlemen to withhold those considerations which had so decided an influence upon them. There may be some impertinent people in this country during the coming campaign who may insist upon an answer to that question. I doubt not that an answer satisfactory to Senators will be returned, but I submit, sir, that it ought to be returned now.

Mr. President, I desire to ask if the proceedings taken this morning with reference to a vote upon this measure are upon the Secretary's desk? If so, I desire that those proceedings be read.

The VICE-PRESIDENT. The Secretary will read the order made upon the motion of the Senator from Rhode Island [Mr. ALDRICH].

The Secretary read as follows:

Ordered, That when the vote is taken upon the pending conference report it shall be by yeas and nays.

Mr. GORE. Now, Mr. President, I submit that gentlemen on the other side have not only changed their convictions with reference to this measure, but they are, as I understand, changing, if not the rules, at least the practices and customs of this body. A suggestion was made during the early hours of the morning that there was no quorum present. That suggestion was overruled or held out of order. An appeal was taken to the Senate, and the Chair was sustained. When I reported here this morning, not altogether upon my own motion, a different Senator, to my surprise, I may say, was holding the floor and entertaining the Senate. In the meantime this action had been taken and this business transacted by the Senate—an order, sir, that when this measure shall be voted upon it shall be by the yeas and nays.

During the speech of the Senator from Missouri [Mr. STONE] I made the suggestion of no quorum. That suggestion was held to be out of order on the ground that no intervening business had transpired. Then, sir, I appealed from the decision of the Chair, and the distinguished Senator from Rhode Island [Mr. ALDRICH], with an ingenuity that added luster to his renown, interposed with the statement that a suggestion that was out of order could not be appealed from.

Mr. President, I am a new man in the Senate, but I shall have to change my decision if I ever appeal from a suggestion or from a ruling of the Chair that is made in my favor. It will be only those rulings which are adverse to my views and my convictions that I shall challenge, and that was the reason why I appealed from the decision of the Chair.

I make these observations in order to show, Mr. President, the revolutionary methods which are being employed to aid in the passage of this measure through the Senate. The majority of the Senate have changed not only their convictions, but changed the practices of a century, sir.

It has been the pride of the American Senate, and I may say of the American people, that there was at least one forum where free discussion forever prevailed. The Senate may not always have stood as high in the esteem of the public as it deserved to stand, and modesty forbids me to say that since my accession to the body its reputation ought to be enhanced in public favor, but, sir, it has been the pride of the American people that free discussion prevailed in the United States Senate. There was one forum where the truth could be elicited, where the merits and demerits of every measure could be discussed and illuminated without limitation or without hindrance, and I hope the day will never come when that tradition and that precedent shall be permanently abandoned.

I do not know what irresistible power is impelling the passage of this measure that Senators should resort to what seem to be such revolutionary tactics. It strikes me—perhaps born of inexperience and perhaps born of fear—that this proceeding is but the shadow of another scepter. I trust the time will never come when a measure can be passed through this Senate—a financial measure, a tariff measure, or any other measure of public concern—with a limitation of debate to one hour, to two hours, or even to three hours upon the side. I hope if that time ever comes there will be another branch of this Government, impelled by a regard for the Constitution, which will say that no measure can pass that body which did not pass this body under constitutional methods and practices.

To illustrate, if a public buildings bill were pending in the Senate and a currency measure were pending in the House, I should never be willing for the Senate to insist that unless the currency measure passed the House the public buildings measure would be murdered in the Senate. I hope it will never come to that pass, and I am sorry that the parliamentary regulations forbid me to speak with even greater plainness.

I desire to ask the parliamentary status of the conference report. As I understand, no amendment can be offered to the pending report; not one letter can be stricken out or added to it; it must be accepted as a whole or it must be rejected as a whole. Am I correct?

The VICE-PRESIDENT. The Senator from Oklahoma is correct. The only question is on agreeing to the report of the committee of conference.

Mr. GORE. I desired an explicit ruling on that point in order that the American people who are not experts in parliamentary law and usage might understand why the minority party did not offer salutary amendments to the pending report. I want the American people to understand why the minority made no effort, or seemingly made no effort, to pare the beak and the talons of this cross between a financial eagle and a vulture, related to the vulture in devouring the dead and related to the eagle in devouring the living.

I desired this ruling in order that the people might understand why we made no effort to extract the fangs or to dull the claws of this financial monster, or, in the words of Thomas Benton, this "tigress and her whelps."

Mr. President, if it were in order, there are several amendments I should propose to the pending report. I should offer an amendment providing that the banks in every State having the surplus of 20 per cent might organize one of these national currency associations, whether they had an aggregate capital and surplus equal to \$5,000,000 or not. I am opposed to any measure—financial, economic, political, or otherwise—which seeks to efface and to obliterate the State lines of this country. I understand there are seventeen States that can not organize State associations under the terms of this report. I would give the Senators from those splendid young Western States an opportunity to preserve the financial integrity and the financial entity and independence of their Commonwealths, and possibly State pride and local patriotism would inspire them to support such an amendment.

Mr. President, I would offer an amendment, if I could, to strike out railroad bonds, mining stocks and bonds, industrial securities of every description from the pending report, and I should hope that some of the Senators returning to their ancient convictions would support an amendment of that character.

Mr. President, I would, if I could, offer an amendment to the pending report providing that no bank could avail itself of the provisions of this law any of whose officers, directors, or stockholders were the officers, directors, or stockholders in any corporation which had been convicted of violating the antitrust laws of this country. I would not permit criminals to enjoy the benefits of this measure. I would not extend equal blessings to the guilty and the innocent alike. I would not vouchsafe equal assistance to the conspirators and to the victims of foul financial conspiracies in this country, and I should hope that some Senator on the other side, inspired by devotion to duty and his country, would vote against crime and would vote against criminals and would vote to discriminate between the guilty and the innocent.

Mr. President, there are other amendments which I need not enumerate here. One only shall I specify. I would insert a provision in this bill, which could not be violated with impunity, requiring banks everywhere to pay their depositors on demand and requiring banks in reserve cities to pay their patron banks upon demand.

Now, sir, this is an emergency measure. It is a life-preserver. It will stand the storm. It will prevent the return of panics in this country. It will prevent the necessity of banks

refusing their depositors on demand and the reserve banks refusing their patron banks on demand. Unless this measure is an admitted failure, a provision should have been inserted in it which no man would have dared to violate. They say that is the law now.

But, sir, it was violated with impunity, and I heard venerable Senators on the other side justify that violation and that lawlessness. But, sir, there will be no excuse for such lawlessness after this panacea for all our evils shall have been enacted into law.

Mr. President, it is not my purpose to follow the example of the strenuous and the strident one, to parade a catalogue or a lexicon of vile epithets. Before his distempered vision the criminal rich, malefactors of great wealth, undesirable citizens, parade like the countless heirs of Banquo before the affrighted eyes of the murderous Macbeth. I shall not follow his distinguished example. I am among those who do not reprobate riches as riches. We on this side wage war against wrongs and not against riches. We are aware from experience that a poor man may be either good or bad, and we know from observation that rich men may be good or bad. We believe that honest labor and honest capital are equally entitled to the protection of the law and ought to be shielded alike against the cormorant and the commune.

Mr. President, in the days of Andrew Jackson he denounced the United States Bank as a type and the embodiment of the money power. Pardon that ancient expression. Benton, as I have already said, called the bank the tigress and her whelps, and he warned his countrymen, while they had slain the tigress, to beware of the returning whelps.

Mr. President, this is not a strange spectacle to see the money power arrayed here in the Senate against the people of this country. In other days the fight was fierce and the fight was furious, but, sir, blessed be God, in that ancient conflict the people triumphed, and I trust they may triumph again.

Mr. President, four years before the expiration of the charter of the United States Bank from political motives Mr. Clay pushed the measure for the recharter of that institution through the American Congress. It finally passed both branches on the 9th day of July, 1832, less than five months before the Presidential election, in which Clay on the one hand and Jackson on the other were arrayed in a memorable contest.

The bank was situated in the State of Pennsylvania. The legislature of that State had unanimously declared in favor of the recharter. Pennsylvania at that time, be it said to her everlasting glory, was a stalwart Democratic State. Clay hoped by forcing that issue into the campaign that he could carry the State of Pennsylvania and be elected to the Presidency.

And when the measure passed both Houses it was triumphantly said that Andrew Jackson would not dare, would not assume the responsibility of vetoing it. Nicholas Biddle, the president of that institution, wrote to Henry Clay that Andrew Jackson was a chained panther, gnawing at his chains. But I say to you, Mr. President, that they misjudged that immortal hero, who would not shrink from any responsibility that was in any measure allied to his duty. He would sacrifice personal and political ambitions upon the shrine of his country's welfare, and he vetoed the measure; and when the returns came in Jackson had 219 electoral votes and the brilliant Clay had 49.

Mr. President, truth and justice and right have always been vindicated when fairly and squarely presented to the American people. I believe that every member on this side of the Chamber has equal honesty, has equal integrity, with that possessed by Andrew Jackson, whose political descendants and disciples we are. I believe that every member on this side is equally devoted to duty, loyal to principle, and consecrated to his country's welfare. But I fear me, sir, that for myself alone I am not possessed of that resolute, that unconquerable determination, which made him a victorious patriot and a patriotic victor over the enemies of his country, whether foreign or domestic.

I think it at least possible that if I were actuated by the spirit which impelled Andrew Jackson in that fight, if we were all possessed of equal resolution, I believe, sir, this measure would never pass the Senate, no matter how strenuously demanded by the money power or the moneyed interests of this country.

Mr. President, my objections to the pending bill are fundamental. I am opposed to it root and branch. It is wrong in principle, and it will prove unwise in policy. All human governments and all civil and social institutions are largely the results of evolution. The time was when the head of the family prescribed the law unto his own, where the patriarch of the assemblage of families, when the chief of the tribe by virtue of his inherent right, was the king among his brethren. The time was when the law consisted of the order of the head of the family, the patriarch or the chief. The time was when the only court was the highest power, and the time was that the

executive, the judiciary, and the legislative were one and the same. But in a long course of human experience it was demonstrated that a partition of power best secured the rights and the liberties of the people.

Mr. President, the time was when the power to tax belonged to the lord of the manor. It was a sort of military service rendered by the tenant to the landlord. Ultimately that service was commuted into the payment of money, and in a long course of evolution that power developed into the sovereign prerogative of taxation. The time was when the power to coin money belonged to the lord in his feudal domain, and it passed, as bills issued under this bill will pass, more or less current among the subjects. It was found to be an evil that a private individual should possess the power to coin money, and in course of evolution, in the course of human progress, the power to coin money became an attribute of sovereignty, and it is one of the highest prerogatives of a sovereign state to-day.

Mr. President, in the "land of the rising sun," in the Mohammedan countries of the earth, the power of taxation is farmed out to individuals, and that practice, coupled with another one which I need not now name, explains the universal stagnation which prevails throughout all Mohammedan countries. What motive, sir, to thrift, to labor, economy, to industry?

Why should one acquire property or credit when it may at any hour be confiscated by the ruthless taxgatherer?

The power to coin money is as sovereign and as sacred as the power to levy and collect taxes. It has been so demonstrated in all human history and it is established beyond controversy in the fundamental law of this Republic.

I say it is as vicious in principle, and I doubt not will prove as vicious in practice, to farm out the power to coin money as it has proven to farm out the power to levy and collect taxes. The sovereign power can with as much propriety farm out the power to administer justice as the power to coin or to issue money. It is a sacred trust vested in the sovereign by the consent of the subjects or the citizens, a power committed to him in sacred trust to be exercised in behalf of the entire people and not to be exercised in behalf of private individuals or private corporations for the mercenary motive of private gain.

Now, sir, this measure continues an ancient practice in this country of letting out to private corporations the sovereign power, the sovereign prerogative, of coining the currency of the realm. For that reason I say that my objections to the pending bill are fundamental. It can not be justified upon any considerations of principle or upon any considerations of policy.

Sir, the institution of banking has had somewhat a similar history. I believe the first bank, actual or so called, was that in Venice in the year 1171—not a bank as we now understand them, but a mere agency for the transfer of public credit. It was not an institution of deposit until 1587, and was then little more than a warehouse issuing warehouse receipts against bullion placed on deposit. Not until 1619 did it become a chartered institution, established and recognized by the law.

In 1661 the bank of Stockholm first issued transport notes, which served as a medium of circulation. Banks of credit were evolved and established by the banks of Amsterdam and Venice. The Bank of England was established in 1694, and has enjoyed a more or less illustrious career, checkered sometimes by failures and sometimes by signal successes. But by the Peel act of 1844 its powers as a bank of issue were finally established and limited by law. Its notes are a full legal tender in payment of all debts, so long as redeemed in gold.

The Bank of France was established by the great Napoleon in the year 1803. It was given a monopoly of issue in Paris in 1806, and that monopoly was extended throughout France in 1848. Its notes are full legal tender.

Bismarck, the iron chancellor, established the Imperial Bank of Germany in 1875 in order to aid in consolidating the German Empire. The German notes are in no sense a legal tender.

Mr. President, we have had some experience in banking in this country, and I may be allowed to say here that at the time this Government was organized under the Constitution there were only twenty-seven strictly business corporations chartered and existing in the United States of America. Eleven of those corporations were for the channeling of rivers, navigation, and three for the construction of bridges. The first bank established in this country was in Massachusetts in 1739. It was a land bank, and a little later, the same year, a bank was established by a number of wealthy merchants, whose notes were guaranteed by them and were hoarded.

But, sir, the following year the bubble act of Great Britain was extended to the colonies, a measure passed twenty years before in consequence of the South Sea bubble, a modern financial panic born of speculation and of frenzied finance. A bank was chartered by the Congress in 1781—the Bank of North America—but with moderate success. Another was established

soon after the organization of the Government under the Constitution.

But I need not trace these various institutions further than to say that almost every experiment which the mind of man can conceive in regard to banking has been tried in the United States. There have been State banks of almost every description. I wish I could quote literally the language of John Sherman as to the multiplicity and the variety of these institutions. The safety-fund system was tried in New York, beginning in 1829, and the free banking system, a system based upon United States bonds, State bonds, and ultimately, the State bonds of New York alone, was tried out in that State and with not satisfactory success.

But, sir, in 1863, under the leadership of Mr. Chase, the best features, I may say, of the various banking experiments in this country were united in the present national banking system. The supreme purpose was to create a market and a demand for United States bonds. They therefore made them the basis of a circulating medium, and soon after State bank notes were taxed out of existence.

Mr. President, whatever else may be said against the national banking system, the note holders are secure. Their security is as sacred and as solvent as the credit, as the concentrated property and wealth of this matchless Republic. The notes are safe and secure. There are two objects which ought to be sought in any banking system. One is security of the notes and the other is the flexibility of the volume. It should yield to the business demands of the country. But, sir, the supreme effort of financiers has been to combine those two virtues and those two desirable objects—to unite in the same system security and flexibility.

How does the present measure harmonize with the existing banking system of this country? There are two theories in regard to bank notes. One is that they are a form of currency and ought to be regulated and controlled by the Government. The other is the banking theory, that the notes are merely a form of bank credit, the same in essential character as bank deposits, and that the State should not interfere in the regulation of the volume.

Mr. President, our national banking system may be called, in a sense, banks of issue. They are an agency which the Government has adopted for dividing up its own credit into circulating notes, or, rather, instead of using its own notes, Treasury notes of small denominations, it issues its own bonds and permits the banks to divide up the bonds into smaller portions of credit in the shape of notes.

The proposition to use State, county and municipal bonds as a basis for currency changes the essential character of our banking system. They are not forms of national credit. We are shifting from one foundation to another in this measure.

Mr. President, the pending measure is the beginning of a new system, and it is the beginning of a bad system. It appears here under the plausible, the specious name of an emergency currency, and it is being passed by emergency tactics. State, county, and municipal bonds in this measure are made the basis of an extraordinary currency. I know how dangerous is the rôle of prophet, but I predict that in less than twenty years State, county, and municipal bonds will be made the basis, not of an extraordinary currency, but they will be made the basis of our ordinary currency. National bonds are too scarce and they are too dear. No national bonds, no national banks. The liquidation of the national indebtedness would mark the downfall of our banking institutions, and some other alternative must be invented and provided looking forward to that contingency.

I might say here, that secure as our notes have been, a banking system based upon a debt is an unscientific system. It assumes a public misfortune as a condition precedent to its very existence. It can not be justified upon safe, sound, and enduring banking principles.

But, sir, that is the best feature of the pending bill. That is its better half, and I wish that were its only half. Look at the amazing proposition embodied in the Vreeland section of the bill. A sort of hybrid is this measure, a cross, a financial monstrosity. What is proposed in the Vreeland half of this measure? I can not think that the distinguished Senator from Rhode Island surrendered his demand for railroad bonds in the Senate measure with an ultimate view to bringing that provision back in a conference report from which it could not be eliminated without the defeat of the entire measure. I indulge no such suspicion as that.

What are the securities proposed in the Vreeland department of this bill? Or, rather, I should ask, what are not the securities embodied in the Vreeland bill? That, sir, is an omnibus

measure of the most omnibus description, without limit and without limitation. The measure of the distinguished Senator from Rhode Island, which I opposed so strenuously, but which I almost recall now with feelings of regret and lamentation, contained a provision that only railroad bonds could be used when a dividend of 4 per cent had been paid for five years upon the railroad stocks involved. That, sir, was some guaranty that the securities were safe, were desirable, were valuable. A continuous business period of this country of five years, paying 4 per cent dividend, afforded some guaranty that the railroad was a paying enterprise; that it was a rational business investment; that it was not a wild-cat stock which may or which may never have paid dividends at 4 per cent, or any other per cent. Is there any requirement that the railroad bonds or other securities provided for in this measure should ever have paid a dividend? May not mining stocks, soaring skyward to-day and rushing down to the bottomless pit to-morrow, be used as a basis of our sound, safe, sane currency, which must be based upon intrinsic value and labor?

"Labor is always the first and most unfortunate victim of an unsound and a dishonest currency." What sort of bonds may not be used? Bonds of some flying-ship corporation may be made the basis of our soaring and our flying currency.

Not only that, Mr. President, but with Dean Swift's experiment of extracting sunbeams from cucumbers some enlightened company may be organized for that patriotic and useful service. Its bonds may be made the basis of our national currency, and they may bring sunshine or they may bring gloom to the laborers of the country, the "most defenseless victims of an unsound and a dishonest currency."

Mr. President, the junior Senator from Tennessee [Mr. TAYLOR] has at times discussed a scheme known as the "electroscoot," to be laid from New York City to San Francisco. Passengers embark at New York City and they arrive in San Francisco two hours before their departure from New York City. [Laughter.] Now, sir, that is the perfection of a panic currency. When the panic breaks out in New York, the birthplace of nearly all panics, a soil where they germinate and thrive with peculiar luxuriance and with peculiar destructiveness, a carload or two of this "V. & A." panic panacea will be shipped to San Francisco and will arrive two hours before the panic and will prevent the panic. Sir, that is a splendid achievement in financial science and in currency reform. I admire the versatility of the Senator from Rhode Island, but, sir, this is the ultimate stretch of his financial genius.

Mr. President, who owns these bonds and these securities? I know very little about the securities. I have never invested very extensively, for reasons too delicate to mention. [Laughter.] But I have the assurance of the distinguished Senator from Rhode Island that these State and municipal securities are so fluctuating that no prudent banker can afford to invest. I have great faith in his financial acumen and discretion. But, sir, he has faced about. Whether the recent panic proved the value of those bonds and showed that they were panic proof, I know not. But, sir, I appeal from Cæsar drunk to Cæsar sober. I prefer the judgment of the Senator from Rhode Island before he embarked in this financial electroscoot. It has misled his judgment; it has changed his views.

Sir, I do not own any of these State bonds, nor any of these county bonds, nor any of these city bonds. Who does own them, Mr. President? I take it that a few financial concerns in this country have a practical monopoly of those securities. I have satisfactory authority for that statement.

Sir, what will be the effect of this measure? Every small banker throughout the country will desire and will almost be obliged to provide himself with these life-preservers, to have a small allotment of State, municipal, electroscoot, air-ship, sunshine, and cucumber bonds. What will be the effect of this measure? I do not say the design of this measure, but I say, sir, what will be the effect of this measure? It will be to create a market for these hoarded securities, and the effect will be to bull those securities. They will be unloaded on the banks throughout this country, I doubt not. The banks will not buy some of those securities. Let us rely upon that as a protection against the worst extremity of this measure for harm.

Mr. President, what else will be the effect of this measure? I may say in passing that there is one section which I approve in part. That is the section which says it shall expire by limitation of law on the last day of June, 1914. If the date were earlier, I would approve it more heartily, and the earlier the better.

But, Mr. President, this measure will never be invoked but once. Whenever this deluge of panic money is once let loose upon this country, and when that flood subsides, the shipwreck

and the ruin that are left within its wake will be an everlasting protection against its subsequent employment in this country.

Mr. President, this measure provides for \$500,000,000 of panic currency. What does that mean? It means that the hoarders and the owners of these securities can never avail themselves of the benefits of the measure until this country is racked in the throes of a financial panic. We offer a reward, a premium of \$500,000,000 upon the production of a panic. We say to the owners of these securities, "Precipitate a panic and we will pay you \$500,000,000 for your patriotic services."

We say, "Fail and refuse to precipitate a panic, and you shall not reap the blessings of this accursed measure." Is not that, Mr. President, the provision? Is not that the effect of the pending bill?

We give the country a demijohn of alcohol in the one hand and an ounce vial of Keeley cure in the other, and we tell the country to debauch and sober up, and sober up and debauch, ad libitum, ad infinitum, whatever that may mean. We undertake to put the country in a financial strait-jacket and turn it into a padded cell and let it plunge itself against the padded walls, as we hope, forever, with impunity and without harm.

Now, Mr. President, what do you imagine would have been the sensible thing for the Senate to have done when it assembled here in December? Six months have crept by. Would not the rational thing have been to inquire into the causes of the panic? Did that ever occur to you, Mr. President, or to members of the Finance Committee? When we find ourselves in distress and under a calamity curiosity if not interest ought to actuate us to inquire into the causes of the disaster. That would have been interesting. I believe the distinguished senior Senator from Texas [Mr. CULBERSON] has curiosity enough to introduce a resolution of that sort, and, I think, I heard the assurance come from an authoritative source that the causes of the panic would be inquired into.

Mr. President, this panic came upon this country like an untimely frost upon the fairest flower of all the fields. The elements of material prosperity were abounding. I know some do say that the South African war and the Spanish-American war destroyed a vast amount of capital the eventual effects of which were felt in this panic; but, sir, that cause is too remote to be rational.

Some say that the Russo-Japanese war, the fire in Baltimore, the earthquake at San Francisco, destroyed much capital and thus contributed to this panic. But, sir, the earthquake at San Francisco and the fire at Baltimore will not compare with the conflagration and the disaster that will follow the first experiment with this newfangled electroscot currency.

I say, Mr. President, that the day after the panic occurred, the day after those evils were let loose upon this country, the day after we had in this country all the wealth, all the property, all the capital, all the money, all the labor, all the energy, all the skill, all the talent. We had all those elements of material prosperity here the morning after that that we had the morning before the panic. Sir, we had everything that contributes to or constitutes material prosperity excepting credit alone. Credit had been strained to the snapping point. Confidence had fled the country, as I believe, before the financial miners and sappers of this land.

Mr. President, I am the youngest member of this body, but I think the Finance Committee ought to have inquired vigorously into the causes and into the causers of that panic, and it ought to have told the American people the full name of those financial pirates who have shipwrecked the prosperity of this fair land.

It seems to me that would have been but rational. Now, at the peril of seeming radical and revolutionary, I venture to submit an idea that I saw in a respectable magazine, that two great financiers of this country, the heads of great financial interests, had a longing in their hearts for the copper mines, the banks, the railroads, the coal and iron mines, and the steamship lines of certain other smaller financiers. And I believe, Mr. President, that in order to find the little financial sharks we will have to dissect the big financial sharks. I believe if a full inventory could be obtained of those substantial and conservative business men, it would show enrolled a number of properties which had previously belonged to the lesser lights in that financial kingdom.

I have a curiosity to know, and I think the American people have a right to know, and, pardon the suggestion, I think it was a patriotic duty of some committee of the Senate to ascertain and to furnish the Senate and the country a just and fair conception of the causes of the panic and the promoters of the panic. Then, Mr. President, we might have devised ways and means like rational men and like sane legislators to meet a condition and an exigency which we understood.

Mr. President, what was another cause, a contributing circumstance, to the panic? The banks throughout the interior of this country, the business men in my section and in every other section of the country outside of the birthplace of the panic, were conducting their business upon conservative principles, without dreaming that they were driving headlong on the breakers. They were all shocked when they were advised by night that a panic was journeying westward from the rising sun.

Mr. President, what is one of the principal causes of this panic? Sir, I venture to assert the fact that the banks in the interior of this country had placed a part of their reserve on deposit in the reserve and central reserve cities, and when the demand came upon them they could not meet their legitimate demands, because the reserve banks would not repay their deposits. Now, what does that suggest to any man seeking a remedy for existing conditions? Prevent a recurrence of that condition, of that operating cause, and that will assist in preventing the effect of the panic.

Mr. President, \$400,000,000 from interior banks were on deposit in New York City. When the crisis came only \$20,000,000 were returned, less than 5 per cent.

I submit that this measure ought to have embodied a clause modifying the present system of reserve and central reserve cities. Why so? Because the concentration of this vast volume of money in New York City is not a result of a legitimate business demand. If so there would result no disastrous business consequences. If that vast volume of money, like water seeking its level, should flow naturally in response to legitimate business demands to New York City, I say, sir, there would be no disastrous consequences following upon that circumstance.

But, sir, it is forced there, I might almost say by hydraulic pressure, in quest of interest, not in response to business demands. But when deposited there on interest, what must the reserve banks do? They must, by hydraulic pressure, pump back money into the veins and arteries, not of trade and commerce, but, sir, of frenzied speculation. They must force it into circulation in order to realize the interest they are paying. It goes out in response to an unwholesome and unnatural demand, and not in response to a natural and legitimate demand.

When the interior banks seek their reserve they can not withdraw such a vast volume even from the artificial veins and arteries of speculation without precipitating a crash and without precipitating a panic.

Sir, Congress, sovereign as it is, can no more repeal the fundamental laws of finance than it can repeal the fundamental laws of physics. We propose to turn loose \$500,000,000 of panic currency, not based on gold but based on wild-cat securities. What has become of the Gresham law, supposed to be infallible, that bad money will drive out good money? Does this measure repeal the Gresham law? I would suggest, Mr. President, it is quite as possible for the Senate and Congress to repeal the law of supply and demand. We might just as fittingly authorize—I will not say the President, he already enjoys the power—but authorize the Secretary of the Treasury to suspend the laws of gravity and of gravitation. "Me and my world" should need no authorization; but the Secretary of the Treasury might stand in need of the nod or the wink of Congress.

Mr. President, we are harking backward. We are returning to the condemned currency of antebellum days. We will again hear a "wild cat" call; we will hear the "red dog" snarl and growl; we will hear the "blue pup" howl from the Eastern to the Western sea.

Now, Mr. President, I would make a suggestion to the Senator from Rhode Island. He is nothing if not a candid man. The circulation notes issued on these securities ought to bear a description of the peculiar bond which gives them virtue, solvency, and currency. If they are based on a railroad bond, a locomotive might be emblazoned upon the note; if upon the sunshine-cucumber bonds, then a saffron-hued cucumber, or an airship, or an electroscot, as the occasion might be.

Sir, let us perfect this system. We now have the vitascope among us and the graphophone. If these are to be wild-cat notes, employ the vitascope and let the living, moving wild-cat parade to and fro upon this panic currency. Not only that, but use the graphophone, and let the "red dog" or the "blue pup" whine in his old-fashioned way upon this newfangled currency. That would be perfectly candid.

Mr. President, I am a new member here, and it may be surprising to Senators when I admit that there are some things about legislation which I do not know. It may be even more surprising when I say there are some things which I am finding out.

Mr. President, how was the panic met? What measures were employed to shield the country against its disastrous and destroying effect? I desire to have a letter of the President to

the Secretary of the Treasury read to the Senate. It appears on page 230. Anything from that pen, sir, is not only edifying to me, but to the Senate.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

No. 17.—LETTER OF THE PRESIDENT TO THE SECRETARY OF THE TREASURY.

THE WHITE HOUSE,
Washington, October 25, 1907.

MY DEAR MR. CORTELYOU: I congratulate you upon the admirable way in which you have handled the present crisis. I congratulate also those conservative and substantial business men who, in this crisis, have acted with such wisdom and public spirit. By their action they did invaluable service in checking the panic which, beginning as a matter of speculation, was threatening to destroy the confidence and credit necessary to the conduct of legitimate business. No one who considers calmly can question that the underlying conditions which make up our financial and industrial well-being are essentially sound and honest. Dishonest dealing and speculative enterprise are merely the occasional incidents of our real prosperity. The action taken by you and by the business men in question has been of the utmost consequence and has secured opportunity for the calm consideration which must inevitably produce entire confidence in our business conditions.

Faithfully, yours,

THEODORE ROOSEVELT.

HON. GEORGE B. CORTELYOU,
Secretary of the Treasury.

Mr. GORE. Now, Mr. President, I ask for the reading of the second epistle on the next page as far as marked.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

THE WHITE HOUSE,
Washington, November 17, 1907.

MY DEAR MR. CORTELYOU: I have considered your proposal. I approve the issue of the fifty millions of Panama bonds, which will be immediately available as the basis for additional currency. I also approve the issue of \$100,000,000, or so much as you may find necessary, of \$50 3 per cent interest-bearing Government notes, the proceeds of the sale of which can be at once deposited by you where the greatest need exists, and especially in the West and South, where the crops have to be moved. I have assurance that the leaders of Congress are considering a currency bill which will meet in permanent fashion the needs of the situation, and which I believe will be passed at an early date after Congress convenes two weeks hence.

Mr. GORE. Mr. President, in the first letter read to the Senate, with a conservatism entirely incompatible with his whole character and career, the President fails to mention the names, and fails, as I think, to do adequate honor (?) to those substantial and conservative business men, and I trust that I violate no confidence when I submit the names of J. D. Rockefeller and J. P. Morgan as being those of the "conservative and substantial business men" whose splendid patriotism and public services received the plaudits of His Excellency.

The President congratulates the Secretary of the Treasury upon the "admirable way" in which he "handled the present crisis." That letter was indited on October 25, 1907, and I submit, sir, that whatever had been done at that time by the Secretary of the Treasury had the unqualified indorsement of the President of the United States. Let us see what measures had been taken by the Secretary of the Treasury in his admirable handling of the panic. He deposited millions and multimillions of the people's money in national banks and in public depositories throughout this country; and wherever he may have placed those deposits he had the approval of the President.

The President knew where those deposits ought to have been made, and he states in his letter of November 16 that the proceeds of the bonds issued should be deposited in the South and the West, where they were needed for the movement of crops. I submit to the Senate a list of the banks in which the public moneys were deposited between the 19th of October, the Saturday preceding the Monday when the crisis burst in all its fury and the 31st of October.

Sir, the public deposits in various national banks were increased many, many millions of dollars, and the President indorsed their distribution throughout the country. I submit to you, Mr. President, that from the 19th until the 31st of October the Secretary of the Treasury increased the public deposits in New York State \$34,000,000. He increased the deposits in the great imperial State of Texas during those twelve days \$190,000, while he increased them in New York State one hundred and thirty-five times as much as he increased them in the State of Texas, which, if I understand the geography of the situation, is situated both in the South and in the West, and they have some crops in transit during the month of October.

I submit that during those twelve days the deposits were decreased in the State of Vermont about fourteen or fifteen thousand dollars; in the State of Washington the decrease was more than \$100,000, and in the splendid young State of Oklahoma during those twelve days the decrease of public deposits was \$550,000. Whether that be a compliment to our bounding prosperity or an indifference to our welfare, I know not; but, sir, to

take the money from a Southern and Western State, where crops were moving, and transfer it to the State of New York, where the panic had been bred and born, I submit does not harmonize with the declarations of the President of the United States in his second letter to the Ephesians on November 16.

I want to say, as a matter of especial interest to the senior Senator from Missouri [Mr. STONE], that the relative populations of New York and Missouri are in the ratio of two and a half to one. One would suppose that the distribution of the public funds might have been based upon population, because every citizen of this Republic owns, share and share alike, every dollar's worth of money and every dollar's worth of property held by the United States Government, or if that ratio was unfair, then the Southern and Western States, where crops were moving, might have been entitled to something more than an equal share and an equal proportion of these moneys.

The deposits in New York were increased more than \$34,000,000. Perhaps the Senator from Missouri would imagine that the deposits in his great, prosperous, and imperial State would have been increased in the neighborhood of twelve or thirteen million dollars. By no means. I submit to you, Mr. President, and to the Senate, that during those twelve days, when this country was in the throes of panic, when the farmers were languishing for the want of money, when calamity had come upon this country through no fault of the Western and the Southern farmer, the deposits in Missouri were not increased \$12,000,000, but during that panic-stricken period of twelve days the deposits in Missouri were increased the enormous amount of 62 cents. [Laughter.] Sixty-two cents, sir, to a Southern and Western State where crops were in transit. That is where the President said the money ought to be placed—in the Southern and Western States, where the crops were moving—and he congratulates the Secretary of the Treasury upon his admirable handling of the panic in the deposit of \$34,000,000 in the "Southern and Western" State of New York, and apportioning 62 cents to the great State represented by, I might say, the tongue-tied senior Senator from Missouri, who has just regaled the Senate with his eloquence and his erudition.

Mr. President, perhaps I am justified in saying to the Senate that one bank controlled by the Standard Oil concern received during those twelve days an increase of \$9,000,000 of public money, making the aggregate of \$14,000,000 in one bank in New York City, "where crops were moving;" and there was an increase in another bank—the Hanover Bank, presided over by the financial genius of Mr. Rockefeller—of \$5,000,000. So that on the 31st day of October the two banks I have mentioned, the National City Bank and the Hanover Bank—two toys in the hands of Mr. Rockefeller—had an aggregate deposit belonging to the people of Missouri and Texas and other States of more than \$24,000,000.

How unfortunate that amount was not increased \$5,000,000. Then that great concern could have liquidated the unreversed judgment, now standing against it, without the loss of a single farthing to its coffers. That is why I wanted to prohibit corporations which had been adjudged guilty of violating the anti-trust law from participating in the benefits of this measure. To me—I will not say more than that—it is a lamentable commentary upon the fidelity of the Secretary of the Treasury that he should deposit \$24,000,000 belonging to the American people in a financial institution controlled by a corporation which had been adjudged a criminal under the laws of the land and had been fined in the sum of \$29,000,000. Yet the President congratulates the Secretary of the Treasury upon his "admirable handling of the panic" and upon "the splendid services of those conservative and substantial business men."

Now, they are "conservative and substantial business men." For once I agree with His Excellency. They are rapidly absorbing the substance of the country and tenaciously conserving all that they can get, remembering the ancient maxim: "Let him get who has the power and let him keep who can."

Sir, in another institution presided over by that splendid financial genius, Mr. Morgan—and I beg pardon if I violate any feelings of delicacy (?) in mentioning these names—that institution, the First National Bank, under Mr. Morgan's influence, received an increase during those twelve days of \$9,000,000. The National City Bank, belonging to Rockefeller, received an increase of \$9,300,000, and Mr. Morgan's bank, the First National Bank, received an increase of \$9,250,000—a discrepancy of only \$50,000.

That is evenhanded justice! There is no favoritism perceptible in that transaction, and there were on deposit in two banks presided over by Mr. Morgan—if I may repeat his name—a sum of about seventeen or eighteen million dollars of the people's money, belonging to the people of Illinois, Missouri, Texas, and Oklahoma, and one bank of Rockefeller's and one bank of Mor-

gan's each received ten times as much public moneys during those twelve days as did the magnificent Commonwealth of Illinois—ten times as much to each of those two institutions as went to the entire State of Illinois! Now, sir, that is the admirable manner in which the Secretary of the Treasury handled the present panic. I confess my inability to discriminate between the President's "conservative and substantial business men" on the one hand and his "undesirable citizens" on the other. They all look alike to me.

But, Mr. President, I come to still another chapter. On the 16th of November the second epistle was written, approving the proposed issue of Panama bonds and of interest-bearing certificates, as I believe, without any warrant or authority of law. Sir, there were bonds issued in other days which have been complained of in national platforms. In those other days, if there was no reason—and I think there was none—possibly there was some color of excuse. An impaired reserve and a deficit in the Treasury, if no reason, may have been regarded as a colorable excuse for the issuance and sale of bonds; but I submit, sir, that with a surplus of \$240,000,000 in the Treasury, belonging to the people and which should have been in circulation among the people—to issue bonds under those circumstances, not for the purposes prescribed by law, but in order to help banks put money into circulation, has no justification in conscience, law, or public policy.

But, sir, the President says that he indorsed the proposed issue and that the proceeds should be placed where most needed, especially in the South and West, where the crops were being moved. Of the \$25,000,000 of Panama bonds, where were the proceeds deposited? Six million eight hundred thousand dollars, more than one-fourth, were deposited in that "Southern State" of New York. More than three and a quarter million dollars were deposited in the "Western State" of Pennsylvania. It is said that the late distinguished Senator from Massachusetts, Mr. Hoar, whose demise subtracted vastly from the intelligence and patriotism and glory of this body, was asked on one occasion if he had ever been West, and it is said that he replied that he had; that he had visited Pittsburg. [Laughter.] Perhaps it was the same sense of geography and of latitude and longitude which inspired the conduct of the Secretary of the Treasury.

More than a million and a half was deposited in Ohio; nearly half a million in the State of Illinois, and half of the proceeds of the Panama bond issue were deposited in the four "Southern and Western States," where the crops were moving—New York, Pennsylvania, Ohio, and Illinois—and a mere trifle was deposited in Oklahoma—which had at that time hardly been discovered—and in the great State of Texas, which produces one-third of the cotton crop of the entire earth. That is the "admirable manner" in which the Secretary of the Treasury "handled the recent panic!" If the Senate and if the country concur in that indorsement, it is merely a point of difference between them and my own humble conception of public duty and of public service.

Mr. President, after these preliminary remarks, I desire to reiterate, perhaps to the astonishment of the Senate, that I am learning something about legislation and legislative proceedings. I have learned that there are some legislative questions which ought to be determined by Congress; that there are others which ought to be determined by a high commission of some sort, or, I might say, a commission of any sort. [Laughter.] There are some legislative questions which ought to be determined before a Presidential election; there are others which ought to be remitted to a date subsequent to a Presidential election; and there are some distinguished prophets, for whose judgment and inspiration I have infinite regard, who can foresee with precision that an extra session of Congress should be called, whether immediately after or immediately before the election, my memory serves me not.

I have learned those fundamental principles of legislation already, and I am learning to some extent—I have not learned entirely—how to differentiate between those questions. I am sometimes puzzled and perplexed sorely as to whether Congress ought to decide a question or a commission ought to decide it. I am sometimes sorely bewildered as to whether it would be to the best interests of the country to settle these questions as they come up, or whether we should fly from our duty, shirk the responsibility, and wait until the Presidential election has come and gone.

I want to say to you, Mr. President, that the man or the party that is afraid to meet responsibility is unfit to meet responsibility; and I submit to the one side and the other of this Chamber alike that those who stand in constant fear of assuming responsibility rarely realize very long their ill-founded fears. The people will not trust men or parties that do not

trust themselves. The people will not follow a leader that will not lead.

Now, Mr. President, I have discovered that the financial question and legislation upon that subject has a sort of twofold character. Part of it, combining the emergency feature, should be decided now before the adjournment of Congress, and not without full and deliberate and untrammelled debate. There are other features of the financial question which ought to be referred to a Congressional commission. I wish that this measure, for the enlightenment of the Senate and the enlightenment of the country, had catalogued the peculiar features which ought to be remitted to this Congressional commission; but I see in that a splendid political strategy that this commission, like the great apostle, could, if it would, be "all things to all men." That commission, sir, is a tub to the whale, a sop to Cerberus. It will of course do nothing, and upon that it may be entitled to the congratulation and the gratitude of the country. But, sir, this is a convenient political dispensary, where promises, if anyone should see fit, could be, but probably—certainly, I may say—will not be dispensed.

Mr. President, there are other questions as to which I can not tell whether they should be referred to a commission or to Congress. There is the tariff question—if I may be pardoned for introducing so modern a subject—which ought to be referred to experts of some sort, or of any sort. Everybody admits, and nobody denies, that the tariff ought to be revised. The only question is, whether it should be revised up or revised down; whether it should be revised to-day or revised to-morrow; whether it should be revised before the Presidential election or subsequent to the Presidential election. I submit, Mr. President, that any fair investigation into the causes of this panic would lead to a conclusion that the tariff should be revised, and revised down. Under our present system, which nobody defends but everybody condemns, money has been extracted from the people's pockets and concentrated in the Treasury of the United States in the sum of \$240,000,000.

If that money had been allowed to remain where it belonged, in the pockets of the people, every dollar would have sustained a superstructure of credit of from three to four dollars, an aggregate credit in the country of more than \$700,000,000, which would have done more than all your air-ship securities to have prevented the recent panic. Any fair investigation and any honest conclusion would demand that the tariff be revised and that it be reduced; and, Mr. President, if it were revised, if raw materials were placed on the free list, if the shackles were stricken from the hands of our manufacturers, if they were permitted to engage upon equal terms in the great conquest of the markets of the world, that would create a demand for labor and would give employment to labor, which would have done much to parry the effects and the evil consequences of the recent panic.

I say to you, Mr. President, that we have gone to war for an open door in China; but we insist upon a closed door in America. The closed door for China is uncivilized and is barbarous. The closed door for the United States is the perfection of high and enlightened statesmanship. A strange sort of philosophy and statesmanship is this, which is defined by parallels of latitude and meridians of longitude.

Mr. President, whenever you close the doors of this country to keep imports out, you close those doors to keep exports in. That, sir, is as infallible as truth itself. Only by letting the gates ajar and receiving the goods and wares and merchandise of the world can we hope to share the markets of the world. We can not monopolize the home market and enjoy a fair and reasonable share of the foreign trade of the world.

But, sir, that ought not to be decided before a Presidential election! The burdens of the people ought not to be alleviated before such an election! The splendid prospects of that joyous occasion are ample compensation for these burdens of taxation! Any member of the majority party in this Senate will assent to the proposition that high taxation in a city is an evil; that high taxation in a county is an evil; that high taxation in a State is an evil; but, sir, when it comes to the United States these fundamental principles are reversed. High taxation becomes an infinite blessing, and low taxation becomes an insufferable curse. There are those amongst us who are insistent on our position with reference to taxation, who believe that an unnecessary tax is an unjust tax; who believe that high taxation is always and everywhere an unmitigated evil, and that low taxation everywhere and at all times is a blessing to be sought and to be encouraged.

I have sometimes regretted that imports into the United States could not bear an import tag of some description, stating the amount of duty which the articles bore, so that all good Republicans could cheerfully seek out the taxgatherer and pay

their tribute to the Government. The Democrat who desired to shirk this burden of taxation could exercise his option as to whether he would pay excessive duties or not. I have wondered if the Presidential election should be determined upon that principle, what candidate would be triumphant in the coming election.

Mr. President, I want to say that the argument that a high tariff is responsible for high wages is unfounded. In protected Germany wages are lower than in free-trade England, and yet the agrarians in that country and the manufacturers clamor for a high tariff against free-trade England. Wages in the United States are twice as high in some lines of industry as they are in England and almost three times as high as they are in Germany and France, and I call your attention, Mr. President, to the fact that the wages in the unprotected industries in the United States are just as much higher than the wages abroad as are the wages in the protected industries of the United States.

I say to you that the superior wages of the American laborer are due not to the Republican party, are due not to the protective tariff, are due not to the Federal Government. The superior wages of the American laborer are due to the superior intelligence, the superior skill, and the superior industry of the American laborer over all the laborers of all the world. It but robs the American laborer of the credit and the glory which is his own when any party arrogates to itself or any of its policies credit for the high wages enjoyed in either protected or unprotected industries in the United States.

As to carpenters, masons, bricklayers, clerks, cooks, boiler makers, barbers, bartenders, according to the report of Carroll D. Wright, an authority which will command respect on the other side, the wages in those lines of industry in the United States are just as much higher than abroad as they are in the protected branches of labor in this country.

I say to you further, Mr. President, that in proportion to output, in proportion to the units of production, the American laborer is the poorest paid laborer on the face of the earth to-day. Instead of higher relative wages they are the lowest under the sun.

Mr. President, I have learned that the question of injunction—and disturbances between labor and capital help to aggravate panics, by the way, and anything which would quiet those disputes and those disturbances would tend to prevent panics and alleviate their evils when they come—I have discovered that injunction legislation ought not to take place prior to a Presidential election, but is scheduled for a date subsequent to such an election. There are, I believe, 2,000,000 laboring people in this country vitally concerned in the enactment of that legislation.

I believe—I know not, but I believe—that Senators on this side are willing to vote now to afford that protection to the laborers of this country. If Senators on the other side will manifest one twenty-fourth of the eagerness and the anxiety to protect the laborers that they have exhibited to protect the bankers of this country, injunction legislation will occur not only before the Presidential election but before the adjournment of this session.

I have learned that publicity of contributions to campaign funds is a matter that by no means should be considered before a Presidential election, not because it might diminish the contributions to anybody's campaign fund, but, in the very nature of things, it can be more wisely determined in the calm autumnal days which follow the elections rather than in the strife and turmoil which precede the contest.

I believe Senators on this side are willing to vote now for a publicity measure disassociated with politics, disassociated with the fourteenth or fifteenth amendment. If Senators on the other side will exhibit one-tenth of the eagerness for such legislation that they exhibit for this legislation, then, sir, a measure of that description can be enacted not only before the Presidential election but before the adjournment of the present session.

Mr. President, I learned that measures to prohibit speculation—the cause of panics, according to the President's letter—that measures to prohibit gambling in futures ought not to be considered before the Presidential election, but they are in season subsequent to such an election.

There are some on this side who believe that it is quite as solemn an obligation on the part of the Senate and Congress to protect the farmers against such gambling as it is to protect the gamblers who precipitate panics; and I believe if Senators on the other side will exhibit one-tenth the anxiety for legislation of that description, they can realize their hope and they can relieve this country by securing such legislation, not only before the election, but before the adjournment of the present session.

I have learned that questions relating to the restoration of discharged troops, and especially troops of a certain complexion,

ought not to be determined on the eve of a Presidential election. But those questions are reasonable just after such election, when the passions and the animosities engendered by these Presidential combats have subsided and sober reflection comes back upon the legislators and the statesmen of the land. I believe that Senators on this side are willing to settle that question now. I believe everybody admits and nobody denies that justice delayed is justice denied.

Those discharged troops, if ever to be reinstated, ought to be reinstated now, so that they can enjoy the fruit of their service and the country can enjoy the protection which that service affords. But the spirit which dominates the statesmanship of this body has ordained it otherwise.

Mr. President, I do not know, and I have not yet decided, whether a resolution to exempt the railroads of this country from obeying the law ought to be acted upon by Congress or by a commission; whether it ought to be determined before or after a Presidential election, I do not know. I do not think that the settlement of that question would have any reference to campaign funds. But there was seriously considered here for several days the question of remitting the penalty imposed by the interstate-commerce law enacted two years ago, prohibiting railroads from engaging in mining, in manufacturing, and in other branches of industry in this country.

The two mothers of trusts and monopolies are the tariff duties on the one hand, which protect the trusts against foreign competition, and freight-rate discrimination, which protects the trust against domestic competition on the other hand. What is a monopoly? An exemption from competition, either in whole or in part. By tariff duties and freight-rate discrimination trusts and monopolies of this country have been exempted from competition, both foreign and domestic. And we seriously considered the proposition to release the railroad companies of the country from obedience to the law. The resolution was laid aside, mysteriously to me and for what reasons I know not. Some one suggested—and I resented the suggestion—that the Supreme Court might decide that the time appointed for the disposition of these properties was so brief under the law as enacted that it would be tantamount to confiscation. Shame upon the age and upon the principle and upon him who would breathe that foul suggestion in the ears of any patriotic man!

But, sir, the futility of that resolution finally broke in upon the majority members of this body, because it has been alleged, in a letter from Mr. Glasgow to the President, and never denied, that the Department of Justice had authorized the statement that the Attorney-General would institute proceedings to test the constitutionality of that law; that the railroads were expected to be obliging enough to cooperate in order to get an early decision, and that if they did and were good and cooperated in good faith and continued to be good and obeyed the decree of the court, the penalty would not be enforced for the violation of the law prior to the decision of the Supreme Court.

I introduced a resolution here inquiring whether or not it was customary for the Attorney-General of the United States to institute proceedings to test the constitutionality of an act passed by Congress. When did the Attorney-General become the challenger rather than the champion of the law? When did he cease to indulge every presumption in favor of the constitutionality of a Congressional enactment, and when did he become a pioneer to try out and test the constitutionality of such a question? When did the Executive of this Government, whose constitutional oath is to see that the laws are faithfully executed—and, as I understand, that is the only use and only function of the Executive—abandon that function and suspend the enforcement of statutes of the United States?

An English king was driven from his throne for suspending the operations of the penal statute, and yet, sir, in a Government of law, where the highest corporation and the humblest citizen are equally amenable to the laws of the land, we see those mighty corporations, engaged in mining, engaged in manufacturing, and engaged in the maintenance of trusts and monopolies, and allowed to violate the laws of the land with impunity, under the express permission of one official of the Government whose sworn duty it is to see that the laws are faithfully executed.

If the railroads cooperate in good faith in an early decision, and if they stay on the reservation and be obedient to the decision of the court when it is rendered—and, Mr. President, if they are not obedient, then what? What reason have we to expect that the railroads will be more obedient to the mandate of the court than to the sovereign command of this Congress? And if they are not obedient to the mandates of the court, what then?

Mr. President, I know nothing of contributions to campaign funds. I noticed a few days ago that there had been some

altercation between high officials of this Government as to whether or not prosecutions should be instituted against a certain railroad in this country, and I send a clipping to the desk to be read. I do not know whether it is parliamentary or not, and if not, I apologize in advance and will retract it, but I send it to the desk for whatever light it may shed upon this question.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

WEIRD TALE OF POLITICS—NEW HAVEN SUIT ATTRIBUTED TO REMARKABLE SPIRIT OF RETALIATION.

NEW YORK, May 28, 1908.

The American prints the following from New Haven, Conn.: "Officials of the New York, New Haven and Hartford Railroad Company, still astounded over the institution last week of a Government suit against them under the Sherman law, are to-day telling a story which they declare explains the unexpected action. The story is that Charles E. Brooker, chairman of the New Haven's finance committee and a member of the Republican national committee, voted at Chicago on May 16 against Roosevelt's choice for temporary chairman of the coming national convention, Senator J. P. DOLLIVER, of Iowa.

"Roosevelt, in return for this, the story goes, allowed Attorney-General Bonaparte and State Attorney-General French, of Massachusetts, to bring the suit, which they had tried in vain to bring before, getting back at Brooker personally by putting the railroad in trouble. "More than that, the President is said to have admitted doing so. According to the story, when President Mellen hurried to Washington and asked him what the meaning of the unexpected action was, he answered:

"Just this: If you can not control Brooker, I can not control the Attorney-General."

Mr. GORE. Mr. President, I do not know whether that is true or false. I have never been initiated into the mysteries of Republican politics, and I am not a candidate for initiation into those mysteries. [Laughter.] But I do know that the gentleman just named would not have been the first to receive the protection of those high in authority had he been friendly to those in authority. This country has been regaled with the singular spectacle of a man sitting upon the foot of the throne, a member of a high official family, and a commission appointed by the Government to investigate certain unlawful transactions of a certain railroad, and that commission reporting in favor of prosecution, and the guilty party shielded from such prosecution, and upon the flimsy pretext that there was no evidence showing the official had guilty knowledge of the criminal or lawless transactions.

I have already inserted in the CONGRESSIONAL RECORD an extract from the testimony of that official, given before the Interstate Commerce Commission, in which he testified he was in charge of the traffic department of the Santa Fe Railroad; that the railroad had been granting rebates; that they were granted by his department; that the payments were superintended by him, and that all of the transactions aggregated during the year then ending between a half million and a million dollars. If that were not sufficient evidence that he had guilty knowledge that some irregularities were going on, I know not the source of impeachment unless it be the gentleman's sworn confession itself.

We have here, which I have already alluded to, the fact that all the railroads engaged in mining and in other lines of industry have been granted immunity from prosecution pending certain judicial decisions. One of those railroads, the Reading, owns 63 per cent of the anthracite coal deposits and has a practical monopoly of the coal industry. Mr. President, I have learned and learned well that bread-and-butter bills can be enacted, either by Congress or by commissions and either before or after a Presidential election. They always have the right of way; extravagance and prodigality have all seasons for their own. We have appropriated more than a billion dollars of the people's money, more than \$3,000,000 a day—nearly as much as it required to maintain our armies on the embattled field during the terrific war of the sixties.

But I shall not pursue this question further. I wish to say, sir, that I must beg pardon of the Senate for the rambling and desultory character of my remarks. I had, as I have already observed, intended to adhere to the traditions of the Senate.

I had no purpose of discussing financial legislation or any other legislation to any considerable extent at the present session of Congress. But, sir, when this measure came in two days ago I felt in duty bound to express my opposition, and to register my protest to the enactment of the law and to the methods employed in such enactment.

I have not been able to justify the attention with which the Senate has honored me or to discuss with appropriate observations this grave and important question. I, therefore, crave the pardon and indulgence of the Senate for my remarks on this occasion, and trust that they will ascribe them to an overpowering sense of duty and not to any purpose of shattering the time-honored and venerable traditions of this exalted legislative body. [Manifestation of applause in the galleries.]

I ask unanimous consent to print a tabulated statement in connection with my remarks, and also the message of President Jackson vetoing the recharter of the United States Bank.

The VICE-PRESIDENT. Without objection, permission is granted.

The papers referred to are as follows:

Increase and decrease of deposits in banks from October 19 to October 31, 1907.

	Increase.	Decrease.
Alabama.....	\$97,432.78	
Alaska.....		\$1,965.47
Arizona.....		3,841.33
Arkansas.....	6,273.37	
California.....	452,857.89	
Colorado.....		14,223.51
Connecticut.....	46,269.09	
Delaware.....		93.00
District of Columbia.....		\$9,578.78
Florida.....	49,345.23	
Georgia.....	171,774.56	
Idaho.....		35,222.07
Illinois.....	888,614.00	
Indiana.....	188,137.48	
Indian Territory.....	3,780.13	
Iowa.....	47,170.97	
Kansas.....	143,626.98	
Kentucky.....	213,314.57	
Louisiana.....		1,886.97
Maine.....	3,475.50	
Maryland.....	65,000.00	
Massachusetts.....		309.31
Michigan.....	44,174.82	
Minnesota.....	291,980.34	
Mississippi.....	6,000.00	
Missouri.....	.62	
Montana.....	18,969.78	
Nebraska.....	57,371.69	
Nevada.....	1,466.26	
New Hampshire.....	92.69	
New Jersey.....	63,500.84	
New Mexico.....		5,770.01
New York.....	34,685,913.72	
North Carolina.....		3,691.17
North Dakota.....	Same.	Same.
Ohio.....	651,839.68	
Oklahoma.....		684,680.60
Oregon.....	81,356.27	
Pennsylvania.....	1,273,010.53	
Rhode Island.....	5,978.80	
South Carolina.....		6.54
South Dakota.....	5,697.15	
Tennessee.....	97,222.66	
Texas.....	191,290.04	
Utah.....		10,337.96
Vermont.....		1,848.77
Virginia.....	68,580.18	
Washington.....		169,987.68
West Virginia.....	49,008.92	
Wisconsin.....		15,764.06
Wyoming.....	37,496.99	

ROCKEFELLER GROUP.

National City Bank—Increase of deposits of United States money from October 19 to October 31, 1907.....	\$9,300,000.00
Hanover National Bank—Increase of deposits of United States money from October 19 to October 31, 1907.....	5,416,342.33
Total.....	14,716,342.33

MORGAN GROUP.

First National Bank—Increase of deposits of United States money from October 19 to October 31, 1907.....	\$9,250,000.00
Chase National Bank—Increase of deposits of United States money from October 19 to October 31, 1907.....	3,249,000.00
Total.....	12,499,000.00
Rockefeller group.....	14,716,342.33
Morgan group.....	12,499,000.00
Total.....	27,215,342.33

ANDREW JACKSON.

July 10, 1832.

To the Senate:

The bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States" was presented to me on the 4th of July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty, at an early period of my Administration, to call the attention of Congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that, in the act before me, I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country.

The present corporate body—denominated the president, directors, and company of the Bank of the United States—will have existed at the time this act is intended to take effect twenty years. It enjoys an exclusive privilege of banking under the authority of the General Government, a monopoly of its favor and support, and, as a necessary consequence, almost a monopoly of the foreign and domestic exchange. The powers, privileges, and favors bestowed upon it in the original charter, by increasing the value of stock far above its par value, operated as a gratuity of many millions to the stockholders.

An apology may be found for the failure to guard against this result, in the consideration that the effect of the original act of incorporation could not be certainly foreseen at the time of its passage. The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more. This donation finds no apology in any uncertainty as to the effect of the act. On all hands it is conceded that its passage will increase at least twenty or thirty per cent. more, the market price of the stock, subject to the payment of the annuity of \$200,000 per year, secured by the act, thus adding in a moment one-fourth of its par value. It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stock of this bank are held by foreigners. By this act the American Republic proposes virtually to make them a present of some millions of dollars. For these gratuities to foreigners and to some of our own opulent citizens the act secures no equivalent whatever. They are the certain gains of the present stockholders, under the operation of this act, after making full allowance for the payment of the bonus.

Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their Government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of 50 per cent. and command in market at least \$42,000,000, subject to the payment of the present loans. The present valuation of the monopoly, therefore, is \$17,000,000, and this the act proposes to sell for \$3,000,000, payable in fifteen annual installments of \$200,000.

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell the twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the Treasury?

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right not only to the favor, but to the bounty of the Government. It appears that more than a fourth part of the stock is held by foreigners, and the residue is held by a few hundred of our citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly and dispose of it for many millions less than it is worth. This seems the less excusable because some of our citizens, not now stockholders, petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the Government and country.

But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the existing bank, has been set aside, and the bounty of our Government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock and at this moment wield the power of the existing institution. I can not perceive the justice or policy of this course. If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value, and if gratuities must be made once in fifteen or twenty years, let them not be bestowed on the subjects of a foreign government nor upon a designated or favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points, I find ample reasons why it should not become a law.

It has been urged as an argument in favor of a rechartering the present bank that calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample; and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force is to admit that the bank ought to be perpetual, and as a consequence the present stockholders, and those inheriting their rights as successors, be established a privileged order, clothed both with great political power and enjoying immense pecuniary advantages from their connection with the Government.

The modifications of the existing charter proposed by this act are not such, in my view, as make it consistent with the rights of the States or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to Congress to forbid the circulation of small notes are restrictions comparatively of little value or importance. All the objectionable principles of the existing corporation and most of its odious features are retained without alleviation.

The fourth section provides "that the notes or bills of the said corporation, although the same be on the faces thereof respectively made payable at one place only, shall, nevertheless, be received by the said corporation at the bank, or at any of the offices of discount and deposit thereof, if tendered in liquidation of payment of any balance or balances due to said corporation, or to such office of discount and deposit, from any other incorporated bank."

This provision secures to the State banks a legal privilege in the Bank of the United States which is withheld from all private citizens. If a State bank in Philadelphia owe the Bank of the United States, and have notes issued by the St. Louis branch, it can pay the debt with those notes; but if a merchant, mechanic, or other private citizen be in like circumstance, he can not, by law, pay his debt with those notes, but must sell them at a discount or send them to St. Louis to be cashed. This boon conceded to the State banks, though not unjust in itself, is most odious, because it does not measure out equal justice to the high and the low, the rich and the poor. To the extent of its prac-

tical effect it is a bond of union among the banking establishments of the nation, erecting them into an interest separate from that of the people; and its necessary tendency is to unite the Bank of the United States and the State banks in any measure which may be thought conducive to their common interest.

The ninth section of the act recognizes principles of worse tendency than any provision of the present charter.

It enacts that "the cashier of the bank shall annually report to the Secretary of the Treasury the names of all stockholders who are not resident citizens of the United States; and, on the application of the treasurer of any State, shall make out, and transmit to such treasurer, a list of stockholders residing in, or citizens of, such State, with the amount owned by each."

Although this provision, taken in connection with a decision of the Supreme Court, surrenders, by its silence, the right of the States to tax the banking institutions created by this corporation, under the name of branches, throughout the Union, it is evidently intended to be construed as a concession of their right to tax that portion of the stock which may be held by their own citizens and residents. In this light, if the act becomes a law, it will be understood by the States, who will probably proceed to levy a tax equal to that paid upon the stock of banks incorporated by themselves. In some States that tax is now 1 per cent. either on the capital or on the shares; and that may be assumed as the amount which all citizens or resident stockholders would be taxed under the operation of this act. As it is only the stock held in the States, and not that employed within them, which would be subject to taxation, and as the names of foreign stockholders are not to be reported to the treasurers of the States, it is obvious that the stock held by them will be exempt from this burden. Their annual profits will, therefore, be increased 1 per cent. more than the citizen stockholders; and as the annual dividends of the bank may be safely estimated at 7 per cent. the stock will be worth 10 or 15 per cent. more to foreigners than to citizens of the United States. To appreciate the effect which this state of things will produce we must take a brief review of the operations and present condition of the Bank of the United States.

By documents submitted to Congress at the present session, it appears that on the 1st of January, 1832, of the \$28,000,000 of private stock in the corporation, \$8,405,500 were held by foreigners, mostly of Great Britain. The amount of stock held in the nine Western States is \$140,200, and in the four Southern States is \$5,623,100, and in the Eastern and Middle States about \$13,522,000. The profits of the bank in 1831, as shown in a statement to Congress, were about \$3,455,598. Of this there accrued in the nine Western States about \$1,640,048, in the four Southern States about \$352,507, and in the Middle and Eastern States about \$1,463,041. As little stock is held in the West, it is obvious that the debt of the people in that section to the bank is principally a debt to the Eastern and foreign stockholders, that the interest they pay upon it is carried into the Eastern States and into Europe, and that it is a burden upon their industry and a drain of their currency which no country can bear without inconvenience and occasional distress. To meet this burden and equalize the exchange operations of the bank the amount of specie drawn from those States through its branches within the last two years, as shown by its official report, was about \$8,000,000. More than half a million of this amount does not stop in the Eastern States, but passes on to Europe to pay the dividends to the foreign stockholders. In the principle of taxation recognized by this act the Western States had no adequate compensation for this perpetual burden on their industry and drain upon their currency. The branch bank at Mobile made the last year \$95,140, yet under the provisions of this act the State of Alabama can raise no revenue from these profitable operations, because not a share of the stock is held by any of her citizens. Mississippi and Missouri are in the same condition in relation to the branches at Natchez and St. Louis, and such, in a greater or less degree, is the condition of every Western State. The tendency of the plan of taxation which this act proposes will be to place the whole United States in the same relation to foreign countries which the Western States bear to the Eastern. When by a tax on resident stockholders the stock of this bank is made worth 10 or 15 per cent. more to foreigners than to residents, most of it will inevitably leave the country.

Thus will this provision, in its practical effect, deprive the Eastern as well as the Southern and Western States of the means of raising a revenue from the extension of business and the great profits of this institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank and send across the Atlantic from two to five millions of specie every year to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twenty-five directors of this bank, five are chosen by the Government and twenty by the citizen stockholders. From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders the extent of suffrage in the choice of directors is curtailed. Already is almost a third of the stock in foreign hands and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of a few citizen stockholders, and the ease with which the object would be accomplished would be a temptation to designing men to secure that control in their own hands by monopolizing the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and, without responsibility or control, manage the whole concerns of the bank during the existence of the charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that in its nature has so little to bind it to our country? The president of the bank has told us that most of the State banks exist by its forbearance. Should its influence become concentrated, as it may under the operation of such an act as this, in the hands of a self-elected directory whose interests are identified with those of the foreign stockholders, will there not be cause to tremble for the purity of our elections in peace and for the independence of our country in war? Their power would be great whenever they might choose to exert it, but if this monopoly were regularly renewed every fifteen or twenty years on terms proposed by themselves, they might seldom in peace put forth their strength to influence elections or control the affairs of the nation; but if any private citizen or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it can not be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country and we should unfortunately become in-

involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power and managed by those whose interests, if not affections, would run in the same direction there can be no doubt. All its operations within would be in aid of the hostile fleets and armies without. Controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy and every impulse of American feeling admonishes that it should be purely American. Its stockholders should be composed exclusively of our own citizens, who at least ought to be friendly to our Government and willing to support it in times of difficulty and danger. So abundant is domestic capital that competition in subscribing for the stock of local banks has recently led almost to riots. To a bank exclusively of American stockholders, possessing the powers and privileges granted by this act, subscriptions for two hundred millions of dollars could be readily obtained. Instead of sending abroad the stock of the bank in which the Government must deposit its funds and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens under penalty of absolute forfeiture.

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent and by the decision of the Supreme Court. To this conclusion I can not assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent therefore which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon the Supreme Court have not decided that all the features of this corporation are compatible with the Constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress, but taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the Constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "necessary" in the Constitution means "needful," "requisite," "essential," "conducive to," and that "a bank" is a convenient, a useful, and essential instrument in the prosecution of the Government's "fiscal operations," they conclude that to "use one must be within the discretion of Congress," and that "the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution." "But," say they, "where the law is not prohibited, and is really calculated to effect any of the objects entrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground."

The principle here affirmed is that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional, but it is the province of the legislature to determine whether this or that particular power, privilege, or exemption is "necessary and proper" to enable the bank to discharge its duties to the Government, and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court therefore it is the exclusive province of Congress and the President to decide whether the particular features of this act are "necessary and proper" in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore constitutional, or unnecessary and improper, and therefore unconstitutional.

Without commenting on the general principle affirmed by the Supreme Court let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it can not be supposed necessary for the purpose for which it is proposed to be created, and are not therefore means necessary to attain the end in view and consequently not justified by the Constitution.

The original act of incorporation, section 21, enacts "that no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: Provided, Congress may renew existing charters for banks within the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said district, with capitals not exceeding in the whole \$6,000,000, if they shall deem it expedient." This provision is continued in force by the act before me fifteen years from the 3d day of March, 1836.

If Congress possesses the power to establish one bank they had power to establish more than one if in their opinion two or more banks had been "necessary" to facilitate the execution of the powers delegated to them by the Constitution. If they possessed the power to establish a

second bank it was a power derived from the Constitution to be exercised from time to time and at any time when the interests of the country or the emergencies of the Government might make it expedient. It was possessed by one Congress as well as another, and by all Congresses alike, and alike at every session, but the Congress of 1816 have taken it away from their successors for twenty years and the Congress of 1832 proposes to abolish it for fifteen years more. It can not be "necessary" or "proper" for Congress to barter away or divest themselves of any of the powers vested in them by the Constitution to be exercised for the public good. It is not "necessary" to the efficiency of the bank nor is it "proper" in relation to themselves and their successors. They may properly use the discretion vested in them, but they may not limit the discretion of their successors. This restriction on themselves and grant of a monopoly to the bank is therefore unconstitutional.

In another point of view this provision is a palpable attempt to amend the Constitution by an act of legislation. The Constitution declares that "the Congress shall have power" to exercise exclusive legislation in all cases whatsoever over the District of Columbia. Its constitutional power, therefore, to establish banks in the District of Columbia and increase their capital at will is unlimited and uncontrollable by any other power than that which gave authority to the Constitution. Yet this act declares that Congress shall not increase the capital of existing banks nor create other banks with capitals exceeding in the whole \$6,000,000. The Constitution declares that Congress shall have power to exercise exclusive legislation over this District "in all cases whatsoever," and this act declares they shall not. Which is the supreme law of the land? This provision can not be "necessary" or "proper" or "constitutional" unless the absurdity be admitted that whenever it be "necessary and proper" in the opinion of Congress they have a right to barter away one portion of the powers vested in them by the Constitution as a means of executing the rest.

On two subjects only does the Constitution recognize in Congress the power to grant exclusive privileges or monopolies. It declares that "Congress shall have power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." Out of this express delegation of power have grown our laws of patents and copyrights. As the Constitution expressly delegates to Congress the power to grant exclusive privileges in these cases, as the means of executing the substantive power "to promote the progress of science and useful arts," it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of Congressional power, there is an ever-living discretion in the use of proper means, which can not be restricted or abolished without an amendment of the Constitution. Every act of Congress, therefore, which attempts, by grants of monopolies, or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the Constitution, and palpably unconstitutional.

This act authorizes and encourages transfers of its stock to foreigners, and grants them an exemption from all State and national taxation. So far from being "necessary and proper" that the bank should possess this power, to make it a safe and efficient agent of the Government in its fiscal operations, it is calculated to convert the Bank of the United States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the Republic, and in war to endanger our independence.

The several States reserved the power at the formation of the Constitution to regulate and control titles and transfers of real property; and most, if not all of them, have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the States to prescribe such disqualifications, gives to aliens, stockholders in this bank, an interest and title, as members of the corporation, to all the real property it may acquire within any of the States of this Union. This privilege granted to aliens is not "necessary" to enable the bank to perform its public duties, nor in any sense "proper," because it is vitally subversive of the rights of the States.

The Government of the United States have no constitutional power to purchase lands within the States, except "for the erection of forts, magazines, arsenals, dock yards, and other needful buildings," and even for these objects only "by the consent of the legislature of the State in which the same shall be." By making themselves stockholders in the bank and granting to the corporation the power to purchase lands for other purposes, they assume a power not granted in the Constitution and grant to others what they do not themselves possess. It is not necessary to the receiving, safe-keeping, or transmissions of the funds of Government that the bank should possess this power, and it is not proper that Congress should thus enlarge the powers delegated to them in the Constitution.

The old Bank of the United States possessed a capital of only \$11,000,000, which was found fully sufficient to enable it, with dispatch and safety, to perform all the functions required of it by the Government. The capital of the present bank is \$35,000,000, at least twenty-four more than experience has proved to be necessary to enable a bank to perform its public functions. The public debt, which existed during the period of the old bank and on the establishment of the new, has been nearly paid off, and our revenue will soon be reduced. This increase of capital is, therefore, not for public, but for private purposes.

The Government is the only "proper" judge where its agents should reside and keep their offices, because it best knows where their presence will be "necessary." It can not, therefore, be "necessary" or "proper" to authorize the bank to locate branches where it pleases, to perform the public service, without consulting the Government and contrary to its will. The principle laid down by the Supreme Court concedes that Congress can not establish a bank for the purposes of private speculation and gain, but only as a means of executing the delegated powers of the General Government. By the same principle a branch bank can not constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any State, without the injunction or request of the Government and for other than public purposes, is not "necessary" to the due execution of the powers delegated to Congress.

The bonus which is exacted from the bank is a confession, upon the face of the act, that the powers granted by it are greater than are "necessary" to its character as a fiscal agent. The Government does not tax its officers and agents for the privileges of serving it. The bonus of a million and a half required by the original charter, and that of three millions proposed by this act, are not exacted for the privilege of giving "the necessary facilities for transferring the public funds from place to place within the United States or the Territories thereof and for distributing the same in payment of the public creditors without

charging commission or claiming allowance on account of the difference of exchange," as required by the act of incorporation, but for something more beneficial to the stockholders. The original act declares that it (the bonus) is granted "in consideration of the exclusive privileges and benefits conferred by this act upon the said bank," and the act before me declares it to be "in consideration of the exclusive benefits and privileges conferred by this act to the said corporation for fifteen years as aforesaid." It is therefore for the exclusive privileges and benefits conferred for their own use and emolument and not for the advantage of the Government that a bonus is exacted. These surplus powers, for which the bank is required to pay, can not be "necessary" to make it the fiscal agent of the Treasury. If they were, the exaction of a bonus for them would not be "proper."

It is maintained by some that the bank is a means of executing the constitutional power "to coin money and regulate the value thereof." Congress have established a mint to coin money and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as Congress may adopt, are the only currency known to the Constitution. But if they have other power to regulate the currency, it was conferred to be exercised by themselves and not to be transferred to a corporation. If the bank be established for that purpose, with a charter unalterable without its consent, Congress have parted with their power for a term of years, during which the Constitution is a dead letter. It is neither necessary nor proper to transfer its legislative power to such a bank, and therefore unconstitutional.

By its silence, considered in connection with the decision of the Supreme Court, in the case of *McCulloch* against the State of Maryland, this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachments. Banking, like farming, manufacturing, or any other occupation or profession, is a business, the right to follow which is not originally derived from the laws. Every citizen and every company of citizens in all our States possessed the right until the State legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would again possess the right.

The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as, in the opinion of the State legislatures, the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid depends wholly upon legislative discretion. It may be upon the bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the Constitution, the States guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States officers, are liable to a poll tax by the States within which they reside; the lands of the United States are liable to the usual land tax, except in the new States, from whom agreements that they will not tax unsold lands are exacted when they are admitted into the Union; horses, wagons, any beasts, or vehicles, tools, or property belonging to private citizens, though employed in the service of the United States, are subject to State taxation. Every private business, whether carried on by an officer of the General Government or not, whether it be mixed with public concerns or not, even if it be carried on by the Government of the United States itself, separately or in partnership, falls within the scope of the taxing power of the State. Nothing comes more fully within it than banks and the business of banking, by whomsoever instituted and carried on. Over this whole subject-matter it is just as absolute, unlimited, and uncontrollable as if the Constitution had never been adopted, because in the formation of that instrument it was reserved without qualification.

The principle is conceded that the State can not rightfully tax the operations of the General Government. They can not tax the money of the Government deposited in the State banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle, then, are the banking establishments of the Bank of the United States, and their usual banking operations, to be exempted from taxation? It is not their public agency, or the deposits of the Government, which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within State jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of these powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners, or the agents of foreign governments located within their limits, forms a legitimate object of State taxation. From this and like sources, from the persons, property, and business that are found residing, located, or carried on under their jurisdiction, must the States, since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their governments and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It can not be necessary to the character of the bank, as a fiscal agent of the Government, that its private business should be exempted from that taxation to which all the State banks are liable. Nor can I conceive it "proper" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in forming or adopting our Constitution ever imagined that any portion of the taxing power of the States, not prohibited to them, nor delegated to Congress, was to be swept away and annihilated as a means of executing certain powers delegated to Congress.

If our power over means is so absolute that the Supreme Court will not call in question the constitutionality of an act of Congress, the subject of which "is not prohibited, and is really calculated to effect any of the objects entrusted to the Government," although, as in the case before me, it takes away powers expressly granted to Congress, and rights scrupulously reserved to the States, it becomes us to proceed in

our legislation with the utmost caution. Though not directly, our own powers, and the rights of the States, may be indirectly legislated away in the use of means to execute substantive powers. We may not enact that Congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States that, as a means of executing other powers, it shall not be exercised for twenty years, or forever. We may not pass an act prohibiting the States to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents, and then declare it exempt from State taxation in their hands. Thus may our own powers and the rights of the States, which we can not directly curtail or invade, be frittered away and extinguished in the use of means employed by us to execute other powers.

That a bank of the United States, competent to do all duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call it is obviously proper that he should confine himself to pointing out those prominent features in the act presented which, in his opinion, make it incompatible with the Constitution and sound policy. A general discussion will now take place, eliciting new light and settling important principles; and a new Congress, elected in the midst of such discussion and furnishing an equal representation of the people according to the last census, will bear to the Capitol the verdict of public opinion, and, I doubt not, bring this important question to a satisfactory result.

Under such circumstances the bank comes forward and asks for the renewal of its charter for a term of fifteen years, upon conditions which not only operate as a gratuity to the stockholders of many millions of dollars, but will sanction abuses and legalize any encroachments.

Suspensions are entertained, and charges are made, of gross abuses of violation of its charter. An investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm. In the practices of the principal bank, partially unveiled in the absence of important witnesses, and in numerous charges confidently made and as yet wholly uninvestigated, there was enough to induce a majority of the committee of investigation, a committee which was selected from the most able and honorable Members of the House of Representatives, to recommend a suspension of further action upon the bill and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why the functionaries of the Government should proceed with less haste and more caution in the renewal of their monopoly.

The bank is professedly established as an agent of the executive branches of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action, nor upon the provisions of this act, was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers and favored by such exemptions. There is nothing in its legitimate functions which makes it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it can not be found either in the wishes or necessities of the executive department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary but dangerous to the Government and country.

It is to be regretted that the rich and powerful too often bend the acts of Government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth can not be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue every man is equally entitled to protection by law. But when the laws undertake to add to these natural and just advantages artificial distinctions—to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful—the humble members of society, the farmers, mechanics, and laborers, who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government. There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection and, as Heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

Nor is our Government to be maintained or our Union preserved by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong we make it weak. Its true strength consists in leaving individuals and States as much as possible to themselves, in making itself felt, not in its power, but in its beneficence—not in its control, but in its protection—not in binding the States more closely to the center, but leaving each to move, unobstructed, in its proper orbit.

Experience should teach us wisdom. Most of the difficulties our Government now encounters, and most of the dangers which impend over our Union, have sprung from an abandonment of the legitimate objects of Government by our national legislation and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have sought us to make them richer by act of Congress. By attempting to gratify their desires we have, in the results of our legislation, arrayed section against section, interest against interest, and man against man in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career, to review our principles, and, if possible, revive that devoted spirit of patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union. If we can not at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can, at least, take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in code of laws and system of political economy.

I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me ample grounds for contentment and peace. In the difficulties which surround us, and the dangers which threaten our institutions, there is cause for neither dismay nor alarm. For relief

and deliverance let us firmly rely on that kind Providence which, I am sure, watches with peculiar care over the destinies of our Republic, and on the intelligence and wisdom of our countrymen. Through His abundant goodness and their patriotic devotion our liberty and Union will be preserved.

ANDREW JACKSON.

The VICE-PRESIDENT. The question is on agreeing to the report of the committee of conference.

Mr. ALDRICH. I ask that the roll be called.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. HEYBURN. Mr. President—

The Secretary proceeded to call the roll, and Mr. ALDRICH responded to his name.

Mr. HEYBURN. I addressed the Chair before the commencement of the roll call.

Mr. ALDRICH. The roll call can not be suspended.

Mr. HEYBURN. I do not ask that it be suspended. It was started with undue haste. I was addressing the Chair.

Mr. GALLINGER. Let the roll call proceed.

Mr. HEYBURN. Perhaps the Senator will permit me to take the ruling of the Chair upon it.

Mr. GALLINGER. That is not necessary.

Mr. HEYBURN. Let me make myself plain. I rose and addressed the Chair in a distinct voice before the roll call commenced.

The VICE-PRESIDENT. The Chair will be liberal in the interpretation of the rule. The Senator was attempting to address the Chair, and some other Senator attracted his attention. If the Senator from Idaho desires the attention of the Chair, and was endeavoring to get it, the Chair thinks it is but fair to recognize him.

Mr. ALDRICH. That can not be done, under the rule.

The VICE-PRESIDENT. It can not, under the rule, if there is objection.

Mr. HEYBURN. I rise to a question of privilege.

The Secretary resumed the calling of the roll.

Mr. HEYBURN. I think the Secretary had better wait until the Chair determines it.

Mr. ALDRICH. The Chair has no option, under the rule.

The VICE-PRESIDENT. The Chair has no option, under the rule.

Mr. HEYBURN. I rise to a question of privilege. I do not want to be shut out from the RECORD in this way.

Mr. GALLINGER. The rule shuts the Senator out.

Mr. HEYBURN. We will see whether it does.

Mr. ALDRICH. No discussion is in order.

Mr. HEYBURN. I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from Idaho rises to a question of privilege. He will state it.

Mr. GALLINGER. I make the point of order that under the rule the roll call can not be interrupted for any purpose.

Mr. HEYBURN. I rose to a question of privilege, and am prepared to state it. Am I to be allowed to state it to the Chair?

The VICE-PRESIDENT. Is there objection?

Mr. GALLINGER. I object.

The VICE-PRESIDENT. Objection is made. The Secretary will call the roll.

The Secretary resumed the calling of the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. Not observing him in the Chamber, I withhold my vote. If he were present, I should vote "yea."

Mr. CLAY (when his name was called). I have a pair with the senior Senator from Massachusetts [Mr. LODGE]. I transfer the pair to the junior Senator from Maryland [Mr. SMITH], so that the Senator from Massachusetts will stand paired with the Senator from Maryland, and I will vote. I vote "nay."

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from Virginia [Mr. MARTIN]. I transfer the pair to the Senator from South Dakota [Mr. KITTREDGE], and will vote. I vote "yea."

Mr. DANIEL (when his name was called). I should vote against the bill, but I have a general pair with the Senator from North Dakota [Mr. HANSBROUGH]. Not being advised how he would vote, and presuming that he would vote with the other side of the Chamber, I refrain from voting.

Mr. DEPEW (when his name was called). I have a general pair with the Senator from Louisiana [Mr. MCENERY]. I transfer that pair to the Senator from Delaware [Mr. RICHARDSON] and vote "yea."

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is detained by illness. I therefore withhold my vote. If he were here, I should vote "yea."

Mr. FRAZIER (when his name was called). I have a general pair with the junior Senator from South Dakota [Mr. KITTREDGE]. I transfer that pair to the junior Senator from Virginia [Mr. MARTIN] and vote. I vote "nay."

Mr. FULTON (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS], which I transfer to the junior Senator from Massachusetts [Mr. CRANE] and vote. I vote "yea."

Mr. McLAURIN (when Mr. MONEY's name was called). My colleague [Mr. MONEY] is necessarily detained from the Senate. He has a general pair with the Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "nay."

Mr. NEWLANDS (when his name was called). I inquire if the Senator from South Dakota [Mr. GAMBLE] has voted?

The VICE-PRESIDENT. He has not voted.

Mr. NEWLANDS. I have a general pair with the Senator from South Dakota [Mr. GAMBLE]. If he were present, I should vote "nay," but in his absence I refrain from voting.

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from California [Mr. PERKINS], whom I do not see in his seat. As he is not present, I refrain from voting, but will state that if I were at liberty to vote I would vote "nay."

Mr. FLINT. I desire to say that, if my colleague [Mr. PERKINS] were present, he would vote "yea."

Mr. SCOTT (when his name was called). I have a general pair with the senior Senator from Florida [Mr. TALIAFERRO]. I will transfer my pair to the junior Senator from Pennsylvania [Mr. KNOX] and will vote. I vote "yea."

Mr. BURROWS (when the name of Mr. SMITH of Michigan was called). I desire to announce that my colleague [Mr. SMITH] is paired with the Senator from Arkansas [Mr. CLARKE].

Mr. BACON (when Mr. TALIAFERRO's name was called). The pair of the Senator from Florida [Mr. TALIAFERRO] has already been announced by the Senator from West Virginia [Mr. SCOTT], the pair having been transferred from himself to the Senator from Pennsylvania [Mr. KNOX]. I am authorized by the Senator from Florida to say that if he were present he would vote "nay."

Mr. TELLER (when his name was called). I am paired with the senior Senator from Iowa [Mr. ALLISON]. If he were present he would vote "yea" and I should vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. I will transfer my pair to the senior Senator from Pennsylvania [Mr. PENROSE] and vote. I vote "yea."

The roll call was concluded.

Mr. OVERMAN. I will transfer my pair to the senior Senator from Missouri [Mr. STONE] and vote. I vote "nay."

Mr. CLARK of Wyoming. On the transfer of the pair by the Senator from North Carolina [Mr. OVERMAN] I am at liberty to vote. I vote "yea."

Mr. LA FOLLETTE (after having voted in the negative). Mr. President, is it in order to make a parliamentary inquiry? If I should vote in favor of the adoption of the conference report, would it then be in order for me to move for a reconsideration?

Mr. TELLER and others. Regular order!

Mr. GALLINGER and others. No debate is in order.

The VICE-PRESIDENT. The parliamentary inquiry is not in order.

Mr. LA FOLLETTE. It is not in order?

The VICE-PRESIDENT. It is not in order under the rule.

Mr. LA FOLLETTE. Then I will take my chances on it, and ask leave to change my vote from "nay" to "yea" for the purpose of moving a reconsideration.

Mr. GALLINGER, Mr. KEAN, and others. Regular order!

Mr. DANIEL. I am informed by the Senator from Rhode Island [Mr. ALDRICH] that if the Senator from North Dakota [Mr. HANSBROUGH] were here he would vote "nay," and I am therefore at liberty to vote. I vote "nay."

Mr. NEWLANDS. I transfer my pair to the Senator from South Carolina [Mr. TILLMAN] and vote. I vote "nay."

Mr. DILLINGHAM. By the transfer just mentioned by the Senator from Nevada I am released from my pair, and therefore I will vote. I vote "yea."

Mr. NELSON. I desire to say that if the Senator from South Dakota [Mr. KITTREDGE] were here he would vote "yea." He is unavoidably absent.

Mr. STONE. I desire to vote "nay."

Mr. OVERMAN (after having voted in the negative). I withdraw my vote, the Senator from Missouri having voted. I stand paired with the senior Senator from California [Mr. PERKINS]. I would vote "nay" if I were not paired.

The result was announced—yeas 43, nays 22, as follows:

YEAS—43.

Aldrich	Clark, Wyo.	Fulton	Piles
Ankeny	Cullom	Gallinger	Platt
Beveridge	Curtis	Guggenheim	Scott
Brandegee	Depew	Hale	Smoot
Briggs	Dick	Hemenway	Stephenson
Bulkeley	Dillingham	Hopkins	Stewart
Burkett	Dixon	Kean	Sutherland
Burnham	du Pont	La Follette	Warner
Burrows	Elkins	Long	Warren
Carter	Flint	Nelson	Wetmore
Clapp	Foraker	Nixon	

NAYS—22.

Bacon	Clay	Heyburn	Paynter
Bailey	Culberson	Johnston	Simmons
Bankhead	Daniel	McLaurin	Stone
Borah	Frazier	Milton	Taylor
Bourne	Gary	Newlands	
Brown	Gore	Owen	

NOT VOTING—27.

Allison	Gamble	McEnery	Richardson
Clarke, Ark.	Hansbrough	Martin	Smith, Md.
Crane	Kittredge	Money	Smith, Mich.
Davis	Knox	Overman	Taliaferro
Dolliver	Lodge	Penrose	Teller
Foster	McCreary	Perkins	Tillman
Frye	McCumber	Rayner	

So the conference report was agreed to.

Mr. ALDRICH. I move to reconsider the vote by which the conference report was adopted.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Wisconsin?

Mr. ALDRICH. I do not.

Mr. LA FOLLETTE. I make a point of order.

Mr. HALE. I move to lay the motion to reconsider on the table.

Mr. LA FOLLETTE. I rise to a point of order.

Mr. ALDRICH. I do not yield.

Mr. LA FOLLETTE. I rise to a point of order. It does not require any Senator to yield when a point of order is raised.

The VICE-PRESIDENT. The Senator from Wisconsin rises to a point of order. He will state his point of order.

Mr. LA FOLLETTE. It is this: That when the Senator from Rhode Island addressed the Senate he was not in his place at his seat and was not entitled to recognition. I was in my place and in my seat at my desk when I addressed the Chair and asked for recognition. I submit that under the rule, two Senators addressing the Chair at the same time, one of them being in order and the other out of order, I was entitled to recognition.

The VICE-PRESIDENT. The Chair is of opinion that the Senator from Rhode Island was in order.

Mr. FORAKER. Mr. President—

Mr. ALDRICH. I yield to the Senator from Ohio.

Mr. FORAKER. I move to lay the motion to reconsider on the table.

Mr. LA FOLLETTE. Mr. President, I must appeal from the decision of the Chair.

Mr. HALE. I move to lay that appeal on the table.

The VICE-PRESIDENT. The Senator from Maine moves to lay the appeal of the Senator from Wisconsin from the decision of the Chair upon the table.

Mr. LA FOLLETTE. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

[Applause in the galleries.]

The VICE-PRESIDENT. The Chair must admonish the occupants of the galleries that applause is not permitted under the rules of the Senate. The Secretary will call the roll on the motion of the Senator from Maine to lay the appeal from the decision of the Chair upon the table.

The Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I am paired with the senior Senator from Massachusetts [Mr. LODGE]. Were he present I should vote "yea."

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from Virginia [Mr. MARTIN], but my pair has been transferred to the Senator from South Dakota [Mr. KITTREDGE], and I vote "yea."

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from California [Mr. PERKINS], and therefore I withhold my vote.

Mr. SCOTT (when his name was called). I make the same announcement and the same transfer of my pair to the junior Senator from Pennsylvania [Mr. KNOX]. I vote "yea."

Mr. TELLER (when his name was called). I was paired on the general vote on this question. I reserved the right to vote when I thought proper. I will therefore vote. I vote "yea."

The roll call was concluded.

Mr. McLAURIN (after having voted in the negative). I desire to withdraw my vote.

The result was announced—yeas 53, nays 9, as follows:

YEAS—53.

Aldrich	Clark, Wyo.	Gary	Platt
Ankeny	Cullom	Guggenheim	Scott
Bacon	Curtis	Hale	Simmons
Bailey	Daniel	Hemenway	Smoot
Beveridge	Depew	Heyburn	Stephenson
Borah	Dick	Hopkins	Stewart
Brandegee	Dillingham	Johnston	Sutherland
Briggs	Dixon	Kean	Teller
Bulkeley	du Pont	Long	Warner
Burkett	Elkins	Nelson	Warren
Burnham	Flint	Nixon	Wetmore
Burrows	Foraker	Owen	
Carter	Fulton	Paynter	
Clapp	Gallinger	Piles	

NAYS—9.

Brown	Gore	Milton	Stone
Culberson	La Follette	Newlands	Taylor
Frazier			

NOT VOTING—30.

Allison	Foster	McCumber	Rayner
Bankhead	Frye	McEnery	Richardson
Bourne	Gamble	McLaurin	Smith, Md.
Clarke, Ark.	Hansbrough	Martin	Smith, Mich.
Clay	Kittredge	Money	Taliaferro
Crane	Knox	Overman	Tillman
Davis	Lodge	Penrose	
Dolliver	McCreary	Perkins	

So Mr. LA FOLLETTE's appeal from the decision of the Chair was laid on the table.

Mr. FORAKER. I renew my motion to lay on the table the motion to reconsider, and I call for the yeas and nays.

The VICE-PRESIDENT. The Senator from Ohio moves to lay upon the table the motion to reconsider the vote by which the conference report was agreed to, and upon that motion he demands the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I again announce my pair with the senior Senator from Massachusetts [Mr. LODGE].

Mr. CULLOM (when his name was called). I announce my general pair with the junior Senator from Virginia [Mr. MARTIN] and the transfer of my pair to the Senator from South Dakota [Mr. KITTREDGE]. I vote "yea."

Mr. FRAZIER (when his name was called). I again announce my pair with the junior Senator from South Dakota [Mr. KITTREDGE] and the transfer of my pair to the junior Senator from Virginia [Mr. MARTIN], and I will vote. I vote "nay."

Mr. OVERMAN (when his name was called). I again announce my pair with the senior Senator from California [Mr. PERKINS].

Mr. SCOTT (when his name was called). I again announce my pair with the senior Senator from Florida [Mr. TALIAFERRO] and the transfer of my pair to the junior Senator from Pennsylvania [Mr. KNOX]. I vote "yea."

Mr. TELLER (when his name was called). I again announce my pair with the senior Senator from Iowa [Mr. ALLISON]. I know that he would vote "yea" if present. Under the arrangement I made with him I will vote. I vote "yea."

The roll call was concluded.

Mr. BACON. I make the same announcement upon this vote that I made upon the former one in behalf of the Senator from Florida [Mr. TALIAFERRO]—that he is paired, as announced by the Senator from West Virginia [Mr. SCOTT], and that if he were present he would vote "nay."

Mr. LA FOLLETTE. I wish to inquire whether I am recorded on this vote?

The VICE-PRESIDENT. The Senator is not recorded.

Mr. LA FOLLETTE. I should like to have the question stated, so that I may vote understandingly. My attention was diverted for a few moments.

The VICE-PRESIDENT. The Senator from Ohio [Mr. FORAKER] moved to lay upon the table the motion of the Senator from Rhode Island [Mr. ALDRICH] to reconsider the vote by which the conference report was agreed to.

Mr. LA FOLLETTE. On that vote, if my name is called, I will vote "nay."

The result was announced—yeas 45, nays 17, as follows:

YEAS—45.

Aldrich	Clark, Wyo.	Gallinger	Scott
Ankeny	Cullom	Guggenheim	Smoot
Beveridge	Curtis	Hale	Stephenson
Borah	Depew	Hemenway	Stewart
Brandegee	Dick	Heyburn	Sutherland
Briggs	Dillingham	Hopkins	Teller
Bulkeley	Dixon	Kean	Warner
Burkett	du Pont	Long	Warren
Burnham	Elkins	Nelson	Wetmore
Burrows	Flint	Nixon	
Carter	Foraker	Piles	
Clapp	Fulton	Platt	

NAYS—17.

Bacon	Daniel	La Follette	Stone
Bailey	Frazier	McLaurin	Taylor
Bankhead	Gary	Milton	
Brown	Gore	Paynter	
Culberson	Johnston	Simmons	

NOT VOTING—30.

Allison	Frye	McEnery	Rayner
Bourne	Gamble	Martin	Richardson
Clarke, Ark.	Hansbrough	Money	Smith, Md.
Clay	Kittredge	Newlands	Smith, Mich.
Crane	Knox	Owen	Tallaferro
Davis	Lodge	Overman	Tillman
Dolliver	McCreary	Penrose	
Foster	McCumber	Perkins	

So the motion to reconsider was laid on the table.

On motion of Mr. KEAN, it was

Ordered, That the Sergeant-at-Arms be discharged from the further execution of the order of the Senate requesting the presence of absentees.

Mr. HEYBURN. Mr. President, I sought to address myself to the attention of the Senate before the vote was taken. The haste with which the roll call was commenced prevented me from doing so. I do not desire that the vote which I cast against the adoption of this report shall go out unexplained, and when I say "unexplained," I do not mean apologized for.

I have been an active worker in the Republican party for more than thirty-six years, and during that time I have shared the burden of its battles wherever I have been. I do not propose to be held up here or elsewhere as one who ever swerved for one moment in his allegiance to that party. Had I regarded this as a party question, under the control of the organization of the party represented by its caucus, I would have supported the action of the party. But I do not regard myself bound to the party caucus except that I am a participant in the counsels and deliberations of the party.

I had and I have my objections to this bill, which are based not upon party grounds, founded not in opposition to the will of the party, but founded upon my judgment, as to the effect which this legislation, of a purely economic nature, will have upon that part of the country which I in part represent and which, in my judgment, it will have upon every portion of the country.

I objected to measures which were contained in the bill and which were formulated for us for consideration in the Aldrich bill, because I did not believe then and I do not believe now that there is any necessity for financial legislation at this time. That which was termed a panic was a brief nightmare in the business world. It has passed away with the awakening of the dawn of prosperity which we now enjoy. In that part of the United States lying to the west, there is not even a remembrance of the panic except as a tradition. There is no remnant of it or of its effects. I do not believe in taking medicine in anticipation that you may have some disease in the future of which you have no premonitions now.

I have before the country for more than thirty-five years boasted that the wisdom of the Republican party was sufficient to provide and it had provided a safe, sound, and reliable financial policy upon which the business concerns of this country could rest. I shall continue to boast of it, because I do not believe that any provision in this bill is necessary at this hour, and I shall treat it as merely surplusage growing out of the combined fears and the enthusiasm of some of our statesmen. I know that I speak within the sentiments of a majority of the Republicans of the United States in the vote which I cast to-day and in what I am saying.

Mr. President, I am not here to attack the Republican party. All the Senators in this body combined and all the Senators who ever sat in this body are not strong enough to drag it down; their States are not strong enough or potent enough to destroy it; and I say that with no disrespect to any member of this body. But that old party is bigger and greater than all the men who represent it in the legislative halls. In our section of country we have no necessity or occasion whatever for financial legislation. The provisions of this bill do not apply to more than one-third, almost one-half, of the area of the United States. This legislation, by its terms and within its terms, is excluded in its operation from more than one-third of the United States—from nearly one-third of it in one solid block, without a break. The provision for the creation of a national currency association will have no application to seventeen States in the Union, because such associations are limited to States having \$5,000,000 of unimpaired capital and surplus. There are seven States in the Union, and unfortunately they all lie, or nearly all of them lie, in one great area upon the Pacific coast.

Mr. President, I am not willing to give my voice or my vote or my assent to legislation for one-third of the country as against two-thirds of the country, or for two-thirds of the

country as against one-third of the country. I want the laws to be applicable, not only in their principles, but in their terms, in every respect to every part of the country. That we should become a vassal to the financial world of the East is intolerable, and will be intolerable to the people of the great West.

I do not believe in sectional legislation at all, and if there were no other obnoxious provisions in this bill than those, I would have voted against it. But I opposed the Aldrich bill when it was before the Senate for consideration, and I voted against it then, as now, because, in my judgment, there was no necessity for any legislation, and now more emphatically because there has been eliminated from the Aldrich bill every provision relative to the reserves in national banks.

I could elaborate these reasons, but I shall not do so. I have stated enough reasons, and good enough reasons, to account for the vote which I have cast. The casting of that vote does not cast me outside of breastworks of the Republican party. There is no man in this Chamber who has been in the Republican party longer than I have been, for I am older than the Republican party, and I was born into the very atmosphere and patriotism upon which that party was founded and has ever since rested. I have never swerved for an hour in my fealty, my loyalty, and my support to that party, and I intend that it shall not go out to the country that I stood here voting with the Democratic party. I did not cast my vote to-day because of my love for the Democratic party. I respect its members individually; but I know its principles and disapprove of them. With these words my vote can go to the country.

Mr. BACON. Mr. President, some things have occurred while this measure has been under consideration which, possibly, it might be well should not be entirely passed by and acquiesced in as with a recognition of propriety. The opportunity in the heat and ardor of debate was not presented to properly advert to them.

Mr. LA FOLLETTE. Mr. President, I ask that order be maintained in the Senate Chamber, so that we may hear what the Senator from Georgia has to say.

The VICE-PRESIDENT. The Senate will be in order. Audible conversation will cease in the Chamber. The Chair asks Senators to kindly resume their seats.

Mr. BACON. I was endeavoring to state that several things had occurred during the progress of the debate upon this question which I am unwilling should pass by as having met with general recognition, through acquiescence, by the Senate, because of the fact that in the Senate a precedent is a matter of gravity and importance, and occasions may arise hereafter where these questions may be of very much more vital importance than they have been while the pending question has been under discussion.

Of course, Mr. President, I recognize the fact that, in the heat of controversy, Senators, as well as others, will do and say things which will be conducive to the particular end which they then have in view, which, from a more conservative standpoint and under other circumstances, they would neither say nor approve.

One precedent was made last night to which I wish to enter my dissent. That precedent was made by a vote of the Senate. It was to the effect that after a roll call had been had upon the suggestion of the want of a quorum, and after the roll call had disclosed the presence of a quorum, it was out of order, when nothing else had transpired but debate, to again suggest the absence of a quorum and again having a roll call for the purpose of determining whether or not a quorum was present. In other words, the Senate determined, by a vote, that a continuance of debate after a roll call did not amount to the intervention of other business, and that no business having intervened—debate not being recognized as business—regardless of the time which had elapsed, or regardless of the fact that there were, perhaps, only ten Senators present, there could be no suggestion of the absence of a quorum, and that the Senate must proceed with the ascertained fact that there had been a quorum, and without power to inquire whether or not there was then a quorum.

Mr. President, I did not vote upon that question when it was submitted to the Senate for this simple reason: The Senator from Rhode Island [Mr. ALDRICH] had read what he alleged was a precedent in that matter, and had read from the CONGRESSIONAL RECORD a ruling which had been made by the Chair on March 3, 1897, which the Senator from Rhode Island contended established that proposition. It so happened, although the fact was not known, I think, to the Senator from Rhode Island at the time that he cited the precedent, that I was the Senator temporarily occupying the chair on the 3d of March, 1897, who made the ruling which was cited by the Senator from Rhode Island last night. I was unwilling to cast a vote last night which might appear to be in antagonism to that ruling, as there would then be no opportunity for me to show that the vote thus

cast would not have been in contravention of that ruling made by myself when in the chair.

I recollect the incident well out of which the ruling grew. It occurred during a night session, and the then senior Senator from Pennsylvania, Mr. Quay, was the Senator who demanded the roll call upon the suggestion of the lack of a quorum. He had previously demanded several such roll calls. The point had been made between the two previous successive roll calls that no business had intervened and that therefore the second roll call was not in order. The Chair ruled that business had intervened, from the fact that in the interval the bill then under consideration had been reported from the Committee of the Whole to the Senate. Immediately after that roll call, which was then authorized by the decision of the Chair, the Senator from Pennsylvania, without waiting for any debate or any other action on the part of the Senate, immediately again suggested the absence of a quorum. That matter was taken up at once by the then senior Senator from Massachusetts, Mr. Hoar, and by the then Senator from New York, Mr. Hill, and the question was finally reduced to this point—whether or not business had intervened.

The Chair ruled that business had not intervened, and that therefore the second roll call was not in order. There had been no debate after the roll call, and there was no suggestion that debate was not the intervention of business. There was no question raised that the debate following a roll call did not constitute business which had intervened after the roll call. There was no question whether debate did or did not constitute business.

The question last night was whether debate constituted business. There confessedly had been debate last night after the roll call, and the question decided by the Senate last night was that the occurrence of debate did not constitute business.

Mr. President, I deemed it due to myself to state why I did not vote on the question, because I do not avoid any vote that comes along; but I wished to call the attention of the Senate to the fact that the precedent cited last night by the Senator from Rhode Island was not a controlling precedent upon the question raised by him, because in one case there was no question whether debate constituted business, and in the case last night the sole question was whether debate constituted business.

I desired, Mr. President, to say this much, because I was unwilling that what occurred last night should pass as an unchallenged precedent. I regard it as a revolutionary precedent, and, if so considered by the Senate, I am willing for it to pass as one adopted under the heat of contest for the purpose of effecting a particular end; but it will be a most grievous mistake, in my opinion, if that rule should be adopted as the rule or precedent to hereafter govern the action of the Senate. In fact, frequently here, in cases of protracted contests, for days and days there is nothing practically but debate. It is true we have the morning hour, and some measures may be considered; but so far as the main body of the work of the Senate during the whole day is concerned, frequently there is nothing but debate. To say that it having once been disclosed that there is a quorum there can be thereafter no challenge of the question as to whether or not there is a quorum, it seems to me, must be a very grave mistake.

Mr. FORAKER. Mr. President, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. With pleasure.

Mr. FORAKER. The question that occurs to me as proper to ask is, If debate merely be the transaction of business, how much debate would there have to be?

Mr. BACON. Mr. President, that question, like a great many other questions, brings back this proposition, that in the Senate, as in every other body, but more particularly in the Senate, matters have to be adjusted upon a conservative and well-ordered determination on the part of Senators to observe the rules of the Senate, not simply in letter, but in spirit. I will say, with the permission of the Senator from Ohio, that, in my judgment, there should be some rule adopted upon that subject, and, so far as I am concerned, I will be very glad to see at the next session this matter taken up and put in such shape that there may be a proper regard for the procedure of the Senate and, at the same time, not an undue restriction of the rights of Senators and of the Senate in regard to this question of a roll call upon the suggestion of the lack of a quorum.

Mr. FORAKER. If the Senator will allow me to interrupt him again, I will do so only to say that I heartily agree with him that this matter should be taken under consideration by the Committee on Rules, and there should be some rule adopted, because if mere debate be a transaction of business no one can sit in judgment as to how much debate there shall be to amount

to a transaction of business, and merely addressing the Chair and uttering one sentence with respect to any subject would be debate, I suppose, and then immediately, within less than a minute, because there has been another transaction of business, another roll call might be granted.

Mr. BACON. I quite agree with the Senator, Mr. President. It only illustrates the idea which I had in my mind, and that is that the liberal rules of the Senate are, of course, liable to abuse; but wherever we find a disposition to abuse the rules of the Senate to an extent which will impair the usefulness of the Senate, of course rules will be made to meet such emergencies.

Now, Mr. President, I am going to ask that, with the permission of the Senate, the entire colloquy—a part of which was read last night by the Senator from Rhode Island, in which the ruling was made to which he alluded—may be inserted in the Record, in order that it may be in consecutive order. I will indicate to the Reporter the point at which it begins and where it ends.

The VICE-PRESIDENT. Without objection, permission is granted.

Mr. CULBERSON. Mr. President, I will state to the Senator from Georgia that the entire colloquy was inserted in the Record last night, at my suggestion, by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. BACON. Does the Senator know how far back it began? Because I desire it to be in consecutive order with several other motions which had been made by the then Senator from Pennsylvania [Mr. QUAY], prior to the ruling in that particular case. It was with a desire to have the entire colloquy in the Record that I made the suggestion. Where does it begin?

Mr. LA FOLLETTE. I will show the Senator.

Mr. BACON. Now, Mr. President, I am informed by the Senator from Wisconsin that it began on page 2736 and went over to a point on page 2737. I would simply ask, then, that instead of inserting all of it again—I understand it has not yet been published—at the point in the Record where the Senator from Wisconsin made the insertion, it may be corrected to the extent of beginning at the top of page 2735, and, without repeating what he has already inserted, that it may be prefixed to what he has inserted.

Mr. President, if I may have just a word, I want to say this: Of course the debate on this bill is over. The circumstances were such that those of us who desired to be heard or to have a word or two to say about it did not conveniently have the opportunity. I simply desire to say, as a thought called forth by the remarks of the Senator from Idaho [Mr. HEYBURN], that the point in which I differ from him is this:

The Senator from Idaho, if I understood him correctly, said that if he had regarded this bill as a party measure, he would have supported it. I desire to say that I regard this bill as so pernicious a bill that if every Democrat on this side of the Chamber had supported it—which is an unsupportable case—I should have voted against it. I favor emergency-currency legislation as the business interests of the country agree in demanding it. But I do not favor this particular measure. I favor other measures that I think safer and better.

Mr. HEYBURN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. BACON. Yes.

Mr. HEYBURN. The Senator did not hear me clearly. I said that if I regarded a measure as a party measure—I did not point my suggestion to this bill, because I did not care to extend my remarks to that extent, as that would have made it necessary to reconsider this bill, and I was speaking of my general principle of action—

Mr. BACON. I understood, Mr. President, the Senator to be stating why he did not vote for this particular bill, and he went on to say that he did not regard it as a party measure.

Mr. HEYBURN. I did say that.

Mr. BACON. And immediately, in the same connection, as I understood him, he said that a measure which was a party measure would have his support, leaving the indisputable conclusion, to my mind, that if this were a party measure it would have his support.

Mr. HEYBURN. No, Mr. President, I meant that if a party measure comes from a party caucus, I would make my contest in the party caucus, and I would undertake to see, so far as I could, that no measure I did not approve of came out of that party caucus. That is what I meant.

Mr. BACON. Well, Mr. President, I have no dispute or contention with the Senator as to what his relations are to his party. I only used what I understood him to say as a predicate for what I announced as my position.

Mr. ALDRICH. Will the Senator allow me to ask him a question there?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. BACON. Yes.

Mr. ALDRICH. I suppose the Senator from Georgia, when he uses the term "pernicious" as applied to the currency bill, means from a political standpoint?

Mr. BACON. No; from a business standpoint; and I will state, Mr. President, for the gratification, I may say, of the Senator from Rhode Island, that the pernicious feature of it, or the one which called for that probably extreme adjective on my part, is not the part of the bill for which he was directly responsible; but I do think that to authorize the issue of money, leaving out the fundamental question as to whether or not the banks may be allowed to issue money at all, or whether it should not be confined to the action of the Government—leaving that out and assuming for the purpose of the argument that it would be proper under any circumstances for banks to be delegated the power to issue currency notes, for which the Government should be ultimately responsible—leaving all that out, and assuming that it would be proper, to my mind, it is an extremely obnoxious proposition that currency for which the Government of the United States is to be responsible should be issued upon every class of securities or commercial paper that the Secretary of the Treasury might approve.

I say that is pernicious to the last degree. There is no limitation upon the provision. I will not go over it, however, Mr. President. It has been most eloquently and graphically described to-day by the Senator from Oklahoma [Mr. GORE].

There is but one limitation upon the question as to whether or not the security currency notes will be a sound security or a safe security, and that is the approval of the Secretary of the Treasury. Now, Mr. President, we know the fact—it is a historical fact—that the Secretaries of the Treasury are, as a general rule, transferred from the portfolio of the Treasury to some highly lucrative position in New York, given to them by the favor of Wall street.

Wall street is the locality in which this particular provision of the bill is to be taken advantage of; and here we have the remarkable proposition that with so wide and unlimited a range of securities and commercial paper, subject only to the approval of the Secretary of the Treasury, the man who is to approve the security is the man who, as a general rule, is to look for favors thereafter from those who offer the security and who ask his approval of it. I say, Mr. President, it is a monstrous proposition; it is a pernicious provision, and no sligher word will reach it.

Mr. President, I want to give an illustration. I did not intend to bring this in now. I did intend to do it during the debate; but as it has passed, I merely want to make a little statement here and point to what extent the country can rely upon the discretion of the Secretary of the Treasury when matters are left to his discretion. I want to speak of a most remarkable matter in which the Secretary of the Treasury has exercised his discretion.

I should like to have every Senator present hear what I am about to narrate, not that it is new—because it has been told before—but I want to call it to the attention of all who are here as an illustration of the way in which Secretaries of the Treasury sometimes exercise discretion.

Some eight or ten years ago the Government of the United States determined to sell the custom-house in New York and to build a new custom-house. It has been building a new custom-house, and I believe it is now about completed. It did sell the old custom-house to the National City Bank. I might make some comment upon who some of the officers of the National City Bank are, and some comment on what relation some of them formerly bore to the United States Treasury Department; but I will not say anything about that, as I do not wish to be unduly personal.

The purchase price stated or agreed upon was \$3,265,000. That purchase and sale was effected by an agreement made on the part of the Secretary of the Treasury that no money should be paid by the bank, but that there should be entered upon the books of the National City Bank a credit to the Government for \$3,215,000, and that there should be an indebtedness on the part of the bank to the Government of the United States of \$50,000 in addition to that, making a total price of \$3,265,000; in other words, upon the face, it was a cash transaction of \$3,215,000, with a credit transaction of \$50,000; but the cash was represented simply by a credit entered upon the books of the bank in favor of the Government of the United States. Immediately thereupon, and I doubt not as a part of the same transaction, it was agreed that the Government should become a tenant of the National City Bank, although no deed had passed, no title had passed, no money had passed, and the Government of the United States contracted to pay to, and has

paid to, the National City Bank a rental of \$125,000 or \$130,000 a year for some eight years. In the meantime, the \$50,000 being an indebtedness and no title passing, the title remaining in the Government of the United States, the bank had no taxes to pay in New York by reason of that fact.

Here, Mr. President, is a transaction, sanctioned by a Secretary of the Treasury of the United States; and I will say that it not only had the sanction of the Secretary of the Treasury who made this agreement, but that under more than one Administration it has continued and has had the approval and consent of every Secretary of the Treasury from that day to the present.

Mr. McLAURIN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Mississippi?

Mr. BACON. Let me get through with my figures, and I will answer the Senator's question with a great deal of pleasure.

Now, how does that account stand? The old custom-house was sold to the National City Bank, and an indebtedness of \$3,215,000 simply created to the Government of the United States on the books of the bank.

A conservative estimate is that the interest on the \$3,215,000 for eight years or more would amount, in the aggregate, to between one and two million dollars.

But in addition to that they have had a rental from the United States of a hundred and twenty-five or a hundred and thirty thousand dollars for seven or eight years. They have had exemption from taxation for that length of time, amounting to at least a half a million dollars. So without the expenditure of a dollar the National City Bank of New York has received certainly more than a million dollars out of this transaction with the Government of the United States. It is a malodorous transaction. That is not the same thing we have before us, but it illustrates what is the influence of Wall street upon the discretion of the Secretary of the Treasury.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Maine?

Mr. BACON. Certainly.

Mr. HALE. I am interested in the Senator's statement, because the Committee on Appropriations had up this matter and went thoroughly into it some years ago. I am bound to say that it disclosed a transaction which did not, I suppose, involve any corruption or wrongdoing, but of which nobody ought to be very proud.

Mr. BACON. And of which everybody connected with it ought to be ashamed. I will add to the Senator's statement, without hesitation—everybody ought to be ashamed of it.

The fact is, as I say, that it is not a transaction of a day or a year. It is not the transaction of one man or one official, but it is the transaction of eight or ten years' continuance and a transaction with a succession of officials.

The Senator from Texas [Mr. BAILEY] has called my attention to a matter which I should state, and that is that it is improper to charge both rent and interest against the gains of the bank. I agree to that. That was a mistake. If interest is chargeable, rent ought not to be chargeable. I withdraw that. But at the very lowest calculation there has been something from a million and a half to two million dollars improperly made out of this transaction with the Treasury under the form of law, in the exercise of discretion by several successive Secretaries of the Treasury.

Therefore when you come to talk about the Secretary of the Treasury being a safeguard to see that no inferior securities are accepted as a basis for the issuance of currency, and that his discretion when exercised will guard the Government, when the unlimited and uncontrolled power is given, I put against it this action to show what can be done under the discretion of the Secretary of the Treasury. I repeat, Mr. President, the startling monstrosity of the provision is found in the fact that the very officer who is to pass upon the question of the sufficiency of the securities is the officer who, judging the future by the past, is to look for rewards and emoluments to the very parties interested in having him approve the securities.

PETITIONS.

Mr. PILES presented a memorial of the Chamber of Commerce of Spokane, Wash., remonstrating against the passage of the so-called "currency bill," which was ordered to lie on the table.

Mr. ANKENY presented petitions of sundry citizens ofavenport, Wash., praying that an appropriation be made for the opening of the upper Columbia River in that State from Wenatchee to Kettle Falls, which were referred to the Committee on Commerce.

He also presented a petition of sundry citizens of Seattle, Wash., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. TELLER presented petitions of the Chamber of Commerce and sundry citizens and business firms of Denver, Colo., praying for the enactment of legislation to provide for an increased coinage of silver and for the remonetization of silver upon a fair and reasonable ratio to gold, which were referred to the Committee on Finance.

BILLS INTRODUCED.

Mr. DICK introduced a bill (S. 7270) to establish a Board of Visitors to the United States Naval Academy, which was read twice by its title and referred to the Committee on Naval Affairs.

Mr. FRAZIER (for Mr. TAYLOR) introduced a bill (S. 7271) for the relief of the estate of Jane Newell, deceased, which was read twice by its title and, with the accompanying paper, referred to the Committee on Claims.

Mr. HEYBURN introduced a bill (S. 7272) for the relief of Frank B. Crosthwaite, which was read twice by its title and referred to the Committee on Claims.

He also introduced a bill (S. 7273) to incorporate the New Washington Center Market Company, which was read twice by its title and, with the accompanying paper, referred to the Committee on the District of Columbia.

HULL CITY PLACER MINING CLAIM.

Mr. TELLER submitted the following resolution, which was considered by unanimous consent and agreed to:

Whereas on the 5th day of February, 1898, patent was issued to W. S. Montgomery et al. for the Hull City Placer Mining Claim, situate in the Pueblo, Colo., land district; and

Whereas it is alleged said patent was secured through bribery, perjury and subornation of perjury, and other wrongful acts on the part of those securing said patent; and

Whereas the attention of the Interior Department and Department of Justice has been called to the aforesaid charges and proof of said wrongful acts furnished said Departments and no action has been taken thereon: Therefore be it

Resolved, That the Secretary of the Interior Department and the Attorney-General of the United States be, and they are hereby, directed to transmit to the Senate of the United States all correspondence of every kind and description between any officer, agent, or employee of the United States Government and any other person or persons whomsoever pertaining or appertaining to said matter.

BEET-SUGAR INDUSTRY.

Mr. DICK. I present certain addresses delivered by Mr. Truman G. Palmer, secretary of the American Beet Sugar Association, on the progress of the industry, its economic value to the nation, its special importance to arid America, and the legislation which threatens its destruction. I move that they be printed as a document.

The motion was agreed to.

AFFAIRS IN THE PHILIPPINES.

Mr. DICK. I present certain papers, being notes and observations upon the conditions in the Philippine Islands. I move that they be printed as a document.

The motion was agreed to.

COMPENSATION OF CERTAIN TREASURY OFFICIALS.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 21003) fixing the compensation of certain officials in the customs service, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ALDRICH. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, and that the conferees be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. ALDRICH, Mr. HALE, and Mr. TELLER as the conferees on the part of the Senate.

BUREAU OF IMMIGRATION AND NATURALIZATION.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives agreeing to the amendments of the Senate numbered 1, 2, 3, 4, and 6 and disagreeing to amendment numbered 5 to the bill (H. R. 21052) to amend sections 11 and 13 of an act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States."

Mr. DILLINGHAM. I move that the Senate insist upon its amendment numbered 5 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the conferees be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. DILLINGHAM, Mr. PENROSE, and Mr. McLAURIN as the conferees on the part of the Senate.

FORT PECK INDIAN RESERVATION.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 208) for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment, which were to strike out all of section 2; to strike out all of section 3; to strike out all of section 4; to strike out all of section 5.

On page 7, after line 4, to insert:

SEC. 2. That as soon as all the lands embraced within the said Fort Peck Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all Indians belonging and having tribal rights on said reservation; and there shall be allotted to each such Indian 320 acres of grazing land, and there shall also be made an additional allotment of not less than 2½ acres nor more than 20 acres of timber land to heads of families and single adult members of the tribe over 18 years of age: *Provided*, That should it be determined as feasible, after examination, to irrigate any of said lands, the irrigable land shall be allotted in equal proportions to such only of the members of said tribe as shall be living at the day of the beginning of the work of allotment on said reservation by the special allotting agent, and such allotment of irrigable land shall be in addition to the allotments of grazing and timber lands aforesaid, but no member shall receive more than 40 acres of such irrigable land; and to pay the costs of examination provided for herein and for the construction of irrigation systems to irrigate lands which may be found susceptible of irrigation, there is hereby appropriated \$200,000, to be immediately available, the said sum and any and all additional sums hereafter appropriated to pay the cost of such examination and irrigation systems to be reimbursed from proceeds of sales of lands within the said reservation: *Provided*, however, That any land irrigable by any system constructed under the provisions of this act may be disposed of subject to the following conditions: The entryman or owner shall, in addition to the payments required by section 8 of this act, be required to pay for a water right the proportionate cost of the construction of said system in not more than fifteen annual installments, as fixed by the Secretary of the Interior, with a view to the return of all moneys expended thereon, the same to be paid at the local land office, and the register and receiver shall be allowed the usual commissions on all moneys paid.

The entryman of lands to be irrigated by said system shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay the charges apportioned against such tract, nor shall any such lands be subject to mineral entry or location. No right to the use of water shall be disposed of for a tract exceeding 160 acres to any one person, and the Secretary of the Interior may limit the areas to be entered at not less than 40 nor more than 160 acres each.

A failure to make any two payments when due shall render the entry and water-right application subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys paid thereon. The funds arising hereunder shall be paid into the Treasury of the United States and be added to the proceeds derived from the sale of the lands. No right to the use of water for lands in private ownership shall be sold to any landowner unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land, and no such right shall permanently attach until all payments therefor are made.

All applicants for water rights under the systems constructed in pursuance of this act shall be required to pay such annual charges for operation and maintenance as shall be fixed by the Secretary of the Interior, and the failure to pay such charges when due shall render the water-right application and the entry subject to cancellation, with the forfeiture of all rights under this act as well as of any moneys already paid thereon.

The Secretary of the Interior is hereby authorized to fix the time for the beginning of such payments and to provide such rules and regulations in regard thereto as he may deem proper. Upon the cancellation of any entry or water-right application, as herein provided, such lands or water rights may be disposed of under the terms of this act and at such price and on such conditions as the Secretary of the Interior may determine, but not less nor more than the cost as originally fixed.

In every case in which a forfeiture is enforced and the land and rights of an entryman are made the subject of resale then, after the payment of the balance due from the entryman and the cost and charges, if any, attendant on the forfeiture and resale, any surplus remaining out of the proceeds of such sale shall be refunded to said entryman or his heirs.

The land irrigable under the systems herein provided, which has been allotted to Indians in severalty, shall be deemed to have a right to so much water as may be required to irrigate such land without cost to the Indians for the construction of such irrigation systems. The purchaser of any Indian allotment purchased prior to the expiration of the trust period thereon shall be exempt from any and all charge for construction of the irrigation system incurred up to the time of such purchase. All lands allotted to Indians shall bear their pro rata share of the cost of operation and maintenance of the irrigation system under which they lie; and the Secretary of the Interior may withhold from any Indian a sufficient amount of his pro rata share of any moneys subject to distribution to pay any charge assessed against land held in trust for him for operation and maintenance of the irrigation system.

When the payments required by this act have been made for the major part of the unallotted lands irrigable under any system, and subject to charges for construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense, under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

All appropriations of the waters of the reservation shall be made under the provisions of the laws of the State of Montana.

SEC. 3. That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed, and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided*, however, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town

site herein provided for) as have been heretofore set apart to such organization for mission or school purposes: And provided further, That the Secretary of the Interior is hereby authorized and directed to reserve 2.07 acres of land in the town of Poplar, on said reservation, now occupied for public school purposes, and issue patent in fee for the same to the school trustees of the school district in which said land is situated.

The Secretary of the Interior is hereby authorized and directed, when the said lands are surveyed, to issue to the Great Northern Railway Company a patent or patents conveying for railroad purposes such lands at such point or points as in the judgment of the said Secretary are necessary for the use of said railway company in the construction and maintenance of water reservoirs, dam sites, and for right of way for water pipe lines for use by said railway company in operating its line of railroad over and across said reservation; the said lands so to be conveyed not to exceed 40 acres at any one point and not to exceed one tract for each 10 miles of the main line of said railway as now constructed within said reservation, and said lands shall be selected in such manner as not to unnecessarily injure or interfere with the selection and location of town sites hereinafter provided for; the said patent or patents to be delivered to said company upon payment by said company, within thirty days after notification of the issuance of patent, of the reasonable value of said lands, not less than \$2.50 per acre, and also upon payment by said company to said Secretary of any and all damages sustained by individual members of said tribe by reason of the appropriation of said lands for the purposes aforesaid; all moneys so paid for the value of said lands to be deposited in the Treasury of the United States to the credit of said Indians, and the moneys received by said Secretary as damages sustained by individual members of said tribe shall be by him paid to the individuals sustaining said damages.

SEC. 4. That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior, said commission to be constituted as follows: One of said commissioners shall be a person holding tribal relations with said Indians, one a representative of the Indian Bureau, and one a resident citizen of the State of Montana.

SEC. 5. That within thirty days after their appointment said commissioners shall meet at some point within the Fort Peck Reservation and organize by election of one of their number as chairman. Said commission is hereby empowered to select, subject to the approval of the Secretary of the Interior, such clerks and assistants as may be necessary in the performance of their duties herein specified, the compensation of each such clerk and assistant to be fixed by said Secretary. In no case shall any such clerk or assistant receive a salary exceeding \$6 per day. In addition to the compensation of said clerks and assistants and in addition to the salaries hereinafter provided for the said commissioners, they shall each receive their actual necessary expenses incurred during such time only as they shall be engaged in the performance of their respective duties on said reservation.

Mr. DIXON. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

INJURIES TO GOVERNMENT EMPLOYEES.

Mr. DEPEW. I ask unanimous consent to call up the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New York?

Mr. BAILEY. I object.

Mr. DEPEW. Then I move that the bill be taken up.

The VICE-PRESIDENT. The Senator from New York moves that the Senate proceed to the consideration of the bill.

Mr. HALE. I suppose the Senator, after getting up the bill, will not object to yielding a short time to Senators.

Mr. DEPEW. Certainly not.

Mr. BAILEY. He is not going to get it up unless he gets a quorum and keeps it here. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Texas suggests the absence of a quorum. The Secretary will call the roll.

Mr. BAILEY. If I can have the indulgence of the Senate, I understand the Senator from Mississippi has a motion pending to recommit the bill to the committee.

Mr. McLAURIN. No; I have not. I have an amendment pending to the bill.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ankeny	Culberson	Gallinger	Paynter
Bacon	Cullom	Gary	Piles
Bailey	Curtis	Guggenheim	Scott
Bankhead	Daniel	Hale	Simmons
Beveridge	Depew	Heyburn	Stephenson
Borah	Dick	Hopkins	Stewart
Brandegee	Dillingham	Kean	Stone
Briggs	Dixon	Long	Sutherland
Bulkeley	du Pont	McLaurin	Teller
Burkett	Elkins	Milton	Warner
Burnham	Flint	Nelson	Warren
Carter	Foraker	Newlands	
Clark, Wyo.	Frazier	Nixon	
Clay	Fulton	Overman	

The VICE-PRESIDENT. Fifty-three Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from New York [Mr. DEPEW] to proceed to the consideration of House bill 21844.

Mr. HALE. Will the Senator from New York yield to me to make a statement?

Mr. DEPEW. I yield to the Senator from Maine.

BUSINESS OF THE SESSION.

Mr. HALE. Mr. President, I desire to make a statement to the Senate as to the present condition of the public business.

Several days ago I stated that the only remaining conference report on the large appropriation bills is that on the deficiency bill. I stated then that I was awaiting the action of the House to pass the public-buildings bill, in order to bring in the deficiency appropriation bill, which has upon it the appropriations for the coming year contained in the provisions of the public-buildings bill. The matter has continued in that condition for the last three days. I am now informed that the House at the present moment is voting upon accepting the report upon the public-buildings bill, which, if accepted, makes that the law and is the foundation of the appropriations to be made in the deficiency bill.

As soon as that report reaches the Senate, I shall present the last conference report on an appropriation bill—the report on the deficiency appropriation bill—which carries, as I have said, the appropriations for public buildings for the year to come. It has all been made up by the Treasury Department in the Supervising Architect's office. That will be the last appropriation bill in any form to bring before the Senate. It will go at once to the House, and it is believed it will take no time there.

The feeling in the House is naturally very strong that we should adjourn this evening, and I may say the Speaker believes that only a few hours will be needed to wind up all the business after the report on the deficiency appropriation bill here.

There will be less delay than usual in enrolling the appropriation bills for the reason that in the time that has elapsed in the last three or four days, while the Senate has been busy with the measure before it, all of the great appropriation bills have been already substantially enrolled. So there will be no waiting on that account.

I present this consideration to the Senate because if we are to adjourn this evening, sometime about 9 o'clock, of course Senators should stay to make a quorum. If we do not do that we will go over until Monday and adjourn at that time.

I know Senators are very weary, and that last night was very prostrating in its effect. While I will make no decided prediction, which I ventured upon the other day rather rashly, I believe from what the authorities in the House, including the Speaker, have told me we can clean up all the business by about 9 o'clock this evening and reach a final adjournment.

Mr. BAILEY. That is, if we vote down the motion of the Senator from New York.

Mr. HALE. Of course the Senator understands that if that motion is voted up and is before the Senate, it will give way to the conference report on the appropriation bill.

Mr. BAILEY. Provided the conferees see fit to present the report while that bill is pending.

Mr. HALE. I have just stated that as soon as the word comes that the public-buildings bill has passed the House, I shall submit the report on the deficiency appropriation bill, no matter what is before the Senate.

Mr. BAILEY. I very much doubt whether the public-buildings bill can pass the House, they having so little interest in that measure.

Mr. HALE. Of course it is subject to the doubt which is thrown about the feeling in the House with reference to that bill; but I am told that the House is becoming each day more and more reconciled to the public-buildings bill, and it is likely to pass and by a substantial majority.

Mr. BACON. I should like to make one suggestion to the Senator from Maine.

Mr. HALE. I am informed that word has come from the House that the conference report on the public-buildings bill has been agreed to there. I will ask a messenger to bring me the conference report on the deficiency appropriation bill.

INJURIES TO GOVERNMENT EMPLOYEES.

Mr. DEPEW. Mr. President, I ask that the question be put on my motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from New York to proceed to the consideration of House bill 21844.

Mr. BAILEY. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BORAH. May I inquire what is the question we are voting on?

The VICE-PRESIDENT. The question is on proceeding to the consideration of the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I am paired with the senior Senator from Massachusetts [Mr. LODGE].

Mr. CULLOM (when his name was called). I am paired with the junior Senator from Virginia [Mr. MARTIN].

Mr. DILLINGHAM (when his name was called). Owing to my general pair with the senior Senator from South Carolina [Mr. TILLMAN] I withhold my vote. If he were present, I would vote "yea."

Mr. OVERMAN (when his name was called). I again announce my pair with the senior Senator from California [Mr. PERKINS].

Mr. TELLER (when his name was called). I announce my pair with the senior Senator from Iowa [Mr. ALLISON].

Mr. WARREN (when his name was called). I announce the same arrangement as to the pair that I have already announced, and it may stand for the day. I vote "yea."

The roll call was concluded.

Mr. DILLINGHAM. By an arrangement my general pair with the senior Senator from South Carolina [Mr. TILLMAN] has been transferred to the Senator from South Dakota [Mr. GAMBLE] and I vote "yea." This announcement will stand for the day. Therefore it releases the Senator from Nevada [Mr. NEWLANDS] from his pair.

Mr. CULLOM. I have a general pair with the junior Senator from Virginia [Mr. MARTIN]. I transfer that pair to the Senator from South Dakota [Mr. KITTREDGE] and vote "yea."

Mr. TELLER. I have the right to vote to make a quorum, and I will vote as I believe the Senator from Iowa would vote if he were here. I vote "yea."

The result was announced—yeas 48, nays 1, as follows:

YEAS—48.

Aldrich	Clark, Wyo.	Gallinger	Nixon
Ankeny	Cullom	Gary	Piles
Bacon	Curtis	Guggenheim	Scott
Beveridge	Depew	Hale	Smoot
Borah	Dick	Hemenway	Stephenson
Brandegee	Dillingham	Heyburn	Stewart
Briggs	Dixon	Hopkins	Stone
Bulkeley	du Pont	Kean	Sutherland
Burkett	Elkins	La Follette	Teller
Burnham	Flint	Long	Warner
Burns	Foraker	Nelson	Warren
Carter	Fulton	Newlands	Wetmore

NAYS—1.

Bailey

NOT VOTING—43.

Allison	Dolliver	McCreary	Perkins
Bankhead	Poster	McCumber	Platt
Bourne	Frazier	McEnery	Rayner
Brown	Frye	McLaurin	Richardson
Clapp	Gamble	Martin	Simmons
Clarke, Ark.	Gore	Milton	Smith, Md.
Clay	Hansbrough	Money	Smith, Mich.
Crane	Johnston	Owen	Tallafiero
Culberson	Kittredge	Overman	Taylor
Daniel	Knox	Paynter	Tillman
Davis	Lodge	Penrose	

So the motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from Mississippi [Mr. McLAURIN].

Mr. BAILEY. Mr. President, I never was more certain of anything in my life than I am that this is a bad bill. It is vicious in principle in that it sends men for the determination of what ought to be a legal right to an officer of the Government who need not be, and generally is not, a lawyer.

But in view of the very decisive vote of the Senate—something like forty-seven in favor of taking the bill up to my single vote against taking it up—I am going to let the Senate make this mistake without any further protest on my part.

The VICE-PRESIDENT. Is the Senate ready for the question on agreeing to the amendment of the Senator from Mississippi?

Mr. McLAURIN. I should like to have it read.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. On page 2 of the bill, line 10, where the words "Secretary of Commerce and Labor" were restored in the bill, it is proposed to strike out those words and insert:

Judges of the circuit court of the United States for the district in which the injury shall have been inflicted, from whose decision an appeal may be taken by the injured person to the circuit court of appeals, to which appeals may be taken in said district.

Mr. BORAH. This is the amendment which was offered by the Senator from Mississippi, and which refers a certain part of this matter to a court for determination?

Mr. McLAURIN. This is the amendment which proposes to

allow the judge of the district in which the injury is inflicted to pass upon the question of negligence and that alone, giving the man an opportunity when he is injured to be heard right at his home, without coming to Washington to be heard, or instead of sending the case to Washington and having to combat a report, which probably may be an unfavorable report, by his superior in authority. I think it is a good amendment.

Mr. BORAH. I am not going at this late hour, and in view of the strain under which we have been laboring for some time, to discuss the amendment. But it has occurred to me that it sends a man to two different places in order to receive his compensation, and it is a considerable burden upon a man who has received an injury first to send him to a court and then send him to the Secretary of Commerce and Labor in order to have the question finally determined as to whether he shall be paid. I think in view of that fact the amendment ought not to be adopted.

Mr. McLAURIN. The Senator from Idaho entirely misunderstands the amendment. If it were adopted, then the judge of the district would pass upon the question of negligence; and if the judge determined that there was no negligence on the part of the employee who was injured, he is entitled to his pay without a reference of the case for the decision of the Secretary of Commerce and Labor.

If the judge should decide against him, under this amendment he would have an opportunity to appeal to the circuit court of appeals of that district. There is no provision in the amendment for the Government to appeal, but for the injured employee to appeal. So it is not in the arbitrary power of any one man to cut him out.

By the provisions of this bill, if the officer, whoever he may be, just superior to the injured employee should send to the Secretary of Commerce and Labor an unfavorable report, the injured employee would have to come with that report before the Secretary of Commerce and Labor, and he would have no way of combating it, except at the distance of a thousand or two thousand or three thousand miles—certainly a long distance in the case of an employee in the State of Idaho, the Senator's State. But if the amendment is adopted the injured employee would have an opportunity to combat that report, if it were unfavorable to him, right at his home in almost every instance.

Mr. BORAH. I understand the position of the Senator.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi.

The amendment was rejected.

Mr. McLAURIN. I have one more amendment that I propose to offer, and I ask the attention of the Senate to the amendment. I hope that the Senator from New York who is in charge of the bill will not combat this amendment. I move to strike out section 6. I ask the attention of the Senate to the reading of section 6.

Mr. DEPEW. Mr. President, I accept the amendment.

Mr. McLAURIN. That is all right.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 5, strike out section 6, in the following words:

SEC. 6. That to seek to obtain by fraudulent means or to accept benefits under this act to which the person is not entitled shall be deemed a misdemeanor on his part and punishable by a fine of not more than \$1,000 or by imprisonment for not more than two years, or both.

The amendment was agreed to.

Mr. GORE. I send to the desk an amendment which I desire to offer to the bill.

The VICE-PRESIDENT. The amendment submitted by the Senator from Oklahoma will be stated.

The SECRETARY. It is proposed to add at the end of section 1 the following additional proviso:

Provided further, That whenever such injury shall result from the negligence, incompetency, or misconduct of some other employee of the Government such other employee shall be discharged from the public service as soon as the fact of his negligence, incompetency, or misconduct has been determined, and he shall not be reemployed by the Government for the period of two years thereafter.

Mr. DEPEW. I move to lay the amendment on the table.

The motion to lay on the table was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DEFICIENCY APPROPRIATION BILL.

Mr. HALE submitted the following report:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21946) making appropriations to supply deficiencies in the ap-

appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 30, 32, 33, 34, and 38.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 31, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, and 82, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Toward amounts requisite for public buildings, authorized under the provisions of an act entitled 'An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes,' passed at the first session of the Sixtieth Congress, namely:

"Under the provisions and limitations of section 1 of said act, as follows:

"Rome, Ga., post-office and court-house, fifteen thousand dollars.

"Burlington, Iowa, post-office, five thousand dollars.

"Council Bluffs, Iowa, post-office and court-house, six thousand two hundred and fifty dollars, for the purchase of additional land.

"Duluth, Minn., post-office, etc., ninety-five thousand dollars.

"St. Joseph, Mo., post-office and court-house, twelve thousand dollars.

"Johnstown, Pa., post-office, twenty thousand dollars.

"Murfreesboro, Tenn., post-office, ten thousand dollars.

"Tyler, Tex., post-office, fifteen thousand dollars.

"Salt Lake City, Utah, post-office, etc., sixty thousand dollars.

"Fairmont, W. Va., post-office, ten thousand dollars.

"Wheeling, W. Va., post-office and court-house, twenty thousand dollars.

"Platteville, Wis., post-office, fifteen thousand dollars.

"Under the provisions and limitations of section 2 of said act, as follows:

"Montgomery, Ala., post-office and court-house, fifteen thousand dollars.

"Hot Springs, Ark., post-office, twenty thousand dollars.

"Sacramento, Cal., post-office and court-house, thirty thousand dollars.

"San Jose, Cal., post-office, two thousand dollars.

"New London, Conn., post-office, twenty thousand dollars.

"Wilmington, Del., post-office and court-house, forty thousand dollars.

"Athens, Ga., post-office and court-house, twenty thousand dollars.

"Augusta, Ga., post-office and court-house, two thousand dollars.

"Boise, Idaho, post-office and other governmental buildings, forty thousand dollars.

"Elgin, Ill., post-office, twenty thousand dollars.

"Peoria, Ill., post-office and court-house, ten thousand dollars.

"Quincy, Ill., post-office and court-house, twenty-five thousand dollars.

"Rock Island, Ill., post-office, twenty-five thousand dollars.

"Davenport, Iowa, post-office and court-house, twenty-five thousand dollars.

"Fort Dodge, Iowa, post-office, twenty-five thousand dollars.

"Emporia, Kans., post-office, fifteen thousand dollars.

"Kansas City, Kans., post-office, forty thousand dollars.

"Lexington, Ky., post-office, twenty-five thousand dollars.

"Frankfort, Ky., post-office and court-house, twenty thousand dollars.

"Paducah, Ky., post-office and court-house, fifteen thousand dollars.

"Richmond, Ky., post-office and court-house, ten thousand dollars.

"Bath, Me., post-office and custom-house, twenty thousand dollars.

"Belfast, Me., post-office and custom-house, twenty thousand dollars.

"Ellsworth, Me., post-office and custom-house, twenty thousand dollars.

"Jackson, Mich., post-office, fifteen thousand dollars.

"Meridian, Miss., post-office and court-house, twenty thousand dollars.

"Beatrice, Nebr., post-office, twenty thousand dollars.

"Fremont, Nebr., post-office, fifteen thousand dollars.

"Manchester, N. H., post-office and court-house, fifteen thousand dollars.

"Hoboken, N. J., post-office, twenty thousand dollars.

"New Brunswick, N. J., post-office, twenty thousand dollars.

"Trenton, N. J., post-office and court-house, ten thousand dollars.

"Goldsboro, N. C., post-office, ten thousand dollars.

"Newbern, N. C., post-office and court-house, fifteen thousand dollars.

"Raleigh, N. C., post-office and court-house, ten thousand dollars.

"Lima, Ohio, post-office, twenty thousand dollars.

"Chester, Pa., post-office, twenty thousand dollars.

"Reading, Pa., post-office, twenty-five thousand dollars.

"Pawtucket, R. I., post-office, twenty thousand dollars.

"Sioux Falls, S. Dak., post-office and court-house, twenty thousand dollars.

"Bristol, Tenn., post-office and court-house, twenty thousand dollars.

"Jackson, Tenn., post-office and court-house, twenty thousand dollars.

"Charlottesville, Va., post-office, thirty-five thousand dollars.

"Danville, Va., post-office and court-house, twenty thousand dollars.

"Charleston, W. Va., post-office and court-house, twenty-five thousand dollars.

"Huntington, W. Va., post-office and court-house, five thousand five hundred dollars.

"La Crosse, Wis., post-office and court-house, twenty thousand dollars."

"Under the provisions and limitations of section 3 of said act, as follows:

"Demopolis, Ala., post-office, fifteen thousand dollars.

"Troy, Ala., post-office, twenty thousand dollars.

"Santa Cruz, Cal., post-office, twenty thousand dollars.

"Griffin, Ga., post-office, twenty thousand dollars.

"Newnan, Ga., post-office, twenty thousand dollars.

"Way Cross, Ga., post-office, fifteen thousand dollars.

"Lewiston, Idaho, post-office and land office, twenty thousand dollars.

"Centralia, Ill., post-office, twenty thousand dollars.

"Litchfield, Ill., post-office, twenty thousand dollars.

"Columbus, Ind., post-office, twenty thousand dollars.

"Connersville, Ind., post-office, twenty thousand dollars.

"Greencastle, Ind., post-office, twenty thousand dollars.

"Jeffersonville, Ind., post-office, fifteen thousand dollars.

"Kokomo, Ind., post-office, twenty thousand dollars.

"Peru, Ind., post-office, etc., twenty thousand dollars.

"Decorah, Iowa, post-office, fifteen thousand dollars.

"Estherville, Iowa, post-office, fifteen thousand dollars.

"Shenandoah, Iowa, post-office, fifteen thousand dollars.

"Catlettsburg, Ky., post-office and court-house, twenty thousand dollars.

"Beverly, Mass., post-office, fifteen thousand dollars.

"Marlboro, Mass., post-office, twenty thousand dollars.

"Plymouth, Mass., post-office, twenty-five thousand dollars.

"Webster, Mass., post-office, fifteen thousand dollars.

"Woburn, Mass., post-office, fifteen thousand dollars.

"Pontiac, Mich., post-office, twenty thousand dollars.

"Austin, Minn., post-office, fifteen thousand dollars.

"Brainerd, Minn., post-office, ten thousand dollars.

"Rochester, Minn., post-office, fifteen thousand dollars.

"Hattiesburg, Miss., post-office, twenty thousand dollars.

"West Point, Miss., post-office, no site.

"Carrollton, Mo., post-office, fifteen thousand dollars.

"Clinton, Mo., post-office, twenty thousand dollars.

"Independence, Mo., post-office, fifteen thousand dollars.

"Lexington, Mo., post-office, fifteen thousand dollars.

"Macon, Mo., post-office, fifteen thousand dollars.

"Warrensburg, Mo., post-office, twenty thousand dollars.

"Missoula, Mont., post-office, etc., twenty-five thousand dollars.

"Columbus, Nebr., post-office, twenty thousand dollars.

"Plattsmouth, Nebr., post-office, fifteen thousand dollars.

"Keene, N. H., post-office, twenty thousand dollars.

"Amsterdam, N. Y., post-office, twenty thousand dollars.

"Malone, N. Y., post-office, fifteen thousand dollars.

"Middletown, N. Y., post-office, twenty thousand dollars.

"Concord, N. C., post-office, twenty thousand dollars.

"Henderson, N. C., post-office, twenty thousand dollars.

"High Point, N. C., post-office, twenty thousand dollars.

"Ashtabula, Ohio, post-office, twenty thousand dollars.

"Delaware, Ohio, post-office, twenty thousand dollars.

"Enid, Okla., post-office and court-house, twenty thousand dollars.

"Bradford, Pa., post-office, fifteen thousand dollars.
 "Carbondale, Pa., post-office, twenty thousand dollars.
 "Chambersburg, Pa., post-office, twenty thousand dollars.
 "Easton, Pa., post-office, twenty thousand dollars.
 "Greensburg, Pa., post-office, twenty thousand dollars.
 "Sewickley, Pa., post-office, twenty thousand dollars.
 "Shamokin, Pa., post-office, twenty thousand dollars.
 "York, Pa., post-office and internal revenue office, fifty thousand dollars.

"Aiken, S. C., post-office, fifteen thousand dollars.
 "Cleveland, Tenn., post-office, fifteen thousand dollars.
 "Palestine, Tex., post-office, twenty thousand dollars.
 "San Marcos, Tex., post-office, ten thousand dollars.
 "Temple, Tex., post-office, twenty thousand dollars.
 "Bellingham, Wash., post-office and court-house, twenty-five thousand dollars.

"North Yakima, Wash., post-office and court-house, twenty-five thousand dollars.
 "Hinton, W. Va., post-office, fifteen thousand dollars.
 "Appleton, Wis., post-office, fifteen thousand dollars.
 "Beloit, Wis., post-office, twenty thousand dollars.
 "Watertown, Wis., post-office, twenty thousand dollars.
 "Lander, Wyo., post-office and court-house, twenty thousand dollars."

"Under the provisions and limitations of section 4 of said act, as follows:

"Ensley, Ala., post-office, twenty-five thousand dollars.
 "Eufaula, Ala., post-office, fifteen thousand dollars.
 "Talladega, Ala., post-office, twenty thousand dollars.
 "Phoenix, Ariz., post-office and court-house, thirty thousand dollars.

"Hope, Ark., post-office, twelve thousand five hundred dollars.
 "Jonesboro, Ark., post-office, twenty-five thousand dollars.
 "Paragould, Ark., post-office, fifteen thousand dollars.
 "Alameda, Cal., post-office, thirty thousand dollars.
 "Santa Barbara, Cal., post-office, twenty thousand dollars.
 "Riverside, Cal., post-office, thirty thousand dollars.
 "Fort Collins, Colo., post-office, twenty-five thousand dollars.
 "Ansonia, Conn., post-office, thirty-five thousand dollars.
 "Bristol, Conn., post-office, thirty thousand dollars.
 "Danbury, Conn., post-office, twenty thousand dollars.
 "Wallingford, Conn., post-office, fifteen thousand dollars.
 "Miami, Fla., post-office, custom-house, etc., twenty thousand dollars.

"Cordele, Ga., post-office, fifteen thousand dollars.
 "Dublin, Ga., post-office, fifteen thousand dollars.
 "Lagrange, Ga., post-office, twenty thousand dollars.
 "Milledgeville, Ga., post-office, twenty thousand dollars.
 "Chicago Heights, Ill., post-office, thirty thousand dollars.
 "Granite City, Ill., post-office, twenty-five thousand dollars.
 "Greenville, Ill., post-office, twenty-five thousand dollars.
 "La Salle, Ill., post-office, twenty-thousand dollars.
 "Mattoon, Ill., post-office, thirty thousand dollars.
 "Murphysboro, Ill., post-office, twenty thousand dollars.
 "Pana, Ill., post-office, sixteen thousand dollars.
 "Pontiac, Ill., post-office, twenty thousand dollars.
 "Bloomington, Ind., post-office, twenty thousand dollars.
 "Elwood, Ind., post-office, twenty thousand dollars.
 "Brazil, Ind., post-office, twenty thousand dollars.
 "Goshen, Ind., post-office, fifteen thousand dollars.
 "Laporte, Ind., post-office, fifteen thousand dollars.
 "Princeton, Ind., post-office, twenty thousand dollars.
 "Wabash, Ind., post-office, twenty thousand dollars.
 "Ames, Iowa, post-office, twenty-five thousand dollars.
 "Clay Center, Kans., post-office, ten thousand dollars.
 "Coffeyville, Kans., post-office, twenty-five thousand dollars.
 "Great Bend, Kans., post-office, fifteen thousand dollars.
 "Independence, Kans., post-office, etc., fifteen thousand dollars.

"Parsons, Kans., post-office, etc., twenty-five thousand dollars.
 "Wellington, Kans., post-office, fifteen thousand dollars.
 "Mount Sterling, Ky., post-office, eleven thousand dollars.
 "Somerset, Ky., post-office, fifteen thousand dollars.
 "Crowley, La., post-office, fifteen thousand dollars.
 "Franklin, La., post-office, fifteen thousand dollars.
 "Waterville, Me., post-office, twenty-five thousand dollars.
 "Frostburg, Md., post-office, fifteen thousand dollars.
 "Athol, Mass., post-office, twenty thousand dollars.
 "Chelsea, Mass., post-office, thirty thousand dollars.
 "Milford, Mass., post-office, twenty-five thousand dollars.
 "Westfield, Mass., post-office, ten thousand dollars.
 "Hillsdale, Mich., post-office, fifteen thousand dollars.
 "Ionia, Mich., post-office, twenty-five thousand dollars.
 "Monroe, Mich., post-office, fifteen thousand dollars.
 "Mount Clemens, Mich., post-office, fifteen thousand dollars.

"Faribault, Minn., post-office, twenty thousand dollars.
 "Virginia, Minn., post-office, twenty thousand dollars.
 "Wilmar, Minn., post-office, seventeen thousand dollars.
 "Brookhaven, Miss., post-office, twenty thousand dollars.
 "Corinth, Miss., post-office, fifteen thousand dollars.
 "Greenwood, Miss., post-office, fifteen thousand dollars.
 "Maryville, Mo., post-office, etc., fifteen thousand dollars.
 "Mexico, Mo., post-office, twenty thousand dollars.
 "Billings, Mont., post-office and land office, thirty thousand dollars.

"Fairbury, Nebr., post-office, fifteen thousand dollars.
 "Holdrege, Nebr., post-office, twenty thousand dollars.
 "Goldfield, Nev., post-office, etc., fifteen thousand dollars.
 "North Platte, Nebr., post-office and court-house, fifteen thousand dollars.

"Asbury Park, N. J., post-office, thirty thousand dollars.
 "Burlington, N. J., post-office, twenty-five thousand dollars.
 "Plainfield, N. J., post-office, etc., twenty-five thousand dollars.

"Roswell, N. Mex., post-office and court-house, twenty thousand dollars.

"Newark, N. Y., post-office, eighteen thousand dollars.
 "Penn Yan, N. Y., post-office, twenty thousand dollars.
 "Gastonia, N. C., post-office, fifteen thousand dollars.
 "Lexington, N. C., post-office, fifteen thousand dollars.
 "Wilson, N. C., post-office, etc., twenty thousand dollars.
 "Bismarck, N. Dak., post-office and court-house, forty-five thousand dollars.

"Minot, N. Dak., post-office and court-house, twenty-five thousand dollars.

"Alliance, Ohio, post-office, thirty thousand dollars.
 "Ironton, Ohio, post-office, twenty thousand dollars.
 "Mansfield, Ohio, post-office, twenty thousand dollars.
 "Massillon, Ohio, post-office, twenty thousand dollars.
 "Muskogee, Okla., post-office, etc., fifty thousand dollars.
 "Albany, Oreg., post-office, fifteen thousand dollars.
 "La Grande, Oreg., post-office, twenty thousand dollars.
 "Pendleton, Oreg., post-office, twenty-two thousand dollars.
 "Braddock, Pa., post-office, thirty-five thousand dollars.
 "Bristol, Pa., post-office, fifteen thousand dollars.

"Connellsville, Pa., post-office, thirty-three thousand dollars.
 "Homestead, Pa., post-office, thirty-five thousand dollars.
 "Steelton, Pa., post-office, forty thousand dollars.
 "Westerly, R. I., post-office, twenty-five thousand dollars.
 "Abbeville, S. C., post-office, twenty thousand dollars.
 "Darlington, S. C., post-office, fifteen thousand dollars.

"Gaffney, S. C., post-office, ten thousand dollars.
 "Laurens, S. C., post-office, fifteen thousand dollars.
 "Newberry, S. C., post-office, fifteen thousand dollars.
 "Orangeburg, S. C., post-office, fifteen thousand dollars.
 "Union, S. C., post-office, twenty thousand dollars.
 "Huron, S. Dak., post-office, twenty-five thousand dollars.
 "Dyersburg, Tenn., post-office, fifteen thousand dollars.
 "Harriman, Tenn., post-office, thirteen thousand dollars.
 "Union City, Tenn., post-office, thirteen thousand dollars.
 "Bonham, Tex., post-office, fifteen thousand dollars.
 "Cleburne, Tex., post-office, twenty thousand dollars.
 "Corpus Christi, Tex., post-office and custom-house, twenty thousand dollars.

"Del Rio, Tex., post-office and court-house, seventeen thousand dollars.

"Hillsboro, Tex., post-office, twenty-five thousand dollars.
 "McKinney, Tex., post-office, twenty thousand dollars.
 "Mineral Wells, Tex., post-office, fifteen thousand dollars.
 "Port Arthur, Tex., post-office and custom-house, thirteen thousand dollars.
 "Sulphur Springs, Tex., post-office, thirteen thousand dollars.

"Terrell, Tex., post-office, fifteen thousand dollars.
 "Victoria, Tex., post-office and court-house, fifteen thousand dollars.

"Waxahachie, Tex., post-office, twenty thousand dollars.
 "Wichita Falls, Tex., post-office, twenty thousand dollars.
 "Park City, Utah, post-office, eleven thousand dollars.
 "Brattleboro, Vt., post-office and court-house, twenty-five thousand dollars.

"Richford, Vt., post-office and custom-house, fifteen thousand dollars.

"Big Stone Gap, Va., post-office and court-house, fifteen thousand dollars.

"Lexington, Va., post-office, ten thousand dollars.
 "Suffolk, Va., post-office, twenty-five thousand dollars.
 "Everett, Wash., post-office, etc., thirty-five thousand dollars.
 "Walla Walla, Wash., post-office and court-house, thirty-five thousand dollars.

"Morgantown, W. Va., post-office, twenty-five thousand dollars.

- "Point Pleasant, W. Va., post-office, twenty thousand dollars.
 "Stevens Point, Wis., post-office, twenty thousand dollars.
 "Rock Springs, Wyo., post-office, etc., fifteen thousand dollars.
 "Under the provisions and limitations of section 5 of said act, as follows:
 "Cullman, Ala., post-office, five thousand dollars.
 "Mobile, Ala., post-office, one hundred and twenty-five thousand dollars.
 "Opelika, Ala., post-office, seven thousand five hundred dollars.
 "Eureka Springs Ark., post-office, seven thousand five hundred dollars.
 "Searcy, Ark., post-office, six thousand dollars.
 "Grass Valley, Cal., post-office, ten thousand dollars.
 "Pasadena, Cal., post-office, fifty thousand dollars.
 "Grand Junction, Colo., post-office, ten thousand dollars.
 "Greeley, Colo., post-office, fifteen thousand dollars.
 "Naugatuck, Conn., post-office, fifteen thousand dollars.
 "Washington, D. C., post-office, five hundred thousand dollars.
 "Live Oak, Fla., post-office, seven thousand five hundred dollars.
 "Lewes, Del., post-office, five thousand dollars.
 "St. Petersburg, Fla., post-office, seven thousand five hundred dollars.
 "Augusta, Ga., post-office and other governmental offices, thirty-five thousand dollars.
 "Bainbridge, Ga., post-office, seven thousand five hundred dollars.
 "Carróllton, Ga., post-office, seven thousand five hundred dollars.
 "Cartersville, Ga., post-office, seven thousand five hundred dollars.
 "Cedartown, Ga., post-office, seven thousand five hundred dollars.
 "Elberton, Ga., post-office, seven thousand five hundred dollars.
 "Savannah, Ga., Marine Hospital, thirteen thousand five hundred dollars.
 "Tifton, Ga., post-office, seven thousand five hundred dollars.
 "Pocatello, Idaho, post-office and court-house, ten thousand dollars.
 "Chicago, Ill., post-office, one million two hundred and fifty thousand dollars.
 "Duquoin, Ill., post-office, five thousand dollars.
 "Harrisburg, Ill., post-office, seven thousand five hundred dollars.
 "Rochelle, Ill., post-office, seven thousand five hundred dollars.
 "South Chicago, Ill., post-office, twenty-five thousand dollars.
 "Sterling, Ill., post-office, five thousand dollars.
 "Frankfort, Ind., post-office, fifteen thousand dollars.
 "Denison, Iowa, post-office, ten thousand dollars.
 "Fort Madison, Iowa, post-office, ten thousand dollars.
 "Iowa Falls, Iowa, post-office, seven thousand five hundred dollars.
 "Le Mars, Iowa, post-office, ten thousand dollars.
 "Red Oak, Iowa, post-office, ten thousand dollars.
 "Abilene, Kans., post-office, seven thousand five hundred dollars.
 "Beloit, Kans., post-office, seven thousand five hundred dollars.
 "Concordia, Kans., post-office, seven thousand five hundred dollars.
 "Ottawa, Kans., post-office, seven thousand five hundred dollars.
 "Ashland, Ky., post-office, twelve thousand dollars.
 "Bardstown, Ky., post-office, ten thousand dollars.
 "Cynthiana, Ky., post-office, ten thousand dollars.
 "Hopkinsville, Ky., post-office, twelve thousand dollars.
 "Lawrenceburg, Ky., post-office, seven thousand five hundred dollars.
 "Lafayette, La., post-office, five thousand dollars.
 "Biddeford, Me., post-office, twenty thousand dollars.
 "Camden, Me., post-office, ten thousand dollars.
 "Gardiner, Me., post-office, fifteen thousand dollars.
 "Old Town, Me., post-office, ten thousand dollars.
 "Attleboro, Mass., post-office, twenty thousand dollars.
 "Boston, Mass., custom-house, five hundred thousand dollars.
 "New Bedford, Mass., post-office, one hundred and twenty-five thousand dollars.
 "Battle Creek, Mich., post-office, nineteen thousand five hundred dollars.
 "Petoskey, Mich., post-office, ten thousand dollars.
 "Moorhead, Minn., post-office, five thousand dollars.
 "Laurel, Miss., post-office, twelve thousand five hundred dollars.
 "Vicksburg, Miss., post-office and court-house, fifteen thousand dollars.
 "Aurora, Mo., post-office, ten thousand dollars.
 "Boonville, Mo., post-office, ten thousand dollars.
 "Brookfield, Mo., post-office, ten thousand dollars.
 "Chillicothe, Mo., post-office, ten thousand dollars.
 "Marshall, Mo., post-office, ten thousand dollars.
 "Poplar Bluff, Mo., post-office, ten thousand dollars.
 "Rolla, Mo., post-office, five thousand dollars.
 "Trenton, Mo., post-office, ten thousand dollars.
 "Livingston, Mont., post-office, fifteen thousand dollars.
 "McCook, Nebr., post-office and court-house, eight thousand dollars.
 "Rochester, N. H., post-office, fifteen thousand dollars.
 "Morristown, N. J., post-office, thirty-five thousand dollars.
 "Orange, N. J., post-office, thirty thousand dollars.
 "Batavia, N. Y., post-office, fifteen thousand dollars.
 "Borough of Bronx, New York City, N. Y., post-office, one hundred thousand dollars.
 "Cortland, N. Y., post-office, twenty thousand dollars.
 "Fulton, N. Y., post-office, ten thousand dollars.
 "Hornell, N. Y., post-office, ten thousand dollars.
 "Mount Vernon, N. Y., post-office, thirty-five thousand dollars.
 "Oneonta, N. Y., post-office, twenty thousand dollars.
 "Salamanca, N. Y., post-office, ten thousand dollars.
 "Syracuse, N. Y., post-office only, seventy-five thousand dollars.
 "Waterloo, N. Y., post-office, ten thousand dollars.
 "Greenville, N. C., post-office, ten thousand dollars.
 "Hickory, N. C., post-office, ten thousand dollars.
 "Monroe, N. C., post-office, ten thousand dollars.
 "Oxford, N. C., post-office, seven thousand five hundred dollars.
 "Chickasha, Okla., post-office and court-house, fifteen thousand dollars.
 "Guthrie, Okla., post-office and court-house, thirty-five thousand dollars.
 "McAlester, Okla., post-office and court-house, fifteen thousand dollars.
 "Tulsa, Okla., post-office and court-house, twenty thousand dollars.
 "Bellaire, Ohio, post-office, twenty thousand dollars.
 "Bellefontaine, Ohio, post-office, ten thousand dollars.
 "Bowling Green, Ohio, post-office, ten thousand dollars.
 "Cambridge, Ohio, post-office, ten thousand dollars.
 "Defiance, Ohio, post-office, ten thousand dollars.
 "Middletown, Ohio, post-office, ten thousand dollars.
 "Steubenville, Ohio, post-office, twenty thousand dollars.
 "Tiffin, Ohio, post-office, twelve thousand five hundred dollars.
 "Van Wert, Ohio, post-office, ten thousand dollars.
 "Wooster, Ohio, post-office, ten thousand dollars.
 "Xenia, Ohio, post-office, ten thousand dollars.
 "Corry, Pa., post-office, eighteen thousand dollars.
 "Gettysburg, Pa., post-office, twenty-five thousand dollars.
 "Kittanning, Pa., post-office, fifteen thousand dollars.
 "Ridgeway, Pa., post-office, ten thousand dollars.
 "Sunbury, Pa., post-office, twenty-five thousand dollars.
 "Titusville, Pa., post-office, twenty thousand dollars.
 "Rapid City, S. Dak., post-office, seven thousand five hundred dollars.
 "Brookings, S. Dak., post-office, seven thousand five hundred dollars.
 "Lebanon, Tenn., post-office, five thousand dollars.
 "Morristown, Tenn., post-office, five thousand dollars.
 "Pulaski, Tenn., post-office, seven thousand five hundred dollars.
 "Shelbyville, Tenn., post-office, five thousand dollars.
 "Springfield, Tenn., post-office, five thousand dollars.
 "Austin, Tex., post-office, forty thousand dollars.
 "Brenham, Tex., post-office, ten thousand dollars.
 "Brownwood, Tex., post-office, seven thousand five hundred dollars.
 "Clarksburg, Tex., post-office, five thousand dollars.
 "Cuero, Tex., post-office, seven thousand five hundred dollars.
 "Marlin, Tex., post-office, seven thousand five hundred dollars.
 "Marshall, Tex., post-office, ten thousand dollars.
 "New Braunfels, Tex., post-office, seven thousand five hundred dollars.
 "Nacogdoches, Tex., post-office, five thousand dollars.
 "Navasota, Tex., post-office, five thousand dollars.
 "Weatherford, Tex., post-office, seven thousand five hundred dollars.
 "Bennington, Vt., post-office, ten thousand dollars.

"Covington, Va., post-office, seven thousand five hundred dollars.

"Wytheville, Va., post-office, five thousand dollars.

"Bedford City, Va., post-office, seven thousand five hundred dollars.

"Olympia, Wash., post-office, twenty thousand dollars.

"Elkins, W. Va., post-office, ten thousand dollars.

"Grafton, W. Va., post-office, fifteen thousand dollars.

"Parkersburg, W. Va., post-office and court-house, thirty-five thousand dollars.

"Sistersville, W. Va., post-office, ten thousand dollars.

"Menomone, Wis., post-office, ten thousand dollars.

"Merrill, Wis., post-office, seven thousand five hundred dollars.

"Milwaukee, Wis., appraisers' stores, fifty thousand dollars.

"Waukesha, Wis., post-office, fifteen thousand dollars.

"Casper, Wyo., post-office, ten thousand dollars.

"Douglas, Wyo., post-office, ten thousand dollars.

"Under the provisions and limitations of section 6 of said act, as follows:

"General expenses of public buildings: To enable the Secretary of the Treasury to execute and give effect to the provisions of section 6 of said act, and under the limitations and provisions thereof, twenty-five thousand dollars, to be immediately available and continue available for expenditure during the fiscal year nineteen hundred and nine, but this act shall not be construed to repeal the allowances made for personal services, in the annual appropriations under the control of the Supervising Architect, carried in the sundry civil act for the fiscal year ending June thirtieth, nineteen hundred and nine.

"Office of Supervising Architect: The services of skilled draftsmen, civil engineers, computers, and such other services as the Secretary of the Treasury may deem necessary and specially order, may be employed during the fiscal year nineteen hundred and nine, in addition to those now authorized, only in the Office of the Supervising Architect exclusively to carry into effect the various appropriations for the construction of public buildings, to be paid for from and equitably charged against such appropriations made in whole or in part prior to July first, nineteen hundred and seven: *Provided*, That the additional expenditure on this account for the fiscal year ending June thirtieth, nineteen hundred and nine, shall not exceed one hundred thousand dollars, and that the Secretary of the Treasury shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each: *And provided further*, That the authorization of three hundred thousand dollars for like services as above, contained in the legislative, executive, and judicial appropriation act for the fiscal year ending June thirtieth, nineteen hundred and nine, shall be similarly charged against public building appropriations made in whole or in part prior to July first, nineteen hundred and seven.

"Under the provisions and limitations of section 7 of said act, as follows:

"Danville, Ill., post-office, court-house, etc., fifty thousand dollars.

"Under the provisions and limitations of section 8 of said act, as follows:

"Ottumwa, Iowa, post-office, court-house, etc., thirty thousand dollars.

"Under the provisions and limitations of section 10 of said act, as follows:

"Peekskill, N. Y., post-office, etc., forty-five thousand dollars.

"Under the provisions and limitations of section 18 of said act, as follows:

"Honolulu, Hawaii, custom-house, court-house, etc., thirty thousand dollars.

"Under the provisions and limitations of section 19 of said act, as follows:

"Oklahoma City, Okla., post-office, court-house, etc., twenty thousand dollars.

"Under the provisions and limitations of section 20 of said act, as follows:

"Shreveport, La., court-house, etc., twenty-five thousand dollars.

"Under the provisions and limitations of section 21 of said act, as follows:

"Minneapolis, Minn., post-office, twenty thousand dollars.

"Under the provisions and limitations of section 22 of said act, as follows:

"Dayton, Ohio, post-office, court-house, etc., twenty thousand dollars.

"Under the provisions and limitations of section 24 of said act, as follows:

"Wilmington, N. C., custom-house, etc., eighty thousand dollars.

"Under the provisions and limitations of section 29 of said act, as follows:

"Washington, D. C., court-house, fifty thousand dollars.

"Under the provisions and limitations of section 30 of said act, as follows:

"Washington, D. C., site for buildings for Departments of State, Justice, and Commerce and Labor, two million five hundred thousand dollars, or so much thereof as may be necessary.

"Under the provisions and limitations of section 31 of said act, as follows:

"Denver, Colo., post-office, court-house, etc., fifty thousand dollars.

"Under the provisions and limitations of section 32 of said act, as follows:

"Point Pleasant, W. Va., monument, ten thousand dollars."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"For payment of twenty-four approved claims, exclusive of claim numbered two hundred and thirty-one thousand eight hundred and sixty-one, provided for in the preceding paragraph, for damages to and loss of private property belonging to citizens of the United States and the Philippine Islands, estimated for on page four hundred and six, House Document numbered twelve, Sixtieth Congress, first session, four thousand five hundred and fifty-two dollars and thirty-five cents."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Claims for property taken from Confederate officers and soldiers after surrender: The time for filing claims under the provisions of the act of February twenty-seventh, nineteen hundred and two, and amendments thereto, for horses, saddles, and bridles taken from Confederate soldiers in violation of terms of surrender, and for the payment thereof is extended for twelve months from the passage of this act; and all claims not presented within this time shall be forever barred."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: After the last line of said amendment insert the following as a separate paragraph:

"In computing the pay of retired officers of the Navy, the ten per cent additional pay allowed for sea duty or for shore duty beyond the continental limits of the United States shall not be included, and the pay of commodore shall be the same in all respects as that of rear-admiral, second nine."

And the Senate agree to the same.

EUGENE HALE,

W. B. ALLISON,

H. M. TELLER,

Managers on the part of the Senate.

JAMES A. TAWNEY,

EDWARD B. VREELAND,

S. BRUNDIDGE, JR.,

Managers on the part of the House.

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 5983. An act authorizing certain life-saving apparatus to be placed at the Farallone Islands, off the coast of California; and

S. 6358. An act to amend an act entitled "An act to incorporate The Masonic Mutual Relief Association of the District of Columbia."

The message also announced that the House had agreed to the concurrent resolution of the Senate No. 50, providing for the printing of 10,000 copies of the preliminary report of the Inland Waterways Commission, with illustrations.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 20658. An act authorizing the issue of equipment of arms, ammunition, and such accouterment as accompany same, for target practice, to the Memorial University, Mason City, Iowa;

H. R. 22212. An act granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Alleman; and

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

H. R. 21871. An act to amend the national banking laws; and
H. R. 21897. An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes.

HOUSE BILL REFERRED.

H. R. 20658. An act authorizing the issue of equipment of arms, ammunition, and such accouterment as accompany same, for target practice, to the Memorial University, Mason City, Iowa, was read twice by its title and referred to the Committee on Military Affairs.

DEFENSE IN INDIAN DEPREDAATION CLAIMS.

The joint resolution (H. J. Res. 197) authorizing the employment of clerical services in the Department of Justice was read twice by its title.

Mr. CULLOM. I ask unanimous consent that the joint resolution may be put on its passage. It is simply to correct a mistake that was made in the Record.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Attorney-General to continue the employment of clerical services during the fiscal year 1909, under the appropriation for "Defense in Indian Depredation Claims," and to pay therefor out of said appropriation, not to exceed the sum of \$6,000.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BYRON C. MITCHELL AND OTHERS.

The bill (H. R. 22212) granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Alleman, was read twice by its title.

Mr. CURTIS. I ask unanimous consent for the present consideration of the bill. A similar bill passed the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place on the pension roll the name of Byron C. Mitchell, late of Company F, One hundred and thirty-seventh Regiment Ohio Volunteer Infantry and to pay him a pension of \$24 per month in lieu of that he is now receiving; the name of Calvin P. Lynn, late of Company G, One hundred and fortieth Regiment Illinois Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving; and the name of Harry S. Lee, formerly Albert Lee Alleman, late of Company F, One hundred and twenty-fourth Regiment Ohio Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORDER FOR RECESS.

Mr. HALE (at 6 o'clock and 10 minutes p. m.). I ask unanimous consent that at half past 6 the Senate take a recess until half past 8. If this order is made, I will then move that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. The Senator from Maine asks unanimous consent that the Senate take a recess from half past 6 o'clock until half past 8 o'clock this evening. Is there objection?

Mr. NEWLANDS. I ask the Senator from Maine whether he will not withhold his request for a moment that I may move—

Mr. HALE. I have declined to yield to several Senators. Senators desire to have time to get their dinner and get back here by half past 8.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Maine? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS.

Mr. BACON (at 6 o'clock and 16 minutes p. m.). Mr. President, I move that the Senate now take a recess until half past 8 o'clock.

The motion was agreed to; and the Senate took a recess until half past 8 o'clock p. m., at which hour it reassembled.

AFFAIRS IN THE TERRITORIES.

Mr. BEVERIDGE. I ask unanimous consent for the present consideration of House bill 21957.

The VICE-PRESIDENT. The Senator from Indiana asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (H. R. 21957) relating to affairs in the Territories.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. CULBERSON. Mr. President, I ask the Senator from Indiana if that is the same bill which has been pending here, off and on, for a week?

Mr. BEVERIDGE. It has been up twice, and it has been amended in several particulars, I think. I do not think, so far as I am informed, that any Senator on either side has any further amendment to offer. If so, I shall be glad to hear it. I repeat, the bill has been up twice, once for an hour and the other time for fifteen minutes.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Indiana?

Mr. TELLER. I suggest to the Senator from Indiana that he wait for a few minutes.

Mr. BEVERIDGE. I am glad to do so; but I want to get the bill up. I make the request merely—

Mr. CLAY. I believe the Senator from Indiana stated the other day that he desired to have the bill passed with certain features stricken out. Is that correct?

Mr. BEVERIDGE. Yes. There was one feature, I will say to the Senator from Georgia, in reference to Hawaii which was stricken out.

Mr. CLAY. The other features, then, go out?

Mr. BEVERIDGE. They go out.

Mr. HALE. What is the bill?

Mr. CLAY. It is the omnibus Territorial bill.

Mr. HALE. The provision in relation to Hawaii goes out, I understand?

Mr. BEVERIDGE. The part in relation to Hawaii goes out. The part which was inserted upon the motion of the Senator from Wyoming [Mr. WARREN]—

Mr. CLAY. That simply related to a military reservation?

Mr. BEVERIDGE. To a military reservation.

Mr. CLAY. I have no objection, so far as I am concerned, to that feature of the bill; but, as I understand, it was the Hawaiian matter that went out.

Mr. BEVERIDGE. All concerning Hawaii was first stricken out. Then, on motion of the Senator from Wyoming, that portion concerning the military reservation was reinserted. That is the present state of the bill, as I understand it.

Mr. SCOTT. Mr. President, I would suggest, if we are going to have the bill taken up, that the bill be read. There is none of us who knows what is in the bill.

Mr. BEVERIDGE. I will state for the benefit of the Senator from West Virginia that the bill, with the committee amendments, has been read and thoroughly considered.

The VICE-PRESIDENT. The Senator from West Virginia [Mr. SCOTT] asks that the bill may be read.

Mr. BEVERIDGE. Very well.

The VICE-PRESIDENT. Without objection, the Secretary will read the bill.

Mr. BEVERIDGE. If the Senator has any objection to the bill I will withdraw it.

The VICE-PRESIDENT. The Secretary will read the bill as requested by the Senator from West Virginia.

The Secretary proceeded to read the bill (H. R. 21957) relating to affairs in the Territories.

Mr. BEVERIDGE. Mr. President, if the Senator from West Virginia has any objection to the Territories bill I shall not press it, because it is perfectly clear that if there is going to be any objection or debate on the bill it can not pass.

Mr. SCOTT. I withdraw my objection to the bill if other members of the Senator's committee are in favor of it. I wanted to hear what the Senator from Wyoming had to say about it.

Mr. BEVERIDGE. I will say, with reference to the Committee on Territories, that no bill is brought in here from that committee where they are not in favor of it. I will repeat that the bill has been before the Senate once for an hour and another time for fifteen minutes.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. CLARK of Wyoming obtained the floor.

Mr. CLAPP. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Minnesota?

Mr. CLAPP. I will say—

Mr. CLARK of Wyoming. Mr. President, I want to make an inquiry of the Senator from Indiana. I think he answered the same inquiry from the Senator from Georgia [Mr. CLAY], but I could not hear him. There was some question in regard to laws passed by the Territorial legislature of Hawaii. I understand that provision is now out of the bill.

Mr. BEVERIDGE. All of the provisions of the bill concerning Hawaii were first stricken out on the motion of a member of the Committee on Territories, the Senator from Washington [Mr. PILES]. After that the second provision—I think it is section 36—was reinserted upon the motion of the colleague of the Senator from Wyoming [Mr. WARREN].

Mr. CLARK of Wyoming. I will say that I think that is perfectly proper. I have two amendments, however, which I wish to propose.

Mr. BEVERIDGE. Very well.

Mr. CLARK of Wyoming. I think they will not be objectionable to the Senator from Indiana.

The VICE-PRESIDENT. The Senator from Wyoming proposes an amendment, which will be stated by the Secretary.

Mr. CLARK of Wyoming. The amendment which I propose is on page 5.

The VICE-PRESIDENT. The Chair would suggest that there are some committee amendments which have not been disposed of. The Secretary will first state the committee amendments.

The SECRETARY. In section 4, line 8, after the word "Valdez," the Committee on Territories report to strike out the words "lithographed or printed thereon" and to insert the words "and also bear the seal of said town."

The amendment was agreed to.

The next amendment of the Committee on Territories was, in section 9, page 11, line 4, after the word "blood," to insert "who have not become citizens of the United States," so as to read:

That the term "Indian" in this act shall be construed to include the aboriginal races inhabiting Alaska when annexed to the United States, and their descendants of the whole or half blood, who have not become citizens of the United States.

The amendment was agreed to.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wyoming [Mr. CLARK] will now be stated.

Mr. GALLINGER. There are other committee amendments, Mr. President.

Mr. CLARK of Wyoming. There are other committee amendments, I think, Mr. President.

The VICE-PRESIDENT. The Chair understands that this completes the consideration of the committee amendments.

Mr. CLARK of Wyoming. In section 8, page 5, line 5, after the word "years," I move to strike out "other than Indians."

Mr. BEVERIDGE. Those words, I believe, have already been stricken out. If they have not been stricken out, I am perfectly willing that they shall be.

Mr. GALLINGER. They were stricken out on my motion.

Mr. BEVERIDGE. That is my recollection.

The VICE-PRESIDENT. That is correct.

Mr. CLARK of Wyoming. In section 8, on page 5, line 20, I move to strike out the word "at" and to insert the word "for."

Mr. BEVERIDGE. Upon the motion of the Senator from New Hampshire [Mr. GALLINGER] that also has been entirely changed along the lines that the Senator is about to move.

Mr. GALLINGER. On my motion the language was changed, so that it reads properly now.

Mr. SUTHERLAND. I called the attention of the Senator from Indiana [Mr. BEVERIDGE] the other day, when this bill was under consideration, to page 7, the paragraph beginning in line 14 and ending in line 20. I think the Senator at that time agreed with me that the amendment I suggested was necessary.

Mr. BEVERIDGE. I did.

Mr. SUTHERLAND. I therefore move, on page 7, line 14, before the word "material," to strike out the word "false;" in the same line, after the word "statement," to strike out the word "is," and in line 15, after the word "affidavit," to insert the words "is willfully false;" so that the paragraph, if amended as I suggest, will read:

That if any material statement made in any part of such petition or affidavit is willfully false—

And so forth.

Mr. BEVERIDGE. That was in the original law, I will say to the Senator, and for that reason the committee brought it in in that way. I think, however, his amendment is appropriate.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 7, line 14, after the word "any," it is proposed to strike out "false;" in the same line, after the word "statement," to strike out "is;" and in line 15, after the word "affidavit," to insert the words "is willfully false;" so as to read:

That if any material statement made in any part of such petition or affidavit is willfully false the petitioner or petitioners shall be deemed guilty of perjury, and upon conviction thereof said license shall be revoked and said licensee shall be subject to the penalties provided by law for the crime of perjury.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Utah.

The amendment was agreed to.

Mr. CLAPP. Mr. President, the Senator from Indiana advises me that, either on the suggestion of the committee or otherwise, sections 10, 11, 12, 13, 14, 15, 16, 17, and 18 were stricken out.

Mr. BEVERIDGE. Yes; that is correct. The entire medical-practice provision as to the district of Alaska was stricken out.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. BEVERIDGE. I understand that the bill has been entirely read for committee amendments. Is that correct?

The VICE-PRESIDENT. The committee amendments have been disposed of.

Mr. BEVERIDGE. I thought so.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 5581) pensioning the surviving officers and enlisted men of the Texas volunteers employed in the defense of the frontier of that State against Mexican marauders and Indian depredations from 1855 to 1860, inclusive, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21946) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21897) to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, etc.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice-President:

S. 208. An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment;

S. 5581. An act pensioning the surviving officers and enlisted men of the Texas volunteers employed in the defense of the frontier of that State against Mexican marauders and Indian depredations from 1855 to 1860, inclusive, and for other purposes;

S. 5983. An act authorizing certain life-saving apparatus to be placed at the Farallone Islands, off the coast of California;

S. 6358. An act to amend an act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia";

H. R. 21946. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes;

H. R. 22212. An act granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Aleman; and

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice.

AMENDMENT OF NATIONAL BANKING LAWS.

Mr. OWEN. Mr. President, when the Senate two days since began the consideration of the currency bill, I stated on the floor of the Senate that I should feel constrained to give my vote for that measure if my vote were necessary to its passage,

but should emphasize my dissent for its defective and deficient character by an adverse vote. Since the debate has proceeded and the measure has been criticised with great severity upon the floor, I desire to explain in a few words the reasons that led me to make the statement that I should give my vote, if necessary, for the passage of that bill.

Mr. President, in 1900 I drew a provision for the prevention of panics, which was submitted on the floor of the Senate by the then leader of the Democratic Senators, Hon. James K. Jones, and which contained the essential principles which afterwards were embodied in the so-called "Aldrich bill," with the exception that the Aldrich bill provided for the issuance of national-bank notes instead of Treasury notes. Otherwise the principles are identical.

The Aldrich bill, like many of the recent reforms adopted by leaders of the Republican party, is therefore merely the adoption of principles already presented by Democrats.

This method of preventing panics is, however, only an adaptation of the method of the German Empire, by whose statutes the Imperial Bank of Germany is authorized to issue legal tender notes against other securities than gold, under an interest charge higher than the normal rate of interest, which, by that device, automatically provides the contraction of such emergency currency when the exigency requiring its issue no longer exists.

I have heretofore stated the reasons, with great precision and care, why I did not approve the form of the so-called "Aldrich bill." I shall not weary the Senate with a repetition of the criticisms which I then made upon the bill—I pointed out both its good features and its bad features—but when the bill itself has no defense upon the floor of the Senate, and when the bill is assailed without defense, I feel myself compelled to put in record the plain reason why I should have given it my support if my support had been absolutely necessary to make it a law.

The reason, in brief, is that the commerce of this country requires to be protected against panic; and, whatever may be said in criticism of the Aldrich bill or of the Vreeland-Aldrich bill, it does give some measure of protection against panic, and that suffices to justify its passage. It is not what it ought to be, but it is vastly better than no protection at all.

So far as the Vreeland section is concerned, while it has not been defended on this floor, I think it proper to call the attention of the country to this important proposition, that while the phrase "any securities" will indeed cover "railroad bonds and railroad stocks," still "railroad bonds and railroad stocks" are not the only security proposed, even by the Vreeland proposition, as a basis for the proposed emergency currency. In addition to the "railroad bonds and the railroad stocks," which may be included under the term "any securities," there lies behind the issue of such currency as security therefor the entire capital and surplus of a group of banks whose capital and surplus must aggregate at least \$5,000,000; and, in addition to that, if I correctly interpret the Vreeland proposition, it embraces the further security of every dollar of their assets, including their deposits.

Therefore the security for a currency issue under the Vreeland proposition is probably from five to one to ten to one, and I am not willing to allow this record remain without a word in defense of the Vreeland proposition upon this floor, since I myself would have voted for it if necessary, and this question shall not be made a subject of political controversy between the two great parties of this country if I can prevent it.

I am a Democrat, a life-long Democrat, and one of the great reasons why I favored a bill to prevent panics in this country was because the threat of a panic was twice invoked to defeat the man who, in my opinion, is one of the greatest living statesmen in the world—William J. Bryan.

I remember perfectly well when he was the nominee of his party in 1896 and in 1900 that those who had negotiable notes (and that means all the business men in the country) were threatened with a panic from one end of the country to the other, and many a life-long Democrat, because he feared a panic and because he dared not face the personal jeopardy which a panic would involve, voted the Republican ticket. I think probably the most valuable service which has been rendered to the pending candidacy of Bryan has been rendered to-day by the party in power, for with the fear of panic removed and with no threat of a panic available as a club over the heads of business men an impartial verdict may be rendered without the intimidation heretofore resorted to.

Mr. CLAPP. Mr. President—

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Minnesota?

Mr. OWEN. With great pleasure.

Mr. CLAPP. Would the Senator, in connection with his statement regarding this bill, make clear a matter which, it seems

to me, has been greatly confused in the discussion of the bill, namely, that when it comes to the bonds that are to be deposited with the Treasurer of the United States as the basis of a currency issue under what we call the Aldrich part of this bill, those bonds are specifically limited. Under no circumstances could railroad bonds be used for that purpose, and the only place in the bill where there is not a limitation upon the character of bonds, is where bonds, like any other collateral, may be a part of the additional security which is tendered in the creation of currency by the banking associations.

Mr. OWEN. I will reply to the Senator and say that that is entirely true and that the bonds to which he refers are simply additional security. The Vreeland provision for "any securities," of course would give the bonds as additional collateral for the issue of currency; and I call attention to the fact that even so far as these bonds are concerned as collateral security behind the paper held by the banks and put up with their associations as security, only 75 per cent of currency can be issued against such security. In addition to that, 10 per cent of the 75 per cent is to be held by the United States for redemption purposes, leaving a net 67½ per cent of currency issued against 100 per cent of collaterals approved first by the individual bank's board of management, then approved by the management of the associated banks, and finally by the Treasury itself. The security is abundant.

The reason I am opposed to the Vreeland proposition is because I do not approve the precedent of asset currency; because it is a cumbersome and awkward method; because it is a method which will be available only to a certain particular section of the country; because it is only available in the big cities, and not available throughout the country, which I think would be better. But it has seemed to be impossible to make this bill all that I thought it ought to have been. Of necessity it is a compromise bill. In my opinion, it ought to have been a bill which should have provided, first, for the issuance of Treasury notes directly, and not national-bank notes, so that such Treasury notes might have been issued to any bank, whether it was a national bank or whether it was a State bank or savings bank or trust company, which might put up securities of a proper quality and quantity so as to make the United States perfectly safe in the issuance of this emergency currency, and so as to diffuse the benefits of this currency to each and every bank, no matter how small and and no matter where located.

The little banks in Idaho and the little banks in Oklahoma ought to have been taken care of in this bill. As it is, the small banks will be taken care of, perhaps, by being able to get accommodations from the larger banks if a supply of emergency currency is afforded. But I do not believe in the theory of special privilege. I do not believe in giving the benefits of the provisions of this bill to special strong banks and compelling the smaller banks to rely on and pay for the protection of the favored ones. Its benefits should have been freely extended to the weaker elements of the community. I can not but feel, Mr. President, that the greatest weakness of the party at present trusted with power is its complete subservience to the forces of special privilege.

Mr. President, I rose merely for the purpose of explaining why I should have supported this measure if my vote had been necessary to enact it. It is better than no measure at all; it is a measure which will, in my judgment, measurably protect the country from panics, although it is badly drawn and very defective. Yet, it is a beginning, and can hereafter be perfected.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from California?

Mr. OWEN. With pleasure.

Mr. FLINT. A few days ago the Senator from Oklahoma made a statement in reference to this same bill. I asked him at that time how this bill discriminated against the small banks, and he answered the question to my satisfaction. I desire to say at this time that if at the next session of this Congress he does not offer an amendment providing that clearing-house associations may be formed so as to include one State, no matter what the capitalization may be of the banks of that State, I shall do so.

Mr. OWEN. Mr. President, I think the Congress has made a great advance in providing a method for controlling panics, and that the patriotism and intelligence of this country will be easily able to perfect this measure so as to hereafter make it all that it should be.

Mr. FLINT. I simply want to make one further statement. The only discrimination that I can find from examination of the bill is not in the provision known as the "Aldrich bill," but in that part of it which is known as the "Vreeland bill."

Mr. OWEN. Now, Mr. President, I simply want to say a word more, and I am done. I do not think that it is a wise thing to confuse the counsels of the Senators in this Chamber by giving a partisan aspect to a great economic proposition. This is a very important bill to the country, and I believe it will be a very useful bill. I do not believe that it ought to be made a matter of controversy between the two great parties, because I call the attention of the country and of the opposition party to the fact that James K. Jones, then a Senator in this body, introduced into this Chamber such a proposition in 1900 which contained every element of value which this bill now contains. There ought to be no controversy on this subject between the two parties, except a generous rivalry as to which party can be most useful to our beloved Republic.

RECESS.

Mr. ALDRICH (at 8 o'clock and 55 minutes p. m.). I move that the Senate take a recess until half past 9 o'clock.

The motion was agreed to; and at the expiration of the recess (at 9 o'clock and 30 minutes p. m.) the Senate reassembled.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a concurrent resolution authorizing the President of the Senate and the Speaker of the House of Representatives to close the present session by adjourning their respective Houses on the calendar day, 30th of May, 1908, at 11 o'clock and 50 minutes p. m., and that a committee of three Members be appointed, to join a similar committee of the Senate, to wait upon the President of the United States and inform him that the two Houses had completed the business of the present session and are ready to adjourn.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

FINAL ADJOURNMENT.

Mr. HALE. I ask that the concurrent resolution from the House of Representatives fixing the time for final adjournment be laid before the Senate and referred to the Committee on Appropriations.

The VICE-PRESIDENT laid the concurrent resolution before the Senate, and it was referred to the Committee on Appropriations, as follows:

Resolved by the House of Representatives (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the calendar day 30th of May, 1908, at 11 o'clock and 50 minutes post meridian.

Resolved, That a committee of three Members be appointed by the Chair to join a similar committee to be appointed by the Senate to wait upon the President of the United States and inform him that the two Houses have completed the business of the present session and are ready to adjourn, unless the President has some other communication to make to them.

Mr. HALE, from the Committee on Appropriations, reported the foregoing resolution favorably without amendment, and it was considered by unanimous consent and agreed to.

NOTIFICATION TO THE PRESIDENT.

Mr. HALE submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That a committee of two Senators be appointed by the Vice-President, to join a similar committee appointed by the House of Representatives, to wait upon the President of the United States and inform him that the two Houses, having completed the business of the present session, are ready to adjourn unless the President has some other communication to make to them.

The VICE-PRESIDENT appointed Mr. HALE and Mr. TELLER as the committee on the part of the Senate under the resolution.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 3495) to authorize the transfer of books from the Treasury Department library to life-saving stations of the United States.

The message also announced that the Speaker had appointed as members of the National Monetary Commission on the part of the House, and in compliance with the provisions of section 17 of an act entitled "An act to amend the national

banking laws," approved May 30, 1908, Mr. VREELAND, Mr. OVERSTREET, Mr. BURTON of Ohio, Mr. WEEKS, Mr. BONYNGE, Mr. SMITH of California, Mr. PADGETT, Mr. BURGESS, and Mr. PUJO.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. 3495) to authorize the transfer of books from the Treasury Department library to life-saving stations of the United States, and it was thereupon signed by the Vice-President.

RECESS.

Mr. HALE (at 9 o'clock and 32 minutes p. m.). I move that the Senate take a recess for one hour.

The motion was agreed to; and at the expiration of the recess (at 10 o'clock and 32 minutes p. m.) the Senate reassembled.

NOTIFICATION TO THE PRESIDENT.

Mr. HALE and Mr. TELLER, the committee appointed on the part of the Senate to wait upon the President of the United States, appeared, and

Mr. HALE said: Mr. President, the committee of the two Houses have waited upon the President, who has informed them that he has at present no further communication to make to Congress.

NATIONAL MONETARY COMMISSION.

The VICE-PRESIDENT appointed Mr. ALDRICH, Mr. ALLISON, Mr. BURROWS, Mr. HALE, Mr. KNOX, Mr. DANIEL, Mr. TELLER, Mr. MONEY, and Mr. BAILEY members on the part of the Senate of the National Monetary Commission, under section 17 of the act to amend the national banking laws.

RECESS.

Mr. HALE (at 10 o'clock and 34 minutes p. m.). I move that the Senate take a recess until half past 11 o'clock.

The motion was agreed to; and at the expiration of the recess (at 11 o'clock and 30 minutes p. m.) the Senate reassembled.

THE RAMIE INDUSTRY.

Mr. HEYBURN. I ask to have printed for the use of the Senate 500 additional copies of Senate Document No. 392, Fifty-ninth Congress, second session, being statements by S. H. Slaughter in behalf of the ramie industry and its promotion in the United States.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. OWEN. I ask to have printed for the use of the Senate 500 additional copies, pages 1 to 40 inclusive, and 91 to 127 inclusive, of Senate Document No. 392, Fifty-ninth Congress, second session, being a statement on the ramie industry, in order to make it correspond with document No. 392, which has just been ordered printed. There are some pages missing from an issue of 500 copies, and I should like to have the additional pages printed in order to make the number complete, if there be no objection.

The VICE-PRESIDENT. Without objection, it is so ordered.

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES.

Mr. HALE. Mr. President, in the absence of the Senator from Iowa [Mr. ALLISON], I present to the Senate very carefully prepared statements of appropriations and expenditures for the fiscal year ending July 1, 1909. These statements, covering all of the appropriations and expenditures for that year, present what will be an interesting study to any person who will carefully examine them. They are compared with the corresponding appropriations and expenditures for the previous year, and they demonstrate the great and, I might say, alarming increase of the expenditures of the National Government as contrasted with the preceding year.

I do not propose at this late hour to take up the time of the Senate in descending upon the statements and figures and the lesson which they have for anyone who gives them proper examination. We shall know better when Congress assembles again in December how these great appropriations from the Treasury answer to the receipts from which they must be paid, and we can then better than now take a view of the future as to any danger which we may be found running into with extravagant appropriations and dwindling revenues.

It is not a picturesque subject, and it is hard to bring the public mind and public attention and the attention and interest of Congress to it, compared with other more attractive subjects, but some day such figures as I now present, when submitted in the future, will awaken an interest that I hope will result in some halt being called in the enormous expenditures that are being made year after year by Congress.

I ask that the statements with the brief remarks which I have made be printed as a document and that the statements also be printed in the Record.

The VICE-PRESIDENT. Without objection, permission is granted.

The statements are as follows:

APPROPRIATIONS.

Total appropriations, Sixtieth Congress, first session	\$1,008,804,894.57
Deduct from this amount deficiency appropriations payable during the fiscal year 1908	\$44,500,000.00
Deduct items in appropriations which will require no expenditures from the Treasury for the fiscal year 1909, as follows:	
Sinking fund	58,000,000.00
National bank note redemption fund	25,000,000.00
Amounts for Panama Canal payable from the proceeds of sale of bonds	29,187,000.00
	156,687,000.00

Total amount of appropriations which will be payable from the Treasury for the fiscal year 1909	\$52,117,894.57
Total estimated revenues for 1909	\$78,123,011.30
Estimated revenues exceed appropriations required to be paid from the Treasury for fiscal year 1909	26,005,116.73
Total appropriations for fiscal year 1908	\$20,798,143.00
Increase of total appropriations 1909 over 1908	\$8,006,750.77

The principal increases in amounts of appropriations as passed at this session over last session are as follows:

Agriculture	\$2,224,816.00
Army	16,747,664.86
Diplomatic and consular	485,130.19
Fortification	2,419,134.00
Legislative	707,487.20
Navy	23,708,977.97
Pensions	26,910,000.00
Post-Office	10,871,199.00
Panama Canal (net)	14,200,000.00
Public buildings act	12,466,750.00
Arming and equipping the militia	2,000,000.00

A decrease of \$37,100,000 is made by the omission of a river and harbor bill at this session.

Comparison of appropriations, fiscal years 1908 and 1909.

Title of bill.	Fiscal year 1908.	Fiscal year 1909.	Increase 1909 over 1908.	Decrease 1909 under 1908.
Agriculture	\$9,447,290.00	\$11,672,106.00	\$2,224,816.00	
Army	78,634,582.75	95,382,247.61	16,747,664.86	
Diplomatic and consular	3,092,333.72	3,577,463.91	485,130.19	
District of Columbia	10,440,598.63	10,117,668.85		\$322,929.78
Fortification	6,898,011.00	9,317,145.00	2,419,134.00	
Indian	10,125,076.15	9,253,347.87		\$871,728.28
Legislative, etc.	32,126,333.80	32,833,821.00	707,487.20	
Military Academy	1,929,703.42	845,634.87		1,084,068.55
Navy	98,958,507.50	122,662,485.47	23,708,977.97	
Pension	146,143,000.00	163,053,000.00	16,910,000.00	
Post-office	212,091,193.00	222,962,392.00	10,871,199.00	
River and harbor	37,108,083.00			37,108,083.00
Sundry civil	110,769,211.30	112,937,313.22	2,168,101.92	
Total	757,763,924.27	794,614,625.80	36,850,701.53	
Deficiencies, 1908 and prior years	12,408,998.91	34,569,223.65	22,160,224.74	
Public buildings, to carry out public buildings act, 1909		12,426,750.00	12,426,750.00	
Pension deficiency, 1908		10,000,000.00	10,000,000.00	
Total	770,172,923.18	851,610,599.45	80,537,676.27	
Miscellaneous	738,900.62	3,000,000.00	2,261,099.38	
Total, regular annual appropriations	770,911,823.80	854,610,599.45	80,537,676.27	
Permanent annual appropriations	149,886,320.00	154,194,295.12	4,307,975.12	
Grand total, regular and permanent annual appropriations	920,798,143.80	1,008,804,894.57	88,006,750.77	

History of appropriation bills, first session of the Sixtieth Congress: estimates and appropriations for the fiscal year 1908-9, and appropriations for the fiscal year 1907-8.

[Prepared by the clerks to the Committees on Appropriations of the Senate and House of Representatives.]

Title.	Estimates, 1909.	Reported to the House.	Passed the House.	Reported to the Senate.	Passed the Senate.	Law, 1908-9.	Law, 1907-8.
Agriculture	\$10,666,351.00	\$11,431,346.00	\$11,508,806.00	\$11,642,146.00	\$12,152,406.00	\$11,672,106.00	\$9,447,290.00
Army	89,755,833.75	85,007,566.56	84,207,566.56	98,820,409.12	98,840,409.12	95,382,247.61	78,634,582.75
Diplomatic and consular	3,060,320.91	3,508,963.91	3,508,963.91	3,967,805.91	3,597,230.91	3,577,463.91	3,092,333.72
District of Columbia ^a	13,798,126.35	9,501,449.35	9,500,499.35	11,494,887.35	11,575,513.85	10,117,668.85	10,440,598.63
Fortification	38,443,945.36	8,210,611.00	8,210,611.00	11,510,187.01	12,116,187.01	9,317,145.00	6,898,011.00
Indian	8,219,272.87	8,020,597.87	8,179,097.87	9,904,920.93	10,532,826.87	9,253,347.87	10,125,076.15
Legislative, etc.	35,040,066.13	32,336,573.00	32,302,913.00	32,945,631.00	32,965,631.00	32,833,821.00	32,126,333.80
Military Academy	977,087.87	825,837.87	825,837.87	914,967.37	914,867.37	845,634.87	1,929,703.42
Navy	125,791,349.80	103,967,518.43	105,405,768.43	112,984,799.88	122,115,659.88	122,662,485.47	98,958,507.50
Pension	151,043,000.00	150,869,000.00	150,869,000.00	163,053,000.00	163,053,000.00	163,053,000.00	146,143,000.00
Post-Office ^b	230,441,016.00	229,765,392.00	222,355,892.00	229,027,367.00	229,706,367.00	222,962,392.00	212,091,193.00
River and harbor	(^c)					(^d)	^e 37,108,083.00
Sundry civil	\$134,618,623.80	105,715,369.48	106,972,864.98	118,032,263.22	118,791,275.72	\$112,937,313.22	\$110,769,211.30
Total	842,754,993.84	740,220,225.47	743,907,820.97	804,298,384.79	817,361,374.73	794,614,625.80	757,763,924.27
Urgent deficiency, 1908 and prior years		24,074,450.26	23,725,188.25	24,083,267.12	24,083,500.48	\$24,050,125.48	
Additional urgent deficiency, 1908 and prior years	\$47,000,000.00	2,025,500.00	2,110,500.00	2,163,000.00	2,163,000.00	2,163,000.00	
Deficiency, 1908 and prior years		17,342,572.89	17,344,322.89	18,374,811.43	18,385,316.88	\$30,782,848.17	
Total	899,754,993.84	783,662,748.62	787,087,832.11	848,919,463.34	861,993,192.00	851,610,599.45	770,172,923.18
Miscellaneous	\$25,500,000.00					\$3,000,000.00	738,900.62
Total, regular annual appropriations	925,254,993.84					854,610,599.45	770,911,823.80
Permanent annual appropriations	\$154,194,295.12					\$154,194,295.12	149,886,320.00
Grand total, regular and permanent annual appropriations	1,079,449,288.96					1,008,804,894.57	\$920,798,143.80

Amount of estimated revenues for fiscal year 1909. \$658,000,000.00
 Amount of estimated postal revenues for fiscal year 1909. 220,123,011.30

Total of estimated revenues for fiscal year 1909.

\$78,123,011.30

^a One-half of the amounts for the District of Columbia payable by the United States, except amounts for the water department (estimated for 1909 at \$130,890), which are payable from the revenues of the water department.

^b Includes all expenses of the postal service payable from postal revenues and out of the Treasury.

^c No amount is estimated for rivers and harbors for 1909 except the sum of \$27,142,744 to meet contracts authorized by law for river and harbor improvements included in the sundry civil estimates for 1909.

^d No river and harbor act passed for 1909.

^e In addition to this amount the sum of \$6,392,730 is appropriated to the sundry civil act to carry out contracts authorized by law for river and harbor improvements for 1908.

^f This amount includes \$27,142,744 to carry out contracts authorized by law for river and harbor improvements and \$33,183,143.00 for construction of the Isthmian Canal for 1909.

^g This amount includes \$17,806,645 to carry out contracts authorized by law for river and harbor improvements and \$29,187,000 for construction of the Isthmian Canal for 1909.

^h This amount includes \$6,392,730 to carry out contracts authorized by law for river and harbor improvements and \$27,161,367.50 for construction of the Isthmian Canal for 1908.

ⁱ This amount is approximated. Under Deficiency Estimates there is included \$12,466,750 for public buildings under the new public-buildings act.

^j This amount includes \$12,178,900 for construction of the Isthmian Canal.

^k This amount includes \$10,000,000 for payment of pensions and \$12,466,750 for construction of public buildings under the new public-buildings act.

^l This is the amount submitted by the Secretary of the Treasury in the annual estimates for the fiscal year 1909, the exact amount appropriated not being ascertainable until two years after the close of the fiscal year. This amount includes estimated amount of \$58,000,000 to meet sinking-fund obligations for 1909 and \$25,000,000 estimated redemption of national bank notes in 1909 out of deposits by banks for that purpose.

^m In addition to this amount, contracts are authorized to be entered into, subject to future appropriations by Congress, as follows: By the naval act \$15,750,000; by the river and harbor act, \$40,829,349; by the sundry civil act, \$2,355,000; in all, \$57,934,349.

Statement of appropriations fiscal years 1907, 1908, and 1909.

	Fiscal year 1907.	Fiscal year 1908.	Fiscal year 1909.
Agriculture.....	\$9,030,440.00	\$9,447,290.00	\$11,672,106.00
Army.....	71,817,165.08	78,634,582.75	95,882,247.61
Diplomatic and consular.....	3,091,094.17	3,092,853.72	3,577,403.91
District of Columbia.....	10,138,672.16	10,440,598.63	10,117,668.85
Fortification.....	5,033,938.00	6,898,011.00	9,317,145.00
Indian.....	9,200,599.98	10,125,076.15	9,253,347.87
Legislative, etc.....	29,681,919.30	32,126,333.80	32,833,821.00
Military Academy.....	1,664,707.67	1,929,703.42	845,634.87
Navy.....	102,091,670.27	98,958,507.50	122,662,485.47
Pension.....	140,245,500.00	140,143,000.00	163,053,000.00
Post-Office.....	191,695,938.75	212,091,193.00	222,962,392.00
River and harbor.....		37,108,083.00	
Sundry civil.....	98,539,770.32	110,769,211.30	112,937,813.22
Total.....	673,210,530.70	757,763,924.27	794,614,625.80
Deficiency, 1908, and prior years.....	39,129,035.45	12,408,998.91	50,935,973.65
Total.....	712,339,566.15	770,172,923.18	851,610,599.45
Miscellaneous.....	27,173,299.01	738,900.62	3,000,000.00
Total, regular annual ap- propriations.....	739,512,865.16	770,911,823.80	854,610,599.45
Permanent annual appropria- tions.....	140,076,820.00	149,886,320.00	154,194,295.12
Grand total, regular and permanent annual appropria- tions.....	879,589,685.16	920,798,143.80	1,008,804,894.57

EXECUTIVE SESSION.

Mr. KEAN. Mr. President, it is necessary to have a brief executive session. I dislike very much to disturb the occupants of the galleries, but it is necessary to have such a session. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

THANKS TO THE VICE-PRESIDENT.

Mr. CULBERSON. Mr. President, it affords me much pleasure to present at this time the resolution which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The Senator from Texas offers the following resolution, for which he asks present consideration. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That the thanks of the Senate are hereby tendered to Hon. CHARLES W. FAIRBANKS, Vice-President of the United States and President of the Senate, for the dignified, impartial, and courteous manner in which he has presided over its deliberations during the present session.

The PRESIDING OFFICER. The question is on the adoption of the resolution which has been read by the Secretary. The resolution was unanimously agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. LATTI, one of his secretaries, announced that the President had approved and signed the following joint resolution and acts:

On May 29:

S. R. 6. Joint resolution directing the selection of a site and the erection of a pedestal for a bronze statue in Washington, D. C., in honor of John Witherspoon;

S. 6163. An act to authorize the Secretary of the Interior to sell and dispose of the surplus unallotted agricultural lands of the Spokane Indian Reservation, Wash., and for other purposes;

S. 1385. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Cheyenne River and Standing Rock Indian reservations in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect;

S. 6190. An act authorizing a resurvey of certain townships in the State of Wyoming, and for other purposes;

S. 2295. An act to extend the time within which the Washington and Western Maryland Railroad Company shall be required to complete the road of said company, under the provisions of an act of Congress approved March 2, 1889, as amended by an act of Congress approved June 28, 1906; and

S. 6200. An act granting certain rights of way and providing for certain exchanges of the same.

On May 30:

S. 642. An act to establish an assay office at Salt Lake City, State of Utah;

S. 3405. An act to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896;

S. 208. An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation,

in the State of Montana, and the sale and disposal of all the surplus lands after allotment;

S. 5581. An act pensioning the surviving officers and enlisted men of the Texas volunteers employed in the defense of the frontier of that State against Mexican marauders and Indian depredations from 1855 to 1860, inclusive, and for other purposes;

S. 5983. An act authorizing certain life-saving apparatus to be placed at the Farallone Islands, off the coast of California; and

S. 6358. An act to amend an act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia."

ADDRESS OF THE VICE-PRESIDENT.

The VICE-PRESIDENT having resumed the chair and the hour of 11 o'clock and 50 minutes p. m. having arrived,

The VICE-PRESIDENT. Senators, I am unable adequately to express the full measure of my appreciation of the resolution which you have been pleased to adopt. I thank you for it and shall always hold it in grateful remembrance.

Permit me to congratulate the members upon both sides of the Chamber upon their devotion to the important work which has engaged the attention of the Senate during the session now closing. No one knows better than the Chair with what singleness of purpose and ability they have addressed themselves to the important public business. Much of the work which has been done has been beyond the reach of the public eye. It has been done in the committee room and in executive session, but whether it has been done in the open Senate with the entire country as witness, or in the unreported executive session, or in the committee room, it has been done with tireless zeal and conscientious fidelity. Many important measures have been debated with that power, fairness, and dignity which should always be observed among the nation's lawmakers and which should always be maintained in this great forum.

You have well earned the commendation of the people by your fulfillment of the oath you solemnly took well and faithfully to discharge the duties of your office. It is a reassuring fact that the nation's lawmakers are as able, patriotic, and worthy of the popular confidence to-day as they have been at any time since our fathers created the Congress as one of the three coordinate departments of the Government.

I trust that good fortune may attend you, and that you may return to the discharge of your important work at the ensuing session.

Pursuant to the terms of the concurrent resolution, the Chair now declares the Senate adjourned without day. [Applause on the floor and in the galleries.]

HOUSE OF REPRESENTATIVES.

SATURDAY, May 30, 1908.

[Continuation of legislative day of Tuesday, May 12, 1908.]

The recess having expired, the House was called to order by the Speaker at 11 o'clock a. m.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had disagreed to the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. 13851) providing for the purchase of a site and the erection of a new immigration station thereon at the city of Boston, Mass., had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. DILLINGHAM, Mr. LODGE, and Mr. McLAURIN as the conferees on the part of the Senate.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois reported from the Committee on Enrolled Bills that this day they presented to the President of the United States, for his approval, the following bills:

H. R. 19795. An act to promote the safety of employees on railroads;

H. R. 11778. An act to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves;"

H. R. 19462. An act to amend section 5438 of the Revised Statutes;

H. R. 17228. An act to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation;

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew; and

H. R. 22029. An act to incorporate the Congressional Club.

CLERICAL SERVICES IN THE DEPARTMENT OF JUSTICE.

Mr. TAWNEY. Mr. Speaker, I offer the following joint resolution, and move to suspend the rules and pass the resolution.

The SPEAKER. The gentleman from Minnesota moves to

suspend the rules and pass the joint resolution, which the Clerk will report.

The Clerk read as follows:

Joint resolution (H. J. Res. 197) authorizing the employment of clerical services in the Department of Justice.

Resolved, etc., That the Attorney-General is authorized to continue the employment of clerical services during the fiscal year 1909 under the appropriation for "Defense in Indian depredation claims," and to pay therefor out of said appropriation not to exceed the sum of \$6,000.

Mr. FITZGERALD. I demand a second.

The SPEAKER. Under the rule, a second is ordered. The gentleman from Minnesota [Mr. TAWNEY] is entitled to twenty minutes, and the gentleman from New York [Mr. FITZGERALD] is entitled to twenty minutes.

Mr. TAWNEY. Mr. Speaker, the joint resolution which I have just offered is made necessary because in submitting the estimates at this session of Congress for specific appropriations for the clerical services for the various bureaus of the Department of Justice, which service was heretofore paid out of a lump sum for that Department, they neglected to submit specific estimates for a law clerk, stenographer, and another clerk in the bureau known as "Defense of Indian depredation claims." Unless this authority is given for a continuation of the services of these three employees in that bureau, their services will have to be dispensed with, and they are very necessary. In fact, it may materially delay the progress of the work if the officer in charge of the defense of Indian depredation claims can not avail himself of their services during the next fiscal year. It is absolutely essential—

Mr. CRUMPACKER. Will the gentleman answer a question? The resolution describes the services as "personal" services. I want to inquire of the gentleman if that description is appropriate?

Mr. TAWNEY. That is the term that has always been used in the lump sum for "personal" services in that bureau.

Mr. CRUMPACKER. It may be regarded, of course, as distinct from official services. It is a very peculiar way to authorize an expenditure of money, it seems to me. It ought to be described as "official" or "clerical" services. I think that the resolution ought to be amended in that way.

Mr. TAWNEY. Mr. Speaker, if there is any question about the word "personal," I would ask unanimous consent to change the word to that of "clerical." I do not think it is necessary.

Mr. MANN. Will the gentleman yield to a question? I did not hear the whole statement of the gentleman; but why is this not carried in the appropriation bill? There is no appropriation in this resolution.

Mr. TAWNEY. There is no appropriation for these services.

Mr. MANN. The money is appropriated; why can not they expend it?

Mr. TAWNEY. Because they are not authorized to expend it for this purpose.

Mr. MANN. For what purpose are they authorized to expend it?

Mr. TAWNEY. They are authorized to expend the appropriation for services outside of the city of Washington. They are not authorized to expend any, at least, of this appropriation here at Washington. They have heretofore been authorized to do it, but the Committee on Appropriations inserted in the legislative appropriation bill a year ago a provision requiring the Department of Justice to submit detailed estimates for all clerical services employed here in Washington paid out of this lump-sum appropriation. That was done. They submitted their estimates, but they entirely omitted the clerical services referred to in this joint resolution, heretofore and now employed in this particular bureau. Why it was done I do not know. The gentleman in charge of this work says he did not know it until yesterday.

Mr. MANN. How many more people are employed in the Department of Justice where no record has been made in transmitting the information to Congress?

Mr. TAWNEY. These are the only ones I know anything about. How many more will turn up by the 1st of July, as a result of the neglect to send in the detailed estimates, I do not know.

Mr. MANN. Here is a lump sum appropriated to pay expenses. They discover that it is not available for this service. But they did not include provision for the service in the estimates. I presume there are a great many other people up there in whose cases they have not complied with the requirements of the law in presenting detailed estimates. Give a chance to ascertain who they are.

Mr. TAWNEY. I do not think there are any other cases where they were required to submit detailed estimates where the estimates were not submitted.

Mr. MANN. Were they not required to submit detailed estimates of everything?

Mr. TAWNEY. Yes, sir; and they have done that with this exception.

Mr. MANN. They get a lump-sum appropriation and expend the money.

Mr. TAWNEY. But out of it they can not spend a dollar for clerical services in the city of Washington.

Mr. MANN. That is what is done in this case.

Mr. TAWNEY. That is so.

Mr. MANN. Suppose this resolution should not be passed—

Mr. TAWNEY. Oh, well, I hope the gentleman will not compel me to use all of my time.

Mr. STEPHENS of Texas. Do I understand that the matter is with reference to the payment of Indian depredation claims?

Mr. TAWNEY. It is for the clerical expense here at Washington of defending these Indian depredation claims.

Mr. STEPHENS of Texas. Is not that covered in the general appropriation for carrying on the Department of Justice?

Mr. TAWNEY. No; it is specifically appropriated for.

Mr. STEPHENS of Texas. Then these men have been performing the duty under existing law, and will have to continue to do so, because I know personally that a great many suits are pending now under the old law, and it is necessary that the Government be represented. They have able attorneys, and, I think, they ought to be paid.

Mr. TAWNEY. They have an assistant attorney in charge of the work, and then he has a law clerk, who assists in briefing these cases. He has a stenographer and another clerk, and these are not provided for for the next fiscal year. This joint resolution is for the purpose of taking care of that service for the next fiscal year.

Mr. STEPHENS of Texas. I see no reason why it should not be done.

Mr. MANN. Is this for clerical service?

Mr. TAWNEY. Clerical and other service.

Mr. HACKNEY. I should like to ask the gentleman whether he has any information as to the amount of work that is now being done by these clerks whom he speaks of?

Mr. TAWNEY. I have. They are working under the Assistant Attorney-General, Mr. Thompson, who, I think, is known to most of the gentlemen here. They are all employed and their employment is absolutely necessary.

Mr. HACKNEY. Is it not a fact that the Indian depredation claims that are now pending have been filed for a number of years? Is there any way of telling when we will get through with these claims that have been filed there?

Mr. TAWNEY. I do not know that there is.

Mr. STEPHENS of Texas. These suits have been pending for several years and have been continued because the court could not reach them. A great deal of evidence has to be taken. That evidence is all in the West, in the possession of old persons who have to be hunted up, and the Government has sent these assistant attorneys to various points in my State and all over these various States and Territories to take depositions of witnesses, in order to ascertain the facts and defend the case of the Government.

Mr. HACKNEY. That was true when the claims were filed a good many years ago, but it seems to me there ought to be some limit to this expense.

Mr. TAWNEY. The work of collecting the evidence in cases of this kind involves a great deal of time as well as labor. The witnesses are scattered all over the West, and the testimony must be taken, and it can only be taken by visiting those people who are supposed to be in possession of evidence. That is the way in which it is collected.

Mr. HACKNEY. I do not understand that this appropriation is to pay men in the field for looking up evidence.

Mr. TAWNEY. That is in the general appropriation.

Mr. HACKNEY. I have my doubts as to the necessity for so much clerical force right here in Washington.

Mr. TAWNEY. If the gentleman has not investigated it, I can not see upon what his doubts rest.

Mr. HACKNEY. That came up in the hearings on the effort to amend the law so as to broaden its scope and take in other claims.

Mr. STEPHENS of Texas. The work to be done consists in briefing cases and hunting up cases and also the law.

Mr. DOUGLAS. What is the nature of these claims?

Mr. STEPHENS of Texas. When Indians situated on the reservations break away from the reservations and depredate upon private property, the Government, by an act of Congress, permits citizens who have been damaged to sue the General Government and recover.

Mr. DOUGLAS. The Government pays for the depredations of these drunken Indians?

Mr. STEPHENS of Texas. It pays for the depredations of these Indians.

Mr. CRUMPACKER. The payment is made out of the fund belonging to the Indians, however.

Mr. FITZGERALD. Mr. Speaker, this is a very important resolution. Unless it be passed two or three employees of the Government will be separated from the pay roll, and of course that would be a dire calamity at this time of year, when they are preparing to take advantage of the thirty days' leave provision of the statute. It is awful to contemplate separating anybody from the pay roll under this Administration. It would be so contrary to the whole record of the Administration that it would be a shock to the sensibilities of everyone. I am surprised that Members of the House should seriously discuss the necessity of having these employees. They are on the pay roll now, and they should continue there, no matter what else happens. Of course it is true we could devote the time we now devote to taking care of two or three employees who may or may not be necessary to the consideration of important legislation for the people of the country. If I had any hope that half a dozen bills which I should like to see considered could be called up I should not occupy the time of the House on this matter; but I fear that when we conclude the consideration of this resolution somebody will be aroused to suggest that we take a recess, thereby depriving the people and the people's representatives of an opportunity to have considered proper legislation in the interests of the whole people. Here we must devote eighty minutes to the important task of preventing three employees from being separated from the pay roll. Everybody who has examined this joint resolution and inquired into the reasons for its necessity knows that if it were not for the fact that the Attorney-General has been so busy suppressing all the bad trusts in the United States there would be no necessity for the resolution. He would in that event have complied with the direction of Congress and submitted estimates in detail for the complete service of his Department; but this particular bureau was of so little importance in the estimation of the Attorney-General that he entirely overlooked it, never called on the head of the bureau to submit estimates, and Congress passed all of the appropriations bills without making provision for this important bureau in his Department!

Of course if there had been one more bad trust to suppress, it is entirely possible that he would have forgotten to submit an estimate for his own salary, even. Fortunately that contingency did not arise, and it will be gratifying to everyone to know that the estimates for the salaries of all of the assistants to the Attorney-General were regularly submitted and fully provided by the Congress. These few unfortunate clerks who have some of the important work in the Department to do—though so unimportant in the estimation of the Attorney-General as to be even not thought about—have been omitted. Mr. Speaker, I hope that everybody will vote for this resolution and prevent this atrocious situation occurring under this Administration, that through the oversight of one of the Cabinet officials, or of somebody delegated to do his work, some two or three officials important from the public standpoint, but unimportant from the official standpoint, should be dropped unceremoniously from the pay roll. That never should happen at this time.

Mr. DOUGLAS. Mr. Speaker, is it possible that the gentleman is facetious on so serious a subject as this?

Mr. FITZGERALD. Oh, never so serious in my life. My recollection of the investigation of this bureau is to this effect: That if these clerks be not kept at work in this bureau, the energy, the ingenuity, the avarice of these claimants in the so-called "Indian depredation cases" would soon empty the Treasury. Of course it is immaterial now, because the Treasury is empty anyway [laughter]; but some time or other, when a Democratic Administration comes into power, there will be plenty of money in the Treasury. I hope I have made clear to everybody in the United States the importance and necessity of having this resolution passed and of keeping these three employees on the pay roll.

Mr. MADDEN. How long does the gentleman think the money would stay in the Treasury after the Democrats came into power?

Mr. BURLERSON. Oh, we never find any in when we first come in. [Laughter.]

Mr. FITZGERALD. Oh, the money will be there for the whole people and it will not be squandered on unimportant matters or wasted helping special interests. [Applause on the Democratic side.] It will be appropriated properly under the Constitution to maintain economically the Government and to advance the interests of all the people. That is what a Democratic government means and that is the kind of an administration the Democrats always give [applause on the Democratic side]—much different from the reckless, extravagant, spasmodic, sporadic—if I had a dictionary I would go on indefinitely—administration of affairs which we get under the present régime. ■

Mr. Speaker, I see that the gentlemen about me have become deeply impressed with the importance of this resolution. [Applause.] There may be some others who desire to obtrude some observations as to the propriety and necessity of retaining these employees. If so, I shall reluctantly yield some time, but if not, and upon the assurance of the Speaker that if this be out of the way, we may be able to consider some other really great and meritorious measure, something that will result in good to the whole country, I shall not be inclined to occupy further time—although I know it would be very enlightening to Members, particularly on the other side of the House. However, if the House feels ready to vote, and there be no Member here yet unconvinced, I am prepared to surrender the balance of my time and to take a vote; and in order that there may be no question that every Member in the House is convinced of the propriety and advisability of quickly passing this resolution, I hope everybody will be recorded in the Journal on a roll call, and everybody recorded as in favor of this much-needed legislation. [Applause.]

Mr. TAWNEY. Mr. Speaker, I call for a vote.

Mr. WILLIAMS. Mr. Speaker, let us have the yeas and nays. The SPEAKER. The gentleman from Mississippi demands the yeas and nays.

Mr. FITZGERALD. Mr. Speaker, I think we should have a quorum when we are passing this important resolution, and I would respectfully suggest the absence of a quorum.

The SPEAKER. The gentleman from New York makes the point of order that there is not a quorum present. The point of order is sustained. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absent Members. As many as favor the motion will, when their names are called, answer "aye;" as many as are opposed will answer "no," and those present and not voting will answer "present;" and the Clerk will call the roll.

The question was taken, and there were—yeas 163, nays 31, answered "present" 15, not voting 179, as follows:

YEAS—163.

Adair	Dalzell	Howard	Overstreet
Adamson	Davenport	Howell, N. J.	Parker, S. Dak.
Alken	Dawson	Howell, Utah	Payne
Alexander, Mo.	De Armond	Howland	Pollard
Alexander, N. Y.	Douglas	Hubbard, W. Va.	Porter
Bannon	Driscoll	Humphrey, Wash.	Pray
Barclay	Dwight	Humphreys, Miss.	Reynolds
Bartholdt	Edwards, Ky.	Jones, Wash.	Rodenberg
Bates	Ellis, Mo.	Kahn	Rothermel
Beale, Pa.	Ellis, Oreg.	Kelfer	Russell, Tex.
Beall, Tex.	Fassett	Kennedy, Iowa	Ryan
Bede	Ferris	Knapp	Scott
Bell, Ga.	Finley	Langley	Slayden
Bennett, Ky.	Fitzgerald	Laning	Smith, Cal.
Bonyne	Fordney	Lindbergh	Smith, Iowa
Boutell	Foster, Ind.	Lloyd	Smith, Mich.
Bowers	Fowler	Longworth	Snapp
Boyd	French	Loud	Spight
Burgess	Gaines, W. Va.	Loudenslager	Stephens, Tex.
Burke	Gardner, N. J.	Loving	Stevens, Minn.
Burleigh	Garner	Lowden	Sturgiss
Burleson	Gilhams	McCreary	Tawney
Burnett	Gillespie	McHenry	Taylor, Ohio
Burton, Del.	Goulden	McKinley, Ill.	Thistlewood
Burton, Ohio	Graham	McKinney	Tirrell
Butler	Granger	McLain	Tou Velle
Calderhead	Gregg	McLaughlin, Mich.	Volstead
Caldwell	Haggott	Macon	Vreeland
Campbell	Hale	Madison	Waldo
Candler	Hall	Mann	Wanger
Capron	Hamill	Maynard	Washburn
Cary	Hamilton, Mich.	Mondell	Weeks
Caulfield	Harding	Moon, Tenn.	Weems
Chapman	Haugen	Moore, Tex.	Wheeler
Cocks, N. Y.	Hawley	Morse	Williams
Cole	Hayes	Murdock	Wilson, Ill.
Cook, Colo.	Hedin	Needham	Wilson, Pa.
Cooper, Pa.	Henry, Tex.	Nicholls	Wood
Cooper, Tex.	Hepburn	Norris	Young
Crumpacker	Hill, Conn.	Nye	The Speaker
Cushman	Holliday	Olcott	

NAYS—31.

Ansberry	Floyd	Hitchcock	Rauch
Booher	Fulton	Houston	Richardson
Clark, Mo.	Garrett	Hull, Tenn.	Russell, Mo.
Clayton	Gordon	Johnson, Ky.	Sims
Cox, Ind.	Hackett	Jones, Va.	Sparkman
Craig	Hackney	Page	Thomas, N. C.
Dixon	Hamlin	Rainey	Underwood
Ellerbe	Hammond	Randall, Tex.	

ANSWERED "PRESENT"—15.

Bennet, N. Y.	Hardy	Madden	Riordan
Cousins	Henry, Conn.	Murphy	Sheppard
Flood	Kimball	Padgett	Webb
Foster, Ill.	Lever	Parker, N. J.	

NOT VOTING—179.

Acheson	Barchfeld	Brantley	Byrd
Allen	Bartlett, Ga.	Brodhead	Calder
Ames	Bartlett, Nev.	Broussard	Carlin
Andrus	Bingham	Brownlow	Carter
Anthony	Birdsall	Brumm	Chaney
Ashbrook	Bradley	Brundidge	Clark, Fla.

Cockran	Graff	Law	Pujo
Conner	Greene	Lawrence	Ransdell, La.
Cook, Pa.	Griggs	Leake	Reeder
Cooper, Wis.	Gronna	Lee	Reld
Coudrey	Hamilton, Iowa	Legare	Rhinock
Cravens	Hardwick	Lenahan	Roberts
Crawford	Harrison	Lewis	Robinson
Currier	Haskins	Lilley	Rucker
Darragh	Hay	Lindsay	Sabath
Davey, La.	Helm	Littlefield	Saunders
Davidson	Higgins	Livingston	Shackleford
Davis, Minn.	Hill, Miss.	Lorimer	Sherley
Dawes	Hinshaw	McCall	Sherman
Denby	Hobson	McDermott	Sherwood
Denver	Hubbard, Iowa	McGavin	Siemp
Diekema	Huff	McGuire	Small
Draper	Hughes, N. J.	McKinlay, Cal.	Smith, Mo.
Dunwell	Hughes, W. Va.	McLachlan, Cal.	Smith, Tex.
Durey	Hull, Iowa	McMillan	Southwick
Edwards, Ga.	Jackson	McMorran	Sperry
Englebright	James, Addison D.	Malby	Stafford
Esch	James, Ollie M.	Marshall	Stanley
Fairchild	Jenkins	Miller	Steenerson
Favrot	Johnson, S. C.	Moon, Pa.	Sterling
Focht	Keliber	Moore, Pa.	Sullivan
Fornes	Kennedy, Ohio	Mouser	Sulzer
Foss	Kinkaid	Mudd	Talbot
Foster, Vt.	Kipp	Nelson	Taylor, Ala.
Foulkrod	Kitchin, Claude	O'Connell	Thomas, Ohio
Fuller	Kitchin, Wm. W.	Olmsted	Townsend
Gaines, Tenn.	Knopf	Parsons	Wallace
Gardner, Mass.	Knowland	Patterson	Watkins
Gardner, Mich.	Küstermann	Pearre	Watson
Gill	Lafean	Perkins	Weisse
Gillett	Lamar, Fla.	Peters	Wiley
Glass	Lamar, Mo.	Pou	Willett
Godwin	Lamb	Powers	Wolf
Goebel	Landis	Pratt	Woodyard
Goldfogle	Lassiter	Prince	

So the joint resolution was agreed to.

The Clerk announced the following pairs:

Until 2 o'clock:

Mr. ESCH with Mr. MURPHY.

For the day:

Mr. HENRY of Connecticut with Mr. CRAWFORD.

Until Monday morning:

Mr. LAFEAN with Mr. KIPP.

Until Monday:

Mr. CALDER with Mr. LINDSAY.

Until further notice:

Mr. POWERS with Mr. PRATT.

Mr. MADDEN with Mr. HARDWICK.

Mr. TOWNSEND with Mr. SHACKLEFORD.

Mr. BROWNLOW with Mr. BRUNDIDGE.

Mr. LANDIS with Mr. DIXON.

Mr. MOUSER with Mr. SHERWOOD.

Mr. SPERRY with Mr. HARRISON.

Mr. FAIRCHILD with Mr. ROBINSON.

Mr. KÜSTERMANN with Mr. LEAKE.

Mr. DRAPER with Mr. EDWARDS of Georgia.

Mr. HUGHES of West Virginia with Mr. HILL of Mississippi.

Mr. ACHESON with Mr. BURGESS.

Mr. CURRIER with Mr. LEE.

Mr. FULLER with Mr. DENVER.

Mr. MCGUIRE with Mr. STANLEY.

Mr. LORIMER with Mr. HUMPHREYS of Mississippi.

Mr. COOPER of Wisconsin with Mr. CARLIN.

Mr. DIEKEMA with Mr. WEBB.

Mr. AMES with Mr. BARTLETT of Georgia.

Mr. BINGHAM with Mr. LIVINGSTON.

Mr. BRADLEY with Mr. GRIGGS.

Mr. BIRDSALL with Mr. LAMAR of Missouri.

Mr. HULL of Iowa with Mr. CLAUDE KITCHIN.

Mr. CHANEY with Mr. FOSTER of Illinois.

Mr. DUNWELL with Mr. LAMAR of Florida.

Mr. FOSTER of Vermont with Mr. POU.

Mr. HINSHAW with Mr. LENAHA.

Mr. KNOPF with Mr. WEISSE.

Mr. ALLEN with Mr. LEVER.

Mr. MUDD with Mr. TALBOTT.

Mr. HASKINS with Mr. RUCKER.

For the session:

Mr. BENNET of New York with Mr. FORNES.

Mr. DENBY with Mr. HOESON.

Mr. JENKINS with Mr. LAMB.

Mr. DAVES with Mr. TAYLOR of Alabama.

Mr. COUSINS with Mr. FLOOD.

Mr. SHERMAN with Mr. RIORDAN.

Mr. WATSON with Mr. SHEPPARD.

Mr. CONNER with Mr. JOHNSON of South Carolina.

Mr. HIGGINS with Mr. KIMBALL.

Mr. FOSS with Mr. PADGETT.

Mr. MCGAVIN with Mr. McDERMOTT.

Mr. BANNON with Mr. OLLIE M. JAMES

The result of the vote was announced as above recorded.

The doors were opened.

APPOINTMENT.

The SPEAKER. The Chair announces the following appointment, if there be no objection.

There was no objection.

The Clerk read as follows:

The SPEAKER, W. P. HEPBURN, and J. J. FITZGERALD, to constitute, on and after July 1, 1908, the Commission to approve and direct the Superintendent of the Capitol Building and Grounds in his control and supervision of the House of Representatives Office Building, authorized by the sundry civil appropriation act, approved March 4, 1907.

[Applause].

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House do now take a recess until 3 o'clock p. m.

The SPEAKER. The gentleman from New York moves that the House take a recess until 3 o'clock p. m. to-day.

The question was taken and the Speaker announced that the ayes seemed to have it.

Mr. HEFLIN. The yeas and nays, Mr. Speaker.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PAYNE. Mr. Speaker, I make the point of order that no quorum is present.

Mr. WILLIAMS. Mr. Speaker, I make the point of order that the call of the roll has just disclosed the presence of a quorum, and that the point of order made by the gentleman from New York [Mr. PAYNE] is therefore dilatory.

Mr. PAYNE. I call the Chair's attention to the fact that a large number of Members have left the Hall since the roll call.

Mr. WILLIAMS. Mr. Speaker, some time ago I went through that performance, and the Speaker ruled I was dilatory. Members had left the Hall in exactly the same way.

The SPEAKER. The Chair will state to the gentleman from Mississippi [Mr. WILLIAMS] that it is perfectly evident to the Chair that the present point of order is dilatory. The Chair has counted the Members present and there are 135—no quorum. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absent Members. As many as favor the motion will, as their names are called, answer "yea;" as many as are opposed will answer "nay," and those present and not voting will answer "present;" and the Clerk will call the roll.

The question was taken, and there were—yeas 118, nays 76, answered "present" 16, not voting 178, as follows:

YEAS—118.

Alexander, N. Y.	Dawson	Hubbard, W. Va.	Payne
Andrus	Douglas	Humphrey, Wash.	Pollard
Bannon	Driscoll	Keifer	Porter
Barclay	Dwight	Kennedy, Iowa	Scott
Bartholdt	Edwards, Ky.	Kennedy, Ohio	Slayden
Bates	Ellis, Mo.	Knapp	Smith, Cal.
Beale, Pa.	Fassett	Langley	Smith, Iowa
Bede	Focht	Laning	Smith, Mich.
Bennett, Ky.	Fordney	Longworth	Snapp
Bonyne	Foster, Ind.	Loud	Stevens, Minn.
Boyd	French	Loudenslager	Sturgiss
Burke	Gaines, W. Va.	Lovering	Tawney
Burleigh	Gardner, N. J.	McCreary	Taylor, Ohio
Burton, Del.	Gilham	McKinley, Ill.	Thistlewood
Burton, Ohio	Gillett	McKinney	Tirrell
Butler	Graham	McLain	Voilead
Calderhead	Haggott	McLaughlin, Mich.	Vreeland
Campbell	Hale	Madison	Waldo
Capron	Hall	Mann	Wanger
Cary	Hamilton, Mich.	Maynard	Washburn
Chapman	Hammond	Moon, Tenn.	Weeks
Cocks, N. Y.	Harding	Morse	Weems
Cole	Haugen	Murdock	Wheeler
Cook, Pa.	Hawley	Needham	Wilson, Ill.
Cooper, Pa.	Hepburn	Norris	Wood
Cooper, Tex.	Hill, Conn.	Nye	Woodyard
Crumpacker	Holliday	Olcott	Young
Cushman	Howell, N. J.	Olmsted	The Speaker
Dalzell	Howell, Utah	Parker, N. J.	
Davis, Minn.	Howland	Parker, S. Dak.	

NAYS—76.

Adair	De Armond	Hay	Rainey
Adamson	Dixon	Hefflin	Randell, Tex.
Alken	Ellerbe	Henry, Tex.	Rauch
Alexander, Mo.	Ferris	Hitchcock	Richardson
Ansberry	Finley	Houston	Rothermel
Beall, Tex.	Fitzgerald	Howard	Russell, Mo.
Bell, Ga.	Floyd	Hughes, N. J.	Russell, Tex.
Boeber	Fulton	Hull, Tenn.	Ryan
Bowers	Garner	Humphreys, Miss.	Sabath
Broussard	Garrett	Johnson, Ky.	Sherley
Burgess	Godwin	Jones, Va.	Sims
Burleson	Gordon	Keliber	Spight
Burnett	Goulden	Lloyd	Stephens, Tex.
Caldwell	Granger	Macon	Thomas, N. C.
Candler	Hackett	Moore, Tex.	Tou Velle
Clark, Mo.	Hackney	Nicholls	Underwood
Cox, Ind.	Hamill	O'Connell	Watkins
Craig	Hamlin	Page	Williams
Davenport	Hardy	Patterson	Wilson, Pa.

ANSWERED "PRESENT"—16.

Bennet, N. Y.	Foster, Ill.	Madden	Riordan
Boutell	Henry, Conn.	Murphy	Sheppard
Cousins	Kahn	Overstreet	Talbott
Flood	Lever	Padgett	Webb

NOT VOTING—178.

Acheson	Esch	Kitchin, Claude	Perkins
Allen	Fairchild	Kitchin, Wm. W.	Peters
Ames	Fayrot	Knopf	Pou
Anthony	Fornes	Knowland	Powers
Ashbrook	Foss	Küstermann	Pratt
Barchfield	Foster, Vt.	Lafean	Pray
Bartlett, Ga.	Foulkrod	Lamar, Fla.	Prince
Bartlett, Nev.	Fowler	Lamar, Mo.	Pujo
Bingham	Fuller	Lamb	Ransdell, La.
Birdsall	Gaines, Tenn.	Landis	Reeder
Bradley	Gardner, Mass.	Lassiter	Reid
Brantley	Gardner, Mich.	Law	Reynolds
Brodhead	Gill	Lawrence	Rhinock
Brownlow	Gillespie	Leake	Roberts
Brumm	Glass	Lee	Robinson
Brundidge	Goebel	Legare	Rodenberg
Byrd	Goldfogle	Lenahan	Rucker
Calder	Graff	Lewis	Saunders
Carlin	Greene	Lilley	Shackleford
Carter	Gregg	Lindbergh	Sherman
Caulfield	Griggs	Lindsay	Sherwood
Chaney	Gronna	Littlefield	Siemp
Clark, Fla.	Hamilton, Iowa	Livingston	Small
Clayton	Hardwick	Lorimer	Smith, Mo.
Cockran	Harrison	Lowden	Smith, Tex.
Conner	Haskins	McCall	Southwick
Cook, Colo.	Hayes	McDermott	Sparkman
Cooper, Wis.	Helm	McGavin	Sperry
Coudrey	Higgins	McGuire	Staford
Cravens	Hill, Miss.	McHenry	Stanley
Crawford	Hinsaw	McKinlay, Cal.	Stenerson
Currier	Hobson	McLachlan, Cal.	Sterling
Darragh	Hubbard, Iowa	McMillan	Sulloway
Davey, La.	Huff	McMorran	Sulzer
Davidson	Hughes, W. Va.	Malby	Taylor, Ala.
Dawes	Hull, Iowa	Marshall	Thomas, Ohio
Denby	Jackson	Miller	Townsend
Denver	James, Addison D.	Mondell	Wallace
Diekema	James, Ollie M.	Moon, Pa.	Watson
Draper	Jenkins	Moore, Pa.	Welsse
Dunwell	Johnson, S. C.	Mouser	Wiley
Durey	Jones, Wash.	Mudd	Willett
Edwards, Ga.	Kimball	Nelson	Wolf
Ellis, Oreg.	Kinkaid	Parsons	
Englebright	Kipp	Pearse	

The SPEAKER. On this vote the yeas are 118, the nays 76, answering "present" 16—a quorum. The Doorkeeper will open the doors.

Pending the announcement of the vote, the Chair lays before the House the following request:

The Clerk read as follows:

WITHDRAWAL OF PAPERS.

Mr. EDWARDS of Kentucky asks leave to withdraw from the files of the House, without leaving copies, the papers in the case of A. B. Gilliland (H. R. 13124), Fifty-ninth Congress, no adverse report having been made thereon.

Mr. WILLIAMS. A point of order, Mr. Speaker. The Speaker has just announced the vote upon the proposition of taking a recess, and the vote shows that the House has taken a recess. Now, how can the House even have power to give unanimous consent after it has voted itself into recess?

The SPEAKER. It is not as yet declared. But the unbroken practice of the House has been, pending the announcement of the vote, to lay enrolled bills—

Mr. WILLIAMS. I understand it has been the practice.

The SPEAKER. And personal requests before the House pending the announcement of the vote. It is announced that a quorum is present. Of course, a single objection—

Mr. WILLIAMS. I understand that. I am not seeking to make an objection. I am endeavoring to secure a ruling. I know what the practice has been, and I believe that it has been loose, and I believe it has been wrong. I do not believe after a vote has been announced, showing the House has recessed itself, it is necessary to have any declaration from the Speaker at all.

The SPEAKER. Still, the Chair, without further examination, will adhere for the present, at least, to the uniform practice of the House for many decades.

Mr. WILLIAMS. Then I will ask the Chair to take that matter under consideration, because I propose at a future time to bring it to the attention of the Chair again, as I do think it a well-founded point of order. I do not make any objection to this request.

The SPEAKER. One moment. The Chair hears no objection to the request. Here is an additional request.

The Clerk read as follows:

Mr. GRIGGS of Georgia requests leave of absence for one week, on account of important business.

The SPEAKER. Is there objection?

Mr. WILLIAMS. I renew the point of order, but do not object.

The SPEAKER. The Chair hears none.

The result of the vote was then announced as above recorded, and accordingly (at 12 o'clock and 16 minutes p. m.) the House was declared in recess until 3 p. m.

AFTER RECESS.

The recess having expired, the House was called to order by the Speaker at 3 o'clock p. m.

INCREASE OF PENSIONS.

Mr. CALDERHEAD. Mr. Speaker, I ask unanimous consent for the consideration and passage of the bill which I send to the desk.

The SPEAKER. The gentleman from Kansas asks unanimous consent for the passage of the bill which was read this morning. The Clerk read as follows:

A bill (H. R. 22212) granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Allemen.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Reserving the right to object, if the gentleman will ask unanimous consent for the consideration of the bill, I shall interpose no objection. If he insists on requiring consideration and passage both, I will be compelled to object.

The SPEAKER. The gentleman from Mississippi will recognize that if unanimous consent be given for the consideration of the bill, then the question of the passage may give possibility of a roll call. If the gentleman is of the same opinion about this bill as he was about the bill that was considered yesterday—

Mr. WILLIAMS. The Chair can draw its own conclusions from the past conduct of the "gentleman from Mississippi" in connection with bills like this. I will not object to the request for unanimous consent for consideration.

The SPEAKER. The Chair will recognize the gentleman from Kansas to move to suspend the rules.

Mr. CALDERHEAD. I move to suspend the rules and pass the bill.

The SPEAKER. The gentleman from Kansas moves to suspend the rules and pass the bill which has been read.

Mr. FITZGERALD. I demand a second.

The SPEAKER. Under the rule, a second is ordered. The gentleman from Kansas [Mr. CALDERHEAD] is entitled to twenty minutes, and the gentleman from New York [Mr. FITZGERALD] is entitled to twenty minutes.

Mr. CALDERHEAD. Mr. Speaker, this bill demands very little explanation. It provides for increasing the pensions of three old soldiers on the pension roll. Separate bills were passed by the Senate and a mistake was made in one case in the number of the regiment. In order to correct that the bill would have to be amended and be passed again by the Senate. In order to save the time of the House and of the Senate under present conditions, these three cases were included in one omnibus bill. I want to state concerning these three soldiers there are exceptional circumstances in behalf of each of them. They each require the constant attention of some other person; they are each of them dependent upon their pensions alone for their support and for their care and attention, and I thought it was right they should have this special consideration even after we had closed the regular pension work of the session.

Mr. HOLLIDAY. Will the gentleman allow me to ask him a question? I simply desire to inquire whether the House Committee on Invalid Pensions have reported upon this case?

Mr. CALDERHEAD. They reported on the case. A majority of the members of the committee have been seen upon the matter, and they deemed the report was proper.

Mr. HOLLIDAY. Well, I was not consulted, and never heard of it.

Mr. KEIFER. Have bills in favor of these persons passed the House before?

Mr. CALDERHEAD. They passed the Senate, but not the House.

Mr. KEIFER. Do the Committee on Invalid Pensions now recommend them?

Mr. CALDERHEAD. Yes, sir.

Mr. KEIFER. Then, do I understand this bill places upon the pension rolls three worthy soldiers?

Mr. CALDERHEAD. Yes, sir; it increases their pensions.

Mr. KEIFER. That is the only purpose?

Mr. CALDERHEAD. That is the only purpose.

Mr. FITZGERALD. Mr. Speaker, I regret very much that it is not possible also to pass a joint resolution in this House to provide for the payment of the pensions of 630,000 pensioners. I understand the gentleman from Minnesota [Mr. TAWNEY] has issued a statement that on account of the conditions in the House and the Senate, unless we finish up to-night there will be a stoppage of payment to the pensioners of the country. We have been in session twice to-day. On one occasion we took the time of the House to pass a joint resolution to prevent three employees from being separated from the pay roll. Now, we are about to put the names of three soldiers on the pension roll, properly, I think. We have been doing nothing else; we have been in recess. The Senate has so little to

do that it took a recess for thirty minutes. So that, as a matter of fact, if the Republicans of the two Houses of Congress, instead of taking recesses, had brought in a joint resolution to make available the money necessary to pay the pensioners and to provide funds for any other public service, there would not have been the slightest possibility of the Government breaking down because of anything that the Democrats have done. Everybody knows that the Democrats have done nothing and have not been permitted to do anything.

If we had been permitted to do things here, there are a number of beneficial bills pending that we would have gladly passed, thereby bringing relief to great hordes of the people. But, Mr. Speaker, this pending resolution is an important one. Through some oversight similar, I suppose, to the one that necessitated the joint resolution this morning, three men who faithfully served their country at some period of stress have not been provided with pensions in any of the bills passed at this session.

Mr. DALZELL. The gentleman is mistaken. This bill does not put these men on the pension roll for the first time. It is for an increase of pension. They are all of them helpless.

Mr. FITZGERALD. That is all the more reason why it should pass; and the only reason I was under a misapprehension as to whether it placed them on the pension roll or increased their pensions was that, owing to the size of this Hall and the feebleness of the voice of the gentleman in charge of this bill, I was unable to understand exactly what he was saying in explanation.

Mr. PAYNE. I should like to ask my colleague if he does not intend to vote for this bill as soon as he gets an opportunity?

Mr. FITZGERALD. As soon as I am able to arrive at that condition when I feel that a vote should be taken I hope to vote for it. I am sure every Democrat will vote for it, whatever may be the disposition of the followers of my distinguished colleague.

Mr. OLMSTED rose.

Mr. FITZGERALD. Does the gentleman from Pennsylvania [Mr. OLMSTED] intend to ask me a question or to make a point of order?

Mr. OLMSTED. If I had any intention at all, it was to ask the gentleman whether, being apparently in favor of the bill, he had demanded a second merely for the purpose of consuming the valuable time of the House in discussing a bill that everybody is anxious to vote for?

Mr. FITZGERALD. If the gentleman from Pennsylvania is opposed to this meritorious bill—

Mr. OLMSTED. No; I am not.

Mr. FITZGERALD. Or if he feels that he should have time to utilize in opposition to it, I will gladly surrender my right to control the time to the gentleman from Pennsylvania.

Mr. OLMSTED. I accept that privilege, Mr. Speaker, and I do not desire to occupy time further, but call for a vote. [Laughter.]

Mr. FITZGERALD. I said I should yield if the gentleman would state that he was opposed to the measure. But my purpose in detaining the House in session longer than the few minutes necessary or contemplated when we met was not only to accelerate the passage of this bill, but to prevent useless questions being asked of the gentleman in charge of it and to emphasize the fact that the distinguished chairman of the Committee on Appropriations, evidently in desperation, trying to blame the Democrats for so many things that have happened, has gone far out of the way to put upon what he calls a "filibuster" the responsibility for the failure of the Printing Office being open on Monday morning or of pensioners getting their pensions on the 4th of June.

Surely, with this House not in session, with the Members wondering how to kill time, and the Senate not detained, but taking a recess of thirty minutes, Congress could easily have passed all the resolutions that were necessary, and I hope that nobody will again charge the Democrats with filibustering. I know that the Record is going to be piled high with speeches of men who indulge in talk about a filibuster.

Mr. OLMSTED. Mr. Speaker, I really feel that I ought to raise the point of order that the gentleman is not discussing the bill before the House.

Mr. DOUGLAS. Does not the gentleman from New York think that this day, set apart by national law as a day dedicated to the memories of the war—

Mr. FITZGERALD. And of peace—

Mr. DOUGLAS (continuing). And the soldiers of the Union, would be a good time for the distinguished gentleman from Mississippi [Mr. WILLIAMS] not to call for the yeas and nays upon this vote, but by unanimous consent to permit these three heroes of the war to be pensioned without any delay?

Mr. FITZGERALD. Mr. Speaker, were it not for the point

of order made by the gentleman from Pennsylvania, I should favor him by answering that question, and hoping that he will be constrained to withhold it—

Mr. OLMSTED. I withhold the point.

Mr. FITZGERALD. I will yield five minutes to the gentleman from Mississippi to speak for himself, John. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, I shall not take three minutes to say what I want to say in regard to this bill. There seems to be a strange inability in gentlemen to understand the difference between a request asking for consideration of a bill and a request asking for consideration and passage of a bill. Yet any man of intellectual honesty and common ability can understand the difference. The House has a right to know before it agrees to the passage of the measure what the measure is. Men may frequently be willing to grant unanimous consent to consider a measure, and subsequently vote for it, without being willing to grant consent beforehand to consider and pass the same bill. I shall continue to insist that no unanimous consents to consider and pass bills will be agreed to by the House. When a request for unanimous consent to consider is made, I shall grant it or not, in my discretion, and shall afterwards act on the other question concerning its passage as I think best when the question comes up for the passage of the bill.

In this particular matter this is a question of charity. This is a matter, as I understand it, of absolute need in connection with these men, and although I declined to tell the Speaker beforehand that I would not call for the yeas and nays, I have never had the slightest idea of doing so, and I have no idea of doing so now. [Applause.]

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken, and the rules were suspended and the bill was passed.

MASONIC MUTUAL RELIEF ASSOCIATION OF DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 6358.

The SPEAKER. The gentleman from Michigan asks unanimous consent to consider and pass the bill, or to pass the bill; the Chair will put it that way. The Clerk will report the bill.

The Clerk read as follows:

A bill (S. 6358) to amend an act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia."

Mr. WILLIAMS. Mr. Speaker, it is useless to take up the time of the House to read the bill if that is the form of the request. I object.

Mr. SMITH of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill.

The SPEAKER. The gentleman from Michigan moves to suspend the rules and pass the following Senate bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia," approved March 3, 1869, be amended by striking out the word "Relief" and substituting therefor the word "Life" in the name of the association, so that as amended it shall read: "The Masonic Mutual Life Association of the District of Columbia."

The SPEAKER. Is a second demanded?

Mr. SIMS. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Michigan is entitled to twenty minutes and the gentleman from Tennessee to twenty minutes.

Mr. SIMS. Mr. Speaker, I do not wish to take up any time. I demanded a second simply to ask an explanation of what the amendment was. There is so much confusion here I could not hear.

Mr. SMITH of Michigan. I will not take but a moment of the time of the House. The matter is very clearly stated in a letter contained in the report, and I would ask that the Clerk read the letter in my time.

The SPEAKER. The Clerk will read the letter in the time of the gentleman.

The Clerk read as follows:

THE MASONIC MUTUAL RELIEF ASSOCIATION
OF THE DISTRICT OF COLUMBIA,
Washington, D. C., May 13, 1908.

DEAR SIR: Complying with your request of yesterday, I send you herewith Senate bill No. 6358, together with copy of the report thereon by the Senate committee, referred to you as chairman of the subcommittee. In this connection I might add that changing the word "Relief" in the name of this association to the word "Life" does not in any way affect the mode of doing business by the association or its corporate powers or give it any additional rights or privileges.

In the District of Columbia we have the Masonic Board of Relief, and the Masonic Relief Association of the United States and Canada, in addition to this association. We find people confusing the three associations and also confusion in the mail. The purpose in the change in the name of this association is simply to avoid confusion and to more accurately designate the association. As the two other associations are for the purpose of granting temporary assistance to needy

brethren or their families and this association is an insurance organization, it is felt that the word "Life" would more clearly describe the nature of its business and sufficiently distinguish it from the other two associations; hence the request for the change.

We trust you will see your way clear to making favorable report upon the bill and securing its early passage.

Thanking you for your uniform courtesy,

Very truly, yours,

THE MASONIC MUTUAL RELIEF ASSOCIATION,
By WM. MONTGOMERY, Secretary.

Hon. JULIUS KAHN,
United States House of Representatives.

Mr. SIMS. Mr. Speaker, now that I understand what it is, I have no objection, and I do not desire to occupy any time.

Mr. SMITH of Michigan. Mr. Speaker, I do not desire to say anything further beyond what is stated in the letter, and unless some one desires to be heard I ask for a vote.

The question was taken.

The SPEAKER. In the opinion of the Chair, a majority having voted—

Mr. HEFLIN. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. In the opinion of the Chair, a majority having voted—

Mr. HEFLIN. Mr. Speaker, I withdraw the demand. I did not understand what it was, and therefore I call for the yeas and nays.

The SPEAKER. In the opinion of the Chair, a majority having voted in favor thereof, the rules are suspended and the bill is passed.

LEAVE OF ABSENCE.

By unanimous consent, Mr. GAINES of Tennessee was granted leave of absence for ten days, on account of sickness.

PRINTING REPORT OF INLAND WATERWAYS COMMISSION.

Mr. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of the following Senate concurrent resolution.

The SPEAKER. The Chair will recognize the gentleman to suspend the rules.

Mr. LANDIS. Then, Mr. Speaker, I move to suspend the rules and pass the following Senate concurrent resolution.

The SPEAKER. The Clerk will report the same.

The Clerk read as follows:

Senate concurrent resolution 50.

Resolved by the Senate (the House of Representatives concurring). That there be printed and bound at the Government Printing Office 10,000 copies of the preliminary report of the Inland Waterways Commission, with illustrations, of which 5,000 copies shall be for the House of Representatives, 2,500 copies for the Senate, and 2,500 copies for the use of the Commission.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, upon that I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Indiana is entitled to twenty minutes and the gentleman from Mississippi to twenty minutes.

Mr. LANDIS. Mr. Speaker, I have no desire to occupy any time of the House.

Mr. WILLIAMS. Mr. Speaker, I merely want to consume a sufficient part of the time to inform this side of the House what the resolution is, so that they may understand why I shall not call the roll upon it. It is merely a resolution for certain printing of documents ready to be printed, so that they may be printed, bound, and circulated amongst Senators, Members of the House, and others. I merely wanted to take that much time to explain why I shall not call the roll.

The SPEAKER. The question is on agreeing to the concurrent resolution.

The question was taken, and the rules were suspended, and the concurrent resolution was agreed to.

PRINTING OF CERTAIN DOCUMENTS.

Mr. LANDIS. Mr. Speaker, I ask unanimous consent that the following documents be printed as public documents: A report of Mr. William S. Rossiter upon conditions prevailing in the Government Printing Office, and reply thereto by Charles A. Stillings, Public Printer, and a report by Mr. George C. Havenner on comparative costs of printing for the Executive Departments.

The SPEAKER. The gentleman from Indiana asks unanimous consent for the printing of two documents as public documents. The Clerk will give the title of the first report.

The Clerk read as follows:

"Report to the President by W. S. Rossiter upon conditions in the Government Printing Office." "Comparative cost of printing for the Executive Departments, etc."

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I would like to ask what this is. We do not know what we are doing. What is the Havenner matter you are talking about?

Mr. LANDIS. This is a report made by Mr. Havenner, the chief of the division of printing in the Department of Commerce and Labor, in response to a request of the President, because of complaints made by the Departments that the cost of printing at that time, last January, was much in excess of what it was a year ago. He made a very exhaustive report.

Mr. WILLIAMS. Upon what authority of Congress or of law was it done? Was it done just by the order of the President?

Mr. LANDIS. By order of the President.

Mr. WILLIAMS. By what authority of law did the President issue that order?

Mr. LANDIS. I think the President—

Mr. WILLIAMS. Has a right to appoint commissions and investigate the Departments whenever he pleases? Mr. Speaker, I object to the latter part of that. The Chair might put the request separately—the Rossiter report and the other.

The SPEAKER. Is there objection to printing, as a public document, the Rossiter report? [After a pause.] The Chair hears none.

Mr. MANN. I would like to ask the gentleman what he means by saying, "to print as a public document the usual number?"

Mr. LANDIS. The usual number as a document.

The SPEAKER. The Chair hears no objection to the printing of the Rossiter report, but does hear objection to the other.

LIFE-SAVING APPARATUS, FARALLONE ISLANDS.

Mr. KAHN. Mr. Speaker, I ask to suspend the rules and pass the Senate bill which I send to the Clerk's desk.

The SPEAKER. The gentleman from California [Mr. KAHN] moves to suspend the rules and pass the following Senate bill, which the Clerk will report.

The Clerk read as follows:

An act (S. 5983) authorizing certain life-saving apparatus to be placed at the Farallone Islands, off the coast of California.

Be it enacted, etc. That the Secretary of the Treasury is hereby authorized to cause a Lyle gun and the necessary beach apparatus used in connection with it to be placed at the Farallone Islands, off the coast of California, at such point as the General Superintendent of the Life-Saving Service may recommend, and to furnish ammunition for said gun and make repairs to the apparatus from time to time as necessary.

SEC. 2. That the Secretary of the Treasury is hereby authorized to detail an experienced surfman from one of the life-saving stations on the coast of California for duty at the Farallone Islands for a sufficient time to instruct and drill the inhabitants of the islands as to the proper use and care of the life-saving apparatus.

Mr. WILLIAMS. Mr. Speaker, I demand a second.

The SPEAKER. Under the rules, a second is ordered. The gentleman from California [Mr. KAHN] is entitled to twenty minutes and the gentleman from Mississippi [Mr. WILLIAMS] is entitled to twenty minutes.

Mr. KAHN. Mr. Speaker, this bill provides for life-saving apparatus on the Farallone Islands. These islands are 20 miles distant from the Golden Gate. At the present time there is no life-saving station on those islands. There have been four wrecks there, but fortunately there has been no loss of life up to the present time. However, at the time of the last wreck the life-saving crew at Point Lobos had to row a distance of 29 miles to take the men off the vessel and row back 29 miles to a place of safety. There are enough men on the island to man one of these life-saving outfits, and they are willing to do it. All that is asked is that an experienced surfman be allowed to go there and instruct this volunteer crew how to handle the apparatus. That is all there is to the bill.

I yield to the gentleman from Illinois [Mr. MANN] such time as he may desire.

Mr. MANN. Mr. Speaker, this bill received, I may say, very careful consideration by the Committee on Interstate and Foreign Commerce. Objection was made to it when it first came in, but after an examination of the facts in connection with the matter the committee was unanimously of the opinion that in this case the Government might well furnish to the islands the life-saving apparatus, to be used by people on the islands, in place of establishing a new life-saving station at that place. The furnishing of the life-saving apparatus will probably accomplish the needed purposes, and of course is far less expensive to the Government than the establishment and maintenance of a life-saving station there. Undoubtedly something needs to be done by the Government at that place.

Mr. KAHN. Mr. Speaker, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, this seems, from the encomiums passed upon it by the gentleman from California [Mr. KAHN] and by the report given of its committee course by the gentleman from Illinois [Mr. MANN], to be a very deserving bill. I shall reserve the balance of my time.

Mr. KAHN. I call for a vote, Mr. Speaker.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays. It is such a good bill that I want to vote for it on the record.

The yeas and nays were ordered.

Mr. KAHN. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. The point of order is sustained. The Doorkeeper will close the door; the Sergeant-at-Arms will notify absent Members; as many as favor the motion will, as their names are called, answer "yea;" as many as are opposed will answer "nay;" those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 185, answered "present" 16, not voting 187, as follows:

YEAS—185.

Adair	De Armond	Hill, Conn.	Payne
Adamson	Dixon	Holliday	Pollard
Alexander, Mo.	Douglas	Houston	Porter
Alexander, N. Y.	Driscoll	Howell, N. J.	Pou
Andrus	Dwight	Howell, Utah	Pray
Barchfeld	Edwards, Ky.	Howland	Rainey
Barclay	Ellerbe	Hubbard, W. Va.	Randall, Tex.
Bartholdt	Ellis, Mo.	Hughes, N. J.	Reeder
Beale, Pa.	Ellis, Oreg.	Hull, Tenn.	Reynolds
Beall, Tex.	Fassett	Johnson, Ky.	Richardson
Bede	Finley	Jones, Wash.	Roberts
Bell, Ga.	Floyd	Kahn	Rothermel
Bennett, Ky.	Focht	Keifer	Russell, Mo.
Bonyne	Fordney	Keliber	Sabath
Booher	Foster, Ind.	Kennedy, Iowa	Scott
Boutell	French	Kennedy, Ohio	Slayden
Bowers	Gaines, W. Va.	Kinkaid	Smith, Cal.
Boyd	Gardner, N. J.	Knapp	Smith, Iowa
Broussard	Garner	Langley	Smith, Mich.
Burgess	Garrett	Lauling	Smith, Mo.
Burke	Gilham	Law	Snapp
Burleigh	Gillespie	Lindbergh	Spight
Burnett	Gillett	Longworth	Stevens, Minn.
Burton, Del.	Glass	Loud	Sturgiss
Burton, Ohio	Godwin	Lovering	Tawney
Calderhead	Gordon	McCreary	Taylor, Ohio
Caldwell	Goulden	McHenry	Thistlewood
Campbell	Graff	McKinley, Ill.	Thomas, N. C.
Candler	Graham	McKinney	Tirrell
Capron	Granger	McLaughlin, Mich.	Tou Velle
Carter	Gregg	Macon	Voistead
Caulfield	Hackett	Madison	Vreeland
Chapman	Haggott	Mann	Waldo
Clark, Mo.	Hale	Moore, Tenn.	Wanger
Clayton	Hall	Moore, Tex.	Watkins
Cocks, N. Y.	Hamill	Morse	Weeks
Cole	Hamilton, Mich.	Murdock	Weems
Cook, Colo.	Hamlin	Needham	Williams
Cook, Pa.	Hammond	Nicholls	Wilson, Ill.
Cooper, Tex.	Harding	Norris	Wilson, Pa.
Cox, Ind.	Hardy	Nye	Wood
Craig	Haugen	O'Connell	Woodward
Crumpacker	Hawley	Olcott	Young
Dalzell	Hayes	Olmsted	The Speaker
Darragh	Hellin	Parker, N. J.	
Davenport	Henry, Tex.	Parker, S. Dak.	
Dawson	Hepburn	Patterson	

ANSWERED "PRESENT"—16.

Bannon	Flood	Lever	Talbott
Bennet, N. Y.	Foster, Ill.	Loudenslager	Washburn
Brundidge	Henry, Conn.	Murphy	Webb
Burleson	Kimball	Sheppard	Wheeler

NOT VOTING—187.

Acheson	Draper	Hughes, W. Va.	McLain
Aiken	Dunwell	Hull, Iowa	McMillan
Allen	Durey	Humphrey, Wash.	McMorran
Ames	Edwards, Ga.	Humphreys, Miss.	Madden
Ansberry	Englebright	Jackson	Malby
Anthony	Esch	James, Addison D.	Marshall
Ashbrook	Fairchild	James, Ollie M.	Maynard
Bartlett, Ga.	Favrot	Jenkins	Miller
Bartlett, Nev.	Ferris	Johnson, S. C.	Mondell
Bates	Fitzgerald	Jones, Va.	Moore, Pa.
Bingham	Fornes	Kipp	Moore, Pa.
Birdsall	Foss	Kitchin, Claude	Mouser
Bradley	Foster, Vt.	Kitchin, Wm. W.	Mudd
Brantley	Foulkrod	Knopf	Nelson
Brodhead	Fowler	Knowland	Overstreet
Brownlow	Fuller	Küstermann	Padgett
Brumm	Fulton	Lafean	Page
Butler	Gaines, Tenn.	Lamar, Fla.	Parsons
Byrd	Gardner, Mass.	Lamar, Mo.	Pearre
Calder	Gardner, Mich.	Lamb	Perkins
Carlin	Gill	Landis	Peters
Cary	Goebel	Lassiter	Powers
Chaney	Goldfogle	Lawrence	Pratt
Clark, Fla.	Greene	Leake	Prince
Cockran	Griggs	Lee	Pujo
Conner	Gronna	Legare	Ransdell, La.
Cooper, Pa.	Hackney	Lenahan	Rauch
Cooper, Wis.	Hamilton, Iowa	Lewis	Reid
Coudrey	Hardwick	Lilley	Rhinock
Cousins	Harrison	Lindsay	Riordan
Cravens	Haskins	Littlefield	Robinson
Crawford	Hay	Livingston	Rodenberg
Currier	Helm	Rucker	Russell, Tex.
Cushman	Higgins	Lorimer	Ryan
Davey, La.	Hill, Miss.	Lowden	Saunders
Davidson	Hinshaw	McCall	Shackleford
Davis, Minn.	Hitchcock	McDermott	Sherley
Dawes	Hobson	McGavin	Sherman
Denby	Howard	McGuire	Sherwood
Denver	Hubbard, Iowa	McKinlay, Cal.	Sims
Diekema	Huff	McLachlan, Cal.	

Slemp	Stafford	Sulzer	Watson
Small	Stanley	Taylor, Ala.	Weisse
Smith, Tex.	Steenerson	Thomas, Ohio	Willey
Southwick	Stephens, Tex.	Townsend	Willitt
Sparkman	Sterling	Underwood	Wolf
Sperry	Sulloway	Wallace	

The following additional pairs were announced:

Until further notice:

Mr. SOUTHWICK with Mr. UNDERWOOD.

Mr. KNOWLAND with Mr. GAINES of Tennessee.

For the balance of the session:

Mr. WASHBURN with Mr. SHERLEY.

The SPEAKER pro tempore (Mr. GAINES of West Virginia). On this question the yeas are 185, the nays are 0, present 16; a quorum; the Doorkeeper will open the doors; the ayes have it; the rules are suspended and the bill is passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 21871) to amend the national banking laws.

MEMORIAL UNIVERSITY, IOWA.

Mr. HAUGEN. Mr. Speaker, I move to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill H. R. 20658, and that the bill be passed.

The SPEAKER pro tempore. The gentleman from Iowa moves to suspend the rules and pass the bill which the Clerk will report.

Mr. WILLIAMS. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WILLIAMS. I understood the gentleman from Iowa to move to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill, and pass the bill.

The SPEAKER pro tempore. The Chair was unable to hear the gentleman from Iowa.

Mr. WILLIAMS. I submit that the Chair stated only the first and last propositions.

The SPEAKER pro tempore. What was the motion of the gentleman from Iowa?

Mr. HAUGEN. To suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill H. R. 20658, and to pass the bill.

The SPEAKER pro tempore. The gentleman from Iowa moves to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill which the Clerk will report, and pass the bill.

The Clerk read as follows:

A bill (H. R. 20658) authorizing the issue of equipment of arms, ammunition, and such accoutrement as accompany same, for target practice, to the Memorial University, Mason City, Iowa.

Be it enacted, etc., That the Secretary of War is hereby authorized to issue, without cost of transportation to the United States, to the Memorial University, of Mason City, Iowa, 125 guns, with suitable equipment and ammunition, for target practice and for the purpose of drill and instructions. And the Secretary of War shall require from said institution a bond double the value of the property issued, for the care and safe-keeping thereof, and for the return of the same to the United States when required.

The SPEAKER pro tempore. Is a second demanded?

Mr. WILLIAMS. I demand a second.

The SPEAKER pro tempore. Under the rule a second is ordered. The gentleman from Iowa [Mr. HAUGEN] is entitled to twenty minutes, and the gentleman from Mississippi [Mr. WILLIAMS] is entitled to twenty minutes.

Mr. HAUGEN. Mr. Speaker, the bill authorizes the Secretary of War to furnish the Memorial University at Mason City, Iowa, with 125 guns, with suitable equipment and ammunition, for target practice, for drill and instruction, without cost to the Government for transportation.

Mr. WILLIAMS. With the usual bond?

Mr. HAUGEN. With the usual bond.

Mr. FITZGERALD. What kind of guns are they? Are they Springfield rifles, Krag-Jörgenssens, or new Army rifles?

Mr. HAUGEN. The regular Krag-Jörgenssens rifles.

Mr. FITZGERALD (continuing). Or 16-inch guns?

Mr. HAUGEN. I am informed by the Department that it has available for issue and that it can accommodate this institution in this way. The act of June 30, 1906, authorizes the Secretary of War to furnish them to State and Territorial institutions.

Mr. WILLIAMS. The gentleman from New York this morning made the point of order against me that I was occupying a Senatorial attitude which Members of the House should not attempt. I make that point against the gentleman.

Mr. MANN. But the gentleman from Iowa is not subject to that point of order, as he had both feet on the floor.

Mr. DAWSON. May I ask my colleague a question?

Mr. HAUGEN. Certainly.

Mr. DAWSON. This Memorial University was instituted by Sons of Veterans, was it not?

Mr. HAUGEN. This institution was founded by Sons of Veterans and maintained largely by the Grand Army of the Republic and Women's Relief Corps, and is a matter of national interest, and there should be no opposition to the passage of the bill. The institution will have to give the usual bond required in cases where arms and ammunition go to the State institutions, and there is a provision in the bill that they shall be returned whenever required. I yield to my colleague.

Mr. DAWSON. Mr. Speaker, it seems to me that on this 30th day of May it would be peculiarly fitting to pass this measure without one dissenting vote. [Applause.]

Mr. HAUGEN. I will not at this time detain the House by making a speech. I reserve the balance of my time and ask for a vote.

Mr. WILLIAMS. Mr. Speaker, I go further than the gentleman who last spoke. On this Memorial Day, in order to show all succeeding generations our patriotism, we ought not only to pass this bill but we ought to go on record in favor of it, and I hope when the roll is called, for which an opportunity will be given, it will disclose the fact that every Member present is in favor of the passage of the bill. [Laughter.]

The SPEAKER pro tempore. As many as favor suspending the rules and discharging the Committee of the Whole House on the state of the Union from the further consideration of the bill and passing the bill will say "aye," those opposed "no."

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays. The yeas and nays were ordered.

Mr. HEFLIN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER pro tempore. The gentleman from Alabama makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members; as many as are in favor of the motion will answer "aye," those opposed will answer "no," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken, and there were—yeas 188, answered "present" 18, not voting 182, as follows:

YEAS—188.

Adair	Driscoll	Howell, N. J.	Payne
Adamson	Dwight	Howell, Utah	Pollard
Aiken	Edwards, Ky.	Howland	Porter
Alexander, Mo.	Ellerbe	Hubbard, W. Va.	Pou
Alexander, N. Y.	Ellis, Mo.	Hughes, N. J.	Pray
Andrus	Ellis, Oreg.	Hull, Tenn.	Pujo
Ansberry	Fassett	Johnson, Ky.	Rainey
Barchfield	Finley	Jones, Wash.	Randell, Tex.
Barclay	Fitzgerald	Kahn	Reeder
Bartholdt	Floyd	Kelifer	Reynolds
Beale, Pa.	Focht	Keliber	Richardson
Beall, Tex.	Fordney	Kennedy, Iowa	Roberts
Bede	Foster, Ind.	Kennedy, Ohio	Rodenberg
Bell, Ga.	Fowler	Kinkaid	Rothermel
Bennett, Ky.	French	Knapp	Russell, Mo.
Bonyne	Fulton	Landis	Ryan
Booher	Gaines, W. Va.	Langley	Scott
Boutell	Gardner, N. J.	Lanling	Sims
Boyd	Garner	Law	Slayden
Brodhead	Garrett	Lindbergh	Smith, Cal.
Broussard	Gilham	Lloyd	Smith, Iowa
Burke	Gillespie	Longworth	Smith, Mich.
Burleigh	Gillet	Loud	Smith, Mo.
Burnett	Glass	Lovering	Snapp
Burton, Del.	Gordon	McCreary	Spight
Burton, Ohio	Goulden	McKinlay, Cal.	Stevens, Minn.
Calderhead	Graff	McKinley, Ill.	Sturgiss
Caldwell	Graham	McKinney	Tawney
Campbell	Granger	McLain	Taylor, Ohio
Candler	Gregg	McLaughlin, Mich.	Thistlewood
Capron	Hackett	Macon	Thomas, N. C.
Caulfield	Haggott	Madison	Tirrell
Chapman	Haie	Mann	Tou Velle
Clark, Mo.	Hamill	Moon, Tenn.	Volstead
Clayton	Hamilton, Mich.	Moore, Tex.	Waldo
Cocks, N. Y.	Hamlin	Murdoch	Wanger
Cole	Hammond	Needham	Watkins
Cooper, Tex.	Harding	Nicholls	Weeks
Craig	Hardy	Norris	Weems
Crumpacker	Haugen	Nye	Wheeler
Cushman	Hawley	O'Connell	Williams
Dalzell	Hayes	Olcott	Wilson, Ill.
Davis, Minn.	Hefflin	Olmsted	Wilson, Pa.
Dawson	Henry, Tex.	Page	Wood
De Armond	Hepburn	Parker, N. J.	Woodyard
Dixon	Hill, Conn.	Parker, S. Dak.	Young
Douglas	Holliday	Patterson	The Speaker

ANSWERED "PRESENT"—18.

Bannon	Flood	Kimball	Rucker
Bennet, N. Y.	Foster, Ill.	Loudenslager	Sheppard
Brundidge	Godwin	Morse	Washburn
Burgess	Henry, Conn.	Murphy	
Burleson	Humphreys, Miss.	Padgett	

NOT VOTING—182.

Acheson	Edwards, Ga.	Kipp	Perkins
Allen	Englebright	Kitchin, Claude	Peters
Ames	Esch	Kitchin, Wm. W.	Powers
Anthony	Fairchild	Knopf	Pratt
Ashbrook	Favrot	Knowland	Prince
Bartlett, Ga.	Ferris	Kuftermann	Ransdell, La.
Bartlett, Nev.	Fornes	Lafean	Rauch
Bates	Foss	Lamar, Fla.	Reld
Bingham	Foster, Vt.	Lamar, Mo.	Rhinock
Birdsall	Foulkrod	Lamb	Riordan
Bowers	Fuller	Lassiter	Robinson
Bradley	Gaines, Tenn.	Lawrence	Russell, Tex.
Brantley	Gardner, Mass.	Leake	Sabath
Brownlow	Gardner, Mich.	Lee	Saunders
Brumm	Gill	Legare	Shackelford
Butler	Goebel	Lenahan	Sherley
Byrd	Goldfogle	Lever	Sherman
Calder	Greene	Lewis	Sherwood
Carlin	Griggs	Lilly	Slemp
Carter	Gronna	Lindsay	Small
Cary	Hackney	Littlefield	Smith, Tex.
Chaney	Hall	Livingston	Southwick
Clark, Fla.	Hamilton, Iowa	Lorimer	Sparkman
Clockran	Hardwick	Lowden	Sperry
Conner	Harrison	McCall	Stafford
Cook, Colo.	Haskins	McDermott	Stanley
Cook, Pa.	Hay	McGavin	Steenerson
Cooper, Pa.	Helm	McGuire	Stephens, Tex.
Cooper, Wis.	Higgins	McHenry	Sterling
Coudrey	Hill, Miss.	McLachlan, Cal.	Sulloway
Cousins	Hinschaw	McMillan	Sulzer
Cox, Ind.	Hitchcock	McMorrin	Talbott
Cravens	Hobson	Madden	Taylor, Ala.
Crawford	Houston	Malby	Thomas, Ohio
Currier	Howard	Marshall	Townsend
Darragh	Hubbard, Iowa	Maynard	Underwood
Davenport	Huff	Miller	Vreeland
Davey, La.	Hughes, W. Va.	Mondell	Wallace
Davidson	Hull, Iowa	Moon, Pa.	Watson
Dawes	Humphrey, Wash.	Moore, Pa.	Webb
Denby	Jackson	Mouser	Weisse
Denver	James, Addison D.	Mudd	Wiley
Diekema	James, Ollie M.	Nelson	Willett
Draper	Jenkins	Overstreet	Wolf
Dunwell	Johnson, S. C.	Parsons	
Durey	Jones, Va.	Pearre	

The Clerk announced the following additional pair:

Until further notice:

Mr. LOUDENSLAGER with Mr. BURLESON.

Mr. BANNON. I voted "aye," but I am paired with the gentleman from Kentucky [Mr. OLLIE M. JAMES] and I desire to change my vote to "present."

The SPEAKER. On this vote the yeas are 188, present 18—a quorum. The Doorkeeper will open the doors; the yeas have it, and the bill is passed.

CONFERENCE REPORT, PUBLIC-BUILDINGS BILL.

Mr. BARTHOLDT. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H. R. 21897) to increase the limit of cost of certain public buildings, to authorize the enlargement, the extension, remodeling, and improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes, which I send to the desk. I ask unanimous consent that the reading of the report may be dispensed with and the statement read in lieu thereof.

Mr. WILLIAMS. I object to that.

Mr. BARTHOLDT. It is well known to all of the Members, and I ask unanimous consent to make a statement in order to explain it.

Mr. WILLIAMS. To that I object.

The SPEAKER. The Clerk will read the conference report. The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21897) to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 9, 18, 31, 41, 50, 55, 57, 58, 67, 78, 79, 81, 84, 92, 109, 111, 112, 125, 127, 136, 138, 169, 173, 174, 176, 183, 184, 197, 198, 199, 200, 203.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 5, 7, 11, 12, 14, 15, 16, 17, 22, 23, 24, 26, 30, 32, 35, 37, 38, 39, 40, 42, 43, 45, 46, 47, 49, 51, 52, 53, 59, 61, 62, 63, 64, 65, 70, 72, 73, 76, 77, 80, 88, 89, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 106, 110, 116, 118, 120, 121, 126, 128, 130, 131, 132, 133, 134, 135, 137, 139, 140, 141, 142, 143, 144, 146, 147, 148, 149, 150, 151, 152, 153, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 170, 171, 172, 177, 178, 179, 194, 201, and agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Cleveland, Ohio, seven hundred and seventy-five thousand dollars;" also, on page 9 of the bill, in line 4, strike out the word "eighty" and insert in lieu thereof the words "one hundred;" and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Toledo, Ohio, fifty thousand dollars;" and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Charleroi, Pa., forty thousand dollars;" and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Salt Lake City, Utah, one hundred and seventy-five thousand dollars: *Provided*, That not to exceed forty thousand dollars may be available for the acquisition of additional ground;" and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, so that same shall read as follows: "*Provided*, That of the amount heretofore authorized so much as may be necessary shall be available for the acquisition of a suitable site;" and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Colorado Springs, Colo., fifteen thousand dollars, said increase to be employed in substituting granite for sandstone;" and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, so that same shall read as follows: "*Provided*, That not to exceed six thousand two hundred and fifty dollars may be available for the acquisition of additional ground;" and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Portland, Me., ninety thousand dollars: *Provided*, That not to exceed twenty thousand dollars may be available for the acquisition of additional ground;" and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment to read as follows: "United States post-office and court-house at Duluth, Minn., \$95,000, for additional ground: *Provided*, That if at any time, should any portion of the ground now owned or hereafter to be acquired by the Government be used for street, park, or other purposes by the city of Duluth, the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to sell to said city any part of such ground, on such terms as he may deem to be for the best interests of the United States, and to deposit the proceeds of said sale in the Treasury of the United States, as a miscellaneous receipt: *Provided further*, That in no case shall any portion of the ground now owned or hereafter to be acquired by the Government be sold for less than its fair market value."

(On page 7 of the bill strike out lines 1, 2, and 3, and on page 42 insert the above section after line 2.)

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Grafton, W. Va., fifteen thousand dollars, in addition to ten thousand dollars heretofore authorized."

(On page 11 of the bill strike out line 25; on page 12 strike out lines 1 to 9, both inclusive, and insert the above section on page 49 of the bill after line 4.)

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at

Wheeling, W. Va., twenty thousand dollars: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to sell the old post-office, court-house, and custom-house building, and the site thereof, situate at the corner of Market and Sixteenth streets, in the city of Wheeling and State of West Virginia, at public or private sale, after proper advertisement, at such time and on such terms as he may deem to be to the best interests of the United States, and to execute a quitclaim deed to the purchaser thereof, and to deposit the proceeds of said sale in the Treasury of the United States as a miscellaneous receipt: *Provided*, That said building and site shall not be sold for any less sum than one hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Wilmington, Del., one hundred and twenty thousand dollars;" and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Augusta, Ga., two thousand dollars;" and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Quincy, Ill., one hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Hoboken, N. J., sixty thousand dollars: *Provided*, That not to exceed twenty thousand dollars may be available for the acquisition of additional ground;" and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Danville, Va., sixty thousand dollars;" and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Peru, Ind., seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Shenandoah, Iowa, fifty thousand dollars;" and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Missoula, Mont., one hundred and fifteen thousand dollars;" and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Jonesboro, Ark., eighty thousand dollars;" and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Riverside, Cal., one hundred and ten thousand dollars;" and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Bristol, Conn., ninety thousand dollars, of which amount not to exceed thirty thousand dollars may be available for the acquisition of a suitable site: *Provided*, That the requirement herein contained that all sites selected under the provisions of this act shall be bounded on at least two sides by streets shall not be applicable to the acquisition of a site at Bristol;" and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, so that same shall read as follows: "United States post-office, court-house, and

custom-house at Miami, Fla., one hundred and seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Independence, Kans., seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Parsons, Kans., seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Maryville, Mo., fifty thousand dollars;" and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Goldfield, Nev., seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Plainfield, N. J., one hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Roswell, N. Mex., one hundred and twenty-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Wilson, N. C., sixty thousand dollars;" and the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, so that same shall read as follows:

"That for the purpose of beginning the construction of a suitable and commodious fireproof building for the accommodation of the United States post-office, United States courts, and other governmental offices at Muskogee, Okla., fifty thousand dollars: *Provided*, That this authorization shall not be construed as fixing the limit of cost of said building at the sum hereby named, but the building hereby provided for shall be constructed or planned so as to cost, complete, including fireproof vaults, heating and ventilating apparatus, and approaches, but exclusive of site, not exceeding two hundred thousand dollars.

"The Secretary of the Treasury be, and he is hereby, authorized and directed to enter into contracts for the construction of a suitable building for said purposes, to be designated by said Department, within the ultimate limit of cost above mentioned: *Provided*, That of the amount fixed as the ultimate limit of cost not to exceed fifty thousand dollars may be expended during the fiscal year ending June thirtieth, nineteen hundred and nine."

On page 33 of the bill strike out all of lines 3 and 4, and insert the section on page 63, after line 25.

And the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment so that same shall read as follows: "United States post-office and court-house at Big Stone Gap, Va., one hundred thousand dollars."

Also, on page 36, in line 1, after the word "post-office," insert the words "and court-house."

And the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and custom-house at Everett, Wash., one hundred and thirty thousand dollars;" and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Walla Walla, Wash., one hundred and forty thousand dollars;" and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107,

and agree to the same with an amendment, so that same shall read as follows: "*Provided*, That of this amount so much as may be necessary shall be available for the acquisition of a suitable site;" and the Senate agree to the same.

Amendment numbered 108: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Rock Springs, Wyo., seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Greeley, Colo., fifteen thousand dollars;" and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, so that same shall read as follows:

"United States post-office at Live Oak, Fla., seven thousand five hundred dollars.

"United States post-office at Lewes, Del., five thousand dollars."

And the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, so that same shall read as follows: "United States post-office and court-house at Augusta, Ga., thirty-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 117: That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Cartersville, Ga., seven thousand five hundred dollars;" and the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Chicago, Ill., one million two hundred and fifty thousand dollars;" and the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Abilene, Kans., seven thousand five hundred dollars;" and the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Bardstown, Ky., ten thousand dollars;" and the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Cynthiana, Ky., ten thousand dollars;" and the Senate agree to the same.

Amendment numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Aurora, Mo., ten thousand dollars;" and the Senate agree to the same.

Amendment numbered 145: That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Bellaire, Ohio, twenty thousand dollars;" and the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, so that same shall read as follows: "United States post-office at Brookings, S. Dak., seven thousand five hundred dollars;" and the Senate agree to the same.

Amendment numbered 175: That the Senate recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, so that same shall read as follows:

"Sec. 12. That the provision contained in the act approved June 30, 1906, authorizing and directing the Secretary of the Treasury to acquire, by purchase, condemnation, or otherwise, such additional land as he may deem necessary for the enlargement of the present site and to enter into contracts for the enlargement, extension, remodeling, or improvement of the United States subtreasury building at San Francisco, Cal., at a limit

of cost of three hundred and seventy-five thousand dollars, be, and the same is hereby, amended so as to authorize and direct the Secretary of the Treasury, in his discretion, to acquire, by purchase, condemnation, or otherwise, a suitable new site for or to enlarge the present site of the United States subtreasury at San Francisco, Cal., at a cost not to exceed the said sum of three hundred and seventy-five thousand dollars."

And the Senate agree to the same.

Amendment numbered 180: That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, so that same shall read as follows: "Provided, That such plans and estimates be prepared under the direction of the Secretary of the Treasury;" and the Senate agree to the same.

Amendment numbered 181: That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, so that same shall read as follows:

"SEC. 17. That a commission consisting of the Assistant Secretary of War, the general commanding the militia of the District of Columbia, the officer in charge of public buildings and grounds at Washington, D. C., and the Superintendent of the United States Capitol Building and Grounds be, and is hereby, created, which shall cause plans and estimates to be prepared for a suitable armory for the National Guard of the District of Columbia, and report the estimated cost thereof to the Congress: *Provided*, That such plans and estimates be prepared under the supervision of the Secretary of the Treasury.

"And for the expense of said commission a sum not to exceed two thousand five hundred dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended on vouchers approved by the chairman of said commission."

And the Senate agree to the same.

Amendment numbered 186: That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, so that same shall read as follows: "Two hundred and fifty thousand dollars;" and the Senate agree to the same.

Amendment numbered 192: That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment, so that same shall read as follows: "Three hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 202: That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment as follows: On page 82, in line 16, strike out the number "31" and insert in lieu thereof the number "27;" and the Senate agree to the same.

Amendment numbered 204: That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment, so that same shall read as follows:

"SEC. 28. That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, for the use and accommodation of the United States Departments of State, Justice, and Commerce and Labor, the whole of squares numbered two hundred and twenty-six, two hundred and twenty-seven, two hundred and twenty-eight, two hundred and twenty-nine, and two hundred and thirty, in the city of Washington, D. C., and the sum of two million five hundred thousand dollars, or so much thereof as may be necessary to pay for the land so acquired, is hereby authorized.

"That part of C street, Ohio avenue, D street, and E street lying between the squares named herein is hereby made a part of the site authorized by this act. That should the Secretary of the Treasury decide to institute condemnation proceedings in order to secure any or all of the land herein authorized to be acquired, such proceedings shall be in accordance with the provisions of the act of Congress approved August thirtieth, eighteen hundred and ninety, providing a site for the enlargement of the Government Printing Office (United States Statutes at Large, volume twenty-six, chapter eight hundred and thirty-seven)."

And the Senate agree to the same.

Amendment numbered 205: That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment as follows: On page 84 of the bill, in line 15, after the word "million," strike out the word "eight" and insert in lieu thereof the word "six," so that said section shall read as follows:

"SEC. 29. That for the purpose of beginning the construction of a suitable and commodious fireproof building for the accommodation of the United States post-office, United States courts, and other governmental offices at Denver, Colo., fifty thou-

sand dollars: *Provided*, That this authorization shall not be construed as fixing the limit of cost of said building at the sum hereby named, but the building hereby provided for shall be constructed or planned so as to cost, complete, including fireproof vaults, heating and ventilating apparatus, and approaches, but exclusive of site, not exceeding one million six hundred thousand dollars.

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to enter into contracts for the construction of a suitable building for said purposes, to be designated by said Department, within the ultimate limit of cost above mentioned: *Provided*, That of the amount fixed as the ultimate limit of cost not to exceed fifty thousand dollars may be expended during the fiscal year ending June thirtieth, nineteen hundred and nine."

And the House agree to the same.

Amendment numbered 206: That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with an amendment, so that same shall read as follows:

"SEC. 30. That the sum of ten thousand dollars be, and the same is hereby, authorized, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, to aid in the erection and completion of a memorial structure at Point Pleasant, W. Va., to commemorate the battle of the Revolution fought at that point between the colonial troops and Indians October tenth, seventeen hundred and seventy-four: *Provided*, That no part of said appropriation shall be expended until the site and plans for said monument or memorial shall be approved by the Secretary of War and the grounds on which said monument or memorial is to be located shall be dedicated to the use of the public and provisions is made for opening and maintaining an open highway thereto."

And the Senate agree to the same.

Amendment numbered 182: That the Senate recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment as follows: Strike out "16" and insert "18;" and the House agree to the same.

Amendment numbered 185: That the Senate recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment as follows: Strike out "17" and insert in lieu thereof "18;" and the House agree to the same.

Amendment numbered 187: That the Senate recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment as follows: Strike out "18" and insert "19;" and the House agree to the same.

Amendment numbered 188: That the Senate recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment as follows: Strike out "19" and insert "20;" and the Senate agree to the same.

Amendment numbered 189: That the Senate recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with an amendment as follows: Strike out "20" and insert "21;" and the House agree to the same.

Amendment numbered 190: That the Senate recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment as follows: Strike out "21" and insert "22;" and the House agree to the same.

Amendment numbered 191: That the Senate recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment as follows: Strike out "22" and insert "23;" and the House agree to the same.

Amendment numbered 193: That the Senate recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment as follows: Strike out "23" and insert "24;" and the House agree to the same.

Amendment numbered 195: That the Senate recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment as follows: Strike out "24" and insert "25;" and the Senate agree to the same.

Amendment numbered 196: That the Senate recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment as follows: Strike out "25" and insert "26;" and the House agree to the same.

Amendment numbered 207: That the Senate recede from its disagreement to the amendment of the Senate numbered 207, and agree to the same with an amendment as follows: Strike out the number "36," in line 14, on page 85, and insert in lieu thereof the number "31;" and the Senate agree to the same.

Amendment numbered 208: That the Senate recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment as follows: Strike out number "37," on page 85, in line 21, and insert in lieu thereof the number "32;" and the House agree to the same.

Amendment numbered 209: That the Senate recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment as follows: On page 86, in line 6, strike out the number "38" and insert in lieu thereof the number "33;" and the House agree to the same.

Amendment numbered 210: That the Senate recede from its disagreement to the amendment of the Senate numbered 210, and agree to the same with an amendment as follows: On page 86, in line 22, strike out the number "39" and insert in lieu thereof the number "34;" and the House agree to the same.

Amendment numbered 211: That the Senate recede from its disagreement to the amendment of the Senate numbered 211, and agree to the same with an amendment as follows: On page 87, in line 15, strike out the number "40" and insert in lieu thereof the number "35;" and the House agree to the same.

Amendment numbered 212: That the Senate recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with an amendment as follows: On page 87, in line 24, strike out the number "41" and insert in lieu thereof the number "36;" and the Senate agree to the same.

Amendment numbered 213: That the Senate recede from its disagreement to the amendment of the Senate numbered 213, and agree to the same with an amendment as follows: On page 88, in line 1, strike out the number "42" and insert in lieu thereof the number "37;" and the House agree to the same.

RICHARD BARTHOLDT,
E. C. BURLEIGH,
W. G. BRANTLEY,

Managers on the part of the House.

N. B. SCOTT,
F. E. WARREN,
C. A. CULBERSON,

Managers on the part of the Senate.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Missouri is entitled to twenty minutes and the gentleman from Mississippi to twenty minutes.

Mr. BARTHOLDT. Mr. Speaker, I have here a statement signed by the three conferees of the House, and out of consideration for the gentlemen who are acting as reading clerks, and whose voices have been ruined, whose health and life have been impaired by the filibuster, I propose to read it myself—

Mr. WILLIAMS. Mr. Speaker, I either make the point of order or suggest that the gentleman proceed and that I be allowed to proceed upon the same line after he is through.

The SPEAKER. The Chair understands that the gentleman is addressing himself to the question before the House?

Mr. WILLIAMS. Then I shall not make the point of order, but will call the attention of the House to the fact, so that when I follow him along the same line nobody will make the point of order against me.

The SPEAKER. The Chair understands from the gentleman from Missouri [Mr. BARTHOLDT] that he is proceeding to read the statement, inasmuch as his request that the statement be read in lieu of the report was refused. The statement does not have to be read, except as the gentleman may elect.

Mr. WILLIAMS. That is very true, but the gentleman was going on to give his reasons—

The SPEAKER. The gentleman from Missouri is entitled to read the statement, or any portion thereof, if he sees proper to do so in his own time, in debate.

Mr. WILLIAMS. I have made no objection to that, nor have I suggested that there possibly could be a point of order made against it.

The SPEAKER. Then what was the suggestion?

Mr. WILLIAMS. The gentleman was going on and talking about what he chooses to call a filibuster, which has nothing to do with reading the statement.

The SPEAKER. The gentleman will proceed in order.

Mr. BARTHOLDT. Mr. Speaker, I submit in all candor that instead of sending this report to the Clerk's desk I merely proposed to read it myself out of consideration for the reading clerks.

The SPEAKER. The gentleman from Missouri must understand that he reads it in his twenty minutes' time.

Mr. BARTHOLDT. I understand that, Mr. Speaker. The statement is as follows:

STATEMENT.

The main items in the public building bill on which the two Houses disagreed were those relating to the erection of a new Department building in the city of Washington, the purchase

of an embassy building at Paris, France, the acquisition of certain tracts of land for public parks in the city of Washington, and the amount of the appropriation to complete the Federal building at Cleveland, Ohio. Upon all these points the Senate receded. The provision for a new Department building was amended so as to provide merely for the acquisition of a site and the authorization for that purpose was reduced from \$3,000,000 to \$2,500,000. The authorization relative to the embassy building at Paris was stricken out, as were all of the provisions in regard to the purchase of land for public parks. The authorization for the Cleveland building, which was \$850,000 in the House bill, and which was reduced by the Senate to \$500,000, was fixed at \$775,000. With these questions settled in the manner indicated a complete agreement was reached.

The House yielded to the individual demands of Senators which were embodied as Senate amendments for building facilities in their respective States.

It should also be stated that in nearly all cases in which items contained in the original House bill had been reduced or stricken out the original authorizations were restored, but the House receded in the case of Denver, where a general public building was authorized at an ultimate limit of cost of \$1,600,000, and Muskogee, Okla., where, the same as in the case of Denver, a small authorization was made for the beginning of a Federal building at an ultimate limit of cost of \$200,000. The House had originally declined to take action with regard to these authorizations.

The House also receded in the matter of the extension of the court-house at Washington, D. C., and the Senate agreed with respect to the erection of an armory building in the Capital City to the creation of a commission for that purpose, leaving out the designation of a site.

Leaving out of consideration the matter of the authorization for the site for the new Department building, the reductions of the bill as a result of the conference amount to over \$2,250,000.

RICHARD BARTHOLDT,
E. C. BURLEIGH,
W. G. BRANTLEY,

Managers on the part of the House.

I desire to add to this statement that this bill carries no appropriation whatsoever, and if the provisions of the bill are to be given effect and carried out it will be necessary to carry an item in the general deficiency appropriation bill, which is still to be acted upon by this House. I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, before I begin I would like to ask the gentleman upon what date this conference agreement was entered into between the House and Senate conferees.

Mr. BARTHOLDT. On May 23.

Mr. WILLIAMS. I would like to ask the gentleman where the conference report has been from May 23 until to-day?

Mr. BARTHOLDT. The conference report has been in the hands of the chairman of the House conferees.

Mr. WILLIAMS. And has not been in the possession of either House—has been in the personal possession of the chairman of the House conferees?

Mr. BARTHOLDT. As is customary.

Mr. WILLIAMS. And is to-day reported for the first time?

Mr. BARTHOLDT. Yes.

Mr. WILLIAMS. Seven days ago it was agreed upon. Mr. Speaker, I suppose that at some time in the remote future, when most of the parties to the transaction are dead, just precisely why this conference report was kept seven days will be known to the world. If the President should veto the bill, inquiry will be active. I saw, the other day, what seemed to me so improbable a statement of the reason for it that I attached no credence to it. I did not attach any credence to it, because I knew the gentleman from Missouri [Mr. BARTHOLDT] so well, and his kindly disposition, his indisposition to bulldoze anybody—he is so mild-mannered a man—that I could not believe the report.

The report was to the effect that the gentleman from Missouri had gone to the Speaker and coerced the Speaker of this House by telling him that unless some currency legislation was enacted at this session that he, the gentleman from Missouri, would not permit the conference report upon the public buildings bill to come before the House at all. [Laughter and applause.] I could imagine the gentleman from Missouri bulldozing me, because I am a little man and dressed in no brief authority, but I did not believe that the gentleman from Missouri had gone to that august personage who holds this entire House in the hollow of his hand, and had been making him walk a straight line upon a proposition of that sort.

But, Mr. Speaker, if that report were true, what a horrible thing it would be to contemplate in its consequences. Think

of it? The gentleman from Missouri would hereafter be held solely responsible for the double iniquity which a moment ago passed the Senate in the shape of the Aldrich-Cannon currency bill. I am not inclined to put the whole burden of that iniquity upon him. I am inclined to think the Speaker of the House of Representatives could have gotten the conference report on the public buildings bill before the House in spite of the gentleman from Missouri if he had been desirous of doing so. I am a little bit inclined to think that another charge made in the public prints to the effect there was some running partnership between those two high potencies—the Speaker and Mr. BARTHOLDT—must have existed at the same time. But, Mr. Speaker, if either of those statements were true—and I can not believe that either is, because I have too much respect for the opinion which I believe the Speaker and the gentleman from Missouri must entertain for the House to believe either one of them—but if either of those two statements were true, into what contempt in the opinion of the Speaker or the opinion of the gentleman from Missouri, or the opinion of both, must we, the Members of the American House of Representatives, have come. To be coerced into the enactment of legislation that was not desired in order that we might recommend ourselves to our constituencies by the appropriations contained in a public buildings bill! To be set before the entire world as a set of bribe takers who, for the sake of what newspapers call “a pork barrel,” would be willing to vote anything up or down!

Mr. Speaker, I for one believe that these yellow journals must have been slandering our Speaker or the gentleman from Missouri, or both, for I can not believe that the Speaker or the gentleman from Missouri, either one, would have slandered the manhood and the honor and the independence and the integrity of the Members of the American House of Representatives. [Applause.] If such a thing had been done, it would be a new departure in legislation—to coerce Members into expressing views by their vote upon the most delicate of all great questions, affecting 80,000,000 of people in their currency, and hence in their prosperity and their business, for the sake of a few little public buildings in the various districts in the United States. Mr. Speaker, I do not believe there will be any great opposition to this bill. [Laughter.] As far as I am able to learn, the bill is very well—

Mr. RODENBERG. They are willing to be coerced.

Mr. WILLIAMS. As the gentleman from Illinois [Mr. RODENBERG], who is always witty even when he does not rise to his feet, says, I suppose the Members of the House are willing to be coerced as far as this particular bill is concerned. There may have been some who, if the policy that was charged as having been pursued had been pursued, would not otherwise have been willing to have been coerced upon the other, the currency, bill, and there may have possibly been some who voted upon the currency bill in a way they did not want to vote, because this bill had not yet been returned to the House and was held back as a club in the air that might at any time swiftly descend upon their devoted heads.

I am not ready altogether to believe that either. The methods of legislating in the House of Representatives are beginning to attract public attention, and if this charge, which can not be true unless Members are false, be true it would, perhaps, attract more attention than any other to which public attention has been recently called. It would show a degree of degradation in the House of American Representatives that would deprive the American people of the right to claim the character, which they have hitherto borne, of being thus far capable of self-government; that they were capable of selecting independent, honest, and intelligent Representatives to serve in the National House of Representatives. [Applause.]

Mr. Speaker, I reserve the balance of my time.

Mr. BARTHOLDT. How much time have I left, Mr. Speaker?

The SPEAKER. Sixteen minutes. [Cries of “Vote.”]

Mr. BARTHOLDT. I yield three minutes to the gentleman from Minnesota [Mr. TAWNEY].

Mr. TAWNEY. Mr. Speaker, I want simply to call to the attention of the House the fact and to emphasize the statement made by the gentleman from Missouri [Mr. BARTHOLDT] that this bill, while authorizing the construction of public buildings, carries no appropriation whatever for executing the authorizations covered in the bill. The appropriations necessary to carry out the authorizations are contained in the general deficiency appropriation bill. The conferees between the two Houses on the general deficiency appropriation bill have reached a final agreement. The report has been signed and is now in the Senate and, I understand, is being considered at this time. Therefore, in order to carry out the authorizations that are carried in this bill, it will be necessary for us to adopt the conference report on the general deficiency bill, and also neces-

sary for Members of the House to remain in the House until the conference report is received from the Senate, when it will be adopted, and then the appropriations for the authorizations carried in this bill will have been made.

Mr. BARTHOLDT. Does the gentleman from Mississippi [Mr. WILLIAMS] want any more time on his side? I do not care to detain the House beyond saying in reply to the few remarks of the gentleman from Mississippi that the little personal filibuster which I inaugurated here was a sensible one, in my judgment, in contradistinction to certain other filibusters. [Laughter.] At least a hundred Members of this House have come to me during the last ten days and stated that if it was not for this public buildings bill they would have to go home, because other important business was hardly to be expected.

Mr. FITZGERALD. Were they Republicans, mostly?

Mr. BARTHOLDT. So the gentleman from Mississippi [Mr. WILLIAMS] can see that there might be a little difference as between theory and practice. In reply to the gentleman from New York [Mr. FITZGERALD], I will say that they were Members from both sides of the House. And for the purpose of enabling this House to do business to the end, I have inaugurated this filibuster upon my own responsibility, and I want to be held responsible for it. [Applause.] I ask for a vote, Mr. Speaker.

The SPEAKER. Does the gentleman reserve the remainder of his time?

Mr. BARTHOLDT. Yes.

Mr. WILLIAMS. In response to the gentleman from Missouri [Mr. BARTHOLDT]: One remark which he made seems to me to reflect more upon the House than anything I had supposed or anything that I had referred to as being mentioned in the newspapers.

He solemnly stated that a hundred Members of this House, more or less—of course he does not intend to be mathematically correct—have been to him to compliment him upon indulging in what he calls “his little personal filibuster,” and they have agreed with him in this: That a majority or quorum could not be kept in the House of Representatives here except for a public building bill; that you could not keep a quorum of the House here to consider a currency bill affecting eighty millions of people of the United States; that you could not have kept a House if you had given them a chance to vote upon an anti-injunction bill; that you could not have kept a House here to consider a pre-election campaign contribution publicity bill nor to consider injunction legislation; that you could not have kept a House here for any real public and unselfish purpose; but that you had to have a bill with public buildings or something else in it appealing to the selfishness of the individual Members in order to make the Members stay at their post of duty and attend to the public business.

Now, if the gentleman from Missouri [Mr. BARTHOLDT] intends to brand this Republican House as a House of that sort, that is his affair. It is not mine. Now, Mr. Speaker, the gentleman from Missouri need not have bothered himself about keeping a quorum.

We were going to keep a quorum here. The Democratic side was going to keep a quorum here [applause on the Democratic side], or furnish its part and make you furnish the balance, because you could not fix the date to adjourn without it; you could not pass any other bill without it. And all this idea that a public-buildings bill had to be kept in the pocket of a Member seven days without consideration by the House, and thus run the risk of a Presidential veto, so that Members of Congress, who are honorable gentlemen and industrious public servants and devoted to the public interests and the affairs of their constituents, could be kept at the post of duty, is a reflection upon the entire House, including the gentleman himself.

Now, Mr. Speaker, I do not think that the American House of Representatives has sunk so low that it can not be kept at its post of duty in order to attend to public affairs of general interest without any regard to the fact as to whether the particular Member has a particular appropriation in some particular bill or not. Or, if that be true, then let you gentlemen who form a majority of this House, and who upon your side of the Chamber constitute a quorum, and who could, by simply doing your duty, furnish a quorum of your own selves without the assistance of a single Democrat, go home and explain to your constituents why it is true.

Mr. CLAYTON. May I interrupt the gentleman from Mississippi?

Mr. WILLIAMS. Certainly.

Mr. CLAYTON. It is true that it would be possible for the Republican side of this House to furnish a quorum here, but is it not true that for the last ten days or two weeks, frequently there would not have been a quorum had it not been for the patriotism of the Democrats in keeping a quorum? [Laughter]

and applause on the Democratic side. Derisive laughter on the Republican side.]

Mr. WILLIAMS. It is not only true that "frequently" in the last two or three weeks the Republicans of this House, although in a large majority, have not furnished a quorum to do business in the House of Representatives; but it is furthermore true, in my opinion, that there have not been two days during the last two or three weeks that they furnished a quorum of themselves without Democratic assistance. [Applause on the Democratic side.]

Now, the gentleman has gone out of his way to talk about a filibuster, as he calls it. A filibuster is a thing where Members try to break a quorum, and where you attempt, by resorting to tampering methods, to prevent legislation. We have been doing but the one thing we started out to do—to rivet attention upon the fact that certain legislation had not passed and would not pass, and, although called Roosevelt or Republican policies, were not desired by Republicans here or in the White House to pass. Mr. Speaker, the newspapers stated this morning that last night there were only twenty Members more than a quorum in the city.

Now, Mr. Speaker, I do not care to say anything more, and I reserve the balance of my time. Unless some time is consumed upon the other side, I have done. [Cries of "Vote!"]

Mr. BARTHOLOTT. Before a vote is taken, Mr. Speaker, I merely wish to say this in reply to the gentleman: Unless my friend from Mississippi questions the truthfulness of my statement that a large number of the Members of this House, on both sides of the Chamber, have come to me and made the statement that they would have gone home but for the public building bill—unless he questions that statement, then we are simply confronted by a condition and not a theory.

Mr. WILLIAMS. Of course I question the truthfulness of no statement made by the gentleman from Missouri or anybody else. But what I said was, that being true, it was a horrible reflection upon the character of this Republican House.

Mr. BARTHOLOTT. And the Democratic Members of it.

Mr. WILLIAMS. Well, this House; and it is a Republican House. [Cries of "Vote!"]

Mr. BARTHOLOTT. I want to say, further, that if the lecture which the gentleman has just now administered is applicable, it is as well, if not more strongly, applicable to the Democratic side than to the Republican side [Cries of "Oh, oh!" on the Democratic side], for the reason that, proportionately, there have always been more Republicans in their seats than Democrats.

Mr. WILLIAMS. That I question.

Mr. BARTHOLOTT. Now, Mr. Speaker, I call for a vote.

The SPEAKER pro tempore (Mr. CAPRON). The gentleman from Missouri moves to suspend the rules and agree to the conference report.

Mr. WILLIAMS. Mr. Speaker, in order to save the time of the House, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FOSTER of Indiana. I make the point of no quorum.

The SPEAKER pro tempore. The Chair will count. [After counting.] Two hundred and sixteen present; a quorum. The Clerk will proceed to call the roll.

The question was taken, and there were—yeas 216, nays 4, answered "present" 8, not voting 160, as follows:

YEAS—216.

Adair	Clark, Fla.	Fulton	Holliday
Adamson	Clark, Mo.	Gaines, W. Va.	Houston
Aiken	Clayton	Gardner, N. J.	Howell, N. J.
Alexander, N. Y.	Cocks, N. Y.	Garner	Howell, Utah
Andrus	Cole	Garrett	Howland
Ansberry	Cook, Colo.	Gilbams	Hubbard, W. Va.
Barchfeld	Cooper, Tex.	Gillespie	Hughes, N. J.
Barelay	Cox, Ind.	Gillett	Hull, Tenn.
Bartholdt	Craig	Glass	Humphrey, Wash.
Beale, Pa.	Cushman	Godwin	Humphreys, Miss.
Beall, Tex.	Dalzell	Gordon	Johnson, Ky.
Bede	Darragh	Goulden	Jones, Va.
Beil, Ga.	Davenport	Graff	Jones, Wash.
Bennett, Ky.	Davis, Minn.	Graham	Kahn
Bonyng	Dawson	Granger	Keller
Booher	De Armond	Gregg	Kelther
Boutell	Dixon	Hackett	Kennedy, Iowa
Bowers	Douglas	Hackney	Kennedy, Ohio
Boyd	Driscoll	Haggott	Kimball
Brodhead	Dwight	Hale	Kinkaid
Broussard	Edwards, Ky.	Hamill	Knapp
Burke	Ellerbe	Hamilton, Mich.	Landis
Burleigh	Ellis, Mo.	Hamlin	Langley
Burnett	Ellis, Oreg.	Hammond	Lanling
Burton, Del.	Esch	Harding	Lindbergh
Burton, Ohio	Fassett	Hardy	Lloyd
Butler	Ferris	Haugen	Loud
Calderhead	Finley	Hawley	Loudenslager
Caldwell	Floyd	Hay	Lovering
Campbell	Focht	Hayes	McCreary
Candler	Fordney	Hefflin	McHenry
Capron	Foster, Ill.	Henry, Conn.	McKinlay, Cal.
Carter	Foster, Ind.	Henry, Tex.	McKinley, Ill.
Caulfield	Fowler	Hepburn	McKinney
Chapman	French	Hill, Conn.	McLain

McLaughlin, Mich.
Macon
Madison
Mann
Maynard
Moon, Tenn.
Moore, Tex.
Morse
Murdoch
Murphy
Needham
Nicholls
Norris
Nye
O'Connell
Olcott
Olmsted
Padgett
Page
Parker, N. J.
Parker, S. Dak.
Patterson
Payne
Pollard
Porter
Pou
Pray
Pujo
Rainey
Randell, Tex.
Rauch
Reeder
Reynolds
Richardson
Roberts
Rosenberg
Rothermel
Rucker

Russell, Mo.
Ryan
Sabath
Scott
Sims
Slayden
Smith, Cal.
Smith, Iowa
Smith, Mich.
Smith, Mo.
Snapp
Sparkman
Spight
Stephens, Tex.
Stevens, Minn.
Sturgiss
Tawney
Taylor, Ohio
Thistlewood

Thomas, N. C.
Tirrell
Tou Velle
Voistead
Vreeland
Wanger
Washburn
Watkins
Webb
Weeks
Weems
Wheeler
Williams
Wilson, Ill.
Wilson, Pa.
Wood
Woodard
Young
The Speaker

NAYS—4.

Alexander, Mo.

Crumpacker

Fitzgerald

Longworth

ANSWERED "PRESENT"—8.

Bannon
Bennet, N. Y.

Brundidge
Burgess

Burleson
Lever

Russell, Tex.
Sheppard

NOT VOTING—160.

Acheson
Allen
Ames
Anthony
Ashbrook
Bartlett, Ga.
Bartlett, Nev.
Bates
Bingham
Birdsall
Bradley
Brantley
Brownlow
Brumm
Byrd
Calder
Carlin
Cary
Chaney
Cockran
Conner
Cook, Pa.
Cooper, Pa.
Cooper, Wis.
Coudry
Cousins
Cravens
Crawford
Currier
Davey, La.
Davidson
Dawes
Denby
Denver
Diekema
Draper
Dunwell
Durey
Edwards, Ga.
Englebright

Fairchild
Favrot
Flood
Fornes
Foss
Foster, Vt.
Foulkrod
Fuller
Gaines, Tenn.
Gardner, Mass.
Gardner, Mich.
Gill
Goebel
Goldfogle
Greene
Griggs
Gronna
Hall
Hamilton, Iowa
Hardwick
Harrison
Haskins
Helm
Higgins
Hill, Miss.
Hinshaw
Hitchcock
Hobson
Howard
Hubbard, Iowa
Huff
Hughes, W. Va.
Hull, Iowa.
Jackson
James, Addison D.
James, Ollie M.
Jenkins
Johnson, S. C.
Kipp
Kitchin, Claude

Kitchin, Wm. W.
Knopf
Knowland
Klistermann
Lafean
Lamar, Fla.
Lamar, Mo.
Lamb
Lassiter
Law
Lawrence
Leake
Lee
Legare
Lenahan
Lewis
Lilley
Lindsay
Littlefield
Livingston
Lorimer
Lowden
McCall
McDermott
McGavin
McGuire
McLachlan, Cal.
McMillan
McMorran
Madden
Malby
Marshall
Miller
Mondell
Moon, Pa.
Moore, Pa.
Mouser
Mudd
Nelson
Overstreet

Parsons
Pearre
Perkins
Peters
Powers
Pratt
Prince
Ransdell, La.
Reid
Rhinoek
Riordan
Robinson
Saunders
Shackelford
Sherley
Sherman
Sherwood
Slomp
Small
Smith, Tex.
Southwick
Sperry
Stafford
Stanley
Steenerson
Sterling
Sullivan
Suizer
Talbot
Taylor, Ala.
Thomas, Ohio
Townsend
Underwood
Waldo
Wallace
Watson
Weisse
Wiley
Willett
Wolf

So the conference report was agreed to.

Mr. FOSTER of Illinois. I have a pair with the gentleman from Indiana, Mr. CHANEY, but I am informed that if present he would vote "aye," and I have voted "aye."

Mr. PADGETT. Did the gentleman from Illinois, Mr. Foss, vote?

The SPEAKER. He did not.

Mr. PADGETT. I desire to say that I have a general pair with the gentleman from Illinois, Mr. Foss, but I am informed by his colleagues that if present he would vote "aye." I voted "aye," and I allow my vote to stand.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the following title:

H. R. 21946. An act making appropriations to supply deficiencies in the appropriation for the fiscal year ending June 30, 1908, and prior years, and for other purposes.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 21052) to amend sections 11 and 13 of the act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," numbered 5, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. DILLINGHAM, Mr. PENROSE, and Mr. McLAURIN as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment bill and joint resolution of the following titles: H. R. 22212. An act granting an increase of pension to Byron

C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Allemen; and

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 208) for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 21003) fixing the compensation of certain officials in the customs service, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALDRICH, Mr. HALE, and Mr. TELLER as the conferees on the part of the Senate.

PENSION TO TEXAS VOLUNTEERS.

Mr. LOUDENSLAGER. Mr. Speaker, I move to take from the Speaker's table the bill (S. 5581) pensioning the surviving officers and enlisted men of the Texas volunteers employed in the defense of the frontier of that State against Mexican marauders and Indian depredations from 1855 to 1860, inclusive, and for other purposes; and I move to suspend the rules and pass the bill.

The SPEAKER. The gentleman from New Jersey moves to suspend the rules and take from the Speaker's table and pass a Senate bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the provisions, limitations, and benefits of an act entitled "An act granting pensions to survivors of the Indian wars of 1832 to 1842, inclusive, known as the 'Black Hawk war,' 'Creek war,' 'Cherokee disturbances,' and the 'Seminole war,'" approved July 27, 1892, be, and the same is hereby, extended from the date of the passage of this act to the surviving officers and enlisted men of the Texas volunteers who served in the defense of the frontier of that State against Mexican marauders and Indian depredations from the year 1855 to the year 1860, inclusive; and also to include the surviving widows of such of said officers and enlisted men: Provided, That such widows have not remarried: Provided further, That where there is no record of enlistment or muster into the service of the United States in the service mentioned in this act the fact of reimbursement to Texas by the United States, as evidenced by the muster rolls and vouchers on file in the War Department, shall be accepted as full and satisfactory proof of such enlistment and service: And provided further, That all contracts heretofore made between the beneficiaries under this act and pension attorneys and claim agents are hereby declared null and void.

The SPEAKER. Is a second demanded?

Mr. MANN. I demand a second.

The SPEAKER. The gentleman from Illinois demands a second. Under the rule a second is ordered. The gentleman from New Jersey [Mr. LOUDENSLAGER] is entitled to twenty minutes and the gentleman from Illinois [Mr. MANN] to twenty minutes.

Mr. LOUDENSLAGER. Mr. Speaker, I do not desire to consume much of the time of the House. This bill is identical, word for word, with a bill (H. R. No. 1) introduced by the gentleman from Texas [Mr. BURLESON] reported from the Committee on Pensions unanimously, and it simply extends the provisions of the act of July 27, 1892, to the veterans and survivors of the Texas volunteers against Mexican marauders and against Indian depredations in the Southwest, which occurred during the period from 1855 to 1860. It is purely a dependent pension bill for the survivors of that service. It is forty-eight years since the last of the service was rendered, and in the line of precedents that have long been established in the general pension laws, forty years is about as soon as any such pension law has been passed after the close of the service. This is a period of forty-eight to fifty-three years from the time of the service.

I reserve the balance of my time.

Mr. MANN. I yield five minutes to the gentleman from Texas [Mr. BURLESON].

Mr. BURLESON. Mr. Speaker, I have waited for nearly two months in order to secure recognition for the passage of this bill. Sometimes I have felt that I would have an attack of nervous prostration occasioned by the intense anxiety and repeated disappointments to which I have been subjected, because I could not get the bill before the House.

This bill is drawn in the usual form. It is in the exact language of H. R. No. 1, introduced by me immediately after the Federal Government reimbursed Texas for the amount expended for frontier defense, which reimbursement was necessary to give these veterans a pensionable status, and same has been unanimously reported from the Committee on Pensions by its distinguished chairman [Mr. LOUDENSLAGER]. It does for the few survivors of the Indian wars who fought on the frontiers of Texas exactly what has been done for the veterans of the Black Hawk war, the Creek war, the Cherokee disturbances, and the Seminole war; it accords to these Texans exactly the

same treatment that was accorded to the veterans in the Florida and Georgia Seminole wars, in the Fevre River Indian war in Illinois, the Sac and Fox wars in Illinois, the Sabine Indian disturbances in Louisiana, the Cayuse war in Oregon, the Texas and Mexico war of 1849-1856, and the California, Utah, Washington, and Oregon Indian wars which occurred, some of them, as late as 1856.

For fifty-three years these Texans have been without recognition, as far as the Federal Government is concerned, of the great service they rendered in that trying period in the history of our State between 1854 and 1861. I sincerely hope that the request which I intend to submit will not be objected to. Mr. Speaker, since the inauguration of the tactics adopted by the distinguished gentleman from Mississippi [Mr. WILLIAMS], which I thoroughly approve, and to which I have given my hearty support—

Mr. MANN. In every other case except this.

Mr. BURLESON. No; in every case where the gentleman has insisted upon his policy since its adoption, and I ask no exception be made here, as I shall show. Recently the gentleman from New Jersey [Mr. LOUDENSLAGER] has brought before the Congress three pension measures, and the gentleman from Kansas to-day brought in another pension matter, and upon the submission of a statement of the facts in connection with those bills to the House, and unanimous consent being asked, those pension bills, in every case, were passed by unanimous consent, or without the call of the roll.

I now ask that the same treatment be accorded these grizzled veterans who served so valiantly and honorably upon the frontier of Texas that was accorded the soldiers that were cared for and provided for in the bills submitted to this House by the gentleman from New Jersey [Mr. LOUDENSLAGER] and the bill of the gentleman from Kansas [Mr. CALDERHEAD] which was passed to-day. I now ask that this bill be permitted to pass by unanimous consent or that the call of the roll be dispensed with.

Mr. MANN. But the gentleman from Mississippi [Mr. WILLIAMS] said a while ago that he would not permit a bill to be passed by unanimous consent.

Mr. WILLIAMS. Mr. Speaker, reserving the right to object—

Mr. MANN. But the gentleman can not make that reservation.

Mr. WILLIAMS. Does the gentleman from New Jersey reserve his time? Of course if the request is not put, there is nothing before the House.

Mr. MANN. Mr. Speaker, this is Memorial Day. It may be that it is proper to pass this bill, and yet I think it is wise that the House should know something in regard to the circumstances of the case. The Texas Rangers, to which this bill applies, have been widely celebrated for their heroic deeds and somewhat celebrated for other things. It was these gentlemen whom we now propose to pension who at the outbreak of the civil war as Texas Rangers seized all of the forts and supplies and munitions of war of the United States in Texas and turned them over to the Confederacy, or to the State of Texas, rather.

Mr. CAPRON. Will the gentleman yield for a moment?

Mr. MANN. In just a moment. A year ago, I think it was, after the State of Texas had paid the Texas Rangers while they were performing this service for Texas and the Confederate government and not for the United States Government, the State of Texas presented a claim to Congress to have the State of Texas reimbursed for the amount paid out to the Texas Rangers.

Mr. BURLESON. Will the gentleman yield?

Mr. MANN. In just a moment. That claim was finally agreed upon in conference, having been inserted as an item in, I think, the general deficiency bill in the Senate. Mr. Speaker, it is a long time ago. I have often wondered as I sat in my seat in this House at the patience, at the kindness, at the courtesy of the gentlemen on the Democratic side of the aisle, as these great numbers of special pension bills were passed through this House, where the benefits chiefly went to the old soldiers in Northern States; and I think now that while I would not have voted to reimburse the State of Texas for money which she paid out, not for the benefit of the General Government, but for the benefit of the rebellion, I would not draw the line against these old soldiers who, through patriotism, as they believed, and through fealty to their State, did seize the property of the United States, but who in addition to that did offer their lives in defense of the people of the State of Texas and against the Indians. We often hear of heroic deeds. I doubt, Mr. Speaker, whether there is written anywhere in history such heroic deeds as have been performed by the white settlers of the country in combat with the Indians. I hope, like the gentleman from Texas [Mr. BURLESON], that the bill may be passed unanimously. [Applause.]

Mr. BURLESON. Will the gentleman yield for a moment?

Mr. MANN. I yield to the gentleman.

Mr. BURLESON. Mr. Speaker, in the interest of the accuracy of history, I desire to state that every dollar of the claim that was paid to Texas last year by the Federal Government, which is the basis of this bill for pensions, accrued and was presented to Congress by the Hon. John H. Reagan before the ordinance of secession was adopted by the State of Texas on February 23, 1861. It is doubtless true that an overwhelming majority of the men who served in these Indian wars afterwards enlisted in the Confederate army. It is true that probably a large number of them died during the bloody period between 1860 and 1865, but the gentleman from Illinois [Mr. MANN] is laboring under a misapprehension when he says that the men who are sought to be pensioned by this bill belonged to the ranger companies which seized the property that belonged to the United States at the outbreak of the civil war. This action was taken the year after the period of their service ended, and a few of them may have been still in the service, but not many.

The records of the Congress will disclose the facts, as I have stated them—that is, that every dollar of the claim that Texas presented against the Government of the United States for the service of these veteran soldiers accrued and had been presented to the Congress by Judge Reagan and payment urged before the ordinance of secession had been adopted by the State of Texas.

I thank the gentleman from Illinois for the generous sentiment of head and heart that moved him to acquiesce in the request made by me that this bill be passed by unanimous consent or without roll call.

Mr. WILLIAMS. Mr. Speaker, I would like somebody to yield me about three minutes.

Mr. MANN. I yield to the gentleman three minutes.

Mr. WILLIAMS. Mr. Speaker, of course there is nobody on this floor more in favor of this bill than I. I had three great uncles who fought in the Texas war of independence, for the independence of the Texas Republic. I feel tied to the people of Texas in every way, but in carrying out a policy that we on this side have thought it wise to inaugurate, and which I have veered from only in certain particular cases, classified beforehand, I can not make fish of one and flesh of another, and as this bill comes under no classification designated, I shall be compelled to call for the yeas and nays upon its passage.

Mr. BURLESON. Will the gentleman permit me to interrupt him for a moment?

Mr. WILLIAMS. Yes.

Mr. BURLESON. I direct the gentleman's attention to the fact that an omnibus pension bill including three or four hundred cases passed here the other day by unanimous consent or without roll call, and to-day the gentleman from Kansas [Mr. CALDERHEAD] presented a bill here and secured unanimous consent to place three old soldiers—

Mr. WILLIAMS. But did the omnibus pension bill pass by unanimous consent the other day?

Mr. BURLESON. It did, and—

Mr. GARNER. And without a roll call.

Mr. WILLIAMS. If it did, it was because I was negligent, Mr. Speaker, and if it did, I will let this go through without it. [Applause.]

Mr. MANN. Mr. Speaker, I think there is nothing very pressing before the House just now. In the interest of historical accuracy, in regard to the State, of the gentleman from Texas, it may be well that the House should also know that the Texas Rangers, when the war of the rebellion approached, by the action of the legislature of the State of Texas and the authorities of that State, were at once greatly enlarged in numbers in preparation for the war; that the action caused the resignation, as I remember it, of the governor of the State, and that it was the pay of those rangers which Congress made in the general deficiency bill a year ago. I do not propose to argue that question now.

Mr. BURLESON. You are mistaken about the facts.

Mr. MANN. No; the gentleman is mistaken. At that time I secured every book on the subject relating to the history of Texas, secured a number of private papers, and if I could have gotten the floor on that deficiency bill I do not believe that item would ever have been agreed to in the House—but that is dead and gone so far as I am concerned.

Mr. BURLESON. Now, will the gentleman permit me?

Mr. MANN. Certainly.

Mr. BURLESON. I was thoroughly advised that the gentleman had those documents, and I also stood ready with documents to refute every single charge contained in those books and papers.

Mr. MANN. I have not any doubt of that.

Mr. BURLESON. I assure the gentleman that I can show by the CONGRESSIONAL RECORDS here that John H. Reagan pre-

sented those claims before the articles of secession were adopted by the State of Texas; that while he was yet a Member of the United States Congress, before Texas seceded, he upon this floor made a speech urging the payment of those claims, and that before the outbreak of the war a unanimous report was made recommending the payment of a large portion of those claims. The feeling growing out of the civil war after the termination of that bloody conflict was such that it was impossible for Texas to secure consideration of these claims, and she waited forty-seven years before the United States finally did her justice, even partial justice, but I thank God that the time came when she did recognize the justness of those claims. [Applause.]

Mr. MANN. And that is right, and put a Senate item in the general deficiency bill where the item never was discussed in either House.

Mr. BURLESON. Yet it was the most virtuous item in that bill. [Applause.]

Mr. MANN. Mr. Speaker, now, I yield two minutes to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Speaker, I think it very likely that no member of the delegation from my State possibly can have more, probably not so many, constituents who will become the beneficiaries of this legislation as I. I rejoice to see that the era of good feeling with which this Congress is closing makes it extremely probable that the bill will go through without opposition. It will be a tardy act of justice to a deserving class of men who, in spite of the opinion of my distinguished friend from Illinois [Mr. MANN] to the contrary, served the State of Texas and served the Union as well for some years prior to the period of the civil war. I rejoice in the fact that the Committee on Pensions has seen fit to recognize the services of these particular soldiers, because for years they have been discriminated against in the pension legislation of the United States.

Organizations in other parts of the country doing identical service have been recognized by being placed upon the pension rolls.

Soon after I came to Congress, twelve years ago, I prepared a bill—awkward and insufficient, perhaps—but a bill intending to accomplish what this bill does on this occasion. I introduced that bill in four subsequent Congresses, and now I am delighted to know that—owing largely to the energy and to the persistence of one of my colleagues—the bill has been put through, or is practically through the Congress, and that the great service, the efficient service, the heroic work done by these old frontier soldiers is to be recognized and their declining years to be made in a degree comfortable by the largess of the Government. [Applause.] [Cries of "Vote!"]

The SPEAKER. The gentleman from New Jersey [Mr. LOUDENSLAGER] asks unanimous consent that the bill be passed. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I did not understand that. I just understood that they would take a vote on it.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken, and a majority having voted in favor thereof, the rules were suspended and the bill was passed.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 22212. An act granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Allemen;

H. R. 21871. An act to amend the national banking laws;

H. R. 21897. An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes; and

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 208. An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment;

S. 5983. An act authorizing certain life-saving apparatus to be placed at the Farallone Islands, off the coast of California; and

S. 6358. An act to amend an act entitled "An act to incorporate The Masonic Mutual Relief Association of the District of Columbia."

GENERAL DEFICIENCY BILL.

Mr. TAWNEY. Mr. Speaker, I call up the conference report on the bill H. R. 21946, the general deficiency bill, making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes, and I ask unanimous consent that the reading of the report be dispensed with and that the statement be read in lieu of the report.

Mr. WILLIAMS. Mr. Speaker, to that I object, of course.

The SPEAKER. Does the gentleman from Minnesota [Mr. TAWNEY] move to suspend the rules?

Mr. TAWNEY. I call up the conference report and ask that the reading of the report be dispensed with and that the statement be read in lieu of the report.

Mr. WILLIAMS. To that I object.

The SPEAKER. The gentleman objects. The Clerk will read the conference report.

The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21946) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 30, 32, 33, 34, and 38.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 31, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, and 82, and agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Toward amounts requisite for public buildings, authorized under the provisions of an act entitled 'An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes,' passed at the first session of the Sixtieth Congress, namely:

"Under the provisions and limitations of section 1 of said act, as follows:

"Rome, Ga., post-office and court-house, fifteen thousand dollars.

"Burlington, Iowa, post-office, five thousand dollars.

"Council Bluffs, Iowa, post-office and court-house, six thousand two hundred and fifty dollars, for the purchase of additional land.

"Duluth, Minn., post-office, etc., ninety-five thousand dollars.

"St. Joseph, Mo., post-office and court-house, twelve thousand dollars.

"Johnstown, Pa., post-office, twenty thousand dollars.

"Murfreesboro, Tenn., post-office, ten thousand dollars.

"Tyler, Tex., post-office, fifteen thousand dollars.

"Salt Lake City, Utah, post-office, etc., sixty thousand dollars.

"Fairmont, W. Va., post-office, ten thousand dollars.

"Wheeling, W. Va., post-office and court-house, twenty thousand dollars.

"Platteville, Wis., post-office, fifteen thousand dollars.

"Under the provisions and limitations of section 2 of said act, as follows:

"Montgomery, Ala., post-office and court-house, fifteen thousand dollars.

"Hot Springs, Ark., post-office, twenty thousand dollars.

"Sacramento, Cal., post-office and court-house, thirty thousand dollars.

"San Jose, Cal., post-office, two thousand dollars.

"New London, Conn., post-office, twenty thousand dollars.

"Wilmington, Del., post-office and court-house, forty thousand dollars.

"Athens, Ga., post-office and court-house, twenty thousand dollars.

"Augusta, Ga., post-office and court-house, two thousand dollars.

"Boise, Idaho, post-office and other governmental buildings, forty thousand dollars.

"Elgin, Ill., post-office, twenty thousand dollars.

"Peoria, Ill., post-office and court-house, ten thousand dollars.

"Quincy, Ill., post-office and court-house, twenty-five thousand dollars.

"Rock Island, Ill., post-office, twenty-five thousand dollars.

"Davenport, Iowa, post-office and court-house, twenty-five thousand dollars.

"Fort Dodge, Iowa, post-office, twenty-five thousand dollars.

"Emporia, Kans., post-office, fifteen thousand dollars.

"Kansas City, Kans., post-office, forty thousand dollars.

"Lexington, Ky., post-office, twenty-five thousand dollars.

"Frankfort, Ky., post-office and court-house, twenty thousand dollars.

"Paducah, Ky., post-office and court-house, fifteen thousand dollars.

"Richmond, Ky., post-office and court-house, ten thousand dollars.

"Bath, Me., post-office and custom-house, twenty thousand dollars.

"Belfast, Me., post-office and custom-house, twenty thousand dollars.

"Ellsworth, Me., post-office and custom-house, twenty thousand dollars.

"Jackson, Mich., post-office, fifteen thousand dollars.

"Meridian, Miss., post-office and court-house, twenty thousand dollars.

"Beatrice, Nebr., post-office, twenty thousand dollars.

"Fremont, Nebr., post-office, fifteen thousand dollars.

"Manchester, N. H., post-office and court-house, fifteen thousand dollars.

"Hoboken, N. J., post-office, twenty thousand dollars.

"New Brunswick, N. J., post-office, twenty thousand dollars.

"Trenton, N. J., post-office and court-house, ten thousand dollars.

"Goldsboro, N. C., post-office, ten thousand dollars.

"Newbern, N. C., post-office and court-house, fifteen thousand dollars.

"Raleigh, N. C., post-office and court-house, ten thousand dollars.

"Lima, Ohio, post-office, twenty thousand dollars.

"Chester, Pa., post-office, twenty thousand dollars.

"Reading, Pa., post-office, twenty-five thousand dollars.

"Pawtucket, R. I., post-office, twenty thousand dollars.

"Sioux Falls, S. Dak., post-office and court-house, twenty thousand dollars.

"Bristol, Tenn., post-office and court-house, twenty thousand dollars.

"Jackson, Tenn., post-office and court-house, twenty thousand dollars.

"Charlottesville, Va., post-office, thirty-five thousand dollars.

"Danville, Va., post-office and court-house, twenty thousand dollars.

"Charleston, W. Va., post-office and court-house, twenty-five thousand dollars.

"Huntington, W. Va., post-office and court-house, five thousand five hundred dollars.

"La Crosse, Wis., post-office and court-house, twenty thousand dollars.

"Under the provisions and limitations of section 3 of said act, as follows:

"Demopolis, Ala., post-office, fifteen thousand dollars.

"Troy, Ala., post-office, twenty thousand dollars.

"Santa Cruz, Cal., post-office, twenty thousand dollars.

"Griffin, Ga., post-office, twenty thousand dollars.

"Newnan, Ga., post-office, twenty thousand dollars.

"Way Cross, Ga., post-office, fifteen thousand dollars.

"Lewiston, Idaho, post-office and land office, twenty thousand dollars.

"Centralia, Ill., post-office, twenty thousand dollars.

"Litchfield, Ill., post-office, twenty thousand dollars.

"Columbus, Ind., post-office, twenty thousand dollars.

"Connersville, Ind., post-office, twenty thousand dollars.

"Greencastle, Ind., post-office, twenty thousand dollars.

"Jeffersonville, Ind., post-office, fifteen thousand dollars.

"Kokomo, Ind., post-office, twenty thousand dollars.

"Peru, Ind., post-office, etc., twenty thousand dollars.

"Decorah, Iowa, post-office, fifteen thousand dollars.

"Estherville, Iowa, post-office, fifteen thousand dollars.

"Shenandoah, Iowa, post-office, fifteen thousand dollars.

"Catlettsburg, Ky., post-office and court-house, twenty thousand dollars.

"Beverly, Mass., post-office, fifteen thousand dollars.

"Marlboro, Mass., post-office, twenty thousand dollars.

"Plymouth, Mass., post-office, twenty-five thousand dollars.

"Webster, Mass., post-office, fifteen thousand dollars.

"Woburn, Mass., post-office, fifteen thousand dollars.

"Pontiac, Mich., post-office, twenty thousand dollars.

- "Austin, Minn., post-office, fifteen thousand dollars.
 "Brainerd, Minn., post-office, ten thousand dollars.
 "Rochester, Minn., post-office, fifteen thousand dollars.
 "Hattiesburg, Miss., post-office, twenty thousand dollars.
 "West Point, Miss., post-office, no site.
 "Carrollton, Mo., post-office, fifteen thousand dollars.
 "Clinton, Mo., post-office, twenty thousand dollars.
 "Independence, Mo., post-office, fifteen thousand dollars.
 "Lexington, Mo., post-office, fifteen thousand dollars.
 "Macon, Mo., post-office, fifteen thousand dollars.
 "Warrensburg, Mo., post-office, twenty thousand dollars.
 "Missoula, Mont., postoffice, etc., twenty-five thousand dollars.
 "Columbus, Nebr., post-office, twenty thousand dollars.
 "Plattsmouth, Nebr., post-office, fifteen thousand dollars.
 "Keene, N. H., post-office, twenty thousand dollars.
 "Amsterdam, N. Y., post-office, twenty thousand dollars.
 "Malone, N. Y., post-office, fifteen thousand dollars.
 "Middletown, N. Y., post-office, twenty thousand dollars.
 "Concord, N. C., post-office, twenty thousand dollars.
 "Henderson, N. C., post-office, twenty thousand dollars.
 "High Point, N. C., post-office, twenty thousand dollars.
 "Ashtabula, Ohio, post-office, twenty thousand dollars.
 "Delaware, Ohio, post-office, twenty thousand dollars.
 "Enid, Okla., post-office and court-house, twenty thousand dollars.
 "Bradford, Pa., post-office, fifteen thousand dollars.
 "Carbondale, Pa., post-office, twenty thousand dollars.
 "Chambersburg, Pa., post-office, twenty thousand dollars.
 "Easton, Pa., post-office, twenty thousand dollars.
 "Greensburg, Pa., post-office, twenty thousand dollars.
 "Sewickley, Pa., post-office, twenty thousand dollars.
 "Shamokin, Pa., post-office, twenty thousand dollars.
 "York, Pa., post-office and internal-revenue office, fifty thousand dollars.
 "Aiken, S. C., post-office, fifteen thousand dollars.
 "Cleveland, Tenn., post-office, fifteen thousand dollars.
 "Palestine, Tex., post-office, twenty thousand dollars.
 "San Marcos, Tex., post-office, ten thousand dollars.
 "Temple, Tex., post-office, twenty thousand dollars.
 "Bellingham, Wash., post-office and court-house, twenty-five thousand dollars.
 "North Yakima, Wash., post-office and court-house, twenty-five thousand dollars.
 "Hinton, W. Va., post-office, fifteen thousand dollars.
 "Appleton, Wis., post-office, fifteen thousand dollars.
 "Beloit, Wis., post-office, twenty thousand dollars.
 "Watertown, Wis., post-office, twenty thousand dollars.
 "Lander, Wyo., post-office and court-house, twenty thousand dollars.
 "Under the provisions and limitations of section 4 of said act, as follows:
 "Ensley, Ala., post-office, twenty-five thousand dollars.
 "Eufaula, Ala., post-office, fifteen thousand dollars.
 "Talladega, Ala., post-office, twenty thousand dollars.
 "Phoenix, Ariz., post-office and court-house, thirty thousand dollars.
 "Hope, Ark., post-office, twelve thousand five hundred dollars.
 "Jonesboro, Ark., post-office, twenty-five thousand dollars.
 "Paragould, Ark., post-office, fifteen thousand dollars.
 "Alameda, Cal., post-office, thirty thousand dollars.
 "Santa Barbara, Cal., post-office, twenty thousand dollars.
 "Riverside, Cal., post-office, thirty thousand dollars.
 "Fort Collins, Colo., post-office, twenty-five thousand dollars.
 "Ansonia, Conn., post-office, thirty-five thousand dollars.
 "Bristol, Conn., post-office, thirty thousand dollars.
 "Danbury, Conn., post-office, twenty thousand dollars.
 "Wallingford, Conn., post-office, fifteen thousand dollars.
 "Miami, Fla., post-office, custom-house, etc., twenty thousand dollars.
 "Cordele, Ga., post-office, fifteen thousand dollars.
 "Dublin, Ga., post-office, fifteen thousand dollars.
 "Lagrange, Ga., post-office, twenty thousand dollars.
 "Milledgeville, Ga., post-office, twenty thousand dollars.
 "Chicago Heights, Ill., post-office, thirty thousand dollars.
 "Granite City, Ill., post-office, twenty-five thousand dollars.
 "Greenville, Ill., post-office, twenty-five thousand dollars.
 "La Salle, Ill., post-office, twenty thousand dollars.
 "Mattoon, Ill., post-office, thirty thousand dollars.
 "Murphysboro, Ill., post-office, twenty thousand dollars.
 "Pana, Ill., post-office, sixteen thousand dollars.
 "Pontiac, Ill., post-office, twenty thousand dollars.
 "Bloomington, Ind., post-office, twenty thousand dollars.
 "Elwood, Ind., post-office, twenty thousand dollars.
 "Brazil, Ind., post-office, twenty thousand dollars.
 "Goshen, Ind., post-office, fifteen thousand dollars.
 "Laporte, Ind., post-office, fifteen thousand dollars.
 "Princeton, Ind., post-office, twenty thousand dollars.
 "Wabash, Ind., post-office, twenty thousand dollars.
 "Ames, Iowa, post-office, twenty-five thousand dollars.
 "Clay Center, Kans., post-office, ten thousand dollars.
 "Coffeyville, Kans., post-office, twenty-five thousand dollars.
 "Great Bend, Kans., post-office, fifteen thousand dollars.
 "Independence, Kans., post-office, etc., fifteen thousand dollars.
 "Parsons, Kans., post-office, etc., twenty-five thousand dollars.
 "Wellington, Kans., post-office, fifteen thousand dollars.
 "Mount Sterling, Ky., post-office, eleven thousand dollars.
 "Somerset, Ky., post-office, fifteen thousand dollars.
 "Crowley, La., post-office, fifteen thousand dollars.
 "Franklin, La., post-office, fifteen thousand dollars.
 "Waterville, Me., post-office, twenty-five thousand dollars.
 "Frostburg, Md., post-office, fifteen thousand dollars.
 "Athol, Mass., post-office, twenty thousand dollars.
 "Chelsea, Mass., post-office, thirty thousand dollars.
 "Milford, Mass., post-office, twenty-five thousand dollars.
 "Westfield, Mass., post-office, ten thousand dollars.
 "Hillsdale, Mich., post-office, fifteen thousand dollars.
 "Ionia, Mich., post-office, twenty-five thousand dollars.
 "Monroe, Mich., post-office, fifteen thousand dollars.
 "Mount Clemens, Mich., post-office, fifteen thousand dollars.
 "Faribault, Minn., post-office, twenty thousand dollars.
 "Virginia, Minn., post-office, twenty thousand dollars.
 "Wilmar, Minn., post-office, seventeen thousand dollars.
 "Brookhaven, Miss., post-office, twenty thousand dollars.
 "Corinth, Miss., post-office, fifteen thousand dollars.
 "Greenwood, Miss., post-office, fifteen thousand dollars.
 "Maryville, Mo., post-office, etc., fifteen thousand dollars.
 "Mexico, Mo., post-office, twenty thousand dollars.
 "Billings, Mont., post-office and land office, thirty thousand dollars.
 "Fairbury, Nebr., post-office, fifteen thousand dollars.
 "Holdrege, Nebr., post-office, twenty thousand dollars.
 "Goldfield, Nev., post-office, etc., fifteen thousand dollars.
 "North Platte, Nebr., post-office and court-house, fifteen thousand dollars.
 "Asbury Park, N. J., post-office, thirty thousand dollars.
 "Burlington, N. J., post-office, twenty-five thousand dollars.
 "Plainfield, N. J., post-office, etc., twenty-five thousand dollars.
 "Roswell, N. Mex., post-office and court-house, twenty thousand dollars.
 "Newark, N. Y., post-office, eighteen thousand dollars.
 "Penn Yan, N. Y., post-office, twenty thousand dollars.
 "Gastonia, N. C., post-office, fifteen thousand dollars.
 "Lexington, N. C., post-office, fifteen thousand dollars.
 "Wilson, N. C., post-office, etc., twenty thousand dollars.
 "Bismarck, N. Dak., post-office and court-house, forty-five thousand dollars.
 "Minot, N. Dak., post-office and court-house, twenty-five thousand dollars.
 "Alliance, Ohio, post-office, thirty thousand dollars.
 "Ironton, Ohio, post-office, twenty thousand dollars.
 "Mansfield, Ohio, post-office, twenty thousand dollars.
 "Massillon, Ohio, post-office, twenty thousand dollars.
 "Muskogee, Okla., post-office, etc., fifty thousand dollars.
 "Albany, Oreg., post-office, fifteen thousand dollars.
 "La Grande, Oreg., post-office, twenty thousand dollars.
 "Pendleton, Oreg., post-office, twenty-two thousand dollars.
 "Braddock, Pa., post-office, thirty-five thousand dollars.
 "Bristol, Pa., post-office, fifteen thousand dollars.
 "Connellsville, Pa., post-office, thirty-three thousand dollars.
 "Homestead, Pa., post-office, thirty-five thousand dollars.
 "Steelton, Pa., post-office, forty thousand dollars.
 "Westerly, R. I., post-office, twenty-five thousand dollars.
 "Abbeville, S. C., post-office, twenty thousand dollars.
 "Darlington, S. C., post-office, fifteen thousand dollars.
 "Gaffney, S. C., post-office, ten thousand dollars.
 "Laurens, S. C., post-office, fifteen thousand dollars.
 "Newberry, S. C., post-office, fifteen thousand dollars.
 "Orangeburg, S. C., post-office, fifteen thousand dollars.
 "Union, S. C., post-office, twenty thousand dollars.
 "Huron, S. Dak., post-office, twenty-five thousand dollars.
 "Dyersburg, Tenn., post-office, fifteen thousand dollars.
 "Harriman, Tenn., post-office, thirteen thousand dollars.
 "Union City, Tenn., post-office, thirteen thousand dollars.
 "Bonham, Tex., post-office, fifteen thousand dollars.
 "Cleburne, Tex., post-office, twenty thousand dollars.
 "Corpus Christi, Tex., post-office and custom-house, twenty thousand dollars.
 "Del Rio, Tex., post-office and court-house, seventeen thousand dollars.

- "Hillsboro, Tex., post-office, twenty-five thousand dollars.
 "McKinney, Tex., post-office, twenty thousand dollars.
 "Mineral Wells, Tex., post-office, fifteen thousand dollars.
 "Port Arthur, Tex., post-office and custom-house, thirteen thousand dollars.
 "Sulphur Springs, Tex., post-office, thirteen thousand dollars.
 "Terrell, Tex., post-office, fifteen thousand dollars.
 "Victoria, Tex., post-office and court-house, fifteen thousand dollars.
 "Waxahachie, Tex., post-office, twenty thousand dollars.
 "Wichita Falls, Tex., post-office, twenty thousand dollars.
 "Park City, Utah, post-office, eleven thousand dollars.
 "Brattleboro, Vt., post-office and court-house, twenty-five thousand dollars.
 "Richford, Vt., post-office and custom-house, fifteen thousand dollars.
 "Big Stone Gap, Va., post-office and court-house, fifteen thousand dollars.
 "Lexington, Va., post-office, ten thousand dollars.
 "Suffolk, Va., post-office, twenty-five thousand dollars.
 "Everett, Wash., post-office, etc., thirty-five thousand dollars.
 "Walla Walla, Wash., post-office and court-house, thirty-five thousand dollars.
 "Morgantown, W. Va., post-office, twenty-five thousand dollars."
 "Point Pleasant, W. Va., post-office, twenty thousand dollars.
 "Stevens Point, Wis., post-office, twenty thousand dollars.
 "Rock Springs, Wyo., post-office, etc., fifteen thousand dollars.
 "Under the provisions and limitations of section 5 of said act, as follows:
 "Cullman, Ala., post-office, five thousand dollars.
 "Mobile, Ala., post-office, one hundred and twenty-five thousand dollars.
 "Opelika, Ala., post-office, seven thousand five hundred dollars.
 "Eureka Springs, Ark., post-office, seven thousand five hundred dollars.
 "Searcy, Ark., post-office, six thousand dollars.
 "Grass Valley, Cal., post-office, ten thousand dollars.
 "Pasadena, Cal., post-office, fifty thousand dollars.
 "Grand Junction, Colo., post-office, ten thousand dollars.
 "Greeley, Colo., post-office, fifteen thousand dollars.
 "Naugatuck, Conn., post-office, fifteen thousand dollars.
 "Washington, D. C., post-office, five hundred thousand dollars.
 "Live Oak, Fla., post-office, seven thousand five hundred dollars.
 "Lewes, Del., post-office, five thousand dollars.
 "St. Petersburg, Fla., post-office, seven thousand five hundred dollars.
 "Augusta, Ga., post-office and other governmental offices, thirty-five thousand dollars.
 "Bainbridge, Ga., post-office, seven thousand five hundred dollars.
 "Carrollton, Ga., post-office, seven thousand five hundred dollars.
 "Cartersville, Ga., post-office, seven thousand five hundred dollars.
 "Cedartown, Ga., post-office, seven thousand five hundred dollars.
 "Elberton, Ga., post-office, seven thousand five hundred dollars.
 "Savannah, Ga., Marine Hospital, thirteen thousand five hundred dollars.
 "Tifton, Ga., post-office, seven thousand five hundred dollars.
 "Pocatello, Idaho, post-office and court-house, ten thousand dollars.
 "Chicago, Ill., post-office, one million two hundred and fifty thousand dollars.
 "Duquoin, Ill., post-office, five thousand dollars.
 "Harrisburg, Ill., post-office, seven thousand five hundred dollars.
 "Rochelle, Ill., post-office, seven thousand five hundred dollars.
 "South Chicago, Ill., post-office, twenty-five thousand dollars.
 "Sterling, Ill., post-office, five thousand dollars.
 "Frankfort, Ind., post-office, fifteen thousand dollars.
 "Denison, Iowa, post-office, ten thousand dollars.
 "Fort Madison, Iowa, post-office, ten thousand dollars.
 "Iowa Falls, Iowa, post-office, seven thousand five hundred dollars.
 "Le Mars, Iowa, post-office, ten thousand dollars.
 "Red Oak, Iowa, post-office, ten thousand dollars.
 "Ablene, Kans., post-office, seven thousand five hundred dollars.
 "Beloit, Kans., post-office, seven thousand five hundred dollars.
 "Concordia, Kans., post-office, seven thousand five hundred dollars.
 "Ottawa, Kans., post-office, seven thousand five hundred dollars.
 "Ashland, Ky., post-office, twelve thousand dollars.
 "Bardstown, Ky., post-office, ten thousand dollars.
 "Cynthiana, Ky., post-office, ten thousand dollars.
 "Hopkinsville, Ky., post-office, twelve thousand dollars.
 "Lawrenceburg, Ky., post-office, seven thousand five hundred dollars.
 "Lafayette, La., post-office, five thousand dollars.
 "Biddeford, Me., post-office, twenty thousand dollars.
 "Camden, Me., post-office, ten thousand dollars.
 "Gardiner, Me., post-office, fifteen thousand dollars.
 "Oldtown, Me., post-office, ten thousand dollars.
 "Attleboro, Mass., post-office, twenty thousand dollars.
 "Boston, Mass., custom-house, five hundred thousand dollars.
 "New Bedford, Mass., post-office, one hundred and twenty-five thousand dollars.
 "Battle Creek, Mich., post-office, nineteen thousand five hundred dollars.
 "Petoskey, Mich., post-office, ten thousand dollars.
 "Moorhead, Minn., post-office, five thousand dollars.
 "Laurel, Miss., post-office, twelve thousand five hundred dollars.
 "Vicksburg, Miss., post-office and court-house, fifteen thousand dollars.
 "Aurora, Mo., post-office, ten thousand dollars.
 "Boonville, Mo., post-office, ten thousand dollars.
 "Brookfield, Mo., post-office, ten thousand dollars.
 "Chillicothe, Mo., post-office, ten thousand dollars.
 "Marshall, Mo., post-office, ten thousand dollars.
 "Poplar Bluff, Mo., post-office, ten thousand dollars.
 "Rolla, Mo., post-office, five thousand dollars.
 "Trenton, Mo., post-office, ten thousand dollars.
 "Livingstone, Mont., post-office, fifteen thousand dollars.
 "McCook, Nebr., post-office and court-house, eight thousand dollars.
 "Rochester, N. H., post-office, fifteen thousand dollars.
 "Morristown, N. J., post-office, thirty-five thousand dollars.
 "Orange, N. J., post-office, thirty thousand dollars.
 "Batavia, N. Y., post-office, fifteen thousand dollars.
 "Borough of Bronx, New York City, N. Y., post-office, one hundred thousand dollars.
 "Cortland, N. Y., post-office, twenty thousand dollars.
 "Fulton, N. Y., post-office, ten thousand dollars.
 "Hornell, N. Y., post-office, twenty thousand dollars.
 "Mount Vernon, N. Y., post-office, thirty-five thousand dollars.
 "Oneonta, N. Y., post-office, twenty thousand dollars.
 "Salamanca, N. Y., post-office, ten thousand dollars.
 "Syracuse, N. Y., post-office only, seventy-five thousand dollars.
 "Waterloo, N. Y., post-office, ten thousand dollars.
 "Greenville, N. C., post-office, ten thousand dollars.
 "Hickory, N. C., post-office, ten thousand dollars.
 "Monroe, N. C., post-office, ten thousand dollars.
 "Oxford, N. C., post-office, seven thousand five hundred dollars.
 "Chickasha, Okla., post-office and court-house, fifteen thousand dollars.
 "Guthrie, Okla., post-office and court-house, thirty-five thousand dollars.
 "McAlester, Okla., post-office and court-house, fifteen thousand dollars.
 "Tulsa, Okla., post-office and court-house, twenty thousand dollars.
 "Bellaire, Ohio, post-office, twenty thousand dollars.
 "Bellefontaine, Ohio, post-office, ten thousand dollars.
 "Bowling Green, Ohio, post-office, ten thousand dollars.
 "Cambridge, Ohio, post-office, ten thousand dollars.
 "Defiance, Ohio, post-office, ten thousand dollars.
 "Middletown, Ohio, post-office, ten thousand dollars.
 "Steuenville, Ohio, post-office, twenty thousand dollars.
 "Tiffin, Ohio, post-office, twelve thousand five hundred dollars.
 "Van Wert, Ohio, post-office, ten thousand dollars.
 "Wooster, Ohio, post-office, ten thousand dollars.
 "Xenia, Ohio, post-office, ten thousand dollars.
 "Corry, Pa., post-office, eighteen thousand dollars.
 "Gettysburg, Pa., post-office, twenty-five thousand dollars.
 "Kittanning, Pa., post-office, fifteen thousand dollars.
 "Ridgway, Pa., post-office, ten thousand dollars.
 "Sunbury, Pa., post-office, twenty-five thousand dollars.
 "Titusville, Pa., post-office, twenty thousand dollars.
 "Rapid City, S. Dak., post-office, seven thousand five hundred dollars.
 "Brookings, S. Dak., post-office, seven thousand five hundred dollars.

"Lebanon, Tenn., post-office, five thousand dollars.
 "Morristown, Tenn., post-office, five thousand dollars.
 "Pulaski, Tenn., post-office, seven thousand five hundred dollars.
 "Shelbyville, Tenn., post-office, five thousand dollars.
 "Springfield, Tenn., post-office, five thousand dollars.
 "Austin, Tex., post-office, forty thousand dollars.
 "Brenham, Tex., post-office, ten thousand dollars.
 "Brownwood, Tex., post-office, seven thousand five hundred dollars.
 "Clarks ville, Tex., post-office, five thousand dollars.
 "Cuero, Tex., post-office, seven thousand five hundred dollars.
 "Bennington, Vt., post-office, ten thousand dollars.
 "Marlin, Tex., post-office, seven thousand five hundred dollars.
 "Marshall, Tex., post-office, ten thousand dollars.
 "New Braunfels, Tex., post-office, seven thousand five hundred dollars.
 "Nacogdoches, Tex., post-office, five thousand dollars.
 "Navasota, Tex., post-office, five thousand dollars.
 "Weatherford, Tex., post-office, seven thousand five hundred dollars.
 "Bennington, Vt., post-office, ten thousand dollars.
 "Covington, Va., post-office, seven thousand five hundred dollars.
 "Wytheville, Va., post-office, five thousand dollars.
 "Bedford City, Va., post-office, seven thousand five hundred dollars.
 "Olympia, Wash., post-office, twenty thousand dollars.
 "Elkins, W. Va., post-office, ten thousand dollars.
 "Grafton, W. Va., post-office, fifteen thousand dollars.
 "Parkersburg, W. Va., post-office and court-house, thirty-five thousand dollars.
 "Sistersville, W. Va., post-office, ten thousand dollars.
 "Menomonie, Wis., post-office, ten thousand dollars.
 "Merrill, Wis., post-office, seven thousand five hundred dollars.
 "Milwaukee, Wis., appraisers stores, fifty thousand dollars.
 "Waukesha, Wis., post-office, fifteen thousand dollars.
 "Casper, Wyo., post-office, ten thousand dollars.
 "Douglas, Wyo., post-office, ten thousand dollars.
 "Under the provisions and limitations of section 6 of said act, as follows:
 "General expenses of public buildings: To enable the Secretary of the Treasury to execute and give effect to the provisions of section 6 of said act, and under the limitations and provisions thereof, twenty-five thousand dollars, to be immediately available and continue available for expenditure during the fiscal year nineteen hundred and nine; but this act shall not be construed to repeal the allowances made for personal services in the annual appropriations under the control of the Supervising Architect carried in the sundry civil act for the fiscal year ending June thirtieth, nineteen hundred and nine.
 "Office of Supervising Architect: The services of skilled draftsmen, civil engineers, computers, and such other services as the Secretary of the Treasury may deem necessary and specially order, may be employed during the fiscal year nineteen hundred and nine, in addition to those now authorized, only in the Office of the Supervising Architect exclusively to carry into effect the various appropriations for the construction of public buildings, to be paid for from and equitably charged against such appropriations made in whole or in part prior to July one, nineteen hundred and seven: *Provided*, That the additional expenditure on this account for the fiscal year ending June thirtieth, nineteen hundred and nine, shall not exceed one hundred thousand dollars, and that the Secretary of the Treasury shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each: *And provided further*, That the authorization of three hundred thousand dollars for like services as above, contained in the legislative, executive, and judicial appropriation act for the fiscal year ending June thirtieth, nineteen hundred and nine, shall be similarly charged against public building appropriations made in whole or in part prior to July one, nineteen hundred and seven.
 "Under the provisions and limitations of section 7 of said act, as follows:
 "Danville, Ill., post-office, court-house, etc., fifty thousand dollars.
 "Under the provisions and limitations of section 8 of said act, as follows:
 "Ottumwa, Iowa, post-office, court-house, etc., thirty thousand dollars.
 "Under the provisions and limitations of section 10 of said act, as follows:
 "Peekskill, N. Y., post-office, etc., forty-five thousand dollars.

"Under the provisions and limitations of section 18 of said act, as follows:

"Honolulu, Hawaii, custom-house, court-house, etc., thirty thousand dollars.

"Under the provisions and limitations of section 19 of said act, as follows:

"Oklahoma City, Okla., post-office, court-house, etc., twenty thousand dollars.

"Under the provisions and limitations of section 20 of said act, as follows:

"Shreveport, La., court-house, etc., twenty-five thousand dollars.

"Under the provisions and limitations of section 21 of said act, as follows:

"Minneapolis, Minn., post-office, twenty thousand dollars.

"Under the provisions and limitations of section 22 of said act, as follows:

"Dayton, Ohio, post-office, court-house, etc., twenty thousand dollars.

"Under the provisions and limitations of section 24 of said act, as follows:

"Wilmington, N. C., custom-house, etc., eighty thousand dollars.

"Under the provisions and limitations of section 29 of said act, as follows:

"Washington, D. C., court-house, fifty thousand dollars.

"Under the provisions and limitations of section 30 of said act, as follows:

"Washington, D. C., site for buildings for Departments of State, Justice, and Commerce and Labor, two million five hundred thousand dollars, or so much thereof as may be necessary.

"Under the provisions and limitations of section 31 of said act, as follows:

"Denver, Colo., post-office, court-house, etc., fifty thousand dollars.

"Under the provisions and limitations of section 32 of said act, as follows:

"Point Pleasant, W. Va., monument, ten thousand dollars."

And the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For payment of twenty-four approved claims, exclusive of claim numbered two hundred and thirty-one thousand eight hundred and sixty-one, provided for in the preceding paragraph, for damages to and loss of private property belonging to citizens of the United States and the Philippine Islands, estimated for on page four hundred and six, House Document numbered twelve, Sixtieth Congress, first session, four thousand five hundred and fifty-two dollars and thirty-five cents."

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Claims for property taken from Confederate officers and soldiers after surrender: The time for filing claims under the provisions of the act of February twenty-seventh, nineteen hundred and two, and amendments thereto, for horses, saddles, and bridles taken from Confederate soldiers in violation of terms of surrender, and for the payment thereof, is extended for twelve months from the passage of this act; and all claims not presented within this time shall be forever barred."

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: After the last line of said amendment insert the following as a separate paragraph:

"In computing the pay of retired officers of the Navy, the ten per cent additional pay allowed for sea duty or for shore duty beyond the continental limits of the United States shall not be included, and the pay of commodore shall be the same in all respects as that of rear-admiral, second nine."

And the Senate agree to the same.

JAMES A. TAWNEY,
 EDWARD B. VREELAND,
 S. BRUNDIDGE, JR.

Managers on the part of the House.

EUGENE HALE,
 W. B. ALLISON,
 H. M. TELLER,

Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses to the bill (H. R. 21946) making appropriations for deficiencies, submit the following written statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report, namely:

Aside from amendments made by the Senate supplying deficiencies in appropriations ascertained since the bill passed the House and the paying of judgments and amounts ascertained by the accounting officers and certified since the bill reached the Senate, the agreements recommended by the conference committee are as follows:

The appropriations of \$13,000 for rent of space in the Union Building for the Auditor for the Interior Department and of \$10,500 for expenses incident to the removal of that office, proposed by the Senate, are agreed to.

In lieu of the indefinite appropriation proposed by the Senate for public buildings and sites for public buildings authorized in the public-buildings act passed at this session there is inserted in the bill specific appropriations for each building or site, as recommended by the Treasury Department, and aggregating \$12,466,750.

For the removal of the Greenough Washington statue to the Smithsonian Institution, the sum of \$5,000 is appropriated, as proposed by the Senate.

An appropriation of \$4,552.35 for claims for damage to and loss of private property belonging to citizens of the United States and the Philippine Islands, proposed by the Senate, is made in the bill.

The provision proposed by the Senate extending for twelve months the time within which claims for property taken from Confederate officers and soldiers after surrender may be submitted is inserted in the bill, as proposed by the Senate.

The appropriation of \$21,395.95 for payment to the State of Texas is inserted in the bill, as proposed by the Senate.

The provision with reference to proceeding with the construction of general depot for the United States Army supplies at Fort Mason, Cal., is inserted in the bill, as proposed by the Senate.

In connection with the appropriation to supply a deficiency on account of pay of the Navy, a provision is inserted providing that in computing the pay of the retired officers of the Navy the 10 per cent pay allowance for sea duty or for shore duty beyond the United States shall not be included.

The appropriation of \$10,000 in the bill as it passed the House for expert agents, to be appointed by the Secretary of the Interior, is stricken out, as proposed by the Senate.

The appropriation of \$5,000 proposed by the Senate for establishing international methods of testing petroleum is stricken out.

An appropriation of \$26,950 to close the account of the Doremus Machine Company is inserted in the bill, as proposed by the Senate.

Section 2 of the bill as it passed the House, relating to the payment of salaries of officers and employees of the Government, is stricken out, as proposed by the Senate.

Section 3 of the bill, relating to the purchase of supplies for the Executive Departments, is stricken out, as proposed by the Senate.

J. A. TAWNEY,
EDWARD B. VREELAND,
S. BRUNDIDGE, Jr.,

Managers on the part of the House.

Mr. TAWNEY. Mr. Speaker, I move that the report be agreed to.

The SPEAKER. The gentleman from Minnesota [Mr. TAWNEY] moves that the report be agreed to.

Mr. TAWNEY. Mr. Speaker, I will say for the information of the Members of the House that there is but one Senate amendment that is of any material consequence, which the House has agreed to with an amendment. That amendment is the one which provides for the appropriation of money to carry out the authorizations in the public-buildings bill. During the consideration, or after the passage, of the public-buildings bill in the House the Supervising Architect was in constant touch with the committee, and by the time the bill had passed both Houses and had been agreed to by the conferees between the two Houses the Supervising Architect of the Treasury Department was prepared to submit, and did submit, the estimates necessary to carry out the authorizations in the public-buildings bill. These authorizations are for the purchase of new sites, of extension of old sites, authorizations for the construction of new buildings, and the extension of buildings heretofore au-

thorized. The estimates for the purchase of sites is for the full amount authorized in this bill.

Mr. MANN. That is the public buildings bill?

Mr. TAWNEY. The public buildings bill. That is, the amount is between \$6,000,000 and \$7,000,000 which this Senate amendment carries, and which the conferees on the part of the House have agreed to, appropriating the full authorization for the purchase of new sites, for the purchase of additional land, and for the extension of sites heretofore authorized and heretofore purchased. The appropriations carried toward the construction of the buildings that have been authorized in the public buildings bill are in amount equal to the amount which the Department estimates it can expend in the making of the contracts and in the construction of the buildings during the next fiscal year. So that every item that is carried in the public buildings bill will be provided for, whether it is the purchase of a site, the extension of an old site, or the construction of a new building. Every item in the public buildings bill is provided for in this amendment by an appropriation either for the entire authorization, as it is in the case of sites, or an appropriation of the amount which the Department estimates it can expend during the next fiscal year.

Mr. MANN. Will the gentleman yield to a question?

Mr. TAWNEY. Yes, sir.

Mr. MANN. Will the gentleman say what the amendment was in reference to the tuberculosis congress?

Mr. TAWNEY. In reference to the tuberculosis congress the amendment was to omit the authorization for the use of the municipal building and agree to the Senate amendment appropriating \$40,000 to defray the expenses incident to the preparation for housing the International Tuberculosis Congress. The President of the United States, under the amendment, is authorized to make suitable provision. It was the thought of the conferees that, with the amount appropriated, if the International Tuberculosis Congress required more room than is provided in the National Museum and in the unoccupied rooms of the Agricultural Department, there would be an ample amount appropriated for the purpose of securing that additional space.

Mr. MANN. The District Commissioners objected very vigorously to the use of the municipal building, as I understand.

Mr. TAWNEY. They did.

Mr. MANN. To my mind, very selfishly. Is there any authority, in case the rooms should not be used in the municipal or other public building, for the President or anybody else to authorize different sections of the tuberculosis congress to hold their section meetings in those rooms?

Mr. TAWNEY. I think there is no doubt that under the provision which has been agreed to there will be ample authority contained and given to the President for the purpose of setting aside any public buildings of the District of Columbia or United States buildings in the District of Columbia for the use of this congress, or any section thereof.

Mr. SCOTT. Will the gentleman permit me to ask him a question?

Mr. TAWNEY. Certainly.

Mr. SCOTT. The gentleman made a statement that the unoccupied rooms in the Agricultural Department building might be used for the purposes of the tuberculosis congress. As a matter of fact, there are no unoccupied rooms in the Agricultural building, and I would like to ask the gentleman whether the bill is worded in such a way as to make it possible that some of those rooms which are now occupied may have to be vacated.

Mr. TAWNEY. The President will have no power to require the vacation of any rooms, unless he gets it under his general power of Chief Executive. The provision only includes unoccupied rooms. Of course if they are occupied, that would preclude their occupancy by any department of the tuberculosis congress.

Mr. MANN. Of course the right to set apart any unoccupied space, as the gentleman understands, would not permit anyone to set aside any portion of the House Office Building or the Capitol Building, both of which are exclusively under the control of Congress.

Mr. TAWNEY. None whatever. It would be only those buildings under the control of the Executive. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. Does this bill carry any appropriation to carry out the employers' liability bill?

Mr. TAWNEY. None whatever.

Mr. WILLIAMS. Does any bill carry any?

Mr. TAWNEY. None that I know of. You mean the Government employees' liability act?

Mr. MANN. It has not, as I understand it, passed the Senate.

Mr. WILLIAMS. I do not mean the Government employees' liability act, but the general employees' liability act.

Mr. TAWNEY. The appropriation made for the Interstate Commerce Commission will be ample to afford the Commission all the money necessary for the purpose of administering that act.

Mr. WILLIAMS. I asked the gentleman that question for the reason that I have received communications to-day telling me that there was no provision made. I thought it was an error, and I also thought that the general appropriation for the Interstate Commerce Commission would be available.

Mr. TAWNEY. They are available.

Mr. WILLIAMS. The purpose of my question was that that idea in the mind of the public might be disabused.

Mr. TAWNEY. The general appropriation is available for that purpose and amply sufficient to accomplish the object by the Interstate Commerce Commission.

Mr. MANN. I am told that the other employers' liability bill has just passed the Senate.

Mr. DAVIS of Minnesota. Will the gentleman allow me to ask him a question?

Mr. TAWNEY. Certainly.

Mr. DAVIS of Minnesota. In the case of provision for a public building where there is a certain sum for the building, what is the amount appropriated for the site under this bill?

Mr. TAWNEY. The full amount of the authorization.

Mr. DAVIS of Minnesota. For both building and site?

Mr. TAWNEY. No; not for both building and site. Where the building and the site have been authorized, the full amount necessary for the purchase of the site has been appropriated, and so much as, in the judgment of the Department, can be expended in the preparation of the plans and the beginning of the work after the site has been procured is carried and authorized in this appropriation.

Mr. DAVIS of Minnesota. Is there any special percentage of the appropriation?

Mr. TAWNEY. None whatever. We have taken the estimates in each case.

Mr. FINLEY. Will this appropriation be available on and after the 1st of July next?

Mr. TAWNEY. It will.

Mr. FINLEY. Not before that time?

Mr. TAWNEY. Not before that time. It is not a deficiency appropriation, and for that reason the conferees did not feel justified in making this immediately available. It will become available on the 1st of July.

Now, Mr. Speaker, if there are no further questions, I desire, if I may have the attention of the House for a few moments, to submit a summary of the work of this session in respect to the appropriations.

Mr. Speaker, the annual expenditures of our Government exceed those of any other government in the world. The work of analyzing the estimates for them, of inquiring into their necessity, together with the needful inquiry into the methods of the Departments in administering and in expending previous appropriations, is rapidly becoming the most important duty and the most prodigious task to be performed in connection with the legislative department of the Government, a task whose magnitude is not appreciated, nor is the labor necessary in its performance understood. It requires constant application from the beginning until the close of the session and the most careful discrimination to prevent needless appropriations for the Federal Government or unauthorized appropriations for the exercise of governmental functions belonging to the States or for the doing of that which belongs exclusively to private interests.

So far as this work has devolved at this session upon the committees of this House having appropriating jurisdiction, I know it has been performed conscientiously and faithfully. Speaking for the Committee on Appropriations, I can say that it has been performed with no other thought or purpose than to supply the actual needs of the public service within the prescribed functions of the Federal Government, without reference to the personal desires of those from whom the increased estimated expenditures or the recommendations for increased appropriations emanated. I would not be worthy of the position I occupy on the Committee on Appropriations if I did not acknowledge the gratitude I owe to its members for their loyal support and the efficient and intelligent service they have rendered in the committee's endeavor to prevent needless or extravagant appropriations or the authorization of new services outside of the legitimate functions of the Federal Government.

Mr. Speaker, with the passage of this bill all the great supply bills of the Government for the fiscal year 1909 will have been passed, and the session will practically end. It is a custom as well as a duty we owe to the people to state, at the close of each session, the amounts appropriated and the estimated revenues for the fiscal year for which the appropriations have been made. In doing so the people are afforded an oppor-

tunity to know and compare our appropriations with those of previous sessions, and to determine whether or not they have been wisely or unwisely made; whether or not they are extravagant in amount, or are no larger than are necessary to meet the needs of the public service.

The responsibility of the House of Representatives in respect to the appropriation of money from the Federal Treasury is a direct responsibility we owe to the people. It is a non-partisan responsibility. No political party, when in control of the Government, can have any other policy in respect to appropriations than that of appropriating no more and no less than is necessary for the exercise of the constitutional functions of the Government. To us, as the direct representatives of the people, the Constitution intrusts the power and the duty of originating the bills that authorize the distribution of the public revenue.

THE DEMOCRATIC FILIBUSTER.

It is a matter of sincere regret that, to accomplish a political purpose or to gain some partisan advantage in the coming Presidential campaign, the minority in this House deemed itself justified in disregarding its responsibility in this respect by pursuing the policy it has followed for almost two months, under the leadership of the distinguished gentleman from Mississippi [Mr. WILLIAMS], a policy which made it necessary for the majority, in order to transact any public business, to adopt rules of procedure under which nonpartisan questions in relation to the appropriation of public moneys could not be considered with that freedom of discussion and action that otherwise would have enabled this House to have prevented many of the increases that were finally agreed to. As the result of these increases, the aggregate of the appropriations made at this session is larger by many millions than it otherwise would be.

The constitutional right of one-fifth of the membership of the House to have a yea-and-nay vote on any measure, invoked by the minority and applied to every important and unimportant step in legislation in order to make effective their prolonged and unprecedented filibuster, instituted two months ago and persisted in until these very last hours of the session, compelled us of the majority to resort to the drastic rule under which we have operated in order to enact before the close of the fiscal year the requisite supply bills to maintain the life of the Government. Without the rule and policy thus forced upon us the appropriation bills, containing enormous increases by Senate amendments, particularly for the Army and Navy, would have received from the membership of this body deliberate and, I believe, different and more effective consideration. We could devise a rule that would compel the minority to permit a vote and conclusion on these absolutely necessary measures for support of the Government, but we could not deprive them of their power, in the exercise of a constitutional prerogative, to so consume the time of the House as to effectually preclude discussion and deliberate consideration of many of the appropriation bills.

UNUSUAL DEMANDS FOR APPROPRIATIONS.

While the action of the minority in this House is not responsible for the increased estimates and the demands for increased appropriations, the policy which that minority has pursued is responsible to a greater extent than any other cause for the lack of complete success which has attended the efforts of those who resisted these demands for increased appropriations.

The extent of these demands and the sources from which they came should also be stated, in justice to this House. A review of these demands as they appear in official documents presented to Congress will show that the estimates for the established public service and for previously authorized public works for the next fiscal year were more than \$156,000,000 in excess of appropriations made for the same purposes during the last session of the Fifty-ninth Congress. These demands or increased estimated expenditures, many of us believe, did not rest in fact upon the necessities of the public service. They were supported mainly by official recommendations to Congress backed by the approval of the press of the country, and they consisted largely of increased compensation to those in the civil and military branches of the public service.

In addition to the demands for increased appropriations for the established public service came the demand for the authorization and establishment of many new services and new activities upon the part of the Federal Government. Many of these were wholly without the constitutional functions of the Federal Government. Demands of this character are rapidly increasing. They are the result of, and are supported by, a general tendency throughout the country to increase the power of the Federal Government where the exercise of that increased power would relieve the States and private interests of the expense incident thereto. These demands come from all of the States, but more particularly from the States south of Mason and Dixon's

line. The many bureaus and offices of the Executive Departments here at the seat of Government are always eager to take on new services and the exercise of new powers whenever there arises among the States or the people of any section of the country a demand that they should do so. Demands of this character were greater at this session of Congress than ever before, and they may be expected to increase in the future unless the executive and legislative branches of the Government unite in resisting propositions for the exercise of these extra constitutional powers and the consequent encroachment upon the revenues of the Federal Government.

EFFORTS FOR ECONOMY RECEIVED SCANT SUPPORT.

Because of the nature of the demands and the sources from which these demands emanated, prominent Members of both Houses of Congress, and especially on both sides of this Chamber, whose voice and influence otherwise would have been most potential in checking these increased appropriations, sat here silent or aided those who sought their fulfillment. I am not criticising anyone. I am only stating for the record an indisputable fact. I do not deny that some of the increases made were just, but I do say that, in view of the present and prospective condition of our revenues, these increases in pay and increased expenditures on account of newly authorized Federal services could well have been postponed, and that, too, without detriment to the public service.

In our endeavor to check and keep down these increased expenditures and increased appropriations, we were throughout this session without support either from the public, from the press, from the minority, or from the Executive Departments of the Government. The increased appropriations of more than \$43,000,000 on account of the Army and Navy, or for preparation for war to the end that we may have peace, were not, in the judgment of many, necessary, and yet this increase was not as great as the amount demanded. The demand for these enormous increases in war expenditures did not originate with the representatives of the people. It originated elsewhere, and was supported largely by a misdirected public sentiment, to such an extent that a majority of this House and a majority in the other branch of Congress, including representatives of both political parties, supported them because they did not dare oppose them, while those who did oppose them were restricted in their efforts by the meaningless filibuster by the minority.

ANALYSIS OF APPROPRIATIONS.

The total appropriations made at this session of Congress, including those known as permanent appropriations, for the ordinary conduct of the Government during the fiscal year beginning July 1, 1908, and ending June 30, 1909, amount to \$851,088,670.92.

The total revenues of the Government, estimated to Congress as required by law by the Secretary of the Treasury in his annual report in December last, are placed at \$878,123,011.30.

In justice to the Secretary of the Treasury, who made this estimate, it should be said that the estimate was made up in September, before there was any indication of a decline in revenues as a result of the financial stringency which came upon the country the latter part of October last.

In addition to the authorized expenditures of \$851,088,672.92 for the operation of the Government during the next fiscal year, appropriations are also made as follows:

In deficiency acts, exclusive of \$12,466,750 for public buildings authorized at this session, \$44,529,223.65, which sum is payable from current and former revenues.

For requirements of the sinking fund, under the permanent appropriation made therefor by the act passed February 25, 1852, estimated at \$58,000,000.

For redemption of national-bank notes, under the permanent appropriation of the deposits made by the banks for that purpose, estimated at \$25,000,000.

For construction of the Panama Canal, which by law is payable or reimbursable from the proceeds of bonds authorized to be issued for the construction of the canal, \$29,187,000.

For miscellaneous and special objects, \$1,000,000, including \$250,000 for the relief of storm and flood sufferers in Mississippi and other Southern States and \$403,000 for the payment of claims of the Catholic Church in the Philippine Islands for the use and occupation of their property by the military forces.

These five sums, added to the appropriations made for ordinary expenses of the Government during the next fiscal year, make a grand aggregate of \$1,008,804,894.57.

The history of the appropriation bills for the session, which I will print, shows in detail and in aggregates the estimates of appropriations submitted to the Congress; the bills, as reported by the House committees, as passed by the House, as reported by the Senate committees, as passed by the Senate, and, finally, as they became laws after the differences between the two Houses were reconciled in conferences; and also for purposes of comparison the appropriations made for 1908 are shown.

The estimates submitted to Congress by the executive as a basis for the appropriations made, including regular annual expenses, deficiencies, miscellaneous, and permanent charges, amounted to \$1,079,449,288.96, or an excess over the total of all appropriations as finally approved by Congress during this session of \$70,644,394.39, and \$158,651,145.16 excess over all appropriations made at the last session of Congress.

The twelve regular annual appropriation bills for 1909, as passed by the House, appropriated only \$743,907,820.97. The last sum is a reduction under the regular estimates submitted to Congress at the beginning of the session of \$98,847,172.87.

Adding to the latter sum the additional estimates submitted to Congress since the session began, and carried in the table under estimates as miscellaneous at \$25,500,000, a total reduction by the House is shown in estimates for the ordinary operating expenses of the Government of \$124,347,172.87.

The Senate passed the twelve regular annual appropriation bills by increasing them over what they carried as passed by the House to the amount of \$73,453,553.76.

The twelve regular annual appropriation bills as finally enacted appropriate—

Less than the estimates, including additional or miscellaneous estimates, \$73,640,368.04;

More than as passed by the House, \$50,706,804.83;

Less than as passed by the Senate, \$22,746,748.93; and

More than the regular appropriation acts for the current fiscal year \$36,850,701.53.

The grand total of all appropriations made at this session, including the regular annual bills, deficiencies, miscellaneous, and permanent, exceed those of last session by \$88,006,750.77.

A comparison of each of the general appropriation bills and other general titles of appropriations with those of the last session of Congress is shown in the following table:

Differences in the appropriation measures of this session, compared with those of the last session of Congress.

Title of bill.	Increase.	Reduction.
Agriculture.....	\$2,224,816.03	
Army.....	16,747,664.83	
Diplomatic and consular.....	485,130.19	
District of Columbia.....		\$322,920.78
Fortifications.....	2,410,134.00	
Indian.....		871,728.28
Legislative.....	707,487.20	
Military Academy.....		1,084,008.55
Navy.....	23,703,977.97	
Pension.....	16,910,000.00	
Post-office.....	10,871,199.00	
River and harbor (none this session).....		87,108,083.00
Sundry civil.....	2,168,101.92	
Deficiencies.....	44,586,974.74	
Miscellaneous.....	2,261,099.38	
Permanents.....	4,307,975.12	
Total.....	127,393,560.38	89,386,809.61
Net increase.....	39,386,809.61	
	88,006,750.77	

DEFICIENCIES IN APPROPRIATIONS NOT LARGE.

The total appropriations made apparently on account of deficiencies at this session, amounting to \$56,995,973.65, exceed the amount of the last session by \$44,586,974.74. This unusual sum is due not to any violation of the antideficiency legislation so recently enacted, or to ill-advised or inadequate appropriations made last session, but is more than accounted for by the sum of \$12,466,750 for public buildings authorized at this session, and by two other sums, one of \$10,000,000 for the payment of pensions required on account of the law passed at this session to increase the pensions of widows of soldiers, and another of \$12,178,900 to continue the work on the Panama Canal. At the last session of Congress all the money was appropriated that was asked for or that could, under the expectations then entertained, be expended during the current fiscal year in the construction of the canal; but the rapid progress under the splendid organization at work on the Isthmus made it necessary to supply as a deficiency in the current appropriations the sum given in order to avoid a suspension of the work.

Deducting the three sums named, together with \$11,791,342 for the Army and Navy expenditures, to which the prohibitive deficiency legislation does not apply, and the sum left for deficiencies, only \$10,558,981.65, is gratifyingly small, and much less than the ordinary deficiencies for any of the recent years.

RELATION OF EXPENDITURES TO WEALTH.

At the request of the Committee on Appropriations the Director of the Census has recently prepared and furnished, for their information, tables showing the actual expenditures of the Federal Government from 1791 to 1907, by fiscal years, and by four-year periods corresponding to the several Administrations.

In connection with these statistics Director North has furnished an analysis so valuable and informing to all who are interested in the problem of governmental expenditures that I shall ask its insertion in the RECORD as a part of my remarks.

The most significant fact to be derived from an inspection of the relationship of expenditures for the maintenance of government to the aggregate wealth of the nation is the uniformity for a long series of years of the proportion shown. This uniformity, as indicated in the tables and analysis, exists not only in the expenditures for the Federal Government, but also in the tax levies for State, municipal, and local government. Practically no variation whatever appears in the proportion of expenditure for the Federal Government per \$1,000 of national wealth, but such increase as appears is indicated in the tax levies made for government other than Federal. The figures presented suggest a tendency to increase expenditures for State or local government more rapidly than for the Federal Government.

The truth of this apparent tendency is confirmed by the fact that the census report of 1890, the first to present the aggregate payment for all expenditures of all classes, as distinguished from mere tax levies, for States, counties, cities, and minor civil divisions, including schools, amounted to \$569,252,634, or \$9.30 per \$1,000 of national wealth. In 1902, however, the year in which the next census inquiry upon this subject was made, the aggregate payment for expenditures of this class had nearly doubled, amounting to \$1,156,447,085, or \$12.80 per \$1,000 of national wealth.

In general, therefore, it appears to be an established fact that while the expenditures for the maintenance of the National Government have steadily increased during the whole period of national existence, and latterly much more than I believe they should, they have maintained an almost uniform proportion, except during the period of the civil war, in comparison with each \$1,000 of national wealth; but that the expenditures made for the maintenance of State and local governments of all kinds

have shown a decided tendency to increase in proportion to each \$1,000 of national wealth, thus reflecting the general tendency of the age and of the nation, as wealth increases, to make more liberal expenditures for the maintenance of various classes of government and governmental institutions.

The actual per capita expenditure for the maintenance of the Federal Government during the first period, from 1791 to 1796, as shown by the Census Office, was \$1.34. It would be natural to contrast this figure with the per capita of annual expenditure for the last fiscal year, amounting to \$8.91; but it will be evident upon reflection that there is no comparison possible between the mere per capita themselves without consideration of the resources of the nation at the two periods mentioned. Except in time of war or in periods of great depression, there is of necessity in every nation a rough relation between the expenditures for the maintenance of government and the ability of the nation to furnish such resources. Unfortunately, there exists no information concerning the aggregate wealth of the United States at the beginning of the nineteenth century. The earliest data upon the subject was collected at the Seventh Census in 1850.

THIS CONGRESS DESERVES PRAISE.

Mr. Speaker, in conclusion I want to commend this Congress as it is concluding the labors of its first session, and pay tribute to the courage it has manifested in its acts of commission as well as those of omission. Whatever the unthinking or the superficial critic may now say, the impartial and nonpartisan historian will hereafter record and truthfully state that, in the affirmative work performed and in contending against and successfully resisting unconstitutional demands upon the powers and the Treasury of the Federal Government, the work of no previous session is comparable with the work of the first session of the Sixtieth Congress. [Great applause on the Republican side.]

The history of the appropriation bills of this session and the analysis of public expenditures made by the Census Office to which I have referred follow:

History of appropriation bills, first session of the Sixtieth Congress; estimates and appropriations for the fiscal year 1908-9, and appropriations for the fiscal year 1907-8.

[Prepared by the clerks to the Committees on Appropriations of the Senate and House of Representatives.]

Title.	Estimates, 1909.	Reported to the House.	Passed the House.	Reported to the Senate.	Passed the Senate.	Law, 1908-9.	Law, 1907-8.
Agriculture.....	\$10,666,351.00	\$11,431,346.00	\$11,568,806.00	\$11,642,146.00	\$12,152,406.00	\$11,672,106.00	\$9,447,290.00
Army.....	89,755,833.75	85,007,566.56	84,207,566.56	98,820,409.12	98,840,409.12	95,382,247.61	78,634,582.75
Diplomatic and consular.....	3,990,320.91	3,508,963.91	3,508,963.91	3,967,805.91	3,597,230.91	3,577,463.91	3,092,333.72
District of Columbia.....	13,798,126.35	9,561,449.35	9,560,499.35	11,494,887.35	11,575,513.85	10,117,698.85	10,440,598.63
Fortification.....	38,443,945.36	8,210,611.00	8,210,611.00	11,510,187.01	12,116,187.01	9,317,145.00	6,898,011.00
Indian.....	8,219,272.87	8,020,597.87	8,179,097.87	9,904,920.03	10,532,826.87	9,253,347.87	10,125,076.15
Legislative, etc.....	35,040,066.13	32,336,573.00	32,302,918.00	32,945,631.00	32,965,631.00	32,333,821.00	32,126,333.80
Military Academy.....	977,087.87	825,837.87	825,837.87	914,967.87	914,867.37	845,634.87	1,929,708.42
Navy.....	125,791,349.80	103,967,518.43	105,405,768.43	112,584,799.88	123,115,659.88	122,062,485.47	98,958,507.50
Pension.....	151,043,000.00	150,809,000.00	150,809,000.00	163,053,000.00	163,053,000.00	163,053,000.00	146,143,000.00
Post-office.....	230,441,016.00	220,765,392.00	222,355,892.00	229,027,367.00	229,706,367.00	222,962,392.00	212,091,193.00
River and harbor.....	(c)	(c)	(c)	(c)	(c)	(d)	(e)
Sundry civil.....	\$134,618,623.80	105,715,369.48	106,972,864.98	118,032,263.22	118,791,275.72	\$112,037,313.22	\$110,769,211.30
Total.....	842,754,993.84	740,220,225.47	743,907,820.97	804,298,384.79	817,351,374.73	794,614,625.89	757,763,924.27
Urgent deficiency, 1908 and prior years.....		24,074,450.26	23,725,188.25	24,083,267.12	24,083,500.48	\$24,050,125.48	
Additional urgent deficiency, 1908 and prior years.....	\$57,000,000.00	2,025,500.00	2,110,500.00	2,163,000.00	2,163,000.00	2,163,000.00	12,408,998.91
Deficiency, 1908 and prior years.....		17,342,572.89	17,344,322.89	18,374,811.43	18,385,316.88	\$30,782,848.17	
Total.....	899,754,993.84	783,692,748.62	787,087,832.11	848,919,463.34	861,993,192.09	851,610,599.45	770,172,923.18
Miscellaneous.....	\$25,500,000.00					\$3,000,000.00	738,900.62
Total, regular annual appropriations.....	925,254,993.84					854,610,599.45	770,911,823.80
Permanent annual appropriations.....	\$154,194,295.12					\$154,194,295.12	149,886,320.00
Grand total, regular and permanent annual appropriations.....	1,079,449,288.96					1,008,804,894.57	\$920,798,143.80

Amount of estimated revenues for fiscal year 1909.....

\$658,000,000.00

Amount of estimated postal revenues for fiscal year 1909.....

220,123,011.30

Total of estimated postal revenues for fiscal year 1909.....

878,123,011.30

* One-half of the amounts for the District of Columbia payable by the United States, except amounts for the water department (estimated for 1909 at \$130,800), which are payable from the revenues of the water department.

† Includes all expenses of the postal service payable from postal revenues and out of the Treasury.

‡ No amount is estimated for rivers and harbors for 1909 except the sum of \$27,142,744 to meet contracts authorized by law for river and harbor improvements included in the sundry civil estimates for 1909.

§ No river and harbor act passed for 1909.

|| In addition to this amount the sum of \$6,392,730 is appropriated by the sundry civil act to carry out contracts authorized by law for river and harbor improvements for 1908.

¶ This amount includes \$27,142,744 to carry out contracts authorized by law for river and harbor improvements and \$33,183,143.60 for construction of the Isthmian Canal for 1909.

‡ This amount includes \$17,806,645 to carry out contracts authorized by law for river and harbor improvements and \$29,187,000 for construction of the Isthmian Canal for 1909.

§ This amount includes \$6,392,730 to carry out contracts authorized by law for river and harbor improvements and \$27,161,367.50 for construction of the Isthmian Canal for 1908.

¶ This amount is approximated. Under deficiency estimates there is included \$12,466,750 for public buildings under the new public-buildings act.

‡ This amount includes \$12,178,900 for construction of the Isthmian Canal.

|| This amount includes \$10,000,000 for payment of pensions and \$12,466,750 for construction of public buildings under the new public-buildings act.

¶ This is the amount submitted by the Secretary of the Treasury in the annual estimates for the fiscal year 1909, the exact amount appropriated not being ascertainable until two years after the close of the fiscal year. This amount includes estimated amount of \$38,000,000 to meet sinking-fund obligations for 1909 and \$25,000,000 estimated redemption of national-bank notes in 1909 out of deposits by banks for that purpose.

‡ In addition to this amount, contracts are authorized to be entered into, subject to future appropriations by Congress, as follows: By the naval act, \$15,750,000; by the river and harbor act, \$49,829,349; by the sundry civil act, \$2,355,000; in all, \$67,934,349.

ANALYSIS OF PUBLIC EXPENDITURES.

The following table summarizes the expenditures shown in detail in the table on pages 7 to 36. (Document prepared for House Committee on Appropriations.) Expenditures are there presented by years in four-year or administration periods, from 1791 to 1907, and in the table which follows by specified groups of years. Per capita annual expenditures, both in amount and ratio, are also presented. The figure given in the column "ratio" is the quotient secured by dividing the per capita expenditures of the period under consideration by the corresponding per capita for the years from 1791 to 1796.

TABLE 1.—A.—Total and per capita expenditures of the National Government for all purposes for specified periods, 1791–1907.

Period.	Average annual expenditures.	Per capita annual expenditures.	
		Amount.	Ratio.
1791–1796.....	\$5,854,172	\$1.34	1.00
1821–1828.....	17,081,344	1.59	1.19
1846–1853.....	49,137,138	2.23	1.66
1878–1885.....	294,855,816	5.66	4.22
1898–1905.....	658,082,414	8.17	6.10
1906.....	736,717,502	8.72	6.51
1907.....	762,488,752	8.91	6.65

B.—Paid from general revenues for specified periods, 1791–1907.

Period.	Average annual expenditures.	Per capita average expenditures.	
		Amount.	Ratio.
1791–1796.....	\$5,832,509	\$1.32	1.00
1821–1828.....	16,407,424	1.47	1.11
1846–1853.....	44,266,671	2.02	1.53
1878–1885.....	257,019,281	4.93	3.73
1898–1905.....	521,026,625	6.65	5.00
1906.....	568,781,799	6.73	5.10
1907.....	578,903,746	6.77	5.13

C.—For the United States Post-Office for specified periods, 1791–1907.

Period.	Average annual expenditures.	Per capita annual expenditures.			
		Paid from postal revenues.	Paid from general revenues.	Total.	
				Amount.	Ratio.
1791–1796.....	\$83,784	\$0.02	-----	\$0.02	1.00
1821–1828.....	1,273,916	.13	-----	.12	6.00
1846–1853.....	5,390,961	.21	\$0.02	.23	11.50
1878–1885.....	41,638,131	.73	.07	.80	40.00
1898–1905.....	126,608,377	1.54	.10	1.62	81.00
1906.....	180,606,077	1.99	.15	2.14	107.00
1907.....	191,214,389	2.15	.09	2.24	112.00

The expenditures in not only the Federal Government but all State and local governments, are met in part from public taxes and in part from other revenues. In the Federal Government the latter class comprises principally revenues received as compensation for services rendered by the Post-Office.

The postal expenditures in 1907 were 112 times greater than those of the six years of Washington's Administration for which the table presents data. Comparison of the expenditures for postal service in 1907 with similar expenditures in 1791 (but \$36,697) shows that such ex-

penditure increased 248 times as rapidly as population, while all governmental expenditures increased about 6.3 times.

The increase of national expenditures actually met from taxation is reflected fairly well by the figures given above, although the reported expenditures include payments for other purposes than the cost of government and payments that are not met from the proceeds of national taxation. Among the payments of the first class so included are those for the expenditures of the District of Columbia disbursed through the National Treasury, the payments of trust moneys, and duplications of many kinds. Among the payments of the second class are those for governmental expenditures which are met from fees for services, such as those of the Patent Office and of the General Land Office. The payments for both of these classes, like the expenditures of the Post-Office, have increased much faster than the expenditures met from public taxation. The data for an exact exhibit of these payments are, however, not readily available. If they were, it would be found that the actual increase of expenditures payable from national taxes was slightly less than indicated by the table.

EXPENDITURES WITH RELATION TO POPULATION.

National expenditures payable from taxes have increased in one hundred and eleven years something over five times as fast as population. The relative increase was much slower in the first sixty years of national life than in the last fifty. The greatest increase was in the period which includes the civil war, and largely represents the increase in the governmental payments for interest and pensions. Just prior to the civil war these payments were only 13 cents per capita per annum. This was the lowest in the national history, and was less than one-fifth the corresponding per capita payment of 1796 to 1800. The per capita annual payments for interest and pensions in the four years ending June 30, 1869, were \$4.22, and by 1907 had declined to \$1.92. This decline was balanced by a relative increase of other costs of government, so that in 1907 the per capita for all expenditures payable from taxes was not far from five times what it was in Washington's time. The same statement can also be made of all such expenditures, exclusive of those for interest and pensions.

The average annual per capita expenditures of the National Government payable from taxes for the eight years 1846 to 1853 was \$2.02; for the eight years ending June 30, 1905, it was \$6.65; and for the year ending June 30, 1907, \$6.77. The average for the eight years 1893 to 1905 was 3.29 times, and that for 1907 was 3.35 times, the corresponding average for the period 1846 to 1853. To the extent represented by these numbers did the expenditures payable from taxes increase faster than population.

EXPENDITURES WITH RELATION TO NATIONAL WEALTH.

The per capita of national taxable wealth was \$308 in 1850 and \$1,234 in 1904. In the latter year it was four times what it was in 1850, indicating that the relative ability of the nation to pay taxes had increased in fifty-four years four times, while the national expenditures payable from taxes had increased in the fifty-seven years ending in 1907 only 3.35 times. The national wealth, or the ability to meet governmental expenditures, increased at least 20 and possibly 25 per cent more than did the national expenditures to be met from taxation. Considering the number of people in the country to be taxed, the present National Administration makes the Government 3.35 times as costly to the taxpayer as did the Government of 1846 to 1853. But taking account of the wealth of the citizens or their ability to support the Government, the Administration of the United States in 1907 was only 75 or 80 per cent as burdensome as that which controlled the country at the middle of the last century.

INCREASE IN THE EXPENDITURES OF THE NATIONAL GOVERNMENT AS COMPARED WITH THOSE OF STATE, MUNICIPAL, AND LOCAL GOVERNMENTS.

The following table presents the actual expenditures of the Federal Government by decades, from 1850 to 1907, a period of fifty-seven years, and the amount which such expenditures represents per \$1,000 of national wealth as compiled at the various census periods mentioned. The proportion per \$1,000 of national wealth of the taxes levied to meet the expenditure, including schools, for government other than Federal, from 1860 to 1902, and the grand total of expenditure for government, exclusive of Federal, compiled only at the Eleventh and Twelfth Censuses, are also presented.

Total national wealth and expenditures of the Federal Government and of State, county, municipal, and all local governments, per \$1,000 of wealth, 1850 to 1907.

Year.	Total national wealth.	Total expenditures of National Government (taxable).		Tax levy for expenditures for States, counties, cities, minor civil divisions, including schools.		Payment for expenditures for States, counties, cities, minor civil divisions, including schools.	
		Amount.	Per \$1,000 of national wealth.	Amount.	Per \$1,000 of national wealth.	Amount.	Per \$1,000 of national wealth.
1850.....	\$7,135,780,228	\$46,448,368	\$6.5	-----	-----	-----	-----
1860.....	16,159,616,068	71,718,943	4.4	\$94,186,746	\$5.8	-----	-----
1870.....	24,054,814,806	313,429,226	13.2	228,185,029	9.4	-----	-----
1880.....	41,067,122,009	298,163,117	7.3	313,921,474	7.6	-----	-----
1890.....	61,203,755,972	358,618,585	5.9	471,365,140	7.7	\$569,252,634	\$9.3
1900.....	82,304,517,845	590,038,371	7.2	-----	-----	-----	-----
1902.....	*61,238,782,842	593,038,905	6.5	724,736,539	7.9	1,156,447,085	12.8
1904.....	100,272,947,810	725,934,946	7.2	-----	-----	-----	-----
1907.....	*112,749,270,337	762,488,752	6.7	-----	-----	-----	-----

* Estimated on basis of increase 1900–1904.

The expenditures of the National Government payable from taxation may be compared with the general property taxes levied for the support of State and municipal governments. The tax levies for State and municipal governments were ascertained by the Bureau of the Census for 1880, 1890, and 1902. For 1880 the per capita of such levies was \$6.26, and in 1902, \$9.22. In twenty-two years it increased 47.3 per cent. The per capita of national expenditures payable from taxation in 1880 was \$5.28, and in 1902, \$5.91, and in 1907, \$6.77. The percentage of increase from 1880 to 1902 was 12, and from 1880 to 1907 only 28.2. The former was only a fourth and the latter barely 60 per cent of the corresponding percentage of increase of State and local taxation for twenty-two years. State and local taxation is increasing proportionately with national wealth and the ability of the people to meet the

added costs of local government, while national expenditures—though growing rapidly—do not keep pace with the increasing national wealth; and so the burden of National Government becomes smaller and smaller with the passing of the decades—at least, that has been the general trend of affairs since the middle of the nineteenth century, in spite of the cost of the civil war with its legacy of heavy interest and pension charges.

I yield five minutes to the gentleman from Kansas [Mr. SCOTT].

Mr. SCOTT. The gentleman from Minnesota has been kind enough to show me a copy of the table to which he has re-

ferred in his statement, in which he has presented in detail the estimates and appropriations for the current session of Congress. This statement, in its reference to the estimates and appropriations for the support of the Department of Agriculture, is technically correct. In point of fact, however, it creates a wrong impression, and it is to correct this that I have asked for this brief time.

The table shows the estimates for the Department of Agriculture to be \$10,666,351, and the appropriation to be \$11,672,106, making it appear that the appropriation is in excess of the estimates something over \$1,000,000. But this statement takes no account of the supplemental estimates that were submitted after the Book of Estimates was printed. There were five of those supplemental estimates as follows:

One in the sum of \$25,000, to cover the necessary expenses for collecting evidence and securing the enforcement of the act of June 29, 1906 (34 Stat., p. 607), entitled "An act to prevent cruelty to animals while in transit by railroad or other means of transportation."

One of \$60,000 for the erection of a main observatory building at Mount Weather, Virginia, to replace the observatory building destroyed by fire February 23, 1907, and for the erection of a central heating and power plant, and so forth, thereat.

One of \$100,000, to provide for the necessary expenses in carrying out the provisions of the act of June 11, 1906.

One of \$2,000,000, for protection and permanent improvement of the national forests.

Altogether the supplemental estimates amounted to the sum of \$2,185,000, making a total amount of estimates submitted for the support of the Department of Agriculture, \$12,851,351.

The amount carried in the bill as reported from the House Committee on Agriculture was \$11,431,346, showing a reduction below the estimates of \$1,420,005. As passed by the House the bill carried \$11,508,806, still showing a reduction below the estimates of \$1,342,545. As the bill passed the Senate it carried \$12,152,406, an increase over the House bill of \$643,600. As the bill finally became law it carried \$11,672,106, showing a reduction from the estimates of \$1,179,245, instead of an increase of something above \$1,000,000, as shown by the comparison of the Book of Estimates with the final statement. I thought it was only fair to the Committee on Agriculture, Mr. Speaker, that this statement should be made.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. SCOTT. Yes.

Mr. MONDELL. I desire to ask the gentleman if the supplemental estimates to which he refers were in fact all of them supplemental estimates in regular form, transmitted through the regular channels?

Mr. SCOTT. Two of them were. Three of them were not; and I wish to say very frankly that if the present chairman of the Committee on Agriculture had been as well posted as he ought to have been upon the law covering the submission of supplemental estimates, this error would have been corrected. As a matter of fact, the law was never called to his attention until after the estimates had come in, in the shape of letters direct from the Secretary of Agriculture, and they were therefore not sent back, as they perhaps should have been, to be presented in the regular way as required by the law; but they were considered by the committee and in that way became a part, it seemed to us, of the regular estimates from the Department.

Mr. MONDELL. One of the irregular estimates, as I understand it, was the estimate of \$2,000,000 for the work of the Forestry Service.

Mr. SCOTT. Referring to that, the gentleman will permit me to make this statement: In the Book of Estimates there appeared this note in connection with the Bureau of Forestry:

The SPEAKER pro tempore (Mr. WASHBURN). The time of the gentleman has expired.

Mr. TAWNEY. I yield the gentleman two minutes more to answer the question.

Mr. SCOTT. There appeared this note in connection with the Bureau of Forestry:

NOTE.—The appropriation of \$500,000 for the administration, protection, and development of the national forests, together with its several provisions, have been omitted, as the provisions are continuing legislation and as a separate estimate will be submitted for such money as may be necessary for the administration, protection, and development of the national forests.

Notice was thus given in the Book of Estimates that a supplemental estimate would be sent in later, and that supplemental estimate came, and I hold it now in my hand in the shape of a letter from the Secretary of Agriculture to the chairman of the Committee on Agriculture.

Mr. MONDELL. I know the gentleman now appreciates that these irregular estimates mislead the Members in that they are not fully informed in regard to them, as they would be in regard to a regular estimate.

Mr. SCOTT. Nobody appreciates that better than I do, and I think I can promise the gentleman that there will be no offenses committed in this direction next year if it is within the power of the Committee on Agriculture to prevent.

Mr. STEPHENS of Texas. I desire to inquire if the item to provide for the Appalachian Forest Reserve survey was contained in the bill finally?

Mr. SCOTT. There was no estimate for such a survey. That appropriation was made last year and was not repeated this year because the work had been completed.

Mr. STEPHENS of Texas. Has the report been made?

Mr. SCOTT. Yes; and it is published as a Senate document.

Mr. FITZGERALD. Mr. Speaker, speaking for the Democratic members of the Committee on Appropriations and at their direction, I desire to present the following review of our appropriations and of the country's financial condition:

It is a prodigious task to examine the Departmental estimates. The gentleman from Minnesota [Mr. TAWNEY] has not overstated the difficulties of those upon whom the burden is placed. The country would have been benefited had the recommendations of the committees charged with the preparation of the supply bills been more generally heeded by the House. The importunities of those outside are sufficiently difficult to resist, without having the membership of the House take sides against its committees on questions of expenditure.

The gentleman from Minnesota [Mr. TAWNEY] enunciated a new doctrine. It will be a surprise to the country to hear his explanations of the enormous appropriations of this Congress. He attributes the wastefulness, the recklessness, and the extravagance of his own party, in complete control of the Government, to the fact that the Democratic minority of the House has exercised its constitutional right to call the roll upon every question submitted to the House. The purpose of the minority was to center the attention of the country on the work of Congress, and that purpose has been successfully accomplished.

Mr. Speaker, I recall when the naval appropriation came back from conference it was not to the vigilance of the majority, but to the vigilance of the minority that it was discovered that the conferees on that bill, in violation of all rules of parliamentary law, had inserted a provision carrying a large sum of money. It was not the action of the minority that prevented that report being rejected, but it was the partisan action of a Republican Speaker who permitted the conference report to come up under a motion to suspend the rules instead of being brought up as the conference report on this bill is in the regular and orderly manner that enabled the Republican conferees, in violation of the rules, to insert and retain in the bill an item that was never considered in either House of Congress. The record vote upon the adoption of that report will show that more Democrats voted to reject the report, because of the improper action, as well as the unjustifiable extravagance of that bill, than did Republican Members of this House. I challenge the chairman of the Committee on Appropriations now, and I shall yield to him to answer, to name a single item of large appropriation where the RECORD does not show more Democrats recorded against it than there are Republicans recorded against it. [A pause.]

The gentleman does not care to answer. I make the assertion that in every instance when his committee was overridden, or when appropriations were improperly enlarged, more Republicans voted the reckless appropriation than did the Democrats, and more Republicans in proportion to their numbers in this House than Democrats. With a majority of fifty-seven Members in this House it is a pitiable spectacle for the chairman of the great Committee on Appropriations to have to plead that the majority of fifty-seven was unable to prevent the minority from looting the Treasury. Despite, Mr. Speaker, what I consider an extraordinary attempt of the gentleman from Minnesota to place the sins of his party upon his political opponents, and despite the extraordinary character of his statement at this time we of the minority desire to pay a highly deserved tribute to the industry, the fearlessness, the patriotism and the high purpose which have characterized the labors of the chairman of the Committee on Appropriations [Mr. TAWNEY]. It has been a source of keen gratification to have worked with him, knowing that his only ambition has been honestly to serve the country and to conserve the public interests. He deserved more loyal support from his party associates. Had he received that aid and cooperation from his own party which should have been freely given, all honest men would now have great cause to rejoice.

The Congress is now about to adjourn. This session has been the most profligate in our history. Extravagance has run riot; the Treasury has been depleted; the public money has been shamefully squandered.

On January 13 of this year I stated that "preparations have been made to squander the public treasure with a lavishness heretofore unknown." The record of this session is in complete harmony with that declaration. No other nation in the civilized world could be so reckless with its treasure and escape disaster.

The responsibility rests with the Republican party. It can not evade the issue. Every energy seems to have been concentrated upon the task of emptying the Treasury and of making imperative the issuance of bonds by the next Administration in order to defray the ordinary expenditures of the Government. The dreaded handwriting has apparently been seen upon the wall, and the Republican party is demoralized and shaken; it can not shift responsibility to a helpless minority.

The appropriations for the next fiscal year aggregate the enormous sum of \$1,008,804,894.57.

To those who have given only slight attention to the country's finances the statement will undoubtedly be startling; when contrasted with expenditures for other periods in our history amazement at Republican recklessness quickly gives way to alarm for the country's future. Expenditures have been authorized as if the wave of prosperity were still rolling high instead of having broken, as it has, and tumbling into the trough of a severe industrial depression.

The detailed statement of the appropriations compared with the estimates by the Departments, the amounts authorized at the last session and the action of the House and Senate is shown in table below.

The estimated revenues stated in the following statement are the estimates made by the Treasury Department prior to the panic. We shall demonstrate later that it is in all probability at least \$100,000,000 too large, and that not more than \$785,000,000 is likely to be realized.

Never but once in our history did the expenditures of our Government reach the thousand million dollar mark. For the fiscal year 1865, when the country was in the throes of a bitter,

bloody, and expensive civil war, the expenditures aggregated the enormous total of \$1,394,655,448. Of this sum \$1,030,690,400 were for the maintenance of the Army.

To aid in a proper appreciation of the enormity of the appropriations authorized at this session it may be well to recall that in 1862 the total expenditures were \$477,870,062; in 1863, \$729,898,066; in 1864, \$877,407,355. Despite the terrible drain of the civil war, in no year except 1865 did our expenditures even approximate the authorized appropriations made during this session.

Some other comparisons may help to fix attention upon what has been done at this session to accelerate the flow of the golden stream from the Treasury.

The total expenditures during the Buchanan Administration (four fiscal years, 1858 to 1861) were \$305,149,822.

During the four fiscal years ending in 1865, with the civil war raging, the total expenditures were \$3,394,830,931.

In the four fiscal years ending in 1869 the total expenditures were \$1,621,652,538.

In the four fiscal years ending in 1873 the total expenditures were \$1,217,337,854.

In the four fiscal years ending in 1877 the total expenditures were \$1,191,735,968.

Bear in mind, Mr. Speaker, that these are the expenditures during four-year periods. They are not much more than the sum appropriated at this session of Congress.

In the four fiscal years ending in 1881 the total expenditures were \$1,157,831,864.

In the four fiscal years ending in 1885 the total expenditures were \$1,201,014,662.

In the four fiscal years ending in 1889 the total expenditures were \$1,253,722,713.

In the four fiscal years ending in 1893 the total expenditures were \$1,655,241,809.

In the four fiscal years ending in 1897 the total expenditures were \$1,758,902,462.

History of appropriation bills, first session of the Sixtieth Congress; estimates and appropriations for the fiscal year 1908-9, and appropriations for the fiscal year 1907-8.

[Prepared by the clerks to the Committees on Appropriations of the Senate and House of Representatives.]

Title.	Estimates, 1909.	Reported to the House.	Passed the House.	Reported to the Senate.	Passed the Senate.	Law, 1908-9.	Law, 1907-8.
Agriculture.....	\$10,666,351.00	\$11,431,346.00	\$11,508,806.00	\$11,642,146.00	\$12,152,406.00	\$11,672,106.00	\$9,447,290.00
Army.....	89,755,833.75	85,007,566.66	84,207,566.66	98,820,409.12	98,840,409.12	95,382,247.61	78,634,582.75
Diplomatic and consular.....	3,960,320.91	3,508,963.91	3,508,963.91	3,967,805.91	3,597,230.91	3,577,463.91	3,092,333.72
District of Columbia ^a	13,798,123.35	9,561,449.35	9,560,499.35	11,494,887.35	11,575,513.85	10,117,668.85	10,440,598.63
Fortification.....	38,443,945.36	8,210,611.00	8,210,611.00	11,510,187.01	12,116,157.01	9,317,145.00	6,898,011.00
Indian.....	8,219,272.87	8,020,597.87	8,179,097.87	9,904,920.93	10,532,626.87	9,253,347.87	10,125,076.15
Legislative, etc.....	35,040,066.13	32,336,573.00	32,302,913.00	32,945,631.00	32,965,631.00	32,833,621.00	32,126,333.80
Military Academy.....	977,087.87	825,837.87	825,837.87	914,967.87	914,867.87	845,634.87	1,929,708.42
Navy.....	125,791,349.80	103,997,518.43	105,406,768.43	112,084,739.88	123,115,650.88	122,062,485.47	98,958,507.50
Pension.....	151,043,000.00	150,869,000.00	150,869,000.00	163,053,000.00	163,053,000.00	163,053,000.00	146,143,000.00
Post-office ^b	230,441,016.00	220,765,392.00	222,355,892.00	229,027,367.00	229,706,367.00	222,962,392.00	212,091,193.00
River and harbor.....	(^c)					(^d)	* 37,108,083.00
Sundry civil.....	* 134,618,623.80	105,715,399.48	106,972,864.98	118,032,263.22	118,791,275.72	* 112,937,313.22	* 110,769,211.30
Total.....	842,754,933.84	740,220,225.47	743,907,820.97	804,298,384.79	817,361,374.78	794,614,025.80	757,763,924.27
Urgent deficiency, 1908, and prior years.....		24,074,450.26	23,725,188.25	24,083,267.12	24,083,500.48	* 24,050,125.48	
Additional urgent deficiency, 1908, and prior years.....	* 57,000,000.00	2,625,500.00	2,110,500.00	2,163,000.00	2,163,000.00	2,163,000.00	12,408,998.81
Deficiency, 1908, and prior years.....		17,342,572.89	17,344,322.89	18,374,811.43	18,385,316.88	* 30,782,848.17	
Total.....		783,662,748.62	787,087,832.11	848,919,463.34	861,903,192.09	851,610,599.45	770,172,923.18
Miscellaneous.....	* 25,500,000.00					* 3,000,000.00	738,900.62
Total, regular annual appropriations.....	925,254,933.84					852,610,599.45	770,911,823.80
Permanent annual appropriations.....	* 154,194,295.12					* 154,194,295.12	149,886,320.00
Grand total, regular and permanent annual appropriations.....	1,079,449,288.96					1,008,804,894.57	* 920,798,143.80

Amount of estimated revenues for fiscal year 1909.....

Amount of estimated postal revenues for fiscal year 1909.....

Total of estimated revenues for fiscal year 1909.....

* One-half of the amounts for the District of Columbia payable by the United States, except amounts for the water department (estimated for 1909 at \$130,860), which are payable from the revenues of the water department.

^b Includes all expenses of the postal service payable from postal revenues and out of the Treasury.

^c No amount is estimated for rivers and harbors for 1909 except the sum of \$27,142,744 to meet contracts authorized by law for river and harbor improvements included in the sundry civil estimates for 1909.

^d No river and harbor act passed for 1909.

^e In addition to this amount the sum of \$6,392,730 is appropriated by the sundry civil act to carry out contracts authorized by law for river and harbor improvements for 1908.

^f This amount includes \$27,142,744 to carry out contracts authorized by law for river and harbor improvements and \$33,183,143.60 for construction of the Isthmian Canal for 1909.

^g This amount includes \$17,906,645 to carry out contracts authorized by law for river and harbor improvements and \$29,187,000 for construction of the Isthmian Canal for 1909.

^h This amount includes \$6,392,730 to carry out contracts authorized by law for river and harbor improvements and \$27,161,367.50 for construction of the Isthmian Canal for 1908.

ⁱ This amount is approximated. Under deficiency estimates there is included \$12,466,750 for public buildings under the new public-buildings act.

^j This amount includes \$12,178,900 for construction of the Isthmian Canal.

^k This amount includes \$10,000,000 for payment of pensions and \$12,466,750 for construction of public buildings under the new public-buildings act.

^l This is the amount submitted by the Secretary of the Treasury in the annual estimates for the fiscal year 1909, the exact amount appropriated not being ascertainable until two years after the close of the fiscal year. This amount includes estimated amount of \$38,000,000 to meet sinking-fund obligations for 1909 and \$25,000,000 estimated redemption of national-bank notes in 1909 out of deposits by banks for that purpose.

^m In addition to this amount, contracts are authorized to be entered into, subject to future appropriations by Congress, as follows: By the naval act, \$15,750,000; by the river and harbor act, \$49,829,349; by the sundry civil act, \$2,355,000; in all, \$67,934,349.

In the four fiscal years ending in 1901 the total expenditures were \$2,444,141,683.

During these four years the war with Spain was conducted and large expenditures necessarily made by reason thereof.

The expenditures during the four fiscal years ending in 1869, immediately after the civil war, were \$1,773,178,393, less than during 1862 to 1865, a reduction of about 50 per cent.

The second four-year period after the civil war, ending in 1873, saw a reduction from the expenditures of the preceding four years of \$404,000,000, or about 25 per cent of the reduced expenditures during the four years ending in 1869.

In the four fiscal years ending in 1905 the total expenditures were \$2,679,452,799. These were the first four years of President Roosevelt's Administration. The expenditures during these four years were \$235,000,000 in excess of the expenditures during the preceding four years, when the cost of the war with Spain had to be met. After the civil war the cost of conducting the Government for the four years that followed was 50 per cent less than during the four years of the war.

After the war with Spain, under the Presidency of Theodore Roosevelt, the cost of maintaining the Government for the four following years was 10 per cent greater than during same period when the war was waged.

Evidently, Mr. Speaker, some things are expensive and come high.

Remarkable as these figures are, yet the imagination is paralyzed and patriotic sensibilities are deadened when the cost in money of a Roosevelt Administration is expressed in cold figures. During the civil-war years, 1862-1865, the total expenditures were \$3,394,830,931.

Undoubtedly it is difficult to comprehend the magnitude of these figures. The amount involved is always better appreciated by keeping in mind the stupendous character of the military operations of the times, which necessarily required unprecedented expenditures.

In these days of peace, if not of alarming prosperity, can it be other than a shock to learn that the expenditures for the two past years and the appropriations for the current fiscal year and for the one next ensuing—the four years of Theodore Roosevelt in his own right, as some are wont to say—will aggregate a sum in excess of the amount expended during civil-war years 1862-1865.

During those years the expenditures were \$3,394,830,931.

Under President Roosevelt the expenditures have been in 1906 (fiscal year), \$736,717,582; 1907 (fiscal year), \$762,488,752; appropriations for 1908 (fiscal year), \$920,798,143; appropriations for 1909, \$1,008,804,894; grand total, \$3,428,809,371; \$33,978,440 more than was expended during the four years of the civil war.

It may be said that the appropriations and expenditures are compiled upon a different basis, and comparison can not fairly be made from such figures. It can justly be said, however, that the expenditures have been used as the basis so far as it has been possible to ascertain them, and that for the current year and for the next ensuing fiscal year there can be used no figures except those which represent amounts appropriated.

The comparisons made here are not unfair. Efforts will undoubtedly be made hereafter by the Administration to create a belief that some erroneous basis of comparison has been used. It will only be for the purpose of diverting attention from the real situation and to allay the alarm that will be aroused by this startling revelation.

The country is at peace. No dangers threaten us from aggressive foreign foes; there is no menace to our peace and security from revolution or domestic disturbance. These stupendous expenditures, which stagger credulity, are unjustifiable and indefensible. They result in the piling high of burdens which will oppress the people for many years. If any compensating benefit at all commensurate with the expenditures could be shown, we should gladly applaud rather than condemn.

A painstaking study and analysis of the appropriations and a conscientious consideration of all the facts have brought us to the reluctant conclusion that for vainglorious display, to magnify unduly the military branch of the Government, for the encroachment upon rights reserved to the several States by the people, for the surreptitious extension of the powers of the Federal Government to fields never contemplated by the founders, and which, if persistently invaded, will prove destructive of our entire governmental structure, money has been lavishly, unnecessarily, injudiciously, and coercively appropriated with slight resulting compensation to the people.

The four fiscal years ending 1897 were the last during which the Democratic party controlled the Government. The following statement gives the appropriations for the Army and Navy and for fortifications and the per capita appropriations for the four-year period:

Appropriations for the Army, second Cleveland Administration.

FISCAL YEARS 1894-1897.	
1894.....	\$24,225,639.78
1895.....	23,592,884.63
1896.....	23,252,608.09
1897.....	23,278,402.73
Total.....	94,349,535.28

Estimated average population for the four years.....	69,603,000
Appropriations per capita for the four-year period.....	\$1.35

Appropriations for the Navy, second Cleveland Administration.

FISCAL YEARS 1894-1897.	
1894.....	\$22,104,061.38
1895.....	25,327,126.72
1896.....	29,416,245.31
1897.....	30,562,660.95
Total.....	107,410,094.36

Estimated average population for the four years.....	69,603,000
Appropriation per capita for the four-year period.....	\$1.54

Appropriations for fortifications—Second Cleveland Administration.

FISCAL YEARS 1894-1897.	
1894.....	\$2,210,055.00
1895.....	2,427,004.00
1896.....	1,904,557.50
1897.....	7,377,888.00
Total.....	13,919,504.50

Estimated average population for the four years.....	69,603,000
Appropriations per capita for the four-year period.....	\$0.20

Appropriations for the Army, Navy, and fortifications—Second Cleveland Administration.

FISCAL YEARS 1894-1897.	
Army.....	\$94,349,535.28
Navy.....	107,410,094.36
Fortifications.....	13,919,504.50
Total.....	215,679,134.14

Estimated average population for the four years.....	69,603,000
Appropriations per capita for the four-year period.....	\$3.09

The total appropriations and the per capita appropriations for the same services for the fiscal years 1906-1909, the second four years of President Roosevelt's Administration, are also given herewith.

Second Roosevelt Administration—Fiscal years 1906-1909.

APPROPRIATIONS FOR THE ARMY.

1906.....	\$70,396,631.64
1907.....	71,817,165.08
1908.....	78,634,582.75
1909.....	95,382,247.61
Total.....	316,230,627.08

Estimated average population for the four years.....	86,271,579
Appropriations per capita for the four-year period.....	\$3.66

APPROPRIATIONS FOR THE NAVY.

1906.....	\$100,336,679.94
1907.....	102,091,670.27
1908.....	98,958,507.50
1909.....	122,662,485.47
Total.....	424,049,343.18

Estimated average population for the four years.....	86,271,579
Appropriations per capita for the four-year period.....	\$4.91

APPROPRIATIONS FOR FORTIFICATIONS.

1906.....	\$6,747,893.00
1907.....	5,053,993.00
1908.....	6,898,011.00
1909.....	9,317,145.00
Total.....	28,017,042.00

Estimated average population for the four years.....	86,271,579
Appropriations per capita for the four-year period.....	\$0.32

Second Roosevelt Administration, fiscal years 1906-1909.

APPROPRIATIONS FOR THE ARMY, NAVY, AND FORTIFICATIONS.

Army.....	\$316,230,627.08
Navy.....	424,049,343.18
Fortifications.....	28,017,042.00
Total.....	768,297,012.26

Estimated average population for the four years.....	86,271,579
Appropriations per capita for the four-year period.....	\$8.90

Under Cleveland the per capita appropriations for the Army for four years were \$1.35; for the Navy, \$1.54; for fortifications, 20 cents; the average per capita for the four years for such service, \$3.90.

Under Roosevelt, in his second Administration, the per capita appropriations for the Army for the four-year period are \$3.66, more than two and one-half times the amount under Cleveland; for the Navy, \$4.91, more than three times the amount under Cleveland; for fortifications, 32 cents, more than 50 per cent increase over Cleveland, and the average per capita cost for the three services under Roosevelt is \$8.90, two and one-fourth times as great as under Cleveland.

The appropriations for the Army for the next fiscal year are \$16,747,664.86 more than for the present fiscal year. It has already been pointed out by the gentleman from Virginia [Mr. HAY] that \$3,000,000 additional will be required next year to meet the demands of the service, so that in reality the Army, without the addition of a single man, will cost at least \$19,747,664.86 more next year than during this year.

The appropriations for the Navy for next year are \$23,703,977.97 more than for the present year. So that in a time of profound peace our military establishments will cost, including the \$2,419,134 additional for fortifications, \$45,870,776.83 more next year than for the current year. This increase in one year is practically the total amount appropriated in 1894 to maintain the Army and Navy, to wit, \$46,329,701.16.

In other words the entire expenditure for the Army and Navy only fourteen years ago is equaled now by the increase in a single year.

In 1907 the expenditures for the British army were \$121,232,201.15, and an army at least two and one-half times as large as our Army was maintained.

In 1907 the expenditures for the French army were \$138,707,340.23; for the German army, \$176,842,187.20.

For the British navy the expenditures were \$149,364,556.75; for the French navy, \$62,732,182.88; for the German navy, \$63,165,747.40.

These nations have repeatedly been pictured to the people of this country as staggering under the burdens of militarism. It has been our boast that this free land has not been so afflicted, yet our expenditures for the two military services for the next year will be practically the same as those made by the great military nations of Europe.

The gross receipts of the United States for 1907 were \$846,725,329.62; of Great Britain, \$704,737,686.26; of Germany, \$617,941,200.80; of France, \$715,883,610.08.

Evidently the receipts of these four governments are very much alike, and the expenditures for maintenance of military establishments not widely different.

In a report prepared by the Census Bureau for the Committee on Appropriations this statement is made:

In the fiscal year ending June 30, 1907, the per capita expenditures of the United States National Government were 6.65 times as great as was the average of such expenditures during the six years of Washington's administration for which complete reports are available. National expenditures have increased in one hundred and eleven years that much faster than the population. This increase is attracting the attention of statesmen, newspaper writers, and students of public affairs.

It may be that the increasing expenditures of the Federal Government are attracting the attention of the persons mentioned in this excerpt. Evidently, however, it has completely escaped the attention of every responsible official of the administration of Theodore Roosevelt. [Applause on the Democratic side.] Surely these significant facts have not permeated the recesses of the White House nor found even a temporary lodgment in the active brain of the President. No other conclusion can satisfactorily be reached; for upon no other theory is it conceivable that the Administration would have submitted estimates, as has been repeatedly pointed out during the session, at least \$128,000,000 in excess of the revenues estimated for the coming fiscal year. Since these estimates were submitted to Congress the country has been afflicted with a panic. The business and industrial depression is growing rather than lessening. Yet in the plethora of messages to the Congress from the Chief Executive there has not been a single warning to safeguard the interests of the people by resolutely repelling all attempts to raid the Treasury. Indeed, when the history of this session is impartially and truthfully written, as it will be some day, the wielder of the "big stick" will be pictured in heroic size at the head of those who, openly encouraged or secretly abetted by him, have successfully rifled the people's strong box. [Applause on the Democratic side.]

How are these extraordinary authorizations to be met? If the Treasury were overflowing and money unnecessarily taken

from the people through various forms of taxation were being withheld from the channels of trade, it might be sufficient excuse for some to make lavish appropriations. Or if the party in power adopted the policy of the tyrants of old and expended enormous sums upon public works to keep the unemployed from awakening to the truth of the country's position, such reasons might be urged in defense of these appropriations.

But of the total of \$1,008,804,894.57 appropriated at this session not a single dollar is to be spent on new projects for the improvement of water routes and harbors and but \$30,000,000 is for newly authorized public buildings.

From the daily statement of the Treasury Department for May 23, 1908, it appears that the excess of expenditures over receipts for the fiscal year to and including that day was \$61,421,301.82.

For the same period last year the receipts exceeded the expenditures \$61,197,210.71; on that day last year a surplus of \$61,197,210.71; on the same day this year a deficit of \$61,421,301.82.

The change is due to the falling off in receipts as well as to increased expenditures.

On May 23, 1908, the receipts for the year, exclusive of postal receipts, were \$537,422,410.67; for the corresponding period in 1907, \$588,788,118.73, a falling off from last year in receipts of \$51,365,708.06.

Up to May 23, this year, the expenditures for the year, excluding postal deficit, were \$598,843,712.49; up to May 23, 1907, \$527,580,908.02, an increase of expenditures this year thus far of \$71,262,804.47.

The total receipts for the fiscal year 1907 were \$846,725,329.62.

The estimate of receipts for the present fiscal year after the panic had started was \$844,025,581.10.

On May 23, the receipts this year were \$51,365,708.06 less than last year. I pointed out on January 13 of this year that the deficit at that time was \$11,295,846.93. Since then, in four months, the deficit has increased \$40,069,861.13, an average increase of \$10,000,000 a month.

At the end of the present fiscal year the falling off in revenues from last year will be at least \$61,000,000, so that our receipts for this year, instead of being \$844,000,000, as estimated by the Secretary of the Treasury, will be about \$785,000,000.

The appropriations for the same period this fiscal year are \$920,798,143. So that the deficit for the present fiscal year will be at least \$135,000,000. If the amount appropriated for sinking fund requirements, \$57,000,000, be deducted on the theory that nothing will be used under present conditions for the reduction of the public debt, it will still leave a deficit at the end of the fiscal year of \$78,000,000.

With such a deficiency for the present fiscal year, what is the outlook for the next fiscal year?

Appropriations, \$1,008,804,894.57; receipts estimated before the panic, \$878,123,011.30.

For the present fiscal year the receipts will fall \$61,000,000 below the estimate. The industrial situation is not improving; the approach of a national election will not be a stimulant to business; the promise of revision of the tariff by its friends will tend further to accentuate a constantly growing industrial depression.

I might say as an aside that the character of the revision to be had from the friends of the present tariff was indicated when the Speaker appointed the gentleman from Indiana [Mr. CRUMPACKER] a member of the Committee on Ways and Means, and it was then disclosed that in his district the United States steel trust had just finished building the largest steel plant in the entire world. [Applause on the Democratic side.]

The condition of business is reflected in the values of our imports and exports.

In April, 1906, our imports free of duty were \$46,813,205; in 1907, \$58,245,910; in 1908, \$36,624,158. Our dutiable imports were, in April, 1906, \$60,504,876; in 1907, \$71,308,165; in 1908, \$50,857,100.

The total imports dutiable and free of duty were: April, 1906, \$107,318,081; 1907, \$129,554,075; 1908, \$87,481,258.

The value of the imports for ten months ending in April of the years 1906, 1907, and 1908 is as follows:

Imports.	Ten months ending April—			Decrease, ten months, 1907 and 1908.
	1906.	1907.	1908.	
Free of duty.....	\$458,292,484	\$541,318,486	\$446,506,767	\$84,811,719
Dutiable.....	562,580,694	654,080,618	571,838,973	82,241,645
Total.....	1,020,873,178	1,195,399,104	1,018,345,740	177,053,364

A decrease in this year of imports valued at \$177,053,364.

From 1904 to 1907, and further back, if I remember accurately, to 1893, our exports have invariably been greater in value in March than in February. This year there was a perceptible falling off in the month of March, while the falling off in April exports is much more marked this year than in former years, as appears from the following figures:

Exports of merchandise.

	1903.	1904.	1905.	1906.	1907.	1908.
	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.
January.....	133,992,269	142,045,170	123,597,339	170,603,053	189,296,944	208,114,718
February.....	125,586,024	118,800,282	106,870,782	141,766,558	159,517,221	167,757,032
March.....	132,093,964	119,888,449	136,978,429	145,510,707	161,685,228	141,558,149
April.....	109,827,215	109,889,405	128,575,374	144,380,040	157,431,781	133,470,333

Under these circumstances it seems apparent that the country will be fortunate indeed should its receipts in the next fiscal year aggregate \$785,000,000, the probable receipts for the present year.

An impartial review of all these facts establish firmly the conviction that the repeated warnings of the gentleman from Minnesota [Mr. TAWNEY], that there will be a deficit of \$150,000,000 in the coming fiscal year, is conservative rather than extravagant.

There may be some others, like the gentleman from Illinois [Mr. BOUTELL], complacently resting in the assurance that the Treasury is in possession of more than \$1,000,000,000 in gold. If so, they live in a fool's paradise.

We listened with much interest to the happy speech of the gentleman from Illinois [Mr. BOUTELL] a few months since when he congratulated the country upon the accumulation in the Treasury of \$1,000,000,000 in gold. It reminded us of the individual who had purchased \$100,000 of real estate and given a mortgage of \$95,000 as part of the purchase price and then boasted that his real estate holdings amounted to \$100,000. [Applause on the Democratic side.]

On May 23, 1908, there was in the Treasury \$1,030,000,000 in gold. Of this \$150,000,000 was in the Division of Redemption as a reserve fund, pledged to guarantee the maintenance at parity of all the demand obligations of the United States. The necessity to disburse a single dollar of this \$150,000,000 would unsettle business and disturb financial affairs throughout the civilized world. Eight hundred and thirty-seven million two hundred and twenty-nine thousand eight hundred and sixty-nine dollars of this gold was held against outstanding gold certificates. Actually in circulation in a form more convenient than the metal itself, this gold could not be touched except to take up the outstanding certificates when presented.

Of the \$1,030,000,000 in gold coin and bullion in the Treasury, just \$43,989,034 was in the general fund and available for the necessities of the Government. It is part of the cash available on May 23, 1908, amounting to \$239,651,025.37. Twelve million dollars of this sum will be required to meet the demands in excess of the receipts for the balance of this fiscal year, so that for the \$223,804,894.57 appropriated for the next fiscal year in excess of the probable revenues, there will be \$227,000,000 in the Treasury. Apparently a surplus, but not so actually, for at least \$3,000,000 additional will be required for the War Department. There has never failed to be unforeseen emergencies requiring moneys additional to the regular appropriations. Moreover, in appropriating for the continuance of river and harbor improvements and of work on public buildings now in progress, and for many other required services, those amounts only were appropriated that would be required to carry the various works and services to the 4th of March, 1909. For the money required during the other four months of the next fiscal year Congress will appropriate at the next session after the coming election. [Applause on the Democratic side.] The apparent margin of \$4,000,000 will quickly be wiped out, and there will be insufficient funds to meet the requirements of the public service.

The gentleman from Minnesota [Mr. TAWNEY] does not prophesy idly when he warns his associates, as he has on several occasions during the past few months, that within the next fiscal year it will be necessary to issue either certificates of indebtedness or bonds to obtain the money to pay the current expenses of the Government.

It would appear as if the Republicans were preparing to repeat their conduct in the closing months of the Harrison Administration [applause on the Democratic side] of preparing the plates, as was done by Secretary Foster, for the printing of bonds for use by a Democratic Administration because of Republican folly. [Applause on the Democratic side.]

Mr. Speaker, in striking contrast with the management of the nation's finances by the Republican party is the situation in Great Britain to-day. On the 7th of this month the budget was presented to the House of Commons by the premier, Mr. Asquith, acting for the chancellor of the exchequer. A perusal of his speech would be of incalculable benefit to every Member of this House. Whatever opinions may be entertained of the British system of government, the conduct of its finances can not do other than elicit admiration.

Mr. Asquith pointed out that in presenting the budget a year previously he had estimated the revenues for the fiscal year ending March 31, 1908, at about \$765,000,000 and provided for the expenditure of \$762,510,000. The revenue had actually been \$782,690,000, \$17,000,000 in excess of his estimate, and the actual expenditures \$759,060,000, about \$3,000,000 less than provided. As a result at the end of the year there was a surplus of receipts over expenditures of \$20,000,000 and the public debt had been reduced \$85,000,000. Highly impressive when contrasted with the labors of the Republican party, which produces a deficit this year of \$78,000,000, and then in the face of falling revenues is asked by the executive officials to appropriate at least \$128,000,000 more than the estimated revenues and actually appropriates \$223,000,000 more than the reasonably anticipated revenues for which the gentleman from Minnesota [Mr. TAWNEY] puts the blame on a Democratic filibuster at this time! [Applause and laughter on the Democratic side.]

The estimated revenues of the British Government for the next fiscal year, as pointed out by Mr. Asquith, are \$788,850,000; the expenditures provided aggregate \$764,345,000, a surplus of about \$25,000,000. With this surplus revenue it is proposed to remove certain annoying stamp taxes, to initiate a system of old-age pensions, to reduce the tax on sugar 1 farthing a pound, with a consequent loss of revenue of \$17,000,000, so as to afford some relief to the masses from the burdens of taxation, and still have a surplus of receipts over expenditures available for unforeseen contingencies.

With estimated revenues practically identical with our probable revenues—Great Britain, \$788,850,000; United States, \$785,000,000—Great Britain will support an army three and one-half times as large as our Army, and a navy, estimating by the number of men, about three times as large as our Navy; will initiate a system of old-age pensions, will apply about \$75,000,000 to the reduction of its debt, will reduce substantially the tax upon sugar, a universally used foodstuff, and still have a surplus of receipts available for contingencies, while the United States proposes to expend \$223,000,000 in excess of its probable revenues, with military establishments only one-third as large as Great Britain, and without relieving the people from a single dollar of taxation.

It is little to be wondered that the British premier exultantly declared that—

When people talk about the demands of democracy, I may be allowed to say that there is not a more creditable chapter in the annals of democratic finances than that which records the fact that during three years, with a passionate desire for diminution of expenditure and for the mitigation of popular burdens, there has been the application of the enormous sum of between thirteen and fifteen millions (sterling) a year out of taxation to redeem the principal of our national debt.

Mr. Speaker, while I have not as much admiration for the British Government as for our own, I can not withhold my admiration for the manner in which their finances are conducted, particularly when contrasted with the Republican party's administration of this Government.

Within the last few days there seems to have been an awakening on the Republican side of the House. Feeble protests have been made against the extent of appropriations and some complaint against the Senate for presuming to add to the appropriation bills as passed by the House.

Mr. Speaker, with the exception of the gentleman from Minnesota [Mr. TAWNEY], there has not been a single Republican in this House with sufficient influence to be considered an important factor in the deliberations of this body who has, prior to this week, raised his voice in protest against the unjustifiable extravagance of the House and of Congress. [Applause on the Democratic side.]

There are so many so-called "leaders" upon the Republican side who might have aided in keeping the appropriations within reasonable limits had they used their influence to do so. Instead, they have either sat silently in their seats or openly aided efforts of others to increase the committee's recommendations. It is too late now to cry "wolf." It is too late to cry "Democratic filibuster" when the Republican leaders deliberately permitted the Committee on Appropriations, with its great chairman, to be overruled—I care not why—and then have him forced to come in and instead of denouncing his own party associates for their lack of loyalty and support hide behind

the Democratic filibuster. [Applause on the Democratic side.] There is a large majority upon that side of the House, and they should have stood solidly behind him. If they had, it would have been impossible to squander the public money, as has been done in this session. It is preposterous to attempt to lay the entire blame upon a Republican Senate. The Republican party is in complete control of the Government. Its leaders in this House have repeatedly announced that the Republican party had ample power to legislate in its own way and its own time; that it was prepared to accept responsibility for what would be done at this session and what would be left undone. Accept the responsibility. Justify the extravagance of this session. Explain the benefits to accrue to the people from your reckless appropriations. Demonstrate the wisdom of appropriating \$223,000,000 more than the probable receipts of the Government; of increasing the appropriations for the military establishments in a time of profound peace and with no annoying complications \$45,870,776.83 over those of the current year; defend the stupendous aggregate of your appropriations—\$1,008,804,894.57—and point out the resulting compensations to the people.

This is a Government by party. The Republican party is responsible for the results of this session. Responsibility can not be shifted from the House to the Senate nor from the Congress to the Executive. The Republican party is in control of all these and is called upon to answer for its actions. The Democracy is willing to submit the issue to the intelligence of the American people and to abide the result of their judgment. [Loud applause on the Democratic side.]

The SPEAKER pro tempore. The question is on agreeing to the conference report.

The question was taken.

Mr. WILLIAMS. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. TAWNEY. I make the point of no quorum.

The SPEAKER pro tempore. The Chair sustains the point. Evidently there is no quorum. The Doorkeeper will close the doors; the Sergeant-at-Arms will notify absentees; the question will be taken on agreeing to the conference report, and the Clerk will call the roll.

The question was taken, and there were—yeas 189, nays 1, answered "present" 17, not voting 180, as follows:

YEAS—189.

Adair	Dawson	Howell, N. J.	Parker, S. Dak.
Adamson	De Armond	Howell, Utah	Payne
Alexander, Mo.	Dixon	Howland	Pearre
Alexander, N. Y.	Driscoll	Hubbard, W. Va.	Pollard
Andrus	Dwight	Hughes, N. J.	Porter
Ansberry	Edwards, Ky.	Hull, Tenn.	Pou
Barchfield	Ellerbe	Humphrey, Wash.	Pray
Barclay	Ellis, Mo.	Humphreys, Miss.	Rainey
Bartholdt	Ellis, Oreg.	Johnson, Ky.	Randell, Tex.
Bartlett, Nev.	Esch	Jones, Wash.	Rauch
Beale, Pa.	Fassett	Kahn	Reeder
Beall, Tex.	Ferris	Keifer	Reynolds
Bede	Finley	Kelher	Roberts
Bell, Ga.	Fitzgerald	Kennedy, Iowa	Rodenberg
Bennett, Ky.	Floyd	Kennedy, Ohio	Rothermel
Bonyne	Focht	Kinkaid	Russell, Mo.
Booher	Fordney	Knapp	Ryan
Boutell	Foster, Ind.	Landis	Scott
Bowers	Fowler	Laning	Sims
Boyd	French	Lindbergh	Smith, Cal.
Broussard	Fulton	Lloyd	Smith, Iowa
Burke	Gardner, N. J.	Loudenslager	Smith, Mich.
Burleigh	Garner	Loving	Smith, Mo.
Burleson	Garrett	Lowden	Snapp
Burnett	Gillespie	McCreary	Sparkman
Burton, Del.	Godwin	McHenry	Spight
Burton, Ohio	Gordon	McKinley, Ill.	Stevens, Tex.
Butler	Goulden	McKinney	Stevens, Minn.
Calderhead	Graff	McLain	Tawney
Caldwell	Graham	McLaughlin, Mich.	Taylor, Ohio
Campbell	Granger	Macon	Thistlewood
Candler	Hackett	Madison	Thomas, N. C.
Capron	Hackney	Mann	Tirrell
Carter	Haggott	Maynard	Tou Velle
Chapman	Hale	Mondell	Volstead
Clark, Fla.	Hamill	Moore, Tenn.	Waldo
Clark, Mo.	Hamlin	Moore, Tex.	Wanger
Clayton	Hammond	Murdock	Weeks
Cocks, N. Y.	Harding	Murphy	Weems
Cole	Hardy	Needham	Wheeler
Cook, Colo.	Haugen	Nicholls	Wilson, Ill.
Cox, Ind.	Hawley	Norris	Wilson, Pa.
Craig	Hayes	Nye	Wood
Crumpacker	Henry, Tex.	O'Connell	Woodyard
Cushman	Hill, Conn.	Olcott	Young
Dalzell	Hitchcock	Olmsted	
Darragh	Holliday	Page	
Davenport	Houston	Parker, N. J.	

NAYS—1.

Williams

ANSWERED "PRESENT"—17.

Bannon	Foster, Ill.	Richardson	Watkins
Bennet, N. Y.	Gilham	Russell, Tex.	Webb
Brundidge	Henry, Conn.	Sabath	
Cary	Hepburn	Sheppard	
Caulfield	Lever	Washburn	

NOT VOTING—180.

Acheson	Favrot	Kipp	Padgett
Aiken	Flood	Kitchin, Claude	Parsons
Allen	Fornes	Kitchin, Wm. W.	Patterson
Ames	Foss	Knopf	Perkins
Anthony	Foster, Vt.	Knowland	Peters
Ashbrook	Foulkrod	Kuftermann	Powers
Bartlett, Ga.	Fuller	Lafean	Pratt
Bates	Gaines, Tenn.	Lamar, Fla.	Prince
Bingham	Gaines, W. Va.	Lamar, Mo.	Pujo
Birdsall	Gardner, Mass.	Lamb	Ransdell, La.
Bradley	Gardner, Mich.	Langley	Reid
Brantley	Gill	Lassiter	Rhinock
Brodhead	Gillett	Law	Riordan
Brownlow	Glass	Lawrence	Robinson
Brumm	Goebel	Leake	Rucker
Burgess	Goldfogle	Lee	Saunders
Byrd	Greene	Legare	Shackleford
Calder	Gregg	Lenahan	Sherley
Carlin	Griggs	Lewis	Sherman
Chaney	Gronna	Lilley	Sherwood
Cockran	Hall	Lindsay	Slayden
Conner	Hamilton, Iowa	Littlefield	Slomp
Cook, Pa.	Hamilton, Mich.	Livingston	Small
Cooper, Pa.	Hardwick	Longworth	Smith, Tex.
Cooper, Tex.	Harrison	Lorimer	Southwick
Cooper, Wis.	Haskins	Loud	Sperry
Coudrey	Hay	McCall	Stafford
Cousins	Healin	McDermott	Stanley
Cravens	Helm	McGavin	Steenerson
Crawford	Higgins	McGuire	Sterling
Currier	Hill, Miss.	McKinlay, Cal.	Sturgiss
Davey, La.	Hinshaw	McLachlan, Cal.	Sulloway
Davidson	Hobson	McMillan	Sulzer
Davis, Minn.	Howard	McMorran	Talbott
Dawes	Hubbard, Iowa	Madden	Taylor, Ala.
Denby	Huff	Malby	Thomas, Ohio
Denver	Hughes, W. Va.	Marshall	Townsend
Dickema	Hull, Iowa	Miller	Underwood
Douglas	Jackson	Moon, Pa.	Vreeland
Draper	James, Addison D.	Moore, Pa.	Wallace
Dunwell	James, Ollie M.	Morse	Watson
Durey	Jenkins	Mouser	Weisse
Edwards, Ga.	Johnson, S. C.	Mudd	Wiley
Englebright	Jones, Va.	Nelson	Willett
Fairchild	Kimball	Overstreet	Wolf

So the conference report was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. CAULFIELD with Mr. PATTERSON.

Until further notice:

Mr. STERLING with Mr. BYRD.

Mr. HEPBURN with Mr. RICHARDSON.

Mr. GILHAMS with Mr. HEFLIN.

The result of the vote was announced as above recorded.

The doors were opened.

ADJOURNMENT SINE DIE.

Mr. PAYNE. Mr. Speaker, I ask unanimous consent for the consideration and adoption of the following resolutions, which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York asks unanimous consent for the consideration and adoption of the resolutions which the Clerk will report.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the calendar day 30th of May, 1908, at 11 o'clock and 50 minutes p. m.

Resolved, That a committee of three Members be appointed by the Chair to join a similar committee appointed by the Senate to wait upon the President of the United States and inform him that the two Houses have completed the business of the present session and are ready to adjourn unless the President has some other communication to make to them.

Mr. WILLIAMS. Mr. Speaker, to save the time of the House, I shall object.

The SPEAKER. The gentleman from Mississippi objects.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules and adopt the resolutions.

The SPEAKER. The gentleman from New York moves to suspend the rules and agree to the resolution. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from Mississippi demands a second. Under the rule, a second is ordered. The gentleman from New York is entitled to twenty minutes and the gentleman from Mississippi to twenty minutes.

Mr. PAYNE. Mr. Speaker, the resolutions are so plain I think the House can understand them without any further explanation. I reserve the balance of my time. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I find the speech just made by the gentleman from New York no more difficult to answer than his usual speeches. I reserve the balance of my time. [Applause on the Democratic side.]

Mr. PAYNE. You mean by that that it is unanswerable?

Mr. CANDLER. Mr. Speaker, would it be in order to sing for the twenty minutes?

The SPEAKER. Better sing afterwards.

The question was taken and the Speaker announced that the "ayes" seemed to have it.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman from Mississippi demands the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 127, nays 76, answered "present" 14, not voting 170, as follows:

YEAS—127.

Adair	Edwards, Ky.	Keller	Pray
Alexander, N. Y.	Ellis, Mo.	Kennedy, Iowa	Pujo
Andrus	Ellis, Oreg.	Kennedy, Ohio	Reynolds
Barchfeld	Esch	Kinkaid	Roberts
Barchley	Fassett	Knapp	Rodenberg
Bartholdt	Focht	Lanling	Rothermel
Beale, Pa.	Fordney	Law	Scott
Bede	Foster, Ind.	Lovering	Slayden
Bonyng	Fowler	Lowden	Smith, Cal.
Boutell	French	McCreary	Smith, Iowa
Boyd	Gardner, N. J.	McKinley, Ill.	Smith, Mich.
Burke	Gilham	McKinney	Snapp
Burleigh	Goulden	McLaughlin, Mich.	Southwick
Burton, Del.	Graft	Madison	Stevens, Minn.
Burton, Ohio	Graham	Mann	Sturgiss
Butler	Haggott	Mondell	Tawney
Calderhead	Hale	Moon, Tenn.	Taylor, Ohio
Campbell	Hamilton, Mich.	Morse	Thistlewood
Capron	Harding	Murdoch	Tirrell
Caulfield	Haugen	Murphy	Volstead
Chapman	Hawley	Needham	Vreeland
Cocks, N. Y.	Hayes	Norris	Waldo
Cole	Hepburn	Nye	Wanger
Cook, Colo.	Hill, Conn.	O'Connell	Washburn
Crumacker	Holliday	Olcott	Weeks
Cushman	Howell, N. J.	Olmsted	Weems
Dalzell	Howell, Utah	Parker, N. J.	Wheeler
Darragh	Hubbard, W. Va.	Parker, S. Dak.	Wilson, Ill.
Davis, Minn.	Hubbrey, Wash.	Pearre	Wood
Dawson	Jones, Wash.	Pollard	Woodyard
Driscoll	Kahn	Porter	Young
Dwight			

NAYS—76.

Adamson	Cox, Ind.	Hamlin	Page
Alexander, Mo.	Craig	Hardy	Pou
Ansberry	Davenport	Hay	Pratt
Bartlett, Nev.	De Armond	Heflin	Randell, Tex.
Beall, Tex.	Ellerbe	Henry, Tex.	Rauch
Bell, Ga.	Ferris	Hitchcock	Richardson
Boeber	Finley	Houston	Rucker
Bowers	Fitzgerald	Hughes, N. J.	Russell, Mo.
Broussard	Floyd	Hull, Tenn.	Ryan
Burgess	Fulton	Humphreys, Miss.	Sabath
Burnett	Garner	Johnson, Ky.	Sims
Caldwell	Garrett	Keliber	Smith, Mo.
Candler	Godwin	Lloyd	Stephens, Tex.
Carlin	Godwin	McHenry	Thomas, N. C.
Carter	Gordon	McLain	Tou Velle
Clark, Fla.	Granger	Macon	Watkins
Clark, Mo.	Hackett	Maynard	Webb
Clayton	Hackney	Moore, Tex.	Williams
Cooper, Tex.	Hamill	Nicholls	Wilson, Pa.

ANSWERED "PRESENT"—14.

Bannon	Flood	Kimball	Russell, Tex.
Bennet, N. Y.	Foster, Ill.	Lever	Sheppard
Cary	Hammond	Loudenslager	
Dixon	Henry, Conn.	Padgett	

NOT VOTING—170.

Acheson	Fairchild	Kitchin, Wm. W.	Parsons
Alken	Favrot	Knopf	Patterson
Allen	Fornes	Knowland	Perkins
Ames	Foss	Kuftermann	Peters
Anthony	Foster, Vt.	Lafan	Powers
Ashbrook	Foulkrod	Lamar, Fla.	Prince
Bartlett, Ga.	Fuller	Lamar, Mo.	Rainey
Bates	Gaines, Tenn.	Lamb	Ransdell, La.
Bennett, Ky.	Gaines, W. Va.	Landis	Reeder
Bingham	Gardner, Mass.	Langley	Rhinoek
Birdsall	Gardner, Mich.	Lassiter	Riordan
Bradley	Gill	Lawrence	Robinson
Brantley	Gillett	Leake	Saunders
Broadhead	Glass	Lee	Shackelford
Brownlow	Goebel	Legare	Sherley
Brumm	Goldfogle	Lenahan	Sherman
Brundidge	Greene	Lewis	Sherwood
Burleson	Gregg	Lilley	Slomp
Byrd	Griggs	Lindbergh	Small
Calder	Gronna	Lindsay	Smith, Tex.
Chaney	Hall	Littlefield	Sparkman
Cockran	Hamilton, Iowa	Livingston	Sperry
Conner	Hardwick	Longworth	Splight
Cook, Pa.	Harrison	Lorimer	Stafford
Cooper, Pa.	Haskins	Loud	Stanley
Cooper, Wis.	Helm	McCall	Steenerson
Coudrey	Higgins	McDermott	Sterling
Cousins	Hill, Miss.	McGavin	Sulloway
Cravens	Hinshaw	McGuire	Sulzer
Crawford	Hobson	McKinlay, Cal.	Talbot
Currier	Howard	McLachlan, Cal.	Taylor, Ala.
Davey, La.	Hubbard, Iowa	McMillan	Thomas, Ohio
Davidson	Huff	McMorrin	Townsend
Dawes	Hughes, W. Va.	Madden	Underwood
Denby	Hull, Iowa	Malby	Wallace
Denver	Jackson	Marshall	Watson
Dickema	James, Addison D.	Miller	Weisse
Douglas	James, Oille M.	Moon, Pa.	Wiley
Draper	Jenkins	Moore, Pa.	Willitt
Dunwell	Johnson, S. C.	Mouser	Wolf
Durey	Jones, Va.	Mudd	
Edwards, Ga.	Kipp	Nelson	
Englebright	Kitchin, Claude	Overstreet	

The Clerk announced the following additional pairs:

Until further notice:

Mr. CARY with Mr. RUSSELL of Texas.

Mr. HALL with Mr. HAMMOND.

The SPEAKER. Upon this vote the yeas are 127, nays 76, answered "present" 14—a quorum. The ayes have it, and the resolution is agreed to.

The Chair announces as a committee to wait upon the President, Representatives PAYNE, HEPBURN, and WILLIAMS.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

EMPLOYERS' LIABILITY BILL.

The SPEAKER. The Chair lays before the House from the Speaker's table the following bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment, with Senate amendments. The Clerk will report the amendments.

The Senate amendments were read.

Mr. ALEXANDER of New York. Mr. Speaker, I ask unanimous consent that the House concur in the Senate amendments to the bill H. R. 21844.

Mr. CLAYTON. I object to that, Mr. Speaker.

The SPEAKER. Objection is heard.

Mr. CLAYTON. Mr. Speaker, I demand a second.

Mr. ALEXANDER of New York. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments.

The SPEAKER. The gentleman from New York [Mr. ALEXANDER] moves to suspend the rules and concur in the Senate amendments.

Mr. CLAYTON. Upon that, Mr. Speaker, I demand a second.

The SPEAKER. Under the rules a second is ordered. The gentleman from New York [Mr. ALEXANDER] is entitled to twenty minutes and the gentleman from Alabama [Mr. CLAYTON] to twenty minutes.

Mr. ALEXANDER of New York. Mr. Speaker, I will take only a moment or two. Aside from a few verbal changes the Senate has made but four or five amendments that need explanation. One of these changes the time when the act shall take effect as to the right to receive compensation from July 1 to August 1, 1908. Another extends the benefits to Government employees engaged in fortification work and in hazardous employment on construction work in the reclamation of arid lands. Another withholds benefits unless the injury continues more than fifteen days. A fifth amendment strikes out section 6, which provides a penalty if anyone seeks to obtain benefits by fraudulent means. It is believed existing law is sufficient. The principle of the bill is in no wise modified.

Mr. TAWNEY. Will the gentleman from New York yield?

Mr. ALEXANDER of New York. Certainly.

Mr. TAWNEY. In case an enlisted man in the Army or the coast artillery, for example, is employed or injured while employed or engaged in any work connected with the construction of a fortification, would he be entitled to the benefits of this bill?

Mr. ALEXANDER of New York. Not under this bill. This compensates only the civil employee—the artisan or laborer. It is so named in the bill.

Mr. Speaker. I reserve the balance of my time.

Mr. TAWNEY. Suppose the enlisted man is detailed as a laborer in connection with fortification work, what then would be the construction placed upon the act?

Mr. ALEXANDER of New York. Such detail would not change the soldier's status. He would not become a civil employee. He would still be a soldier—an enlisted man.

Mr. TAWNEY. He would also be a civil employee, detailed for this particular civil service.

Mr. ALEXANDER of New York. But not for compensation under this bill. It refers to a civil employee—an artisan or laborer.

Mr. TAWNEY. If you propose going into the fortifications, you might as well take the rest of the Army.

Mr. ALEXANDER of New York. The bill applies simply to civil employees engaged in the construction of fortifications. Soldiers do not construct fortifications. Civil employees usually do that, and it is hazardous work; the same as river and harbor work and reclamation work.

Mr. Speaker. I reserve the balance of my time.

Mr. CLAYTON. Mr. Speaker, this bill, as it originally passed the House, came from the Committee on the Judiciary of the House with a unanimous report. I had the honor of serv-

ing with the gentleman from New York [Mr. ALEXANDER] on the subcommittee that reported this bill in its original form to the whole Committee on the Judiciary. This measure, or this kind of legislation, met with the approval not only of those who are in accord with me politically on that committee, but it met with the unanimous approval of those in accord with me on this side of the House.

We thought when we considered this bill in the committee, before we reported it to the House, that we had presented a good bill, but it appears from an examination of the report now made to the House that the Senate has suggested several amendments that do not affect the principle involved or the vitals of the bill, but they do improve some of its details.

Mr. Speaker, I shall mention the more important ones. In section 1 the word "thirty" was in the bill as it passed the House. That in case of incapacity for work lasting more than thirty days the injured party or his legal representative desiring to take the benefit of this act, and so forth, "fifteen" is substituted in lieu of "thirty." I think that is a distinct improvement.

Mr. ALEXANDER of New York. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. ALEXANDER of New York. That amendment was made because most of these employees are now allowed a sick leave of fifteen days. Their sick leave for fifteen days and their compensation for fifteen days would be equivalent to thirty days' compensation.

Mr. CLAYTON. I think that the reason assigned for the amendment is an excellent one, and I think there are other reasons for its adoption just as good.

Then coming, Mr. Speaker, to section 6 it says:

That to seek to obtain by fraudulent means or to accept benefits under this act, to which the person is not entitled, shall be deemed a misdemeanor on his part, and punishable by a fine of not more than \$1,000 or by imprisonment for not more than two years, or both.

That penalizing section is stricken out, and I do not think it ought to have been in the original measure, because this bill is so safeguarded that I can not conceive of any circumstances under which any claimant under the provisions of this bill can successfully put through a fraudulent claim for injuries received while in hazardous employment for the Government, and I believe it is an unnecessary reflection upon the skilled mechanics and the laborers of the Government engaged in hazardous employment. It is useless, and therefore it is well enough to strike it out. [Applause.]

In section 9 is stricken out the words "That this act shall only take effect as to the right to receive compensation for any damages from accidents as to those occurring on or after July 1, 1908." This section 9 is stricken out because it is not in harmony with section 1 of the bill as amended, in which we provide "That on or after August 1, 1908, any person employed by the United States as an artisan or laborer," and so forth, so that this latter section—section 9—is unnecessary and would be in conflict with section 1.

Now, Mr. Speaker, just a word in behalf of this sort of legislation. It is in accordance with the enlightened sentiment of the day; it is in accordance with humanity; it is in accordance with a just recognition of the perilous services of many of the artisans of the Government who are engaged in hazardous employments necessary for the carrying on successfully of the business of the Federal Government.

It is putting the Government employee simply upon the footing of the employee of the railroads or the employee of any corporation of the land. It is giving to him an equal footing with them, and this great Government can well afford to do this measure of justice to its employees engaged in these hazardous occupations. I trust, Mr. Speaker, and confidently believe, that this meritorious measure will pass this House in the closing hours of this session by unanimous consent. [Loud general applause.]

I am pleased to state that the first employees' compensation measure ever proposed here was introduced into this House by a Democrat from Illinois [Mr. SABATH] on February 3, and amended and reintroduced on February 10 as the bill H. R. 16739. It provides for compensation to all employees over which Congress has jurisdiction and to employees engaged in interstate and foreign commerce; but I have not time to go into the details of that bill. I may say, however, that the principle underlying the pending measure was first embodied in that bill.

I yield the balance of my time to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I believe in the main in the amendments which the Senate has made to the bill. The bill is distinctly improved by striking out section 6, against which I protested when it was being considered in the House, and

substituting fifteen days for thirty days in section 4 of the original bill. [Applause.] I would a little bit rather that the Senate amendment had not been made as to the time in which the bill should go into effect. As originally passed July 1 was the time, and now the time for it to go into effect is August 1, but the bill is rather improved in the Senate than hurt—an unusual thing.

Now, Mr. Speaker, this is one of the recommendations of the President of the United States adopted by this side of the House as part of an attempted Democratic programme. [Applause on the Democratic side.] There was no roll call upon the bill when it was originally passed, for that reason; and now that it comes back to us bettered there will, of course, be no roll call demanded by me nor by anybody on this side. [Applause.]

The question being taken, the rules were suspended and the Senate amendments were concurred in.

OMNIBUS TERRITORY BILL.

The SPEAKER. The Chair desires to say to the House that the so-called "omnibus Territory bill," reported from the House Committee on Territories, has passed the Senate with sundry amendments. As the Chair recollects, the bill is one of much importance, and the Chair is informed that a little later the bill will come from the Senate. If it is acted upon, a quorum will probably be required.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed without amendment the following resolution:

House concurrent resolution 45.

Resolved by the House of Representatives (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the calendar day 30th of May, 1908, at 11 o'clock and 50 minutes past meridian.

Resolved, That a committee of three Members be appointed by the Chair to join a similar committee to be appointed by the Senate to wait upon the President of the United States and inform him that the two Houses have completed the business of the present session and are ready to adjourn unless the President has some other communication to make to them.

The message also announced that the Senate had also passed the following resolution:

Resolved, That a committee of two Senators be appointed by the Vice-President to join a similar committee appointed by the House of Representatives to wait upon the President of the United States and inform him that the two Houses, having completed the business of the present session, are ready to adjourn unless the President has some other communication to make to them, and had appointed as said committee Mr. HALE and Mr. TELLER.

The message also announced that the Senate had passed, with amendment, bill of the following title, in which concurrence of the House of Representatives was requested:

H. R. 21957. An act relating to affairs in the Territories.

THE SPEAKER.

Mr. DWIGHT and Mr. COLE, bearing aloft a broom surmounted by a large portrait of the Speaker, marched down the aisle, followed by a large number of Members bearing American flags. Having arrived at the area in front of the desk, they sang the following:

Here's to dear old Uncle Joe,
One we love where'er we go;
He's the chief and gallant leader of us all.
North and South and East and West,
In the States we all love best,
We will sing and cheer for one the people know.

[Cheers.]

The SPEAKER. Gentlemen of the House, though it is somewhat out of order, yet by unanimous consent, the House having nothing else to do at this moment while awaiting messages from the Senate, I have not felt called upon to raise the question of order.

Gentlemen, only a word at this time, and that is to thank you for your expressions of good will, which are more prized by an old man of many years' service in this House than precious ointment. I would rather have the good will of the membership of the National House of Representatives, and to deserve it—notwithstanding the mistakes that I have made, and I have made my due share in the daily transaction of business—than to receive any tribute of praise from any other body on earth. [Applause.]

In the closing hours of a session, while the two Houses are interchanging final messages, there is in the House much of latitude, notwithstanding the rules.

Mr. BEDE. And also longitude. [Laughter.]

The SPEAKER. And longitude as well. And yet it is well enough for us to remember that the disorder should be of an orderly kind; and, with the greatest good feeling, the Chair would be glad if from now until the hour of final adjournment we would be as quiet as the disorder will let us be. [Laughter and applause.]

REPORT OF THE COMMITTEE TO WAIT ON THE PRESIDENT.

Messrs. PAYNE, HEPBURN, and WILLIAMS, the committee appointed to join a similar committee on the part of the Senate, to notify the President that the two Houses were ready to adjourn, appeared at the bar of the House.

Mr. PAYNE. Mr. Speaker, the committee appointed by the House to join a like committee on the part of the Senate and wait upon the President of the United States to inform him that the two Houses had completed their business and were ready to adjourn, report that they have performed that duty, and that the President says he has no further communication to make.

The SPEAKER. The gentleman from Rhode Island [Mr. CAPRON] will please take the chair.

Mr. CAPRON took the chair as Speaker pro tempore.

TRANSFERRING BOOKS FROM TREASURY DEPARTMENT TO LIFE-SAVING STATIONS.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3495), to authorize the transfer of books from the Treasury Department library to life-saving stations of the United States, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to transfer, from time to time, from the Treasury Department library to the life-saving stations of the United States, such books as in his judgment may be no longer needed for use in said library.

The SPEAKER pro tempore (Mr. CAPRON). Is a second demanded?

Mr. HEFLIN. Mr. Speaker, I demand a second.

Mr. WILLIAMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. The gentleman from Alabama demands a second. Under the rules, a second is ordered.

Mr. HEFLIN. Mr. Speaker, I will yield the demand to the gentleman from Mississippi [Mr. WILLIAMS], who also demanded a second.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Mississippi in opposition to the resolution. The gentleman from New York is entitled to twenty minutes and the gentleman from Mississippi to twenty minutes.

Mr. PAYNE. Mr. Speaker, this is a bill passed by the Senate. An identical House bill, as I am informed, has been recommended by the House and is now upon the Calendar. It is a bill which the Secretary of the Treasury is much interested in having passed for the good of the Life-Saving Service. It simply allows him to transfer from time to time such books from the Department's library as in his judgment are of use to the Life-Saving Service and of no further use in the Department. That is all there is in the bill, and if it is passed promptly it can become a law and give the men in the Life-Saving Service an opportunity to see books which they have not now at their disposal.

Mr. WILLIAMS. Do I understand the motion of the gentleman is to suspend the rules and pass the Senate bill?

Mr. PAYNE. Yes.

Mr. WILLIAMS. It becomes a law immediately upon its passage here.

Mr. PAYNE. Yes; when it is signed by the President.

Mr. WILLIAMS. Mr. Speaker, in that event, having ascertained what the nature of the bill is, in order to save the time of the House and get it to the President as soon as possible, I now demand the yeas and nays on the motion of the gentleman.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill, and on that the gentleman from Mississippi demands the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 186, answered "present" 12, not voting 189, as follows:

YEAS—186.

Adair	Burton, Del.	Dalzell	Fulton
Adamson	Burton, Ohio	Darragh	Gaines, W. Va.
Aiken	Butler	Davenport	Gardner, N. J.
Alexander, Mo.	Calderhead	Davis, Minn.	Garner
Alexander, N. Y.	Caldwell	Dawson	Garrett
Ansberry	Campbell	De Armond	Gilhams
Barchfeld	Candler	Dixon	Gillespie
Barclay	Capron	Douglas	Glass
Bartholdt	Carlin	Driscoll	Godwin
Beale, Pa.	Carter	Dwight	Gordon
Beall, Tex.	Caulfield	Ellerbe	Goulden
Bede	Chapman	Ellis, Mo.	Graft
Bell, Ga.	Clark, Fla.	Ellis, Oreg.	Granger
Bonyne	Clark, Mo.	Esch	Gregg
Booher	Clayton	Fassett	Hackney
Boutell	Cocks, N. Y.	Finley	Haggott
Brodhead	Cole	Fitzgerald	Hale
Broussard	Cook, Colo.	Floyd	Hamill
Burgess	Cooper, Tex.	Focht	Hamilton, Mich.
Burke	Cox, Ind.	Fordney	Hamlin
Burleigh	Craig	Foster, Ind.	Hammond
Burleson	Crumpacker	Fowler	Harding
Burnett	Cushman	French	Hawley

Hay	Law	Olmsted	Southwick
Hayes	Lindbergh	Page	Sparkman
Healin	Lloyd	Parker, N. J.	Stephens, Tex.
Henry, Tex.	Lovering	Patterson	Stevens, Minn.
Hepburn	Lowden	Payne	Tawney
Hill, Conn.	McCreary	Pollard	Taylor, Ohio
Holliday	McHenry	Pray	Thistlewood
Houston	McKinley, Ill.	Pujo	Thomas, N. C.
Howell, N. J.	McKinney	Randell, Tex.	Tirrell
Howell, Utah	McLaughlin, Mich.	Rauch	Tou Velle
Howland	McMillan	Reeder	Volstead
Hubbard, W. Va.	Macon	Reynolds	Vreeland
Hughes, N. J.	Madison	Richardson	Waldo
Humphrey, Wash.	Mann	Roberts	Wanger
Humphreys, Miss.	Maynard	Rodenberg	Washburn
Jones, Wash.	Mondell	Rothermel	Watkins
Kahn	Moon, Tenn.	Russell, Mo.	Wheeler
Keifer	Murdock	Ryan	Williams
Keliber	Murphy	Sabath	Wilson, Ill.
Kennedy, Iowa	Needham	Scott	Wilson, Pa.
Kennedy, Ohio	Nicholls	Sims	Wood
Kinkaid	Nye	Smith, Cal.	Young
Langley	O'Connell	Smith, Iowa	
Lanling	Olcott	Smith, Mich.	

ANSWERED "PRESENT"—12.

Bannon
Bennet, N. Y.
Cary

Flood
Foster, Ill.
Henry, Conn.

Kimball
Lever
Loudenslager

Padgett
Russell, Tex.
Sheppard

NOT VOTING—189.

Acheson
Allen
Ames
Andrus
Anthony
Ashbrook
Bartlett, Ga.
Bartlett, Nev.
Bates
Bennett, Ky.
Bingham
Birdsall
Bowers
Boyd
Bradley
Brantley
Brownlow
Brumm
Brundidge
Byrd
Calder
Chaney
Cockran
Conner
Cook, Pa.
Cooper, Pa.
Cooper, Wis.
Coudrey
Cousins
Cravens
Crawford
Currier
Davey, La.
Davidson
Dawes
Denby
Denver
Diekema
Draper
Dunwell
Durey
Edwards, Ga.
Edwards, Ky.
Eglebright
Fairchild
Favrot
Ferris
Fornes

Foss
Foster, Vt.
Foulkrod
Fuller
Gaines, Tenn.
Gardner, Mass.
Gardner, Mich.
Gill
Gillett
Goebel
Goldfogle
Graham
Greene
Griggs
Gronna
Hackett
Hall
Hamilton, Iowa
Hardwick
Hardy
Harrison
Haskins
Haugen
Helm
Higgins
Hill, Miss.
Hinshaw
Hitchcock
Hobson
Howard
Hubbard, Iowa
Huff
Hughes, W. Va.
Hull, Iowa
Hull, Tenn.
Jackson
James, Addison D.
James, Oille M.
Jenkins
Johnson, Ky.
Johnson, S. C.
Jones, Va.
Kipp
Kitchin, Claude
Kitchin, Wm. W.
Knapp
Knopf
Knowland

Klistermann
Lafean
Lamar, Fla.
Lamar, Mo.
Lamb
Landis
Lassiter
Lawrence
Leake
Lee
Legare
Lenahan
Lewis
Lilley
Lindsay
Littlefield
Livingston
Longworth
Lorimer
Loud
McCall
McDermott
McGavin
McGuire
McKinlay, Cal.
McLachlan, Cal.
McLain
McMorran
Madden
Malby
Marshall
Miller
Moon, Pa.
Moore, Pa.
Moore, Tex.
Morse
Mouser
Mudd
Nelson
Norris
Overstreet
Parker, S. Dak.
Parsons
Pearre
Perkins
Peters
Porter
Pou

Powers
Pratt
Prince
Rainey
Ransdell, La.
Reid
Rhinoek
Riordan
Robinson
Rucker
Saunders
Shackleford
Sherley
Sherman
Sherwood
Slayden
Slomp
Small
Smith, Mo.
Smith, Tex.
Snapp
Sperry
Spight
Stafford
Stanley
Steenerson
Sterling
Sturgiss
Sulloway
Sulzer
Talbot
Taylor, Ala.
Thomas, Ohio
Townsend
Underwood
Wallace
Watson
Webb
Weeks
Weems
Weisse
Wiley
Willett
Wolf
Woodyard

So the motion was agreed to.

The Clerk announced the following additional pair:

For the balance of session:

Mr. KNAPP with Mr. SPIGHT.

The result of the vote was announced as above recorded.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 21946. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes.

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 5581. An act pensioning the surviving officers and enlisted men of the Texas volunteers employed in the defense of the frontier of that State against Mexican marauders and Indian depredations from 1855 to 1860, inclusive.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5818. An act ratifying an act of the Arizona legislature

providing for the erection of a court-house at St. Johns, in Apache County, Ariz.—to the Committee on the Territories.

S. 5820. An act ratifying an act of the legislative assembly of the Territory of Arizona providing for the erection of a court-house and jail at Yuma, in Yuma County, Territory of Arizona—to the Committee on the Territories.

S. 5816. An act ratifying chapters 57 and 61 of the session laws of the twenty-third Arizona legislative assembly, providing for the issuance of bonds by Mohave County to erect court-house and jail in said county—to the Committee on the Territories.

S. 6000. An act authorizing the St. Louis, Brownsville and Mexico Railway Company to construct bridges across the Rio Grande at some point at or near the town of Brownsville, in Cameron County, Tex.—to the Committee on Foreign Affairs.

S. 6540. An act to authorize the Copper River Railway Company to construct two bridges across the Copper River, in the District of Alaska—to the Committee on Interstate and Foreign Commerce.

S. 2934. An act permitting homestead entries upon certain lands in Whatcom County, Wash., being a portion of the Point Roberts Reserve—to the Committee on the Public Lands.

S. 6437. An act authorizing the construction of a bridge across the Okanogan River, Washington—to the Committee on Interstate and Foreign Commerce.

S. 6539. An act to authorize the Copper River and Northwestern Railway Company to construct a bridge across Bering Lake, in the district of Alaska—to the Committee on Interstate and Foreign Commerce.

S. 6930. An act to pay certain Cherokee citizens moneys to which they have been found entitled by the Supreme Court—to the Committee on Indian Affairs.

S. 7184. An act for the relief of citizens of the United States and the Philippine Islands—to the Committee on War Claims.

S. R. 93. Joint resolution to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of May, 1908, on the day of adjournment of the present session of Congress—to the Committee on Appropriations.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they presented to the President of the United States for his approval the following bills:

H. R. 21897. An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes;

H. R. 21946. An act making appropriations to supply the deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes;

H. R. 21871. An act to amend the national banking laws;

H. R. 22212. An act granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Alleman;

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice; and

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, the following concurrent resolution was taken from the Speaker's table and referred to its appropriate committee as indicated below:

Senate concurrent resolution 42.

Resolved by the Senate (the House of Representatives concurring). That for the purpose of ascertaining the practicability and cost of improving navigation on Coosa and Alabama rivers by means of storage reservoirs at, near, or above the sites selected for Locks and Dams Nos. 12, 14, and 15, by cooperation with the Alabama Power Company, or any other corporation duly organized under the laws of the State of Alabama, in the development of water power for industrial purposes, the Secretary of War is hereby authorized to cause a survey to be made of that portion of Coosa River above and below the sites selected for Locks and Dams Nos. 12, 14, and 15, and to submit to Congress as early as practicable a report giving the results of said survey, including plans and estimates of the whole cost of the work and the proportion thereof which should be borne by the United States; and that the cost of said survey shall be paid from funds heretofore appropriated for examinations, surveys, and contingencies of rivers and harbors.

—to the Committee on Rivers and Harbors.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3495. An act to authorize the transfer of books from the

Treasury Department library to life-saving stations of the United States.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. LATTA, one of his secretaries, announced that the President had approved and signed bills and joint resolutions of the following titles:

On May 26, 1908:

H. R. 20063. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1909, and for other purposes.

On May 27, 1908:

H. R. 15641. An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes;

H. R. 21260. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes;

H. R. 18618. An act fixing the status of the Porto Rico Provisional Regiment of Infantry;

H. R. 19355. An act making appropriations for fortifications and other works of defense, for the armanent thereof, for the procurement of heavy ordnance for trial and service, and for other purposes;

H. R. 1991. An act granting pension and increase of pension to certain soldiers and sailors of the war with Spain and other wars, and to the widows of such soldiers and sailors;

H. R. 20120. An act to authorize the construction of a railroad siding to the United States navy-yard, and for other purposes;

H. R. 17506. An act to amend an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890, as amended by the act entitled "An act to provide revenues for the Government and to encourage the industries of the United States," approved July 24, 1897; and

H. R. 18347. An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1909, and for other purposes.

On May 28, 1908:

H. J. Res. 186. Joint resolution relating to the assignment of space in the House Office Building;

H. R. 16268. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1909, and for other purposes;

H. R. 21815. An act to amend the laws relating to navigation, and for other purposes;

H. R. 22009. An act authorizing the Secretary of War to remove certain obstructions to navigation from the main ship channel, Key West Harbor, Florida, and for other purposes;

H. R. 21875. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1909, and for other purposes; and

H. R. 21410. An act granting condemned ordnance to certain institutions.

On May 29, 1908:

H. R. 21735. An act to authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes.

On May 30, 1908:

H. R. 16757. An act for the incorporation of the Brotherhood of St. Andrew;

H. R. 19795. An act to promote the safety of employees on railroads;

H. R. 22029. An act to incorporate the Congressional Club;

H. R. 11778. An act to amend an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves;"

H. R. 17228. An act to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation;

H. R. 19462. An act to amend section 5438 of the Revised Statutes;

H. R. 22212. An act granting an increase of pension to Byron C. Mitchell, Calvin P. Lynn, and Harry S. Lee, formerly Albert Lee Alleman;

H. R. 21871. An act to amend the national banking laws;

H. R. 21897. An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes;

H. R. 21946. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes;

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; and

H. J. Res. 197. Joint resolution authorizing the employment of clerical services in the Department of Justice.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. ROSE, one of its secretaries, announced that the Vice-President had appointed, in compliance with the provisions of section 17 of an act entitled "An act to amend the national banking laws," approved May 30, 1908, Mr. ALDRICH, Mr. ALLISON, Mr. BURROWS, Mr. HALE, Mr. KNOX, Mr. DANIEL, Mr. TELLER, Mr. MONEY, and Mr. BAILEY members of the National Monetary Commission on the part of the Senate.

NATIONAL MONETARY COMMISSION.

The SPEAKER. The Chair announces, in compliance with the provisions of section 17 of an act entitled "An act to amend the national banking laws," approved May 30, 1908, the appointment of the following Members on the part of the House.

The Clerk read as follows:

Mr. VREELAND of New York, Mr. OVERSTREET of Indiana, Mr. BURTON of Ohio, Mr. WEEKS of Massachusetts, Mr. BONYNGE of Colorado, Mr. SMITH of California, Mr. PADGETT of Tennessee, Mr. BURGESS of Texas, and Mr. PUJO of Louisiana.

The SPEAKER. Gentlemen of the House of Representatives, the time is here for adjournment. I want to thank the membership of the House for its uniform courtesy to its presiding officer. We all take pride in the National House of Representatives. I have served in many Congresses. The personnel of the Sixtieth Congress is quite equal to that of any in which I have had the honor to serve. We have differences in our views as to policies, and ought to have. The function of the minority is only second in importance to that of the majority. Looking at the majority side of the House I congratulate it upon its fidelity to public duty and the principles of the party which it represents for the common good.

Looking at the minority side of the House, I congratulate it for devotion to its policies. During the session at times there has been much of conflict, but with virile men, American citizens, there will always be much of conflict between earnest men of different parties, but out of that conflict comes the safety to the Republic.

I wish you a safe journey home and that you may return, one and all, in full health and vitality at the meeting of the second session of the Sixtieth Congress.

In pursuance of the concurrent resolution of the House and the Senate, it only remains for me to declare the first session of the Sixtieth Congress adjourned without day. [Loud and continued applause.]

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Doorkeeper of the House, transmitting an inventory of typewriters belonging to the United States and under his charge in the new Office Building—to the Committee on Accounts and ordered to be printed.

A letter from W. S. Rossiter, transmitting a report to the President upon conditions in the Government Printing Office—ordered to be printed as a House document.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

By Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the resolution of the House (H. Res. 410) requesting the Secretary of War to furnish certain information in regard to semibituminous coal contracts for the Panama Railroad, reported the same without amendment, accompanied by a report (No. 1790), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII,

By Mr. McHENRY: A bill (H. R. 22267) to prevent the sale of fraudulent mining stock; to provide additional revenue; to meet the United States Treasury deficit; to equalize the distribution of the burden of taxation; to provide additional moneys to meet the demands of public improvements within the United States—to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BRODHEAD: A bill (H. R. 22268) granting an increase of pension to Levi Frauenfelder—to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 22269) granting an increase of pension to Peter Goodling—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 22270) for the relief of D. F. Duckwall—to the Committee on War Claims.

By Mr. WATKINS: A bill (H. R. 22271) to correct the military record of Edward H. Cochran—to the Committee on Military Affairs.

Also, a bill (H. R. 22272) to correct the military record of John Dean—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARCHFELD: Petition of the Allegheny Council, No. 285, for H. R. 7559, making the 12th of October a national holiday—to the Committee on the Judiciary.

By Mr. BENNET of New York: Petition of Alfred B. Robinson and others, favoring concurrent resolution No. 28, relative to Russian atrocities—to the Committee on Foreign Affairs.

By Mr. BURTON of Ohio: Petition of International Brotherhood of Locomotive Engineers, Devereux Division, No. 167, favoring the Rodenberg anti-injunction bill (H. R. 17137) and the Hemenway-Graff safety ash-pan bill (H. R. 19795)—to the Committee on the Judiciary.

By Mr. CAPRON: Paper to accompany bill for relief of Nathan R. Kelton—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: Petition of organized labor unions of New Jersey, for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. GARRETT: Paper to accompany bill for relief of C. F. Sugg—to the Committee on Claims.

By Mr. KINKAID: Petition of members of various labor unions of Alliance, Nebr., for amending Sherman antitrust law by passage of Wilson bill (H. R. 20584) and for passage of Pearre bill (H. R. 94) relating to injunctions, employers' liability bill, and eight-hour Government employee bill—to the Committee on the Judiciary.

By Mr. KNOWLAND: Petition of citizens of Oakland and Fruitvale, Cal., for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), and the employers' liability bill—to the Committee on the Judiciary.

By Mr. LANDIS: Petition of Department of Indiana Grand Army of the Republic encampment at Kokomo, May 20, 1908, commending action of Congress for legislation increasing widows' pensions—to the Committee on Invalid Pensions.

By Mr. LOUD: Petition of Journeymen Barbers' Union, Bay City, Mich.; C. W. Daniels and others, of Essexville, Mich., and William J. Bell and others, of Bay City, Mich., for the enactment of the bills H. R. 94 and H. R. 20584, a general employers' liability law, and bill limiting a day's labor to eight hours upon work done by the Government—to the Committee on the Judiciary.

By Mr. NICHOLLS: Petition of citizens of Scranton, Pa., for amendment to Sherman antitrust law, Wilson bill (H. R. 20584), the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. ROBERTS: Petition of citizens of Lynn, Mass., for amendment to Sherman antitrust law (H. R. 20584), and for Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

Also, petition of citizens of Chelsea, Malden, and Nahant, Mass., favoring concurrent resolution No. 28, relative to Russian atrocities—to the Committee on Foreign Affairs.

By Mr. RYAN: Petition of Louis Yensen and others, of Buffalo, N. Y., for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. SHERMAN: Petition of various councils of Knights of Columbus, favoring H. R. 7559, making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. WATKINS: Paper to accompany bill for relief of Edward H. Cochran—to the Committee on Military Affairs.

APPENDIX.

ALLEN

APPENDIX

TO THE

CONGRESSIONAL RECORD.

The Tariff in Its Relation to the Farmer and the Home Builder.

SPEECH

OF

HON. ROBERT M. WALLACE,
OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES.

Thursday, December 19, 1907.

Mr. WALLACE said:

Winston Churchill, in his Crisis, puts it into the mouth of a character to say:

Wealth not yet dreamed of will flow out of this land and rot all save the pure, and corrupt all save the incorruptible. Half-hearted men will go down before that flood.

Is this fiction or fact? I need not go back to the ancients for an answer. Recently the glitter of South African diamond fields excited England's cupidity, and as an evil magnet drew down her armies on a child republic and removed it from the family of nations. Indeed, I need not look to other lands, either ancient or modern, for warning. I have but to point to the operation of laws over one class alone in my own country to apprehend that not only "half-hearted" men, but men of brawn and brain, strong-willed, whole-hearted men, may "go down in that flood"—that flood of tariff inequality which now bears down upon the farmers, the honest yeomanry of this country.

When thinkers throw out the life line is it not wise for us to grasp it and avoid the breakers ahead? Particularly so when the nation is cruising the high seas as a world power. I envy no man his wealth. I conceive it to be no crime to own property. I have little patience with the spirit that stirs hatred between the rich and the poor. I have less patience, however, for the instrumentalities of a law that foster and enrich one class to the prejudice and impoverishment of another. "Let the brother of low degree rejoice in that he is exalted; but the rich, that he is made low; because as the flower of the grass he shall pass away."

The farmers of this country are its flesh and blood—the bone and sinew of its government. They ask the least of it, contribute the most to it, and are the least protected by it. Mr. Seward said these words of the agricultural class of our country:

Farmers planted these colonies—all of them—and organized their governments. They were farmers who defied the British at Bunker Hill and drove them back from Lexington. They were farmers who reorganized the several States and the Federal Government and established all on the principles of equality and affiliation. Our nation is rolling forward to a high career, exposed to shocks and dangers.

It needs the bravest wisdom and virtue to guide it safely; it needs the steady and enlightened direction which of all others the farmers of the United States can best exercise, because, being freeholders and invested with equal rights of suffrage, they are at once the most liberal and conservative element of the country.

Years afterwards Mr. Seward stated in the Senate that the North, grown rich and powerful, was about to take possession of the Government. Senator Hammond, of South Carolina, replied:

Do not forget—it can never be forgotten; it is written on the highest page of human history—that we, the farmers of the South, took our country in her infancy, and, after ruling her sixty out of seventy years of her existence, we shall surrender her to you without a stain upon her honor, boundless in her prosperity, incalculable in her strength, the wonder and the admiration of the world! Time will show what you will make of her, but no time, sir, will ever diminish our glory or your responsibility.

And it is true. The glory of the rule of equality of our farmer fathers is the one bright page that redeems and illu-

mines our whole history. The responsibility of Mr. Seward and his party has not diminished.

But to the testimony and the law, the results, the facts, without undue coloring or effort to choke the heroics out of them with the dust of statistics.

OUR FOREIGN TRADE DEPENDENT UPON SHIPMENTS OF UNPROTECTED GOODS.

We have just experienced a panic and from it we may learn valuable lessons about the tariff.

We are forced to see, as we would not have seen but for the flurry, that the prosperity of the country depends at last not upon the tariff-protected manufacturers and the trusts, but solely and alone on the shipment of agricultural products from the unprotected class. Currency, under Republican mismanagement, contracted to the verge of bankruptcy. The Government rushed to the aid of the powerful banks, but entirely overlooked the weaker ones in the farming districts. Banks issued cashiers' checks and refused to pay depositors their money except by stated amounts each day or week; they then took the depositors to task for drawing out their own money—money for which they received no interest—and created drastic rules to prohibit a man from getting his own; they criticized and condemned the farmer for holding back his crops for higher prices and threatened not to lend money on stored cotton.

The banks were virtually bankrupt. They had all the money of the country in their coffers and refused to pay it out; they forced currency to a premium in order that they might further profit thereby; the parity we have read so much about was destroyed; gold was at a premium, but gold must be had. At this crucial moment two things were discovered:

First. The protected manufacturers and the trusts could not produce gold.

Second. Unprotected cotton and breadstuffs alone could save the national honor.

The farmer, already overtaxed by the tariff and the trusts, must be further punished by refused loans unless he patriotically sacrificed his pocketbook to the further relief of the banks. He must ship his goods at once—at low price or at any price—to bring gold to the country and to further contribute to the great prosperity of the country, which takes special care of the manufacturers and the trusts.

The Saturday Evening Post of November 9, 1907, contains these words:

WHAT WE TRADE ON.

It seems to be a kind of treason this fall for planters to withhold their cotton from market in the hope of forcing higher prices. Not only is money tight, but at this writing foreign exchange is rising, involving a threat of gold export. We must depend principally upon cotton, which Europe will buy in great quantities and which runs into money very fast, to overcome this menace and turn the tide our way. That, in view of such a public need, planters should hold cotton for merely personal gain is truly reprehensible. We read that the banks generally will keep them in the path of duty by refusing to extend loans on stored cotton.

A similar situation arises every fall. Cotton makes nearly one-quarter of our total exports. Much more than anything else, it is what keeps our trade with the world going. We must each year hurry out the great staple to meet our balances in Europe. The function of the cotton industry in financing our foreign trade is so important, indeed, that one might almost expect to see a bill in Congress—introduced by a gentleman from Pennsylvania and backed by the stand-pat league—prohibiting planters to withhold a single bale that was ready for export.

We have marvelous resources in ore and fuel for the steel industry, but we can not trade with the world very much on them. Artificial prices, made by the tariff, prevent that. Exports of iron and steel in all forms amount to only one-sixth the exports of stuff produced on the farm. It is the unprotected producer upon whom we must depend to settle for the articles we buy abroad. Unprotected cotton and foodstuffs, comprising about 60 per cent of our total exports, enable us to do business with the world.

Remarkable words for this Philadelphia journalist, located in the region of protected smokestacks and stand-pat territory. According to the Monthly Summary of Commerce and Finance

of the Department of Commerce and Labor we find the following most interesting figures, showing the exports from the farm for the year ending June 30, 1907:

The total exports of all goods amounted to \$1,880,851,078. Cotton alone amounted to \$481,277,797.

Instead of being nearly one-quarter, as stated by the editor of the Saturday Evening Post, it was something more than a quarter.

We exported grains, absolutely unmanufactured, to the extent of \$111,275,396 and live animals to the extent of \$41,203,080. The following table, which we have collated from the preceding report, will show that between 50 per cent and 60 per cent of all the exported goods come from the farm:

Exports for the year ending June 30, 1907.

BREADSTUFFS.	
Wheat	\$60,214,388
Corn	44,261,816
Oats	1,670,881
Rye	562,016
Barley	4,566,295
Total grain	111,275,396
ANIMALS.	
Cattle	\$34,577,392
Hogs	309,440
Horses	4,359,957
Sheep	750,292
Mules	850,941
Poultry and other	355,148
Total animals	41,203,080
Broom corn	268,812
Cotton	481,277,797
Eggs	1,542,789
Feathers	316,306
Fruits and nuts	17,588,432
Hides and skins	1,700,032
Hay	976,287
Honey	93,690
Hops	3,531,972
Butter	2,429,489
Milk	2,191,111
Leaf tobacco	33,377,398
Vegetables	4,007,833
Total	701,780,424
This grand total is for articles purely agricultural, and into which no tariff enters. To it we may add the following list, into which unprotected agriculture enters as the chief element:	
Corn meal	\$2,313,410
Oatmeal	1,122,162
Wheat flour	62,175,397
Bran	2,115,848
Fresh beef	26,367,287
Salted beef	3,848,158
Tallow	7,182,688
Bacon	26,470,972
Hams	23,698,207
Salted pork	15,167,058
Lard	57,497,980
Lard compounds	6,166,910
Cheese	9,012,626
Cotton seed	17,062,594
Flaxseed	8,675,877
Clover seed	420,104
Timothy	813,224
All other seeds	661,405
Logs	3,645,180
Grand total	968,771,521

NEW YORK SMART SET.

In this connection it may occur to thinking men the country over that in a certain money center on the country's border we have an exceptionally smart set, and a set, too, exceptionally set on its smartness. A type menacing to good times, good morals, and good government, and who deserve more to be bound with fetters of brass and "grind in the prison house" than Samson ever did for stampeding into the standing corn of the Philistines 300 foxes with their tails on fire! It seems recently, too, to have played the Administration as the Don Quixote of chivalry in modern finance.

It is hard indeed, sir, to observe that the time is here when private vice can have her way, and public virtue no tongue to rebuke her pride and no power to crush her infamy! But we will that it shall not be so. My countrymen, smite the rock of the public conscience and the streams of reform shall come forth; down with the putrid forms and forces of corruption and civic virtue shall spring to its feet!

Josh Billings said: "Thar is two things in this world for which we are never fully prepared, and that is twins." Looking into the Republican party's hypocrisy at every available angle I feel there is one thing at least with which it has never been fully provided, and that is an elastic currency in times of panic under a gold standard and a high tariff! I wish at this juncture to turn to a recent discovery made by a Wisconsin man in his travels through the South. He was some-

what late in his discovery, as many can attest, but here is the find that he made:

DISCOVERS THE FARMER'S UNION.

"While traveling in Texas, I was struck by the organization in that country called the 'Farmer's Union,' which is, in my opinion, a very desirable thing. The object of the union is to control the price of the product instead of allowing the commission men and trust to do it. To educate the farmers in the science of agriculture is another of the aims of the union, and to promote cooperation among the tillers of the soil. The union as now organized will not attempt to dabble in politics, and that is, in my mind, one of its greatest advantages. It will of course ask for the passage of certain laws which are beneficial to farmers and will use its influence to that end. No stores, banks, or factories will be started, but the union will endeavor to do away with middlemen as much as possible and bring about a fair price for commodities," said John Rodger Bratton, of Milwaukee.

FRUITS OF THE WORK OF THE ORGANIZATION.

Its work is manifest in the activity against futures and undesirable immigration, the establishment of warehouses for the storage and holding of cotton, advanced prices of products, better relations between spinners and growers, buyers and sellers, greater diversification of crops, better cultural methods, an impetus to improved methods of classification, handling, and baling, more stable markets, elimination of speculators and middlemen, and firmly established confidence and cooperation between local bankers and merchants on the one hand and farmers and workmen on the other. A clever start indeed for the good first fruits of the organization!

But the gamblers' earthquake struck New York, and the blow stunned the body of finance in every quarter. But remember the boys in the trenches are still at their posts. The future will develop, if the present has not already revealed, that behind its sturdy yeomanry rests the invincible power of this Government. It is futile for reckless financiers to look to the Congress for relief from all their inexcusable blunders or criminal speculations. It can go carefully so far and no farther. It is high time for men who call themselves business men to do business aright, and do it so that it will stand against the temptation for quick fortunes, and at the same time hearken unto Democratic prophecy—of the approaching hour for the bubble of Republican fictitious prosperity to "burst."

But in doing this it would be well for them at the very beginning to take into their confidence that modest though courageous type of yeomanry known as the "American farmer." For have ye not heard this scripture? "The stone which the builders rejected is become the head of the corner."

PHASE OF THE BUSINESS MAN.

We hear much of the "business man," and the term may be elastic enough to cover anything from bill collectors to captains of industry. But the man who takes unto himself a loving helpmate for life, and year by year witnesses the increase of his home rival the nest of the woods, and rising with the early dawn wends his way to shop and mill, or follows the plow through the long, hot hours of the day, and lies down to pleasant dreams at night, is stumbling on a business career. Roused at midnight by baby's demands, and with arms full of animated kicks and squalls, he paces the floor and blesses the hour he was born—that man, my friends, is strictly in business! And thus as he toils by day, and nurses his wrath and responsibilities by night, problems of grave import confront him. It is not what bounty the Government is going to provide; nor what he will win on futures or the races; nor how his little herd will grow into cattle upon a thousand hills; nor how his humble farm will spread into broad acres, or blocks of brick and mortar along the boulevards of some bustling city. His problem is, how to protect the sacred charges God has given him; how to shield the bodies of his dozen children from winter's blast, or summer's heat; how bread shall come in the sweat of his brow; how the seasons shall hit and the harvest spring forth, or insect or drought or flood mock and blight his toil. In short, his problem is, how shall he provide for his family and serve his country and his God? The walk of that man ought to be the walk of the just. The reward of that man ought to be the reward of the blest. He is one of my ideals of a business man, and may God prosper his business and his tribe never grow less. In the pure and simple words of Bobby Burns, let his epitaph be:

An honest man here lies at rest
As e'er God with His image blest;
The friend of man, the friend of truth,
The friend of age, and guide of youth;
Few hearts like his with virtue warmed,
Few hearts with knowledge so informed;
If there's another world, he lives in bliss;
If there is none, he made the best of this.

But we are not like the character of Dickens that yearned to give everything to everybody, but hope to bring everybody

together for the common good. We wish to stifle the spirit, if it ever obtained, which Shylock bore to the pound of flesh and welcome that other spirit which warned him that if one drop of blood were spilled in its cutting, Shylock himself shall be the only victim of the law. Yea, and that even higher and nobler sentiment:

Owe no one anything but to love one another; for he that loveth another hath fulfilled the law.

THE TARIFF AND THE FARMER.

The Republican party rewards the farmers with bouquets and false pretense, reserving its higher favors for the protected classes, for the manufacturers and trusts. The Republican party, rejecting the idea of a tariff for revenue only, openly boasts of its allegiance to a protective tariff, "and not only this, but a high protective tariff, and not only so, but the Dingley tariff, the highest protective tariff known to the world." This tariff exacts from all consumers of foreign goods an advance of something more than 50 per cent of their ad valorem value, thus excluding for the most part foreign-made goods and giving to our home manufacturers the entire home market at prices fully 50 per cent higher than should obtain. In this way the earnings of the farmers, laborers, and clerks, which should go to their own enrichment, are transferred by law from their pockets to the pockets of the protected manufacturers and their creature, the exorbitant trust. I can now take but casual notice of this bastard child of a crafty harlot. Economists have worked out carefully the average farmer's tariff taxes, based on his yearly consumption, showing the part which goes to the United States and the part which goes to the trusts. I have adopted one of these tables and print it in my remarks as a basis for the conclusions which I shall draw.

The average farmer's tariff taxes.

Article.	Quantity.	Cost.	Tariff tax paid.		
			To United States.	To trusts.	Total.
Sugar.....	300 pounds.....	\$18.00	\$6.50	\$1.50	\$8.00
Woolen goods.....	20.00	1.50	5.00	6.50	
Cotton goods.....	12.00	.50	2.75	3.25	
Silk goods.....	4.00	.50	1.00	1.50	
Linen goods.....	2.00	.20	.25	.45	
Leather goods.....	12.00	.40	1.60	2.00	
Hardware.....	3.00	.05	.95	1.00	
China ware.....	2.00	.10	.60	.70	
Furniture.....	10.00	.20	1.50	1.70	
Farm implements.....	30.00	.25	5.00	5.25	
Window glass.....	1 box.....	1.20	.10	.40	.50
Other glass.....	1.50	.15	.45	.60	
Lead in paints, etc.....	30 pounds.....	2.00	.15	.35	.50
Chemicals.....	2.50	.30	.90	1.20	
Tin plate.....	50 pounds.....	2.40	.05	.85	.90
Wire and other nails.....	100 pounds.....	3.00	.75	.75	
Barb and other wire.....	80 pounds.....	3.00	1.00	1.00	
Liquors, spirits, etc.....	25.00	.50	2.50	3.00	
Tobacco.....	10.00	.60	1.90	2.50	
Miscellaneous.....	74.75	5.95	7.85	13.80	
Total.....		238.35	18.00	37.10	55.10

These figures are obtained by dividing the total consumption of the United States for each article by the number of persons constituting the population. Thus the average consumption of sugar in this country is about 360 pounds per family of five persons, with a retail value of \$20. The retail value of woolen goods is about \$25 per family; silk goods, \$12; cotton goods, \$30; furniture, \$15; liquors, \$40; tobacco, \$30. It will therefore be seen how much less than its fair share has been allowed this average farmer family. It has been allowed about one-half as much for clothing and one-third or one-fourth as much for tobacco and liquors as the average for all families in the United States. As this farmer and his family are industrious and hard-working people, the law ought to be such as will provide them with the necessities, and even luxuries, of life, as well as other people.

When the righteous are in authority the people rejoice; but when the wicked rule the people mourn.

This conservative estimate, however, shows that the average farmer expends for these articles annually not less than \$238.35. That \$15 per family for tariff taxes paid to the Government is reasonable is shown by the following calculation: The entire tariff taxes collected by the Government for the year ending June 30, 1906, were \$300,657,413 and the estimated population 85,568,000. The per capita is therefore \$3.50, and for a family of five would be \$17.50. To this \$17.50 several profits were, of course, added before they reached the farmers.

The estimate, \$18, is therefore less than was actually paid and very reasonable as a basis for calculation. That \$37.10 per family for tariff trusts is not a wild estimate is apparent from the fact that 453 industrial trusts, with \$9,000,000,000 of capital,

are doing business in the United States, and that the net profits of one of these—the United States Steel Corporation—have been annually from \$135,000,000 to \$150,000,000, of which the tariff profits are at least \$75,000,000. This one trust therefore collects about \$5 per family, and it is safe to say that the other 452 will easily collect the remaining \$32.10. According to the census of the United States for 1900 there were 10,438,219 persons engaged in agricultural pursuits, of which 7,600,000 represented farmers who were heads of families. At \$37 per family, the ordinary farmer's tariff taxes, the enormous sum of \$281,000,000 per annum represents the money taken from the pockets of the farming class and transferred inequitably to the pockets of the trusts and protected manufacturers. Every time a farmer buys \$238 worth of goods under the present system he pays \$18 to the Government and \$37 to the trusts. This \$37 per annum in all fairness should remain in the pockets of the farmer. But this is not all that the farmer loses. Some one once said, "The manufacturers and trusts get the protection and the profits of the tariff—the farmer gets the husk and the humbug." The freight on farm products is great enough to cover the extra tariff on steel rails, locomotives, bridges, etc.; much of this extra freight comes out of the farmer.

In addition to this the tariff duties which keep out canning factories cost the farmers fully \$20 per family per year for wasted products. Directly through the tariff, and indirectly through freights and wasted products, the farmer loses through the tariff an average of \$60 per year per family. If this were saved to the farmers and put at interest it would in twenty years double the average farm wealth. That is to say, that if the farmers had kept the \$37 in their own pockets instead of handing it over to the trusts, the entire farming class would represent a wealth of \$10,000,000,000 to \$12,000,000,000 more than they are now able to show. And this miserable showing of aggregate wealth on the part of the rural population after fifty years' trial of the tariff is one of the best allegations in the indictment against it. The following table shows how the tariff has enriched one class and impoverished another, as shown by the census figures of 1900:

City and rural wealth of the nation.

Years.	City.	Rural.	Total.
1850.....	\$3,169,000,000	\$3,967,000,000	\$7,136,000,000
1860.....	8,180,000,000	7,980,000,000	16,160,000,000
1870.....	15,155,000,000	8,900,000,000	24,055,000,000
1880.....	31,538,000,000	12,104,000,000	43,642,000,000
1890.....	49,055,000,000	15,980,000,000	65,037,000,000
1900.....	78,786,000,000	20,514,000,000	99,300,000,000

This is a marvelous table. In 1850 the farmers owned more than one-half the country. From 1850 to 1860, during the low-tariff period, they doubled their wealth and kept pace with the city population, which is not identical with, but a fair representative of, the manufacturing population. In every decade from 1860 to 1880 the manufacturing population under high tariff doubled its wealth, while it took three decades, from 1860 to 1890, for the farmers to double their wealth again. These figures show that the profits of the manufacturing and trust classes are too high in comparison with the profits of the farming class, and that protection for the manufacturing class is no longer needed. Manufacturers are no longer "babes in arms," but full-fledged producers, able to hold their own against all the world. It is the little \$37 per annum taken from the pockets of each farmer annually and unlawfully transferred to the pockets of the manufacturers and trusts that enables the manufacturing class to double its wealth every ten years, while the farming class must wait for thirty years. The mere statement of this proposition is a strong reason for the revision of the tariff. And yet we are told from time to time between Presidential elections that the people must continue to bear the injustice and outrage until the barons elect another high-tariff President. Was horrid Republican sin ever more damned in evils to top political effrontery!

The farmers are our greatest wealth producers, as well as our greatest exporters. Having borne the burdens of extra taxation for fifty years in order that they might practically enable the manufacturing class to pass the period of tender years and become strong, they should now be given a "square deal."

But we will not forget that such phrases and words as "square deal," "paramount," "strenuous," and the like are not the coinage of current political literature and leaders. For example, "paramount" is found in some of the earlier platforms, notably the American of 1856; and "strenuous" in the Whig platform of 1844, which carried Clay for President and Theodore Freylinghuysen for Vice-President, referring to the latter as "strenuous on the part of law, order, and the Constitution." Such limitations seem now to be the paradise of

"mollycoddles" and mark no fixed boundaries to be observed by our own Theodore.

WHO ARE THE FARMERS?

The Statistical Abstract of the United States for 1905 showed the following exports:

Of agriculture	\$820,863,000
Of domestic manufactures	543,607,000
Of mining	50,968,000
Of the forest	62,122,000
Of the fisheries	7,241,000
Miscellaneous	6,941,000

That is to say, 55 per cent of all the exports of the country are agricultural. They are not protected in any way. The balance of trade in favor of the United States in 1905 was \$461,329,000. But for agriculture there would have been no balance of trade, whatever that thunderbolt in political storm centers may imply. And but for the tariff wall which forces American consumers to pay higher rates than foreigners for the same goods there would have been no export in 1905 of \$543,000,00 of manufactured goods.

From the Yearbook of the Department of Agriculture for 1905 we get the following enormous figures, showing what farmers did in 1905:

Total corn production value	\$1,216,000,000
Total hay production value	605,000,000
Total cotton production value	575,000,000
Total wheat production value	525,000,000
Total oats production value	282,000,000
Total potato production value	138,000,000
Total barley production value	58,000,000
Total tobacco production value	52,000,000
Total sugar cane and sugar beets	50,000,000
The cereals alone had a farm value of	2,123,000,000
The butter and milk amounted to	665,000,000
The farmer's hen	500,000,000

The Secretary does not stop here to comment on this extraordinary item. I suppose he took it for granted that—

The American hen trieth
To rise with the cock;
While her foreign sister lieth
Until nine of the clock.

In other words, she's up and doing her best all the time. The Secretary continues:

Dreams of wealth production could hardly equal the preceding figures into which various items of the farmers' industry have been translated, and yet the story is not done. When other items which can not find place here are included, it appears that the wealth production on farms in the years 1905-6 reached the highest amount ever attained at that time by the farmer of this or any other country, a stupendous aggregate result of brain and muscle and machine. But they are exceeded by the grand total for 1907 of \$7,412,000,000. For nine years past wealth made on the farm aggregated \$53,000,000,000.

But according to the Post, Secretary Wilson's annual report just made public, explains why the country is in condition to drive through a financial crisis as a *Lusitania* drives through a wave. How can a people "go broke" when their corn crop is worth \$1,350,000,000? Eight such crops, says the Secretary, would pay for duplicating every mile of steam railroads in the country, as well as rolling stocks, terminals, and all other property.

The railroads show increased earnings during the year, but can they show an increase of \$65,000,000 in a side issue of their business, as the farmer can with his hay crop? The cotton crop is not a record breaker, but with the exception of that of 1906 it will be the most valuable crop ever raised and the third largest in size. Nor is the wheat crop so bad, although the crops of 1901, 1902, and 1903 were worth a little more. The wheat crop this year will be worth more, however, than that of last year, and will bring about \$500,000,000. The oats crop brings \$360,000,000, more than any other crop of oats has brought in the history of the world, so far as ancient and modern records attest. Potatoes, \$190,000,000, a record breaker; barley, \$115,000,000, another record breaker; tobacco, \$67,000,000, the highest ever reached except in 1906; sugar cane, beets, molasses, and sirup, \$95,000,000; flaxseed, \$26,000,000; rye, \$23,000,000; rice, \$19,500,000; buckwheat, \$10,000,000; hops, \$5,000,000, and so on.

The several cereal crops of the United States are worth \$2,378,000,000, or \$296,000,000 more than the crops of 1906. No such aggregate value of crops has ever been reached.

The Secretary says:

During sixteen years past the farmer has secured a balance of \$5,635,000,000 to himself in his international bookkeeping, and out of this he has offset an adverse balance of \$543,000,000 in the foreign trade in products other than agricultural, and turned over to the nation from his account with other nations \$5,092,000,000.

The Secretary shows that manufacturers get their strongest support from the farmers—that is to say, 86 per cent of the materials used by them are agricultural, and 56 per cent of the products made are also agricultural. He also shows that the manufacturing establishments using agricultural materials constitute 36 per cent of all manufactured products and 42 per cent of all materials. He also showed that the manufacturing establishments using agricultural material employed 37 per cent of all persons engaged in manufacturing and that the capital of these establishments was 42 per cent of all manufacturing establishments. In other words, the farm products employed in certain manufactures were valued at \$2,679,000,000. The value

of all materials used by these establishments was \$3,087,000,000; and the products of these industries were valued at \$4,720,000,000. They employed 2,154,000 persons. None of these manufacturing establishments using agricultural products are benefited to any extent by the protective tariff. Even manufacturers themselves, in the interest of common justice, are demanding correction of tariff enormities. From these considerations it is safe to say that a revision of the tariff is not only necessary and wise, but that it must come. And come it will, to the undoing of conspirators and conspiracies—the overthrow of money changers and such as dwell in the tents of wickedness—to the entire satisfaction of those who are content to be doorkeepers in the house of the Lord.

THE TARIFF ON OUR HOMES.

The census of 1900 estimates the chief products of home building as follows:

Brick and tile	\$51,270,000
Carpentering	316,000,000
Gas and lamp fixtures	12,577,000
Gas machines and meters	4,000,000
Glass	56,500,000
Iron and steel nails and spikes	14,777,000
Iron and steel pipe	21,292,000
Ironwork	53,500,000
Lead—bar, pipe, and sheet	7,477,000
Lime and cement	28,689,000
Lumber	168,343,000
Mantels	1,100,000
Marble	85,100,000
Masonry	203,600,000
Oil, linseed	27,200,000
Painting and paper hanging	88,400,000
Paints	50,100,000
Paper hangings	10,600,000
Plumbers' supplies	14,700,000
Plumbing and gas fittings	131,800,000
Pumps	1,300,000
Roofing	29,900,000
Steam fittings and heating apparatus	22,000,000
Tin plate	31,900,000
Tinsmithing and sheet-iron working	100,300,000
Varnish	18,700,000
Wood	14,300,000

Total 1,567,000,000

These figures, obtained from the factories, are wholesale prices. Adding one-third for freight, middlemen's and retail dealers' profits, brings the total cost of the building of houses in the United States annually to something more than \$2,100,000,000. In looking over the list, it will be seen that lumber, other than planing-mill products, is not included therein; nor is foundry, machine shop, and blacksmithing products. Each of these at a low estimate would amount to \$200,000,000 per annum, which would make the total cost of our building approximately \$2,500,000,000 per annum. Deducting 20 per cent of this for business and public buildings, churches, etc., we would have the enormous sum of \$2,000,000,000 per annum paid by the people to protect them from wind and weather.

Why should a tariff tax be put on building materials? We do not need it for revenue, and it serves no purpose in the protection of manufacturers and wageworkers. Why place the following ad valorem rates in the tariff schedule?

	Per cent.
Brick and tile	32
Cement	25
Glass	68
Iron and steel nails	28
Lead	82
Lime	34
Lumber, planing-mill product	15
Marble	55
White lead	55
Paper hanging	25
Stone	50
Tin plates	33
Varnish	97

Why hinder in this way the poor man's endeavor to build a home? In 1905 something more than \$14,000,000 was collected by the Government from duties on building material. That is, less than 2 per cent of the Federal customs revenue comes from this source. It is not needed for revenue, yields comparatively little revenue, but enables those who command the home market to increase the price of home building fully 50 per cent, shielded as they are by the Dingley tariff. A \$2,000 home under the Dingley tariff would cost \$3,000, a \$1,000 home would cost \$1,500, and a \$500 home \$750. These profits make it possible to have a host of combinations that thrive unlawfully and unrighteously at the expense of American home builders. And it may be well for them who thus thrive, and for those who make it possible for them thus to thrive, to remember that, "Whosoever shall keep the whole law, and yet offend in one point, he is guilty of all."

OWN A HOME.

The removal of the tariff on building material would intensify the demand for masons, carpenters, house builders, and

workingmen generally, and, without diminishing their wages, would enable them as laborers and mechanics to become home owners. Every man should own a home, however humble. Lands in my State are rapidly increasing in value, and will soon be beyond the reach of the man of limited means. Syndicates and speculators have their eyes on Arkansas dirt, as formerly they had them on Arkansas timber. Now they control the latter and unless we are watchful will soon control the former. I have looked with pride on the numerous elements that make up the strength of the States and of this Republic. But the most comforting sight to me is the quiet dignity and independence of the American country home.

Home of the unpretentious citizen, environed with woodland and field, and fragrance and freshness, and verdure and song—the ozone of life and vigorous nature at every hand—and the master rising to catch the first breath of the morning with praises to God upon his lips for His care of the household through the slumbers of the night. With that vision before me I feel that the dream of more pretentious auguries for the future must vanish—broken the charm of their majesty and power—and from these enlightened Christian homes, from these nurseries of public virtue, shall come at last the industrial freedom of this generation, the moral exaltation of this people, and the sun-bright glory and safeguard of this country. [Prolonged applause.]

North Carolina—Her Growth and Progress in Population, Agriculture, Manufactures, and General Development in the Last Decade.

"Here's to the land of the long-leaf pine,
The summer land where the sun doth shine;
Where the weak grow strong and the strong grow great;
Here's to down home, the Old North State!"

SPEECH

OF

HON. CHARLES R. THOMAS,
OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 7, 1908.

On the bill (H. R. 15372) for the allowance of certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker acts.

Mr. THOMAS of North Carolina said:

Mr. SPEAKER: The gentleman from Louisiana [Mr. WATKINS] recently, in a brief but eloquent speech, referred to the State of Louisiana, and eloquently depicted its splendid population, fertile soil, and great resources, paying his State a most deserved tribute.

He has inspired me with the desire to present to the House and to the country a description of my own State, North Carolina, and a statement showing the wonderful growth and progress of my State in the last decade in population and industrially and commercially.

I shall enter upon no extravagant eulogy of North Carolina, for a simple statement in regard to her soil, climate, resources, growth, and progress in agriculture, manufactures, fisheries, and general development speaks with greater eloquence than any extended oration I could make. I shall speak especially with reference to that part of North Carolina of which I am a native, and in which is included my Congressional district—eastern North Carolina.

Every foot of the soil of this great Commonwealth is, of course, dear to my heart, and to the hearts of all her loyal citizens, from the "Land of the Sky," where the peaks of the Blue Ridge pierce the clouds, to where the waves of the Atlantic wash the eastern shores of the State.

It is not my purpose to speak of the glorious history of North Carolina, nor of the great men and statesmen she has produced, nor of those great historic events which have given her prestige and renown. My speech will deal with her commercial and industrial progress.

It is needless for me to recall to the minds of those familiar with the history of their country the fact that the first English settlement was upon the shores of North Carolina, at Roanoke Island; that she was among the foremost of the Colonies in the struggle for independence, and that she has produced many most eminent men, who have honored her upon the bench and in the halls of Congress, both the Senate and the House of Representatives. My time would be too limited to recall North Carolina's illustrious sons whose names are engraved upon the

scroll of fame. In yonder chair of the Speaker sat for many years a distinguished North Carolinian, Nathaniel Macon, whose statue many of us think should be placed in yonder Statuary Hall side by side with that of the great commoner, and North Carolina's best beloved son, Zebulon B. Vance. It is also needless for me to recall to your minds that North Carolina has been among the foremost in all the wars of the country, down to and including the war with Spain, in which she sacrificed the lives of some of her most gallant sons. In peace and war, in the beauty and character of her women, and in the ability and courage of her men North Carolina yields the palm to no State in the Union.

We are now considering a bill to pay certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker acts.

These claims are for stores and supplies taken by the Federal Army in the South during the late civil war, and for the occupation of churches, colleges, and lodges by the Federal troops during that war. In every case, as the chairman of the committee has said, there has been a reference of the claim to the Court of Claims, and upon the findings of fact of that court the pending bill has been based. It is a just and meritorious measure, representing an honest indebtedness of the Government adjudicated by the Court of Claims and should pass. All just and proper claims arising out of the civil war, especially those for stores and supplies seized and used by the Federal Army, and for occupation of churches and colleges and lodges, should be paid by the Government as rapidly as possible. It is appropriate upon such a bill to refer to the wonderful recuperation of the whole South since the civil war. Prostrated by that war, the South in the years since Appomattox in agriculture and industrially and commercially has arisen from devastation and poverty which that war brought upon her people. Among all the States of the South, North Carolina in the last decade has been foremost in progress.

GENERAL SKETCH OF NORTH CAROLINA.

The State of North Carolina is more than 500 miles in length. Its average breadth is about 187 miles. Its area is 52,286 square miles. The State is divided into three natural divisions, the westernmost of which is the mountain plateau. The average elevation of this plateau is 4,000 feet above the sea; its area is 6,000 square miles. It contains the highest mountain peaks to be found in all the territory of the United States east of the Rocky Mountains. It is also the source of many large rivers, which radiate to the Atlantic and to the Gulf as tributaries of the Mississippi. The mountains are covered with deep, rich soil and clothed with massive hardwood forests, inclosing fertile valleys. It is a high, cool, healthful region, the "Land of the Sky," a land without a rival in scenic beauty in the United States.

The Piedmont Plateau comprises the central part of North Carolina. It is a region of greatest development in the manufacture of cotton and wool and of furniture.

The Coastal Plain, or eastern North Carolina, stretches from the seashore into the interior of the country for nearly 200 miles and comprises practically one-half of the landed area of the State. The soil of eastern North Carolina is perhaps the most productive on the Atlantic seaboard. The soil has great value in the production of early vegetables and fruits, the season following closely upon that of Florida and being a few weeks in advance of that of the lands in the Virginia and Maryland tide water region.

The climate of North Carolina is a happy medium, being neither one of extreme heat or of extreme cold, and the State is climatically naturally divided into three regions—the three already described as Mountain, Piedmont, and Coastal Plain. The mean temperature of the State is 59° F. The normal average rainfall for the State is 52 inches, which is uniformly distributed throughout the year. The State lies outside the path of cyclonic storms; there are no blizzards, no cyclones; just a good, healthful, all-around climate.

Taxation is low, the State debt is small, the facilities for education are excellent, from the common school up to and including the University of North Carolina, which was the second university established in the Union.

AGRICULTURE IN NORTH CAROLINA.

The State, having every variety of soil as well as climate, the crops of the State are diversified and numerous. It is a land of corn and wine, of grape and fig, of sunshine and flowers, and produces all the staple crops—corn and cotton, wheat, oats, rye, barley. Perhaps the greatest progress of the State, however, agriculturally, has been in the raising of tobacco and in the progress made in the cultivation of truck crops. Eastern North Carolina is particularly favored in its climate and soil,

its nearness to great markets, and ready means of transportation, so far as the raising of truck crops is concerned. It is to-day one of the greatest, if not the greatest, truck gardens of the country, and in my Congressional District in the territory around Newbern, my home, and in the territory lying along the Atlantic Coast Line Railway from Goldsboro to Wilmington, the sums of money annually realized from the early truck crop run into millions, and the output is more readily computed in hundreds of carloads than in any other way.

A traveler along the line of the Norfolk and Southern Railroad and the Atlantic Coast Line in eastern North Carolina during the trucking season, in my Congressional District, will see a landscape which appears one huge truck garden. Everything that a fertile soil and kindly climate will produce is grown in eastern North Carolina. Every variety of early vegetable and fruit is produced, and every variety almost is a money-maker. No section of the United States has made greater progress within the last ten years in truck farming than eastern North Carolina. Men have made fortunes in raising asparagus, lettuce, strawberries, and other early vegetables and fruit. The strawberry crop in the counties along the Atlantic Coast Line from Goldsboro to Wilmington, in Wayne, Duplin, Pender, and other counties, is worth millions of dollars annually. About the towns of Mount Olive and Faison, on the Atlantic Coast Line, the strawberry business had its first start, and the soil there and all along the line of this railway has been found to be well adapted for the production of the finest fruit. The first really fine berries sent north are from this section of North Carolina. Of course, earlier in the season strawberries come from Florida and from other more southern sections, but there are none of them equal in quality to those produced in the counties of Pender, Duplin, and Wayne, in North Carolina. The Irish potato is one of the leading truck crops, grown for the early market, and from the city of Newbern alone over 100,000 bushels of early Irish potatoes are shipped annually, and the crop in the adjoining county of Pamlico and other sections is a very large one. In eastern North Carolina are also grown the finest crops of lettuce, celery, cucumbers, and other early vegetables. It is not rare to get \$3,000 an acre from the winter lettuce growing. A thousand bushels per acre is a common crop of cucumbers, and the North Carolina asparagus is a standard article in the northern markets. Besides every variety of early vegetables and fruits, including the strawberry crop, eastern North Carolina, of course, produces also the staple crops of cotton and corn. In the western part of the State and in the Piedmont section are cultivated all the staple crops of cereals, as well as tobacco. The value of the trucking industry of eastern North Carolina is well stated in the following paragraphs from a publication issued by the United States Department of Agriculture:

The Wilmington district embraces the southeastern portion of North Carolina, and the northeastern portion of South Carolina, and it is one of the sections of the country peculiarly adapted to truck gardening, owing to its light sandy soil and temperate climate.

The products of the farms of this trucking area, of which Wilmington, N. C., and Newbern, N. C., are the chief centers, are ready for market about two weeks earlier than those of Norfolk, Va. Newbern is convenient to both water and rail transportation, and the farms about that city and Elizabeth City, N. C., produce large quantities of potatoes, two crops being grown annually. It is estimated that an average of 25,000 acres of vegetables and fruits is planted each year in southeast North Carolina. The varieties grown include cabbage, potatoes, beans, peas, asparagus, cucumbers, spinach, tomatoes, melons, and grapes, strawberries, pears, peaches, and other fruits. This acreage is said to average 100 packages of vegetables per acre per annum, which would make 2,500,000 packages. Averaging the selling price of the package at \$1.50 would make the trucking and berry-growing industries of this section worth, at close market value, \$3,750,000 per annum. This would, of course, include the cost of production and transportation.

Strawberry cultivation is carried on most extensively in this district, perhaps more so than in any other section along the Atlantic seaboard. It is estimated that between 11,000,000 and 12,000,000 quarts were sent to Northern markets in refrigerator cars during the spring and early summer of 1900. The berries begin to move about the middle of April, but the shipments up to the beginning of May are light, and are generally forwarded by express. As the shipments become heavier, refrigerator and ventilated cars are substituted. From Wilmington to Goldsboro, a distance of 84 miles, nearly every station along the railroad is a shipping point for strawberries and other garden truck.

It has been estimated that the average net profits per acre on vegetables grown in this district are as follows: Asparagus, \$93.63; beets, \$95; snap beans, \$42.06; cabbage, \$113.61; cucumbers, \$175; water-melons, \$32.06; canteloupes, \$55; peas, \$57.37; Irish potatoes, \$101.60; sweet potatoes, \$106.50; spinach, \$70; tomatoes, \$94.72.

The main problem in the growth of the trucking industry of eastern North Carolina is the question of transportation and freight rates. What is needed to make the industry profitable is quick transportation and low express and freight rates. The railway facilities of eastern North Carolina are now most excellent and the railway mileage of the State has very materially increased. I include in my remarks a statement received from

the Interstate Commerce Commission, showing the increase in railway mileage of North Carolina since 1890, up to and including 1906, as follows:

Statement showing mileage owned in the United States and in North Carolina for the years 1906 to 1890.

Year ending June 30—	Total mileage United States.	Increase over pre- ceding year.	Total mileage North Carolina.	Increase over pre- ceding year.
	Miles.	Miles.	Miles.	Miles.
1906	224,363.17	6,262.13	4,409.03	152.99
1905	218,101.04	4,196.70	4,256.04	181.04
1904	213,904.34	5,927.12	4,075.00	3.61
1903	207,977.22	5,505.37	4,071.39	175.83
1902	202,471.85	5,234.41	3,895.51	43.57
1901	197,237.44	3,831.63	3,831.94	20.78
1900	193,345.78	4,051.12	3,831.16	122.28
1899	189,294.66	2,898.34	3,708.88	99.37
1898	183,396.32	1,967.85	3,609.51	75.03
1897	184,428.47	1,651.84	3,534.48	39.68
1896	182,776.63	2,119.16	3,494.80	57.79
1895	180,657.47	1,948.92	3,437.01	4.57
1894	178,708.55	2,247.48	3,432.44	4.14
1893	176,461.07	4,897.55	3,436.58	66.31
1892	171,563.52	3,160.78	3,370.27	212.92
1891	168,402.74	4,805.69	3,157.35	156.47
1890	163,597.05	5,838.22	3,000.88	346.34

*Decrease.

Every section of eastern North Carolina is now linked together by the Atlantic Coast Line and the Norfolk and Southern Railway systems, which radiate in every direction.

THE FORESTS AND LUMBER INDUSTRY OF EASTERN NORTH CAROLINA.

The Forest Service has furnished me with the following information as to the magnitude of the lumber industry of North Carolina:

The total quantity of lumber cut in North Carolina at census dates was as follows:

	Feet.
1880	241,822,000
1890	509,436,000
1900	1,278,399,000
1905	1,318,411,000
1906	1,222,974,000

The value of the lumber cut in 1906 at the mills was \$19,066,437, an average of \$15.59 per thousand. Nearly three-fourths of the lumber produced in North Carolina at present is yellow pine, the State ranking sixth in point of yellow-pine production and twelfth in point of total production among all the lumber producing States. The various kinds of lumber cut in 1906 by the 1,210 mills from which reports were received were as follows:

	Feet.
Yellow pine	899,042,000
White pine	39,637,000
Hemlock	28,727,000
Spruce	2,058,000
Cypress	21,710,000
Cedar	4,232,000
Oak	107,262,000
Maple	250,000
Poplar	58,080,000
Red gum	8,598,000
Chestnut	34,707,000
Basswood	2,029,000
Birch	2,000
Cottonwood	598,000
Beech	4,000
Elm	187,000
Ash	4,769,000
Hickory	1,789,000
Tupelo	7,454,000
All others	1,838,000

According to the Census of 1905, the investment in establishments manufacturing lumber and timber products was \$10,068,358; the average number of wage-earners employed, 14,491, and the total amount paid in wages, \$4,399,878.

THE FISHERIES OF NORTH CAROLINA.

The Department of Commerce and Labor, Bureau of Fisheries, upon my request, has furnished me the following statement as to the magnitude of the fisheries of North Carolina, showing how extensive and valuable they are:

The fisheries of North Carolina in 1902 were exceeded in value by Florida alone of the Atlantic and Gulf States south of Virginia, and this single exception is due to Florida's possession of the unique fishing for sponges. In value, North Carolina fisheries equaled those of South Carolina, Georgia, Alabama, Mississippi, and Texas combined; her capital invested was almost equal to that of the States mentioned, while the number of persons employed was greater by over 2,000.

The Commission believes that the most promising and important field of development now and in future open to the fisheries of the State relates to oyster culture. The other fisheries are, in most part, already highly developed. The Commission drafted and recommended a law which it is believed would do much to encourage and permit oyster culture on a large scale, but it failed of enactment. It is believed that if this law were put into effect and supplemented by the

same enterprise exhibited by the people of North Carolina in the development of the shad and herring fisheries it would result in a production of oysters almost equal in value to that of the entire present fisheries of the State.

GENERAL SUMMARY.

In the products of farms, forests, and waters we readily see from this brief summary that eastern North Carolina is unsurpassed by any section of the United States, and is indeed one of the garden spots of the world, the paradise of the home seeker and the home builder.

The manufacturing industries of North Carolina, as I have said, are larger in the central and western portion of the State, although there are numerous cotton factories and other manufacturing establishments in the eastern section of the State. The progress of my State in manufacturing, as well as in the products of its waters and forests and farms, has been most marvelous, perhaps exceeding that of any other State within the last decade.

I have secured from the Department of Commerce and Labor, Bureau of the Census, a most valuable compilation showing the industrial growth of North Carolina, including its growth in population, agriculture, manufacturing, mining, and railway mileage. This table, which has been prepared with the greatest care by the Census Office, shows a most marvelous growth and development in the manufacture of cotton goods, cotton-seed oil, furniture, lumber, and tobacco, and a remarkable increase in the value of all these products, as well as in the State's population and resources. The table makes a showing, I believe, which is perhaps unsurpassed by any State, and which shows in more eloquent terms than any language I could use North Carolina's growth, progress, and prosperity in the last decade.

May heaven continue to smile upon the good old State, her progress continue, and peace, plenty, and prosperity be ever within her borders. It is a land of milk and honey and oil and wine, of rivers and waters, forests, and mountains, "where thou shalt eat bread without scarceness," inhabited by a free, brave, independent people.

Here's to the land of the long-leaf pine,
The summer land where the sun doth shine;
Where the weak grow strong and the strong grow great;
Here's to down home, the Old North State!

Industrial growth of North Carolina.

	1905.	1900.	1890.	Per cent of increase since 1900.
Area, square miles.....	52,426			
Corn:				
Bushels.....	145,078,000	234,818,860	25,783,623	29.5
Value.....	\$33,358,000			
Cotton:				
Production—				
Running bales.....	1626,642	509,341	2336,261	23.0
Value, including seed.....	\$32,651,000			
Consumed (running bales).....	710,275	442,508	114,371	60.5
Manufactories (number).....	276	190	91	45.3
Spindles (number).....	2,681,386	1,264,509	337,786	111.2
Manufactures.....	\$47,254,054	\$28,372,798	\$9,563,443	66.5
Cotton-seed oil, cake, and meal:				
Number of establishments.....	43	21	11	104.8
Value of products.....	\$3,748,789	\$2,676,871	\$529,746	40.0
Flour and grist mill products.....	\$6,863,770	\$4,702,514		46.0
Fertilizers.....	\$3,098,561	\$1,497,625	\$994,135	106.9
Furniture products.....	\$6,181,619	\$1,547,205	\$159,000	299.5
Hay.....	\$3,135,000	\$4,242,561		26.1
Holery and knit goods.....	\$2,483,827	\$1,023,150		142.8
Indebtedness less sinking-fund assets.....	\$6,754,928		\$7,709,293	
Leather, tanned and curried.....	\$2,662,174	\$1,502,378	\$190,687	77.2
Lumber cut (M feet B. M.).....	1,222,974	1,233,309		.8
Lumber and timber, planing mills, sash, doors, and blinds.....	\$30,205,660	\$17,366,339	\$6,813,812	73.9
Manufactories:				
Number.....	3,272	3,465	3,667	5.6
Employees, average number.....	85,339	72,322	33,625	18.0
Wages paid.....	\$21,375,294	\$14,051,784	\$6,552,121	52.1
Manufactures, value of product.....	\$142,520,776	\$85,274,083	\$40,375,450	67.1

¹ Statistics relate to 1907. Cotton production measured by returns of ginneries; other statistics of agricultural products are estimates of Department of Agriculture.

² Crop of preceding year.

³ Not including hand trades nor establishments having products valued at less than \$500.

⁴ For 1902.

⁵ Decrease.

Industrial growth of North Carolina—Continued.

	1905.	1900.	1890.	Per cent of increase since 1900.
Mines and quarries.....	\$927,376	\$417,513	\$273,024	122.1
Population.....	2,059,326	1,893,810	1,617,917	8.7
Potatoes.....	\$1,579,000	\$862,549		83.1
Property:				
Assessed valuation of taxed real property and improvements.....	\$221,457,171	\$168,368,580		31.5
Estimated true value of all real property and improvements.....	\$397,692,951	\$337,175,552		17.9
Farm animals.....	\$64,297,257	\$31,609,570		103.4
Farms and farm property.....		\$233,834,693	\$216,707,500	
Railway mileage ⁶	4,097	3,732	3,128	9.8
Tobacco:				
Pounds.....	100,875,000	127,503,400	44,897,872	20.9
Value.....	\$11,096,000			
Chewing, smoking, and snuff.....	\$25,488,721	\$13,620,816	\$4,783,481	87.1
Cigars and cigarettes.....	\$2,599,248	\$229,844		1,080.9
Turpentine and rosin.....	\$742,421	\$1,055,695		29.7
Wheat:				
Bushels.....	45,320,000	5,960,803	3,156,000	10.9
Value.....	\$5,692,000			

¹ Statistics for 1903 and cover principal minerals only.

² Principal minerals only.

³ Census estimate, 1906.

⁴ Statistics relate to 1907. Cotton production measured by returns of ginneries; other statistics of agricultural products are estimates of Department of Agriculture.

⁵ Statistics relate to 1904.

⁶ Poor's Manual.

⁷ Crop of preceding year.

⁸ Production of 1893.

⁹ Decrease.

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. GEORGE W. KIPP,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908,

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. KIPP said:

Mr. SPEAKER: I am heartily in favor of any legislation that is in the interests of the gallant men who have fought for our country, and who are entitled to the very best consideration that this great nation can give them. I am equally heartily in support of all measures that will care for their widows and orphans. I am in favor of this bill to pay the soldiers' widows \$12 a month because I believe it to be a step in the right direction. But it is only a step, Mr. Speaker. It does not go far enough. As a minority member of the committee that reported this bill I maintained that the clause limiting the widows who will benefit by this act to those who were married before 1890 was a mistake, and I still think so. I dare assert, Mr. Speaker, that there is scarcely one Member of this House who has not living within the confines of his Congressional District at least one poor, honest, deserving widow who will not be entitled to the benefits of this law because she became a soldier's bride in 1891, or later.

Death, Mr. Speaker, is no respecter of persons and neither is age, nor is illness. The soldier who married seventeen years ago and has since passed away had the right to demand from the country he served that the woman he made his wife should not be discriminated against when she became a widow, sick, and poor, and helpless, but that she be accorded the same assistance and the same protection by the United States as that given to the widows of the comrades by whose side he fought, but who had married a few years earlier than he. No discrimination should be made, Mr. Speaker, when widows and orphans of our soldiers are sick and helpless and poverty stricken, no matter what the year the soldier married. The weak, enfeebled soldier's bride of seventeen years ago, and her helpless little ones, are just as much entitled to our support and sympathy as are those of a wedlock in 1889.

If this bill provided, as it should, that this pension be paid to the widows of all soldiers who were married before the enactment of this law instead of only to those married before 1890, it would be more creditable to this body. And because it fails to do that I feel that it is not doing full justice; it is not treating our old soldiers and their families as fairly as it should, and I hope that before this session ends the majority party that controls the legislation of this body will agree to an amendment to the bill providing that all widows of honorably discharged soldiers married before February 1, 1908, be paid a pension of \$12 a month. Then we will be acting fairly to all.

It is argued, Mr. Speaker, that it would take too much money to do that; that it would not be economy to do so. I am a business man, Mr. Speaker, and I think I know the value of economy in all things. But I maintain that to deprive any widow or orphan of a departed soldier of our help because of his marriage in 1891 and allow to a soldier's relict married in 1889 what you refuse to the widow of another who fought just as bravely for his country's flag but was married in 1891, is false economy and bad principle.

I voted for this measure in committee when I realized that this bill was the best we could get, and I joined with the rest of the committee in making the report on it unanimous. I vote for it to-day, not because it is entirely satisfactory, but because I see that it is the best we can do and we must be satisfied with it until this House can see things in a more liberal light.

During my campaign, Mr. Speaker, I was accused of being a lumberman and not a public speaker, which is true. I am a lumberman and I am very proud of it. I have been in this Hall long enough to distinguish the difference between this House and a sawmill. While the sawmill is whistling and singing and making lots of noise it is cutting wood. While this House is whistling, jabbering, and making a big hurrah, it is cutting "nix."

Income and Inheritance Tax.

SPEECH

OF

HON. ROBERT M. WALLACE,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES.

Thursday, December 19, 1907.

Mr. WALLACE said:

Taxation has its tragic and its comic side. In my State the dog tax at one time seemed to take both sides of the question and passed away—some of its advocates failing "to make good" on retrenchment and return—to the next assembly. A grimace or a smile, according to where the blow falls, may be provoked by the following lines from Much Ado About Nothing:

O good Lord, tax not so small a voice
To slander music any more than once.

Again, there is such a thing as taxing patience—with a speech. Taxes have the sterling quality of constancy and like fate, and the poor shall be with us always. Under the systems of taxation have grown up the taxgatherer, the taxpayer, the tax cart and the tax dodger. The tax dodger is unlike the tax cart. The distinguishing feature between them is that the cart was exempt at one time under one English law, and the dodger, as far as possible, exempts himself all the time from all law. But some years ago somebody defined the tax dodger as one who, finding that the rate of taxation in Boston was too high for his means, hid himself away with his wife and children to some rural town or retreat. But the serious, and even tragic, side of taxation must have appeared to a very large number of persons when the decree went out from Cæsar Augustus that all the world should be taxed. And it seems that "all went to be taxed, every one into his own city." It was followed, however, by the coming of the Messiah and the setting up of His kingdom. When the Pharisees or their disciples asked if it were lawful to pay tribute to Cæsar and told the Master that the image and superscription on the penny were Cæsar's, he said:

Render therefore unto Cæsar the things which are Cæsar's and unto God the things that are God's.

Here was laid down the rule of obligation on the part of the subject to his king, of the citizen to his government. With this preface I shall proceed with some observations on the subject of—

INCOME AND INHERITANCE TAX.

There is no perfect system of taxation, but the weight of opinion among thinkers on economic subjects is that a properly

adjusted income tax approaches more nearly perfection than any other. Adam Smith laid down this principle:

The subjects of every State ought to contribute toward the support of the Government as nearly as possible in proportion to their respective abilities—that is, in proportion to the revenue which they respectively enjoy under the protection of the State.

When a citizen pays taxes according to his income, from whatever source it may be derived, he is giving support to his government and receiving protection from it in a manner more nearly approaching perfection than under any other plan yet devised. If his gains increase, his tax increases, and well it may, because he is better able to pay it. If his gains decrease, so does his tax, and fortunately for him, because he is less able to pay it.

An income tax requires the rich men to pay their due proportion of the taxes, a thing which all history proves they have never been doing. The fear that an income tax would confiscate the property of the rich is not well grounded. The sense of justice among Americans would not permit it. On the other hand, it is notorious that this same sense of justice has not led the rich to voluntarily assume their share of the public burdens, but, on the contrary, by every reputable and disreputable device, to avoid or evade the payment of their proportionate part. And this fact comes from studied neglect or design to defeat the Smith maxim and produces inequality of taxation. But equality of taxation is or ought to be the object of the law.

Again, the cost of collecting an income tax is very low compared with our present excise system. According to the Treasury authorities the cost of collecting the income tax in 1866 was less than 2 per cent, being lower than the cost of collecting any tax then existing except the tax on banks, which was paid at the Treasury.

A tax upon incomes has been tried twice in the United States; (1) from 1862 to 1872; (2) from 1894 to 1895. The first series of income taxes was held to be constitutional by the Supreme Court of the United States, while the second series was held to be unconstitutional, the terms of each series of laws being almost identical. It is a strange comment upon the Supreme Court that one of the justices—Field—voted in favor of the constitutionality of the first series and against the constitutionality of the second. Under the first series there was collected from income tax, from corporations, from individuals, and from salaries of officers and employees from 1862 to 1872, the enormous sum of \$347,220,897, made up as follows:

1863	\$2,741,858
1864	20,294,731
1865	32,050,017
1866	73,434,709
1867	66,014,429
1868	41,455,508
1869	34,791,855
1870	37,775,873
1871	19,162,650
1872	14,436,861
1873	5,062,311

The difference between the first income-tax bill—that of 1862—and the second was, first, as to the exemption; the first bill exempted \$800, the second \$2,000, and of 1894 \$4,000. The Supreme Court held this exemption constitutional. The act of July 1, 1862, read as follows, placing a duty or tax upon the—annual gains, profits, or income from every person residing in the United States, whether derived from any kind of property, rents, interests, dividends, salaries, or from any profession, trade, or employment or vocation, carried on in the United States or elsewhere, or from any source whatever, etc.

This was held to be constitutional by the unanimous opinion of the court.

By the act of June 30, 1864, a tax on gains, profits, or incomes of all kinds of property, including rents, was passed, which was also held to be constitutional.

During the years 1862–1873, the following additional taxes were collected on legacies and successions and paid into the Treasury of the United States:

Year.	Legacies.	Successions.
1863	\$86,592	.....
1864	311,161	.....
1865	506,751	\$39,951
1866	924,823	246,154
1867	1,222,744	636,570
1868	1,518,387	1,365,023
1869	1,244,837	1,189,756
1870	1,672,582	1,419,242
1871	1,430,087	1,074,979

As to the propriety of taxing legacies and successions no one has ever questioned it. Men who without earning gifts, devises, bequests, or successions, come into great property by inheritance or succession ought to be made to pay inheritance

and succession taxes. All countries impose such taxes and the men who pay them have the least right to complain of taxation of all taxpayers. They are not taxed on the sweat of their brow but on the easy money which has come to and the conscience money that departs from their hands. The chief caution that needs to be observed along this line is that the States need revenue as well as the General Government, and the States have been using this means to raise revenue, and it might be well to leave this lever entirely in the hands of the States, unless the Federal law contains a provision adjusting its rate to a per cent that would harmonize with the State rate. If the Government should preempt every method of raising taxes the States would finally be relegated to the land and personal property tax, two very onerous taxes.

Under the law passed August 28, 1894, the second income-tax law, the one declared unconstitutional, there were collected and paid into the Treasury, and then paid back the following sums:

TAXABLE CORPORATIONS.

Companies.	Number.	Amount of tax.
Banks and trust companies.....	7,400	\$1,523,784
Manufactories and mercantile associations.....	12,027	4,158,875
Railroads.....	624	1,183,435
Express companies.....	933	455,957
Insurance companies.....	338	268,938
Mining companies.....	585	298,065
Telegraph and telephone.....	208	224,816
Gas, electric light, and water.....	2,201	715,687
All other corporations.....	5,327	985,135
Total corporations.....	29,653	9,815,697

TAXABLE PERSONS.

Persons,	Number.	Amount of tax.
Agents and employees.....	10,298	\$871,718
Manufacturers and merchants.....	16,757	2,354,446
Bankers and brokers.....	2,273	316,336
Professions.....	6,668	559,473
Farmers and stock raisers.....	885	111,012
All other occupations.....	11,791	1,915,063
Total persons.....	48,672	6,128,051

Making a grand total of income tax collected from both corporations and persons of \$15,943,748. The Supreme Court of the United States rendered its decision as to a part of this law on April 8, 1895, so that the operation of the law was interfered with from its very beginning. The Commissioner of Internal Revenue for the year 1895 said that if the law could have been enforced without any interruption the taxes from it for the fiscal year ended June 30, 1895, would have exceeded \$30,000,000.

There are three income taxes in England. First, the income tax proper, which ranges from one and a half pennies in the pounds sterling on £200 a year up to 1s. in the pound on £700 or more a year. This brought into the English treasury in 1905-6 \$6,500,000.

The second income tax is an inhabited-house duty and yielded in 1905-6 something more than \$10,000,000.

Lastly, the death duties, the chief of which is the estate duty, ranges from 1 per cent on small estates up to 8 per cent on millionaire's estates. As millionaires do not die regularly, like common people, but in groups, the yield varies considerably from year to year. In 1905-6 it yielded \$65,000,000, and in 1906-7 will yield very much more. It has yielded \$100,000,000.

Mr. Roosevelt in his message to the second session of the Fifty-ninth Congress said:

The National Government has long derived its chief revenue from a tariff on imports and from an internal or excise tax. In addition to these there is every reason why, when next our system of taxation is revised, the National Government should impose a graduated inheritance tax and, if possible, a graduated income tax. The man of great wealth owes a peculiar obligation to the State, because he derives special advantages from the mere existence of government. Not only should he recognize this obligation in the way he leads his daily life and in the way he earns and spends his money, but it should also be recognized by the way in which he pays for the protection the State gives him. On the one hand, it is desirable he should assume his full and proper share of the burden of taxation; on the other hand, it is quite as necessary that in this kind of taxation, where the men who vote the tax pay but little of it, there should be clear recognition of the danger of inaugurating any such system save in a spirit of entire justice and moderation. Whenever we as a people undertake to remodel our taxation system along the lines suggested, we must make it clear beyond peradventure that our aim is to distribute the burden of supporting the Government more equitably than at present; that we intend to treat rich man and poor man on a basis of absolute equality, and that we regard it as equally fatal to true democracy to do or permit injustice to the one as to do or permit injustice to the other.

I am well aware that such a subject as this needs long and careful study in order that the people may become familiar with what is pro-

posed to be done, may clearly see the necessity of proceeding with wisdom and self-restraint, and may make up their minds just how far they are willing to go in this matter; while only trained legislators can work out the project in necessary detail.

The principles of the income tax are admitted in England and other countries. The difference between our law and theirs was that our exemptions were higher—more liberal with capital and capitalists than those backed by thrones and enforced by kings. In 1895 a Republican member of our Supreme Court, with a hypercritical fancy for the "survival of the fittest," destroyed our statute with an hundred years of judicial precedent and saved the Constitution. The Democratic party stands for an income-tax law by act of Congress, if it can be had without conflict with the Constitution; otherwise for a constitutional amendment. The Democratic platform of 1896 pledged the party to whatever constitutional power there was to overthrow the court decision of 1895. For that pledge and criticism of the court the party was charged with the crime of high treason. The Republican platform of 1860 and Mr. Lincoln's inaugural address arraigned the court for the Dred Scott decision; and criticisms of the greenback and legal-tender decisions multiplied like leaves in Valambrosa, or boll weevils in the cotton belt. Again Mr. Roosevelt says:

The first purely income tax was passed by the Congress in 1861, but the most important law dealing with the subject was that of 1894. This the court held to be unconstitutional. The question is undoubtedly very intricate, delicate, and troublesome. The decision of the court was only reached by 1 majority. It is the law of the land, and of course accepted as such and loyally obeyed by all good citizens. Nevertheless, the hesitation evidently felt by the court as a whole in coming to a conclusion, when considered together with the previous decisions on the subject, may perhaps indicate the possibility of devising a constitutional income tax which shall substantially accomplish the results aimed at. The difficulty of amending the Constitution is so great that only real necessity can justify a resort thereto. Every effort should be made in dealing with this subject, as with the subject of the proper control by the National Government over the use of corporate wealth in interstate business, to devise legislation which without such action shall attain the desired end; but if this fails, there will ultimately be no alternative to a constitutional amendment.

So the President again goes Democratic and modestly dissents from that deliverance of the court. The Democratic party believes in the equitable distribution of responsibilities and privileges—exonerating the poor from nothing they are not too poor to bear; exacting from the rich nothing they are not rich enough to pay. Allured by no idol, dominated by no master, she will be deterred not from the truth as she sees it, nor from the right as she knows it. If she must go down in defense of such principles, let it be remembered that there is no sacrifice too great for her to make and no time too soon for her to fall on the altar of the Constitution, and she will go down holding high the flag of industrial protest and independence forever! [Loud applause.]

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. MARTIN D. FOSTER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. FOSTER of Illinois said:

Mr. SPEAKER: I am glad to record my vote in favor of increasing the pensions of widows and of removing the previous provisions of law requiring them to possess an income of not more than \$250 per year. Last fall, while attending the various soldiers' reunions held throughout the district which I have the honor to represent, I promised that it would be one of my pleasures and my duties after I came to Washington to do all I could for the enactment of such a law. I now have the pleasure of fulfilling that promise.

The soldiers' widows of our country often fought battles of hardship, privation, and sorrow in their own hearts as great as those which their husbands fought on the battlefields of the war. Theirs was the hardship of separation; theirs the tears and the heartaches of the nighttime; theirs the responsibility of raising the children of the home; theirs the shudder at every rustling of a leaf or swaying of a bough, lest it might bring them tidings of death on some far-away field of battle. I honor the widows of our soldiers. I sympathize with them; I want to

help them. And the least that this great Government could do is to protect them from want in the sunset of their days, until they shall again meet their loved and lost upon some brighter, more peaceful strand, where war and worry, heart-ache and loneliness, separation, and the scars of sorrow shall no longer be known forever.

I would be in favor of more pensions for the needy, deserving soldier who yet for a little time remains. In line with this conviction, I have introduced a bill into this session of Congress providing that no soldier shall receive a pension of less than \$1 per day. Is it not right that out of the great abundance of our material wealth we should amply provide for the needs of those who offered their lives upon the altar of our country that this nation should not perish before the tempest of civil strife that threatened its destruction? I think it is, and believe that this bill, too, ought to pass.

War is a fearful thing. I hope that, though we may not live to see it, our children's children shall behold the dawn of the world's peace; that they shall see realized the dream of Kipling when—

The tumult and the shouting dies,
The captains and the kings depart;
Still stands Thine ancient sacrifice,
An humble and a contrite heart.
Lord, God of Hosts, be with us yet,
Lest we forget! lest we forget!

[Applause.]

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. JOHN G. McHENRY,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908,

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. McHENRY said:

Mr. SPEAKER: This bill appeals to the best impulses of the human heart. The first duty of American citizenship is to the family. Saving the flag is grand and our obligations to the heroes who offered, if they did not give, their lives for the preservation of the Government, can never be fully discharged. But there is a higher duty—a greater obligation. It is to preserve the family, which is the fountain of patriotism as well as of virtue. The care during their declining years of the widows of our soldiers is as much the duty of Congress as providing for the wife is the duty of each individual. We can not shift this obligation. We can not satisfy our consciences with the expectation that our successors may have better opportunities to do this. As in the case of another great duty taught by Christian civilization, now is the accepted and the only time.

Mr. Speaker, there is probably no community in this broad land which is free from suffering, the result of privations. In every settlement in the State which I have the honor to represent, in part, there are soldiers' widows worn into invalidity by nursing their hero husbands through the valley of death, and without the means to procure the nourishment requisite to restore their health and strength. In my own district I have learned of instances of such destitution and I feel that I would be recreant alike as Representative and citizen if I failed to do whatever I may to mitigate their sufferings. I have in my hand a letter from one of those patient and long-suffering women. She writes—

It was just six years from the time he had his first stroke until his death, and during that time he never was able to do a stroke of work or earn five cents. During the last three years his mind was almost an entire blank, the last year he was entirely deprived of speech, as helpless as a new-born babe and a thousand times more trouble.

Pen can not describe nor can tongue tell what we endured—

Continued this good wife and mother—

Part of the time my son helped me to care for him, and the rest, my daughter and myself had the care of him. He was in such a condition that had I been rolling in money I couldn't have got anyone to care for him.

Is it any wonder that this magnificent woman believes that the Government owes her something? The maladies which caused all this suffering were contracted while her husband served in the Army. They were the result of the ex-

posures and hardships incident to his Army experience. I have been trying to get a pension for that woman, and hope I may yet succeed. But how many thousands there are who suffer to the end of their lives of wretchedness because they have no one to take up their cases, or for the more regrettable reason that, owing to no fault of their own, they are deprived by some provision of the pension laws which excludes them from the beneficence. Probably half the Members of this House can cite similar cases.

Another instance of the injustice of the pension laws to the widows of soldiers has come to my notice since my election to this body. In one of the principal towns in the district which I have the honor to represent there resides the widow of a soldier who is deprived of the beneficence of the Government because of an incident in the life of her deceased husband. She is a woman of the highest measure of refinement, as her husband was among the most popular and progressive citizens of the community in which they lived until misfortune overtook him. He enlisted as a private at the beginning of the war and was promoted in regular order until he had attained the rank of captain. At the close of hostilities the regiment to which he was attached was taken to the rendezvous to be mustered out. Every officer above the rank of captain in the regiment had been killed or wounded, and being the senior captain he was entitled to promotion if there was to be a colonel of the regiment at the mustering out. In fact he was the popular choice of his associates for the colonelcy as they indicated.

But the authorities took a different view of the matter. They took an officer from another regiment and put him in command of this body of men, which was bitterly resented. In fact, the resentment was so openly expressed that all the officers of the regiment were put under arrest for insubordination and court-martialed. After this injury had been added to insult, the husband of the widow to whom I refer left the camp and went home without waiting for his formal discharge. He had served four years most faithfully. He had discharged every obligation of a soldier most manfully in every situation during the long period of his hazardous service. But because of this unfortunate outburst of passion, and I think most of us will admit that it was at least partially justified, he was scheduled as a deserter and thus disqualified from participation in the beneficence of the Government. Until, late in life, business misfortunes overtook him, he probably had no regret for his action. But in his old age he came to want, and when his friends applied to the Government, for which he had freely offered his life, for the help to which they believed he was entitled, they discovered that he was ineligible. I am permitted to believe that he suffered no want during the closing days of his life. But I am forced to think that the worry and humiliation which came to him with the knowledge that there was a stain on his otherwise splendid military record hastened the end. If he had realized that the taint would operate to deprive his widow of comforts to which she is justly entitled, his sufferings would have been multiplied.

Mr. Speaker, I feel keenly on this subject of pensions and grow impatient when these tales of sorrow come to my ears. Out of the abundance in this land of plenty there ought to be enough to shield the widows of the heroes from the pangs of want. We are contributing with almost prodigal liberality to the building of ships and the preparation for future wars. It is only just to say that Congress has been fairly generous in both moral and material rewards to the soldiers of our several wars also, but we have not been quite just to the widows of our soldiers. To my mind there should be no discrimination in the allotment of pensions between the soldier and the widow, and if I had my way the pension of every soldier, which now ends with his death, would be continued to his widow. That is not the present proposition, however. The pending bill provides for a uniform pension of \$12 a month for the widows of soldiers of the wars, and it should be passed by the unanimous vote of Congress. It is just and proper. The wives and mothers of the country constitute the moral force which develops patriotism and makes for good citizenship. More than the men, they shape destinies for good, and their comfort, if not competence, should be the first consideration of every man. There are widows of soldiers in this broad land who have laid their strength on the altar of devotion and sacrificed every hope and comfort to lessen the pain and lighten the sorrows of their infirm husbands in the last hours of their lives. Let us, now that we have opportunity and means, provide for the declining years of these faithful women, so that—in the language of Edmund Spenser—

Her angels face,
As the great eye of heaven, shined bright,
And made a sunshine in the shady place.

Increase of Pensions to Soldiers and Their Widows.

SPEECH

OF

HON. JOHN A. M. ADAIR,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. ADAIR said:

Mr. SPEAKER: As the accumulating years have added to the distress of a very large number of the survivors of the civil war and their widows, the consideration of legislation looking to their care and comfort has become a matter of paramount importance. There is no subject before the House that is closer to my heart and in which I feel a greater interest than that of pensions. It therefore gives me much pleasure to use my vote and influence in support of the bill now under consideration which if enacted into law will raise the pensions of 196,443 widows from \$8 to \$12 per month. It will not only do this, but it will also place on the pension rolls many thousands of widows who heretofore have been excluded on the ground that they had an income of \$250 per year. I believe the property limitation on the widows' right to pension is wrong and should have been stricken out years ago. I am sure that gross injustice has been done in all parts of the country by excluding from the bounties of the Government those widows who, for the time being, had a small amount of property, and who were turned away upon the ground that they had a competency, when in fact their income was insufficient in many instances to keep them from want. The only objection I have to this bill is that it does not go as far as I would like it to go. On the first day of the present session I introduced a bill upon this subject, granting to all widows of soldiers of the civil war and war with Mexico a pension of \$12 per month. Under the provisions of my bill every widow of a soldier who served in either of the wars mentioned would receive a pension of \$12 per month, regardless of the disease with which the soldier died, and also regardless of the date of marriage or amount of income. I labored hard to have this bill reported without amendment, but the Committee on Invalid Pensions decided to report a committee bill containing all the provisions of my bill, except as to date of marriage. While I do not desire to criticize on the floor of the House the action of this committee, yet I do regret that the bill reported will not give relief to widows who married soldiers subsequent to June 27, 1890, as well as those who were married prior to that date. I know of many instances where splendid women married soldiers of the civil war after June 27, 1890, and for ten or fifteen years nursed and cared for them in their declining years and made the closing days of their lives as pleasant and comfortable as possible.

Who would say that these widows should not be pensioned? What reason is there for fixing this date? I am certain there are numerous cases where the marriage occurred after this arbitrary date in which the evidence will show greater merit than in many cases where the marriage took place prior to June 27, 1890. While I believe this bill should apply to all widows of soldiers who were married prior to the passage of this act, yet I realize that it is impossible to amend it at this time, and after having made the best effort within my power to have it so provide, I shall nevertheless gladly vote for it, because it will increase the pensions of nearly 200,000 widows and will place upon the rolls over 20,000 who have heretofore been excluded. While voting for this bill, I want to serve notice at this time on the Members of the House that I shall continue the fight until full justice is done and all widows placed on the rolls who were married prior to the passage of this act. [Applause.] The passage of this bill is not an act of charity, but a payment of a debt we owe to the widows of the gallant soldier dead, whose service made it possible for you and me to enjoy this united country. There is not a citizen in all this broad land who will not rejoice over the fact that the widows have been at least partially provided for. It is not an act of sympathy, but an act of justice; and a grateful people who remember the heroic service, the sufferings, deprivations, sacrifice, and hardships of the Union soldier will heartily indorse our action in thus providing for their widows and orphans.

I hope this bill will pass without a dissenting vote and that the Committee on Invalid Pensions will then immediately take

up, consider, and report favorably upon another bill I introduced in the House on the first day of the present session, which in substance provides that all soldiers who served in the Mexican and civil war and who hold an honorable discharge shall be pensioned at the rate of \$20 per month, and when they reach the age of 70 years \$25 per month. This bill, now in the hands of the committee, has the indorsement of over 3,000 Grand Army posts scattered all over the country and is approved by practically everyone who has read its provisions. Who could assign a single reason why this bill should not be enacted into law? It might be urged that it would increase the appropriation for pensions several million dollars.

This is true, but the increase would be a drop in the bucket when compared with the total appropriations made by the Government. The Fifty-ninth Congress appropriated over eighteen hundred million dollars, and what a small part of this vast amount would be required to pay the increase of pensions provided for by this bill. I believe, Mr. Speaker, the time to do something for the Union soldier is now and not after he is dead. While I approve of the custom of scattering flowers on the graves of our dead heroes once a year, I would rather scatter a few flowers in the pathway of those who yet live. [Applause.] Those of us who were not old enough to participate in that memorable struggle are under eternal obligations to the survivors of that war for what they did for our country, for liberty, and for humanity. They have already reached an age when disease fastens itself upon them, and many suffer from the burden of old age; and I am sure this generation is not only willing but anxious to contribute liberally to their care and comfort. It, however, is not a contribution, not a donation, not an act of charity, but a partial payment of a debt that should have been liquidated years ago. [Applause.]

It required, Mr. Speaker, a great devotion of principle to carry on that war against Americans of our own flesh and blood. The Union soldiers were not called upon to do battle against a foreign foe, but against men of their own blood who were just as brave and just as well organized as themselves. They knew also that they were to battle father against son, brother against brother, and that they were to be the aggressors all along the line, which necessarily meant increased dangers. These conditions were met by the Union soldiers with a devotion and patriotism unexcelled in all the world's great history. And for this great service they were paid the small sum of \$13 per month, and paid in a currency that was equal to about 50 per cent of its face value, and at a time, too, when the necessities of life were necessarily high. It was all the Government could afford to pay at that time, but now that we have grown rich and stand to-day at the head of the nations of the earth, let us not forget that it was the Union soldier who laid the foundation of all our greatness, and that his service widened and deepened the current of American patriotism, and not only saved the country from the peril that threatened her existence forty-eight years ago, but infused a spirit into American citizenship that will guide and protect the American Union for centuries to come. [Applause.]

The soldiers of the civil war were not granted at the close of the war such pensions as are now allowed the soldiers of the Spanish-American war. Let us look for a moment at some of the specific disabilities.

The soldier of the civil war at the close of that war received for the loss of both hands \$25 per month. The soldier of the Philippine war receives \$100 per month for the same disability.

The soldier of the civil war received at the close of that war for the loss of both feet \$20 per month. The soldier of the Philippines receives for the same disability \$100 per month.

The soldier of the war of the rebellion received for the loss of the sight of both eyes \$20 per month. The soldier of the war with Spain receives \$100 per month.

For the loss of sight of one eye, the other eye being affected, the soldier of the war of the rebellion received \$25; of the war with Spain, \$72 per month.

For the loss of one hand and one foot the soldier of the war of the rebellion received \$20 per month. The soldier of the war with Spain receives \$60 per month.

For the loss of an arm at or above the elbow or a leg at or above the knee the soldier of the civil war received \$15 per month; the soldier of the war with Spain, \$46 per month.

For the loss of a leg at the hip joint the soldier of the first war received \$15; of the latter, \$55 per month.

For total disability in one hand or one foot the soldier of the former war received \$20; of the latter war, \$60 per month.

For an incapacity requiring regular aid and attendance the soldier of the war of the rebellion received \$25; the soldier of the recent war receives \$72.

For total deafness the soldier of the war of the rebellion received \$13; the soldier of the war in the Philippines receives \$40.

Now, Mr. Speaker, the soldiers of the civil war received no greater pensions than those I have mentioned until within a very few years. Every Union soldier entered the service with the understanding, and with the agreement on the part of the Government, that if disability occurred to him during the period of his service by reason of such service he should be pensioned. Personally I consider this obligation as sacred as the public debt, and I believe the American people feel that way about it. I am sure you can not find anywhere in the United States anyone who criticises the amount paid in the way of pensions to those who offered their lives on the altar of their country. I have always believed that the private soldier has not received his merited share in the way of pensions and that the commanding officers have received more than their share, when compared with the pensions paid to the private soldiers. I do not mean to criticise the pensions paid to the commanding officers—and so long as I am a Member of the House I shall never cast my vote to lower the pension of any man—but I would like to vote for a bill that would do justice to the private soldier, who was not so well fed, not so well clothed, and not so well sheltered as was the commanding officer, and who stood behind the gun and fought the battles that saved the Union. [Applause.]

Now, gentlemen, I want you to vote for the bill now under consideration giving relief to the widows of soldiers, and then join me in bringing about the passage of my bill, No. 3896, now in the hands of the Committee on Invalid Pensions, which will, if enacted into law, give relief to over 600,000 private soldiers and partially pay the debt we owe to the heroes of that war. If you refuse to do this, then do not go home and attempt to mislead and deceive the soldiers of your district by telling them how much you love them and how sorry you are that the Adair bill did not become a law. Speaking for myself, I shall continue to insist on more liberal pensions for the private soldiers, and if you fail to give them relief during this session of Congress, I will be back again next December more determined than ever that justice shall be done them. [Loud applause.]

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. HINSHAW said:

Mr. SPEAKER: I am sincerely glad that this measure is to pass the House, and I believe that it will pass the Senate and become a law. I had the pleasure to introduce a bill granting to all widows of the soldiers of the civil war \$12 per month. Many other Members have introduced similar bills. The sentiment of the country seemed so much in favor of this meritorious proposition that the Committee on Invalid Pensions has unanimously reported such a measure, and, out of courtesy to the distinguished chairman of that committee [Mr. SULLOWAY], has named the bill for him. This is a custom generally followed in all matters of important legislation.

This bill makes it unnecessary hereafter for the widow of a civil-war soldier to make any proof concerning her income. This feature of the old law was very objectionable and caused an infinite amount of trouble, as it frequently happened that the amount of property which the widow possessed seemed adequate to produce an income of \$250 per annum, and the Pension Office would often so hold, when as a matter of fact, she had no such income. There are few widows of soldiers, I believe, who have a large income, and if perchance the widow of some soldier happens to be rich and not in need of the pension it is far better than a seeming injustice should be done in one such case than that thousands of deserving widows should be harassed and bothered and put to expense to get affidavits and proofs of the details of their property interests. It is estimated that this law will annually cost the Government about twelve or thirteen million dollars in addition to the payments already being made. It is a sum righteously spent. The

objection I have to this bill is that it cuts out the widows of soldiers who married since June 27, 1890, unless, of course, the widow can show that the soldier died of injuries or disease incurred in the service. After more than forty years since the close of the war it is now practically impossible to prove that the immediate cause of the soldier's death was the disabilities contracted in the war. So the women who married soldiers after 1890 are practically shut out.

There are said to be fifteen or twenty thousand of such widows. They married the soldiers with the understanding, under the existing law, that they could not be pensioned, so there was no other motive for them to marry the soldiers except a sincere wish to take care of them and be to them wives and helpmeets. But now, after seventeen years, it seems to me that justice requires that these women, who have administered to the old age of veterans, should receive the same recognition as those who married earlier. Assurances have been made by the committee in charge of this legislation that such a bill will be brought in before long and probably become a law. I do not doubt that before many months this law will be so amended that all widows of soldiers will be pensioned, irrespective of the date of marriage. While the pension legislation is not as yet in a perfect condition, it must in justice be said that the American Congress has done well by the soldier and his widow. The McCumber Act, passed last February, granted deserved relief to thousands of soldiers, and the Pension Office has been overwhelmed with the work of granting increases under this law. In my opinion the act should be still further extended, and I have introduced a bill to pension all soldiers at 62 years of age at the rate of \$15 per month and at the age of 65 years \$20 per month. I hope that this bill or one of a similar nature will pass at this session of Congress. It is meritorious and just.

The soldiers of the civil war are fast passing away. The pension roll is decreasing. There is no nation that pays to its soldiers and their widows a sum approaching the magnitude of the \$15,000,000 annually paid by this Republic. It will, however, be but a few years until every soldier of the civil war will be gone and there will be left but a few of their widows. Out of the boundless resources of our wealthy country the justice and generosity of a free people will adequately provide for the necessities of age and disability and render less hard the declining years of those who sacrificed health, happiness, and life itself for the perpetuity of the nation of States which would have been rent asunder had it not been for their heroic efforts.

APPENDIX A.

A bill (H. R. 13261) providing for certain pensions to be paid widows of civil and Mexican war soldiers.

Be it enacted, etc., That the widow of any person who served ninety days or more in the military or naval service of the United States during the late civil war or sixty days in the war with Mexico and was honorably discharged therefrom, and who was married to said soldier prior to the passage of this act, shall, upon making proof of such facts according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll and be entitled to receive a pension at the rate of \$12 per month, and such pension shall commence from the date of filing of the application in the Bureau of Pensions after the passage and approval of this act: *Provided*, That no person shall receive a pension under any other law at the same time and for the same period that she is receiving a pension under this act.

APPENDIX B.

A bill (H. R. 10510) to amend an act entitled "An act granting pensions to certain enlisted men, soldiers, and officers who served in the civil war and the war with Mexico."

Be it enacted, etc., That the act approved February 6, 1907, entitled "An act granting pensions to certain enlisted men, soldiers, and officers who served in the civil war and the war with Mexico," shall be amended to read as follows:

"That any person who served ninety days or more in the military or naval service of the United States during the late civil war or sixty days in the war with Mexico, and who has been honorably discharged therefrom, and who has reached the age of 62 years or over, shall, upon making proof of such facts according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll and be entitled to receive a pension as follows: In case such person has reached the age of 62 years, \$15 per month; 65 years or over, \$20 per month; and such pension shall commence from the date of the filing of the application in the Bureau of Pensions after the passage and approval of this act: *Provided*, That pensioners who are 62 years of age or over and who are now receiving pension under existing laws or whose claims are pending in the Bureau of Pensions may, by application to the Commissioner of Pensions in such form as he may prescribe, receive the benefits of this act; and nothing herein contained shall prevent any pensioner or person entitled to a pension from prosecuting his claim and receiving a pension under any other general or special act: *Provided*, That no person shall receive a pension under any other law at the same time or for the same period that he is receiving a pension under the provisions of this act: *Provided further*, That no person who is now receiving or shall hereafter receive a greater pension under any other general or special law than he would be entitled to receive under the provisions herein shall be pensionable under this act."

"Sec. 2. That rank in the service shall not be considered in applications filed hereunder."

"Sec. 3. That no pension attorney, claim agent, or other person shall be entitled to receive any compensation for services rendered in presenting any claim to the Bureau of Pensions or securing any pension under this act."

Catholic Church Claims Bill.

SPEECH

OF

HON. WILLIAM E. TOU VELLE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) making an appropriation to the Roman Catholic Church of the Philippine Islands, and for other purposes.

Mr. TOU VELLE said:

Mr. CHAIRMAN: I have read with some care the bill introduced by the gentleman from Wisconsin from the Committee on Insular Affairs (H. R. 16143), together with the reports accompanying it (House Report 696, parts 1 and 2), being the majority and the minority reports of the Committee on Insular Affairs upon the merits of the bill. I have also read the hearings had before the Committee on Insular Affairs as printed and laid before the House, and have listened with interest to the discussion which the bill and the reports have engendered before this committee.

As to the facts of the case there is little difference between those who favor and those who oppose the bill. The facts briefly stated are these:

During the entire time of our military occupancy of the Philippine Islands, from the time when the American Army landed until the declaration of peace which ended the Spanish-American war, the United States, through its armed forces, took and continued to hold possession of the churches, contiguous parish houses, school buildings, and seminaries of the Philippine Islands, using them under the exigencies of war as hospitals, prisons, and barracks. This occupation extended not only throughout the duration of the war, but also in many cases from a few months to two years after the declaration of peace, and was so thorough during all this time as to exclude the rightful church authorities entirely from the occupancy or use of their property. Many of these churches were fine buildings, costing their owners a large amount of money, and were an honor to the islands and the church authorities who built them.

Military occupancy is not always a prudent or careful occupancy. The best disposed soldiery of the world can not occupy a church without injuring it, and the American soldiery, although admittedly among the best disciplined and most careful soldiery of the world, proved to be no exception to the rule. Careful investigation has shown that the churches and other buildings so occupied by our troops were damaged and injured, a thing which all history and the dictates of common sense would lead us to presume to be true.

It is a fact that the title to the churches and buildings so occupied by our soldiery, and for which compensation is made in this bill, was in the Roman Catholic Church of the Philippine Islands, and there is no serious dispute over this question. The use of the property by the United States gave rise to a claim for rent, and the negligence of that use gave rise to a claim for damages.

Both sets of claims were set up by the Roman Catholic Church of the Philippine Islands, the rightful owners of the property, and presented at Manila in 1905 to a board on church claims, appointed under a special order of the War Department for the sole purpose of investigating them. This board was made up of officers of the United States Army, sat in session six months, and examined all the evidence presented most thoroughly.

The total amount claimed by the Roman Catholic Church of the Philippines for use and occupancy of and damages to the buildings was \$2,442,963.13; but the board, after a most sifting examination and mature deliberation, awarded the claimants the sum of \$363,030.19.

This board, in its findings, added a paragraph which shows the present status of the Roman Catholic Church in the Philippine Islands, and the further fact that the amount so awarded was a poor compensation. The language of the board is:

The church authorities as at present constituted are our friends and helpers in the establishment and preservation of law and order in these islands and are upholders of the authority of the United States. Their work here has been made hard by the amount of damage that the church has suffered due to war, and the amount awarded by the board, \$363,030.19, will not begin to compensate for the loss so inflicted. This amount, however, is justly due from the United States and is most urgently needed by the church in its work here.

As I understand the argument of those who have preceded me favoring the bill, and the argument of the members of the Committee on Insular Affairs, no objection is made to the amount

of this finding. All seem to be agreed that the Roman Catholic Church of the Philippines should be paid the sum of \$363,030.19, and if a bill had been introduced appropriating that amount, and no more, no objection would have been made to its passage, except possibly to the character of the payees.

The question of title has been raised, and it is claimed that the Roman Catholic Church does not hold title to certain parts of the property. There can be no recognition of any church as a connection of the Roman Catholic Church, and the so-called "Independent Catholic Church of the Philippines" can found no claim on any previous connection of its members with the Roman Catholic Church. The only question for us to decide is who owned the property at the time of its use by our troops.

This point of vital importance to the argument against the bill has already been decided by the supreme court of the Philippines in several cases, in all of which the rights of the Roman Catholic Church to the property has been sustained.

The evidence also shows that the Independent Catholic Church of the Philippine Islands has never set up a claim to the actual ownership of the property. If this church has no actual ownership and claims none, it is idle for us to make and establish a claim for it.

The evidence otherwise conclusively establishes the fact that the title to all the property, for which rent and damages are claimed, was at the time it was occupied by our soldiers and is now in the Roman Catholic Church of the Philippine Islands, and the bill before us, in my opinion, takes the proper legal and moral ground, in appropriating the money to the Archbishop of Manila as the representative of the Roman Catholic Church, whose property we occupied. In my opinion the title to the property was in the Roman Catholic Church at the time of its occupancy by us, and payment for use, occupancy, and damages should be made to the lawful record owners at the time, and not to an independent schismatic body that has arisen since that time. The claim that the treaty of Paris made the United States the legal owner of this property is, to my mind, untenable for this reason: The supreme court of the Philippine Islands in November, 1906, upon a direct issue before it as to the title to the property in controversy, held in express terms that the Spanish Government at the time the treaty of Paris was signed was not the owner of this property nor of any like property situated in the Philippine Islands.

The treaty of Paris confirmed all property rights, either in title or possession, which were held under Spanish law, and it is not disputed by anyone that all the property in the islands devoted to religious purposes was under the exclusive control and in the exclusive possession and occupancy of the Roman Catholic Church. The so-called "Independent Catholic Church" had no existence at the date of the treaty of Paris, nor was it organized until after the date covered by the award of the board on church claims. This is the statement of the judge-advocate of that board and the finding of the supreme court of the Philippines, and effectually settles the question of title. In my opinion both the legal and equitable title to the property is in the Roman Catholic Church.

The difference between the amount awarded by the board on church claims in January, 1906, viz, \$363,030.19, and the amount carried by this bill, \$403,030.19, is \$40,000, which complicates the argument and demands a separate analysis.

The board on church claims made its findings on values as of the date of occupancy, 1898 to 1902, and had the money been paid then, while it only covered a small part of the actual loss sustained, would have been accepted. The actual legal finding was made in January, 1906, and expressly omitted all compensation for the deterioration of the damaged property from 1902 to 1906. The judge-advocate of the board, Colonel Hull, before the Committee on Insular Affairs, stated that an award of \$500,000 in 1906 would have been more equitable to the church. It is clear to my mind, therefore, that not only the award of \$363,030.19 should be appropriated at this time for rent and damages, but also a larger amount for deterioration growing out of the lapsed time. The only question is, How much more should be appropriated? In determining this we come to another claim made by the Catholic Church which was excluded by the board on church claims.

That board expressly excluded all compensation to the Catholic Church for the spoliation and carrying away of sacred ornaments, images, and vestments, but at the same time and in the same report recommended to the Congress of the United States, in case compensation should be made for these things, that the sum of \$40,000 be paid therefor. The bill before us carries compensation for the use, occupancy, and damage to the churches and buildings of the Roman Catholic Church of the Philippines as ascertained by the board of church claims, to the

extent of \$363,030.19, and \$40,000 for the spoliation and destruction of sacred ornaments, images, and vestment; in all, \$403,030.19. The Roman Catholic Church claimed a loss in sacred ornaments, images, and vestments, amounting to \$298,222.50, which the board on church claims did not allow but scaled down to \$40,000, which although not included in the award was recommended to Congress as a suitable amount to pay.

There is always room in these cases for error and a Congressman can not always have the exact facts before him. This matter, however, has been gone over very carefully by a legally authorized board on church claims and by a committee of this House. All the facts needed for judgment are apparently before us. The findings of all these persons, boards, and committees show an occupancy of the premises by the United States and the consequent damage; they show the legal owner of the property, and show an award of a minimum sum, setting forth, however, that a greater sum would not be exorbitant. This minimum sum was based on a value of the property from 1898 to 1902, and not of a value as of 1906 or of the present time, and expressly excluded payment for lost vestments and ornaments.

I am free to say that, in my opinion, the sacred vestments and ornaments are as much the subject for claim as the churches themselves and for want of better evidence am willing to adopt the recommendation of the board on church claims and to pay the Roman Catholic Church of the Philippines \$40,000 for this item of loss and for the damages growing out of the deterioration of the property from 1902 to the present time.

This added to the award for rent and damages will bring the appropriation up to \$403,030.19, the amount claimed by the bill.

I shall vote for the bill and hope that it will pass. I believe that every dollar of the money rightfully belongs to the Roman Catholic Church of the Philippines, and I would do injustice to my ideas of right and wrong to oppose its payment. The legal precedents for our action are numerous, and I shall not take the time of this body to enumerate them. The equity and the law unite in favor of the claimants, and as a matter of abstract justice they should be paid the amounts awarded and recommended.

In matters of justice and right we should discard party friendship, and kindred ties and approach their solution unfolded, being guided solely by the dictates of reason. Justice, as has been said by an able thinker, springs from reason, while all other virtues dwell in the blood. It awards to every man and to every church its own; a law of conduct written large in the very nature of man. Justice is the ligament binding all society together, and its destruction impairs and undermines the moral and social law.

Highway Improvement—Good Roads.

SPEECH

OF

HON. ROBERT M. WALLACE,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, December 19, 1907.

Mr. WALLACE said:

I come not to praise Cæsar nor tell of his nor Napoleon's fame as a road builder. History records the facts of building, however, and generations since have profited by their example. But we have the more ancient record of Achish, who said, "Whither have ye made a road to-day?" And David said, "Against the south of Judah, and against the south of the Jerahmeelites, and against the south of the Kenites." What Congress and the States should do is to make all the roads lead to the centers of population, intelligence, and commerce, and thence against the East and the West and the North and the South of the whole country. But, to dispose of the historic phase of this subject, I may say the nations of Europe have practically united on a common policy. They regard public roads—like post-offices, public buildings, and waterways—as public property. They learned that time, labor, and money could be saved by substituting for the dirt or mud road the macadam and other improved types or grades of road. France spends eighteen to twenty millions annually for the repair of her highways. The European systems are fostered and supported by the head of each national government. Their centuries of experiment in solving the problem establishes the fact that good roads pay—that the system is a success.

PRACTICAL QUESTION.

In the good old days of Georgia, Colonel Dooley was a unique and picturesque character, and as the story goes was forever challenging, but never fighting duels. Once he met on the field of honor a man afflicted with St. Vitus's dance, which gave his weapon a jerky, unsteady aim. The Colonel promptly planted a forked stick before his antagonist, who indignantly demanded an explanation. "Well," retorted the Colonel, "I want you to take a rest, for if you shoot that pistol that way you'll fill me full of holes with one shot." We may trust the virtue of scattering to individuals of the mortar-gun type; but if we would excel in industrial and highway marksmanship, it may be well to level our fieldpiece, take a rest, and send a single charge swift flying to the mark. The good-roads proposition is extremely practical and appeals with directness to the common sense of the people.

GOVERNMENT COOPERATION.

The proposition embodied in bills before Congress may be termed a system or policy of cooperation between the States and the United States, wherein each State is to raise a good-roads fund and the Federal Government to appropriate a like sum, or apportion to each State an amount to be computed on population or other basis. That the Federal Government at an early period embarked upon a policy of road construction and improvement is matter of history. Prior to 1825 Congress in the exercise of the power of appropriation set apart something like \$14,000,000 which was expended by the Government for the improvement of the public highways, the Cumberland road being the most conspicuous example.

Since 1825 nothing has been appropriated for public highways, except in the Territories, the District of Columbia, and for military purposes. That constitutional questions were raised and the policy itself dropped into a long sleep are not to be overlooked. But about that time railroad building and other improvements began to attract public attention, and operated, at least indirectly, against the ordinary road enterprise. Some of the States have passed highway laws providing a general road tax on the taxable values of the State, but such laws have been effective in those States where a low rate of taxation would raise a large sum of money. A 1-mill levy in New York would raise more money than a 40-mill levy in Arkansas and other States, and there are more miles that need improvement in the latter than in the former. It is not because of want of interest in the measure that Arkansas has not passed such a law, but because her taxable wealth is not large enough to avoid an enormous rate of taxation in raising a sufficient sum for practical purposes. The right of Congress to appropriate has not been denied. It must be an appropriation pure and simple, without a retention of control afterwards. A bill was introduced in the Senate of the United States in 1904 providing for co-operation as before stated. It provided for a bureau of highways, composed of three commissioners, one from each of the two great political parties and one from the Engineer Corps of the United States Army. It called for an appropriation of \$24,000,000, to be distributed among the States and Territories according to population.

Under the provisions of that bill the Department of Agriculture, taking the census population of 1900, worked out the amount that would be given to each State under its provision. Arkansas had a population then of only 1,311,564, and her pro rata as assigned by the Department would have been \$421,910. The chief objection to this distribution according to population is that it gave the richer States, already provided with good roads, a sum of money out of proportion to that assigned to the poorer States with needs immensely greater. Under that bill, before a State or Territory could receive the benefits of the act it must provide for one-half the cost of construction and secure the necessary right of way. Under such a bill Arkansas would have to raise \$210,955, by taxation upon her own wealth or otherwise, which would give her a total of \$632,865 annually, which if distributed equally among the counties of the State would give each something more than \$8,000 a year. From statistics of the Agricultural Department it has been ascertained that the building of an improved road along modern methods costs from \$100 to \$400 per mile where sand and clay are used, and from \$1,000 to \$3,000 per mile for gravel, and from \$3,000 to \$9,000 per mile for macadamized road, according to the distance the material has to be transported. Eight thousand dollars per annum would build from 20 to 80 miles of clay and sand roads, up to the highest standard of modern ideas, each year; from 2 to 8 miles of gravel road per annum, and from 1 to 3 miles of macadamized road. In thirty years every county in the State, under a bill of this character,

would have a system of good roads, a system covering every part of the county and passing almost every man's door.

It has also been worked out that under the present system of road improvement in the United States—that is to say, warning out of hands, etc., an average of only \$12 a mile are expended each year. With that small amount no permanent system of road improvement can be devised.

LIKE PROJECTS BY THE GOVERNMENT.

The Government has undertaken great schemes of irrigation, of rivers and harbors improvement, constructed post and military roads, erected great buildings, given aid and acres to the railroads, and now by her rural free-delivery system is encouraging and creating greater demand for bridges and better roads, extending this auxiliary to the remote and neglected precincts of the country. Good roads should be put on an equal footing with these enterprises, for they, like the mail or postal service, touch directly the welfare and interests of every class and condition of the people.

UNITY OF ACTION AND AGENCIES.

The rapid development of the country demands unification of all facilities—canals, rivers, lakes, harbors, railroads, and domestic roads—to meet the great problem of transportation. The interest of all classes is involved. With such agencies united will come the solution of the problems of rates. The subject of drainage is sharing largely the attention of Congress and the country. It is an almost indispensable adjunct to all the rest. The reclamation of vast bodies of wet and overflowed lands will add largely to the real estate values of Arkansas, Mississippi, Louisiana, and other States. Great conventions here and yonder accentuate the demands of the people. Public spirit is stirred as never before, and in time great results must follow. But interest in overland highways is not keeping pace with other factors in this great movement. About two years ago I visited the great good roads convention at Baton Rouge. The platform was crowded with good-roads men of national, State, and local importance. Responding on behalf of the convention to the welcome addresses of Governor Blanchard and President Boyd of the university, I said: "Gentlemen, I have the honor to present to you and this civilized audience the most amiable and useful band of highwaymen that ever invested your State." I still believe the good-roads movement of equal importance with almost any other agency for the public welfare.

I think, therefore, that we need not dwell at great length on the constitutional theories of some of the early statesmen, touching the power to deal with common highways. At least it is not necessary to play the fly to the spider and entangle our feet in the web of constitutional refinements. It is better, perhaps, to erect a standard of work and salute it as Joan of Arc saluted her white standard, and said, "Go boldly among the English and I follow." It is all right for the Federal Government to give object lessons in the matter of good-roads construction and otherwise educate the people. I think, however, that the States should take the initiative in taxation, lay the foundation of the system, give it domestic significance, and bend their best efforts to making it permanent and effective. When they thus lead out and do something tangible in the premises, it is probable the General Government will be disposed to lend a helping hand. Then when her Congress and her President, supported by the judgment of her courts, authorize drafts on her treasury for aid to road improvements, it will not be considered chimerical to say that a mighty step has been taken in behalf of the public welfare. And why? Simply under a State tax alone, the burden falls heaviest as it now rests, on the farmer and the man of small means. His property is tangible—can be reached by direct taxation. The Federal system of indirect taxation falls largely in the way of duties on consumption and, in some degree, its revenue comes from all classes. Therefore in appropriating money for good roads the Government, through that channel, turns back the people's money to their own public interest—the common good.

BENEFIT AND SAVING OF GOOD ROADS.

I have told what the older governments have done and what our State and Federal governments, backed by the people, may and ought to do, perhaps. So, I will now notice some of the benefits, economy, the good to be derived from and the inducement for undertaking so vast an enterprise. By experiment and investigation, it is known that a horse or mule can pull double as much on a macadam as on a dirt road in its best form; four times as much as when the dirt road is in average condition; ten times as much as when it is soaked with spring and winter rains.

Some objectors urge that because we have railroads the need for improved country roads has been largely dwarfed if not eliminated as a national question. In 1896 the railroad

commission worked out that the cost of transporting the products of the farm, mine, and forest over dirt roads to the shipping point was in that year \$1,000,000,000, while the railroads from all sources in the same year only received \$700,000,000. It will be seen that \$300,000,000 more in the year 1896 was paid for transportation over dirt roads than on the railroads.

Careful investigation has shown that the average cost of transporting a ton over a mile of dirt road in the United States is 25 cents. From statistics gathered by our consuls in twenty-three European countries having improved roads the cost was from 10 to 12 cents a ton, or a difference of 13 cents per ton to be charged to bad roads. This saving of 13 cents per ton, after making allowances for our higher wages and highest cost of living, would have effected a saving in that year, had we been blessed with improved roads, of \$500,000,000.

The \$700,000,000 received by the railroads in 1896 was to the largest extent returned to the people. Seventy per cent of it was paid out for labor and material, and the balance in taxes and dividends. All of this vast amount benefited the whole country. On the other hand, the \$1,000,000,000 consumed in the cost of transportation over dirt roads paid not a cent in dividends, not a cent for the labor employed, and not a cent for the excessive wear and tear of wagons and animals. The condition was a source of loss to both producer and consumer. The census showed in 1900 that there were about 16,000,000 horses and mules on the farms in the United States, and in a modest estimate 2,000,000 of them could be dispensed with under a system of good roads. The cost of maintaining 2,000,000 unnecessary animals would be approximately \$115,000,000 a year, and their value \$140,000,000, which make a total of \$255,000,000 that would be saved the first year. From these two illustrations it appears that something near \$700,000,000 per annum would be saved to the people under a general system of improved roads. The manufacturers of the country are enriched by a tariff law which falls heavier upon the agricultural and consuming population than upon the general wealth of the country, notwithstanding the fact that agriculture furnishes more than half of the entire productions of the country. The Secretary of Agriculture in 1904 said:

That the farm products during the last fourteen years, no year excepted, aggregated \$4,806,000,000 in products. Other than farm products during the same period the balance of trade was adverse to this country to the extent of \$865,000,000. Our farmers not only canceled this immense obligation, but placed \$3,940,000,000 to the credit of the nation when the books of the international exchange were balanced.

Does not agriculture, then, deserve some recognition? Is it right to always make it bear unequal burdens and not give it at least equal benefits? More than one-third of our people are engaged in agricultural pursuits and live away from the centers of population. For the most part they live on their farms at from 1 to 10 miles from the nearest town. Upon this class of our people depends to a very large degree the bodily comfort of the whole country, and the wealth of the country is primarily drawn from their labor. It is self-evident, I think, that the advancement of the agricultural class should be the prime concern of every statesman and patriotic citizen. Nothing can advance them more than a better system of public highways. These will bring them into closer touch with the centers of progress and enable them to keep abreast with the times. They will no longer desire to leave the farm for the town, a serious evil now threatening the prosperity of the whole country. Improved roads will enable them to retain in their own pockets the excessive cost paid for animals and wagons, enable them to haul larger loads in shorter time, a saving probably greater than the other, which, on the whole, will add to their general wealth and increase their comforts.

A LONG APPRENTICESHIP.

We have served a long apprenticeship of running in old ruts. We have long been in the condition of having our roads bottomed with mud and paved with good intentions. Neither of these provisions guarantee a safe footing—both involve an evil tendency. It is asserted upon good authority that we have the worst roads of any civilized country. But in extenuation it can be said of us that we are also younger and territorially larger than almost any civilized power and with a population more sparse and less aroused to the importance, the necessity of good roads. But the time has come when it is considered neither good form nor good practice for us to set up a plea of confession and avoidance, particularly when youth and avoirdupois constitute the only ground for such a plea. The opportunity for good work afforded by the system would largely solve the problem of the vast armies of the unemployed which periodically menace the country. From the people's standpoint it would prove a panacea for the common idler and for "Weary Willies," too—that vagrant horde on whom we might lay odds against the feathered throngs in their annual flight

between the Torrid and Frigid zones. It would serve in some respect, too, as an antidote to obscenity, wicked revilings, disordered tempers, and perturbed spirits, excited by disastrous contact with the bogs and "bottomless pits" of our mud roads! It would stay many a cruel and barbarous lash from the backs of our "beasts of burden." It would promote healthful exercise, delightful travel, humane practices, genial spirits, good behavior, good morals, social order, and religious serenity. It would open up the arteries of life between cities and towns; stop the crowding of the former and consequent decimation of the country around; bring churches and schools, factories and mills, and farms into generous touch and rivalry; open new and convenient markets, stamp country life as the ideal one, and landowners as its nabobs—its favored beneficiaries.

But all this can not be accomplished in a day, a year, or a decade. However, we are intelligent, rich, and proud enough to insure in a few years progress in this direction, unmatched in the annals of industrial activity! As the oak may be termed an educated acorn, so training, instruction, and effort develop the educated man; and work, skill, and scientific method, the improved road—the equipped educational institution or college. They inspire wholesome growth of the intellectual and moral, the physical and the material status of communities, States, and nations!

In the spirit of cooperation, in the simple faith of reciprocal obligation and help, we look out upon a clear understanding between the citizen and the Government. We look out upon the future of our country, great not alone in rich mines and smoking furnaces, improved highways and splendid institutions, but upon a Union of States, steadfast and abiding—a union of hearts and homes and earth and sky! We look out upon the lessons of her civilization, transmitted to the homes of the Pyramids and the light of her example, flashed to the summit of the Alps.

Let the present and the future clasp hands in the buoyant prospect, let Arkansas and New Jersey, Texas and New York, Georgia and Illinois, Virginia and Massachusetts—and all the States—march to the goal of national unity and the perfection of national development! [Loud applause.]

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. J. DAVIS BRODHEAD,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908,

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. BRODHEAD said:

Mr. SPEAKER: I have read the committee's report accompanying this bill and have listened to the speeches in relation to it. As I understand the provisions of this measure it will not be such a raid on the Treasury as at first supposed. The gist of the whole bill is simply to raise the rating of widows' pensions under the act of June 27, 1890, \$4 per month, regardless of the widows' other resources. That is, this bill, like the act of June 27, 1890, only applies to women who were wives of soldiers prior to June 28, 1890, and takes away the clause which disqualifies those widows who have an income in excess of \$250 per annum. The original bill, passed over seventeen years ago, met the approbation of the country at that time, and I therefore think the country will approve at this time the increasing of the rating from \$8 to \$12 per month because the widows who will be entitled to this increase are fewer in number and almost eighteen years older.

There are a great many soldiers' widows in that garden spot of Pennsylvania—the Twenty-sixth Congressional District, which I have the honor to represent in this august body—widows, Mr. Speaker, ever since the One hundred and fifty-third Regiment of Pennsylvania Volunteers, recruited solely from my native county of Northampton, was mowed down at Gettysburg. Now, almost half a century after the war and seventeen years after the original widows' pension bill was enacted, it will not add much to the pension expenditures to allow the widows \$4 more per month, the act applying as it does, not to widows who were married after 1890, but only to those who were wed prior to

that time. The reason the committee limits the operation of this act to widows married prior to 1890 is because of the deficiency the chairman of the Appropriation Committee says is staring us in the face. Although the committee felt that the provisions of this measure should be extended to widows married after 1890, they were afraid that by so doing the whole act might fall of passage.

I also understand that the bill has been presented under such a parliamentary rule as not to admit of amendment. I will, therefore, following the example of the distinguished gentlemen from Florida [Mr. CLARK and Mr. SPARKMAN] and of other Southern as well as Northern leaders, vote for this bill and in this small way show my mindfulness of the widows' sufferings and my belief in the justice of this act.

Mr. Speaker, while we are on the subject of pensions and necessarily discussing the matter of justice and fair treatment to our soldiers and their widows and their orphans, let me take this brief opportunity to call attention to an act of justice which should be done the One hundred and fifty-third Regiment of Pennsylvania Volunteers. There is a bill now pending to create in the War Department a roll to be known as the volunteer retired list, on which is to be placed the names of surviving soldiers of the civil war who served not less than one year. In 1862, when President Lincoln called for 300,000 troops, Northampton County, Pa., responded, and the One hundred and fifty-third Regiment was recruited solely from that county and was mustered into service in September, 1862, for nine months. The time of those soldiers of the One hundred and fifty-third Pennsylvania Volunteers expired just twenty days before the battle of Gettysburg. They could have then been honorably discharged and have gone to their homes. But their State, the grand old Keystone State, was threatened with invasion, and the spirit that ever animates the brave and chivalrous to protect their homes, inspired the men of the One hundred and fifty-third to continue to fight with all the strength at their command.

And therefore, Mr. Speaker, we find the soldiers of that brave regiment voluntarily remaining in service twenty days after their time had expired to participate in the fearful fight at Gettysburg, where 39 per cent of them laid down their lives. Through those three days of awful slaughter those sons of Northampton were in the hottest of the fight. In those three days they saw as much active service, performed as glorious deeds, and did as much toward preserving the Union as did many other regiments who were enrolled for a year or more and whose names it is now proposed to place on a volunteer retired list. And they fought and bled and died at Gettysburg, these men of Northampton, twenty days after their time had expired, and after they were at liberty, had they not been men of spirit and courage and loyalty to their flag, to retire in peace to their homes.

I am not opposed, Mr. Speaker, to the creating of this volunteer retired list of officers and soldiers who served a year or more in the civil war, but I maintain that on that list should be placed the names of the officers and men of the One hundred and fifty-third Pennsylvania Volunteers who served after their time had expired, voluntarily remaining in the service to take part in the greatest battle of the war, leaving 39 per cent of their regiment dead on the field.

It is a generous impulse, Mr. Speaker, to remember the widow, but justice is of a higher order than generosity, and injustice is worse than meanness. It is in the name of justice that I will endeavor to have the names of the One hundred and fifty-third Pennsylvania Volunteers placed in that volunteer retired list and not have them excluded because they fall just short of the full year of service. Those three days of service at Gettysburg alone were worth far more than years of merely camp service.

Gettysburg! Oh, what a battle it was! Who can recall it and not marvel at the magnificent American bravery exhibited on both sides. That bravery we all now claim as a common heritage of a reunited country. The heritage of heroic example, although not reckoned in the wealth of nations, is yet essential to a nation's higher life. Who but the poltroon could contemplate the unparalleled heroism of those Southern troops, not too well equipped, and fail to see that they were impelled with the highest patriotic impulses, fighting for what they deemed right. Indeed, to-day we all resent whatever seems the invasion of the right of the State by the Federal Government. Here is a book, Mr. Speaker, called "Pennsylvania at Gettysburg," published by the State of Pennsylvania, which gives statistics of the losses at Gettysburg. The Confederate General Heth lost 2,700 men out of 7,000 in twenty-five minutes; the Twenty-sixth North Carolina lost 588 out of

800—one company of this North Carolina regiment lost all of its officers and all of its men but one. Another company, of the Eleventh North Carolina, lost 36 out of 38 men; the Second North Carolina battalion lost 200 out of 240. And then there was Pickett's charge! What American is there not proud of such a display of American valor. Who can blame me for being proud of the Southern blood in my veins and proud, too, of the Northern, for I belong to that class of native-born American citizens, ever increasing in number, who represent the North and the South amalgamated.

It was against such heroic and fearless fighting that Pennsylvania soil had to be defended at Gettysburg. When Abraham Lincoln visited that famous battlefield those who accompanied him, pointing out "Culp's Hill" and "Cemetery Ridge," remarked upon the bravery of the men who defended those heights. "Yes," he answered, "but think of the bravery of those men who tried to scale those heights." Ah! the greatest misfortune that befell the South was the assassination of that good, generous-minded man.

The Union losses at Gettysburg in three days amounted to over 23,000 men, of which number my native State of Pennsylvania furnished 6,000. Think of 23,000 dead bodies! Then think of the widows at home! All that was almost half a century ago. There are not many widows left. Yes, I will vote for this bill. And when that volunteer retired list measure comes before this body I hope all who participated in the battle of Gettysburg, without any time limit of service as a bar, will be included on its rolls.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. LINCOLN DIXON,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908,

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

MR. DIXON said:

MR. CHAIRMAN: This bill provides for the payment of the claims of the Roman Catholic Church for the use and occupancy of church property and for damages and detention of the same in the Philippines by the military forces of this Government.

After the famous victory of Dewey at Manila the American troops landed in the Philippines and took possession of the churches, schoolhouses, and parish homes belonging to the Catholic Church, and used and occupied the same for barracks, hospitals, and prisons. Many of the buildings so occupied were magnificent structures and represented large investments of money. The troops used these buildings for many months, and in some cases several years after the cessation of hostilities. Such occupancy necessarily excluded the church authorities therefrom, and thus they were unable to care for or protect the same. Military necessity compelled the use of this property, as the buildings were in fact the only suitable places for the care of troops. The churches were in many cases of fortress-like construction and were capable of successful defense, and their use was regarded by the military authorities as essential. It is easy to understand how the property would be necessarily damaged by such occupancy, while in some cases the buildings were totally destroyed. To pay for the damage caused by our troops under such circumstances is both proper and right. To refuse to do so would be both unjust and wrong.

The claims of the church for said damage were presented to our Government, and through the War Department an order was issued convening a board called "The board on church claims" for the special purpose of investigating and reporting on the same, that board consisting of Army officers, Lieut. Col. J. A. Hull, judge-advocate; Lieut. Col. Alexander A. Brodie, military secretary, and First Lieut. J. W. Moore, Second Infantry, United States Army. This board met at Manila August, 1905, and continued its investigations for nearly six months. The members visited many of the churches where damages had occurred and examined carefully into all the claims. The work of the board was thoroughly done, and the report filed gives ample proof of the painstaking and conscientious labor of its members. The board excluded compensation for damages done by the insurgents, damages incident to military operations, wanton damages by American soldiers, and for use and occupancy and damage by servants of the civil government. This board thus organized, and after said investigation, recommended the payment of the sum of \$363,030.19 for rentals and damages

to church property and also that \$40,000 additional be paid to compensate the church for the spoliation and carrying away of many ornaments, images, and vestments, making in all the sum of \$403,030.19. The award was a conservative one, many Government officials regarding the same as entirely too small.

The indebtedness of \$363,030.19 is conceded in both the majority and minority reports, the only difference being the \$40,000 for the spoliation and carrying away of sacred ornaments and the person to whom the money should be paid.

The majority and minority reports agree that the sum of \$363,030.19 is due from this Government and should be paid to the proper party. The majority report recommends the payment of the \$40,000 additional and that the money be paid to the Archbishop of Manila as the trustee for the Roman Catholic Church. The minority report says the money should be paid to the bishops of the various dioceses, limiting the use thereof to the repair and construction of the buildings in such dioceses.

The objection to the payment of the \$40,000 is that it has not always been done in the past and that technically there is a question of liability.

The committee have investigated that subject and report in favor of the payment, and I am satisfied with the report of the majority of the members of the said committee. There is no dispute, nor is the fact questioned, that the property was taken by our troops and that the same was damaged by them. Is it just that our Government should take this property from those in possession and convert it to its own use and by such use allow the same to be injured and damaged and then refuse to compensate the owners thereof for the damage? The damage would not have occurred except by our use, and the necessities of war compelled and justified the use, but equity and right demand reparation.

The amount of the award having been settled by the court appointed for that sole purpose, there remains but the question as to who should receive the money.

I believe the payment should be made to the Archbishop of Manila as the representative of the Roman Catholic Church, as provided in the bill. This church had the right of possession at the time the damage was inflicted, and the possession was undisputed. The use and occupation was prior to any schism in the church. That schism was led by Aglipay and did not occur until 1902. This independent church does not now claim ownership of this property, but contends that as a matter of law this property belongs under the terms of the Treaty of Paris to our Government as the successor of Spain, and that the money appropriated should be used by the people of the communities where the churches are situated for religious purposes. This independent church was not organized until these claims had accrued. This church has recognized this fact by stating that it makes no claim for rent for the use of the buildings. But the question as to the church property, raised by this independent church, has been before the courts for settlement. The supreme court of the Philippines has decided the exclusive right to the possession of the churches to be in the Roman Catholic Church.

In the case of *Barlin v. Ramirez* (7 Philippine Reports, 41), the court decided that the Roman Catholic Church was entitled to possession as against the claim of this independent church. A number of similar decisions have been made by the same court.

Was the title to this property, prior to the treaty of Paris, in the Spanish Government, and by that treaty is it now in the United States?

This question has also been directly before the supreme court of the islands in the case of *Barlin, Bishop, etc., v. Ramirez* and the Municipality of Laganoy. The complaint alleged ownership in the Roman Catholic Church; the defendant alleged ownership in the province of Laganoy and denied the ownership of the church. The question of ownership being directly before the court, the court said:

We have said that it (that is, the municipality of Laganoy) could have no such title or ownership even admitting that the Spanish Government was the owner of the property and that it passed by the treaty of Paris to the American Government. But this assumption is not true.

As a matter of law, the Spanish Government at the time the treaty of peace was signed was not the owner of this property nor of any other property like it situated in the Philippine Islands.

The truth is that from the earliest times down to the cession of the Philippines to the United States churches and other consecrated objects were considered outside of the commerce of man. They were not public property; nor could they be subjects of private property in the sense that any private person could be the owner thereof. They constituted a kind of property the distinctive characteristic of which was that it was devoted to the worship of God.

The possession of the churches, their care and custody, and the maintenance of religious worship therein were necessarily, therefore, intrusted to that body—the Roman Catholic Church. It was, by virtue of the laws of Spain, the only body which could under any circumstances have possession of or any control over any church dedicated to the worship of God. By virtue of those laws this possession and right of control were necessarily exclusive. It is not necessary or important to give any name to this right of possession and control exercised by the Roman Catholic Church in the church buildings of the Philippines

prior to 1898. It is not necessary to show that the church, as a judicial person, was owner of the buildings. It is sufficient to say that this right to the exclusive possession and control of the same for the purposes of its creation existed.

It therefore follows that in 1898, and prior to the treaty of Paris, the Roman Catholic Church had by law the exclusive right to the possession of this church, and it had the legal right to administer the same for the purposes for which the building was consecrated. It was then in the full and peaceful possession of the church, with the rights aforesaid. That these rights were fully protected by the treaty of Paris is very clear. That treaty, in article 8, provides, among other things, as follows:

"And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, can not in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civil bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be."

This opinion would seem to establish fully the proposition that the right of possession and control exercised by the Roman Catholic Church prior to 1898 was complete. Indeed, the Independent Filipino Church, so called, is in no position to assert any title to these properties during the period covered by the investigation of the military board, for the reason that the Independent Filipino Church was not then in existence, it appearing from the record that the Independent Church did not come into existence until after that time.

By this decision it was held that Spain was not the owner of this property "nor of any other like it situated in the Philippine Islands." Spain never having owned this property, but the same having always belonged to the Roman Catholic Church, there is no foundation for the claim of ownership in our Government.

This appropriation will assist in repairing the damage our people have caused to the church whose authorities have ably helped us in the preservation of law and order in the Islands, who have assisted in upholding our authority, who have raised the standard of life in elevating and educating the people of the Philippines and preparing them for the day which we all hope is not far distant when absolute independence shall be granted them.

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. EDWARD L. TAYLOR, JR.,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908,

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. TAYLOR of Ohio said:

Mr. SPEAKER: The bill which is being discussed under suspension of the rules is the result of an insistent demand for some just and equitable legislation for the relief of the widows of veterans of the civil war. The act of 1890 worked a grave injustice to these deserving women. In the first place, the amount of pension allowed, to wit, \$8 a month, was entirely inadequate, and, in the second place, an arbitrary income clause barring all widows who had a net income of \$250 a year was unjust and unfair, and, finally, in my judgment, and I believe in the judgment of many Members of this body, that portion of the bill barring all widows from participation who had married since June 27, 1890, is eminently unfair, and the arguments in favor of it are not based upon logic or common sense.

The present bill cures the first two defects in the original legislation. It wipes out the income clause and raises the pension to \$12 per month. The committee has seen fit to continue the provision barring all widows married since June 27, 1890, and this portion of the bill does not meet with my approval, and I feel it my duty, while knowing that no amendment will be permitted, to voice my protest against the same. Because this bill does cure so much of existing legislation, I shall give it my hearty support.

Just why a former Congress saw fit to go on record as believing that any widow of a soldier should be barred if, by reason of thrift and economy, her husband had acquired an income for her in excess of \$250 per year I never understood.

I have had under my personal observation a large number of cases where the income is but a few dollars more than the income provided in the act of 1890, and these women were compelled to exist as best they could upon this pittance. Any person knows that an income of \$250 will not suffice to keep a woman in even moderately comfortable circumstances. This is

particularly true in view of the methods pursued by the Pension Department in determining whether or not such an income in fact exists. Many old soldiers have put all of their savings into a small home, and this they leave to their widow, and our Pension Department has seen fit to estimate the rental value of the home as chargeable against the \$250 income clause. In nearly every case which has come under my observation this rental charge has equaled fully one-half of the amount charged against the widow, leaving her frequently less than \$125 in actual income per year upon which to exist. Since this inequality has been discovered and wiped out by the committee in the bill now pending, it is useless to discuss it at any length, for in eradicating the income clause it would appear that the committee has realized that the law as it now exists simply penalizes thrift and puts a premium on shiftlessness. The man who left nothing left his widow in many cases better provided for than the man who by saving had managed to acquire a small estate.

The widow of a soldier who has been a faithful wife for many years, has made the home comfortable, has smoothed his path as he grew older, and has waited upon him in his last illness was entitled to more than \$8 per month, and the committee has seen this and most justly and properly brought her income up to an amount which will be of some substantial benefit in making more easy her declining years.

The only regret that I have is that that portion of the present act limiting the date of marriage to June 27, 1890, was not brought forward at least ten years—say to June 27, 1900. But, as I have said before, so many deserving widows will be benefited by the committee's action in the bill now under consideration that I will gladly support it, even if I must, for the present, yield the contention that this is not a just provision. I do not attempt to state to this House how much additional expense would be incurred by bringing the date of marriage forward ten years. I have made an effort to obtain this information, but have failed to secure reliable statistics on the subject. I do not believe it would be a great amount, but if it was, I still insist that common justice to the woman who has married and lived with a soldier since April, 1890, who has devoted from ten to seventeen years of her life to making him comfortable in his old age, to nursing him when ill, and to providing him with the comforts of a home, is entitled to be included in the general pension legislation of this country. They should not be barred by such an arbitrary time limitation. I have asked in vain for information as to the real cause for this legislation. The principal reason assigned is that it was passed to prevent adventuresses—young women—from marrying old soldiers in order to procure for themselves an income for life. The fallacy of this argument is apparent at a glance. In the district which I have the honor to represent, I know of a number of women who have married soldiers since the year 1890, and are now widows, and I have yet to learn of any who belong to that class of adventuresses, or bad women, while in every case I have found that they were middle-aged, Christian women, who married the soldier knowing that they would receive no pension, and with the sole desire for affectionate companionship and the maintenance of a home for their husband during his declining years.

If it is true that in isolated cases certain women might take advantage of this legislation, is it just to the thousands of respectable Christian women that they should be barred in order that one woman of bad character should be prevented from participating hereunder? It seems an insult to American womanhood that we must so guard them against and bar them from their just deserts, because forsooth some one, somewhere, might, from selfish motives, win the affection of a Union soldier. The very act itself can by no possibility attract an adventuress. A woman who has so far forgotten her womanhood as to seek a marriage for mere monetary consideration would not be attracted by a life income of \$8, or even \$12, per month. If she were a very young woman and became a widow while still in her youth, the chances are that she might, and probably would, remarry; and if so, our laws prevent her participating in a pension beyond that date.

I think a careful investigation of the subject would show that a large per cent of the marriages contracted since 1890 have not been between veterans and young women, but are between veterans and women of middle age. I hope in the near future to see Congress pass a law bringing forward this marriage date to at least the year 1900. Many thousand deserving women are benefited by this act, and I am deeply impressed with its merits, but we can not overlook the fact that many more deserving women are not given full justice by its provisions, and with an abiding faith in the desire of this body to properly provide for those who are justly deserving, I feel certain that another Congress will remedy what, in my opinion, is the only defect in this splendid piece of legislation.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. W. F. ENGLEBRIGHT,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908,

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. ENGLEBRIGHT said:

Mr. CHAIRMAN: As one of the Representatives of the State of California, which is situated the nearest to and has close business relations with our Philippine insular possessions, we naturally take an extra amount of interest in all matters connected therewith and have the best opportunity to meet people who have business relations there, and to get in close touch with the many problems and questions that require consideration. Having listened to the remarks of the gentlemen who have thus far discussed this question, and having met people who have visited the islands who indorse the justice of the claims now being considered, I think it only fit and proper that the report of the majority of the committee be considered and that this bill be passed.

The report of the committee says, on pages 2 and 3:

From the time that the American Army landed in the Philippines, in the year 1898, until the complete return of peace in the islands, the Government of the United States, through its military forces, took possession of churches, contiguous parish houses, school buildings, seminary buildings, etc., and used them as hospitals, prisons, or barracks. After the cessation of hostilities, in many instances the occupation of the buildings had to be continued until suitable quarters could be constructed for the garrisons which remained in the archipelago, the entire time of the occupancy varying in individual cases from a few weeks to two years or more. This occupation by the Government wholly excluded the church authorities, preventing them from taking any measures for the protection of the property. Many of the buildings so occupied were fine structures. For example, the cathedral at Manila, a large stone building with high walls and a dome and possessing an interior ornamented by handsome woodwork, was used at one time to imprison between 3,000 and 4,000 Spanish soldiers. Buildings thus seized and occupied were often seriously damaged, sometimes partially or wholly destroyed.

As presented, the claims demanded compensation for occupancy and damages, not only by our own forces but also by the insurgent forces, and were of two classes, namely, claims of the church proper and claims of the friars.

This report and the accompanying bill do not at all relate to the claims of the friars, but only to those of the Catholic Church proper.

These claims of the Catholic Church were presented at Manila before a board of officers called the "board on church claims," appointed under a special order of the War Department for the sole purpose of making an investigation and report. This board, composed of Lieut. Col. John A. Hull, judge-advocate; Lieut. Col. Alexander O. Brodie, military secretary, and First Lieut. J. W. Moore, Second Infantry, United States Army, was duly convened on August 1, 1905, at headquarters Philippine Division, city of Manila, and at once entered upon what proved to be an exhaustive investigation, conducted under rigid rules and instructions prescribed therefor by the Secretary of War (see Exhibit A, post) and lasting for the better part of six months.

Your committee are convinced that the board was most painstaking and conscientious, and that it performed its duties with exceptional thoroughness and ability. All of the many witnesses before it were examined under oath. Moreover, the members of the board themselves were personally acquainted with the cities, towns, and villages in the archipelago where the structures in question were situated. Many of these they visited in order to determine as thoroughly as possible, from personal inspection, the rental value of the property and the amount of damage inflicted upon it by our troops.

The award of the board carefully excluded compensation, first, for damages done by the insurgents; second, for damages incident to military operations; third, for wanton damages by soldiers of the American Army; fourth, for use and occupancy and damages by servants of the civil government.

Fifty-nine of the cases presented by the church authorities were reported upon adversely, the board holding that no rent was due, that the damage was done by the enemy, or that it was an incident of active warfare.

The total amount claimed was \$2,442,963.13
The total amount awarded by the board was 363,030.19

They further say on page 4 of their report:

The property mentioned in the claims was that of a noncombatant, an organization devoted to charitable, educational, and religious purposes. The damages were inflicted while the property was in the exclusive occupation and control of the Government of the United States. Payment for such occupation and damages can be sustained upon the principle that private property should not be taken for public use without due compensation.

Precedents for the payment of such claims by Congressional appropriation are numerous. Congress has from time to time appropriated money to compensate for use and occupation of the property of institutions—religious, educational, or charitable—and for damages done thereto by our military forces during the civil war. The following is a list of some of these appropriations:

The committee then gives ample precedent for their action in reporting favorable consideration of this bill, and the committee further says on pages 5 and 6:

The only claimant that has ever asked compensation for damages to the property mentioned in the report of the board on church claims

or for use of the same is the Roman Catholic Church in the Philippine Islands. The only other possible claimant for compensation for damages would be the Government of the United States or its grantees, if such there were, upon the assumption or theory that prior to the war the title to the property was in Spain, and that therefore by virtue of the treaty of Paris it became vested in the United States. This assumption that the title to church property in the Philippines passed from Spain to the United States by the treaty of Paris has received attention in the supreme court of the Philippine Islands in an opinion rendered by Justice Willard in the case of Jorge Barlin, bishop, etc., plaintiff and appellee, v. P. Vincente Ramirez, ex-rector, etc., and the municipality of Lagonoy, defendants and appellant.

The plaintiff brought this action against the defendant Ramirez, alleging in his complaint that the Roman Catholic Church was "the owner" of a certain church building and other property belonging thereto, that defendant went into possession of the same as its representative, and asking that the church be restored to the possession thereof.

The answer of the defendant Ramirez, in addition to a general denial, admitted that he was in possession of the property with the authority of the municipality of Lagonoy and of the inhabitants of the same, who were the "lawful owners" of the property. The municipality of Lagonoy being permitted to intervene, filed an answer, in which it alleged that the defendant Ramirez was in possession of the property under the authority and with the consent of the municipality of Lagonoy, and that such municipality was "the owner" thereof.

The plaintiff replied to this complaint, or answer in intervention, and the case was tried and judgment entered in favor of the plaintiff and against the defendants.

In deciding the case the supreme court, Justice Willard rendering the opinion, expressly declared that the assumption that the Spanish Government was the owner of the property, and that it passed by the treaty of Paris to the American Government, is not true. Says the court:

"As a matter of law, the Spanish Government at the time the treaty of peace was signed was not the owner of this property nor of any other property like it situated in the Philippine Islands."

If, when the treaty of Paris was signed, the Spanish Government was not the owner of the property in question in that case, "nor of any other property like it situated in the Philippine Islands," it follows, of course, from this decision of the court that the Government of the United States has never had any title to the property mentioned in the claims presented before the board on church claims and appropriated for by the accompanying bill. This particular conclusion of the court was based largely, if not entirely, upon the laws of the Spanish Government defining the status of all property in the Philippines. A copy of the opinion is printed herewith. (Exhibit C, post.)

For generations before the war between the United States and Spain the exclusive right to possess, control, and occupy buildings devoted to religious purposes was in the church. If, for the purpose of argument, the decisions above cited of the supreme court of the islands were to be ignored, it, nevertheless, can not truthfully be said that the relation of the Spanish Government to the property mentioned in these claims was ever other than that of a mere trustee. The Government of the United States can not, and ought not to, hold the property as trustee of any church, Catholic or Protestant.

Without respect to the legal title to the property, there can be no question that in equity it belonged to the Catholic Church.

The board on church claims included in its report a statement that—"If Congress should in its liberality desire to compensate the church for the spoliation and carrying away of sacred ornaments, images, vestments, etc., we recommend that the sum of \$40,000 be paid, as, in the opinion of the board, this sum would be fully ample."

The aggregate of the amount claimed by the church for these articles of cult and ornamentation was \$298,222.50.

Your committee recommends the passage of the accompanying bill, as amended, providing for the payment of \$403,030.19 to the Archbishop of Manila as representative and trustee of the Roman Catholic Church in the Philippine Islands, this amount when so paid to be in full satisfaction of all claims for the use and occupation of the property of said church in said islands, and for damages done thereto, by the military forces of the United States, and also in full satisfaction for the carrying away and loss of articles of cult and ornamentation, prior to January 15, 1906, the date of the official report of said board on church claims.

The sum appropriated by the accompanying bill includes no allowance for interest, as the payment by the Government of interest on claims would reverse its uniform practice.

The report of the committee and the report of the commission of United States officers clearly shows that there was a large amount of church property damaged and destroyed. They have carefully investigated the facts of the actual damages and clearly show that this Government is responsible therefor; hence we have a proper report on which to base action. The mere fact that this was property belonging to the Catholic Church is no reason for denying to them that justice which we, as American citizens, believe should be accorded to all parties, all religions, and all creeds. There is only one subject for discussion and that is: Is this a proper claim against the Government, and are these the right parties to pay it to? No one here denies the justice of this claim, but the gentlemen in opposition to the bill lay stress on a portion of the minority report of the committee and claim that there is a large independent branch of the Catholic Church in the Philippines, of which Archbishop Gregorio is claimed to be the head, that should receive all or a portion of this money. I quote this portion of the report which says:

The Independent Catholic Church, of which Archbishop Gregorio Aglipay, who prior to the insurrection was a native priest, is the acknowledged head, observes all of the rites, ceremonies, and festivals of the Roman Catholic Church, and differs with that organization only in the fact that it does not acknowledge the control of the Vatican. It is claimed for the Independent Catholic Church that it has more than 250 priests and 20 bishops; that it has a number of seminaries located at various points in the islands, and that it has a membership of 4,000,000 souls. Its opponents do not concede that its membership is so large, and sometimes place it at 3,000,000, or even less; but Bishop Brent, of the Episcopal Church, who has resided at Manila for a num-

ber of years, and than whom there can probably be found no higher authority, has, it is reported, but recently estimated the membership of this branch of the church at 4,000,000. It can be most conservatively and safely said that it outnumbers the membership of the Roman Catholic Church two to one, and that in many of the parishes the priests and all those who hold the Catholic faith have identified themselves with the Independent Catholic Church.

On this contention argument is made that all or a portion of this money should be diverted from the parent organization, the true Catholic Church, who owned and held this property when it was damaged and destroyed, and pay it to this independent organization. That there is no merit in this contention is shown in the letter read by the gentleman from New York from Bishop Hendrick, whose letter is as follows:

GONZAGA COLLEGE,
Washington, D. C., March 5, 1908.

To the Hon. SERENO E. PAYNE.

DEAR SIR: Replying to your inquiry as to the number of Aglipayanos in the Philippines, permit me to say that the diocese of Cebu contains 2,000,000 of Christians. I have been to all the dioceses, and say that the proportion is as follows:

Cebu—700,000, Aglipayanos 1,000; Leyte—500,000, Aglipayanos 100; Bohol—250,000, Aglipayanos 75; Northern Mindanao—150,000, Aglipayanos 10,000; Siquijor—35,000, Aglipayanos none; Samar—400,000 Aglipayanos none; total—2,035,000, Aglipayanos, 11,175.

The diocese of Nueva Caceres, about 850,000, Aglipayanos 8,000. Diocese of Jaro, about 1,200,000, Aglipayanos 50,000.

Allowing 70,000 Aglipayanos in Manila and 35,000 Aglipayanos in Nueva Segovia, there appears a total of 174,175.

The dioceses of Jaro (pronounced Haro), Manila, and Vigan had a larger proportion of Aglipayanos. Say Manila, 100,000; Jaro, 75,000, and Vigan, 80,000. These figures are estimated from conversation with the bishops of these sees, and relate to the conditions four years ago. They gained adherents and money by always preaching that they were going to drive out the Americans. To do this they needed money to buy ships, arms, etc. It was absolutely not a religious but a political movement, put under the form of a religion to protect it against the government, which had previously suppressed the same movement under the forms of labor unions and social organizations. As the people found out that the money they subscribed and paid liberally was not used for the purpose, they deserted the Aglipayano organization until now it is in a dying condition. In other words, it was purely a movement for graft. The figures given are most liberal Aglipayanism at its flood tide. Probably at the present time those willing to declare themselves Aglipayanos would not number one-fifth of the figures given. See also Senate Document 170, Fifty-eighth Congress, second session, page 10.

T. A. HENDRICK.

This letter clearly shows that the claim that this independent faction of the church is a large body is absurd, and is conclusive proof that no consideration should be given that faction, and leaves the matter exactly in the shape as reported by the majority of the committee.

The report that was made by the Commission, the action of the courts, and the statements of individuals all agree that this is a just and proper claim, made by the rightful owners of the property, and that the Government of the United States is clearly responsible for the amount reported in this bill. This bill accords simple justice to the Catholic Church, and I shall vote in favor of it. The property damaged and destroyed should be paid for, so that these churches are put in proper shape and condition and that all people in the Philippine Islands shall feel and recognize the fact that they are being accorded that consideration and that justice that they should receive from the greatest nation on earth. With these views I feel that a majority of this House are in hearty accord and that you will not hesitate to pass this bill.

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. GEORGE W. NORRIS,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. NORRIS said:

Mr. SPEAKER: I am glad, indeed, that the Congress of the United States is at last going to do justice to the widows of our civil war veterans. Ever since I have been in Congress it has been apparent to me that the widows of our soldiers were not receiving, under the law, just consideration or fair treatment.

On the 24th day of January, 1907, I offered an amendment to the pension appropriation bill which would have given, if adopted, practically the same relief that is given by this bill. At that time I gave to the House my views on the subject in a brief way and called attention to the injustice of the general

law to the soldier's widow. My amendment, however, was not adopted. At the beginning of this session I introduced a bill which provided that the widow of a soldier of the civil war in applying for pension should not be required to prove that her husband died as a result of his Army service. The bill now before us has this provision incorporated in it—in fact the principal point in the bill is this particular provision.

The real trouble of the general law that has been on the statute books since 1862 has been that the widow, in order to secure a pension, was required to prove that her husband died as a result of his Army service. Practically the only difference in effect between the bill which I have introduced and the one the committee has reported is that the committee bill contains limitations on the provisions of my bill and in that respect it seems to me that the bill of the committee now before us is unjust and unfair. It limits the effect of the bill to those widows who were married prior to June 27, 1890. If these provisions were stricken out of the bill it would give justice and fair treatment to the soldier's widow who has been so long neglected. The law should in no case require a widow to prove that her husband died as a result of his Army service, and this provision that was incorporated in the original bill in 1862 was founded upon a false idea and misunderstanding as to the real reason for granting a pension to the widow. The soldier is subject to die of all the diseases to which human flesh is heir. They are just as liable to die of the ordinary diseases that afflict all of us as from causes which originate in the service, and because a soldier dies of pneumonia, typhoid fever, or any other disease contracted since he has left the service, or because he is killed in a railroad accident or struck by lightning, is no reason why his widow should not be given a pension the same as though he died from some disease that had its origin in his Army service.

I have in mind an actual case where this injustice is well illustrated. In a small Western town there lived two old soldiers, each one drawing a pension under the general law for injury received in the line of duty. One of them was drawing a pension for stomach trouble and deafness. He was not disabled to such an extent that he could not perform any manual labor, but, as a matter of fact, had general supervision of his business. He was president of a local bank, and was worth \$75,000 or \$100,000.

The neighbor who lived just across the street was drawing pension for stomach difficulty and for the loss of eyesight; for years he was a helpless invalid. These difficulties originated in the service and there was no question but what his entire difficulty came from his service. His wife, for seven or eight years prior to his death, cared for him, looked after him, and devoted all of her time and attention to his care and his comfort. These soldiers died the same week. The first one, the banker, died as a result of his Army services. His wife had left to her the larger part of her husband's fortune and was enabled to live in comfort and luxury, and received a pension of \$12 a month.

The other soldier, while he could not have lived more than a few months at the outside, on account of his Army difficulties, died as a result of a railroad accident which happened while they were taking him to a hospital for the purpose of having an operation performed on him. His death could not, under the law, be traced to the service, but was the result of an accident, and his widow, who had given the best years of her life to the care of the soldier, was not able afterwards, under the general law, to obtain a pension.

These cases only illustrate the injustice of what is ordinarily known as the old or general law. It is true that under the act of June 27, 1890, a widow can secure a pension, even if her husband does not die from the result of Army service, but in such case she must prove that her income is less than \$250 a year, and then she can get a pension of only \$8 a month. The result is that the soldier who is so disabled on account of his service that he can not accumulate money but is practically an invalid, cared for by his faithful wife, is, on account of these circumstances and on account of the services rendered his country, a poor man, and if he dies as a result of some accident or some ordinary disease common to humanity, his widow will not be able to get a pension exceeding \$8 a month; while the soldier who was not so disabled, but was able to engage in business and accumulate property, would leave his widow in comfortable circumstances, and if he dies as a result of his Army services his widow would get a pension of \$12 a month.

In all cases where the marriage took place prior to June 27, 1890, this bill gives the proper relief and recognizes the right principle; the same principle that I advocated more than a year ago. The only criticism is that the bill contains this objectionable limitation, but even with that infirmity it will go far toward giving to the soldiers' widows of our country the consideration and justice that should have been shown years ago.

This justice comes from the American Congress at a time when it is rather tardy, but yet much good will be accomplished by the enactment of this bill into law, and Congress will certainly receive the grateful thanks of the many soldiers' widows whose suffering on account of the patriotism of their husbands has been unselfish and of long standing.

In the matter of pension legislation it is my judgment that Congress ought to go still another step forward. We ought also to liberalize the pension laws as they apply to the old soldier. The act which we passed last Congress giving a pension to the soldier on account of age, should be amended so that every old soldier who has reached the age of 65 years should receive a pension at the rate of \$20 a month; this rate ought to be increased with the age of the soldier to a maximum of at least \$25 a month.

I sincerely trust that before this session of Congress adjourns the committee having this matter in charge will report one of the many bills having this object in view. We can well afford to properly care for the old soldier and his widow in their declining years. While we have done much, while our pension laws are more liberal than those of any other civilized nation of the world, yet there are many of the old soldiers who in the closing years of their lives are suffering in poverty, and the pension now allowed will not, under present conditions, always be sufficient to keep them from want.

The many blessings that we, their descendants, enjoy, and which have been made possible by their patriotism, their fidelity and their bravery, ought to incite us to give to them in their old age a sufficient pension to provide for them in such a way that their declining years may be filled with the pleasures and comforts of life. We owe this as a token of our thankfulness and grateful appreciation, and in remembrance of the sacrifices they have made for the perpetuity of our institutions and in the establishment of real freedom and a genuine liberty in the greatest republic of modern times. [Applause.]

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. EATON J. BOWERS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908,

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. BOWERS said:

Mr. CHAIRMAN: In the consideration of this matter, as of all others of a legal or quasi-legal character, a clear and brief statement of the case is of the utmost importance. The bill proposes payment to the Roman Catholic Apostolic Church of \$403,030.19, in full satisfaction of all claims for use and occupation of church property in the Philippine Islands by the military forces of the United States prior to January 15, 1906.

From the time the American Army landed in the Philippines in 1898 until the complete restoration of peace in the Islands, the Government of the United States through its military forces took possession of churches, contiguous parish houses, school buildings, seminary buildings, etc., and used them as hospitals, prisons, or barracks. This occupation frequently continued after the cessation of hostilities and until other suitable quarters could be provided or obtained. The troops wholly excluded the church authorities, and, of necessity, prevented their taking any steps for the care or preservation of the property. In most instances the property was damaged, sometimes slightly, sometimes seriously. This damage resulted from various causes. In some cases it was necessarily incident to the use and occupation by troops of property never designed for military purposes, in others from careless and reckless use, and in still others from acts of wantonness and destruction by the soldiers. Many articles used in churches and similar structures were found missing, seriously damaged, or actually destroyed. That the damage was considerable does not admit of doubt. The evidence on that point is undisputed and conclusive, and, indeed, it is apparent without any evidence that church, school, and convent buildings can not be used for military operations without suffering great loss and damage.

A "board of church claims," duly constituted by law, has examined into the matter and has reported that for the use and occupation of the property and for the damage and depreci-

ation incident and due solely to such use the Catholic Church is entitled to receive the sum of \$363,030.19. This finding comprehends only the value of the use and occupation and the damages necessarily flowing from such use. It expressly excludes all consequential damages, all damages resulting from wanton defacement and destruction, and all claims for vestments and other sacred articles destroyed, lost, or missing. It concludes, however, with the following remark:

If Congress should in its liberality desire to compensate the church for the spoliation and carrying away of sacred ornaments, images, vestments, etc., we recommend that the sum of \$40,000 be paid, as, in the opinion of the board, this sum would be fully ample.

The bill, therefore, is made up of the sum found by the Commission, to wit, \$363,030.19 and the sum of \$40,000, stated by it as sufficient to cover the loss and destruction of articles of personal property above described.

By the majority and minority reports only two questions are presented. Both agree that the sum of \$363,030.19 is due and should be paid to some one entitled to receive it, whoever that may be. The majority report, however, recommends adding the \$40,000 to cover destruction and wanton damage and provides for payment to the Archbishop of Manila, as the trustee for the Roman Catholic Apostolic Church. The minority report insists that only the award of \$363,030.19 should be paid, and then only to the bishops of the various dioceses, limiting the use thereof to the repair and construction of the buildings in such dioceses. I shall proceed to discuss them in the order named.

The principal objection to the allowance of the sum for wanton damages and loss and destruction of sacred articles is that the United States should not hold itself responsible for the wanton acts of its soldiers in the field unauthorized by their officers, and that all precedents in considering claims of this character are against payment. Both of these propositions, as general rules, may be admitted, and still the reason for payment in this case and in all cases of this class is to my mind very clear. No one will dispute that as a general proposition acts of depredation, mischief, and wantonness committed by troops in the field, on the march, or in garrison during military operations are not chargeable against the Government, for the reason that they are the individual act of the soldier, committed without the sanction or order of his officers, and, of course, outside their presence. They are acts of the individual, and no conduct of the Government or of any officers has either contributed to his act, placed him in a position to do the wrong, placed the property injured either in his control or custody, or given it over to his power and inclination to harm it.

But the concrete case we are now considering presents a very different question. Here the United States, by virtue of its sovereign power, its governmental authority, has, because of a military necessity, dispossessed those in control of property dedicated to sacred uses, and has, without the consent and against the will of the custodians, placed that property in the care and keeping of its soldiers.

Can it be said that in cases of this character justice is done by the payment of a mere rental and of only such damages as are incident to the use of the property for a purpose other than that for which it was designed and suitable? Will it be contended that having, by virtue of its vis major, which none may resist, taken this property from those appointed to use it for the worship of the Most High God and placed it in the hands of others, agents, servants and soldiers of the United States, that the Government owed no duty to see that these agents properly cared for the buildings and other property temporarily in their keeping, or failing in that, to compensate the owners for whatever damages they sustained? Every consideration of right and natural justice cries out against such a proposition and insists that whatever loss is inflicted by those whom the United States placed in possession should be repaired by the Government. It is very clear that these damages would never have been suffered if the buildings had been left in the possession of the friars, and while it is true that the military necessity justified its taking and use, it is not true that such necessity will excuse destruction or mischief, or will absolve the Government from responsibility therefor. If an individual or corporation, public or private, possessing a right of eminent domain which would authorize the taking and temporary use of property for a public or quasi public use, should make such a defense to such a claim, it would be promptly met with derision, scorn, and reproach. Should the measure of the Government's liability be less? Can we afford as the representatives of a great and powerful Government, whose highest care should be and is the protection and safety of the lives and property of its people, to set such an example of injustice and oppression? The equity and natural right and justice seem to me too clear for argument, and to demand reparation in full. The question of prece-

dent, if it be against this position, and I frankly confess that such seems to be the case, I dismiss with a word.

If such is the precedent, it is high time that it was reversed and one more in accordance with right and justice established. Governments are not, like courts, bound by decisions or precedents. No precedent or acquiescence can make right out of that which is wrong, and the proper course with reference to an unjust and oppressive rule is to abandon it. For one I desire to erect a new precedent, more in accord with equity and right.

A few words now as to who should receive this award. The hearings before the committee and speeches to-day have raised the question of the ownership of the property and of the conflicting claims of the "Independent Philippine Catholic Church," sometimes styled, from its archbishop, Gregario Aglipay, the "Aglipayan" church. The facts are briefly as follows: The churches were originally built under the direction of the Spanish Government, partially by the labor of the Indians who were by law required to furnish it, partly by government funds, partly by the funds of the church, and partly from contributions given for that purpose. The legal title does not seem to have been expressly vested anywhere or in any person or corporation. The Roman Catholic Church was entitled to the exclusive use, occupation, and possession of the property forever. No church could be built without a license from the Crown, but when built the equitable title and the exclusive right of use and occupation for all time was vested in the Roman church. The law on this subject is interesting and necessary to a proper understanding of the matter.

Title 28 of the third partida is devoted to the ownership of things, and after discussing what can be called public property and what can be called private property, speaks in law 12 of those things which are sacred, religious, or holy. That law is as follows:

LAW 12. How sacred or religious things can not be owned by any person.—No sacred, religious, or holy thing, devoted to the service of God, can be the subject of ownership by any man, nor can it be considered as included in his property holdings. Although the priests may have such things in their possession, yet they are not the owners thereof. They hold them thus as guardians or servants, or because they have the care of the same and serve God in or with them. Hence they were allowed to take from the revenues of the church and lands what was reasonably necessary for their support; the balance, belonging to God, was to be devoted to pious purposes, such as the feeding and clothing of the poor, the support of orphans, the marrying of poor virgins to prevent their becoming evil women because of their poverty, and for the redemption of captives and the repairing of the churches, and the buying of chalices, clothing, books, and other things which they might be in need of, and other similar charitable purposes.

And then taking up for consideration the first of the classes into which this law has divided these things, it defines in law 13 consecrated things. That law is as follows:

Sacred things, we say, are those which are consecrated by the bishops, such as churches, the altars therein, crosses, chalices, censers, vestments, books, and all other things which are intended for the service of the church, and the title to these things can not be alienated, except in certain specific cases, as we have already shown in the first partida of this book by the laws dealing with this subject.

And Sanchez Roman in his commentaries on this subject says:

(a) Sacred things are those devoted to God, religion, and worship in general, such as temples, altars, ornaments, etc. These things can not be alienated except for some pious purpose and in such cases as are provided for in the laws, according to which their control pertains to the ecclesiastical authorities and, in so far as their use is concerned, to the believers and the clergy. (2 *Derecho Civil Español*, Sanchez Roman, p. 480; 8 *Manresa*, Commentaries on the Spanish and Civil Code, p. 636; 3 *Alcubilla*, *Diccionario de la Administración Española*, p. 486.)

It must be remembered that under the Spanish rule the Catholic Church was a part of the Government. There was a union of church and state, and a concordat or agreement by which the Government bound itself, among other things, to construct churches. Indeed the tithes due the church in these very provinces had been ceded by the Pope to the Spanish Crown in consideration of an agreement to erect churches, schools, convents, and parish houses; and the Spanish laws contain ample and definite provisions for carrying out these agreements. Not only were edifices commanded to be built, but ways and means were provided, and it was declared that they should not only be of sufficient number, but of comfortable and commodious character. On this point Secretary Taft, formerly civil governor of the islands, in his letter of instructions to the board which made this award, said:

Personally, after having looked somewhat into this matter of title, I have no doubt whatever that the cathedral and the various archbishops' palaces belong to the Roman Catholic Church. It is true they were constructed partly out of funds furnished by the Spanish Government and on land belonging to the Government, but they were constructed in accordance with the concordat in which the Spanish Government agreed to furnish the churches and other ecclesiastical buildings used for ecclesiastical purposes, and by the very act of construction and of delivery to the church authorities the title in equity passed, whether what we would call legal title passed or not. For that

reason I think the rents for such buildings and the damages in use and occupation ought to be paid by the Government of the United States to the Roman Catholic Church, and the board reporting, in cases where doubt arises, that such doubt exists, should nevertheless include in their award the amounts for the rent of such buildings and for damages in use and occupation.

And it must not be forgotten that the Roman Catholic Church had been in the exclusive possession of this property from its construction to the time of the American occupation.

On this record it is suggested, rather than insisted, that there is some doubt as to the title, or that the title was in the Spanish Crown at the time of the treaty of Paris, and therefore passed to the United States in trust for the use of the inhabitants of the various parishes for religious uses. I can not assent to either of these propositions.

It must be remembered that trusts, as we understand them at common law, were unknown to the civil law. Indeed, the idea of a legal title in one body, with the beneficial or equitable title in another, was directly in contravention of that jurisprudence. It was known as "fidei commissum," or "prohibited substitution." The legal title followed the equitable, and wherever the substantial right existed the title reposed. There can be no doubt whatever that the substantial right, the real ownership, the right to hold, possess, use, and enjoy—in short, what we call at common law the "equitable title"—was in the Roman Catholic Church. Through all the stately, formal language of the Spanish law, the right to hold, use, and administer the property stands out bold and clear. It is true that it is declared that no one can own the property, but that was because of the theory that, being sacred property, it belonged only to God. On that point the supreme court of the Philippines, in *Barlin v. Ramirez*, said:

The truth is that from the earliest times down to the cession of the Philippines to the United States churches and other consecrated objects were considered outside of the commerce of man. They were not public property, nor could they be subjects of private property in the sense that any private person could be the owner thereof. They constituted a kind of property the distinctive characteristic of which was that it was devoted to the worship of God.

But being material things, it was necessary that some one should have the care and custody of them and the administration thereof, and the question occurs, To whom, under the Spanish law, was intrusted that possession and administration? For the purposes of the Spanish law there was only one religion. That was the religion professed by the Roman Catholic Church. It was for the purposes of that religion and for the observance of its rites that this church and all other churches in the Philippines were erected. The possession of the churches, their care and custody, and the maintenance of religious worship therein were necessarily, therefore, intrusted to that body. It was by virtue of the laws of Spain the only body which could under any circumstances have possession of or any control over any church dedicated to the worship of God. By virtue of those laws this possession and right of control were necessarily exclusive. It is not necessary or important to give any name to this right of possession and control exercised by the Roman Catholic Church in the church buildings of the Philippines prior to 1898. It is not necessary to show that the church as a judicial person was owner of the buildings. It is sufficient to say that this right to the exclusive possession and control of the same for the purpose of its creation existed.

The right of patronage existing in the King of Spain with reference to the churches in the Philippines did not give him any right to interfere with the material possession of these buildings.

Nothing can, therefore, be clearer than that the Spanish Government had no substantial claim or right in the premises other than its right of patronage, nomination, and preferment to the various ecclesiastical places. That right ceased by the treaty of Paris, which forever disposed of all rights of the Spanish Crown and which expressly preserved the title to this, and other like property, from the provisions of the cession of Crown property to the United States, as follows:

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, can not in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civil bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

And if it had not been thus stipulated the result would have been the same, for the United States can not possess or exercise any right of patronage, nor can it hold church property in trust for religious uses. Granting that the legal title had been in the Spanish King, this treaty put an end to it, and it would have been either attracted to and merged in the equitable title held by the churches, or held in abeyance until a new trustee could have been selected. But there is another point that is conclusive of this question. The right of the Roman Catholic Church to the exclusive possession, use, occupation, and enjoyment of this property is unquestioned. Wherever the legal title may have been or may be now, the right of possession is in that church. This award is made for an injury to the possession. It is in the nature of rent for use and occupancy, and for damages for injuries in the nature of trespass or waste during that pos-

session. By every rule of law and right it follows, and should follow, the right of possession.

It is hardly necessary to notice the alleged rights of the Aglipayan, or Independent Catholic Church. That body seceded from the orthodox, or Roman Catholic Church, after the occurrences on which this claim is based. It has never made any claim to this money and makes none now. Indeed I understand that by authentic public act it has disclaimed any title to this fund. It has been referred to in this discussion only because of the fact that in some provinces its priests are in possession of the church property and are apparently supported by the inhabitants of those pueblos, and because of its contention, in litigation over the right of possession of some churches, that the legal title passed from the Spanish Crown to the United States, in trust for the use of the congregations and inhabitants of the various parishes. I have attempted to demonstrate that this claim is unfounded, but whether it is or not it can not affect the payment of this money. The party injured is the Roman Catholic Apostolic Church. The sum appropriated is hardly fair compensation. It should be speedily paid and paid to that church, or to the agent which it has nominated to receive it, the archbishop of Manila.

American Passports to Russia.

SPEECH

OF

HON. FRANK O. LOWDEN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 11, 1908.

The House having under consideration House resolution 223—

Mr. LOWDEN said:

Mr. SPEAKER: I shall not detain the House long, as there are not very many points of difference between the gentleman from New York [Mr. HARRISON] and myself. Those of the committee who recommended that this resolution be laid upon the table have just as much sympathy for the Russian Jews as the gentleman from New York.

As American citizens they are all the gentleman asserts of them. We believe in affording every protection to American citizens, whether native or naturalized. The main difference between us is as to the means to be employed to secure their rights. We are persuaded that the interests of this class of our citizens will be best subserved by a continuance of the peaceful negotiations already commenced by our Department of State. We believe that we can further their interests better by the action which we propose than by adopting the suggestion of the gentleman from New York.

The resolution introduced on the 4th day of February, 1908, and now before the House, is as follows:

Resolved, That the Secretary of State be, and he hereby is, requested to communicate to this House, if not incompatible with the public interests, the correspondence relating to negotiations with the Russian Government concerning American passports since the adoption of the resolution by the House of Representatives relating to that subject on the 21st day of April, 1904; and also a copy of the circular letter issued by the Department of State to American citizens, advising them that upon the Department receiving satisfactory information that they did not intend to go to Russian territory, or that they had permission from the Russian Government to return, their application for passport would be reconsidered, and also a copy of the notice accompanying such letter issued by the Department of State, dated May 28, 1907.

The subcommittee of the Committee on Foreign Affairs, to which was referred the resolution, through its chairman, the gentleman from Rhode Island [Mr. CAPRON], wrote the Secretary of State inclosing a copy of the resolution. The reply of the Secretary of State follows:

DEPARTMENT OF STATE,
Washington, February 8, 1908.

The Hon. ADIN B. CAPRON,
Chairman of the Subcommittee, Committee
on Foreign Affairs, House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of February 5, bringing to this Department's attention a resolution introduced in the House of Representatives February 4 by Mr. Goldfogle, of New York, asking that the Secretary of State be requested to communicate, if not incompatible with the public interests, copies of correspondence with the Russian Government concerning the validity of American passports since the adoption by the House of Representatives of the resolution of April 21, 1904, on that subject; also a copy of the circular letter and notice issued by the Department to American citizens who desire to proceed to Russia.

In the volume of Foreign Relations of the United States for 1904, page 790, may be found the beginning of the correspondence between this Government and the Russian Government when the resolution of April 21, 1904, was submitted to that Government.

It is not deemed compatible with the best public interests at this time to communicate the subsequent correspondence.

I inclose a copy of the printed circular or notice now in use, and, which before the introduction had been substituted for the former circular, to which some objections were made.

I have the honor to be, sir, your obedient servant,

ELIHU ROOT.

The circular to which the Secretary of State referred in his communication is as follows:

RUSSIA—NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF RUSSIA WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

Under Russian law a Russian subject who becomes a citizen of another country without the consent of the Russian Government is deemed to have committed an offense for which he is liable to arrest and punishment if he returns without previously obtaining the permission of the Russian Government.

This Government dissents from this provision of Russian law, but an American citizen formerly a subject of Russia who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operations.

No one is admitted to Russia unless his passport has been viséed, or indorsed, by a Russian diplomatic or consular representative.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, January 25, 1908.

Thereafter, at a meeting of the committee, the gentleman from Rhode Island [Mr. CAPRON] was instructed to report to the House the resolution with the recommendation that it lie upon the table.

It now appears from the remarks of the gentleman from New York [Mr. HARRISON] that the letter to which reference was made in the resolution is as follows:

CITIZENSHIP.

DEPARTMENT OF STATE,
Washington, ———, 190—.

SIR: The Department is in receipt of an application for a passport of ———, from which it appears that ——— born in ———. Your attention is invited to the inclosed notice to former subjects of Russia who contemplate returning to that country, from which you will perceive that it is a punishable offense under Russian law for a Russian subject to obtain naturalization in any other country without the consent of the Russian Government. While this Government dissents from this requirement, it can not encourage American citizens whom it is likely to affect to place themselves within the sphere of its operation. Upon receiving satisfactory information that ——— not intend to go to Russian territory, or that ——— permission from the Russian Government to return, the application for a passport will be reconsidered immediately.

Returning the application, the certificate of naturalization, and the sum of \$1 (—).

I am, sir, your obedient servant,

Chief, Bureau of Citizenship.

The notice of the 28th of May, 1907, complained of, is identical with the notice now in use, except that the earlier notice also provides that passports will not be issued to certain of our citizens, not of Russian origin, who are refused admission to Russia, whatever their origin. This refusal is not limited to the Jews of America, but applies equally to this class, whether citizens or subjects of any other nation. Remember that citizens of the United States are suffering no discrimination, so far as Russia is concerned, that citizens and subjects of other powers do not also suffer. Of course this is no reason why we should not continue to urge our claims. But I have not heard that any other nation has pressed negotiations with more vigor than is shown by the record in this case.

It further appears that at the time this resolution was introduced the State Department was issuing passports to all who applied for them without reference to religion or former nationality.

Objection is made to the notice to American citizens of date of the 28th of May, 1907, on two grounds. First, it is vaguely assumed that the treaty of 1832 conferred upon naturalized Russians the unlimited right to reside and travel anywhere within Russian territory. Second, it is also objected that the notice above referred to applies to certain of our citizens, whether they were formerly Russian subjects or not.

It is under the first objection, however, that most of the applications for passports were refused under the notice of last May. That notice, just as the notice now in force, provides that:

A Russian subject who becomes a citizen of another country without the consent of the Russian Government commits an offense against Russian law, for which he is liable to arrest and punishment if he returns without previously obtaining the permission of the Russian Government.

This Government dissents from this provision of Russian law, but an American citizen formerly a subject of Russia who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operations.

The gentleman from New York [Mr. HARRISON] stated that the treaty of 1832—

gave to Americans and to Russians the reciprocal right to travel and sojourn in the territory of the other country, and while there to have the same security and protection as natives of those countries.

The treaty of 1832, upon which the gentleman relies, it is to be noted, is simply a treaty of commerce and navigation, and in no sense purports to cover the subject of naturalization. The article of the treaty to which the gentleman refers is as follows:

There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

This article was construed in 1852 by Mr. Everett while Secretary of State. Mr. A. Dudley Mann complained to the State Department of the refusal of the Russian legation in Paris in the preceding July to visé his passport as a violation of Article I of the convention of December 18, 1832, and requested the Government of the United States to demand from the Emperor of Russia an indemnity for the injury which his interests had suffered by such refusal. This request was refused, and Mr. Everett held that the regulations could not be—regarded as an infringement of the privileges of American citizens as such.

In a letter from Mr. Everett to Mr. Mann (41 MS. Dom. Let., 138) Mr. Everett said:

What we deny to other powers we must disclaim for ourselves; and this Government could never give up the right of excluding foreigners whose presence they might deem a source of danger to the United States.

Strictly taken, the treaty is one of commerce and navigation, and the right of sojourn and residence must be understood to have reference to those objects.

No stipulation is made for any other privilege; although it might fairly be expected of the Russian Government to grant to the citizens of the United States that free entrance into the country which the citizens and subjects of the civilized states usually enjoy in each other's territories by the courtesy of nations.

Mr. Bayard, Secretary of State, in instructions to Mr. Lothrop, minister to Russia, July 1, 1887 (MS. Instructions Russia XVI, 518), said:

Under Article I of the treaty between the United States and Russia of 1832, the inhabitants of the two countries "are at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs," and it is further stipulated that "they (the said inhabitants) shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

There is certainly nothing in these provisions which precludes either the United States or Russia from expelling from their respective territories each other's citizens or subjects.

It will be seen that two distinguished Secretaries of State have held that the treaty of 1832 did not confer upon citizens of the United States the broad right of "residence and travel" insisted upon by the gentleman from New York [Mr. HARRISON].

Article X of the same treaty expressly declares:

But this article shall not derogate in any manner from the force of the laws already published, or which may hereafter be published by His Majesty the Emperor of all the Russias, to prevent the emigration of his subjects.

It thus appears that Russia's denial of the right of emigration was expressly recognized in this treaty by the United States. The treaty must be construed as a whole, and how it can be claimed that Russia ever waived her right to prevent emigration it is difficult to say.

While, therefore, this Government has always insisted upon the right of expatriation, that right by no means has been acquiesced in by the other powers. It is a well recognized principle that the municipal laws of one country have in themselves no extraterritorial force, and whatever force they are permitted to have in foreign countries depends upon the comity of nations. So the case in this respect stands as follows: Under the municipal laws of Russia it is made a criminal offense for a Russian subject to emigrate. Within our territorial jurisdiction this is not recognized as an offense. It follows that if Russia were to attempt to enforce her law within our territory it would be resisted. Equally, if we attempted to enforce our municipal law within Russian territory we would be beyond our rights. Therefore the Government must of necessity be powerless to enforce this right of expatriation within the territory of another power which denies the right and whose

domestic laws provide a punishment for those who emigrate without the consent of the government. Fortunately this whole question has been passed upon frequently by our Department of State.

Mr. Frelinghuysen, Secretary of State, on the 27th of November, 1883 (149 MS. Dom. Let., 20), ruled as follows:

I have to observe upon the subject that the Russian Government does not admit the right of expatriation, but holds that a Russian subject who leaves Russia without the permission of the Emperor breaks the laws of his country, and the code provides punishment therefor.

Russia has no treaty stipulations with the United States which in any way modify the case so far as our citizens are concerned. If, therefore, one of these returns to the jurisdiction of the offense which has been entirely committed before his naturalization here, the American passport, which will be given him on proper application, will assure the earnest attention of our diplomatic and consular officers in case there may be any proper opportunity of service to him. The Department can not, however, guarantee freedom from detention, nor protection and release in case charges are there prosecuted for infractions of Russian law committed by the individual while a Russian subject and before any obligation was acknowledged by him to the United States.

Mr. Gresham, Secretary of State, on the 9th of March, 1893 (190 MS. Dom. Let., 553), held that:

While a person born in the United States, though of alien parents, is by the laws thereof a citizen, yet, should he be taken by his parents while a minor to the country of which they are subjects, he becomes amenable to the laws of that country and subject to a claim of allegiance there under *jure sanguinis*. On this ground the Department of State refused to issue a passport for the protection of a minor born in the United States whose parents proposed to return with him "for a brief period" to the country (Russia) of which they were subjects.

Mr. Blaine, Secretary of State, in a communication to Mr. Phelps, minister to Germany, on the 3d of May, 1892 (Foreign Relations, 1892, 189), stated the rule as follows:

Notwithstanding the alienage of the father, the son is by birth a citizen of the United States. His absence from the country during minority and while under the control of his father should not be counted too strongly against him, especially in view of the fact that he declares his intention of returning to this country to reside after the completion of his apprenticeship. If he will take the necessary oath to that effect he would seem to come substantially within this rule, and a passport may be issued to him. In issuing him a passport, however, it is proper that the legation should inform him that it does not guarantee him against any claim which may be asserted to his allegiance or service by the Government of Germany while he remains in that country. Having been born of a German father, conflicting claims with respect thereto may arise which it is not the purpose of this Government, by the issuance of a passport, to in anywise prejudice.

A young man, born in Baltimore, August 21, 1860, of German parents, four years later returned to Germany with his parents. He remained in Germany until 1881, when he was examined for military service, and, being found then to be unfit for it, was ordered to appear the next year. He then left for America, where he has since resided. The Department of State said:

Upon this state of facts you are, under our laws, a citizen of the United States by reason of your birth in this country, but by the German law you are a subject of Germany. Should you voluntarily place yourself again within German jurisdiction this Government would not be warranted in intervening to protect you from trial and punishment for violation of the military laws of that country. (Mr. Uhl, Acting Secretary of State, May 22, 1895, 202 MS. Dom. Let., 298.)

That portion of the notice of the 28th of May, 1907, before quoted, is identical with the notice now used by the Department of State, which I have above recited.

It is objected, however, that the further provision, contained in the former notice and eliminated in the present notice, refuses passports to Russia to certain classes of our citizens, though they may have never owed allegiance to Russia.

This provision does not in any sense admit the right of Russia to exclude any American citizen not formerly a Russian subject and who could not therefore have incurred any obligations under the Russian domestic law. Its whole purpose as apparent from the language was to save American citizens from humiliation and possible injury. It was in the very interest of those citizens themselves. It was not to be presumed for a moment that any American citizen would wish to go to a foreign country if he knew in advance that he would there incur danger of arrest and punishment.

I quite agree with the distinguished gentleman from New York [Mr. HARRISON] that the discrimination against American citizens on the ground of religious faith must cease. The Republican party agrees to this, the Administration agrees to this, and the wise, patient, and persistent Secretary of State will yet achieve this result.

It is asserted, however, by the gentleman from New York [Mr. HARRISON] that:

The passport is granted as a matter of right to every American citizen who chooses to apply for it.

This is not the law upon this question. Mr. Bayard, Secretary of State, in general instructions in regard to passports, May 1, 1886, held that:

The issuing of passports is at the discretion of the Secretary.

Mr. Sherman, Secretary of State, on November 8, 1897 (Foreign Relations, 1897, p. 29), concurred in this view.

The rule with reference to the issuance of passports was stated by Mr. Hay, when Secretary of State, in a circular to diplomatic and consular officers (Foreign Relations, 1902, p. 1):

As a general statement, passports are issued to all law-abiding American citizens who apply for them and comply with the rules prescribed; but it is not obligatory to issue one to every citizen who desires it, and the rejection of an application is not to be construed as per se a denial by this Department or its agents of the American citizenship of a person whose application is so rejected.

Mr. Attorney-General Knox, on August 29, 1901 (23 Op., 509), gave an opinion that sections 4075 and 4076, Revised Statutes, which confer on the Secretary of State authority to issue passports to citizens of the United States, are not in terms mandatory, but authorize the exercise of discretion in the discharge of the function so conferred. He said:

The act of Congress which defines your (the Secretary of State's) duty in the matter of the issuance of passports expressly says, "The Secretary of State may grant and issue passports." The provision, therefore, is not in terms mandatory, and I know of no law which gives to the citizen a right to a passport.

It thus has been uniformly ruled that the State Department has an absolute discretion in the issuance of passports. That Department is responsible for peace between this country and foreign countries, and if it believes in any case that the issuance of a passport might lead to strained relations between this country and another, it is clearly the duty of that Department to withhold the passport, especially so if the Department is also satisfied that a citizen of the United States would expose himself to a danger from which the Government could not protect him. And even were the Department of State persuaded in such a case that the danger which threatened our citizen was in contravention of treaty rights, it would be the duty of the Secretary of State, first, to save the citizen from the danger against which the Government could not guard, and second, to take every measure possible to remove, by negotiation, the peril in which our citizen was unjustly placed.

The gentleman from New York [Mr. HARRISON] takes the position that passports have only been "denied by the Department of State to individuals upon the ground that these individuals were personally unworthy." The gentleman is certainly in error. I have above called attention to the ruling of Mr. Gresham, while Secretary of State, who denied a passport for the protection of a minor born in the United States whose parents proposed to return with him "for a brief period" to Russia, of which country they were subjects. While under our law the minor was an American citizen, under the Russian law he was a Russian subject. Here, certainly, is a case in which a passport was refused to an American citizen who had never been in Russia, and for no other reason than to avoid unnecessary difficulties with a foreign power and to save the applicant from a danger which threatened him.

It therefore appears clear to my mind that the State Department has in no respect transcended the law.

The question remains whether or not the Government has been sufficiently energetic under the resolution of April 21, 1904, which is as follows:

Resolved, That the President be requested to renew negotiations with the governments of countries where discrimination is made between American citizens on the ground of religious faith or belief, to secure, by treaty or otherwise, uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries without regard to race, creed, or religious faith.

This is the resolution to which reference was made in the resolution now before the House.

On July 1, 1904, the Secretary of State inclosed the resolution of April 21, 1904, to Mr. McCormick, our ambassador to Russia, with this comment (Foreign Relations, 1904, pp. 790 and 791):

The subject to which this resolution relates has heretofore been the occasion of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States. The instructions on file in your office and the correspondence had by your predecessors with the imperial foreign office leaves no doubt as to the feeling of the Government of the United States in regard to what it has constantly believed to be a needlessly repressive treatment of many of the most reputable and honored citizens of the United States. Similar views have been expressed, by my predecessors as well as by myself, in conferences with the representatives of Russia at this capital. That these friendly representations have not hitherto produced the results so befitting the close intimacy of the relations of the two countries for more than a century and so much in harmony with their traditional amity and mutual regard is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience.

I have therefore to instruct you to inform Count Lamsdorff that the text of the foregoing resolution has been sent to you for your information and for your guidance in interpreting this expression of the feeling of the people of this country, through their direct representa-

tives, as to the treatment of the citizens in question. You will make known to his Excellency the views of this Government as to the expediency of putting an end to such discriminations between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or travel.

That such discriminatory treatment is naturally a matter of much concern to this Government is a proposition which His Excellency will readily comprehend without dissent. In no other country in the world is a class discrimination applied to our visiting citizens. That the benefits accruing to Russia are sufficient to counterbalance the inconveniences involved is open to question from the practical standpoint. In the view of the President it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business whose character and position in life are such as to afford, in most cases, a guaranty against any abuse of the hospitality of Russia and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and entitle them to win for themselves abroad no less degree of esteem than they enjoy in their own land.

Under date of August 22, 1904, Mr. McCormick inclosed the resolution to the foreign office of the Russian Government, with a note, for which he was highly commended, and justly so, by the gentleman from New York [Mr. HARRISON]. I desire to call the attention of the House to a portion of that letter (Foreign Relations, 1904, pp. 792 and 793):

This resolution voices not only the feelings of the people, but also a principle which lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us, and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States.

Aside from the belief that the treatment accorded by Russia to many of our most reputable and honored citizens is needlessly repressive, public opinion, as Your Excellency knows, plays a large part in the foreign relations as well as domestic affairs with us, and when underneath this public opinion there lies an important principle, as is the case in the United States, it can not be left out of account by those who have maintained the close relations which it is desired by my Government to see maintained with this great Empire and her august ruler.

Events have proven that no artificial barrier can keep out those who come with hostile intent or who from without seek to circulate ideas of a hostile character. Is there any reason, therefore, why at least serious consideration should not now be given to the views of my Government as to the expediency of putting an end to such discriminations as now exist in Russia between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or for travel?

In transmitting the views of my Government at this length, and personally adding some reasons for favorable action which seem to me to be cogent, I have been actuated by the desire, as Your Excellency will appreciate, to contribute something toward those friendly relations which have marked the past and which I value. For this reason I lend myself most earnestly to the work of carrying out my Government's instructions, in the hope that the result will be such as to contribute to the removal of one question of disturbing character from the realm of discussion by a mutually satisfactory understanding concerning it.

This letter was sent to the Russian Government by express direction of our Department of State. Certainly, then, down to that point the State Department had acted with all zeal under the instructions of this body as embodied in the resolution of four years ago. What the later correspondence is we do not know. Secretary Root says, in his letter above referred to, that:

It is not deemed compatible with the best public interests at this time to communicate the subsequent correspondence.

The State Department, however, assures us personally that every effort is being made to get rid of this discrimination which the Russian Government practices. They are hopeful of success, and I have confidence enough in the present Secretary of State to believe that his judgment should be supreme upon this question.

Since the gentleman has seen fit to make a party question of this, I wish to remind the House of the curious fact that in the last Presidential campaign our Democratic friends charged, from every Democratic platform, that the election of Theodore Roosevelt would result in devastating wars with all the world. The Democratic press represented him pictorially as a war lord. A Republican Congress, as has been seen, adopted the resolution of four years ago, in which it requested the President to renew negotiations with those countries which discriminated against certain of our citizens because of religious belief. The President, through his ministers, renewed such negotiations with great vigor and directness. We now have the spectacle of the Democratic party protesting that the Administration has not moved rapidly enough. Four years ago it was charged that the election of Theodore Roosevelt would precipitate war with foreign powers. To-day, upon the floor of this House, it is charged, in effect, that he is sacrificing the interests of American citizens because of his excessive love of peace. The country did not believe the charges made four years ago. It will not believe the charges made to-day.

It will be recalled that the resolution now under discussion called for two things:

First:

If not incompatible with the public interests, the correspondence relating to negotiations with the Russian Government concerning American passports since the adoption of the resolution by the House of Representatives relating to that subject on the 21st day of April, 1904.

Second:

A copy of the circular letter issued by the Department of State to American citizens, advising them that upon the Department receiving satisfactory information that they did not intend to go to Russian territory or that they had permission from the Russian Government to return, their application for passport would be reconsidered, and also a copy of the notice accompanying such letter issued by the Department of State, dated May 28, 1907.

What purported to be the circular letter and notice last referred to were submitted to the House to-day by the gentleman from New York [Mr. HARRISON] and appear in his remarks upon this resolution. This leaves only the correspondence relating to passports firstly above mentioned. The Secretary of State, in his letter to the chairman of the subcommittee, the gentleman from Rhode Island [Mr. CARRON], refers to the first portion of such correspondence and adds that:

It is not deemed compatible with the best public interests at this time to communicate the subsequent correspondence.

I fail, therefore, to see how in any way the House is not in full possession of the information asked in the resolution, in accordance with the terms of such resolution. For the resolution itself negatives the making public of any portion of the correspondence "not compatible with the public interests." And who is to be judge of this if not the Secretary of State? It has been suggested that this resolution in this respect simply followed the form which has uniformly been employed in the past in resolutions asking information from the State Department. If this suggestion means anything relevant to this discussion, it means that the qualification "if not incompatible with the public interests" should be entirely disregarded as being merely a matter of form. I find myself unable to agree with this proposition. But I think, on the other hand, that this unbroken precedent is a recognition of the principle that it would be dangerous in the extreme to call for information from the State Department if such information should be incompatible with the public interests, and of that the Secretary of State himself must be the judge.

Mr. Speaker, everyone knows that when negotiations have been undertaken and are under way to discuss and publish to the world those negotiations is not the best way to get practical and permanent results.

I want to say that this resolution would defeat its very purpose. Progress is being made. The State Department is obliged to recognize the domestic law of Russia, and although it dissents from it, it is powerless to change it, except by treaty.

Now, a suggestion has been made that the war of 1812 settled this question for all time. I wish to remind the gentlemen who rely upon that war that the seizures then complained of were without the jurisdiction of Great Britain, on the high seas; and in the case of the *Chesapeake* I believe it was even in American waters where an American vessel was followed out of an American port by a British man-of-war.

I wish also to say that this war did not settle that question, because it was not mentioned in the treaty that was finally signed.

There are two ways to get things from a foreign government. One is by negotiation, the other is by war. We have tried both in the case of Great Britain, and the war that was fought over that, among other issues, settled nothing; but by negotiation, patiently and carefully pushed, Great Britain has of her own motion receded from the ground she then took.

If we are left alone we will get the same results with Russia, under the guidance of as able an American Secretary of State as we have ever had. The American secretaries of State form the most illustrious roll of honor of which I know. Happily for America and mankind, Elihu Root, the present Secretary of State, is the peer of any in that distinguished list. The American people can safely trust him to guard their interests in all relations with other nations. [Applause.]

And when the result which we all desire is accomplished, it will be the greatest diplomatic triumph this country has ever achieved. One by one, under the influence of negotiations, the great powers of the world have yielded to the American doctrine on this point. Under the direction of the Department of State it will not be long, if we will simply be patient and practical, until the American doctrine of absolute right to expatriation will become a part of the international law of the world. [Applause.]

I do hope that we will be wise enough not to thwart the consummation of that great American doctrine which has tri-

umphed already in most of the countries of the world. [Applause.]

In the early years of the Republic the United States asserted the doctrine that free ships made free goods, though such goods belonged to a belligerent nation. Every great power resisted this assertion. Only recently the civilized nations of the world have acquiesced in this American doctrine, and to-day it is written in the international law of the world. Was this accomplished by war? No. But the doctrine was sound, and American diplomacy has secured its triumph. Just and fearless diplomacy must in the end write the rules which govern the nations of the earth in their relations one with another. And just as negotiations made universal the American doctrine of "free ships make free goods," so negotiation, in which we are now engaged, will one day establish that other great American doctrine of the right of expatriation. And when that time shall come the vexatious questions which have arisen during all our national life to embarrass our relations with foreign countries because of the status abroad of our naturalized citizens will have ceased.

As long as I am a Member of this House, and as long as our State Department is of the distinguished ability which it possesses now, when it tells me that it is not for the best interests of the public service to reveal negotiations going on, I am going to support the State Department, whether Republican or Democratic. [Applause.]

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. CHARLES A. KENNEDY,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. KENNEDY of Iowa said:

Mr. SPEAKER: It is not my purpose to take up the time of the committee with extended remarks on the bill now being considered. I am not unmindful of the fact that it is impossible to draw a general bill that will do exact justice to all claimants. I am heartily in favor of this measure as it stands, even if it does not contain all the provisions that I would like to see embodied in it. I think the action of the committee in making no distinction between soldiers' widows whose husbands died from disabilities incurred in the service and those whose death resulted from other causes is a great improvement over the law as it exists at the present time. For my part, I have never been able to understand why such a distinction was ever made in the law. Surely the cause of death of the soldier can in no way affect the financial condition of his widow, nor make her struggle for a livelihood less strenuous. I am pleased to see that the bill eliminates that provision of the existing law that disqualifies a soldier's widow for pension where her net income is \$250 per annum. This provision has, in many cases, been construed so as to subvert the intent of the law, and the Department has been to great expense in sending special examiners to look up these cases. As no such distinction is made with soldiers' claims, I think that it was eminently proper to eliminate that provision. There is one provision lacking in this bill that I wish it contained; that is, placing war widows in a class by themselves at a rate of \$20 per month. It occurs to me that the woman who bade her husband godspeed when his country called, who remained at home, in many cases, caring for children, suffering the anxiety and enduring the hardships of those troublesome times, is entitled to greater consideration at the hands of this Government than the woman who married the soldier after the conflict was over. It does seem to me that such distinction in the law in favor of the war widow would be nothing more than simple justice. While the passage of this bill, carrying an additional appropriation of over \$12,000,000 per year for pensions will, perhaps, be all the general legislation along that line enacted in this session, I would like to see the McCumber bill amended so as to reduce the age to which the \$20-per-month provision applies. The fact that very few soldiers will live to profit by the 75-year provision of that bill, and as the intent of the Government is to care for them in their declining years, I think that the age should be reduced, and I hope that some time in the near future the McCumber bill will be amended with that end in view.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. JOHN C. CHANEY,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. CHANEY said:

Mr. CHAIRMAN: House bill 16143 provides for "the payment of the claims of the Roman Catholic Church in the Philippine Islands," which arose from the operations of the insurgents under Aguinaldo and the suppression of the insurgent insurrection after American occupation.

The total amount of these claims equaled \$2,442,963.13, which were embraced under the following heads, namely:

1. Damages by insurgents.
2. Wanton damages by United States troops.
3. Damages incident to military operations.
4. Use and occupancy and damages by servants of the civil government.

The committee has allowed \$363,030.19 for use and occupation of church properties by the United States forces, and \$40,000 for damages incident to military operations, a total of \$403,030.19.

Of course damages committed by the insurgents could not be chargeable to the United States.

The minority report of the committee against paying these claims and the very earnest speech against the bill by the gentleman from Virginia [Mr. JONES] have caused every Member to take a deep interest in the question before the House.

That the United States has, in times past, paid for the use and occupation of private buildings and lands and for the appropriation of private property by the troops and forces of the United States is now familiar to everyone. The Court of Claims reports are full of awards for such use and occupation and for such appropriation of private property, and Congress has generally responded to the findings of the court by appropriating the money necessary to discharge these awards.

Even in the Confederate States, for claims arising out of the civil war, where "loyalty" was a jurisdictional fact, the establishment of which fact must be before the merits of a claim can be considered by the court, eleemosynary institutions—schools, churches of all denominations, etc.—were found to be impossible of disloyalty, and awards were given and appropriations made, notwithstanding the fact that the church communicants may have taken active part in the rebellion.

The claims of the Catholic Church of the Philippine Islands is therefore no new principle and no debatable principle.

The righteousness of these claims being acknowledged, what objection can there be to paying them?

The Catholic Church is a legal entity in the Philippines as it is in the United States.

The minority report objects to paying these claims—first, because the Catholic Church does not own these church properties, and second, because there is no properly designated person to whom to pay the damages.

Let us see what foundation there is for these objections.

First. If these properties do not belong to the Catholic Church, to whom do they belong?

It is insisted that the legal title to all these 400 properties was, up to Spanish capitulation, in the Crown of Spain, because there was, under Spanish law, a so-called "union of church and state;" that when the United States took the place of Spain as sovereign of the Philippine Islands the United States became owner of these properties.

I can not assent to this view, because there is no union of church and state under our Constitution, and when the Government of Spain retired from the Philippines there was a complete divorce of church and state. The United States can not, therefore, join the Catholic Church, nor permit that church to unite with this Government, in a joint administration of affairs in the Philippines a bit more than it can do it within the States comprising the Union.

The Catholic Church in the Philippines proceeds upon the same principles there as it does here. It runs its own affairs here, it must run its own affairs there; and we should recognize its right to conduct its own affairs there as we do here.

This right requires that, if we occupy its property to its exclusion, as we did during the Philippine insurrection, we should

pay for this use and occupation; and if we took and carried away and appropriated any of its property, we should also pay for that.

These properties are all held in the same way.

The ownership of these properties is found to be in the Catholic Church there, by a suit relating to one of the properties, to test the question of title, and this suit can well be regarded as the decision for all.

There was one of the judges of the court which determined the question who thought, under the peculiar holdings of realty under the Spanish Government by the church, that it might not have fee-simple title, but that the church had sole right of possession so long as used for church purposes, which was sufficient to entitle it to compensation for the use and appropriation of the property—the holding being much like that of a schoolhouse here. The court was unanimous on the main proposition, to pay the Catholic Church these damages, because the church was entitled to exclusive possession of these properties, had the sole right of that possession, and we, as tenants of that landlord, could not be heard to deny the rent money.

The church is, therefore, entitled to compensation for the use and occupation of its premises and the appropriation of its property by the forces of the United States, whether it is a fee-simple title or not, because it was the right of occupation and possession upon which the church bases its claims.

The amount of \$403,030.19 was found by a duly constituted board of award, and the amount allowed is below, rather than above, the actual damages sustained by the church on account of our occupancy.

The Secretary of War has put the reasonable sum for the privilege of occupancy to be at least \$500,000. Even Colonel Hull, president of the board of award, in his testimony before the committee said:

I am confident that \$500,000 would not be an excessive award at this time (taking into account the difference in relative values between the time of the occupation and the time he testified).

The only other question is as to who is the proper person to whom to pay the money. In a Protestant church it would be proper to pay it to the church trustees. The authority over church property in a Catholic church in a given locality, however, is the priest, and the bishop or archbishop over a field of churches—a diocese and the like.

The gentleman from New York [Mr. COCKRAN] has given us the relation of the priest to the church property, and he says that the priest is consecrated to the duty to have charge of and hold the church property, and that he does this as a trustee for the church.

There is no doubt but what every dollar of the money appropriated by this bill will be duly accounted for by the person to whom it is proposed to pay it, so there need be no hesitation on this score.

It is idle to talk about the dissenters from the Catholic Church in the Philippines having any interest in this proposed appropriation.

When these dissenters left the regular organization they gave up all their right, title, and interest in and to the church property. It was theirs to enjoy only while they remained a part of the regular church. The court reports in all the States of the Union hold to this view. Indeed, this assertion is based upon the decisions of State supreme courts throughout the Union.

If there be any error in the proposed appropriation, it is because it is too small.

I favor the bill and will vote to sustain the majority report of the committee.

I desire to have printed in connection with my remarks the majority report of the committee:

[House of Representatives, Sixtieth Congress, first session, Report No. 696.]

Catholic Church claims in the Philippine Islands. February 10, 1908.—Committed to the Committee of the Whole House and ordered to be printed. Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, submitted the following report, to accompany H. R. 16143.

The Committee on Insular Affairs to whom was referred the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands, beg leave to submit the following report, and recommend that said bill do pass with the following amendments:

In the blank space at the end of line 4, page 1 of the bill, insert the words "four hundred and three thousand and thirty."

In the blank space in line 5, page 1 of the bill, insert the word "nineteen."

In lines 12 and 13, page 1 of the bill, strike out "August 31, 1905," and insert in lieu thereof "January 15, 1906," so that said bill when amended will read as follows:

"A bill to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

"Be it enacted, etc., That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$403,030.19, the same to be paid to the archbishop of Manila, in the Philippine Islands, as the representative (and trustee) of the Roman Catholic Church in said islands; and that the acceptance of said sum, paid under

the provisions of this act, shall be in full satisfaction of all claims for use and occupation of the property of said church in said islands and for damages done thereto by the military forces of the United States prior to the date, to wit, January 15, 1906, of the official report of the board of church claims, which said board, composed of John A. Hull, lieutenant-colonel, judge-advocate; Alexander O. Brodie, lieutenant-colonel, military secretary, and J. W. Moore, first lieutenant, Second Cavalry, was duly convened August 1, 1905, at headquarters Philippines Division in the city of Manila, in said islands, to consider and report upon said claims.

From the time that the American Army landed in the Philippines, in the year 1898, until the complete return of peace in the islands, the Government of the United States, through its military forces, took possession of churches, contiguous parish houses, school buildings, seminary buildings, etc., and used them as hospitals, prisons, or barracks. After the cessation of hostilities, in many instances the occupation of the buildings had to be continued until suitable quarters could be constructed for the garrisons which remained in the archipelago, the entire time of the occupancy varying in individual cases from a few weeks to two years or more. This occupation by the Government wholly excluded the church authorities, preventing them from taking any measures for the protection of the property. Many of the buildings so occupied were fine structures. For example, the cathedral at Manila, a large stone building with high walls and a dome and possessing an interior ornamented by handsome woodwork, was used at one time to imprison between 3,000 and 4,000 Spanish soldiers. Buildings thus seized and occupied were often seriously damaged, sometimes partially or wholly destroyed.

As presented, the claims demanded compensation for occupancy and damages not only by our own forces, but also by the insurgent forces, and were of two classes, namely, claims of the church proper and claims of the friars.

This report and the accompanying bill do not at all relate to the claims of the friars, but only to those of the Catholic Church proper.

These claims of the Catholic Church were presented at Manila before a board of officers called the "board on church claims," appointed under a special order of the War Department for the sole purpose of making an investigation and report. This board, composed of Lieut. Col. John A. Hull, judge-advocate; Lieut. Col. Alexander O. Brodie, military secretary, and First Lieut. J. W. Moore, Second Infantry, United States Army, was duly convened on August 1, 1905, at Headquarters Philippines Division, city of Manila, and at once entered upon what proved to be an exhaustive investigation, conducted under rigid rules and instructions prescribed therefor by the Secretary of War (see Exhibit A, post) and lasting for the better part of six months.

Your committee are convinced that the board was most painstaking and conscientious, and that it performed its duties with exceptional thoroughness and ability. All of the many witnesses before it were examined under oath. Moreover, the members of the board themselves were personally acquainted with the cities, towns, and villages in the archipelago where the structures in question were situated. Many of these they visited in order to determine as thoroughly as possible, from personal inspection, the rental value of the property and the amount of damage inflicted upon it by our troops.

The award of the board carefully excluded compensation, first, for damages done by the insurgents; second, for damages incident to military operations; third, for wanton damages by soldiers of the American Army; fourth, for use and occupancy and damages by servants of the civil government.

Fifty-nine of the cases presented by the church authorities were reported upon adversely, the board holding that no rent was due, that the damage was done by the enemy, or that it was an incident of active warfare.

The total amount claimed was..... \$2,442,963.13
The total amount awarded by the board was..... 363,030.19

A copy of the report of the board, containing a complete list of the claims, and a detailed statement of its proceedings, findings, and award, is herewith annexed. (Exhibit B, post.)

In the hearings before your committee, Secretary of War William H. Taft appeared as a witness and gave testimony at length, as did also Col. John A. Hull, United States Army, senior member of the board on church claims, and Maj. John Biddle Porter, judge-advocate, United States Army, at present assistant in the office of the Judge-Advocate-General. All of these witnesses were exceptionally well qualified, by reason of long experience in the Philippine Islands, to testify as to conditions concerning the claims in question. Your committee had also before it the original papers in the claims covered by the report of the board, and made frequent use of these during the hearings. All of the witnesses before your committee were united and positive in asserting that the award of the board was very conservative. Colonel Hull himself testifying that in his judgment \$500,000 would not be an excessive award at this time. Secretary Taft was of the same opinion.

The testimony before the board, and also that before your committee, shows plainly that since the damage was inflicted there has in many cases been a very serious deterioration of the property, owing to its exposure to the elements. Bishop Rooker, now deceased, an American and a former resident of Washington, testified (December 5, 1906) under oath before the board that if the Government of the United States were to grant the claims of his diocese (Jaro) just as they were presented the condition of the damaged structures there would still remain "very much deteriorated in comparison with what it was before the war." He declared that "the sums asked for would be insufficient to put the property back to its original condition," because, "as time has passed, the deterioration to the damaged buildings has increased month by month. This subsequent deterioration was not included in the claims presented." The bishop testified that if a certain claim for \$1,000 had been paid at the time the damages were inflicted this amount would have restored the property to its original condition, but that at the time he gave his testimony the restoration would cost not less than \$5,000.

It was the testimony of Colonel Hull that the award of the board was "based not on the value at the time it was made (1905-6), but upon the value at the time of the occurrence (1898-1902)." He added:

"I probably have a more intimate knowledge of these claims than any other one man. I have gone over them all, and I know them intimately. I am confident that \$500,000 would not be an excessive award at this time. * * * Prices have increased wonderfully from the time that I first went to the Philippines, in 1899, and I have no doubt that this has continued to go on. Five hundred thousand dollars to-day would not do any more than \$363,000 would two years ago. It would do about the same."

The property mentioned in the claims was that of a noncombatant, an organization devoted to charitable, educational, and religious purposes. The damages were inflicted while the property was in the exclusive occupation and control of the Government of the United States. Payment for such occupation and damages can be sustained upon the principle that private property should not be taken for public use without due compensation.

Precedents for the payment of such claims by Congressional appropriation are numerous. Congress has from time to time appropriated money to compensate for use and occupation of the property of institutions—religious, educational, or charitable—and for damages done thereto by our military forces during the civil war. The following is a list of some of these appropriations:

"Forty-first Congress: The Kentucky University, at Lexington, Ky., was paid \$25,000 for the use and occupation of their buildings by the United States troops. (16 Stat. L., 678.)

"Forty-third Congress paid the East Tennessee University \$18,500 for use of its property. (18 Stat. L., 604.)

"Forty-eighth Congress donated 46,080 acres of public land to the University of Alabama, to be applied to the erection of suitable buildings for said university, which was destroyed by fire on April 4, 1865, during the military operations at Tuscaloosa. (23 Stat. L., 12.)

"Fiftieth Congress paid the Catholic Church of St. Peter and St. Paul, at Chattanooga, Tenn., \$18,729.09, for stone and material taken and used by the military authorities of the United States during the civil war (25 Stat. L., 1188); the Baptist Female College, Lexington, Mo., \$3,107.67 as compensation for rent of the college building while used by the United States Army for four years from 1861. (25 Stat. L., 1189.)

"Fifty-second Congress paid to William and Mary College of Virginia \$64,000 to reimburse said college for the destruction of its buildings and other property destroyed without authority by soldiers of the United States Army during the civil war. (27 Stat. L., 744.)

"Fifty-third Congress paid to Washington College (now known as the Washington and Lee University), located at Lexington, Va., \$17,848 for injury to its buildings, apparatus, libraries, and other property injured or destroyed by troops of the United States Army during the late war. (28 Stat. L., 1039.)

"Fifty-fifth Congress paid to the book agents of the Methodist Episcopal Church South \$288,000 as compensation for property of said corporation, including the buildings and grounds and all machinery and all material of every kind, used, taken away, injured, consumed, or destroyed by the United States or its Army, or for its benefit in any way, during the years 1864 and 1865. (30 Stat. L., 1401.)

"Fifty-seventh Congress paid (32 Stat. L., 234, 235) the following claims: To the trustees of the German Evangelical Church, at Martinsburg, W. Va., \$2,500 on account of the destruction of their church building and its furniture, on February 17, 1863, while they were in possession of a portion of the military forces of the United States; to the trustees of the Methodist Episcopal Church of Martinsburg, W. Va., \$1,850 for the use and occupation thereof by the Federal troops from March, 1862, to April, 1865; to the bishop and trustee of St. Joseph's Catholic Church, at Martinsburg, W. Va., \$2,880 for use and occupancy of said church by the Army of the United States during the war of the rebellion; to the Cumberland Female College, McMinnville, Tenn., \$5,000 for the use, occupancy, and consumption of its property for hospital and other Army purposes during the late war of 1861 to 1865 by the military authority of the United States; to the Richmond College, Richmond, Va., \$25,000 to reimburse said college for the occupation of its buildings and grounds by the United States troops and officers for eighteen months commencing in April, 1865, and for injury and destruction of the buildings, apparatus, libraries, and other property of said college by said troops and officers; to the Stewart College (now the Southwestern Presbyterian University), at Clarksville, Tenn., \$25,019.96, for use and occupation of the buildings and grounds, for material used, and for injury to its buildings, apparatus, and other property by United States troops during the civil war; to the Catholic Church at Macon City, Mo., \$725 for use and occupation of said church during the civil war; to the St. Charles College, Missouri, such amount, if any, found upon investigation by the Quartermaster's Department to be due for use of its buildings and grounds by the United States military authorities during the civil war.

The only claimant that has ever asked compensation for damages to the property mentioned in the report of the board on church claims or for use of the same, is the Roman Catholic Church in the Philippine Islands. The only other possible claimant for compensation for damages would be the Government of the United States or its grantees, if such there were, upon the assumption or theory that prior to the war the title to the property was in Spain, and that, therefore, by virtue of the treaty of Paris, it became vested in the United States. This assumption that the title to church property in the Philippines passed from Spain to the United States by the treaty of Paris has received attention in the supreme court of the Philippine Islands in an opinion rendered by Justice Willard in the case of Jorge Barlin, bishop, etc., plaintiff and appellee, v. P. Vincente Ramirez, ex-rector, etc., and the municipality of Lagonoy, defendants and appellant.

The plaintiff brought this action against the defendant Ramirez, alleging in his complaint that the Roman Catholic Church was "the owner" of a certain church building and other property belonging thereto, that defendant went into possession of the same as its representative, and asking that the church be restored to the possession thereof.

The answer of the defendant Ramirez, in addition to a general denial, admitted that he was in possession of the property with the authority of the municipality of Lagonoy and of the inhabitants of the same, who were the "lawful owners" of the property. The municipality of Lagonoy being permitted to intervene, filed an answer, in which it alleged that the defendant Ramirez was in possession of the property under the authority and with the consent of the municipality of Lagonoy, and that such municipality was "the owner" thereof.

The plaintiff replied to this complaint, or answer in intervention, and the case was tried and judgment entered in favor of the plaintiff and against the defendants.

In deciding the case the supreme court, Justice Willard rendering the opinion, expressly declared that the assumption that the Spanish Government was the owner of the property, and that it passed by the treaty of Paris to the American Government, is not true. Says the court:

"As a matter of law, the Spanish Government at the time the treaty of peace was signed was not the owner of this property nor of any other property like it situated in the Philippine Islands."

If, when the treaty of Paris was signed, the Spanish Government was not the owner of the property in question in that case, "nor of any other property like it situated in the Philippine Islands," it follows,

of course, from this decision of the court that the Government of the United States has never had any title to the property mentioned in the claims presented before the board on church claims and appropriated for by the accompanying bill. This particular conclusion of the court was based largely, if not entirely, upon the laws of the Spanish Government defining the status of all property in the Philippines. A copy of the opinion is printed herewith. (Exhibit C, post.)

For generations before the war between the United States and Spain, the exclusive right to possess, control, and occupy buildings devoted to religious purposes was in the church. If, for the purpose of argument, the decisions above cited of the supreme court of the islands were to be ignored, it, nevertheless, can not truthfully be said that the relation of the Spanish Government to the property mentioned in these claims was ever other than that of a mere trustee. The Government of the United States can not, and ought not, to hold the property as trustee of any church, Catholic or Protestant.

Without respect to the legal title to the property, there can be no question that in equity it belonged to the Catholic Church.

The board on church claims included in its report a statement that—
"If Congress should in its liberality desire to compensate the church for the spoliation and carrying away of sacred ornaments, images, vestments, etc., we recommend that the sum of \$40,000 be paid, as, in the opinion of the board, this sum would be fully ample."

The aggregate of the amount claimed by the church for these articles of cult and ornamentation was \$298,222.50.

Your committee recommends the passage of the accompanying bill, as amended, providing for the payment of \$403,030.19 to the archbishop of Manila as representative and trustee of the Roman Catholic Church in the Philippine Islands, this amount when so paid to be in full satisfaction of all claims for the use and occupation of the property of said church in said islands, and for damages done thereto, by the military forces of the United States, and also in full satisfaction for the carrying away and loss of articles of cult and ornamentation, prior to January 15, 1906, the date of the official report of said board on church claims.

The sum appropriated by the accompanying bill includes no allowance for interest, as the payment by the Government of interest on claims would reverse its uniform practice.

THE MINORITY REPORT.

That there may be a complete showing of the case, I will also submit the minority report as a part of my remarks:

[House of Representatives, Sixtieth Congress, first session, Report 696, part 2.]

Catholic Church claims in the Philippine Islands—February 14, 1908, committed to the Committee of the Whole House and ordered to be printed—Mr. JONES of Virginia, from the Committee on Insular Affairs, submitted the following as the views of the minority—To accompany H. R. 16143.

The undersigned, members of the Committee on Insular Affairs, to which was referred House bill 16143, entitled "A bill to provide for the payment of the claims of the Roman Catholic Church in the Philippine Islands," being unable to concur either in the propositions of law enunciated in the report accompanying this bill or in the conclusions sought to be drawn therefrom, and believing that no sound public policy is to be subserved by the appropriation by Congress of a considerable portion of the amount recommended in this report, even if it were definitely and certainly ascertained to whom any part of it should be paid, are constrained, for the reasons herein advanced, to withhold their assent thereto.

The churches and the church property for the use and occupation of, the spoliation and injury to, and in some instances, the destruction of which it is sought to hold the United States responsible, are located in various villages and towns scattered over many of the provinces and islands of the Philippine Archipelago, and are more than four hundred in number. The cathedral of Manila is one of the church edifices involved, and some of the others are to be found in each of the five Catholic dioceses of the islands.

Prior to American occupation of the Philippine Islands the Roman Catholic Church was the only church permitted there, and its relations to the Spanish Government were so close and intimate as to cause the one to be inseparable from the other in the popular mind. At that time most of the parish churches and convents were occupied by friars, and the influence wielded by these parish priests was far greater than that of the secular representatives of the Government. Many causes had contributed to the popular disfavor into which these friars had fallen long prior to the insurrection against American rule, the principal and most disturbing one being of an agrarian character relating to the acquisition and holding of large bodies of the best agricultural lands, estimated at one-tenth of all the improved lands in the islands, by the Dominicans, Recolites, and Augustinians, three of the four friar orders in the Philippines. During the continuance of open hostilities to the United States most of these priests were driven into Manila, as many as sixty, perhaps, being killed, and five times that number imprisoned. Secretary Taft testified that "the feeling with respect to them—not as against the church, but against them as political quantities—was so bitter that it was very dangerous for them to go out into the parishes at all. As a natural result of the intense bitterness manifested against these Spanish friars, who, it was believed, had dispossessed and robbed them of their homes, and who were recognized as the representatives of Spain, a serious schism was brought about in the church, and there are now two branches of the same church, the one embracing a large majority of all the Catholics of the islands and calling itself the "Independent Philippine Catholic Church," and the other styled the "Roman Catholic Apostolic Church."

The Independent Catholic Church, of which Archbishop Gregario Aglipay, who prior to the insurrection was a native priest, is the acknowledged head, observes all of the rites, ceremonies, and festivals of the Roman Catholic Church, and differs with that organization only in the fact that it does not acknowledge the control of the Vatican. It is claimed for the Independent Catholic Church that it has more than 250 priests and 20 bishops; that it has a number of seminaries located at various points in the islands, and that it has a membership of 4,000,000 souls. Its opponents do not concede that its membership is so large, and sometimes place it at 3,000,000, or even less; but Bishop Brent, of the Episcopal Church, who has resided at Manila for a number of years, and than whom there can probably be found no higher authority, has, it is reported, but recently estimated the membership of this branch of the church at 4,000,000. It can be most conservatively and safely said that it outnumbers the membership of the Roman Catholic Church two to one, and that in many of the

parishes the priests, and all those who hold the Catholic faith, have identified themselves with the Independent Catholic Church.

It is not maintained on the part of the Roman Catholic Church that it can show any legal title to the churches and other property for damages to which payment is asked from the United States. Whatever claim that branch of the Catholic Church in the Philippines may have to the ownership of the 600 or 700 church edifices, one of which is to be found in every village in the civilized portions of the archipelago, is concededly purely equitable in character. As to where the title to this church property actually resides, and as to who in justice and equity is entitled to its occupancy and use for religious purposes, it would be premature, and, in our opinion, improper at this time to express an opinion. It is sufficient to say that the Independent Catholic Church, commonly known as "the Aglipayans," have never set up a claim to the actual ownership of it. Their contention is that as a matter of strict law these church properties belong, under the terms of the treaty of Paris, to the United States as the successor of Spain, and that they should be held in trust for and be used by the Catholic people of the communities where they are situated for religious purposes. There is no question but that these churches and other church buildings were erected under the direction of the Government of Spain upon Government property. The people supplied the labor, in most instances enforced labor, and contributed the taxes which went into the construction of these churches, and it does not seem to us unnatural or unreasonable that those who built them should assert their right to use them for purposes of religious worship. They were without exception erected upon Government land, and in most, if not in all, cases one-third of the moneys that were used in their construction came out of the general treasury of the Government, one-third out of local funds kept in the central treasury, and the remaining one-third consisted of contributions of money and labor made by the individual members of the church. The Crown of Spain exercised supreme control over the whole of this property.

It is manifestly right and proper that the disputed claim to the ownership, as well as to the occupancy and possession, of this vast property should be definitely and finally settled before any question as to the liability of the United States for damages done to it can be passed upon by the Congress. If the property in dispute passed to the United States as the successor of Spain, as is earnestly maintained by many lawyers and publicists of ability and eminence who have carefully examined the subject, then unquestionably no liability for damages attaches to the United States. Until it is decided by the supreme court of the Philippine Islands, the only tribunal competent to decide the question, since upon it has been conferred by special act the sole and exclusive right to determine to whom this property belongs, and, therefore, to whom damages, if the United States is liable for any, shall be paid, it is manifestly improper, in our opinion, for Congress to pass such a measure as is proposed in the bill accompanying this report. That the present Secretary of War, the Hon. William H. Taft, when civil governor of the Philippines, entertained a similar opinion will be amply demonstrated by a reading of the executive order issued by him on January 10, 1903. That order, intended to protect those in actual possession of these properties, to preserve the status quo of the same until all disputed questions relating to their ownership and possession could be judicially determined, was, in our opinion, a wise, just, and most humane one, and unless expressly revoked must now perforce be operative. This order is in these words:

"OFFICE OF THE CIVIL GOVERNOR OF
"THE PHILIPPINE ISLANDS,
"Manila, P. I., January 10, 1903.

"Señor _____,
Governor of the province of _____.

"MY DEAR SIR: The schism in the Roman Catholic Church and the establishment and organization of an independent Filipino Catholic Church, because of the zeal and heat which frequently accompanies religious discussion, and especially because of the conflicting claims in respect to church property, may result in attempts at dispossession of those in charge of the churches and consequent disorder and disturbance of the peace. I have thought it necessary, therefore, to write you a letter calling your attention, and through you that of the municipal presidents, to the functions which it is proper for civil executives to discharge with respect to religious controversies involving disputes over property. The policy of complete separation of church and state is enjoined upon those who serve under the American sovereignty. This does not mean that officers of the state as individuals may not attend church and may not take an interest in religious controversies and may not aid the churches of which they are members, but it does mean that no officer of the Government has the right to use his official position or the authority which he exercises as an official to further the interests of the church of which he is a member as against the rights and claims of other churches to which he may be opposed in his religious views. In these islands it is difficult for the man to separate himself from the office in the eyes of the people, and I therefore extend a word of caution to you and to the municipal presidents of your province against making yourselves so prominent in the religious controversies to which I have referred on one side or the other that charges may be made against you that you are using your official influence and exercising your official authority in favor of either the Roman Catholic Church or the Filipino Catholic Church.

"You should as far as possible as an official pursue a line of conduct absolutely impartial between the two conflicting parties and you should only intervene as officials whenever the public peace is disturbed and must be restored and conserved. To deal justly with all individual interests should be the pride of every government, and the capacity of a people for self-government may be largely measured by the ability and courage of their elective officers to do justice in the face of clamor or passion or prejudice of some of those who elect them. No controversy so arouses the participants to passion as that which grows out of religious differences, and if peace can be maintained where the people of a country divide under a new schism into two religious bodies without violence, it speaks volumes for the law-abiding character of the people and for the capacity and ability of their self-chosen officers. I urge upon you, therefore, and upon the municipal presidents over whom you so worthily exercise supervisory and disciplinary authority, to use your every effort now and in the months to come to prevent religious schism that exists in parts of the islands from resulting in any disturbance of the peace.

"Again, let me call your attention to one phase of the schism which is most important, and that is as to the possession of churches and convents. Executive officers have no function whatever to perform in respect to the determination of the question who owns private property. The questions of ownership of title, and even the right of possession, are questions to be decided by courts, which are open to all

parties in interest for the purpose of settling just such questions. The only function of the executive is to see to it that the peace is not disturbed by attempts on the part of one not in possession forcibly or by fraud to disturb another in the possession of property and to deprive him of it. Where, therefore, the priest or other representative of the Roman Catholic Church shall be in possession, representing his church, it is not your function to decide that the people of the town who, because they may have assisted in building the church, believe themselves to be the owners of the church may oust him and may let the priest of the Independent Filipino Catholic Church into possession. Whatever you may think of the merits of such a question, it is your duty to preserve the possession of the Roman Catholic priest or representative by arresting any person who attempts forcibly to dispossess him or actually succeeds in doing so, and allow the priest or representative having had peaceable possession to resume it; but beyond this you can not go. Such rights as the people of a town may have either to ownership or possession of the church property must be asserted in the courts. They can not assert such rights by force.

"On the other hand, should a priest in possession leave the Roman Catholic communion, and, retaining possession of the church property, allow it to be used for the service and ceremonies of the Filipino Church, it is not for you to decide that this is an unlawful act and to seek to remedy it by dispossessing him of the church, because the change which is effected is not effected by a disturbance of the peace, and the remedy for the wrong done, if it be wrong, can only be had in the courts organized to decide such questions. You must respect the person in peaceable possession, and you must protect him against forcible dispossession, no matter how lawful or equitable, in your opinion, are the claims to the property on the part of the attempted dispossessor. If he has a lawful right, he can have it vindicated in court. He can not be permitted to take the law into his own hands. To allow him to do so, would be to produce riot and confusion throughout these islands. The question is one of actual possession, not of constructive possession. Indeed, the question, so far as you and the presidents are concerned, is one really not of possession at all, but of the disturbance of the peace.

"Should any priest or other person in charge of a church or convent notify a presidente that he has reasonable ground to suspect that an attempt will be made to dispossess him, the presidente should detail policemen to maintain him in his possession and prevent an assault or forcible dispossession. A failure on the part of the presidente with energy to protect peaceable possession of church property will be good cause for dismissal.

"If the course which I have attempted to mark out for executive action be followed, the conflicting parties will be remitted to the courts to vindicate their rights, and the peace which is so absolutely essential to the welfare of the country and to the conduct of decent government will be fully preserved.

"With the confidence that you will observe the rules laid down in this letter and will see to it that your municipal presidents do the same thing, I beg to subscribe myself,

"Your very obedient servant and wellwisher,

"WM. H. TAFT, *Civil Governor.*"

That the title to church property in the Philippine Islands has, or ever could have, been judicially determined in any litigation involving it is most emphatically denied, and an examination of the opinions delivered in the case of *Barlin v. Ramirez et al.*, set forth in full in the report of the majority of the Committee on Insular Affairs, will, we confidently believe, convince any lawyer who will take the pains to examine it that the possession and only the possession of the particular property involved in that case was determined. That nothing more could have by any possibility been decided will be clearly apparent, we believe, to anyone who will read the act of the Philippine government of July 24, 1905, constituting the supreme court of the Philippine Islands the tribunal to hear and judicially determine all "controversies between the Roman Catholic Apostolic Church and the Independent Filipino Church" as to disputed church property. The case, the title to which is given above, and which seems to be relied upon to establish what we believe to be the utterly baseless assertion that the supreme court of the Philippine Islands has decided that the title of all the Catholic Church property in the islands is in the Roman Catholic Church, was appealed from the court of first instance of the province of Ambos Camarines. The complaint, it is true, set forth that "the Roman Catholic Church was the owner of the church building," but the prayer of the complaint was that it be restored "to the possession thereof."

The whole text of the opinion of the court shows conclusively that the right to the possession of the property was the only question involved. In this case the defendant had been put in possession of the particular property, the right to the possession of which was in controversy, by the Roman Catholic Church, and the court held, in accordance with the familiar doctrine that a tenant shall be estopped from denying the title of his landlord, that the plaintiff was entitled to recover the possession. This was clearly the only question involved, and it was therefore the only one which could have been decided. When, then, it is contended that this case actually decided the title and ownership of the property which was the subject of controversy, the obvious and conclusive reply is that in so far as it may have undertaken to so decide its action was ultra vires. Whatever may have been said by the justice who delivered the opinion of the court, to the effect that the Roman Catholic Church and not the United States as the successor of Spain, held the title to all the Catholic Church properties in the Philippines, was a mere obiter dictum and not binding upon anybody—certainly not binding upon the United States, which was not a party to the suit, even assuming for the sake of argument, what is most emphatically denied, that the supreme court of the Philippine Islands had jurisdiction in a case coming to it by appeal, as did this, to hear and determine a question involving the title to all the Catholic churches of the islands. Mr. Justice Carson, who agreed with the majority of the court as to the disposition of the case, declined to accept some of the propositions laid down in the opinion of the majority, and filed a separate opinion. He argued, for reasons set forth by him, that "the right of the plaintiff to a judgment for possession" was clearly established, but he declared:

"I am not prepared, however, to give my assent to the proposition that prior to the treaty of Paris 'The King of Spain was not the owner of the property in question nor of any other property like it situated in the Philippine Islands,' and inferentially, that the United States is not now the owner thereof and has no property rights therein other than, perhaps, the mere right of eminent domain.

"I decline to affirm this proposition, first, because it is not necessary in the decision of this case; and second, because I am of opinion

that, in the unlimited and unrestricted sense in which it is stated in the majority opinion, it is inaccurate and misleading, if not wholly erroneous.

"That it is not necessary for the proper disposition of this case will be apparent if we consider the purpose for which it is introduced in the argument and the proposition which it is intended to controvert."

Mr. Justice Johnson declined to subscribe to either opinion and reserved his vote. Of the five judges subscribing to the majority opinion, four are members of the Roman Catholic Church, and not one of the court is a member of the Independent Philippine Catholic Church, although three are Filipinos.

But the contention that this case decided the title and ownership of the church property located at Lagonoy, in the Province of Ambos Camarines, and that it must therefore be accepted as a test case, and one that finally and irrevocably settles the title as to all the Catholic Church property in the Philippines in favor of the Roman Catholic Church is, in our opinion, finally and completely disposed of by the statute of the Philippine Commission, enacted under the authority of the United States, which took effect on the 24th of July, 1905, and which confers "original" jurisdiction upon the supreme court of the Philippines and constitutes that court "the tribunal to hear and finally determine" all these church controversies, and which provides all the necessary legal machinery by which all the church properties in any one province may be embraced in a single petition and the title thereto determined. This act not only prescribes the court which shall hear cases involving both the title and the possession of church properties, and the procedure therein, but it by necessary implication deprives the courts of first instance of any right in them to entertain an action to try the title to churches or other property by declaring that it was not intended to take from any church, municipality, or person the privilege of instituting action in those courts "to recover the possession and control" of them. Realizing the great importance for an early settlement of these bitter church controversies, the act further provides that the actions therein provided for shall be "heard by the court as speedily as may be," and that they "shall be given precedence in their hearing over any other actions pending in said court." A copy of this act is filed herewith, and is printed as a part of these views. (Exhibit A, post.)

It is not to be presumed for a moment that the Philippine Commission, which enacted this legislation, did not know at the time of its enactment that the case of *Barlin v. Ramirez et al.* had been decided in the court of first instance and that they were not fully informed as to the scope and effect of the decision. To maintain for an instant that this case, which could only have been decided in one way, finally disposed of the burning and widespread controversy over the ownership of millions of dollars' worth of church property scattered all over the Philippines, is to seriously reflect upon the intelligence of the Philippine Commission. They most obviously did not regard it as a test case.

But if it be possible that we can be mistaken in our contention that the title to the church property in the Philippines has never been judicially determined, and that the necessity for the settlement of this momentous question is as urgent now as when Civil Governor Taft issued his executive order preserving the status quo until the whole question could be determined by the courts, and as needful as when the Philippine Commission by a special enactment provided the means for its settlement, the recommendation of the report, that the Congress shall pay to the archbishop of Manila \$403,030.19 in settlement of the claims of the Roman Catholic Church, can not be justified by anything to be found in the report and findings of the Hull board. The total amount awarded by the board was \$363,030.19, and Colonel Hull himself testified that the board, of which he was the chairman, increased to the extent of from 12 to 15 per cent the estimates and findings of the Army officers who, by reason of their personal knowledge of the buildings occupied and injured, were called upon by the board for assistance in its work. In view, therefore, of the testimony of Colonel Hull, whose labors appear to have been performed conscientiously, intelligently, and with painstaking care, we must conclude that the \$40,000 recommended to be paid in addition to the sum awarded by the board is intended as a mere gratuity for which no justification can be found in the instructions given the board by the Secretary of War defining the scope of its difficult task, and which we believe to be wholly unwarrantable by any evidence produced before us and upon which evidence these claims are supposed to be founded.

We are equally unable to agree to the recommendation of the report that this sum be paid to the archbishop of Manila, for all the testimony offered upon this point clearly indicates that this church testimony is not empowered under any canonical or other law to execute a proper acquittance therefor. We hold that whatsoever sum may be paid by Congress for the occupation of and damages to church properties in the Philippine Islands, if paid to the Roman Catholic Church, should be paid to the bishops of the various dioceses, and that its use should be limited to the repair and construction of churches, convents, and seminaries in the islands. Secretary Taft unmistakably indicated in his testimony before the Committee on Insular Affairs that such a limitation as this should be placed upon any appropriation made by the Congress. This is his testimony upon this point:

"Mr. JONES. Mr. Secretary, would there be any objection to limiting the expenditure of this money to objects in the islands?"

"Secretary TAFT. No, sir. I wish, certainly, that would be the case.

"Mr. JONES. I should fear if it were paid to the apostolic delegate it might be used outside of the islands—in Spain, for instance.

"Secretary TAFT. If there were any danger of that, I should like some limitation made to prevent it."

Just why these claims should not await judicial determination of the fundamental and vital questions underlying them, and upon which it is conceded they must rest, has not been made apparent. There are now pending in the Congress hundreds of claims for the use and occupation of and injury to both Catholic and Protestant churches in the United States. These claims have been waiting upon the pleasure of the Congress for more than a third of a century. Many of them have been referred by the Congress to the Court of Claims, the tribunal specially authorized to hear and determine all questions of law and fact relating to them, and are now, having long since received the sanction of that court, still awaiting Congressional action. Are they less meritorious and just than these church claims the payment of which is now being so strenuously urged upon the Congress?

W. A. JONES.
ROBERT N. PAGE.
FINIS J. GARRETT.
HARVEY HELM.

EXHIBIT A.
(No. 1376.)

An act providing for the speedy disposition of controversies as to the right of administration or possession of churches, convents, cemeteries, and other church properties, and as to the ownership thereof and title thereto by vesting in the supreme court of the Philippine Islands original jurisdiction to decide such controversies, and for other purposes.

Whereas controversies have arisen between the Roman Catholic Apostolic Church on the one hand and the association called "The Independent Filipino Church," certain municipalities, and other persons on the other hand as to the right of administration or possession of numerous churches, convents, cemeteries, and real and personal property used in connection therewith, and as to the ownership thereof and title thereto; and

Whereas, if actions involving controversies as to said church property are brought in the courts of first instance, great and interminable delay by reason of the great number of properties involved and the fact that the courts of first instance are fully occupied with ordinary litigation will result not only in the disposition of the actions so brought, but also in the disposition of the ordinary litigation pending before said courts; and

Whereas frequent and angry controversies have arisen and continue to arise in numerous municipalities of the Philippine Islands between contending religious organizations, municipalities, and other persons as to the right to the possession of said properties, often culminating in illegal and forcible seizure thereof and in grave disturbances of the public peace and order, and it is believed to be in the interests of the Filipino people that such a condition of affairs should no longer continue and that all controversies of this character should be speedily settled in a legal and orderly way; and

Whereas there are several hospitals, haciendas, and other lands, some of which are in the possession of the government of the Philippine Islands, but as to which the Roman Catholic Apostolic Church claims the right of administration or ownership, and others of which are in the possession of the Roman Catholic Apostolic Church, but as to which the right of administration or ownership is claimed by the government of the Philippine Islands, and it is also of general importance that these controversies should be speedily and finally determined: Now, therefore,

By authority of the United States, be it enacted by the Philippine Commission that:

SECTION 1. The supreme court of the Philippine Islands is hereby given original jurisdiction and constituted the tribunal to hear and finally determine all actions which involve controversies between the Roman Catholic Apostolic Church and its representatives on the one hand, and the Independent Filipino Church and its representatives or any municipality or other person on the other hand, as to the title to any and all churches, convents, or cemeteries in the Philippine Islands and real and personal property used in connection therewith, or as to the ownership, right of administration, or possession thereof.

SEC. 2. The Roman Catholic Apostolic Church, the archbishop of Manila, or any bishop of a diocese, or other property representative of the Roman Catholic Apostolic Church, or any or all of them claiming the right of administration or ownership of any of the property or properties mentioned in the preceding section, or title thereto, possession of which property or properties is withheld by the Independent Filipino Church or any representative thereof, or by any municipality or other person, may file a petition in the supreme court of the Philippine Islands setting forth in a succinct manner the particular piece or pieces of property or properties, the title to which, or the ownership, right of administration, or possession of which, is claimed by the petitioner or petitioners, and that the Independent Filipino Church or its representatives or any municipality or any other person unlawfully withholds from the petitioner or petitioners the administration or possession of such property or properties or unlawfully claims ownership therein or title thereto, and praying that a decree be entered giving the administration and possession of such property or properties to the petitioner or petitioners and generally enforcing his or their rights as they may appear. It shall not be necessary to describe in the petition by exact metes and bounds the churches, convents, or cemeteries so claimed to be withheld, but it shall be sufficient to designate them as the church, convent, or cemetery in the municipality or the barrio of the municipality of the province in which they are respectively situate. In all actions in which the Independent Filipino Church or any representative thereof is in possession of any church, convent, or cemetery, or real or personal property used in connection therewith, the Obispo Maximo or the representative of the Independent Filipino Church in possession of the property shall be made a party defendant, and in each and every action the municipality in which such church, convent, or cemetery is situate shall also be made a party defendant. Upon the filing of the petition a summons shall issue in the usual form against the party or parties defendant, accompanied by a certified copy or copies of the petition, commanding the defendant or defendants and each of them to appear and answer said petition within forty days after the service of said summons, and the same shall be served upon said defendant or defendants as speedily as possible by the officer of the court charged with that duty. In case a municipality is named as defendant, service shall be made in the manner prescribed in section No. 396 of act No. 190. The officer who is charged with the duty of serving said summons shall immediately endeavor to serve the same upon the party and each of the parties defendant as provided in other actions for service of summons by said act No. 190. The court may, in its discretion, when it is deemed necessary to facilitate service, appoint special officers for that purpose. Where the property in controversy is outside of the city of Manila, the summons shall be sent by the clerk of the supreme court to the governor or sheriff of the province in which the property is situate for service, and such officer shall be entitled only to the fees which would be allowed were the summons returnable in his own province. In case a special officer is appointed for the purpose of serving process, the process shall be sent or delivered to him by the clerk of the supreme court, and he shall be allowed the same fees as are hereby authorized for the governor or sheriff.

SEC. 3. It shall not be necessary to file separate petitions against each defendant alleged to be wrongfully in possession of each piece of property as above set forth, but all defendants holding several and distinct pieces of property in the same province may be embraced in one petition.

SEC. 4. Within forty days after service of the summons on the defendant or defendants, unless further time is given by the court, the defendant or defendants served shall file their several answers or a

joint answer, as they may elect, succinctly stating the facts upon which they base their interest and deny the ownership or the right of administration or possession or claim of title of the petitioner or petitioners, and stating to what use the property claimed or held by such defendant or defendants has been put while in the possession of the defendant or defendants and for what period of time it has been so used and whether such property is used or ever has been used by the Roman Catholic Apostolic Church as a church, convent, or cemetery, or in connection therewith; and if so, for what period of time. Upon the filing of such answer or answers no further pleading shall be necessary, and the action shall be considered at issue. In the event that any defendant fails to file his answer to the petition within the time hereby prescribed, the allegations of the petition shall be taken as confessed and true as to him, and the court shall at once enter a decree directing the return of the personal property and ousting such defendant from possession of the real property described in the petition and held by him and, if requested, shall issue a writ of possession in accordance with the decree. Whenever any complaint or petition filed in pursuance of this act is under oath the answer or answers to such complaint or petition must also be under oath. The court shall have power and authority to appoint receivers, issue injunctions, and other extraordinary process as provided by the Code of Civil Procedure.

SEC. 5. After an action shall be at issue the petitioner or petitioners shall have sixty days within which to take evidence in support of the averments of their petition, and the defendant or defendants shall likewise have sixty days after the time fixed for the taking of the petitioner's proof within which to take evidence to sustain the averments of their answer or answers, and thereafter the petitioner or petitioners shall have thirty days in which to take evidence in reply. In case either the petitioner or petitioners or the defendant or defendants shall have concluded the taking of evidence before the expiration of the time allowed herein for concluding the same, they may so notify the opposite parties in writing, and thereupon the time within which the latter are required to take their evidence shall begin to run. The court, in order to facilitate the taking of evidence, may appoint such special commissioners as may be necessary to that end, and, in its discretion, may appoint the clerk of any court of first instance as such special commissioner, and such special commissioner shall be allowed compensation not to exceed 10 pesos per day for his services while actually engaged in taking the evidence. Any commissioner thus appointed shall have authority to issue process upon the application of either party, to summon witnesses to appear before him, and, if necessary, to compel their attendance by issuing attachments, and to administer oaths. Such commissioner shall make his report to the court within thirty days after the taking of evidence has been completed by him.

SEC. 6. The attorneys for the parties litigant, within seven days after any action shall be at issue, shall appear before the supreme court of the Philippine Islands and stipulate, so far as possible, what facts may be taken as agreed upon by the parties in interest, so as to save the necessity of taking evidence, and these stipulations shall be reduced to writing and the facts therein agreed upon shall be taken and considered as established. At the conclusion of the taking of the evidence in any action the same shall be heard by the court as speedily as may be, and actions arising under the provisions of this act shall be given precedence in their hearing over any other actions pending in said court.

SEC. 7. After reaching a conclusion upon the issues presented in any action the court shall render its decree accordingly. If it find in favor of granting the prayer of the petitioner or petitioners in toto, it shall enter a decree directing the return to the petitioner or petitioners of the personal property and ousting the defendant or defendants from possession of the real property mentioned in the petition and awarding possession of such real and personal property to the petitioner or petitioners, or such of them as may be entitled thereto, and directing a writ of possession to issue against the defendant or defendants in the manner and form prescribed by act No. 190. If it shall find in favor of the defendant or defendants, it shall decree accordingly and direct that the petition be dismissed. In the event that the court shall find that the petitioner or petitioners or any of them are entitled to some of the properties mentioned in the petition and not entitled to others mentioned therein, it shall decree in accordance with its finding, granting the prayer of the petitioner or petitioners or any of them as to the property or properties to which such petitioner or petitioners or any of them are entitled, and decreeing that the defendant or defendants or such of them as are wrongfully in possession of the personal property return the same to the petitioner or petitioners, that the defendant or defendants or such of them as are wrongfully in possession of real property be ousted therefrom, and that a writ of possession to that effect be issued, and dismissing the petition in so far as it seeks to recover possession from the defendant or defendants or any of them of any property to which none of the petitioners is entitled.

SEC. 8. Whenever any municipality claims to be the owner of any church, convent, cemetery, or real or personal property used in connection therewith which is in the possession of the Roman Catholic Apostolic Church or of any bishop or priest or other proper representative thereof, such municipality may in like manner bring its action in the supreme court of the Philippine Islands against the party or parties in possession, making the Roman Catholic archbishop or bishop of the diocese in which the property or properties are situate a party defendant thereto, and the same procedure as is set forth in the preceding sections of this act shall be followed and the provisions of this act shall in all respects apply to such actions: *Provided*, That no municipality shall institute such suit without first submitting its claim of title to the attorney-general for the Philippine Islands and receiving his approval to the bringing of such suit: *And provided further*, That when such approval has been had it shall be the duty of the attorney-general to direct and control the litigation when begun, utilizing the services of the provincial fiscal so far as in his judgment may be necessary in the preparation and conduct of the action: *Provided, however*, That nothing in this act contained shall prohibit the Roman Catholic Apostolic Church, the Independent Filipino Church, or any municipality or other person not taking advantage of the provisions of this act from instituting actions in the courts of first instance, or in the court of land registration, in accordance with existing provisions of law, to recover the possession and control of churches, convents, cemeteries, or other property.

SEC. 9. The supreme court of the Philippine Islands is also given original jurisdiction to hear and determine all actions involving the title to any hospital, asylum, charitable institution, or other property of any description whatsoever, or the ownership, right of administration, or possession thereof, which may be brought by the government of the Philippine Islands against the Roman Catholic Apostolic Church or any archbishop, bishop, priest, or other lawful representative thereof,

or which may be brought by such archbishop, bishop, priest, or other lawful representative of the Roman Catholic Apostolic Church against the government of the Philippine Islands; and the procedure as set forth in the preceding sections hereof shall be followed, and the provisions of this act shall in all respects apply to such actions.

Sec. 10. All costs of the several actions begun in accordance with the provisions of this act, including compensation to special commissioners, but exclusive of counsel fees, shall be borne by the government of the Philippine Islands, and from time to time, as may be necessary, the Philippine Commission shall make appropriation therefor as in other cases of obligations against the government of the Philippine Islands, but the costs herein provided to be paid shall be those lawfully and necessarily accruing in the supreme court of the Philippine Islands only.

Sec. 11. No municipality becoming either a party plaintiff or defendant under the provisions of this act shall appeal from the decision of the supreme court of the Philippine Islands to the Supreme Court of the United States save upon the approval and by the direction of the attorney-general for the Philippine Islands.

Sec. 12. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the Commission in the enactment of laws," passed September 26, 1900.

Sec. 13. This act shall take effect on its passage.
Enacted, July 24, 1905.

Life-Saving Service of the United States.

SPEECH

OF

HON. CHARLES R. THOMAS,
OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, March 16, 1908,

On the bill (H. R. 17710) to increase the efficiency of the personnel of the Life-Saving Service of the United States.

Mr. THOMAS of North Carolina said:

Mr. SPEAKER: When the Atlantic and Gulf coasts of the United States are in the icy grasp of winter, and cold and terrible winds are lashing the waves of the stormy Atlantic and the Gulf, and many wrecks are occurring and tempest-tossed mariners are crying for rescue and help, the value of the Life-Saving Service and such legislation as is needed to promote its progress and efficiency is most apparent. In making a short but earnest plea for the life savers I am actuated by no selfish motive.

I have made this plea often before during my service in Congress, and I expect to continue to make it so long as I shall remain in Congress. Representing a district which stretches along a considerable part of the North Carolina coast, I am personally familiar with the work of the Life-Saving Service, knowing many of the men who are engaged in it personally, and am proud to number them among my strongest and best friends. They are among the bravest and most daring and courageous men employed in the Government service. Theirs is a life of hardship and oftentimes intense suffering, as they discharge their duties in the patrol of the coast, the rescue of the shipwrecked and distressed, and in time of war in aid of the military and naval forces of the United States. While not a part of the Army and Navy, they aid and assist both the Army and Navy in time of war, and in time of peace they face upon the wintry coast and stormy seas perils as great as those encountered by either soldier or sailor, without the inspiration which accompanies the soldier, who marches into battle to the strains of martial music, or the sailor, who has to inspire him the example of John Paul Jones, Perry, Dewey, and a host of other gallant men who have reflected imperishable glory upon the American Navy. While he is not enlisted in the Army or Navy, the life saver belongs to the great army of mercy, and when I plead for him I plead not only for him individually, but also for the cause of humanity.

One of the greatest and earliest advocates of the Life-Saving Service was Hon. S. S. Cox, of New York, better known as "Sunset" Cox, and so called, I am informed, because of his most beautiful and eloquent word painting of a sunset scene. I wish that I had to-day the eloquence and the vocabulary of "Sunset" Cox with which to portray the lives and the services of the men in the Life-Saving Service, who imperil their own lives to save others.

Some years ago, long before I came to Congress or had any idea of becoming a Representative, I witnessed a wreck upon the coast of North Carolina, the ill-fated *Crissie Wright*. I saw men who had been frozen to death on that ship, every one of whom could have been rescued had there been a life-saving station at that point. From that hour I determined to promote the cause of the Life-Saving Service and the saving of those who go down to the sea in ships.

Mr. Speaker, the life-saving crew at Long Island, N. Y., recently rescued sixteen of the crew on the bark *Puritan* and two women and two children. I include in my remarks an account of this heroic rescue which I have clipped from the *Washington Post*:

SAVED IN BREECHES BUOYS—LIFE SAVERS GET LINE TO WOMEN AND CHILDREN ON BARK—BRING TWENTY, INCLUDING CREW, ASHORE FROM VESSEL POUNDING HELPLESSLY IN ANGRY SEAS.

BELLSPOUNT, N. Y., February 1.

Momentarily facing death in angry seas which threatened their ship with destruction, two children, two women, and the crew of sixteen of the bark *Puritan*, which came ashore in the storm 2 miles west of here early to-day, were rescued in breeches buoys by life-saving crews this evening.

The *Puritan* was pounding helplessly in the waves, which slowly drove the vessel farther on the Long Island sands, when the life savers succeeded in getting a line to the bark and brought the women, children, and crew ashore.

The captain and mate remained aboard the *Puritan*, and will probably not come ashore until the last hope of the bark holding together is given up. Tugs were standing by the *Puritan* late to-night.

The bark *Puritan* was in tow of the tug *Teaser*, bound for Boston. Early to-day the tug and tow found themselves making heavy weather. The *Teaser* finally gave up towing the *Puritan* and cut the line. The bark then drifted upon the beach. The tug stood out to sea and rode out the storm.

There were many other instances of this kind during the past winter. On stormy nights when the tempest is high and the great waves come rolling in on the Atlantic coast, if you could look through the darkness you would see for hundreds of miles along the coast strong men, bronzed by exposure to the weather, walking all night long, up and down, sentinels, peering out into the darkness. A vessel, perhaps, or a great steamer, comes driving ashore. The signal light is flashed by the patrolman of the life-saving crew, and strong men come hurrying down the coast with life-saving apparatus. If a boat can live, the lifeboat is launched and manned by brave fellows pulling out into the storm. If the boat can not live, a line is shot on board the vessel, the breeches buoy is rigged to the cables, and backward and forward it plies until every passenger and every sailor is saved.

I shall include in my remarks a summary of the operation of the Life-Saving Service for the year ending June 30, 1907. This shows that with 278 life-saving stations in operation nearly seven and one-half millions worth of property was saved, and out of more than 5,000 persons whose lives were in jeopardy during the past year only 45 were lost where the stations could get in their work. Besides, many persons were given succor and relief at the stations, and many vessels, including large steamers, warned of approaching danger.

The summary is as follows:

SUMMARY OF OPERATIONS OF THE LIFE-SAVING SERVICE FOR THE FISCAL YEAR ENDING JUNE 30, 1907.

[By Mr. S. I. Kimball, General Superintendent of the Life-Saving Service.]

During the period covered there were 278 life-saving stations in operation, namely, 200 on the Atlantic and Gulf coasts, 60 on the Great Lakes, one at the Falls of the Ohio (Louisville, Ky.), and 17 on the Pacific coast (including one station at Nome, Alaska).

In the twelve months covered by the report the number of disasters to vessels occurring within the field of operations of the Service was 838, involving 347 documented vessels, and 491 undocumented craft. Fifty-five of the endangered vessels were totally lost. The value of property imperiled—\$8,832,585—is, however, much smaller than that given in the tables for 1905-6, namely, \$15,041,140. The value of the property saved was \$7,432,985, the property loss being \$1,399,600, as against a loss shown last year amounting to \$2,775,040. Aboard the vessels meeting disaster there were 5,112 persons, of whom 45 were lost. Eight hundred and seven persons were succored at the stations, 1,140 days' relief being furnished.

The foregoing figures relate to both documented and undocumented vessels, the latter class including sailboats, small launches, rowboats, etc. In the accidents to these smaller craft 1,176 persons were imperiled, 23 of whom were lost. The estimated value of the property involved was \$530,320, of which \$516,585 was saved.

There were 611 vessels, valued, with their cargoes, at \$5,661,235, saved under circumstances that would have resulted in serious damage or total loss but for the assistance of the life savers. In 449 of these instances, in which the property imperiled was valued at \$1,270,995, the station crew saved property to the value of \$1,238,935 without outside assistance. In the 162 instances remaining, in which the property endangered was worth \$4,390,240, they worked in conjunction with the crews of wrecking vessels, tugs, etc., saving property to the value of \$4,053,230. The station crews also afforded minor assistance to 714 vessels not included in the preceding figures, making a total of 1,325 to which aid was extended. The number of vessels warned from danger by the signals of the Service patrolmen was 204; these warnings were given at night in 182 instances and 22 were given during the day in thick weather. Ninety-six of the vessels warned were steamers.

The President, on January 28, in his message to Congress recommended in the strongest terms such legislation as will promote the efficiency of the Life-Saving Service by providing increased pay and pensions. The bill now under consideration, H. R. 17710, does not provide for pensions, but it does provide for increased pay for superintendents of the Life-Saving Service, and for the keepers of life-saving stations and for surfmen. The bill speaks for itself and I include it in my remarks,

as it is self-explanatory. The effect will be to give a No. 1 surfman in each of the crews of the life-saving stations \$70 per month instead of \$65 and to give to each of the other surfmen of the crews of life-saving stations, in addition to \$65 per month they are now receiving, either one ration per day or commutation therefor at the rate of 30 cents per ration, which will increase their pay about \$9 per month. The bill also extends the provisions of the existing law in regard to keepers and members of life-saving crews (who die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty) to a dependent mother as well as to the widow, or child or children under 16 years of age. The following is the bill upon which we have been able to secure a favorable report from the Committee on Interstate and Foreign Commerce. The passage of this bill I regard as an absolute necessity in order to preserve the efficiency of the Service.

A bill to increase the efficiency of the personnel of the Life-Saving Service of the United States.

Be it enacted, etc., That from and after the passage of this act the compensation of district superintendents in the United States Life-Saving Service shall be as follows: For the superintendents of the first, second, fourth, fifth, sixth, seventh, tenth, eleventh, twelfth, and thirteenth districts, \$2,200 per annum each; for the superintendents of the third and ninth districts, \$2,000 per annum each; for the superintendent of the eighth district, \$1,900 per annum. That the pay of keepers of life-saving stations shall be \$1,000 per annum each, and that the pay of the No. 1 surfman in each of the crews of the life-saving stations shall be at the rate of \$70 per month.

SEC. 2. That every keeper of a life-saving station and every surfman in the Life-Saving Service of the United States shall be entitled to receive one ration per day or, in the discretion of the Secretary of the Treasury, commutation therefor at the rate of 30 cents per ration.

SEC. 3. That section 8 of the act of May 4, 1882, entitled "An act to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck," is hereby amended to read as follows:

"SEC. 8. That if any keeper or member of a crew of a life-saving station shall hereafter die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under 16 years of age, or a dependent mother, such widow and child or children and dependent mother shall be entitled to receive, in equal portions, during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount, payable quarterly as far as practicable, that the husband or father or son would be entitled to receive as pay if he were alive and continued in the Service: *Provided*, That if the widow shall remarry at any time during the said two years her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of 16 years during the said two years, the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any."

SEC. 4. That all acts or parts of acts inconsistent herewith are hereby repealed.

The committee in its report upon the bill say:

It was developed that there exists in the Service a serious condition, requiring immediate relief if the high standard of efficiency which has heretofore characterized this Service is to be maintained.

In a corps of less than 1,900 men there have been during the last five years 1,538 changes (see table). In these changes 602 left the Service to engage in other business, and 422 others failed to reenlist upon the expiration of their terms of enlistment, practically all for the same reason, namely, to obtain better wages in less arduous and hazardous occupations. During the same period 207 were dismissed for cause and 49 deserted, while in former years, when the compensation paid by the Government compared more favorably with wages outside and the cost of living was much less, dismissals for cause were rare and desertions almost unknown. The men then reenlisted from year to year, and the service of most of them was practically continuous.

These numerous changes alone, even if the new and untrained men were in every way thoroughly qualified, would seriously affect the maintenance of proper discipline at the stations and be highly detrimental to the efficiency of the crews in their work at wrecks, where so much depends upon united action and mutual reliance upon one another, as the failure of a single man at the oars to properly perform his part at a critical time might involve not only the lives of the crew, but of those whom they seek to save. Their success is largely dependent upon the prompt, skillful, and concerted execution of orders in maneuvering the boat in a heavy sea, which can be secured only by constant practice in the Service drills. But it appears that, as a matter of fact, the men recruited to fill vacancies are not, as a rule, thoroughly qualified, and in many of the districts it is found impossible to secure anything like a sufficient number of men with even scant qualifications to supply the vacancies as they occur; and as it is necessary that the crews shall always be full for the manning of the boats and the unremitting patrol of the coast, the deficiency has to be made up by the employment of such men as can be found in the vicinity of the stations, however poorly qualified they may be.

These increases in pay and allowance for rations, it is believed, are the minimum that will be required as inducements to secure not only a sufficient number, but a better class of men, and retain the desirable men now in the Service. The records of the Service show that over 80 per cent of the men are married, the remaining 20 per cent being made up largely of young men yet unmarried because of their age and widowers. Most of these men, therefore, must contribute to the maintenance of two households. They are required to reside at the station during the active season, and must provide their own food and cook it themselves or hire a cook at their own expense. Many stations, perhaps a majority of them, are located on islands and at isolated points on the coast far from large markets and without conveniences of transportation. Some stations, particularly on the Pacific coast, are 50 to 75 miles from a railroad. Provisions are therefore necessarily high. The proposed ration or commutation thereof at 30 cents per day will

not, in many cases, equal the cost of each man's share of the station mess, but, so far as it goes, will be a material help in this direction, and will be highly appreciated by these men, who have heretofore had no allowances of any kind. *They must still provide their own uniforms and even the storm clothes, rubber boots, etc., required on patrol and in wreck duty.*

The increase of \$5 per month in the compensation of the No. 1 man in each crew is a tardy recognition of the position held by him and his distinctive duties. He corresponds to the mate of a merchant vessel, and on him devolves the command of and responsibility for the operation of the station in the absence of the keeper. He is selected with this in view, and is usually a man of long and faithful service, the best qualified in the crew physically and professionally. This difference in pay also doubles the opportunity for advancement from the lowest grade, and places a premium on the good behavior, study, and proficiency in his calling of every surfman in the Service.

The total increase per annum provided for by this meritorious measure would be a little over \$230,000. I have secured from the Superintendent of the Life-Saving Service, who is one of the very best and most efficient officers of the Government, a statement showing what additional amount would be required from the Treasury if this bill becomes a law. The statement is as follows:

Estimated pay of district superintendents, keepers, and surfmen for one year.

Grade.	Number of men.	Present salary.	Aggregate pay per annum.	Proposed salary.	Aggregate pay per annum.
Superintendents:					
Districts 1, 2, 4, 5, 6, 7, 10, 11, 12, 13.	10	\$2,000.00	\$20,000.00	\$2,200.00	\$22,000.00
Districts 3, 9.	2	1,800.00	3,600.00	2,000.00	4,000.00
District 8.	1	1,700.00	1,700.00	1,900.00	1,900.00
Keepers.	265	900.00	238,500.00	1,000.00	265,000.00
No. 1 surfmen.	265	\$65.00	159,325.00	\$70.00	171,587.50
Other surfmen.	1,633	\$65.00	981,841.25	\$65.00	981,841.25
Rations to all keepers and surfmen (see separate table for calculation).	2,163				188,733.60
Total.			1,404,972.50		1,635,062.35
Additional cost under provisions of proposed law.					230,089.85

* Per month.

Pay and rations of surfmen based on present average annual term of service, nine and one-fourth months.

And now, Mr. Speaker, considering these facts and the value of the Life-Saving Service and the small increase of cost of the Service annually under the bill now up for consideration; considering the benefit of the Life-Saving Service to the commerce of the country and the absolute necessity of promoting its efficiency, preserving its personnel, and saving it from deterioration; and for the sake of human lives and the great cause of humanity, this bill should be passed and justice should be done to the life savers and done at once. This bill is one of the most meritorious measures before Congress. I am heartily in favor of it, and I hope it will pass without a dissenting voice.

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. D. W. HAMILTON,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. HAMILTON of Iowa said:

Mr. SPEAKER: The bill which is being discussed, in my judgment, is one of very much importance to thousands of needy and deserving widows of this country, and while I am glad to have the opportunity of voting for this bill, I also regret that it can not be amended. I believe that it should apply to widows of deceased soldiers who have married since 1890 and should also apply to widows of soldiers who did not serve ninety days. As I have stated, I very much favor this measure, but would be glad if the amount granted to the widow was considerably more than \$12 per month. Just why the widows who are beneficiaries under this bill have been denied what I consider their just rewards and only allowed \$8 per month to this time I do not understand.

While these women did not have to suffer the hardships and privations of the soldiers, they passed through a period of greater suffering and anxiety even than the soldier himself. While the man who went to the front to do battle for his country was cheered from time to time by his comrades, the wife and mother, or the daughter in her lonely home spent hours, days, weeks, months, and years in anxious waiting. Many were the nights that she tossed restlessly upon her pillow in dread fear lest the morning would bring her news of the death of loved ones in a far-away State, but with all this she bore bravely her trials in her communications with those who had gone to the front, many times hiding her anxiety and extending words of cheer and encouragement which very materially added to the bravery and efficiency of the soldier upon the battlefield.

It certainly is a pleasure to me this day to give my vote in favor, not of charity to her, but in partially repaying to her a debt which this Government owes, and removing to some extent the difficulties that surround her in obtaining her just dues.

Agricultural Appropriation Bill.

SPEECH

OF

HON. HENRY D. FLOOD,
OF VIRGINIA.

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 28, 1908.

On the bill (H. R. 19158) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909.

Mr. FLOOD said:

Mr. CHAIRMAN: There can be no effective road improvement in many States of this Union without the aid of the General Government. There is nothing, moreover, that is so much needed to the development of these States and to the prosperity and happiness of their people as a good system of public roads. This is admitted on all hands, as it is also well recognized that there will have to be a cooperation of county, State, and nation before the roads in our more sparsely settled States can be so built as to be of essential service to the people of those States.

These facts being admitted, it seems strange that it is so hard to arouse Congress to the necessity of taking some action toward helping the States and people to construct a comprehensive system of roads. I have heard but two objections urged. The first is the size of the appropriation it will require, and the second that it infringes upon the rights of the individual States.

I desire in this connection to have read a bill which I have introduced providing for an appropriation for this purpose and against which neither of the objections about referred to can be applied.

A bill (H. R. 164) to distribute the surplus in the Treasury of the United States to the several States, Territories, and the District of Columbia for the sole purpose of improving the roads therein.

Be it enacted, etc., That it shall be the duty of the Secretary of the Treasury at the end of each fiscal year to take an account of all the funds in the Treasury of the United States, and after deducting from said sum the amounts required by law to be kept in said Treasury the remainder, if any, shall be declared a surplus.

SEC. 2. That it shall be the duty of the Secretary of the Treasury to immediately provide for the distribution of said surplus, not exceeding \$25,000,000 annually during the continuance of this law, on a per capita basis to the States, Territories, and the District of Columbia, to be computed from the last general census taken by the national authorities, and shall prorate the same accordingly for the sole purpose of improving the postal roads in said States, Territories, and District of Columbia, under such rules and regulations as the States, Territories, and District of Columbia may provide, and said Secretary shall immediately notify the governors of said States and Territories and the Commissioners of the District of Columbia the amounts due each, and that the same will be paid over to such person or persons as may be duly authorized by said States, Territories, and the District of Columbia to receive and receipt for the same.

SEC. 3. That it shall be the duty of the governors of the several States and Territories and the Commissioners of the District of Columbia to make a full and complete report to the Secretary of the Treasury on the 15th day of November of each year what legislation, rules, and regulations have been adopted for the expenditure of said funds upon the postal roads, the manner in which the same has been spent, and the results accomplished. And it shall be the duty of the said Secretary to submit said reports to Congress on the first day of each regular session.

This bill provides for an appropriation of \$25,000,000 a year. Surely to a legislative body which is appropriating a billion dollars a year an appropriation of the size carried by this bill could not be thought to be extravagant when it goes to the accomplishment of improvements which will benefit directly and indirectly nine-tenths of the people of the American Republic.

Nor is this bill subject to the objection that it is conferring upon the National Government duties and functions which should be performed by the State governments. It provides simply that the National Government shall aid the States, Territories, and District of Columbia in doing a work of great public interest which the revenues of the States and Territories do not enable them to do properly. The National Government will have no discretion as to the method of expending this appropriation, except to see that it is not diverted or wasted. This bill provides that the appropriation shall be distributed among the States according to population, to be paid over to such persons as may be authorized by said States, and expended under the rules, laws, and regulations of those States and by the officers of those States. Surely the most punctilious States rights man could not object to a measure of this character.

Mr. Chairman, I believe the people all over this country are in favor of this bill. I know they are in the State which I have the honor in part to represent upon this floor, and in evidence of this fact I send to the Clerk's desk and desire to have read a joint resolution adopted by the general assembly of Virginia, on February 4, 1908:

Joint resolution to distribute the surplus in the Treasury of the United States to the several States * * * for the purpose of improving the roads therein.

Whereas the question of improving the roads of the State is one in which our people are deeply interested and realizing that the best solution of the question can only be reached by national aid in addition to local and State aid: Be it

Resolved by the house of delegates of Virginia (the senate concurring), That our Representatives in Congress be, and are hereby, requested to support and, if possible, secure the passage of a bill introduced by Hon. H. D. FLOOD, known as H. R. 164, entitled "A bill to distribute the surplus in the Treasury of the United States to the several States and Territories and the District of Columbia, for the sole purpose of improving the roads therein."

The keeper of the rolls will send a copy of this resolution to each of the Senators and Members of Congress.

Agreed to by the general assembly of Virginia, February 4, 1908.

JNO. W. WILLIAMS,
Keeper of the Rolls of Virginia.

Under this bill Virginia would get, approximately, \$608,546, and every other State, Territory, and the District of Columbia would get the part its population bears to the whole population of the country by the census of 1900.

Under this bill the counties in my Congressional district would get the following sums:

Alleghany	\$5,357
Amherst	5,836
Appomattox	3,147
Augusta	12,985
Bath	1,904
Botetourt	5,609
Buckingham	4,985
Craig	1,377
Cumberland	2,952
Fluvanna	2,952
Highland	1,835
Nelson	5,248
Rockbridge	7,905

A decided impetus has been given in the State of Virginia during the past year or two to the improvement of her public roads. The State and counties combined will spend during the coming year nearly a million dollars. This bill will add \$608,546 to this amount without any effect upon the revenues of the National Government and without any effect upon the Government itself, except to make Congress a little more economical in the expenditure of the public revenues in other directions.

Furthermore, the provisions of this bill are such as to exempt it, as I have shown, from the imputation of centralization by leaving the disbursement of the appropriation to the discretion of the States and Territories. And it also guards against malfeasance and extravagance by requiring that the annual expenditures shall be submitted to the rigid scrutiny of Congress.

In the remarks I made in support of this bill during the last session of Congress, I passed in rapid review the historical attitude of Congress toward governmental aid to highways during many years, and cited the advocacy of that aid by such men as Jefferson, Clay, Calhoun, and Benton. It is not my purpose now to repeat myself; but I do wish to again call the attention of this House and the country to the specific features of my bill and to the great good that would accrue not only to the agricultural sections of this country, but to every section and to every interest by its enactment into law.

To effect an object so valuable, so extensive, so lasting, auguring so auspiciously for the contentment of the people and the security of our institutions would involve no greater outlay each year than the construction of three battle ships. And who could doubt which appropriation would result in the greater good to the country? One provides against an improbable hos-

tile contingency, the other secures lasting advantages to increasing millions of our own people.

If this bill becomes a law it will tend to increase immensely and in an augmenting ratio the value of the land, the only intrinsic and enduring value.

If it becomes a law the benefits from it will be indeed manifold. They will augment our resources incalculably; will increase greatly the facilities of education and of intercourse; will produce a more scientific system of agriculture; will infuse intelligence generally, and will cause a universal patriotic glow, which will prove a very sheet anchor of safety.

I trust the party in power may give earnest reflection to this measure; may weigh its intrinsic merit and beneficence in the scale with other measures, too many of which are partisan in their character, now absorbing the time and thoughts of its members.

Partisan legislation in a great and free country like ours can be built upon no enduring basis. In a land we all love and whose real greatness we alike hope and believe will endure, mere party advantage is but temporary and fluctuating. But the fruition of this scheme will be a great and enduring blessing to the entire land. So great and multiform and permanent will be the benefits it will bring that to no measure could any Member dedicate his influence and efforts with such assurance of genuine reward.

Beside the sweep of its real worth mere party advantage is as the small dust on the balance. [Applause.]

Eulogy on the Late Senator William James Bryan.

REMARKS

OF

HON. WILLIAM SULZER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Sunday, May 3, 1908.

The House having under consideration the resolutions—

Resolved, That in accordance with the order of the day an opportunity be now given for tributes to the memory of Hon. WILLIAM JAMES BRYAN, late a United States Senator from the State of Florida.

Resolved, That as a particular mark of respect to the memory of the deceased, and in recognition of his distinguished public career, the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. SULZER said:

Mr. SPEAKER: The sudden death of WILLIAM JAMES BRYAN, the brilliant young Senator from Florida, was entirely unexpected and inexpressibly sad. It cast a pall of gloom over the Capitol, shocked innumerable friends, prostrated a loving family, and caused countless thousands to mourn that one so young, so good, so happy, with prospects so bright for so long and so useful a public career, should die so soon.

At the time of his death he was the youngest man in the United States Senate and one of the very youngest men that ever occupied a seat in the upper branch of the National Legislature. He was a young man of sterling worth, of much promise, of high purpose, of great determination, and of noble impulses. He had a magnetic manner, an attractive personality, a sunshiny nature, a smiling, open countenance, a cheerful disposition, and a most lovable character. He was a kind and sympathetic friend, a courteous gentleman, and an affectionate husband.

His life was gentle, and the elements
So mix'd in him, that Nature might stand up
And say to all the world, "This was a man!"

Mr. Speaker, Senator BRYAN was born in a log house near Fort Mason, then in Orange, now in Lake County, Fla., on October 10, 1876. In 1883 his father moved from Fort Mason to the old home in Kissimmee, Osceola County, Fla., where young BRYAN was reared and lived until he came to Jacksonville to practice law.

He attended school in the country one year, then went to the public school at Kissimmee until September, 1892, when he entered the freshman class at Emory College, Oxford, Ga., from which institution he was graduated, fifth in a class of forty, with the degree of A. B., in June, 1896. In the summer of 1896 he was elected principal of the public school at Monticello, Ga., and taught there for about one year. Then he came to Jacksonville and was in the office of Barrs & Bryan for three or

four months studying law. In September, 1898, he entered the law department of Washington and Lee University, and was graduated in June, 1899, with the degree of LL. B., taking the two years' course in one. In the summer of 1899 he traveled in Florida for the law school from which he had just graduated for three months for \$150 and traveling expenses and secured about ten new students for the university.

On his twenty-second birthday, October 10, 1899, he left home to become a member of the law firm of Barrs & Bryan, which association continued until January 1, 1901, when he rented a small office from D. U. Fletcher and struck out for himself, and practiced by himself until January 1, 1903.

Young BRYAN was always of buoyant spirits. He looked on the bright side of things. He was hopeful and ambitious. He wanted to make a name for himself. As a college boy he was fond of athletics; played tennis, baseball, and football. He was a good student, learned easily, and took great interest in his debating society. Emory College has for seventy-five years had two debating societies, which own their own separate buildings. The rivalry between these societies has always been keen. At each commencement one night is always devoted to a "champion debate" between these literary societies. This debate is the biggest event at commencement, and places on the respective sides are usually filled only by seniors. He was a champion debater during both his junior and senior years at Emory College.

As a law student at Washington and Lee, he was on the football team, and finished his law course without apparent effort. He was awarded the intersociety medal for oratory, and represented that university in the Southern Intercollegiate Oratorical Association in the spring of 1899.

When he was traveling for Washington and Lee University in the summer of 1899, he went to all the principal cities and towns in Florida and in that way formed a wide State acquaintance. He took a prominent part in the capital-removal campaign in 1900, which widened still further this acquaintance.

He was admitted to the bar at Kissimmee the first week in October, 1899. His career at the bar was rapid and brilliant. He was an able lawyer and an honest advocate. He had several important criminal cases at Kissimmee, and from the first was successful. The bulk of his practice was criminal cases and personal-injury suits against corporations. He was the friend of the poor and the unfortunate. He helped the under dog.

On July 15, 1902, he was nominated, by 1,100 majority out of a total of 3,100 votes, for county solicitor, renominated in 1906 without opposition, and was holding the office when he was appointed a Senator in Congress December 25, 1907. He was sworn in as Senator January 9, 1908, and his last appearance in the Senate was February 18. Two days after this he was attacked with typhoid fever, and died in the capital of his country on the 22d day of last March, honored and loved and mourned by all his countrymen.

Such, in brief, Mr. Speaker, is the story of the short but active life of this remarkable young man. He was no dreamer. He believed in plod and progress. He was a worker; he did things. In his short life he accomplished much of good that reflects great credit on his interesting career. He died young, but he lived a noble life, and—

We live in deeds, not years; in thoughts, not breaths;
In feelings, not in figures on the dial.
We should count time by heart-throbs. He most lives
Who thinks most, feels the noblest, acts the best.

Senator BRYAN was a sympathetic man and he believed in his fellow-man. He was liberal-minded and the foe of every superstition. He was a high type of the earnest, the honest, the truthful, and the sincere American gentleman. There was no blemish on his shield. He was a Democrat through and through. He believed in the great principles of Thomas Jefferson—in civil and religious liberty—in the rights of man. He was the friend of every cause that lacked assistance. He fought the good fight, and his life will ever be a beacon light to the young men of his State and an inspiration to the struggling youth of our country, but the saddest part of this most useful and promising life is the contemplation of the ever to be regretted fact that its flame went out before it had time to brighten into its full effulgence, before the full development of his powers; that he had so much to do and left so much undone; that he was cut off in the very beginning of his great career; that he died on the threshold of his grander opportunities and wider possibilities—that is the saddest part of it all, but we humbly bow to the inevitable and reverently say—

Rest, spirit, rest! Soar, spirit, soar!

The Street Car Extension Bill.

SPEECH

OF

HON. FRANK CLARK,

OF FLORIDA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 22, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (S. 902) authorizing certain extensions to be made of the lines of the Anacostia and Potomac River Railroad Company, the Washington Railway and Electric Company, the City and Suburban Railway of Washington, and the Capital Traction Company, in the District of Columbia, and for other purposes—

Mr. CLARK of Florida said:

Mr. CHAIRMAN: I regret very much, Mr. Chairman, that this discussion has taken the turn that it has. I regret very much that it has been given a political aspect.

Mr. Chairman, I do not care to proceed until the House is in order. If there are gentlemen who do not care to hear what I say, I wish they would go to the cloakroom or somewhere else, because I have some views on this subject which I want to present to this House and to the country.

I was saying, Mr. Chairman, that I regret that gentlemen have shown feeling upon this question. It is not a question for the display of feeling; it is not a question for attempts to achieve political advantage. It is purely an economic social question of what is best for both races. Now, the gentleman from Kansas [Mr. CAMPBELL] has some very peculiar views, so far as some of us are concerned, with relation to this matter. I want to say to that gentleman that on last Sunday afternoon an old negro man living in this city came to my office and spent the afternoon with my wife and myself, and I have not spent a more pleasant afternoon for years. [Applause.] He belonged to my father, and he was the first human being that ever carried me out in the yard after my birth. [Applause on the Democratic side.] I want to say to the gentleman from Kansas that I love that old negro man [applause], and that in a contest between him and others, in a physical contest, I would be found by his side protecting and defending him. [Renewed applause.] That is a sentiment that you northern Republicans do not understand and can not understand. [Applause.] But there is a vast difference, Mr. Chairman, in that sentiment which every man upon this side of the House who lives south of that river can understand and the sentiment that his children and mine are to sit side by side in school. There is a vast difference in that sentiment and the sentiment that they should sit side by side with my children in a street car or in any other public conveyance.

This amendment offered by the gentleman from Alabama is not an attack upon the negro race; it is not unjust to them, and there is no effort on this side of the House to make it unjust to them. In my State, and the gentleman from Kansas inveighs against it—and, Mr. Chairman, all I say is in the utmost of good humor and kindly feeling, because I admire the gentleman very much; some of the best friends I have in this House, I want to say, are upon the other side of the aisle and I have the utmost respect and deference for the opinions of those gentlemen. But I want to say this: When the gentleman says that they are not entitled to vote, let me say to the gentleman that I can get more colored votes in my district of those who do vote than he can to save his life, and if he will come down there and have a friendly contest with me I will show him that. I want to say here that they are not denied a vote in the State of Florida. [Applause on the Republican side.] I want to say that the election laws of the State of Florida are fairer than the election laws of New York, fairer than the election laws of a great many other States; in Florida we have no emblem at the top of our ticket, where the ignorant and vicious can simply make a cross and vote the whole ticket from one end to the other. We have the Australian ballot in its purity and simplicity. The names of all candidates are put upon the ticket in alphabetical order, regardless of what party they belong to, and the only requirement is an educational one. The man will simply have to know how to read and he must know who the candidates of his party are, and then he marks each one and votes for them. I will say to the gentleman that if a socialist runs against me for Congress and his name is Brown his name will appear on the official ballot before mine, and there is no indication of what he is or who he is, nor is there any kind of device to prevent any man from voting as he pleases, be he black or white. Along with the educational qualification we have another, requiring the payment of \$1 poll tax for school purposes each year by all males over 21 years of age, which is a prerequisite to the right to vote, and

this applies equally to white and black. I do not hesitate to say to the gentleman that the black man or the white man who will not pay a poll tax of \$1 per year for the education of the children of the country ought not to be allowed to vote in Florida or anywhere else. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLARK of Florida. I ask for one minute more.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. CLARK of Florida. Now, I want to say to the gentleman from Kansas that I am going to vote for this amendment. I am going to do it because I think it is in the interest of the black man more so than it is in the interest of the white man, and I say this because, as is well known, in every conflict between the races the black man gets the worst of it. You bring them together and you are bound to have conflicts. You know it and I know it. There is no need of our undertaking to deceive ourselves on this question, nor is there need of inquiring who is to blame. I would not do them an injury. I would not do them a wrong, and I do not believe you can get one of them in my State who is acquainted with me to tell you that I would. I was United States district attorney for nearly four years down there, and in discharging the duties of that office I gained a wide acquaintance with the leading negroes. I know many of them well, and I do not believe you can get a single one of them to say he thinks I would do them an injury. Having had the experience of a lifetime with them, I express it as my deliberate judgment that it is better to keep them separate—better for them, better for their race, better for everybody; and this system is working well in the State of Florida, in our larger cities, where we have street cars, and upon our steam railroads all over the State. There never has been any confusion or trouble on account of the separation of the races on public conveyances. Before the adoption of that system there was a great deal of trouble. I admit that at times it was caused by the white man. I am not holding him up as entirely blameless. Some white men are not of the kind the gentleman from Kansas would want to marry into his family. I agree with him. This class of white man is not peculiar to any section of our country. I have seen him in the North, in the East, in the West, and in the South. I have seen a lot of white people of that sort, and when one of this class gets a drink or two inside of him, and he gets himself inside of a street car, there is generally trouble. If you desire to reduce the chances of trouble to the minimum and subserve the best interests of all the people, you had better keep the races apart in all public conveyances.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLARK of Florida. Mr. Chairman, the relations of the races in the South is the one question, I believe, above all others that has been more discussed by more people who absolutely knew nothing of it than any other question that has ever challenged American thought since the formation of this Republic. The ignorance of real conditions permeating the effusions of theoretical defenders of the negro race would be ludicrous in the extreme if it were not for the fact that every speech, magazine article, or other publication of this character makes more difficult the proper and just settlement of one of the greatest problems that ever confronted any people. In the beginning of my remarks upon the pending amendment offered by my friend from Alabama [Mr. HEFLIN] I said that I regretted the turn which the discussion had taken. Partisanship has no place in the consideration of a question of this character. I regret that our Republican friends have seen fit to inject into the debate wholesale charges of oppression of the negro in the various Southern States, and, as is usual when such charges are made, have utterly failed to submit any proof supporting the charges which they prefer against our people. I do not say that the distinguished Republican gentlemen who have seen fit on this occasion to arraign the people of not only an entire State, but of several States, were actuated by a desire to retain for their tottering party the negro vote in the doubtful Northern States in the pending campaign. I sincerely trust they were actuated by a higher and nobler motive, particularly when we remember that this debate is taking place on the anniversary of the birth of the Father of his Country.

I try to give all men credit for sincerity of purpose, and I would not attribute to any gentleman upon this floor motives other than a patriotic purpose to faithfully subserve the best interests of our beloved country, with the lights before him. But, Mr. Chairman, in our journey through this life I have discovered that we do occasionally run upon some queer and apparently inconsistent things. I say "apparently inconsistent things," because I am looking at the matter I have in mind and considering it from my standpoint, in a plain democratic way.

I have no doubt that the eminent Republican logicians on the other side of this Chamber will have no difficulty whatever in explaining away, at least to their own satisfaction, the "apparent inconsistency" which appears to be inexplicable to my humble democratic mind. Let me state the case. Last winter, on my way to the Capitol, I had a conversation with one of my Republican friends relative to the matter of giving the people of the District of Columbia some sort of local self-government. We were on a street car at the time, and I said to my friend that I "thought that we ought to give the people of this District a local government and let them have some voice in the management of their affairs." My Republican friend said: "Oh, no; we can not afford to do that; there are too many negroes here." I said: "What! You say that? Now, if a man on our side of the House should arise in his place and say what you have just said to me, you or some one else on your side would immediately spring to your feet and, rolling your eyes toward heaven in holy horror, you would deliver a lecture to us on our alleged wrongful conduct toward the negro race." "Well," said my Republican friend, "that is a part of the game, but we can not afford that legislation."

I shall not disclose the name of this gentleman without his permission, but he is still a Member of this House, and he will vote against the amendment of the gentleman from Alabama. This, Mr. Chairman, is the "apparent inconsistency" that has been giving me trouble. I shall not charge or intimate that my Republican friend is not a sincere man. I know he is sincere. The thing that has been troubling me since I know he will vote against the amendment of my friend from Alabama [Mr. HEFLIN] is, *When is he sincere?* Was it when he inveighed against the negro in his conversation with me, or when he votes against the amendment of the gentleman from Alabama?

The gentleman from New York [Mr. OLCOTT] apparently lost his temper in the few remarks he made upon this subject and fanned the air at a desperate rate for a few minutes. He was ready to charge, and did charge, that the black man was discriminated against on the railroads throughout the Southern States, but when he was interrogated as to a particular State frankly admitted that he did not know anything about it! I am convinced that the gentleman from New York [Mr. OLCOTT] knows no more about the actual conditions on the street cars in Washington and the practical workings of the present system of mixing the races here than he knows of the relations of the races in the South. If the gentleman from New York [Mr. OLCOTT] will take the time to interview the laboring white man in the city of Washington, who is forced to use the street cars, whose wife and children are forced to use them, I venture the assertion that he will receive information that will give the opinion which he now entertains a decided shock. It will not change the gentleman's opinion—nothing will do that. I beg to suggest right here—without reference to any particular gentleman—that the real facts as to the practical operation of the system of mixing the races on street cars in the city of Washington can better be learned from interviews with the white laboring man and members of his family than it can be from interviews with the habitués of the luxuriously appointed drawing-rooms of the city, or by personal observation obtained from a seat on the soft cushions of a magnificent landau as one is rapidly driven over the smooth streets of the Capital City behind a spanking team of thoroughbreds.

Mr. Chairman, the question raised by the amendment offered by the gentleman from Alabama [Mr. HEFLIN] is purely a question of disposing of a situation in such manner as will lessen the friction between the races. The adoption of that amendment will not discriminate against the negro race, nor will it inure to the advantage of the white race alone. It will inure to the benefit of both races. It is not intended by the gentleman from Alabama as an attack upon the negro, nor is it an attempt by that gentleman, or by any of us who support it, to deprive the negro of a single right which he has under the law of the land. On its very face it provides equal accommodation for both races on the street cars in the Capital City of this Republic, and surely, here under the watchful eye of such guardians of the rights of the colored brother as the gentleman from Kansas [Mr. CAMPBELL], the gentleman from Vermont [Mr. FOSTER], the gentleman from Illinois [Mr. MADDEN], and the two gentlemen from New York [Messrs. OLCOTT and DRISCOLL], with a magnificent police force to enforce the law, and within easy call is the Army and Navy of the United States, this law can and will be enforced. It is idle to call this amendment a discrimination against the negro. Wherein is the discrimination? The amendment itself contains no discrimination. The language used contains no hint of discrimination, yet gentlemen seize upon it as an excuse to arraign the people of an entire section of this country for alleged wrongs to the

negro race. Is this fair? Do gentlemen imagine that even the negro, who has been the willing dupe of the Republican party for all these long years, can be longer deceived by these loud quadrennial protestations of affectionate regard for him?

In the city of Jacksonville, which is in my district and is the largest city in the State of Florida, we have the races separated on the street cars, and the negro is protected in the enjoyment of the portion set apart for his use. Within this month a white man has been dealt with in the courts for violating the city ordinance in refusing to vacate when advised that he was in the section set apart for negroes. Here is what the *Florida Times-Union*, a newspaper published in the city of Jacksonville, says of the incident:

ALLEGED VIOLATOR OF JIM CROW LAW—YOUNG WHITE MAN FROM CAMDEN, S. C., ALLEGED TO HAVE REFUSED TO MOVE FROM NEGRO SECTION.

R. G. McCright, a young man from Camden, S. C., was arrested on a street car by Policeman Charles A. McManis yesterday afternoon and docketed at headquarters for violating the street-car ordinance by not moving from the seat intended for negroes when so ordered by the conductor.

The conductor says he requested the young man several times to move, but he paid no attention whatever to his requests. Policeman McManis, in citizen's clothes, was on the car and when the young man refused absolutely to move he arrested him and took him to police headquarters. At police headquarters McCright admitted that he had refused to move, but stated that he was a stranger to the city and was not of the opinion that he was violating any law. He deposited a cash bond of \$25 for his appearance in the municipal court this morning, when the case will be heard before Judge Wright.

While on this phase of the subject, Mr. Speaker, I desire to refer to the unsupported, bald declarations of gentlemen that negroes are not supplied with accommodations equal to those furnished to white people upon railroads in the South. Why gentlemen will persist in these statements I can not understand. Let me suggest something here that in all probability these gentlemen have never thought of. On our Florida railroads—and I presume it is the same in other Southern States—the cars furnished for negro passengers are just as good as those furnished for white passengers. I am free to admit, however, that they do not long remain as good, as comfortable, and as clean as do those set apart for white passengers. You will not have to search long for the reason of this change. The average negro is perfectly happy when he finds himself eating a watermelon or going on a railroad excursion. The railroad companies in the South cater to this weakness of the negro for riding on trains, and scarcely a week passes in the summer time that a negro excursion is not "pulled off" in every neighborhood. They flock to these excursion trains by thousands, and of course the cars set apart for the negroes on the regular passenger trains are used for negro excursions.

Imagine a nice, new passenger coach, packed with dirty, greasy, filthy negroes, down South, in midsummer, and you can readily understand why that car does not long remain as good, as clean, and as desirable as a similar car occupied exclusively by white travelers. It is said of Sam Jones, the great Georgia revivalist, that on one occasion a certain Northern gentleman asked him if there was very much difference in the instincts of a "nigger" and a white man. Sam replied that he didn't know as to that, but of one thing he was absolutely sure, and that was that there was a vast difference in the "out stinks" of the two.

For more than forty years, Mr. Chairman, the white people of the South have been taxing themselves to educate negro children, have been building churches for them, and in every conceivable way, with a patience and forbearance never excelled in any age, have struggled along with the stupendous task of elevating and fitting for the duties of citizenship this black mass of ignorant, vicious, and incapable freedmen. I am not wise enough to foretell the end of the problem confronting us. Mr. Lincoln said that this nation could not exist "half slave and half free." I think it is equally true that this nation can not exist *half white and half black*. I am very sure that no country having within its borders two distinct races, alien to each other in every essential respect, can long exist with any degree of harmony between the two upon the beautiful theory of perfect equality of all before the law.

The position which we of the South occupy on this question is not one of hostility to the negro. It is one of patriotic love for our own race. We would not destroy the negro, but we would preserve the Caucasian. We will do the black man no harm, and we will not allow him to harm the white man. Members of Congress who are dependent upon a few negro votes in order to retain their seats in this body, a few long-haired negrophilists in various sections of the country, and a lot of short-haired white women who disgrace both their race and sex, may rant of injustice and wrong to the end of time, but they had as well realize now as at any other time that, no matter what the cost or how great the sacrifice, we shall under any and all circum-

stances maintain the integrity of our race and preserve our civilization.

If God Almighty had intended these two races to be equal, He would have so created them. He made the Caucasian of handsome figure, straight hair, regular features, high brow, and superior intellect. He created the negro, giving him a black skin, kinky hair, thick lips, flat nose, low brow, low order of intelligence, and repulsive features. I do not believe that these differences were the result of either accident or mistake on the part of the Creator. I believe He knew what He was doing, and I believe He did just what He wanted to do.

We believe in God, and we are willing to accept His work just as it fell from His hands. But these people who profess to believe that "a white man may be as good as a negro if the white man behaves himself" are not satisfied with God's work in this regard. They are quite sure that they can make a better job of it than did the Creator, hence we find them attempting to remove the black man from the menial sphere for which he was created, and where he may be useful, to a higher circle, for which he is entirely unfitted and where he is perfectly useless.

While there are some people of the classes I have described—and I am quite sure they are to be more pitied than censured—the great masses of the white race from one end of this country to the other have race pride sufficient to forever protest against and resist to the last extremity amalgamation with the negro. The gentleman from Kansas [Mr. CAMPBELL] gave us an exhibition of intense aversion to this idea of amalgamation only a few moments ago, and that, too, on the floor of the American House of Representatives.

He is willing that negro children may attend school and in every way be schoolmates with his children; he is willing that he and his family may attend church with negroes and, of course, sit side by side with them in the house of worship; he is willing for himself and family to sit side by side with negroes in street cars and other public conveyances; it is fair to assume that he is perfectly willing that he and his family should travel in the same sleeping cars with negroes, eat at the same table in the same dining car, and be guests at the same hotel, and in all these matters be on terms of the most perfect equality with them; but when the gentleman from Kansas [Mr. CAMPBELL] is brought down to the natural and unavoidable result of such association, viz, intermarriage between the two races, and he is *bluntly*, not to say *cruelly*, asked the question if he "would permit a negro to marry his daughter," we see him flush with indignation and anger, and as the rich, red Caucasian blood rushes in violent protest to his face, you hear his eloquent voice ring out above all the noise in this Chamber "No!"

But, Mr. Speaker, if the gentleman from Kansas [Mr. CAMPBELL] persists in maintaining in practice his peculiar theories in this regard, I fear the time may come when his vigorous "No!" may prove ineffectual and futile. The gentleman will find that he can not draw the line when and where he pleases. If the negro boy is as capable of mental and social development to the same extent as is the white boy, if there is really no difference between them except a difference in color, why allow the negro boy every privilege you allow the white boy, and then, when you have thoroughly educated him, when you have admitted him to your drawing-rooms, and otherwise have blessed him with a superior culture, draw the line arbitrarily, purely on account of his color, and say to him, "Thus far and no farther." Do you believe you can do this? If this is your policy with the negro, then you do him a most grievous wrong. You invite him to climb the ladder, and you assist him from rung to rung, until you have safely landed him on the one next to the top, and then, without notice, you rudely and suddenly strike him down as he reaches for the goal which you have told him should be his.

Why not tell him the truth in the beginning? Why deceive him? Why longer carry on your game of deception?

The gentleman from New York [Mr. DRISCOLL] says that we have been allowed to have our own way down South with this question for so long that we have grown "bold" enough to come on the floor of this House and make demands for this kind of legislation. The gentleman uses that word "bold" as though he thought we did not have the right to come here and make demands. We do demand, and we have the right to demand. The blood of the "heroes of the Revolution" flows through our veins; from the Revolution to the present day no foreign foe has ever engaged this Republic in battle that Southern blood has not consecrated every place of conflict; in all our history no foreign foe has ever threatened the flag that we did not rally to its defense. In these emergencies we volunteer, and do not have to be drafted.

Yes; we have the right to demand. This is our country, as it was the country of our fathers. The country of the white man, not the home of the mongrel. It will always be the white man's country. If the black man and the yellow man each desire to remain with us, occupying the sphere in life for which God Almighty intended each, let them do so. If not content with that, then let them go elsewhere.

Before closing, Mr. Chairman, I desire to say in this connection that able lawyers in this country who have given a great deal of thought to the subject contend that neither the fourteenth nor the fifteenth amendments to the Constitution of the United States were ever constitutionally proposed or constitutionally adopted, and that as a matter of law and fact the negro has no legal status as a citizen.

Hon. John S. Beard, a prominent lawyer and citizen of my State, residing at Pensacola, and a member of the Florida State senate, delivered a speech in that body on this subject last year. Mr. Beard's speech presents the question so clearly, logically, and ably that I shall attach it as a part of my remarks.

SPEECH OF JOHN S. BEARD IN FLORIDA STATE SENATE.

Mr. President, the provisions of the resolution proposing an amendment to the constitution of the State of Florida, limiting, as they do, the franchise to the white males, are in direct conflict with the provisions of the fifteenth amendment to the Federal Constitution. If this resolution passes both houses of the legislature by the requisite constitutional majority, and is ratified by the people at the polls as a part of the State organic law, its validity as a part of the constitution of the State will, of course, depend upon the invalidity of the so-called fifteenth amendment to the Federal Constitution, which will finally have to be determined by the Supreme Court of the United States.

I contend—and I think that I can demonstrate, and I believe that the Supreme Court of the United States will hold—that the fifteenth so-called amendment is not a part of the Constitution of the United States; that it was neither constitutionally proposed nor constitutionally ratified. The suffrage or political power was not delegated to the Federal Government by the States in the Constitution which created the Union of the States and established the Government of the Union. Not only was this power never delegated to the Federal Government, but the reservation of it by the States is rendered more emphatic by express provisions of the Federal Constitution, which adopt the electorate created by the States as the electorate of the elective Federal offices. This is illustrated by the constitutional fact that:

Representatives in Congress are elected by the electors of the most numerous branch of the State legislatures. Each State appoints electors of President and Vice-President, as the State shall determine, and Senators in Congress are elected by the legislatures of the States which are elected by constituencies created by the States. These are the only elective Federal offices. The fourteenth and fifteenth amendments do not change these express provisions of the Federal Constitution, but place limitations upon the former absolute political power of the State; the fourteenth by providing for the reduction of the States' representation in Congress, and consequently in the electoral college in proportion to the number of male citizens of the United States, inhabitants of the States, of and over 21 years of age, who are denied the right to vote under the suffrage laws of the State; and the fifteenth amendment, which prohibits the United States, or any State, from denying or abridging the right of citizens of the United States to vote on account of "race, color, or previous condition of servitude."

It is necessary to consider the proposal and adoption of the thirteenth and fourteenth amendments in order thoroughly to understand the methods employed in the so-called proposal and adoption of the fifteenth. They are, in design, immediately connected, each following the other in a logical sequence. The thirteenth amendment makes the former negro slave a freedman; the fourteenth elevates him to citizenship, and the fifteenth enfranchises him.

Mr. Lincoln, in his first inaugural address, said that "No State, upon its own mere motion can legally get out of the Union," that "resolves and ordinances to that effect are legally void. I, therefore, consider that, in view of the Constitution and laws, the Union is unbroken."

In July, 1861, Congress adopted with practical unanimity a resolution:

"That this war is not waged, on our part, in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Union, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and as soon as these objects are accomplished the war ought to cease."

Again, Congress declared a "fixed determination to maintain the supremacy of the Government and the integrity of the Union of all these United States." This passed the Senate with the opposition of but a single vote.

Again and again, by Executive proclamation and by Congressional resolution, the Southern States were assured in every authoritative form that they were States in the Union, and that they had only to lay down their arms in order to resume their old Federal relations; that their seats in Congress were vacant, and they had only to return to take them.

The war closed in 1865 by the surrender of the Southern armies in the field. The terms of surrender were only a repetition of those oft-repeated Congressional and Executive assurances. There was absolutely nothing, by act or declaration of the Federal Government prior to or at the time of surrender, to indicate the policy that the Federal Government pursued toward the Southern States after they had surrendered and the remnants of the Southern armies were scattered.

Well and truly did President Davis say, in 1873, in an address delivered before the Southern Historical Society, in Virginia, that, "We were more cheated than conquered into surrender."

The sole issue involved in the war between the United States and the Confederate States was the right of secession. The Southern States contended that they had the sovereign right to withdraw from the Union; the Federal Government contended that they did not, but were still States in the Union. This was the sole issue involved, and the war settled only that issue. When the Southern States surrendered, they accepted in good faith and for all time the contention of

the Federal Government that secession was null and void, and that they were States, and States in the Union. I quote from Ben Hill's "Notes on the situation":

"The late war was either a rebellion, or it was a civil war, or it was a foreign war. Each name has its advocates; others, again, give the war either or all of these characters by turns, as the giving of either or all can be supposed to justify some oppression on the unsuccessful party to the conflict. I shall not stop to prove that it was what history can only call it—a civil war. Whether it was the one or the other, there is no question, in all international or municipal law, better settled, or settled on more manifest foundations of natural reason, social justice, and public faith, than is the question of the rights and powers of the conqueror and the rights and obligations of the conquered. All conflicts, whether between a sovereign and his subjects or between two parties in a government or republic, or between two independent nations, are founded on some question, some difference, making an issue between the parties which reason has not been able to settle. The parties take up arms to solve the question and settle the issue between them.

"Every war ends by compromise, or by one party yielding to the other, either on terms or without terms. If the end is by compromise, the terms of the compromise constitute the law of the peace. If one party surrenders on terms, the law of peace is the issue of the fight, qualified by the terms of the surrender. If the surrender is without terms, then all the questions involved in the issue are settled in favor of the conqueror; but no question not distinctly involved is settled or affected.

"Now, two things must be distinctly understood and fixed in the minds of the reader: First, where must we look to find the terms on which the conflict ends, and which makes the law of the peace between the parties? Second, at what time must these terms be made known or agreed upon?

"Wars between independent nations are usually ended by treaty, and, of course, we must look to the treaty of peace to find the terms of peace. What is not found in the treaty is not settled. So also in civil wars. Treaties are sometimes made and have the same force and effect as when made between independent nations. Usually, however, treaties are not made between parties to a civil war or a rebellion, because the sovereign party, claiming to be the legitimate government, will not treat with those whom they persist in calling rebels—because to treat with them is to admit a sort of implied independence or authority. In all such cases, in order to find the terms of the peace, we must look to the causes or difference which actuated the parties in taking up arms; to the declarations and demands of the parties at the time of the beginning and during the progress of the struggle; to the promises made or assurances proclaimed by the victor to induce the adversary to lay down his arms, and to the negotiations and terms of surrender. Whatever is not there found is not settled, and forms no part whatever of the terms of peace.

"I need not add that all the treaties, declarations, and promises are to be interpreted, not according to the discretion of either party, but in the light and according to the rules of the laws of nations, and the established principles of natural justice and good faith.

"In the next place, it must be stated that whatever either party, in case of a compromise or a treaty, or the victor, in case of a surrender, intends to demand, as a condition of the peace, must be made known before or at the time the treaty is made or before or at the time the surrender is accepted. No party agrees to what is not made known or surrenders to what is not claimed. To demand new guarantees after a treaty has been made is a breach of treaty, and to prescribe new terms of surrender, after the surrender has been accepted, is deemed infamous by all mankind, and in both cases is held to be a new and just cause of war; and when such conduct is exhibited toward an adversary who has given up his arms and submitted to the victor, and is thereby unable to renew the war, the party guilty of it has no claim to the confidence or respect of any people, for he brings the faith of promises into disrepute."

Mr. Hill fortifies this opinion by copious quotations from Vattel.

As I have said, the war ended in 1865, with the surrender of our armies in the field. Mr. Lincoln had held that it was the duty of the Executive to initiate reconstruction, and had during the war established provisional governments in the States of Louisiana, Arkansas, and Tennessee, and had also recognized the so-called "reorganized" government in Virginia. After the surrender, the Southern States began to remodel their constitutions so as to harmonize with the new order of things. Each State had a government republican in form and complete in all departments; and these States had been repeatedly assured by the Federal Government that they were States in the Union, but President Johnson, by proclamation of May 20, 1865, stopped this movement. (Fleming's Documentary History of Reconstruction, 163 and 168.)

This was the first violation of good faith toward the Southern States after surrender, but was followed in quick succession by other more glaring and baser betrayals of confiding confidence and good faith in the terms of surrender.

On May 29, 1865, the President issued his proclamation of amnesty and the first of seven proclamations appointing provisional governors in seven of the Southern States. With the necessary change of names and dates, these proclamations were alike. The last was for Florida, July 13, 1865. The amnesty proclamation was drafted by Mr. Lincoln and was read and adopted at the first Cabinet meeting held by President Johnson after President Lincoln's death. (Thorpe, vol. 3, 162.)

In Louisiana, Arkansas, and Tennessee President Johnson recognized the governments established during Lincoln's Administration and recognized by Mr. Lincoln, generally known as "the ten per cent governments."

In Virginia President Johnson also recognized the "reorganized" government, recognized by Mr. Lincoln and by Congress. Blaine, in his Twenty Years in Congress, speaks sneeringly of this Virginia government, and quotes Thaddeus Stevens as having said that this government carried all of its records, archives, and effects to Richmond from Alexandria in one ambulance. Both Blaine, and Stevens seem to have forgotten that it was this "reorganized" government, and only this government, that has ever given consent to the creation of the State of West Virginia out of a part of the State of Virginia, and which ratified the thirteenth amendment to the Constitution of the United States.

The proclamations appointing provisional governors in the seven Southern States instructed each governor, at the earliest practical moment, to call a convention of his State for the purpose of amending the constitution of the State, so as to restore the State to its "prac-

tical relations" to the Federal Government. Every delegate to this convention, and the electors of delegates, by this proclamation were to be qualified under the constitution and laws of the State prior to the ordinance of secession, which, of course, limited the franchise to the white males, who were to subscribe to the oath of amnesty, which oath was to obey the Constitution and laws of the United States, and all proclamations and laws of the Federal Government made during the war with reference to the emancipation of slaves; and the legislatures which were elected under those constitutions were to prescribe the qualifications of future electors. (For these proclamations, see Richardson, vol. 6.)

From the benefits of this amnesty proclamation fourteen classes of persons were excepted, which was a greater number of proscribed persons than were excepted from the benefits of the proclamation issued by President Lincoln on December 8, 1863, but President Johnson used the pardoning power liberally and extensively.

The provisional governors of all the States called conventions, which met, framed constitutions, and did all that was required, viz., abolished slavery, declared the ordinances of secession void, repudiated all debts contracted in aid of the Southern Confederacy, and established new governments, based on the constitutions of 1861, minus slavery. Provisional governors now gave way to those elected by the people. Legislatures elected by the people met and elected United States Senators. Representatives in Congress had been elected when the governors and legislatures were.

Having complied with all of the conditions of the so-called "reconstruction," would these Southern States be restored to their former Federal relations, and would their Senators and Representatives be accorded their seats in Congress? The President and Congress had assured them that they would. But let us see.

In February, 1865, President Lincoln signed the joint resolution proposing to the States the thirteenth amendment to the Federal Constitution. This amendment was proposed to all the States, including the seceding States, for ratification—and without the ratification of at least five of these seceding States, it would not to-day be one of the amendments to the Federal Constitution. (Thorpe, vol. 3, 229; Tucker on the Constitution, vol. 1, 341.)

The Southern States were now required to ratify the thirteenth amendment, as a condition precedent to their being admitted to representation in Congress. (Thorpe, vol. 3, pp. 228, 229.)

The legislatures of all the Southern States, with the exception of Mississippi and Texas, ratified this amendment.

In his annual message to Congress, on December 4, and in a special message of December 18, 1865 (Richardson, vol. 6), the President reported what he had done in the Southern States, and what the Southern States had done, viz., that the thirteenth amendment had been ratified by all of the Southern States except Mississippi, Florida, and Texas (Florida ratified the thirteenth amendment on December 28, 1865); that every condition of so-called "reconstruction" had been complied with, and that the Southern Senators and Representatives should be accorded recognition. Congress, however, refused to admit the Southern Senators and Representatives, notwithstanding the fact that the Southern States, without which the thirteenth amendment would not have received the approval of three-fourths of the States necessary to make it a part of the Constitution, had ratified the amendment, and had complied with all other conditions of reconstruction, with the explicit understanding that by so doing they would be fully restored to their old Federal relations. (Thorpe, vol. 3, 239, 297.)

It is true that the Constitution makes each House of Congress the judge of the qualifications, returns, and election of its own members; but every authority, including Story, Tucker, and Hamilton—in No. 60 of the Federalist—and no authority to the contrary that I have been able to find, hold that each House can only ascertain if each member has the qualifications prescribed by the Constitution, which are age, citizenship, and residence. There was never a question of doubt raised as to any member elected to either House from either of these States possessing these requisite qualifications; there was never a question raised as to their having been duly elected, and there should have been no question as to their having been elected by States of the Union.

To cite no other evidence; Congress had within the past few months recognized each of these States as States in the Union by submitting to them the thirteenth amendment for ratification or rejection. Mr. Lincoln, in the last speech he ever made, April 11, 1865, said that the thirteenth amendment should be submitted to all the States, including the States of the late Confederacy, and should be ratified by the legislatures of three-fourths of all the States; otherwise "the amendment would always be questioned and questionable."

To ratify or reject an amendment to the Federal Constitution is a high constitutional function, which can be exercised only by States in the Union.

Congress now, however, passed a joint resolution over the President's veto (Statutes at Large, vol. 14, p. 27; Fleming's History of Reconstruction, 197) repudiating or refusing to recognize the governments organized under the proclamations of Lincoln and Johnson, and appointed a joint committee of fifteen of which Thaddeus Stevens, on the part of the House, and William Pitt Fessenden, on the part of the Senate, were chairmen, to inquire into the conditions in the late Confederate States; to report which, if any, of these States were entitled to representation in either House of Congress; and refused to admit to either House of Congress a member from any of these States until the committee should report favorably upon such admission. All matters affecting these States were now referred to this committee.

Now began a carnival of crime against constitutional liberty; disregard and brazen violations of the plainest constitutional provisions, and of plighted faith to the Southern States, which for turpitude stands unparalleled in history. The Chamber of Deputies of the French National Assembly, in 1798, possessed a high degree of political virtue and morality as compared with the Congress of the United States during this and the immediately preceding and succeeding periods. I quote from an address delivered by Hon. A. Caperton Braxton before the Virginia Bar Association:

"In justification of its action in repudiating the reconstruction governments erected in the South by Presidents Lincoln and Johnson, it behooves Congress to show that those governments were disloyal and dangerous to the Union; that they were but the recrudescence of the rebel element—in short, to discredit them with the Northern people in every possible way. To this task the Joint Committee on Reconstruction addressed itself with vigor; and unfortunately, the chaotic condition of the South, just emerging, as it was, from a devastating war, with nearly five million, idle, ignorant, vagabond, newly enfranchised slaves to be assimilated by the body politic, afforded but too much material for criticism. The Joint Committee on Reconstruction

began to take testimony on the condition of the States lately in rebellion, and soon became the mecca of all the dissatisfied elements in the South. The adventurers, then known as 'carpetbaggers,' who had followed the Union armies there, were quick to grasp the political opportunity afforded them for office-holding and plunder, if they could but succeed in disfranchising the white native men and enfranchising the negroes, whom they found they could readily control. These 'carpetbaggers,' therefore, at once allied themselves with the Northern negro suffragists, and in the shape of evidence submitted to the Joint Committee on Reconstruction, furnished their Northern allies with ample ammunition for their political war at home.

"Thus the Northern heart was fired, the hands of Congress were strengthened, and the efforts of the President to uphold the Federal Constitution in the South were successfully represented to the country as a traitorous cooperation with 'Southern rebels.' The country was assured that, to all intents and purposes, the negroes were the only loyal element in the South; for Congress knew that it was only to these negroes and their 'carpetbag' allies that it could look in the South for supporters of its policy. The laws adopted in various Southern States to regulate vagrancy and prevent the newly enfranchised slaves from becoming tramps by the hundreds of thousands were represented as veiled attempts to reenslave them."

In June, 1866, Congress proposed the fourteenth amendment to the Constitution, which, among other things, raised the negro to citizenship and disqualified a majority of the leading citizens of the seceding States, including a large number of distinguished citizens of these States to whom amnesty has been extended by the President's proclamations of May 29, 1865, and of December 8, 1863, with explicit authority from Congress by the act of July 16, 1862 (12 Stat. L., 589), and disqualified others to whom the President had extended pardons in pursuance of his unquestioned constitutional authority.

Meantime the minority report of the Joint Committee on Reconstruction, signed by Reverdy Johnson, Rogers of New Jersey, and Girdler of Kentucky, says that the proclamations of amnesty issued by President Lincoln and his successor, with the consent of Congress, were inconsistent with the idea that the parties they included were not to be considered in future as restored to all rights belonging to them as citizens of their respective States.

"A power to pardon is a power to restore the offender to the condition in which he was before the date of the offense pardoned. These amnesties would be but false pretenses if they were to be practically construed as leaving the parties who had availed themselves of them, in almost every particular, in the condition in which they would have been if they had rejected them." (Thorpe, vol. 3, 293, 295.)

As to the effect of pardon and amnesty, see *ex parte Garland*, 4 Wallace.

This proposed amendment was a violation of good faith on the part of the Government. As to the original purpose and design of the fourteenth amendment, I again quote A. Capperton Braxton:

"That qualifications for suffrage were in the exclusive control of the States was a doctrine of such long standing and so well established that up to this time practically no one had dared to question it. Mr. Sumner, it is true, had ventured to do so in the year before, when in the Senate in February, 1865, he had opposed the readmission of Louisiana unless she would adopt negro suffrage, but his colleagues had good naturedly laughed at him as an extremist, and he had admitted that public sentiment was overwhelmingly against him. How, then, was the Federal Government to secure a satisfactory basis of suffrage in the Southern States? Clearly other amendments to the Constitution were requisite, but to what extent would the North consent to amendments that necessarily would affect them as much as the South? Let us see.

"The Dred Scott decision, holding free negroes not to be citizens, was always unpopular in the North, and was rendered much more so by the result of the war. It was reasonably sure, therefore, that an amendment conferring citizenship upon them would be practicable. That was one step gained. If he be made a citizen, then that the negro could have protection of his natural and inalienable rights of life, liberty, and property was but a natural corollary. The nation, by giving him freedom, had deprived him of the protection of his master. It was therefore but just that it should give him in lieu thereof the protection of the laws. So far, then, the ground was safe. The freedman's civil rights could easily be provided for, and he himself would have been more than satisfied to let matters rest there. It was more than he had ever hoped for, and all that he desired, at least, so far as 90 per cent of his race were concerned. For be it remembered that the Southern negroes, as a race, had neither requested nor desired suffrage, and the demand for it in the South had come almost exclusively from the white 'carpetbaggers.' But the negro's Northern friends were vastly more interested in his political than in his civil rights, for these concerned them as well as him. That negroes should ever have been counted in fixing the apportionment of the State's representatives in Congress or the electoral college was always a bone of contention between the North and the South, and a very sore subject with the former; but if it were unfair that three-fifths of them should be counted when they were slaves, how much worse was it that now as freedmen five-fifths of them should enter into the computation. There would be no trouble in the North to pass a constitutional amendment correcting this, but what should that amendment be?

"At first it was proposed that the registered vote should be taken as a basis of representation, but New England cried out against this on the ground that the heavy emigration of her young men made her voters abnormally few in proportion to her entire population, especially as compared with the West. Then it was suggested that the white population only be taken as a basis, but this was resisted by all the advocates of negro suffrage, who hoped some day to see it established. What then was to be done?

"Some were for giving suffrage to the negro out and out, but they were met not only by the opponents of negro suffrage, but even by those advocates of it who were opposed to depriving the States of their unlimited control of suffrage qualifications. Many men recognized the peculiar conditions and political exigencies, which, in their opinion, called for negro suffrage in the South, but they bitterly opposed it for their own States; in fact, there were not a few who desired it in the South for the identical reason that they did not desire it at home; that is, that the negro might be induced to remain in the South. He had ever been regarded by the free States as an undesirable immigrant, and they were now in more danger of his invasion than ever before, especially if the first clause of the proposed amendment, securing him citizenship and the equal protection of the laws, should be adopted and thus nullify all their old laws discriminating against him.

"All of the perplexing considerations were weighed and discussed by the Joint Committee on Reconstruction, to whom were referred all bills on the subject, including several for general negro suffrage

throughout the Union and for permanent disfranchisement of the 'rebels.' Finally it was suggested, as a revelation from heaven, that the difficulty could be solved by so wording an amendment as to induce rather than compel the States to adopt negro suffrage, which it was claimed could be accomplished by cutting down their representation in proportion as they should deny their male citizens the electoral franchise on account of race. This was believed at the time to be almost a divine inspiration.

"Under this arrangement it was said everybody would get what they wanted. The States-rights men would observe that each State was left free to regulate suffrage as it chose; the New Englanders would lose no part of their representation; the free States would be at liberty to continue keeping out negro immigrants by denying them the suffrage, and yet their existing colored population was so small that they would lose absolutely nothing in their Federal representation.

"But the Southern States, where the negroes were nearly half the population, could not, it was said, resist the temptation to double their political power by enfranchising their negroes voluntarily, thus satisfying at once those who wished to reward the loyal negro by giving him the elective franchise—those who wished to punish the disloyal States by making them purchase, with negro suffrage, a right they had always enjoyed under the Federal Constitution, and those who wished to perpetuate the power of the Republican party with negro votes."

But the question is, Was this amendment constitutionally proposed and constitutionally ratified? Is it, in other words, a part of the Constitution of the United States? Article V of the Federal Constitution declares that:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution."

Not two-thirds of the Members present, but "two-thirds of both Houses." When the Constitution intends a measure to be disposed of by a majority of those present, it distinctly says so, as in the ratification of a treaty:

"Provided two-thirds of the Senators present concur."

Again, in the trial of impeachments:

"No person shall be convicted without the concurrence of two-thirds of the Members present."

And again:

"The yeas and nays of the Members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the Journal."

In the case of amendments the Constitution is equally explicit. It requires the concurrence of two-thirds of both Houses—two-thirds of the entire membership. This was the opinion of Senator Thomas A. Hendricks, of Indiana, and Senator Garrett Davis, of Kentucky. This was also the opinion of Lyman Trumbull, B. F. Wade, Charles Sumner, and Oliver P. Morton up to the time of the so-called "proposal of the fifteenth amendment," on which occasion their opinions underwent a radical change to meet the exigency of two-thirds of the entire membership of the Senate not voting for the proposal of the fifteenth amendment. In fact, the construction for which I now contend of this clause of the Constitution has never been seriously and honestly controverted.

By another express provision of the Constitution each State is to be represented in speech and vote by "two Senators" and "at least one Representative."

By another express provision of the Constitution, "No State, without its consent, shall be deprived of its equal suffrage in the Senate." This last provision of the Constitution is found in the same article and paragraph which requires the proposal to be made by two-thirds of both Houses.

At the time the fourteenth amendment was proposed eleven States of the Union were not represented in either House of Congress—eleven States of the Union were deprived of their equal suffrage in the Senate, not only without their consent, but over their protest—eleven States of the Union were demanding a hearing through their legal and constitutional representatives—demanding their guaranteed constitutional rights, but were arbitrarily and tyrannically denied any part or participation in preparing and proposing this amendment, which more vitally affected them than the other States of the Union.

Was this a proposal by two-thirds of both Houses? Was this a constitutional proposal? It was absolutely null and void. It was too late to say that the seceding States were not States in the Union. Congress had recognized them as States in the Union by the resolution of 1861. President Lincoln at all times held that the seceding States were States in the Union, and that ordinances of secession were null and void, and upon this ground alone refused to receive or treat with Confederate commissioners. Congress had again and again recognized them as States, as, for instance, by the act of July 23, 1866, dividing them into judicial districts. (Thorpe, vol. 3, 179, 303, 333.)

Congress had called upon them to act upon the thirteenth amendment, and by their action this proposed amendment was ratified.

Is the thirteenth amendment a nullity? Is it if these States were not States in the Union and were not entitled to representation in both Houses of Congress?

The fourteenth amendment did not receive two-thirds of the true membership of both Houses. There were then thirty-six States of the Union. If the Southern States had been admitted to representation in the Senate, there would have been seventy-two Senators. But the Southern States were arbitrarily excluded from representation in both Houses of Congress. The vote upon the fourteenth amendment in the Senate stood: Yeas 33, nays 11, absent 5. (See Thorpe, vol. 3, 274, quoting Congressional Globe of June 8, 1866, p. 3042.)

But two-thirds of seventy-two are forty-eight, so the amendment received many votes less than the necessary two-thirds of the constitutional and true membership of the Senate. Nor yet did it receive two-thirds of the Senate, even as then constituted.

In the House the vote stood—120 yeas, 32 nays, 32 not voting. (Thorpe, vol. 3, p. 276, quoting Congressional Globe of June 13, 1866, pp. 3148, 3149.)

There were present 184. Two-thirds of 184 are 123, so in the House the proposed fourteenth amendment did not receive two-thirds even of those present.

By a concurrent resolution the two Houses instructed the Secretary to transmit certified copies to the governors of all the States, to be laid by them before the legislature for ratification. (Tucker on the Constitution, vol. 2, 850. Thorpe, vol. 3, 277.)

Another recognition of the Southern States, as States of the Union. Charles Sumner said that the States of the Southern Confederacy had committed "State suicide;" and Thaddeus Stevens, not to be outdone in venomous and original absurdity, said that these States were "conquered provinces." But the fourteenth amendment was submitted to them for ratification or rejection by the Federal Government.

Provinces can not ratify amendments to the Federal Constitution; only States, and States in the Union, can, and certainly not States which had committed "State suicide"—dead States.

A little later, in 1869, the Supreme Court of the United States (7 Wallace, 700), in the case of *Texas v. White*, speaking through Chief Justice Chase, says that "The ordinance of secession was absolutely null," and "the obligations of the State as a member of the Union, and every citizen of the State as a citizen of the United States remained perfect and unimpaired;" that "the State that attempted to secede continued to be a State and a State of the Union."

And still a little later, in 1871, the Supreme Court of the United States, in the case of *White v. Hart* (13 Wallace), held that "The reconstructed States have never been out of the Union."

Now, we give the executive, legislative, and judicial departments of the Federal Government in the most solemn and authoritative ways declaring that secession was a nullity; that the States which attempted it continued States, and States of the Union; and yet, Congress, in open, notorious, and arbitrary violation of the Constitution, refused to admit their Senators and Representatives, elected and qualified, to their constitutional seats in Congress.

Naturally and properly, all of the Southern States, with the exception of Tennessee, refused to ratify this amendment, which they had had no voice in framing or vote in proposing, and which contained such objectionable and degrading features. Florida in rejecting this amendment said:

"We are in fact recognized as a State for the single and sole purpose of working out our own destruction and dishonor. We are recognized as a State for the highest purpose known to the Constitution, viz, its amendment; but we are not recognized as a State for any of the benefits resulting from that relation." (Fleming's Documentary History of Reconstruction, p. 236.)

Tennessee, however, ratified the amendment in July, 1866, and was in that month restored to her former practical relations to the Union, and her Senators and Representatives were admitted to seats in Congress. (Stat. L., vol. 14, 364; Fleming's Documentary History of Reconstruction, p. 202.)

The fourteenth amendment was not ratified. Congress now determined to force the Southern States to ratify the fourteenth amendment and make it a part of the Federal Constitution, and to this end Congress destroyed the existing electorate in the Southern States by disfranchising the majority of the leading white voters and created a false and unconstitutional electorate by enfranchising the negroes. The negro should be the only voter.

Now began what is known as "Congressional reconstruction." In 1867 Congress passed over the President's veto the reconstruction acts. These laws—if such acts of a mutilated Congress, so palpably and avowedly in conflict with the Constitution can be called laws, taken together—divided ten States of the late Confederacy into military districts, over which military commanders were appointed as governors. The constitutional and legal governors in the States were superseded by these military governors. Citizens were arrested and tried by military commissions. The negroes were completely enfranchised, and a majority of the leading whites were nearly as completely disfranchised by applying the disqualifying features of the proposed but rejected fourteenth amendment both to officials and voters. Each military governor was given a sufficient military force to enforce his authority. These acts provided that when the people of any of the States should form a constitution in conformity with these acts enfranchising the negroes and disfranchising the majority of the whites, and when the States had ratified the fourteenth amendment to the Constitution, that such States should be admitted to representation in Congress. The Supreme Court of the United States was deprived of all jurisdiction in cases arising under these acts (see *McArdle* cases, reported in 6 and 7 Wallace), and a Senator upon the floor of the Senate threatened every judge of the United States Supreme Court with impeachment should the court dare declare any of these "reconstruction acts" unconstitutional. The President of the United States, who is the constitutional Commander in Chief of the Army, was deprived of all control over the Army. The President, in vetoing these acts, said that they were "bills of attainder against millions of people, not one of whom had been heard in his own defense." The Supreme Court of the United States has, in the case of *ex parte Garland and Cummings v. Missouri* (4 Wallace), defined bills of attainder and *ex post facto* laws, and these acts of Congress are clearly within these definitions laid down by the Supreme Court. These military acts were clearly unconstitutional under the then recent decision of the United States Supreme Court in *ex parte Milligan*, reported in the fourth Wallace, in that they established military tribunals for the trial of citizens in the Southern States a year after the President had by proclamation declared the war to be at an end in those States, and in which the civil courts were open and civil process enforced at the time that the civil governments were overthrown and military governments and courts established. These acts established absolute military despotism in ten States of the Union. The sole purpose of these acts was to force the people of the Southern States, by military despotism, to adopt measures by an electorate forced upon them by Congress in open, notorious and avowed violation of the plainest provisions of the Constitution.

For a searching analysis of these acts and an unspeakable demonstration of their unconstitutionality, see the President's veto messages in the sixth volume of Richardson.

As to the disfranchising features, I have already shown that they are in conflict and inconsistent with the amnesty and special pardons of the President. The excuse urged by Congress for this arbitrary and tyrannical action was that these States did not have governments republican in form, established according to the Constitution.

In the first place, this Congressional assertion was in conflict with the notorious facts. In the second place, if this assertion had been true, it was entirely beyond the constitutional duty or power of Congress to establish governments in those States. The constitutional authority is to "guarantee" a republican form of government, which Madison says in the forty-third number of the *Federalist*, "suppose a preexisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so and to claim Federal guaranty for the latter. The only restriction imposed on them is that they shall not exchange republican for antirepublican constitutions. The authority extends no further than to a guaranty of the republican forms of government."

At the surrender the Southern States all had republican forms of government. The President, by Executive proclamation, overthrew these republican forms of government and established other governments which were republican in form, if not in origin. These reconstructed

governments of Lincoln and Johnson were now overthrown by Congressional acts, and ten States of the Union for more than a year were military despotisms. Under the supervision of the Army this new Congressional electorate, constituted almost entirely of negroes, was enrolled, elections were held, and delegates to constitutional conventions elected by this Congressional military electorate. These conventions, constituted of negroes and "carpetbaggers," convened, while the disfranchised and disarmed white men of the South were held under control by the United States Army. These Congressional military conventions framed constitutions enfranchising the negroes and disfranchising the whites and in every other way complying with the Congressional plans and demands. The constitutions framed by these conventions were ratified by this new Congressional-military electorate in all of the States except Virginia, Mississippi, and Texas. Representatives in Congress and State officials were now elected by this false electorate, and the legislatures, constituted of negroes and "carpetbaggers," elected by this false electorate, ratified the fourteenth amendment which had been formerly rejected by legislatures elected by true electorates, and these false legislatures in turn elected United States Senators.

Since these reconstructed States were in this way forced to go through the form of ratifying the fourteenth amendment it was now declared to have received the ratification by the legislature of the necessary three-fourths of the States, and to be a part of the Constitution of the United States.

Can these products of fraud, usurpation, and force be palmed off as legislatures to perform one of the highest constitutional functions of sovereign States of the Union? These legislatures were false, spurious, and revolutionary—the products of plain and notorious usurpation by Congress, and which the real constitutional electorate would never have elected or have permitted to convene or to remain in session one instant had they not been protected by the United States bayonets.

There were now thirty-seven States in the Union. Can it be claimed that there was a constitutional ratification in the Southern States, except possibly by Tennessee? The States of Delaware, Maryland, California, and Kentucky rejected the amendment. I take no account of those States which withdrew their ratifications, but which were counted as ratifying. These four States, with the ten Southern States, whose ratification was secured in the manner narrated, make fourteen which have never ratified this so-called "amendment to the Constitution," which leaves twenty-three States only which constitutionally ratified the fourteenth amendment. But three-fourths of thirty-seven are twenty-eight. I think that it is conclusively demonstrated that the fourteenth so-called "amendment to the Constitution" was neither constitutionally proposed by a constitutional Congress nor constitutionally ratified.

Upon this fraudulent so-called "ratification of the Constitution" all of the Southern States, except Virginia, Mississippi, and Texas, which three remained military districts, were restored to their former practical Federal relations in June 1868, and were admitted to representation in Congress, or, rather, the misrepresentation of negroes and "carpetbaggers." (See Fleming's Documentary History of Reconstruction, 476.)

All of this has a most important bearing upon, and an understanding of which is essentially necessary preliminary to the consideration of, the methods employed in the so-called "proposal" and so-called "ratification" of the so-called "fifteenth amendment."

Before considering the methods of the proposal and ratification of the so-called "fifteenth amendment" let us consider the feeling throughout the North on the subject of negro suffrage.

Until the passage of the reconstruction acts by Congress in 1867 the constitution, laws, and the public sentiment of thirty-three of the thirty-seven States in the Union, in all of the Territories and in the District of Columbia, were not merely oblivious of the negro, but absolutely hostile to him as a voter. In December, 1865, the question of negro suffrage in the District of Columbia was submitted to the people. In Washington City the vote stood 35 for and 6,521 against negro suffrage. In Georgetown the vote stood 1 for and 812 against negro suffrage. The vote in the District was: For negro suffrage, 36; against negro, 7,333.

In the face of this Congress passed a bill over the President's veto establishing negro suffrage in the District of Columbia. (Thorpe, vol. 3, p. 248.)

In 1865 the Territory of Colorado took a vote on the question of negro suffrage. The vote stood: For negro suffrage, 476; against negro suffrage, 4,192. But in spite of this Congress, by law, established negro suffrage in Colorado and all of the Territories.

The people of the North were getting restive and uneasy. They had seen the radicals, in violation of the plainest inhibitions of the Constitution, establish negro suffrage in the States lately constituting the Southern Confederacy. They had seen Congress in the District of Columbia and in the Territory of Colorado establish negro suffrage despite the overwhelmingly wishes of the people as expressed at the polls. They had seen Congress establish negro suffrage in all of the other Territories where there was every reason to believe that negro suffrage was as obnoxious as in Colorado. They had seen in 1866 Nebraska adopt a constitution limiting the suffrage to white persons and Congress refuse to admit her as a State until her legislature, in violation of her constitution, should establish negro suffrage. In 1866 there was not a State in the Union in which a negro stood on a perfect equality with a white man. (Thorpe, vol. 3, 242, 251, 252.)

The people of the North did not know where this irresponsible conclave would stop. Constitutional limitations and oaths of office alike seemed to have no restraint upon them, urged on as they were and led by such men as Ben Wade, Lyman Trumbull, Thaddeus Stephens, Charles Sumner, Oliver P. Morton, and others with less ability, but as much venom, and equally as destitute of constitutional morality.

When the Republican national convention met in 1868, in order to insure the election of Grant, they found it necessary to adopt a plank in their platform that "The guaranty by Congress of equal suffrage to all the loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained, while the question of suffrage in all the loyal States properly belongs to the people of those States."

This unconstitutional, cowardly, and unfair proposition to continue to impose negro suffrage in the Southern States by Federal power, while the Northern States were to be left their constitutional right to decide the question for themselves, was perfectly satisfactory to the radical majority of the North. But the radical leaders having deceived and betrayed the South, and having violated every constitutional obligation and restriction, rounded out their infamy when they now deceived their own party and the great mass of voters of the North, for in a few months they as ruthlessly violated this platform pledge to their own people as they had violated on numerous occasions

their oaths to protect, preserve, and to defend the Constitution, and had violated their express compact with the Southern people.

In the opinion of the average Northern voter negro suffrage was good enough for the South, but not for the North, for at that time, of the thirty-seven States which constituted the Union, all save five used "white" as descriptive of the voter, and in one of these five (New York) while the negro was recognized as a voter, such limitations and restrictions were placed upon him, not applicable to the white voter, that it was equivalent to disfranchising the negroes. (Thorpe, vol. 3, 459.)

The constitution of some Northern States forbade the free negro entering the State. Within the past two years seven Northern States had rejected equal negro suffrage when made an issue at the polls. (Thorpe, vol. 3, 446.)

These seven included the great States of New York and Ohio and the banner Republican State, Michigan.

When Congress met in December, 1868, the Southern States, except Mississippi, Virginia, and Texas, which were still military districts, were misrepresented in the House and Senate by negroes and "carpet-baggers" elected by military Congressional electorates.

I will not now go through the history of the parliamentary progress of the fifteenth amendment, but on the 23d day of February, 1869, the conference committee reported the resolution to Senate and House. This Congress expired on the 4th of March. In vain did Thomas A. Hendricks and other great, good, and patriotic men appeal to the fanatic majority to let the next Congress, fresh from the people, dispose of this measure. In vain did Hendricks, Davis, and others in the House and Senate remind the leaders of the radical party of their platform pledged to the people upon which they had carried the election.

Under the leadership of Boutwell, Conkling, Sumner, Trumbull, Morton, Wade, and others of that ilk—Stephens had gone, let us hope, to a not too hot reward in the preceding August—the resolution was pushed to a vote, and rushed to a so-called "passage" in Senate and House.

These usurpers and tyrants said as plainly as words could say: "It must be now or never. The next Congress will not pass it; we can—the existing legislatures of a sufficient number of States belong to us. Put it off and it is lost forever. The people do not want it. Had the people known our purpose—had we not misled them by our platform pledge—the Democrats would have carried the election last November."

Under whip and spur the House of Representatives, on the 25th of February, voted on it. The vote stood—144 yeas, 44 nays, 35 not voting. (Thorpe, 3, p. 445, and Braxton, both citing Congressional Globe of Feb. 25, 1869, p. 1564.)

The entire membership of the House was then 223. Two-thirds of 223 are 149. So the amendment did not receive two-thirds of the vote of the House.

On February 26 the amendment was voted on in the Senate. There were then thirty-seven States in the Union, which would make the membership of the Senate seventy-four, but Texas, Virginia, and Mississippi were arbitrarily held as military districts; that would leave thirty-four States, with a membership in the Senate of sixty-eight, but Georgia, though she had fully complied with the reconstruction acts, and her Representatives had been admitted to the House and had there voted on the amendment, was excluded from the Senate over the protest of even Senator John Sherman, of Ohio. So there were four Southern States which were not accorded even the misrepresentation accorded to the other seven Southern States. This left thirty-three States represented in the Senate, with a total membership of sixty-six. The vote stood—yeas 39, nays 13, not voting 14. (Thorpe, vol. 3, 445, and Braxton, both citing Congressional Globe of Feb. 26, 1869, p. 1641.)

But two-thirds of sixty-six are forty-four, so the amendment did not receive two-thirds of the Senate, and Senator Garrett Davis, of Kentucky, and Senator Hendricks, of Indiana, immediately challenged the announcement of B. F. Wade, President pro tempore of the Senate, that two-thirds had voted for the amendment. Senator Davis, of Kentucky, said:

"Sir, your amendments to the Constitution are all void; they have no effect; they are proposed by a mutilated Congress; they are proposed by a mutilated House of Representatives and Senate."

But Wade persisted in holding that thirty-nine was two-thirds of sixty-six, and he was sustained by a radical and conscienceless majority. The so-called "ratification" of this amendment by the legislatures of some of the States, and the declaration that it had been ratified by three-fourths of the States was, if possible, even more infamous and scandalous than its proposal. I quote Braxton again:

"The amendment passed the Senate rather late Friday night, February 26, 1869. The next morning, as soon as the enrolled resolution was signed by the Presiding Officer, it was telegraphed by Congressman Sidney Clark to the legislature of Kansas, then on the point of adjournment. This telegram, entirely unofficial, was received by that legislature during its afternoon session, and that very evening, in less than twenty-four hours after the amendment had passed Congress, long before it had been certified to the States for action and before any one in Kansas had even seen it (other than Clark's telegraphic copy) the legislature of that State ratified it. The people of Kansas at the polls about a year previous had voted against negro suffrage two to one. Senator Stewart, of Nevada, was, if anything, more anxious than Congressman Clark, of Kansas, to obtain action by existing legislatures before the people could make themselves heard. The State of Nevada had very recently adopted a constitution which restricted suffrage to 'white' men. The people of that State, like those of California and Oregon, were overwhelmingly opposed to the extension of the elective franchise to any but white men, not so much because of the fear of the negro as of the Chinese vote."

"It was generally conceded among the radical press that Nevada would reject the amendment, but they underrated the resources of their own generals."

"Late Friday night, as soon as the Presiding Officer has announced that thirty-nine votes was two-thirds of a Senate of sixty-six members, Senator Stewart, impressed by the fact just stated by him in the Senate, that 'their legislatures were waiting to ratify the amendment, and that if it was not done by them, and at once, the whole thing would be lost,' caused the Secretary of the Senate, without even waiting for the resolution, enrolled or signed, to telegraph it to the legislature of Nevada and Louisiana, to which telegram he and three others added a message urging the immediate ratification by the legislatures. This remarkable dispatch did not reach Nevada until the next morning, Saturday, when the legislature at once endeavored to comply with its instructions. But they were not quite so docile as in Kansas, and did not succeed until Monday morning, March 1, 1869, when they ratified the amendment against a strong written protest of the minority, including Republicans and Democrats. This protest insisted, among other

things, that the amendment had not received the constitutional two-thirds majority in the Federal Senate; that the legislature of Nevada had as yet no official knowledge of the proposed amendment (the telegraphic report of it, as it afterwards transpired, being materially incorrect); that the people of Nevada should be given an opportunity to be heard upon it; and that the people, by voting the Republican ticket for President, had just within a few months past ratified the declaration of the Republican platform of May, 1868—that the control by loyal States of their suffrage laws should not be interfered with. But all this was as saying at the moon, and Nevada was recorded as the second State ratifying the fifteenth amendment."

"On March 17, 1869, the legislature of New York, whose people were well known to oppose equal suffrage for negroes, ratified the amendment by a majority of two in the senate. At that time there was pending before the people of that State a proposed amendment to the State constitution granting equal suffrage to negroes. Later on in the same year the vote was taken, and negro suffrage was defeated at the polls by over 32,000 majority. To give effect to their views, the people of New York at the same time elected new members of their legislature, who at once rescinded the former act of ratification and certified their rescinding act to the Secretary of State at Washington. But notwithstanding that three-fourths of the States had not yet ratified, and their votes on ratification were not yet announced, it was held that the repealing act of New York was void, and that the vote ratifying the proposed amendment was irrevocable. Thus New York was counted for the amendment."

"The legislature of Ohio, on the other hand, voted on May 4, 1869, to reject the amendment, but later on in the year, a change having been effected in the legislature, that vote was rescinded and the amendment ratified by a majority of one in the senate, and that action certified to the Secretary of State at Washington. In this case it was held that the repealing act was valid, and that an adverse vote of a State upon the ratification of a proposed amendment could at any time be changed; so Ohio was also added to the list of ratifying States, though the year before the people of that State had at the polls rejected negro suffrage by 50,000 majority."

"In Indiana the action was still more arbitrary. When news came of the passage by Congress of the fifteenth amendment the radicals, who had a majority of both houses of the legislature, attempted to rush through a ratification, as it had been done in Kansas, Nevada, and other States. The Democrats protested and insisted that time should be taken to hear from the people on the question, but all in vain. Thereupon, on the morning of March 4, 1869, when, according to programme, ratification was to have been put through, seventeen senators and thirty-six representatives resigned, thus breaking the quorum. It was urged by some that the remnant of both houses proceed to ratify and not let the record show the lack of a quorum, but the governor would not agree to the fraud. He therefore ordered a special election to fill the vacancies and called an extra session to meet in May. All of the resigned members were returned but one, and in this and other ways the people made their opposition to the amendment so manifest that it was hoped the radical members of the legislature would not attempt again to disregard their wishes; but they were found to be obdurate, though several of their men finally deserted and came over to the opposition."

"On May 13, 1869, the senate took a vote on the resolution to ratify, but less than a quorum voting, those present and not voting were counted to make a quorum, although the presiding officer of the United States Senate, upon the passage of the amendment by that body, had just refused to count as present those not voting, lest it show the affirmative vote to be less than two-thirds even of those present."

"The next day, May 14, 1869, the ratification resolution in the Indiana legislature was taken up by the house. In order to prevent being counted as present, as was done in the senate, forty-two members had again resigned the day before, thus reducing the membership to less than two-thirds, which, under the constitution of Indiana, was necessary to make a quorum. But the speaker showed himself equal to the occasion by ruling that while the State constitution of Indiana did specify two-thirds as necessary to make a quorum for ordinary business, it did not follow that more than one-half was necessary for extraordinary business, such as ratifying amendments to the Federal Constitution. He therefore announced the amendment ratified, and the name of Indiana was duly added to the list of ratifying States."

Those are examples of some of the methods employed to obtain a ratification of the amendment in the Northern States which were counted as ratifying."

In the Southern States this amendment was ratified by the legislatures elected by electorates created by Congress and the military and protected by the United States bayonets. In these States the question of securing negro suffrage in the Federal Constitution was left almost exclusively to the negroes under the tutelage of their carpetbag leaders and allies, and the ratification of this amendment was made a condition precedent to the restoration of Mississippi, Texas, and Virginia to their practical Federal relations, and the admission even of their Senators and Representatives elected by a false and unconstitutional electorate."

The question, though, is: Was this so-called proposed amendment ratified by the legislatures of three-fourths of the States of the Union? There were then thirty-seven States of the Union. Three-fourths of thirty-seven are twenty-eight. Six States—California, Delaware, Kentucky, Maryland, Oregon, and Tennessee—rejected the amendment. Indiana, as has been shown, never really ratified it. If New York was not allowed to withdraw her ratification, Ohio should not have been allowed to withdraw her rejection. Surely one of these States should have been recorded against ratification."

In the Southern States the amendment was ratified by legislatures elected by false, unconstitutional constituencies. It will scarcely be contended even by the most partisan, unscrupulous radical that in any one of these States, in a legislature chosen by the true constitutional electorate of the State, a single vote would have been cast for ratification."

This leaves only nineteen States which by any possibility could be fairly counted for ratification—nine less than the three-fourths necessary to a ratification. Nor does this take account of the remarkable proceedings in Kansas, Nevada, and Missouri. It is a matter of grave doubt if there was an honest ratification in a single State outside of New England, where the love of the negro was and is only equalled by her hatred of the Southern white man. That the radical leaders were fully convinced that the people of the North did not want negro suffrage is abundantly evidenced by the plank in their platform in the preceding year and by their prompt rejection of the proposition made in the Senate to submit the amendment to conventions in the respective States instead of the legislatures, so that it could be made an issue in the election of delegates to the conventions, and thereby afford the people

an opportunity to pass upon the question. Not only was this proposition rejected, but they insisted that the amendment be submitted to legislatures already chosen, thereby denying the people all opportunity to pass upon this vital matter.

The Constitution contemplates a ratification by a true, valid, and constitutional legislature; nothing else will do. A false ratification by an apparently true legislature of the State will not suffice, as in Indiana. An apparently true ratification by a spurious and unconstitutional legislature, as in the case of the Southern States, is no ratification. The validity of an amendment to the Constitution of the United States depends upon the historic truth of its ratification as required by the Constitution. The history of this great crime against constitutional government and civilization, perpetrated by the Anglo-Saxon race in one section of the Union against a disqualified and disfranchised minority of the same race in another section of the Union, is revolting and shocking, and were it not for well-authenticated records, would challenge credulity itself. The hypocrisy of the cant of Sumner et al. of the "equality of man"—the "fatherhood of God and the brotherhood of man"—is fully shown by their unwillingness to admit the Mongolian race to citizenship or to the suffrage. With the negro race, which only affected the Southern people, he was worthy of the ballot, however ignorant and vicious he might be. Every third voter in the South was a negro, while in the North only one negro voter to about eighty-four white voters. I quote again from Mr. Braxton:

"That these men were sincere in their protestations of a compelling sense of justice to the negro as a man and brother entitled to the right to vote as an inalienable natural right, like that of life and liberty, can hardly be accepted when we find them only too willing to exclude from that inalienable right Indians and Chinese, whose political affiliations were not so well ascertained. It is almost shocking to find among those who would exclude these races the names of Sumner, Morton, and Fessenden, who, with many others, insisted on indiscriminate suffrage for all citizens, regardless of race, yet succeeded in restricting the doctrine to the white and black races by adopting the timely suggestion of Mr. Stewart, that the red and yellow races might, by manipulation of our naturalization laws, be prohibited from becoming citizens. Thus they held that although suffrage be a natural right, belonging to man, like that of life and liberty, to deprive them of which were a heinous sin, yet there was no impropriety in restricting this natural right to men who were citizens, reserving the right to say who might become citizens. This was not surprising logic in that class of men, who, it is said, had on one occasion declared by a formal resolution, first, that the voice of the people is the voice of God, and, second, that we are the people."

It will be observed that the fourteenth and fifteenth amendments protect only citizens of the United States, while the naturalization laws were made to apply to the white and negro races only, and later extended to Indians of the Indian Territory who had severed their tribal relations.

Hon. A. Capperton Braxton, from whom I have so extensively quoted, is a lawyer by character and ability stands in the very front rank of the Virginia bar, and who has given much thought and study to the history of the fifteenth amendment.

The thirteenth amendment is clearly distinguishable from the fourteenth and fifteenth, both in the manner of its proposal and in the manner of its ratification. It is true that eleven States were absent from Congress when it was proposed, but in this instance these States were voluntarily absent, and therefore their absence did not affect the constitutionality of its proposal; and while its ratification in the Southern States had its initiation in Presidential usurpation, yet in these States it was ratified by legislatures elected by constitutional constituencies. There can be no question that the thirteenth amendment was proposed and constitutionally ratified, and is truly a part of the Constitution of the United States; and there can be just as little question that the fourteenth and fifteenth amendments were neither constitutionally proposed nor constitutionally ratified, and are therefore not parts of the Constitution of the United States.

Edmund Burke said that he did not know how to frame an indictment against an entire people, but the Congress of the United States, during what is known as "the reconstruction period," not only framed an indictment against an entire people, but convicted and sentenced an entire people without trial. Not one of all these proscribed millions in the Southern States was ever heard in his defense.

The Federal Government, in every department, insisted at all times that the ordinances of secession were null and void and that the citizens of those States which had seceded were in insurrection and rebellion against the Federal Government. If the citizens of the Confederate States were rebels against the United States, they came under the ban of the law and were subject to indictment and trial, but under the Constitution of the United States, no indictment and trial by a jury of their peers.

The reconstruction acts of Congress were directed against ten States, but no citizen of either of those States was ever tried in any court for treason or rebellion, for the very simple reason that the Federal Government knew that they had committed no crime and that a trial under the Constitution would result in their acquittal and exoneration.

The reconstruction acts of Congress have never been passed upon by the Supreme Court of the United States. It is, however, universally admitted that they were in violation of the Constitution of the United States. Even those who advocated them at the time or their passage admitted then that they were outside of and beyond the Constitution. If these reconstruction acts were unconstitutional and invalid, then the governments established by them and under their authority were usurpations, and the ratifications of the fourteenth and fifteenth amendments by these governments were and are nullities. These acts of ratification were not such acts as to become valid, because performed by de facto, though usurping, governments.

I am aware of and have considered the Congressional so-called "fundamental condition" upon which this and the other Southern States were restored to their former Federal relations and admitted to representation in Congress, but this fundamental condition is an unconstitutional, usurpation act by a fragmentary Congress—a condition which even a constitutional Congress would have had no authority, under the Constitution, to attach. Each State has the absolute right to establish and amend her own fundamental law, controlled and limited only by the Federal Constitution.

I am also aware that it will be contended that as these amendments have not been questioned in the courts for nearly half a century, if invalid at first, that the lapse of time has validated them. To this I reply that both the fourteenth and fifteenth amendments are intended as organic limitations upon sovereign States and that no time runs against a State or can render that valid against a State which was originally invalid, whenever the State sees fit to challenge its validity. I am also aware that it will be urged by some that the move I suggest

is both radical and inexpedient. To this I reply that there were some in our midst during the reconstruction period who were in favor of accepting the military bills and every other unconstitutional act of a radical Congress. These weaklings then said: "We are powerless, and we must accept the situation." If the patriotic manhood of that period had been controlled by such counsel, we would to-day be under carpetbag rule and negro domination. I deny that this proposed amendment to the constitution of the State is either inexpedient or radical.

I concede that it would be useless to appeal to the political department of the Federal Government to inaugurate a repeal of these amendments. In that department of the Government, which is actuated and controlled by sentiment, prejudice, malice, or political interest, or all, our adversaries are in an overwhelming majority; and while a large majority of them may agree with Secretary Root that negro suffrage was an experiment which has proved a failure, they have not the independence, manliness, frankness, or political courage to undo these great wrongs by repealing these amendments. My proposition is not to appeal to the political department and ask for a repeal of these amendments, but to appeal to the judicial department, which is supposed to be controlled only by the law and the facts, upon the ground that these amendments were never constitutionally proposed or constitutionally ratified, and are not now parts of the Federal Constitution.

If to be conservative means to preserve existing conditions, and if it is desirable to preserve existing conditions, then my proposition is both conservative and expedient. Absolute white and democratic supremacy is now maintained in the Southern States by the unity of the white people, who settle their political differences by white primary elections. But the growing intensity of antagonism between the two factions in the Democratic party in this and every other Southern State must indicate to every thoughtful man that issues of such magnitude will arise—and I fear at no distant day—between the two factions that they can not be determined by primary elections. Both factions will contend for mastery in the primary. The losing faction, unwilling to accept the determination of those issues by the primary, will appeal to the general and constitutional election. With the white people in this way divided upon these issues, the negro will hold the balance of power, and each faction will bid for this ignorant, venal vote in the general and constitutional election. The negro being again forced by these contending factions into politics, and knowing that he holds the balance of power, will demand and get concessions in consideration of this vote. Political equality under such conditions is inevitable and a certain amount of social equality an unavoidable corollary. Under such conditions absolute white supremacy in the Southern States, so essential to the preservation of civilization in those States, will be a thing of the past.

The proposition that I make is conservative, expedient, necessary; and while we stand united, as we are to-day, possible of attainment; but if we put off until such division as I have indicated, and firmly believe will come, the proposition I now make will then be impossible of attainment.

After such thought and as thorough an investigation as I am capable of giving to any subject, I firmly believe that the Supreme Court of the United States will sustain my position. If it does not, we will be no worse off than we are to-day; we will stand exactly where we do to-day, but with the consciousness of having made a firm and patriotic effort to avert the calamity which I and all of you must see is in the not distant future.

Eulogy on the Late Senator Edmund Winston Pettus.

REMARKS

OF

HON. WILLIAM SULZER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1903.

The House having under consideration the following resolutions:

"Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

"Resolved, That, as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m. on Monday next.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators"—

Mr. SULZER said:

Mr. SPEAKER: On this occasion I desire to place on record my humble tribute to the memory of my friend, dear old Senator EDMUND WINSTON PETTUS, of Alabama, and to say just a few words regarding his life, his character, and his public services.

General PETTUS, Mr. Speaker, was one of the quaintest men and one of the most unique characters it has ever been my good fortune to know. The Congress will never see his like again. He was sui generis. I became acquainted with him when he first came to the Senate in March, 1897, then in his seventy-fifth year—a hale and hearty old man, 75 years young—and during the time he served in the Senate I had frequent occasion to see him and to discuss with him many questions of public moment. The better you knew him the more you liked him. He was in many respects a very remarkable man, and much of the story of his long and interesting life reads like a romance.

He was a lovable man. He had a genial disposition and an attractive personality. He made friends and he held them for

life. He was a man of much learning and erudition, and he was a hard-working student all his life. He was a man of great physique and of rugged character—one of the Creator's truly noble men. He was intensely democratic in all things. He loved the old landmarks of the fathers. He had a pleasing, confiding way that made him many friends, and when he died, full of honors, at the ripe old age of 86 years, I do not believe he had an enemy in all the world. He was a student and a soldier, a lawyer and a legislator, and in every field of his intense and heroic endeavor he reflected credit on himself, honor on his State, and glory on his country. He lived to a good old age, and was the oldest man and the best-loved man in the Senate when he died. His life, so perfect in all things, is an inspiration to us all, a priceless heritage to generations yet unborn, so pure, so simple, so just, so true, so noble, and so grand. The poet must have had him in mind when he sang:

Lives of great men all remind us
We can make our lives sublime,
And, departing, leave behind us
Footprints on the sands of time.

Mr. Speaker, EDMUND WINSTON PETTUS was born in Limestone County, Ala., on the 16th day of July, 1821. He came from good old Revolutionary stock. He was to the manor born—a true American. His grandfather on his mother's side was Capt. Anthony Winston, a brave and distinguished Revolutionary soldier. Young PETTUS received his early education in the schools of Alabama, and graduated from Clinton College, in Smith County, Tenn. He studied law in the office of William Cooper, then the leading lawyer in northern Alabama. He was admitted to the bar in 1842, on reaching his majority, and immediately began the practice of law in Gainesville, Ala. In 1844 he was elected solicitor for the seventh circuit, but when the Mexican war broke out he resigned, and enlisted and served as a lieutenant in his company. In 1849 the stories of the gold fields in California attracted him, and as a member of a little party he made the trip across the continent on horseback, but soon returned to the scenes of his former labors. Shortly thereafter he moved to Dallas County, where he identified himself with a well-known law firm and practiced law successfully until the outbreak of the civil war. He enlisted in 1861 as a major in the Confederate army, was soon promoted to be a brigadier-general, and throughout the war he won continual plaudits for his bravery in battle—a dashing, grand, heroic figure, the idol of the chivalrous soldiers of the Southland.

In the trying days following the war of the States he continued the practice of the law with much success and unhesitatingly bore his share of the burdens of those distressful times. In 1896 he was nominated by his party and unanimously elected by the legislature of Alabama to the United States Senate, where he served faithfully, industriously, and with much favorable commendation until his death—loved and honored and respected and mourned by all. Such, in brief, is the story of his life, but—

Life is but a day, at most,
Sprung from night, in darkness lost.

Mr. Speaker, Senator PETTUS was not only a great soldier in two famous wars, but he was a great constitutional lawyer and a far-seeing, constructive statesman. He was not a great talker, but he was a great worker. He believed in doing things, and doing them well. He believed in plod and progress, and there was no more indefatigable worker in Congress. He was invaluable in committee work. During the time he was in the Senate he accomplished much, and he has stamped the impress of his personality indelibly on the statutes of our country. He loved justice and hated intolerance.

He was a many-sided man, a myriad-minded man, deep and profound, and yet without trick or artifice. He had no mannerisms. He was a Democrat of the Jefferson school. He knew and loved Andrew Jackson. He believed in the capacity of the people to govern themselves. He was opposed to centralization of wealth and of power. He believed in the Constitution. He loved humanity and gloried in the coming of the better day. He was a gentleman of the old school, with a kindly nature and a courteous manner that made you feel at home, but at the same time the dignity of his character commanded the respect that was his due. He had a ready wit and a humor that was all his own. He was a lovable companion, and his fund of anecdotes, generally with an application, seemed inexhaustible. He was a great man, and he has left his impress on the history of his time. As the years come and go those who knew him best will miss him more and more—this kindly, earnest, brave, sincere, and grand old man of Alabama, who lived so many useful years to do good work for the home, for the State, for the country, and for humanity.

Agricultural Appropriation Bill.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 2, 1908,

On the bill (H. R. 19158) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909.

Mr. HINSHAW said:

Mr. CHAIRMAN: This is a great bill, upon a great subject, carrying this year twelve millions. The chief industry in our country is and has always been the pursuit of agriculture. The soil produces the wealth of the country and determines its prosperity. The more a given amount of soil produces the greater the wealth and prosperity of the nation. The purpose of the organization and maintenance of the Department of Agriculture is to ascertain the best and most profitable methods of cultivating the soil and to diffuse that information among the people. The farmer who makes two blades of grass or two stalks of wheat or corn grow where but one grew before is twice as prosperous as he was, and the steady aim of this great Department is to aid him in the accomplishment of that purpose. Its workings are of direct benefit to every farmer in the country who takes advantage of the information which is so carefully prepared and freely distributed.

In 1839 the first appropriation for agriculture was made by this Government, amounting to \$1,000. Since then more than \$84,000,000 has been expended by the Government, and the appropriations will continue and increase. The Department was originally but a subsidiary bureau of the Interior Department, but was made a separate Department with a Cabinet minister at the head in 1889. It has only been in comparatively recent years that governments have made an organized effort to study methods of agricultural production. In 1842, in England, the first agricultural experiment station was established, and the first school of instruction was established in Germany in 1851. In 1875 the first experiment station was established in the United States. Meeting at first with derision, these efforts have come to be recognized the world over as of vast benefit to the farming industry, and therefore to all the people.

Modern machinery and methods have reduced the cost of producing crops. It cost by old methods 60 cents to raise a bushel of wheat, according to the historians. Now it can be raised, harvested, and thrashed, by modern methods with improved machinery, for half this amount. No more worthy thing has ever been done by this or any other government than the general diffusion of information upon the best methods of cultivating the products of the soil, and, as much as I favor economy in the expenditure of our revenues, I do not hesitate to urge and vote for liberal appropriations for continued extensions of this great work.

The Department of Agriculture is to-day divided into thirteen bureaus, entitled: Weather, Animal Industry, Plant Industry, Forest Service, Chemistry, Soils, Statistics, Entomology, Biological Survey, Experiment Stations, Accounts, Publications, and Public Roads. These bureaus are in the charge of experts, who embody the results of their researches in annual reports, the more salient features of which are to be found in the farmers' bulletins which the Department publishes and allots in equal numbers to Members of Congress for distribution to their constituencies.

If one could take out and separate the last two years from those which have gone before, he would be astounded at the tremendous developments which have been crowded into those twenty-four months. During that time we have enacted at least two great measures which come under the direct control of the Department of Agriculture. I refer to the pure-food bill and the meat-inspection bill. The complete tale of these is not yet told, but the benefits to be derived from them are certain to be remarkable. The Bureaus of Chemistry and Animal Industry, respectively, have charge of enforcing them. In addition to these, we have enacted the railway-rate bill, denatured-alcohol bill, employers' liability bill, the railway hours of service bill, and many other measures of equal importance. More has been done in a legislative way in the period mentioned than had been accomplished in a similar time during the last hundred years, if war measures be disregarded.

I feel a justifiable pride that I have done my share in the enactment of these great measures which work so largely for

the benefit of the whole country. And that is the thing for which the patriotic Member of the National Legislature must ever strive—the benefit of the whole country. Some Members have districts which, by the nature of their industries or geographical contour, require special attention from the Government, and others, as in my case, represent sections which are not in need of special local legislation, but are benefited or injured according to the course followed by legislation of a national character. And while I do not blame those Members who exert themselves in behalf of local waterways, irrigation, or their particular sections, the construction of forts, arsenals, and other public works, yet I deem it the better part to work for the enactment of legislation of general importance and the support of these great measures which make for the well-being of all the people.

The vast range of the activities of the Agricultural Department are probably not well understood. Under the meat-inspection law passed by Congress this work is now being done thoroughly in a thousand different houses, and about 1,300 additional experts are required in the Bureau of Animal Industry. At first it was feared that the agitation at home and abroad caused by the revelations of unsanitary conditions in the packing houses would cripple our foreign trade, but the results have shown that the stamp of approval of the Government upon meat products carries with it such a certificate of good character that both domestic and foreign trade has been improved and strengthened, and the producer likewise has been benefited.

The activities of this great Department extend to investigations looking to the destruction of the gypsy and brown-tailed moth in New England, the cattle-fever tick in the Southern States, and hog cholera and other diseases which have so depleted the live stock of the country. Experiments have shown that hog cholera is due to a virus which can pass through the finest filter, is invisible under the microscope, and can not be isolated or discovered by the usual methods. Experiments are in progress to produce a vaccine or serum for the prevention or cure of this disease. Nebraska is promised an experiment station in connection with the State agricultural school, whereby it is hoped that sufficient serum will be produced to furnish the farmers of the State with general treatment of their affected herds.

The Department has also enforced the humane treatment of live stock in transit.

The farmer has learned to know the importance of the position that he holds in the nation, and that to his educated and skillful efforts is largely due the prosperity and greatness of the Republic. The farm products of the year now have a value of \$6,794,000,000, which is about one-half billion dollars above the value of 1905, and far in excess of the annual values theretofore. Corn in the year 1906 reached the incomprehensible value of \$1,100,000,000 and 2,881,000,000 bushels. An enumeration of the figures of the production of wheat, oats, hay, and other products of the farm almost staggers comprehension. Crops have been on such a high-priced level that the result has been unusual prosperity for the whole farming community. This is shown by our export trade. Notwithstanding the immense increase in manufacturing, the exports of farm products still surpass all other products. Ending with June 30, 1906, the year's export of farm products was \$976,000,000, the largest ever sent forth by any country.

The products of our packing houses were exported to the extent of \$207,000,000, the largest in our history. Those who like to study the balance of trade will find an interesting chapter in the fact that in 1906 our agricultural exports exceeded our agricultural imports by \$433,000,000. The exports for a single year would pay the national debt. Farm values have increased in value \$6,131,000,000 since the census was taken in 1900. The rise in value of land per acre is probably due to many causes, but chiefly the increased productiveness and the higher prices of products. Scientific knowledge of farming, crop rotation, and fertilizing are responsible for a large increase in production and values, and the future is full of promise. More intensive farming, the utilization of the arid regions, the employment of irrigation will all add to the wealth of the nation and the happiness and prosperity of both producer and consumer. To all of these beneficent results the Department of Agriculture is contributing through its sixty experiment stations in fifty-one States and Territories, through sixty-three agricultural colleges and thousands of farmers' institutes. While the farmer in the East and the cotton farmer of the South have been materially advanced in prosperity during recent years, to the farmer of the Middle West has come the greatest benefit, and in my own recollection hundreds of thousands of agricultural debtors paying high rates of interest have become financially strong, with little debt and, if paying interest at all, at

a very low rate. There was a time when it was difficult to procure money with which to farm and labor was fairly easy to obtain, while now capital is more readily secured and farm labor is high and scarce. Labor-saving machinery has come to the farmer's rescue, and while the farmer's lot is burdened with many trials and difficulties, yet his is the life of independence, and conditions, both as a result of legislation and economic development, constantly tend to improve his lot. His standard of living has become better and better; the telephone and the free rural delivery bringing his letters and daily newspaper now make the farm a place to be sought and not to be avoided. The city no longer tempts as of yore; agriculture is dignified and is ennobled.

The future interests of the farmer, as well as his manufacturing and commercial brother, could be still further improved, in my opinion, by some legislation which would secure to him a permanent enjoyment of the results of his labor. I refer to the methods by which his products may be safely and economically marketed and the money which he procures for them be safely kept for investment or use when he may call for it. The railroad-rate bill passed by Congress in 1906 has already brought good results, and as it is worked out in the future, I believe, it will result in the reduction of freight rates in interstate commerce and in a more speedy and certain supply of the facilities for transportation of grain and live stock. This national statute, which it was my pleasure and duty to advocate and vote for, has been supplemented in many States by laws tending to produce similar results within the boundaries of the States.

There is another proposition that has appealed to me as of peculiar interest to the farming community. The necessity for it has been emphasized by the recent financial flurry, which came in the midst of the greatest prosperity. It did not come because of failure of production or of lessened demand for the products of labor. It probably was due to overspeculation and to the tremendous demands upon capital for investment in the vast industrial concern which have spread with amazing complexity through our national life. But whatever the cause, almost in the twinkling of an eye banks found themselves compelled to refuse, at least in part, payment of depositors. Happily, that situation has now passed away, but it may recur. In the great cities the large depositors instantly withdrew their money and placed it in vaults out of circulation.

No doubt these acts were caused by fear. If there had been no fear of the loss of their money, I do not believe the panic would ever have occurred. It seems to me, therefore, that a system by which the whole people would be absolutely made confident that under no circumstances would any depositor lose a single dollar would do more to prevent the withdrawal of money from circulation and therefore a repetition of the occurrences of October, 1907, than any other form of financial legislation. It seems to me neither unjust nor impracticable to create, by national law, a fund for the payment of depositors of suspended national banks. Each State can likewise protect the depositors in State institutions. A small tax upon deposits, paid not by the depositors but by the banks, would create an ample fund for this purpose. The banks would be the gainers by this system, notwithstanding the small tax they would pay, because from out the pockets of the people and the hiding places of fear would come to the bank vaults millions now practically out of circulation. While I would be pleased to have the bill which I have introduced become a law, I will be equally well satisfied if any other bill of similar import shall become the law of the land. I firmly believe that this legislation will come. It is embodied with many other propositions, some of which are quite objectionable I think, in what is known as the Fowler bill, recently favorably reported by the Committee on Banking and Currency.

Insurance of bank deposits will, in my judgment, tend to build up and extend not only our great agricultural interests and make secure the results of the farmer's toil, but every wage-worker, every merchant, and every manufacturer of the land will receive a renewal of confidence thereby and an access of strength and a feeling of safety inducing renewed effort.

As an illustration of the rapid extension and increase of the facilities and conveniences of farm life by governmental instrumentality, the growth of the free mail delivery in the last few years is notable. My chief personal experience has come within the Fourth District of Nebraska. That district, when I entered Congress, contained but 83 rural routes, a very inadequate service for over 200,000 people. To the best of my ability I assisted the patrons of the proposed routes to their early completion, and at present there are over 250 routes in the district, and the space is so well covered that those who wish to get additional service are not able to find a portion of land unoccupied sufficiently large to permit the establish-

ment of an additional route. Undoubtedly there are places which are not properly covered and patrons who are not properly reached; but the Department has tried, I am sure, in every possible way to accommodate all the people. In due time, I have no doubt, a house-to-house service will prevail, but with the increase of salaries to the carriers recently made and the other vast expenses incident to the service, the Department has probably made as great progress as could be reasonably expected. The Congress this year appropriated \$33,000,000 for the service. I doubt not it will increase year by year, and I look to see the time when this branch of the postal service will be self-sustaining. No one would think of its discontinuance. I believe this has added more to the desirability of farm life than any other feature that legislation has produced.

There is another question of impending moment in which the farmers of this country are vitally interested, both directly and indirectly. I refer to the tariff. The Dingley tariff law, passed in 1897, has aided in the accomplishment of wonderful results to this country. Great prosperity has followed its enactment, and while opinions may differ as to whether the law caused that prosperity, it can not well be doubted that the impetus given to manufacturing and to commerce stimulated agriculture and enhanced prices. There has been a steadily rising wave of wealth. But the conditions existing in 1897 differ from the conditions of 1908. The schedules of this tariff law should be remodeled. They will be remodeled. The principle of protection will be preserved. A tariff charge which in 1897 was reasonable will be found, in many instances, under the changed conditions of to-day, excessive. The free list, now very large, will doubtless be increased, so far as the state of the revenues will admit. There is no disagreement among men or parties upon this question of revision, and it is certain to be brought about within a year. When it does occur the Representatives of the great Middle West should see to it that the peculiar productions of that great food-producing section of the world shall have adequate and proper protection. The demand of the East is that "raw material," as they call it, should be brought in free of duty. Thus they seek to put into untrammelled competition the great Middle West and the vast reaches of Argentina. While demanding protection upon the finished products of their skill, these Eastern philanthropists are willing to sacrifice upon the altar of free trade the products of the farms and the ranges of the West.

I favor the abolition of the duty on lumber, on farm implements, on wood pulp, and print paper. The lumber interests of the Puget Sound country contend that the present duty of \$2 per thousand on lumber does not affect the price to the American consumer, and hold that the lessening supply and the increasing demands of the last few years is alone responsible for the excessive price. Still it seems to me that no good purpose is subserved by the retention of this duty, and if by its abolition the cut of the Canadian forests can have freer and cheaper admission to our markets and greater competition thereby ensues, we may have some reason to believe that the builder of a prairie home will receive substantial relief. A tariff law, by whatever party enacted, is always a matter of compromise between the different sections and the varying and conflicting interests of a vast country. No one ever can or does have wholly his own way. The West is growing stronger and more populous year by year. Its interests are extending and increasing. Its strength in the national Congress is growing. Its rights must and will be sought and maintained. In the framing of this new law careful and jealous regard must be had, both as to the amount of the duties levied upon the things that we buy and the protection which must be given that vast region upon the things which it sells.

The farmers of this country are especially interested in the perpetuation of what are known as the "Roosevelt policies." It gives me great satisfaction to say that in all matters of general legislation I have steadfastly adhered to this progressive platform. He has become preeminently the exponent and advocate of reform tendencies and noble ideals of government. He is a worthy leader in a worthy cause. The hearts of the people are with him. His sincerity has never been doubted. His ability is great and unquestioned. His honesty of purpose is known of all men. His policies can be continued and enforced by reposing confidence in the men who have upheld and aided him and voted for his principles.

To curb and minimize the too great influence of the over-reaching corporation and the combinations of interests which have sought to dominate and control the destinies of the country, is a duty demanding high resolve and inflexible purpose. This campaign has been begun, and will be continued to the end. No one need suppose that a reaction is at hand. Peaceful, progressive, persistent will be this revolution in our affairs. The

era of Roosevelt marks an epoch in history. The Grecian poets rivaled each other in singing the praises of the golden age of Greece. The age of Pericles, Demosthenes, and Phidias is still the theme of the historian and the pride of the student of antiquity. The glory that was Rome's when Cæsar with his legions drove Pompey across the sea to an ignominious death, and handed down to his august successor the vast empire, encircling the Mediterranean, is yet the subject of panegyric and lofty praise by the pen of the Gibbons of the historic world. We read much of England's golden age when the masterful Elizabeth reigned with haughty and despotic power. England under Victoria, Disraeli, and Gladstone has been lauded as mistress of land and sea. Ninety millions of American freemen, educated, refined, liberty-loving, rich and free, possessed of resources surpassing all the dreams of antiquity and the hopes of more modern times, with a virility and determination deep-seated, intense, and unconquerable, surpass the ideals of Grecian poet and sage, the warrior of Cæsar's day, the peasantry of England, oppressed by the taxes of Elizabeth's government, or the Englishman of the Victorian era still tied down by feudal customs and ancient laws, and these millions of free-born American men are bounding forward with mighty speed to the attainment of perfection in all matters of public policy, in the establishment of the eternal right and in the everlasting recognition of the inalienable rights of man and the superiority of America's character, its Government, and its laws.

Eulogy on the late Senator John T. Morgan.

REMARKS

OF

HON. WILLIAM SULZER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1908.

The House having under consideration the following resolutions: "Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

"Resolved, That, as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m. on Monday next.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators."

Mr. SULZER said:

Mr. SPEAKER: In the death of Senator JOHN T. MORGAN the Commonwealth of Alabama lost her foremost and best beloved citizen, and the country one of its greatest and most esteemed statesmen. He was a grand old man, honest and brave, eloquent and courageous, learned and logical, sagacious and patriotic, and his departure to the undiscovered land leaves a void in our public and private life which can not be filled. He will be missed more and more as the years come and go. He was a gentleman of the old school, a man of heroic mold, of much reading and constructive ability, of the highest honor, of unquestioned integrity, a part of our history for more than half a century, and in his personality he linked the glories and the memories of the past with the plot and progress of the prosaic present. For thirty years and more, like a Roman senator in the brightest era of the ancient Republic, he stood like a giant oak in the greatest legislative forum of the world eloquently championing the rights of man and battling for the cause of Democracy—as brilliant as Clay, as industrious as Benton, as logical as Calhoun, and as profound as Webster.

In halls of state he stood for many years
Like fabled knight, his visage all aglow,
Receiving, giving sternly, blow for blow,
Champion of right! But from eternity's far shore
Thy spirit will return to join the strife no more.
Rest, citizen, statesman, rest; thy troubled life is o'er.

JOHN TYLER MORGAN was born in the little town of Athens, Tenn., June 20, 1824. He received an academic education chiefly in Alabama, to which State he was taken when 9 years old, and where he resided continuously until his death. He studied law, was admitted to the bar in 1845, on reaching his majority, and he practiced his profession with much ability and great success until his election to the Senate. He was one of the great lawyers of the country—learned and eloquent, methodical and industrious, sagacious and sincere, honest and true, safe and successful. He was a Presidential elector in 1860 for the State of Alabama, and voted for Breckinridge and

Lane. When war came between the States he joined the Confederate army in May, 1861, as a private, but was soon promoted to be a major and shortly afterwards to be a lieutenant-colonel of his regiment. He was commissioned in 1862 as a colonel and raised the Fifty-first Alabama regiment; was appointed brigadier-general in 1863, and was assigned to a brigade in Virginia, and subsequently resigned to join his regiment, whose colonel had been killed in battle. Later, in 1863, he was appointed again a brigadier-general and assigned to the Alabama brigade, which included his own regiment.

After the war he resumed the active practice of his profession, was again a Presidential elector in 1876, and voted for Tilden and Hendricks. He was always a Democrat of the old school, and ever took a deep interest in public affairs. He was elected to the United States Senate to succeed George Goldthwaite, took his seat March 5, 1877, and continued to represent his State in that Chamber of Congress until his death, having been elected for six full terms, and I believe in all our history there are less than half a dozen men who have been elected to the United States Senate for six full terms in succession. He died in the Capital of his country in the fourth month of his thirty-first year of continuous Senatorial service, with a world-wide reputation, full of honors, in the zenith of his fame, and with the respect and the love of all the people of all the land.

For years General MORGAN was a commanding figure in the Senate, a conspicuous legislator, a shining mark, a sturdy plodder, an eloquent debater, and his work in Congress has left a deep and lasting impress on the affairs of men and on the statute books of his time. He was a man of great energy, of unwearied industry, of unswerving devotion to principle, of eternal fidelity to friends, and he had the faculty to sound the depths of every proposition that came within the confines of his consideration. He exhausted every subject within the range of his grasp. He was a man of the highest ideals, of the noblest impulses, of the clearest conception of the amenities of human life, and he stood for the best traditions of the Senate and represented in his personage the highest type of an American citizen. He was a faithful public servant, and the great work he did for all the people will live as long as the Republic shall endure. He gave to his country the best and ripest years of his life and his country will never be ungrateful to his memory or forgetful of his long and illustrious service. The country mourns its loss.

But weep not for him!
Not for him who, departing, leaves millions in tears!
Not for him who has died full of honor and years!
Not for him who ascended Fame's ladder so high,
From the round at the top he has stepped to the sky.

It was my good fortune, Mr. Speaker, to have known Senator MORGAN well. He was my friend and I was his friend. For more than a dozen years we worked together in Congress, and I had frequent occasion to consult with him and to get his advice regarding matters of much public moment. He was a most approachable man, kind and patient and considerate, and he took a great interest in the welfare of younger men. He was always glad to help those that needed help. He had a sunny, genial disposition; a quaint sense of humor; he dearly loved a good story, and yet he was one of the most learned, one of the most erudite, one of the most eloquent, and one of the gravest men it has ever been my good fortune to know. In every sense of the word he was a great man and a true man and an honest man, and he believed in his fellow-man. He looked on the bright side of life. He knew the world was growing better; he was optimistic and not pessimistic. There was nothing of the skeptic or the cynic in his make-up. He never lost faith in humanity.

He was a lover of liberty, a friend of freedom, a believer in the supremacy of the law, and one of the greatest constitutional lawyers this country has ever produced. He believed in the greatness and the glory and the grander destiny of the Republic and stood for that great cardinal principle of Jefferson, "Equal rights to all, special privileges to none." He had no use for the trickster, the trimmer, and the trader. He was a great constructive statesman—a creator of statute law. He hated cant, spurned pretense, and despised hypocrisy. He was a simple man and a great Democrat. He was an indefatigable worker and he met Napoleon's test—he did things—things that will live, things that are now history. He was a fearless man and dared to do what he thought was right, regardless of consequences. He was a faithful public official and he died in the service of his country—ripe in years and crowned with glory. His work is done. His career is finished. He has reaped his everlasting reward in the great beyond. Grand old man of Alabama, hail and farewell!

The Catholic Church Claims Bill.

SPEECH

OF

HON. A. L. BRICK,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) making appropriation for the payment of the Catholic Church claims in the Philippine Islands for the use and occupation and destruction of church property in the Philippine Archipelago.

The CHAIRMAN. The House is in Committee of the Whole House to consider bills on the Private Calendar under the rule. Mr. COOPER of Wisconsin. Mr. Chairman, I move to take up for consideration at this time the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

The motion was agreed to.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of _____ dollars and _____ cents, the same to be paid to the archbishop of Manila, in the Philippine Islands, as the representative (and trustee) of the Roman Catholic Church in said islands; and that the acceptance of said sum, paid under the provisions of this act, shall be in full satisfaction of all claims for use and occupation of the property of said church in said islands and for damages done thereto by the military forces of the United States prior to the date, to wit, August 31, 1905, of the official report of the "Board on Church Claims," which said board, composed of John A. Hull, lieutenant-colonel, judge-advocate; Alexander O. Brodie, lieutenant-colonel, military secretary, and J. W. Moore, first lieutenant, Second Cavalry, was duly convened August 1, 1905, at headquarters Philippines Division, in the city of Manila, in said islands, to consider and report upon said claims.

Mr. BRICK. Mr. Chairman, I want to say a brief word upon this appropriation to pay the just claims of the Roman Catholic Church in the Philippine Islands.

It is proposed to do this because our Army in 1898 and the following years, out of very necessity, which everybody appreciated and sympathized with, through its military power took possession of churches, parish houses, school buildings, seminary buildings, and other structures belonging to the church and converted them into hospitals, prisons, and barracks. This continued through all the hostilities and, in many instances, long after peace was restored.

Now, this happened because war and bloodshed left no alternative. The sick and wounded must be cared for. There was no other way.

But, whatever the emergency, our Government did occupy the church property, to the exclusion of the church authorities, and by so doing not only had their use, but prevented them from taking any measures for the protection of the property.

Many of the buildings were splendid structures; they were often seriously damaged and sometimes destroyed, in whole or in part.

Every instinct of fairness and justness demands full and complete recompense for all damage done and a fair rental for the use of the property.

The contention of the minority of the committee, as set forth in the minority report upon this bill, and as advocated by the gentleman from Virginia [Mr. JONES] upon the floor of the House, does not appeal to me either in law or in equity, nor in justice or reason.

They contend that the Roman Catholic Church was not the legal owner of the property, therefore that they should not receive the indemnity provided in the bill.

Well, who does own it, if not the Roman Catholic Church?

While answering that question the world would move on ad infinitum and the debt remain forever unpaid, to the everlasting disgrace of our country.

The truth is that everyone knows, who has any knowledge of church affairs, that from the dawn of Christian church organization these churches and church property were consecrated beyond and above the commercial use of man. They were not public property, nor were they private property, in the ordinary sense of private individual ownership.

They were property dedicated to the worship of God, but being material they must be looked after and cared for.

Now, that is the question. Whoever had the care and custody of them and the administration thereof in church affairs is the legal owner to receive this indemnity.

To me the question is a plain and simple one, easily answered.

Under Spanish rule there was no law putting them in possession of the state.

Under Spain there was, there is, but one religion, the Roman Catholic Church. By virtue of the laws of Spain there was only one body which could under any circumstances have possession or control over any of these churches dedicated to the worship of God. That was the Roman Catholic Church, and under these laws the church control was necessarily and actually exclusive.

When America, following the Spanish war, took possession of the Philippines, the church rights were fully recognized and protected in the treaty of Paris.

But it is not necessary to hark back to that treaty for an argument.

Neither the Government of the United States nor the government of the Islands has ever attempted to interfere with the rights which the Roman Catholic Church had in these buildings and property; but on the contrary they have always recognized and upheld them.

Now, the fact is beyond all question that no power—national, municipal, corporate, or individual—other than the Roman Catholic Church, has any right, title, or interest in this property.

If Aglipay with his few followers makes claim to any such right as a Catholic, thereby setting themselves up against the Vatican, that minute they become non-Catholics and are barred absolutely from our consideration.

When they attempt to set up a branch, an independent Catholic organization, by that act they go out of the Roman Catholic Church and lose all right to the name and possessions of that church.

Mr. Chairman, I am satisfied beyond any doubt that the Roman Catholic Church holds the full and only title to these church properties. All history fortifies it; the laws of Spain through centuries have recognized it and reaffirmed it by the concordat of 1851. The treaty of Paris proclaims it, and every act and deed of the United States have confirmed it. Indisputable evidence from everywhere on high authority has proven it, and the courts have all sustained it. Any attempt to becloud the truth of it has signally failed. Now, why should we delay this simple act of justice any longer? To my mind there could be no reason for further delay than utter neglect of duty, unjust alike to him who suffered it and to the church which would suffer from it.

Mr. Chairman, I hope and trust the bill will pass in the full amount recommended by the committee in the dictates of conscience and the behests of even-handed justice.

The Advance of the Republic.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 21, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. HINSHAW said:

Mr. SPEAKER: The history of the United States is a history of political parties. Our Government is so constituted that it is and probably always will be governed by parties. For about sixty years before the civil war the Democratic party was almost continuously in control of our Government. Even yet that party points with pride to the record of those sixty years. It delights in this retrospect of its early achievements, because it feels and exhibits little pride in its record of the last fifty years. The whole world, but especially the United States of America, has made magnificent progress in the last half century. It has happened that during most of that time the Republican party has controlled and directed the financial and commercial affairs of this country. There have doubtless been some mistakes; there have been some miscalculations; there are a few stains upon the record, but no impartial historian as he reviews that marvelous record of war and peace, of growing and expanding industries, of the development of agriculture, of the digging of mines, of the improvement of lakes and rivers and harbors, of the spread of education and religious liberty, of the building of railroads, of telegraphs and telephones, the rearing of cities and the fertilization of arid lands, can say to the generations yet unborn that it has an equal in all the annals of man. Our towering mountains and our spreading plains, our magnificent rivers running to the sea, our wealth of harvests beyond compare attest that America is founded upon the eternal rock.

After war's desolation and loss of billions, when men and money disappeared like the leaves of the forest in autumn, the great Republic astonished the world by her recuperative powers and, with wise statesmanship and dauntless patriots in Congress and in the Presidential chair, rose with unconquered front and amazed mankind by her boundless material expansion and her constructive statesmanship.

The Republican party is not a party of negation. Its history exhibits continuous progress. No one can gainsay it. It is conservative in the sense that it conserves and saves that which it has won and made worthy of preservation. It has been conservative on the money question. It enacted the law for the resumption of specie payments in spite of the detraction and obstructive tactics of the Democratic party. Amid prophecies of disaster and forebodings of failure on the part even of many of its friends, the Republican party persevered unto the end and made the greenback, the child of war, assume the proportions of the full manhood of gold. The credit of our country steadily rose under the skillful treatment of its great financiers—its Chases, McCulloughs, and Shermans, until the fame of the stability of the Republic's finances, credit, and resources crossed the seas and invaded the uttermost parts of the earth. By wise legislation that party built up the industries of every section of the land and everywhere was hum of turning spindles, sound of woodman's ax, and music of farmer's reaper—the lord of valley and of plain.

As the years went by and the country grew, our people became dissatisfied even with the prosperity that had enriched them. At a period of great expansion, when all industries were developing magnificent proportions, when wages were high and production gigantic, the people, in 1892, returned to power in all branches of our Government the Democratic party, and once more intrusted the country's destiny to a party of untried statesmen of experimental policies and uncertain disposition. The memory of man may be short, but the history of the experiment of 1892 I do not believe will fade from the recollection of an intelligent people. Explain as you please the causes of the business failure and the financial and industrial depression of the years from 1893 to 1897, but I think the American people will always believe that the prime cause of it all was the threat of the destruction of protection to American industries. The protective policy needs no defense. It has come down from the very earliest days of the Republic. It has been tested by time, and however tariff schedules may change with changed conditions, I firmly believe that the American people will preserve intact the protective principle. In the midst of the midnight of financial despondency and industrial stagnation the Republican party went forth to battle for the gold standard. There is not, my friends, in the history of men a contest fraught with such far-reaching results affecting the happiness and prosperity of the race as the battle of 1896, championed, indorsed, and gloriously led to victory by the gentle, peace-loving, broad-minded, patriotic McKinley.

It marked an era in finance; it fixed for all time to come the financial credit and industrial stability of the Republic. It laid the foundations deep and wide for the prosperity of the coming years. McKinley's mighty host proclaimed to all the world that the obligations of this Government are sacred, that its escutcheon should never be tarnished, and that the foul finger of repudiation should never be laid upon its honor. This signal victory for sound money and the early passage of the Dingley tariff act of July, 1897, woke the nation from its slumber of stagnation, started again the wheels of industry, and engaged in busy and remunerative toil millions of idle men.

Mr. Speaker, it is a wise merchant who often takes an inventory of stock. It is a wise nation that takes an account of its progress and material development at proper intervals and learns whence it has come and whither it is drifting. Briefly, let me recount a part of the marvelous story of ten years. It is like a fairy tale. No nation has equaled it; none may ever hope to surpass it. It all happened during the Administrations of McKinley and Roosevelt. They had a hand in its development and are entitled to at least a part of the credit for its wonderful unfolding. The policies of government employed during that ten years have not hampered, but have accelerated the growth of our prosperity.

I take the ten years from 1897 to 1907. Eighteen hundred and ninety-seven was better than some of the years which preceded. We had emerged from a disastrous and long-to-be-remembered panic.

In 1897 our money of all kinds in circulation was \$1,640,000,000. In 1907 our money was \$2,772,000,000, an increase of \$1,132,000,000. In 1897 it was per capita \$22.87; in 1907 it was \$32.22, and on May 1, 1908, it was \$35.35 for each of more than 87,000,000 people.

In 1897 the total of deposits in all banks was \$5,094,000,000; in 1907, \$13,099,000,000, or two and a half times as great. In 1897 the number of depositors in savings banks was 5,201,000; in 1907, 8,588,000. This is a remarkable showing of the increased number of depositors and a phenomenal increase in the amount of money and credits of the American people. This money belongs to the people of all classes and conditions. It belongs to the people of the city and to the people of the country. The small savings bank in the small city has enjoyed a growth of business as great as the metropolitan bank.

The history of the exchange of the products of our toil is likewise a marvel. Both production and consumption have proceeded with giant strides. In this period of ten years the people have been better clothed, better fed, and better housed than ever before. Imports leaped from \$764,730,000 in 1897, one-half of which were on the free list, to \$1,434,431,000 in 1907, nearly one-half of which were brought in free of all duty. This merely takes account of our consumption of foreign products and in no wise covers that magnificent production and consumption within our own domains and of which the customs officer never takes toll.

But the astonishing chapter of this decade of prosperity is the record of our export trade. In 1897 we sent out to the world of all kinds of products, agricultural and manufactured, \$1,050,000,000. But in 1907 the world bought from us \$1,880,000,000 of the products of our toil, our genius, and our skill. In this ten years, therefore, our export trade rose \$830,000,000.

Now, look at the balance of trade. It certainly has much significance. If the merchant or the farmer for a series of years buys for consumption more than he sells, he is not likely to get rich. If the balance of trade runs against a nation for a series of years, it is likely to become poor. From these figures it is easy to calculate that in 1907 the balance of trade in our favor as a nation was \$446,000,000.

Now, look at a few figures of production. In 1897 we produced of corn 1,902,000,000 bushels; in 1907, 2,592,000,000 bushels, an increase of 690,000,000 bushels. But not only did the total yield increase nearly 40 per cent, but the price increased more than 100 per cent. The crop of 1896 was larger than that of 1897, but it was worth upon the streets of the city of my residence only 10 cents per bushel.

In 1897 we produced of wheat 530,000,000 bushels and in 1907, 634,000,000 bushels. The annual production of wheat has not varied greatly in the ten years. The farmer who has it to sell realizes that, in the increase during the ten years of 100 per cent on the price per bushel, he has advanced from a losing to a paying proposition. The reason of the advance is not far to seek. The demand has grown. People eat more bread. They do this because they have the wherewithal to buy.

To make his live stock grow and thrive the farmer seeks a well-balanced ration. To make its people expand and prosper a nation seeks to balance agriculture and manufacturing, commerce and trade. By indissoluble ties we are bound. Each man is his brother's keeper. No man lives unto himself alone. All must prosper or all must suffer loss. Why does the farmer receive such prices for his products? Here are some reasons: Note the wages paid in manufacturing. In 1890—I have not at hand the figures for 1897—there were paid \$1,891,000,000. In 1905, \$2,611,000,000, an increase of \$620,000,000; and the subsequent years are still greater. Now, note the result of all this toil: The value of manufactured products in 1890 was \$9,372,000,000. In 1905 it was \$14,802,000,000, an increase of \$5,430,000,000.

This vast production of foodstuffs and manufactured goods supplied the domestic trade, the most valuable commerce in all the world. About 8 per cent of this enormous elemental wealth went beyond the seas.

There are those who would have us believe that a protective tariff prevents exports and hinders foreign commerce. They say this in the face of the fact that our foreign commerce is larger than in all history and facing the fact that on the free list now are nearly one-half of all our imports. It has become the settled policy of this country to maintain our vast and necessary expenditures largely by customs duty. Direct Federal taxes have never been congenial to the American people. So long, therefore, as revenue must be raised on imports, who shall say that it is not the part of wisdom so to adjust these taxes that there shall be given to the American producer and wage-earner a preference over his competitor on foreign shores?

The history of tariff legislation in this country shows that periodically tariff schedules have been adjusted to meet the changing conditions of business and of trade. So it will happen now, but the principle of protection will be preserved. Who assails it does violence to American traditions, to American ex-

perience, and to American foresight. England is just now feeling the revulsion of sentiment against her free-trade policy. The propagandum of protection is abroad in her boundaries. Canada, her favorite child, disclaims the mother doctrine.

Entirely compatible with the doctrines and policy of the Republican party, a revision of the tariff will be made, with a view solely to American interests and the preservation of the rights and prosperity of the producer, the wage-earner, and the manufacturer. All are interdependent and must rise or fall together. When this revision takes place the representatives of the great Middle West must see to it that the productions of that great food-producing section of the world shall continue to have adequate and proper protection. The demand of the Eastern States for what they are pleased to call "free raw material" is, in my judgment, a menace to the industries of the West. It seems to me that they seek to put into unrestrained competition the great Middle West and the vast and productive reaches of Argentina. They insist upon adequate protection for their finished products, but are willing to sacrifice for near-by Canadian markets and cheaply transported South American raw material the products of the farms and ranges of the West. The farmer of the boundless Western prairie realizes that in building up and perpetuating American industries he pays some tribute to the manufacturing States, but in return therefor he insists that, since he is a large consumer of their finished products, his corn, his wheat, his cattle, his pork, and his poultry should have the equal protection of the tariff laws.

Mr. Speaker, in my judgment, the American people will demand, when a new tariff bill is framed, that it shall be an actual revision and not a restatement of the existing tariff schedules. Many of the rates now existing are too high and must be lowered. Many are unnecessary, and the free list should be extended. Protection to the American wage-earner and not extortion should be our watchword. I believe that a tariff bill can be so framed, perhaps, by the establishment of maximum and minimum duties that foreign nations will take down certain barriers that now exist to the admission of American products, especially of the farms and ranges, such as flour, beef, and pork, and thus materially extend our foreign markets.

Mr. Speaker, I believe that the American people have a right to be proud of the record of national legislation during the past ten years. As a comparatively new Member of Congress, I have a justifiable pride in the work of the last three Congresses, which have marked a material advance along the lines of progressive legislation. Note the railroad-rate bill, which provides for the establishment of rates when complaint is made to the Interstate Commerce Commission; which enforces publicity of the affairs of transportation companies; which, with other acts, has put an end to the evil of rebates, and, above all, has established, once and forever, the proposition that the Government can and does control the public-service corporations of this country, and that hereafter no one will seriously question that 230,000 miles of railroad are subject by Federal law to legitimate and complete regulation.

If competition has disappeared because of the enormous combinations of transportation lines, then it is high time for the Federal Government, which alone can regulate interstate commerce, to stretch forth its mighty arm and so direct the complex machinery of trade that the strong shall not consume the weak; that communities shall receive fair and equal favor, and that individuals shall receive only such preference as they are entitled to receive by reason of the endowments of nature. In my judgment, this law should further be amended and the Interstate Commerce Commission should be given the power, upon its own motion as well as upon complaint, to initiate and formulate rates and to prevent railroad companies from putting into force a new and different rate without the consent of the Commission. In the fixing of rates a fair return upon the investment, of course, should be permitted, but the expense of the service and the value of the property should be the basis of rates, rather than a levy of all the traffic will bear.

Mr. Speaker, I can but enumerate many of the beneficial acts that have been passed by Congress in the past few years. The meat-inspection law affords not only security to the consumer at home and abroad, but tends to expand our foreign commerce in all these products, and, in my judgment, is an unmixed blessing. Free denatured alcohol promises, when facilities are more adequate for its production, to bring decrease in price of fuel, light, and power. The pure-food law affords to the consumer a guaranty of quality heretofore unknown. The employers' liability law passed by this Congress affords a protection to the millions of men employed in this country by corporations which has heretofore been practically denied them and will result in increased vigilance on the part of the employers that all appli-

ances shall be safe and reliable and will bring about the exercise of great care that the men employed shall receive the fair and humane treatment to which they are entitled. The pocket-book is the nervous system of both men and corporations, and danger of the loss of its contents brings more salutary reform than the ethical discourse of the humanitarian.

In addition to the good legislation of the Fifty-ninth Congress, the present Congress has passed this employers' liability law in lieu of and to correct the errors in the one heretofore passed; also a model child-labor law for the District of Columbia, which, it is sincerely hoped, all the States of the Union will substantially copy upon their statute books. In my judgment, the most important provision of the railroad-rate law of the Fifty-ninth Congress was the provision for publicity of the acts of railroad corporations and a requirement for a uniform system of their bookkeeping and an inspection thereof by Government officials. This Congress has made effective this provision by an appropriation of \$350,000 to render certain such publicity and inspection as will forever make rebating and discrimination impossible. The House of Representatives has passed an emergency currency measure, which may not be entirely satisfactory to all, but which, it is hoped, will prevent the recurrence of currency contraction, financial stringency, and the hoarding of money.

The record of the Republican party is an open book, written amid the smoke of battle, the heat of controversy, and the peaceful march of industry. The history of its great leaders is the history of civilization for fifty years.

There was William H. Seward, the John the Baptist of a new and inspiring faith. There was Lincoln, the ridiculed, the slandered, the courageous, the far-seeing, the merciful, the just, whose life is an inspiration, whose memory is a benediction.

There was Sumner, stately, cultured, and magnificent, the very flower of New England statesmanship. There was Thaddeus Stevens, virile, sarcastic, inflexible, a born leader of men. There was Galusha Grow, the white-haired son of Pennsylvania, whose public life spanned two generations and who had touched hands with the men who could remember Washington, and Pennsylvania honored herself by returning him at a ripe old age to this House, where he first earned his fame. There were Chase, and Morton, and Logan, jurist, statesman, and warrior. There was Blaine, the fatally gifted, whose polished sword thrusts of wit, sarcasm, and invective left great gaping wounds which neither time nor his marvelous genius could heal, and his enemies pursued him to the last with a hatred as remorseless as death and as bitter as the ashes of hell.

There was John Sherman, the ablest financier since Hamilton. There was Grant, the greatest captain of the world's greatest contest, a Hannibal without guile, a Caesar without his imperialistic trend, a Napoleon without his all-conquering ambition. There was the gentle and the gentlemanly McKinley, enshrined forever more in the Republic's love and regard, honored and respected wherever the white-capped waves caress the shores of nations.

There is Theodore Roosevelt, who possesses to-day the confidence of the great mass of the citizenship of this country more unbounded and all-pervading than any President of our history. Mark this man well. He was cast in no common mold. His courage is not daunted by any difficulty. His capacity for battle is unlimited. With a virility invincible and a genius far-seeing and comprehensive, he compelled a reluctant settlement of a great coal strike in Pennsylvania which threatened the peace and happiness of the nation, and he brought the pressure of the world's opinion upon two great warring nations and forced them to terms of peace against their will. The common people believe he is their friend. You can not disabuse them of their faith. The Democratic party may denounce him as an imperialist, a usurper, an enemy of the Constitution. They may pursue here in this House the tactics of obstruction and delay. The American people have observed their acts and omissions of fifty years and will not confide in them now. As said King Richard to the banished Mowbray, so of that party it may well be said:

The slow, sly hours shall not determinate the dateless limit of thy dear exile.

The American people have an abiding faith in the doctrines, practices, and personnel of the Republican party and its great leaders, past and present.

In its next convention it will indorse the Administration of Theodore Roosevelt and lay a proud finger on the lines which record the progress of its triumphant ascendancy and appeal with all confidence to the vindicating judgment of the American people.

Eulogy on the Late Senator Mallory.

REMARKS

OF

HON. WILLIAM SULZER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Sunday, May 3, 1908.

On the following resolutions:

Resolved, That, in accordance with the order of the day, an opportunity be given for tributes to the memory of Hon. STEPHEN R. MALLORY, late a United States Senator from the State of Florida.

Resolved, That, as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career, the House, at the conclusion of the exercises of this day, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. SULZER said:

Mr. SPEAKER: On this sad and solemn occasion we meet to pay a most deserved tribute to the memory of a good and worthy man—STEPHEN RUSSELL MALLORY—late a Senator in the Congress of the United States from the grand old Commonwealth of Florida.

It is fitting for us to pause for a short space of time to contemplate the march of grim death that within the past year has deprived us of seven distinguished Senators, who have passed away to their eternal reward. What a commentary on the uncertainty of this frail and transitory life. They were all great men and faithful public servants. The mortality in the Senate has, I believe, been greater during the past few months than in any other like time in all the history of our country.

Call the roll of the illustrious dead. MORGAN and PETTUS, the grand old men of Alabama; the genial LATIMER, of South Carolina; the stately WILLIAM PINKNEY WHYTE, of Maryland; REDFIELD PROCTOR, the sturdy oak of Vermont; and MALLORY and BRYAN, the popular idols of the land of sunshine. They were men upon whose like we shall seldom look again. Their places can not be taken. They leave a void which can never be filled. The death of these noble men is an irreparable loss to their States and a misfortune to the country they served so faithfully and so well. All dead within a year! All friends; and all gone to their eternal reward and final rest. They were all my friends. I knew them well. I served in Congress with them all. I was a friend of each. I grieve with those who grieve, I mourn with those who mourn.

They were all true men, all honest men, all great men, all loyal friends, heroically serving their country and working for the good of mankind in the vineyard of the people. How sad it all is to lose such friends:

Friend after friend departs;
Who hath not lost a friend?
There is no union here of hearts
That finds not here an end.

Mr. Speaker, the career of STEPHEN RUSSELL MALLORY is a most interesting one. It teaches a lesson we should all learn. He crowded much in the active years of his instructive life. He was a worker, a plodder, and he made progress and history. He was born on the 2d day of November, 1848, in Pensacola, Fla., of distinguished parents. He was the worthy son of an illustrious sire. The father made history; so did the son. That story is a part of the annals of our country. Every youth in the land should read it.

At the age of 15, in 1863, young MALLORY entered the Confederate army as a private, and subsequently served with distinction as a midshipman in the Southern navy. The great conflict over, he entered Georgetown College, in the District of Columbia, in November, 1865, and graduated with high honors in June, 1869. He taught a class at the college until July, 1871; then was admitted to the bar by the supreme court of Louisiana, at New Orleans, in 1873; subsequently, in 1874, he removed to Pensacola, Fla., and began practicing law; was elected to the lower house of the legislature in 1876; was elected to the senate of Florida in 1880, and reelected in 1884.

He was elected to the Fifty-second Congress and reelected to the Fifty-third from the First District of Florida, and then—the crowning glory of his career—the legislature of Florida elected him to the United States Senate for the term beginning March 4, 1897, and he was unanimously reelected in 1903. He received the degree of doctor of laws from Georgetown University in June, 1904; and, had he lived, his term of service in the Senate would not have expired until March 3, 1906. But in the midst

of his arduous labors came the inexorable call of the dread messenger of death.

In the month of November, 1907, he suffered a general breakdown as the sequence of an illness of some ten years' duration. On December 16 he announced that because of the condition of his health he would not be a candidate again for reelection to the United States Senate, and shortly thereafter, on the 23d day of last December, he died, in the fifty-ninth year of his life, respected and honored and loved and mourned by all who knew him. But he left us a priceless legacy—

One of the few, the immortal names,
That were not born to die.

Senator MALLORY, Mr. Speaker, was a Democrat of the old school, true to the teachings of the fathers. He had no pretense. He did not know what it was to be untrue to himself or false to any man. He was a man of the simple life, of courteous ways, and of genial manners. He was a quiet man, without display or ostentation. He cared naught for the pomp and circumstance of the world. He had a gentle manner, a lovable disposition, a magnanimous mind, a kindly character, and was hospitality personified. He had clear ideas of life, fixed views of things, well-defined principles, much determination, great force of character, and the love for his native Southland was the inspiration of his life.

He was broad minded in his views, tolerant of the opinions of others, and he believed in the greatest liberty for the individual consistent with the liberty of every other individual. He was farseeing and sagacious, a wise counselor, a true friend, and a safe guide. He was the foe of every special privilege and fought the good fight, in Congress and out of Congress, for equal rights to all.

He had a great mind, a good heart, a genial nature, and a kindly word for all. He was a student, a lawyer, a soldier, and a statesman. He was a cultivated gentleman without fear and without reproach. For years he suffered much, but he bore the ills and pains of mortal disease with Job-like patience. Amid all his suffering he worked on with a smile on his pallid face and a fortitude that commanded the admiration of all. He did his duty to the last. He died in the service of his country.

He knew that death was near, yet he had no fear. Beneath his calm exterior there beat an unconquerable heart that never quailed, that never doubted, that never failed, that never murmured, and that never complained. He welcomed the final summons, and when it came he bade farewell to earthly things, and in his quiet way, so characteristic of his earthly life, he quietly journeyed to that undiscovered country from whose bourne no traveler returns.

Sleep sweetly, tender heart, in peace!
Sleep, holy spirit, blessed soul,
While the stars burn, the moons increase,
And the great ages onward roll.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. EVERIS A. HAYES,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908,

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. HAYES said:

Mr. CHAIRMAN: Uncle Sam, whether justly or unjustly, has the reputation of being a poor paymaster. I fear that in the adjustment of claims against the Government its agents and officers, actuated by a false sentiment of loyalty to the Government or an ambition to shine as watchdogs of the Treasury, sometimes deny the just demands of citizens or associations against the Government under circumstances which would give an undisputed right to compensation from private persons. Technical objections to the allowance of claims against the Government are urged and insisted upon too often without any reference to their equity. There has evidently been an effort to do this in this case. I have no sympathy with this spirit. I believe that when the Government of the United States equitably owes a debt it should promptly liquidate it, even though there be no legal right of action.

Fortunately the claims under consideration and embraced in this bill have been passed upon by an official board of Army officers appointed for that purpose in the Philippine Islands.

These men, after carefully considering all the evidence, found that the United States was justly indebted to the Roman Catholic Church in the sum of \$403,030.19 for damages done to, and the destruction of, the property of the church while in the possession of our forces during the military operations of our Army in the islands. Even a hasty examination of the majority report of the Committee on Insular Affairs and the evidence there set out or referred to will show beyond question that the commission was very conservative in its findings, and that it might have recommended the payment of a larger sum without exceeding the bounds of justice.

It therefore appears that the United States in all equity owes some person or association the sum of money named in this bill. To be sure, there is an intimation in the minority report of the committee that all this church property belongs to the United States, as the successor of Spain under the treaty of Paris; but there is nowhere any intimation that the Government of the United States now lays any claim to its ownership, nor ever has done so. There is also a claim in this minority report that the Independent Catholic Church of the islands has a larger membership in the Philippines than the Roman Catholic Church, and in some unexplainable way it is sought to be inferred that this fact has some bearing on the title to the church property in the islands or the right of the Roman Catholic Church to receive compensation for its damage or destruction.

On the other hand, it is denied on what seems to be the best of authority that the Independent Catholic Church has any large percentage of the people of the islands in its membership. But all this has no bearing whatever on the question. It is to be regretted that a question of this kind should be viewed through the eyes of religious prejudice. It seems plain to an unbiased mind that there is nothing in all this. It is admitted that the Independent Catholic Church is a seceding organization. Its members left the Roman Catholic Church without any agreement or understanding with that organization as to division of property. The founder, organizer, and present so-called "archbishop" of the Independent Catholic Church, one Aglipay, at the time of the damage and destruction of the church property for the payment for which this bill provides, was an unfrocked priest of the Roman Catholic Church, and there was then no such organization as the Independent Catholic Church in the islands. That church has been organized since that date. How, then, can the Independent Catholic Church have any possible interest or equity in any of the church property in the islands? Why is the Independent Catholic Church brought into the discussion, unless it be to cloud the issue? A few years ago, in my own city of San Jose, a large percentage of the membership of the First Presbyterian Church seceded from that organization and organized the Second Presbyterian Church of San Jose, but the members of this latter church never thought of claiming or suggesting that they had any possible interest, legal, equitable, or otherwise, in the property of the parent church, and if they had done so the courts of California would have made short work of their claims.

Happily the whole question of ownership of the damaged or destroyed property in question has been definitely settled by the supreme court of the Philippine Islands in the case of *Barlin v. Ramirez et al.* After a voluminous and careful examination of the Spanish law and precedents, the majority of the court decided that the Roman Catholic Church was the owner of the church property in the Philippine Islands. The language of the syllabus in that case correctly summarizes the decision in these words:

Prior to the cession of the Philippines to the United States the King of Spain was not the owner of the consecrated churches therein and had no right to the possession thereof. The exclusive right to such possession was in the Roman Catholic Church, and such right has continued since such cession and now exists.

This decision, coupled with the fact that the United States has never made any claim to ownership to any of this property, and has no intention of ever making such claim, is conclusive of the whole matter. It is true that the minority report claims that this decision only involves the right of possession of the particular church property involved in that suit, but the law and the facts applicable to all of the other churches involved must of necessity be substantially the same as in the case of *Barlin v. Ramirez et al.*, and hence, by a familiar rule of all courts, is conclusive of them all. There remains, therefore, but one thing for this House, in my judgment, to do, viz, pass this bill as it was reported by the majority of the Committee on Insular Affairs. By so doing I firmly believe that we shall be doing tardy and only partial equity to the Roman Catholic Church of the Philippine Islands.

Eulogy on the Late Senators John T. Morgan and Edmund Winston Pettus.

REMARKS

OF

HON. THEODORE E. BURTON,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1908.

The House having under consideration the following resolutions:

Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

Resolved, That, as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m. on Monday next.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators.

Mr. BURTON of Ohio said:

MR. SPEAKER: It is exceptionally appropriate that eulogies should be offered for Senators MORGAN and PETTUS at the same hour. Seldom, if ever, have two men engaged in the public service in any land who had more in common. Each lived to a very advanced age and died with his armor on. Each had his home for approximately a quarter of a century in the quiet shadows of the little city of Selma. In their death they were not divided, and those who tenderly watched over the survivor in his last days remarked how lonely he was after his beloved associate had gone. Both had borne a very important part in the late civil war and had reached the position of general in the Confederate army. Though four years of their most vigorous manhood were given to the great struggle which shortened the lives of so many, they remained active participants in the movements of the times for more than forty years after its close. Both, after the close of the struggle, sought to bury the animosities of the bloody strife and of the disagreement which had preceded and to acquiesce in the result, recognizing that God made this magnificent domain between the lesser and the greater oceans, between the Lakes and the Gulf, for one united country. Whichever side might have prevailed, destiny forbade disunion. Every crowned head of Europe might have frowned upon us and wished for the severance of the North and the South. But severance was impossible. The triumph of one or the other could have been only temporary, because in the very nature of the physical conformation of the continent, in view of the class of people who settled here, and the manifest advantage of their living together as one people, it was certain that all should follow one flag and be a part of one great nation surpassing all the nations of the earth.

Both were gentlemen and statesmen of the old régime. Their lives were spent for the most part in the country. They had not become absorbed with the commercial and industrial spirit of the time. The one duty which impressed them was to the people of their State and of the nation. Each had a genius for politics; each had a love for the people and a keen consideration of their interests and of the future prospects and achievements of this country. It is somewhat remarkable to consider that both of them lived contemporaneously with every President of the United States except George Washington and that they were of an age when they could appreciate and understand the throbbing movements of the time when the long reign of Queen Victoria commenced. They lived before the days of the railroad and of the telegraph, so that their early impressions were of life in its simplicity, without the feverish haste and the vaulting ambitions which are so manifest in this time. They were the contemporaries of Senator King, who, like MORGAN and PETTUS, lived at Selma and served in the Senate for a period of almost exactly as long as the service of Senator MORGAN. They knew Yancey, the fiery, erratic, but entrancing orator. They were the contemporaries of Fitzpatrick and of all the great men of Alabama in the days before and since the civil strife. Two such grand old men can scarcely be found in the history of any State or any country.

It was my good fortune to enjoy an acquaintance of some intimacy with both of these men. Of course the career of Senator Morgan was a much longer one. His service continued until nearly the maximum period in the United States Senate—for a little more than thirty years. During all that time he was a commanding figure in that great legislative body, noted for his learning on all subjects. It was easy for him to speak extemporaneously upon any of the great topics before that body

with vigor and understanding and to awaken the interest of all his fellow-Senators. But the retentiveness of his memory and wide range of his information did not prevent him from being one of the most careful students in legislative life. He added to the store of learning which he already possessed a careful study of all the contemporaneous literature upon any subject of interest to the people. He abhorred sham. While a partisan, he was ready to step over partisan lines at any time when he thought his party was out of line with that which was for the future interests of the country. He was one of the most steadfast adherents of the principles of civil service. Notwithstanding the fact that an educational bill which was pending for many years would have caused the disbursement of very large sums of money in his own State, he opposed it earnestly and successfully as an unwarranted expenditure of public money, believing that as the family and the home are matters which are local and pertain to each individual community, so education is a subject which should be under the control and direction of the State.

His name in history will be most identified with the Isthmian Canal. In season and out of season he favored this long-desired waterway between the two oceans, and it is no exaggeration, it is but a just tribute to him, to say that he more than anyone else contributed to the triumphant accomplishment of that great enterprise. Although he favored one route to the exclusion of the other and was extremely earnest in his views, I well remember an occasion, on the 2d of March, 1899, when the proposition was made in a conference between committees of the two Houses to appoint a commission to examine all routes. The members of the committee from the Senate called in Senator MORGAN, being unwilling to agree upon any compromise that did not have his approval. There was some apprehension that he would not acquiesce in any measure which looked to the possibility of selecting any other route except that which he favored. But, with that tolerance which was characteristic of the man, he agreed in a moment upon the proposed settlement, being perfectly willing that the best expert examination should be given to all routes and that the advocates of all might have a chance. It is greatly to be regretted that his life was not prolonged until the final day when this canal shall be opened to the traffic of the world, that his eyes might have beheld the result of his efforts, of his constant and untiring interest in this great undertaking.

As regards the problem of our foreign policy he had grasp of the conditions in the different countries and of our own proper relations with each of them, which has rarely, if ever, been surpassed in the history of the Government. He was a stalwart American, and yet like those in cooperation with whom he worked, as Secretary Hay, who was his friend and collaborer, he believed in a diplomatic policy which should be at once without bluster and without cringing; and he advocated that the stalwart maintenance of our strength and position among the nations of the earth should be coupled with justice and fair dealing.

Senator PETTUS served for a much shorter time in the United States Senate. His record in having entered the Senate when he was already 76 years of age was almost without a precedent. He was courageous; he was brave; he was vigorous to the last. Massive in brain and big of heart, he was in a peculiar sense a man of the people. No one could listen to him without recognizing how formidable he would be upon the stump or as an advocate in convincing a jury. He was a close student of human nature—a man possessed of sturdy common sense, and with a vigor of intellect which made him always able and ready in solving any great question.

These men, both of them, were men who in the legal profession relied rather upon the mastery of the great principles of the law than upon text-books. They might not have spent so much time as the modern lawyer in the examination of cases, but they were grounded in those great fundamental doctrines which rest at the foundation of private and public law. Their professional affiliations were never with those who seek to evade the law, but their services in the court had been to obtain the rights of their clients and to enforce those great principles which were at the base of our jurisprudence. And in the great questions which are before the nation they also were thoroughly founded in those same principles. They could look back to a long career prior to the great civil struggle and remember those days when much of the earlier simplicity prevailed in our national life.

They were strong believers in the principle of States rights, in the spirit of autonomy of communities, and yet they were not unwilling or unready to accept those changes which worked inevitably to bring the different States together and weld them into one strong nation. They never forgot Alabama; they

were never without love and attachment for the State which they represented, but at the same time they were never unmindful of the grandeur and of the future of this great country of ours. They sought to promote its strength, to solve its problems of statesmanship, with all their complexities and difficulties, mindful of the fact that there was a future before this nation even beyond the comprehension of those who are most far-seeing in their wisdom.

They recognized that Alabama is a great unit in this union of States, but also that she has her greatest strength and her greatest possibilities because she is one of forty-six united States which, when symbolized on our flag, stand forth with more of sublimity and with more of beauty than any of the constellations in the heavens.

I can not but feel, in the case of men so advanced in years, who not only had passed threescore and ten, but who, by reason of strength, had exceeded fourscore, that the sorrows which we feel at the graves of younger men are entirely inappropriate. Life might have been prolonged to them for a few more years, but they tarried with us for their full measure of days, they filled the full complement of achievement. They were the actors in a day of great progress, beholding many changes, and the development of new and greater things. They were always actuated by patriotism, by love of State and of country, and, most of all, were both entirely unstained in public or private life.

Thus it is with a feeling of satisfaction in the triumphant completion of their careers that we can say of each, "Well done, good and faithful servant," and that our thoughts go out to them to-day as laid away among the oaks in the beautiful cemetery at Selma. No lofty pinnacle or dome rises over their graves, but there is a commemoration greater yet in the remembrance of their lives and of that which they have done for their age and generation. To them belongs a record of achievements which will not only survive in the future, but give to their memory in the coming days increasing honor and affection.

Post-Office Appropriation Bill.

SPEECH

OF

HON. HERMAN P. GOEBEL,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 13, 1908.

On the bill (H. R. 18347) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1909, and for other purposes.

Mr. GOEBEL said:

Mr. CHAIRMAN: On March 3 last, the Committee of the Whole House having then under consideration the post-office appropriation bill, I took occasion to make some remarks on H. R. 4068, by Mr. HUMPHREY of Washington, which bill seeks to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce." On March 10 my colleagues on the Committee on Post-Offices and Post-Roads [Mr. FINLEY and Mr. SMALL] undertook to reply to me. I thought I had convinced them that this was an ocean mail proposition, and was somewhat surprised when they presented in this instance the Democratic view which has been so often presented on ship subsidies. It is not my purpose to follow these gentlemen in that respect. However, in the course of their remarks reference was made to the cost of the construction of American ships, and as that has some bearing upon the possibility of obtaining ships for the proposed routes, I desire to present for information Senate Document No. 225, pages 47 to 55, as follows:

All materials of every kind required for the construction, equipment, or repair of vessels built in this country for the foreign trade or for the long-voyage coastwise trade between our Atlantic and Pacific seaports are free of duty under sections 12 and 13 of the free list of the Dingley tariff, as follows:

DINGLEY TARIFF FREE LIST.

"SEC. 12. That all materials of foreign production which may be necessary for the construction of vessels built in the United States for foreign account and ownership, or for the purpose of being employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, and all such materials necessary for the building of their machinery, and all articles necessary for their outfit and equipment, may be imported in bond under such regulations as the Secretary of the Treasury may prescribe; and upon proof that such materials have been used for such purposes no duties shall be paid thereon. But vessels receiving the benefit of this section shall not be allowed to engage in the coastwise trade of the United States more than two months in any one year, except upon the payment to the United

States of the duties of which a rebate is herein allowed: *Provided*, That vessels built in the United States for foreign account and ownership shall not be allowed to engage in the coastwise trade of the United States.

"SEC. 13. That all articles of foreign production needed for the repair of American vessels engaged in foreign trade, including the trade between the Atlantic and Pacific ports of the United States, may be withdrawn from bonded warehouses free of duty under such regulations as the Secretary of the Treasury may prescribe."

Under this law not only steel plates and shapes, but articles of equipment so elaborate and costly as ships' compasses, have been imported free of duty for the use of vessels built in this country for the foreign trade and for the coastwise trade between the Atlantic and Pacific.

Nor are there any difficult customs regulations in the way. Arthur Sewall & Co., of Bath, Me., who imported from Great Britain duty free all of the steel plates, shapes, etc., for the construction of a large steel ship, the *Dirigo*, state that so far as the passing of these free materials by the Treasury officials was concerned, there was no trouble whatever.

The law is as liberal as it could possibly be made. Nothing which Congress by statute could do to give American shipbuilders the widest freedom of materials for ships for ocean commerce has been left undone. The only criticism which could be made of this free-material legislation is that it is only partially applicable to ships for the coastwise trade—a trade in which American vessels are not subject to competition with foreign ships, because foreign ships are and long have been absolutely prohibited, under penalty of forfeiture, from carrying freight from one American port to another.

THE COASTWISE RESTRICTION.

But this free-material privilege does apply unconditionally to the important coastwise trade in large and valuable ships between American ports on the Atlantic and American ports on the Pacific Ocean. This coastwise traffic, already a large one, will be increased many fold by the completion of the Isthmian Canal. Under existing law ships built for this great coast trade through the canal can be constructed, equipped, and repaired entirely with free materials.

Moreover, ships built of free materials can, under existing law, be employed for two months in a year in the general coastwise trade of the United States. This apparent exclusion of free-material ocean ships from the coastwise service for ten months in a year is more of apparent than of real importance. Vessels adapted to ocean service and the long-voyage foreign trade as a rule are not suitable in size, draft, and general arrangement for the ordinary coastwise service, and would not engage in it in any event unless they were driven out of the ocean service, for which they were especially designed.

It has happened of recent years in a very few instances that American ocean vessels, forced out of the foreign trade by foreign subsidies or cheap wages, have fallen back upon the coastwise trade and have found in certain shorter voyages at least that the limitation of two months on free-material ships caused some inconvenience. But if there were a law for the encouragement of American shipping in the foreign trade, like this bill for the establishment of great ocean mail lines, American ocean vessels, having a fair chance in the foreign trade, would not fall back into the shorter coastwise voyages for which they were not designed and are not especially adapted.

"FREE MATERIALS" NOT ENOUGH.

One reason why larger use has not been made in this country of the free-material privilege for ocean shipbuilding is that our laws give no real adequate encouragement to shipowners to employ ocean ships after they are built. Since June, 1901, not one order for a steamship for overseas commerce has been given to any yard in the United States, with the exception of four steamers constructed in the Cramp yard at Philadelphia for the Ward Line to the West Indies and Mexico—a line receiving a moderate mail subvention under the ocean mail law of 1891. Two of these four steamers, by the way, were built to take the place of two similar liners purchased by the Government.

Yet during all this time, and for years before, any shipowner or builder who desired to send to Scotland for his steel plates and shapes and other materials, not only for the construction but for the equipment and repair of a vessel for the deep-sea trade or for the coastwise trade between our Atlantic and Pacific ports, could have brought in such material by the shipload and received a rebate of every penny of the duty. If our ocean fleet has not increased, it has not been for lack of free access to the free materials of the world; it has not been because of the "extortion" of any trust or the "barriers" of a protective tariff.

The truth is that "free materials" alone, as has so often been demonstrated, are not a determining factor in the prosperity of any industry. Take, for example, the manufacture of cotton fabrics. The raw cotton of which they are made is on the free list, for the good and sufficient reason that the United States has had almost a natural monopoly in the production of this important fiber. But nobody has assumed that free cotton was all that was required to make cotton manufacturing prosperous. On the contrary, the cotton manufacturer of New England, the Carolinas, Georgia, and Alabama is protected and encouraged to use this free cotton by tariff duties on the finished product ranging from 25 to 50 per cent ad valorem. But the ocean shipowner has no protection at all.

A PARALLEL INSTANCE.

To put the case in another way: Suppose that the pig iron, the steel, and other materials required for the making of textile machinery were admitted free of duty. Would it be seriously contended that, because there were free materials for the making of the machinery of his trade, the cotton manufacturer ought therefore to be deprived of all of his tariff protection of 25 to 50 per cent and be compelled to compete under free-trade conditions with the cotton manufacturers of Europe? Does anybody imagine that if all protection were thus stripped away from the cotton-manufacturing industry there would be much of a demand for new looms, or that very much cotton weaving or spinning machinery would be constructed of free materials or of any other kind of materials in the United States?

The ship is the machinery of the shipowner's trade, just as the loom is the machinery of the trade of the cotton manufacturer. If the manufacturer of cotton were denied all protection and encouragement in this country, he would dismantle his mill and either quit the trade altogether or invest his capital and his skill in manufacturing in Europe.

This is exactly what has been done by some American shipowners. Denied protection at home on their industry of ship sailing and management—that is, on the use of the machinery of their trade—the mere fact that the materials of this machinery can be imported free of duty has proved of absolutely no avail. These shipowners have trans-

ferred their capital and their skill to foreign shipping. They have taken advantage of the cheap wages and sometimes of the subsidies of Europe. They are operating ships built, officered, manned, supplied, and repaired by foreigners. Their dividends, if there are any, come to this country, but every dollar expended for labor goes abroad. Their money and their business ability are utilized to develop the shipyards and to strengthen the naval reserves of foreign governments—to create a great alien sea power which could be turned with terrible force against their own country in case of war.

Of course most of the capital invested in foreign merchant marines is foreign capital, but Americans are part owners in foreign shipping estimated at upward of a million tons. It is a significant fact that the heaviest American owner of foreign ships—the American element in the International Mercantile Marine Company—has been compelled by the British Government to keep these ships beneath the British flag, to build their successors in the United Kingdom, to officer and man them with British subjects, and to maintain the executive control of British tonnage in British hands. Therefore, if a "free-ship" law were passed by the United States, it would be entirely ineffective, so thoroughly clinched is this international fleet to its British allegiance.

TO MAKE FREE MATERIALS EFFECTIVE.

In order to make the "free material" privilege genuinely effective, the United States Government must protect and encourage American shipowners, as it has long protected and encouraged American cotton manufacturers. This can not be done by the tariff, but it can be done, as the history of the whole maritime world demonstrates, by a careful system of ocean mail subventions, like that proposed in this bill now before the House. It is under such a system as this that Japan has increased her merchant fleet from about 300,000 tons to 1,000,000 tons within a decade. And Japan, unlike the United States, had no shipyards to begin with, no maritime traditions, no experience in long-voyage navigation, no great bodies of skilled labor.

All foreign shipowners, all foreign manufacturers and merchants, all foreign governments, dread the application of the protective principle by the United States to the one great American industry exposed to foreign competition which has thus far remained unprotected. They know well that protection once adequately applied to American ship owning will do what it has done for American manufacturing. It is probable that the chief hope of the enemies of the American merchant marine is to obstruct the proposed legislation by exploiting the idea that these subventions, if paid, would largely go to enrich the steel trust, which would charge extortionate prices for the materials of which new American ships were built. Therefore, a thorough understanding of the real facts of the case is of very great importance.

A MISUNDERSTANDING CORRECTED.

There have been some statements that American steel makers were selling ship steel abroad at a lower price than to American shipbuilders. The most explicit and authoritative assertion to this effect was that made on June 28, 1904, by Mr. James C. Wallace, then vice-president of the American Shipbuilding Company (engaged exclusively in lake work) before the Merchant Marine Commission at Cleveland. (Volume II, page 811 of the hearings of the Commission.) Mr. Wallace said:

"Recently one of our largest steel mills sold abroad 100,000 tons of steel plate. They delivered it, I understand, at Belfast at \$24 a ton. That would practically mean, with ocean rates as they are, \$22 a ton at tide water. They are charging us to-day at Pittsburgh \$32 a ton."

A little further on:

"Representative GROSVENOR. I want to know who bought the steel you speak of."

"Mr. WALLACE. The Harland & Wolff Company, Belfast."

"Representative GROSVENOR. From whom did they buy it?"

"Mr. WALLACE. The United States Steel Corporation."

In one or two other hearings of the Merchant Marine Commission similar statements were made by other persons, but nowhere so definitely as at Cleveland. It has since appeared, however, that all these witnesses were misinformed. On April 11, 1906, Judge Gary, chairman of the board of directors of the United States Steel Corporation, was questioned directly before the House Committee on Merchant Marine and Fisheries as to this testimony of Mr. Wallace. Judge Gary said:

"I notice that Mr. Wallace apparently speaks from information. If he had such information it was entirely unreliable. The statement is not founded in fact. The companies in which we are interested sold no ship plate in 1905 to Europe, only a little over 3,000 tons in 1904, not any in 1903, and I think not any in 1902. (Page 275 of the Hearings before the Committee on Merchant Marine and Fisheries, April 4 to 13, 1906.)"

THE ACTUAL FIGURES.

Further on Judge Gary declared that "the export prices of ship plate at the present time are nearly equal to the domestic prices." There is specific proof of this fact in figures submitted by ocean shipbuilders to Senator J. H. GALLINGER, chairman of the Merchant Marine Commission. While the shipping bill was being considered by the Senate, before its passage, Chairman GALLINGER wrote to two great shipyards on the Delaware River asking what was the actual difference in cost between American and foreign ship steel and what proportion this constituted of the cost of the completed vessel.

These were the replies received:

THE WILLIAM CRAMP & SONS SHIP
AND ENGINE BUILDING COMPANY,
OFFICE OF THE VICE-PRESIDENT,
Philadelphia, January 15, 1906.

DEAR SIR: Referring to your letter of the 11th instant, requesting to be informed as to the number of tons of steel plates and shapes required for the construction of each of four such steamers as we are now building for the New York and Cuba Mail Steamship Company, and how much more the steel would cost if purchased at the ruling prices in this country than if imported from Great Britain, I beg to state as follows:

The amount of steel plates in one vessel is 1,900 tons and the amount of steel shapes in one vessel is 990 tons.

Recently, by reason of the rapid rise in the prices of materials in Great Britain, the foreign builder pays almost as much for plates and shapes as we do; in fact, the difference in cost between steel purchased in this country and abroad for vessels of this size would be as follows:

Plates \$5,328
Shapes 5,880
making a total saving of \$11,208 in the material purchased abroad.
The steamers referred to will cost complete upward of \$900,000 each,

so that the difference in the cost of their steel plates and shapes between here and abroad represents only a little more than 1 per cent of the total value of each steamer.

Where vessels have been intended for the foreign trade alone, the various steel interests have offered to sell us the materials at the best export prices.

Very truly, yours,

EDWIN S. CRAMP, Vice-President.

HON. JACOB H. GALLINGER,
Chairman Merchant Marine Commission
of the United States, Washington, D. C.

NEW YORK SHIPBUILDING COMPANY,
Camden, N. J., January 16, 1906.

SIR: In response to your inquiry of the 11th instant, I beg to say that the last quotation which we have on foreign steel was under date of November 20, 1905, when we obtained prices for the purpose of quoting on a steamer to be built under sections 12 and 13, free list, Dingley law. It was afterwards decided to build the steamer abroad.

The foreign and domestic prices at that date appear below. I may add that the domestic prices of steel are the same at the present time, and I am not advised whether there has been any change in the foreign prices.

	Cents per pound.	
Plates: Steel Company of Scotland, f. o. b. Philadelphia, in bond	1.73½	
Shapes: Steel Company of Scotland, f. o. b. Philadelphia, in bond	1.64½	
Plates: Domestic, f. o. b. Philadelphia	1.73½	
Shapes: Domestic, f. o. b. Philadelphia	1.83½	

Difference in cost of plates and shapes for a 500-foot freight and passenger steamer built of foreign and domestic steel at the above prices estimated as follows:

	Domestic.		Foreign.		Difference.
	Cost per pound.	Total.	Cost per pound.	Total.	
	Cents.		Cents.		
8,000,000 pounds plates	1.73½	\$138,800	1.73½	\$138,600	\$200
3,000,000 pounds shapes	1.83½	55,050	1.64½	49,350	5,700
Total		193,850		187,950	5,900

We would regard the above as a fair estimate of the amount of steel plates and shapes required in the building of a 500-foot steamer, but the amount, of course, would vary according to the type of vessel. A ship of this size would probably require from 4,500 to 5,000 tons. The completed value in this country of a vessel of this description would be about \$800,000 to \$900,000.

It is only fair to add that at the time the above foreign quotations were received ship plates and shapes were very high abroad, owing to the great activity there in shipbuilding.

Yours, respectfully,

S. M. KNOX,
Secretary and Treasurer.

HON. JACOB H. GALLINGER,
United States Senator, Washington, D. C.

In the case of one yard, the difference in the cost of American and foreign material was only a little more than 1 per cent of the entire cost of the completed steamships; in the other yard, about one-half of 1 per cent. Thus both Mr. Cramp and Mr. Knox confirm the statement of Judge Gary, that the domestic price and the foreign price of ship steel are very nearly equal. It should be understood that there is an advantage to the shipbuilder in procuring his materials at home, from the fact that he can be in closer touch with the domestic manufacturer, a few hundred miles away, than with the foreign manufacturer in Scotland, and that changes can be more quickly made and deficiencies rectified. American steel, therefore, is actually worth a somewhat higher price to American shipbuilders than are foreign materials.

Mr. Cramp, Admiral Bowles, and several other shipbuilders testified at length in April, 1906, before the House Committee on the Merchant Marine and Fisheries, and with the exception of one builder, who acknowledged that he had had no recent experience, these practical men declared that there was little if any difference in the price of ship steel between the American and the foreign article.

TESTIMONY OF MR. CRAMP.

Mr. Cramp's evidence on this point was as follows:

"In the case of an ordinary ship, whether it is a cargo boat or a merchant ship, about 33 per cent of its value is in the material that is delivered to the shipyards which the works themselves do not manufacture. That means plates and shapes. We make brass casings, but not the raw pig or the pumps and forgings. Now, in the present condition of prices we can purchase forgings in this country, notwithstanding that there is a boom on and notwithstanding that labor is as high as ever it has been in the history of the country, we can buy forgings, steel castings, and such materials in this country for less money than abroad, and we get the other materials for practically the same price."

"Mr. WILSON. What part of the ship's castings and materials can you buy in this country cheaper than abroad?"

"Mr. CRAMP. I said the forgings and steel castings."

"Mr. WILSON. What part of the value of the ship does that constitute?"

"Mr. CRAMP. Of the materials that enter into the ship I have no details. The forgings represent a certain percentage of the vessel, but we never work it out that way. At present all of the materials that enter into the cost of the construction of a ship can be bought at the same price in this country as abroad. Many details we can buy for less."

"Mr. LITTLEFIELD. Does that mean f. o. b. or delivered here with freight added?"

"Mr. CRAMP. That is without the freight added, but that is a very small item, being only about \$2.50 or \$3 a ton across the ocean."

"Mr. HINSHAW. Please make that plain. You say that a vast majority of the materials which enter into the construction of a ship can be bought in this country as cheaply, at least, as abroad?"

"Mr. CRAMP. Yes, sir."

"Mr. HINSHAW. And some cheaper?"

"Mr. CRAMP. Yes, sir. A few months ago Senator GALLINGER wrote us a letter and asked what difference it would make had we purchased abroad the materials for some of the Ward Line ships that are going to trade between New York and Cuba and Mexico, and we investigated the matter very carefully, and we found that in a ship that would cost us \$900,000 the only difference in favor of purchasing abroad at that time was \$11,000, and since that time materials have risen over there and practically kept still here.

"Mr. WILSON. According to that, there is practically no difference to-day between the cost of foreign-built vessels and American-built vessels?

"Mr. CRAMP. No, sir; the materials that enter into the ship.

"Mr. WILSON. There is no difference in the materials?

"Mr. CRAMP. No, sir.

"Mr. GOULDEN. Does that apply to the coastwise steamers?

"Mr. CRAMP. Yes, sir.

"Mr. GOULDEN. There is no difference whatever?

"Mr. CRAMP. No, sir; but there have been times when the prices went up. For instance, the effect of the steel corporation during the last three or four years has been to steady the price for the market. Previously, in 1896, the price of steel went down under the influence of bad times to 1 cent a pound, the lowest price ever known in this country and very much lower than in England. That was caused by the depression following the panics of 1893, that carried so many steel companies into bankruptcy.

"Mr. GOULDEN. The average cost of the materials that enter into the coastwise steamers is about the same here as abroad?

"Mr. CRAMP. Yes, sir.

"Mr. SPIGHT. At this time the cost of material is no more in this country than in foreign yards?

"Mr. CRAMP. Yes, sir.

"Mr. SPIGHT. And the only difference in the cost of construction in American yards and foreign yards is the labor?

"Mr. CRAMP. Yes, sir; absolutely.

"Mr. SPIGHT. How much is that difference?

"Mr. CRAMP. Practically double.

"Mr. WILSON. What is the cost of the material in a million-dollar ship in this country?

"Mr. CRAMP. It will be from 30 to 35 per cent.

"Mr. WILSON. That is the cost of the material?

"Mr. CRAMP. Yes, sir; and labor is the other two-thirds.

"Mr. HUMPHREY. The material delivered to your yard?

"Mr. CRAMP. Yes, sir. Of course you must remember that of the 35 per cent we purchase about 95 per cent of that is labor at the other places where they are manufactured."

(Pages 210-211 of the hearings before the Committee on the Merchant Marine and Fisheries, April 4 to 13, 1906.)

STATEMENT OF ADMIRAL BOWLES.

Admiral Francis T. Bowles, formerly chief of the Bureau of Construction of the United States Navy, and now president of the Fore River Shipbuilding Company at Quincy, Mass., also made a careful statement as to the cost of materials before the House committee, saying:

"There have been various questions raised here about the influence of the cost of structural steel upon our present situation. I have had an instance within my own knowledge of the building of a vessel in our shipyard from English plans, in which I knew the exact cost of that vessel in an English yard. We took the greatest pains with our ship, not only to keep an accurate account of the cost, but to keep it as low as possible. The actual facts there were that that ship cost us 50 per cent more in our own yard, the cost being kept exactly in the same way as it was on the other side.

"Mr. GOULDEN. How long ago was this? When did this occur?

"Mr. BOWLES. It was for a ship completed last December.

"Mr. GOULDEN. December, 1905?

"Mr. BOWLES. Yes.

"Mr. SPIGHT. I understood you to say a while ago, Admiral, that the difference in the cost of wages and the cost of materials was about equal. Did I understand you correctly?

"Mr. BOWLES. No; I did not make that statement.

"Mr. HINSHAW. This difference of 50 per cent is almost entirely in the wages, is it?

"Mr. BOWLES. I am unable to state exactly, but from what I can find, the wages in our yard are from 50 to 75 per cent higher than they are in the English and Scotch shipyards.

"With regard to materials at the present day, the state of affairs is this: Steel delivered in an English shipyard costs from 15 to 20 per cent less than ours at the present time. On other materials the difference is greater. I want to keep my percentages applied in the same way, so I will say this: The cost of steel delivered in our shipyard is from 15 to 20 per cent greater than the price to-day of steel delivered in an English shipyard.

"Mr. HINSHAW. By English manufacturers?

"Mr. BOWLES. By English manufacturers. For the English steel delivered in our yard, the price is almost exactly the same to-day as if we bought it in Pittsburgh.

"Mr. GOULDEN. Delivered on the ground?

"Mr. BOWLES. Delivered on the ground.

"Mr. GOULDEN. In both cases?

"Mr. BOWLES. In both cases.

"Mr. WACHTER. What makes that difference, Admiral?

"Mr. GOULDEN. There is not any difference.

"Mr. BOWLES. The difference between the cost—

"Mr. WACHTER. Delivered in London.

"Mr. BOWLES (continuing). Delivered in our yard and delivered in England is covered by the freight and insurance and transfer.

"Mr. WACHTER. But the difference over there, the reason they can deliver it so much more cheaply to the English yard than our manufacturers can to our yards is because of the difference in the cost of labor, is it not?

"Mr. BOWLES. Yes. Now, the price of steel has not a great influence upon the cost of the vessel, which you can see from the fact that in an ocean-going steamer the proportion of the cost of the structural steel to the whole cost is about 15 per cent. A small variation in the price of steel will, therefore, you see, produce a very small variation in the total cost of the ship.

"Mr. SPIGHT. Admiral, did I understand you to say that the cost of English steel in our yards is about the same as the cost of American steel?

"Mr. BOWLES. Yes, sir.

"Mr. SPIGHT. And yet in the British yards the English steel costs from 15 to 20 per cent less than ours?

"Mr. BOWLES. Yes.

"Mr. SPIGHT. Now, why is that?

"Mr. BOWLES. That is because that difference to us would be absorbed in freight, insurance, and handling.

"Mr. SPIGHT. It would cost 15 or 20 per cent to get it here?

"Mr. BOWLES. Yes."

(Pages 415, 416, and 417 of the Hearings before the Committee on the Merchant Marine and Fisheries, April 4 to 13, 1906.)

SOME RECENT EXPERIENCE.

FORE RIVER SHIPBUILDING COMPANY,

Quincy, Mass., February 3, 1908.

MY DEAR SENATOR: When the ocean mail bill comes before the Senate, I presume there will be questions raised as to the influence of the tariff upon the cost of shipbuilding, and particularly as to the tariff on steel.

For this reason I wish to lay before you certain facts in my experience.

We have built during the last eighteen months nine vessels for the coasting trade, all of which, however, are of a type which would render them adapted to the foreign trade. The price paid for American structural steel in these vessels was \$42 per ton delivered in our shipyard. At the time this steel was purchased the market price in England for ship steel delivered at any port or shipyard was \$38.75 per ton. The cost of English ship steel delivered in our shipyard would have been \$41.50 per ton if imported free of duty. Therefore if we had purchased the steel in England free of all duty we would have saved \$0.50 per ton on the steel used, which would have amounted to a saving of about one-fourth of 1 per cent on the cost of the vessels, the cost of structural steel in these vessels averaging about 18 per cent of their total cost.

I know of no other item of building material upon which any saving would have been made by importing free of duty. The shipbuilder classes as material a large amount of manufactured goods which he buys in the open market, such as piping, valves, pumps, steam winches, windlasses, steam steering gear, electric motors, generators, evaporators, distillers, hardware. If we could purchase these items at the same price as they are purchased in England, we might effect a further saving of 10 per cent in the cost of the vessel.

The shipbuilder's cost of the vessel is divided almost equally between labor and his materials, and of the items that he calls materials from 50 to 75 per cent is labor, depending on where you start with raw material, and from the facts in my possession the average cost of wages of the classes of labor employed in shipbuilding and allied arts is from 60 to 80 per cent greater in this country than it is on the other side.

That is to say, the fact that ships cost from 30 to 50 per cent more to build in this country is due almost wholly to the difference in the wages paid.

Very sincerely, yours,

FRANCIS T. BOWLES,

President.

HON. HENRY CABOT LODGE,

U. S. Senate, Washington, D. C.

These expert witnesses emphasize not only the fact that there is very little difference in cost between the American and the foreign ship steel, but also the fact that the cost of materials is of minor consequence anyway, and that the price of a ship is made up chiefly of the cost of the labor employed in working up the materials and putting them together.

Mr. Chairman, in the course of my remarks I was interrupted by the gentleman from Kentucky [Mr. SHERLEY] who desired to be informed as to the cost of transporting the mails to the ships and how the profits were arrived at. I did not then have time to go into the matter in detail. Answering his question now, permit me to say that the total weight of all mails originating in the United States for the year ended June 30, 1907, was 1,315,833,408 pounds. The total weight of the foreign mail dispatched by sea to foreign countries for the same year was 15,422,830 pounds, or less than 1.2 per cent of the total.

The total post-office revenue from all sources for the same period was \$183,585,005, and the total postage collected on articles exchanged with foreign countries other than Canada and Mexico is estimated at \$6,579,043, or 3.6 per cent of the total revenue. Thus the ocean mails, constituting only 1.2 per cent of the weight of our mails, brought in 3.6 per cent of our postal revenues.

Our post-office expenditures for the past year were \$189,935,242.79, and the actual net cost of the foreign mail service, according to the superintendent of foreign mails, was \$2,941,816.67, exclusive of the cost of transporting such mails to the United States exchange post-offices at the seaboard and from the places where they were mailed. Our foreign mail service may be charged also with its share of railroad transportation. The foreign mails, as stated, were less than 1.2 per cent of the total volume of mails. The cost of railroad mail transportation was \$43,896,928.32. Of that sum 1.2 per cent is \$526,800. Large portions of our foreign mails arise in the seaboard cities which are the centers of export and import trade, and such letters and papers never touch a railroad car. Evidently, therefore, the cost of transporting to the seaboard mails for foreign countries is much less than \$526,000.

By weight, out of every 1,000 letters, cards, newspapers, and so forth, mailed in the United States, only 12 are for foreign countries. The largest item of postal expenditures is \$51,214,695.90 for pay of postmasters, their assistants, and clerks. Our domestic mail business is so enormous in proportion to our foreign mail business that not one postmaster or assistant owes his position to the foreign mails, and only a few clerks in New York, San Francisco, New Orleans, and other seaboard cities. The proportion of the postal salary list which

may be fairly charged against the ocean mails is inappreciable.

The third great item of postal expenditure is \$26,653,304.36 for rural free delivery, a system maintained and developed entirely apart from the foreign mails, except perhaps in those parts of the country devoted to agriculture and tilled by a large immigrant population.

The city delivery—\$23,248,539.90—and the railway mail service—\$15,175,587.76—are systems owing their creation and maintenance to domestic necessities, entirely apart from the foreign mails, and only inappreciably supported out of the foreign mails.

Thus, in addition to \$2,941,816.67 for ocean mail transportation, the foreign mail service of the United States can not on any reasonable basis be charged with more than \$800,000 for other items, or, say, a total cost of \$3,750,000, against total receipts of \$6,579,000, leaving a surplus of \$2,829,000.

The Postmaster-General reports that since 1857 the receipts of his Department have nearly doubled every ten years and the expenditures have increased accordingly. The following shows the increase in volume and finances of our foreign ocean mails:

	Weight.	Receipts.	Cost.	Surplus.
	<i>Pounds.</i>			
1907	15,422,000	\$6,579,043	\$2,941,816	\$3,637,226
1900	8,325,000	\$3,467,139	\$2,014,537	\$1,452,601
Increase	7,097,000	\$3,111,904	\$927,279	\$2,184,625
Per cent increase	85	89	46	150
Annual increase	\$1,013,857	\$444,129	\$132,468	\$312,939
Per cent increase	12.1	12.7	6.5	21

On the average for the past seven years the volume of the ocean mails has increased annually a trifle over 12 per cent, the postage for ocean mails nearly 13 per cent, the cost of ocean transportation only 6½ per cent, and the profits, so to speak, and subject to the qualifications already stated, 21 per cent. Thus the volume and receipts of the ocean mail service are increasing faster than the average postal business of the country, and by maintaining a cheap and inefficient mail service to South America, Australia, and Asia the cost increases less than the general cost of the postal system and a surplus is created in that branch of the business—exceptional in postal administration.

Banking Laws of the United States.

SPEECH

OF

HON. CHARLES A. LINDBERGH,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. LINDBERGH said:

Mr. SPEAKER: I had hoped that there would be no necessity for explaining my vote against the Vreeland currency bill, on any party line. Some may, however, get the impression that the measure is a political one, from the fact that most Republicans vote for it and all Democrats vote against it. This idea would seem to be somewhat reinforced because of the fact that both Republicans and Democrats had their separate caucuses to figure out what might be their action, but even all that does not make the Vreeland bill a party question except for those who wish to consider it so.

It is eminently proper for Representatives of any party, or for any number of Representatives outside of party, to meet in caucus for the purpose of considering any question of importance, provided the individual Members are left free to act in good faith with their respective constituents. No Member has a right to pledge his individual Representative vote on any question to a majority of any separate body from that of the House of Representatives. Every Member must represent his district on the floor of the House free from any outside domination. Otherwise the district might lose its representation on the floor of the House in the final analysis of any question.

Neither caucus, as I understand, required anyone present to be bound by the caucus. The idea, as I understand it, was to consider what might be best, and, if possible, to agree on something reasonable.

My vote against the Vreeland bill is based upon my opinion that the bill is unsound and, if passed, will at some future day prove to be a serious damage. Hasty action on any money bill is likely to lead to danger. We had a very costly experience with the silver-purchase act that everybody remembers. Several bills before this Congress have met with favor at first and with disapproval later. This Vreeland bill has had a series of evolutions within the period of the present session. I think the seventh edition confronts us in fresh ink this morning. It was not to be had when we first came upon the floor. It has been materially amended, and we are asked to pass it on a three-hour gag debate, without a chance to sound the wishes of those who sent us here to represent them.

In view of the above facts, I am acting upon my independent judgment, based upon the amended bill. My constituents are opposed to the Vreeland bill so far as they have had a chance to see it. They can not know this morning what this bill is.

There are numerous objections to the bill, but I shall confine my explanation to one alone that I consider sufficient to justify my vote against the rule of limit of debate to three hours and against the bill.

First. If this bill becomes a law as supplemental to our present laws, we will have on our statutes laws that make it legal for ten men—five may organize, but no less than ten can legally borrow all the capital and surplus—to organize a national bank with \$500,000 capital stock by paying in \$250,000 on opening. These same ten men could legally borrow from their own newly organized bank from the deposits that usually come to a bank with that capital, \$500,000, and pay \$250,000 of their loan into the bank and the other \$250,000 would fully pay their capital stock. Or they could borrow their original \$250,000 and give their notes for \$500,000. That would leave the bank their ten individual commercial notes that would be legal assets on which to base emergency currency. In the same way they may legally add the 20 per cent surplus.

Second. The same ten men with the original \$250,000 in their hands, could start a second national bank with the same capital in the same or some other town, and borrow its funds in the same way as they did from the first, and with their original \$250,000 back again start a third national bank. The same process could be repeated ten times. They would have the ten banks and the \$5,000,000 required by the Vreeland bill to incorporate as a national clearing-house association.

They could legally take the \$5,000,000 commercial paper of these same ten men and pledge it to their own national clearing-house association and apply to the Comptroller of the Currency to secure emergency currency, and, if in the judgment of the Secretary of the Treasury, business conditions in the locality demanded additional currency he could direct it. These ten men sharpers might create some such conditions.

These ten men who had up their \$5,000,000 notes in their own association, over which they themselves preside, might spend their original \$250,000 and each be insolvent and even worthless. The name only of the association requires approval for incorporation.

Money may be legally secured from the United States by such an institution as I have named under the Vreeland bill. No fraud need be practiced to do it. All that would be necessary would be to follow the law with a little care to conceal the insolvency of the makers of the notes. Law presumes them to be solvent. It must be discovered if they are not.

I do not say that what is made possible under the bill would happen. It probably would not. But in the full light of what frenzied finance has done in the last ten years it is not free from objection.

It seems to me it is our duty to legislate with a view to a better equilibrium in the distribution of commercial opportunity in favor of the plain, producing people. That has been the object of the last few years' strenuous agitation. We have made progress. It seems unfortunate that we should now be in such haste concerning our own little individual election affairs as to be willing to jeopardize the interests of a nation in the limit to a three hours' debate to pass a bill on the money question that in its new form first appeared this morning—a bill that carries an amendment that the country knows nothing about and has had no time to consider. On the law of general averages alone it might be safe to vote against a bill that has been changed seven times in less than six months, and the last change within three hours, less than half a day from the time we are compelled to vote for or against it.

Agricultural Appropriation Bill.

SPEECH

OF

HON. WILLIAM E. COX,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, April 1, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 19158) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909—

Mr. COX of Indiana said:

Mr. CHAIRMAN: This discussion has taken a very wide latitude. Like the first gentleman from New York [Mr. DRISCOLL], I received a petition from the National Grange, asking my support for a bill which proposes for the Federal Government to formulate some plans to improve the highways of the country, and along with the petition I received a copy of a bill introduced in this House by the gentleman from New Hampshire [Mr. CURRIER]. I am one of the men whom the gentleman from New York [Mr. DRISCOLL] calls a Democrat, and says that he found that I had introduced a bill seeking to procure aid from the Federal Government for the improvement of the public highways of the country. I am perfectly willing that he make my bill a part of his remarks, and, for fear he will not, I will myself.

On December 19 last I introduced the following bill, which was referred to the Committee on Agriculture:

A bill (H. R. 10501) to establish in the Department of Agriculture a bureau to be known as the Bureau of Public Highways, and to provide for national aid in the improvement of the public roads.

Be it enacted, etc., That there shall be established in the Department of Agriculture a bureau to be known as the Bureau of Public Highways.

Sec. 2. That the object and purpose of said bureau shall be to cooperate with the various States and Territories of the United States, or civil subdivisions thereof, in the construction and improvement of permanent public roads according to the provisions of this act; to make investigations and experiments in regard to the best methods of road making and the best road-making materials; to cooperate with the various States and Territories of the United States, or the civil subdivisions thereof, in the construction of object-lesson roads; to publish and distribute bulletins and reports on the subject of roads and road improvement; to bring about, as far as may be, a uniform system for the repair, improvement, and construction of the public roads throughout the United States.

Sec. 3. That the said bureau shall consist of three commissioners, to be known as "Commissioners of Highways," two of whom shall be appointed by the President, by and with the advice and consent of the Senate, in the following manner: One from the political party in control of the Executive branch of the Government, who shall be the chairman of the commission; one from the largest minority political party. Both of the aforesaid commissioners shall have practical knowledge of road engineering and construction and shall receive a salary of \$5,000 per annum each. The President shall detail to service as the third member of said commission an officer of the Engineer Corps of the United States Army, on the active list, of rank not below that of captain, who shall receive, in addition to the pay allowance of his rank in the United States Army, a sum sufficient to make \$5,000 per annum. The said commissioners of highways shall appoint, subject to the approval of the Secretary of Agriculture, such other officers, agents, and servants as may be required to carry into effect the provisions of this act: *Provided*, That the said commissioners of highways shall be under the general supervision of the Secretary of Agriculture, who shall exercise general jurisdiction over all matters and acts coming under their control by virtue of this enactment.

Sec. 4. That after the expiration of six months from the date of the approval of this act any State or Territory or civil subdivision thereof, after complying with the provisions of this act through the proper officers having jurisdiction of the public roads, may apply for aid in the improvement or construction of the public roads or sections thereof located in said State or Territory or civil subdivision thereof.

Sec. 5. That no State or Territory, or civil subdivision thereof, shall be entitled to receive the benefits of this act until it shall have established to the satisfaction of the said commissioners of highways: First, that the highway or section thereof sought to be improved or constructed is of sufficient public importance as to come within the purview of this act, taking into account the use, location, and value of such highway or section thereof for the purposes of common traffic and travel and for the delivery of the mail of the United States; second, that the requisite right of way for the improvement and construction of the highway or section thereof has been secured; third, that the highway or section thereof when constructed or improved will be maintained and kept in repair without recourse upon the United States; fourth, that the State or Territory, or civil subdivision thereof, has by its proper authority having control of the highways in said State, Territory, or civil subdivision thereof, signified its willingness and desire to improve said highways by draining, rocking, or macadamizing the same and by causing said highways so sought to be improved to be surveyed by a competent engineer, and an estimate of the cost thereof made and filed in the office of the court, commissioner of highways, or with any person or persons who has control and jurisdiction of the highways of any State or Territory or civil subdivision thereof, together with a map, plat, chart, or profile of said highway or highways sought to be improved as aforesaid: *Provided further*, That said States or Territories, or civil subdivisions thereof, shall stand all costs of said survey, making and filing of said profiles, maps, or plats of said highway sought to be improved as aforesaid, together with one-half the cost

of construction and building of said highways by draining, rocking, or macadamizing the same with rock, gravel, or some other solid or durable material: *Provided further*, That when a certified copy of said survey, profile, map, or plat of said proposed highway, duly certified under the seal of the court, commissioner of highways, or any person or persons who may have control of the highways in said States or Territories, or civil subdivisions thereof, or with whom or in whose office said profiles, maps, plats, or charts of said highway and the estimated cost thereof has made suitable provision by taxation, appropriation of money, or otherwise to pay for one-half of the cost of the improvement or construction of said highways sought to be improved or constructed, be filed with the Bureau of Public Highways, and if said bureau approve the improvements of said highways as therein set out said bureau shall mark the same approved, or if said bureau shall not approve the same said bureau shall cause said highways to be again surveyed by an engineer to be appointed and paid for by said bureau, whose duty it shall be to carefully survey said highways sought to be improved, make and file profiles thereof, together with the estimated cost thereof, with the bureau, and it shall then be the duty of said bureau to mark the same approved.

Sec. 6. That when said Bureau approves of the plan of improving the highways of any State or Territory, or civil subdivision thereof, as set forth in section 5 of this act, then one-half of the expense of the improvement or construction of said highways of any State or Territory, or civil subdivision thereof, as are herein sought to be improved (except the cost of making said original survey, making and filing profiles, maps, or plats thereof) shall be paid by the Treasurer of the United States upon the warrant of the Secretary of Agriculture, issued upon the requisition of said commissioners of highways, out of any specific appropriation made to carry out the provisions of this act: *Provided*, That nothing herein contained shall prevent the said States or Territories from distributing their portion of the costs among their several subdivisions: *Provided further*, That nothing herein contained shall prevent the said States or Territories, or civil subdivisions thereof, from receiving credit for all labor, material, and machinery used in the construction or improvement of said highway or section thereof: *Provided further*, That no money shall be advanced by the United States in payment of its proportion of the expense of the improvement or construction as herein provided for, except as the work of actual construction progresses, and in no case shall the payment, or payments made prior to the completion of the work, be in excess of 80 per cent of the value of the work actually performed.

Sec. 7. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act, the sum of \$30,000,000, the said appropriation to be available at the rate of \$10,000,000 a year during the years 1908, 1909, and 1910. If any of the appropriation herein made is not expended in the year named, that portion not expended shall become available the succeeding year: *Provided*, That the provisions of this act shall only apply to post-roads now or hereafter to be established by the United States in any State or Territory, or civil subdivision thereof.

I have no apologies to offer for having introduced this measure, believing then and still believing that the principle aimed at in the bill was a just as well as a righteous principle. I do not claim perfection for it—far from it; but I do claim it contains a correct idea, an idea I sincerely hope in the not distant future to see incorporated into a Federal statute.

Section 1 of my bill provides that there shall be established in the Department of Agriculture a Bureau of Public Highways.

Section 2 provides for a cooperation between the States or civil subdivisions thereof and the Federal Government as to the best plans to be adopted for making, building, and improving the public highways of the country.

Section 3 provides that the Bureau of Public Highways shall consist of three commissioners, to be known as the "commissioners of highways," and said board to be nonpartisan.

Section 4 provides that after the expiration of six months States or civil subdivisions thereof, after complying with the various provisions of the act, may apply to the Federal Government for aid in the construction of their highways.

Section 5 provides what the States or civil subdivisions thereof must do before they can receive aid from the Government in the improvement of their public highways; and further provides that after the States or civil subdivisions thereof have done certain things, that then it becomes mandatory upon the Federal Government to do its part.

Section 6 provides that one half of the cost of improvement of the highways shall be borne by the United States, and that the other half must be borne by the States or civil divisions thereof, except the cost of the original survey, making and filing of maps, plats, etc., which must be borne by the States or civil subdivisions thereof.

Section 7 appropriates \$30,000,000 for carrying into effect the provisions of the act, and makes \$10,000,000 available for the year 1908, \$10,000,000 for the year 1909, and \$10,000,000 for the year 1910, and further makes the act apply only to postal roads as are now or hereafter established by the United States in any State or Territory or civil subdivision thereof.

Mr. Chairman, I doubt the wisdom or the propriety of the United States building the highways upon which it has now established postal roads, but I do not doubt its right or its power so to do. I doubt the wisdom of it for several reasons: First, if the Federal Government built the roads, it would have complete power and dominion over them after they were built and constructed. Second, it may involve the States and the Federal Government in numerous wrangles and disputes, which ought to be avoided whenever and wherever practicable so to do. Third, it would destroy, or at least tend to destroy, the am-

bition and the initiative of the States or civil divisions thereof and cause them to lean upon the Federal Government for support in all things which the States themselves could and ought to do. To avoid these objections and to stimulate and throw the burden upon the States, or civil subdivisions thereof, of doing something along this line of improving the highways of the country, a careful reading of section 5 of my bill will, in my judgment, avoid the objections spoken of.

Under this section, before one dollar can be appropriated out of the Federal Treasury to aid in the construction and building of highways, the States or divisions thereof must do four things, namely: First, establish the fact that the highway sought to be improved is of sufficient public importance, taking into consideration the public travel thereon, the carrying of United States mails, etc. Second, that the right of way has been procured by the States or civil subdivisions thereof. Third, that the highway, when constructed and improved, will be kept in repair by the States or divisions thereof without recourse upon the Federal Government. Fourth, that the States or civil divisions thereof have signified their willingness to improve their highways by having the same surveyed, profiles thereof filed, and making arrangements for the construction of at least one-half of the total cost of the highway, including all of the original cost of making survey, filing profiles, etc. Then, and not till then, will any State or any part of any State be permitted to share in any aid from the Federal Government in the improvement of the highways.

Mr. Chairman, I believe in the doctrine of self-reliance as applied to a State or civil subdivision thereof, such as county, parish, or township as much as when applied to an individual, but when questions of such magnitude as improving the public highways of the country have outgrown the power or ability of the States to cope therewith, then I believe the Federal Government should come to the aid of the States and aid them in this commendable enterprise. If the Federal Government is to assume complete control over the highways of the country by determining what highways shall be improved, where they shall be improved, and how, or in what way or manner they shall be improved, to the exclusion of the States, or the body politic in the States, having control and jurisdiction of the highways within the States, this is one thing, and one thing, I may say, to which I am unalterably opposed. But, on the other hand, if a State, or any civil subdivision thereof, having jurisdiction of the highways of the State, county, or township is desirous of improving the highways in its jurisdiction by determining the time, place, and method of improving the same, and desires aid from the Federal Government on this line, this is indeed quite another thing, and it is this last proposition that I am unalterably in favor of and to which I heartily give my support. But before this can be accomplished one of two things must of necessity occur: Either the States must be induced to adopt and enact uniform laws as to taxation for highway-improvement purposes, or else a Federal statute must be passed by Congress fixing the terms and conditions upon which States, counties, or townships can share in this Federal aid, thereby forcing the States to take the initiative in road improvement.

Last summer I procured a copy of the road laws of thirty-one States of the Union, and upon reading the laws of these various States, I find as much diversity as there are States, no two States having exactly the same law. Under the law in my own State (Indiana) all of the highways of the State are under the control of the board of commissioners in each county in the State, and the board of commissioners is composed of three men, elected by the electors of each county. If fifty freeholders or more in any township petition the board of commissioners of a county, stating in their petition the desire to improve certain highways in their township by grading, rock-ing, or macadamizing the same, it then becomes the duty of the board of commissioners to submit this question to a popular vote of the township; and if a majority of the voters of the township decide in the affirmative, the board of commissioners is then authorized under our statute to sell the bonds of the township, based upon the total assessed valuation of all the property in the township, equal to 4 per cent of the value of said property and payable in semi-annual payments for twenty years. To illustrate: If the total assessed value of all the property in a certain township is \$500,000, the board of commissioners would be authorized to sell the bonds of the township to the amount of 4 per cent of the \$500,000, creating a fund of \$20,000 for the improvement of the highways in the township. One-fortieth of these bonds mature every six months, and the entire amount matures in twenty years. This looks like a heavy drain upon the taxpayer, yet the payments are so arranged that it does not operate as a burden upon the people, and especially is the burden small as compared to the benefits accruing to the farmers or people living in the rural districts.

Mr. Chairman, practically every State in the Union has some system of taxation for the improvement of its highways, but the lack of uniformity of legislation among the States makes it indispensable for the Federal Government, if it enters upon this era of legislation—and I hope it will—to either enter upon it itself, independently of the States, or else enact a law fixing the terms and conditions upon which the States may receive aid from the Federal Government in the enterprise of improving the public highways of the country.

POWER OF THE GOVERNMENT TO IMPROVE THE HIGHWAYS OF THE COUNTRY.

By section 8, subdivision 3, of the Constitution of the United States it is provided that Congress has power "to regulate commerce with foreign nations and among the States and with the Indian tribes."

By subdivision 7 of section 8 it is provided that "Congress has power to establish post-offices and post-roads."

By subdivision 12 of section 8 it is provided that Congress has power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

By subdivision 13 of section 8 it is provided that Congress has power "to provide and maintain a navy."

By subdivision 18 of section 8 it is provided that Congress has power "to make all laws which shall be necessary and proper for carrying into effect all of the foregoing powers."

That Congress has power to establish post-roads goes without saying. Indeed, it is plainly provided for in the Constitution itself. If it has the power to establish post-roads, it likewise has the power to acquire an easement over the real estate for this identical purpose, and it has equal power to determine the kind and character of the road, the way and manner it shall be made, the kind of material, and so forth, to be used in the improvement of the road—all these powers are plainly and expressly written in the Constitution itself. And if the power be not expressly given in this clause of the Constitution by subdivision 18 of section 8, it is plainly provided that Congress shall have the power to make all needful rules and regulations which may be necessary for the carrying into effect the provisions of the foregoing articles of the Constitution. Under this provision it is plain that Congress has complete and plenary power to enact laws to improve the post-roads of the United States. If it has this power, then it necessarily follows that it has the power to enact a law fixing the terms and conditions upon which the States, counties, or townships may participate in Federal aid for the improvement of the post-roads throughout the country.

Under the part of the Constitution giving Congress the power to raise and support armies, and appropriate money therefor, Congress has from time to time since the adoption of the Constitution down to the present day appropriated of the people's money for this very purpose, as follows:

Congress appropriated for the Army during the years—

1899	\$23,193,392.00
1900	80,430,204.06
1901	114,220,095.55
1902	115,734,049.10
1903	91,730,138.41
1904	77,888,752.83
1905	77,070,300.88
1906	70,398,631.64
1907	78,634,582.75
1908	85,007,566.56
Total	\$814,305,711.78

or an average of \$81,430,571.17 per year.

Under the provisions of the Constitution authorizing the Government to maintain a navy, Congress appropriated therefor during the years—

1899	\$56,098,783.16
1900	48,099,969.15
1901	65,140,916.67
1902	78,101,791.00
1903	78,856,363.13
1904	81,876,791.43
1905	97,505,140.94
1906	100,336,679.94
1907	98,958,507.50
1908	149,756,476.00
Total	\$61,974,943.77

or an average of \$86,197,494.37 per year.

Congress appropriated for the Post-Office Department during the years—

1899	\$99,222,300.75
1900	105,634,138.75
1901	113,658,238.75
1902	123,782,688.75
1903	138,416,598.75
1904	153,511,549.75
1905	172,546,908.75
1906	181,022,093.75
1907	212,091,193.00
1908	220,765,392.00

making a total amount of money appropriated by Congress for postal purposes in ten years \$1,520,651,193, or an average of \$152,065,119.30 per year.

Congress has always assumed control over all navigable rivers and lakes in the United States, and to improve the rivers, harbors, and canals Congress appropriated during the following years: (This does not include any appropriation for the construction of the Panama Canal.)

1890	\$40,207,778.46
1900	1,516,694.48
1901	24,330,795.94
1902	1,391,121.03
1903	54,284,317.80
1904	12,302,592.81
1905	28,037,711.23
1906	2,034,419.32
1907	62,371,639.80

making a total amount of money appropriated for rivers and harbors during the nine years of \$225,477,070.87, or an average of \$25,053,007.87.

Congress appropriated for the Agricultural Department during the following years—

1899	\$3,509,202.00
1900	3,736,022.00
1901	4,023,500.00
1902	4,582,420.00
1903	5,288,960.00
1904	5,978,160.00
1905	5,902,040.00
1906	6,882,690.00
1907	9,447,290.00
1908	11,431,346.00

a total in ten years of \$60,771,630, or an average of \$6,077,163 per year.

First session Fifty-fourth Congress appropriated..... \$469,494,010.41
Second session Fifty-fourth Congress appropriated..... 485,002,044.72

Total appropriations for Fifty-fourth Congress..... 954,496,055.13

First session Fifty-fifth Congress appropriated..... 862,682,487.06
Second session Fifty-fifth Congress appropriated..... 690,607,188.54

Total appropriations for Fifty-fifth Congress..... 1,553,349,675.60

First session Fifty-sixth Congress appropriated..... 719,278,826.80
Second session Fifty-sixth Congress appropriated..... 757,607,464.72

Total appropriations for Fifty-sixth Congress..... 1,476,886,291.61

First session Fifty-seventh Congress appropriated..... 796,633,864.79
Second session Fifty-seventh Congress appropriated..... 736,578,402.76

Total appropriations for Fifty-seventh Congress..... 1,533,212,267.55

First session Fifty-eighth Congress appropriated..... 781,172,375.18
Second session Fifty-eighth Congress appropriated..... 820,184,634.96

Total appropriations for Fifty-eighth Congress..... 1,601,357,010.14

First session Fifty-ninth Congress appropriated..... 879,589,185.16
Second session Fifty-ninth Congress appropriated..... 920,798,143.80

Total appropriations for Fifty-ninth Congress..... 1,800,387,328.96

Estimated appropriation for this session of Congress..... 1,000,000,000.00

Mr. Chairman, I am not finding fault with these enormous appropriations, but I am simply calling attention to them, along with the several appropriations made for the support of some of the Departments of the Government, particularly military, Navy, post-office, rivers and harbors, and Agriculture, that the people of the country may draw their own conclusions and deductions therefrom, with a view of seeing whether or no the agricultural class of the country is receiving its just share of appropriations in proportion to its population, its wealth, and its share of taxes that it contributes for the support and maintenance of the Federal Government. That the Army and Navy must be kept and maintained no one denies, but all admit, because both of these branches of the Government are provided for in the Constitution and are therefore national in character, but they are no more provided for in the Constitution than the establishment of post-roads in the United States, and therefore no more national in their scope or power than these thoroughfares of commerce.

In the past ten years there has been expended upon the Army the enormous sum annually of \$81,430,571.17, and during the same period of time there has been expended yearly on the Navy more than \$86,197,494.37, making a constant drain upon the resources of the country yearly in these two Departments of the Government of \$167,628,065.54. I am not criticising this enormous expenditure of the people's money along the line of militarism, but it strongly argues the proposition that we are fast becoming and fast approaching a military oligarchy, depending for our safety as a Union not upon our patriotism, nor upon the doctrine taught by the Redeemer—"On earth peace, good will toward men"—nor upon our natural resources, but solely by taxing our resources to the utmost in appropriating

the people's money to maintain armies and build powerful navies, both of these being engines of destruction, instead of being munitions of peace, happiness, and prosperity. It strikes me that the true and correct policy to pursue is to stop this unwise and pernicious practice of building up a strong army and a strong navy and turn our attention to aiding the people in the commendable and laudable purpose of improving the highways of the country.

During this same period of time Congress appropriated for the Agricultural Department the small sum of \$6,077,163 per year.

In 1904 the total assessed value of continental United States was \$107,104,211,917. This included all kinds of property, real and personal, corporate, and every other species and kind of property whatsoever.

In 1900 the total value of all farm property in the United States was.....	\$20,514,001,838
Land and improvements, except buildings.....	13,114,492,056
Buildings.....	3,560,198,191
Improvements and machinery.....	761,261,550
Live stock.....	3,078,050,041
Value of farm products.....	4,717,069,973
Value of crops.....	2,998,704,412
Value of products not fed to live stock.....	3,742,129,357
Animal products.....	1,718,365,561
Value of crops not fed to live stock.....	2,023,763,796

Total value of farm property, real estate, buildings, machinery, live stock, and crops..... 57,946,352,236

Mark you, this was in 1900, eight years ago. In my judgment the value of this same property to-day is at least \$75,000,000,000.

The estimated population of continental United States June 1, 1907, was 85,523,761; in 1900 the population in country districts, including towns having less than 2,500 inhabitants, was 45,411,164. The number of farm families was 5,689,838. The total number of farms was 5,737,372.

Mr. Chairman, it will be seen by these figures that as far back as 1900 more than one-half of the combined wealth of the country was owned by the farmers. This class of people always have contributed their share and much more than their share to the support and maintenance of the Federal Government.

The bill under consideration appropriates for public roads \$87,390.

The total amount of money appropriated by this bill for the Department of Agriculture is only \$11,431,346.

I invite a comparison of the appropriations for the Agricultural Department with the appropriations made for the Army, Navy, post-office, and rivers and harbors and the appropriations for the highways in this Department, as compared with the total wealth of the United States, and the division of this wealth among the farmers of the country, with a view of seeing whether or not the farmers of the country are receiving their share of the appropriations.

It was not, Mr. Chairman, until February 9, 1889, one hundred years after the Government was organized, that the Department of Agriculture was organized, and as such entitled to a seat in the President's Cabinet. No doubt this Department, since it was organized, has done an incalculable amount of good for the farmer in the way of making experiments, distributing literature, disseminating knowledge and information upon scientific farming, and so forth, and in various other ways; but, in my judgment, nothing would improve the financial and social condition of the farmers like the improvement of their highways, by grading, rock, or macadamizing them. They are willing to undertake this huge task and do their whole duty, and do it patriotically; but the task for them is too huge, it is too great, it is insurmountable so far as they are individually and personally concerned, and they only ask in return from the Federal Government a reasonable aid along this line. All these years they have withstood the mighty drain upon their resources in these vast appropriations without receiving any direct benefits in return. It is time that some of this vast amount of money raised by appropriations for the purposes of the Government was given to them for the improvement of the highways of the country, and thereby equalize, as far as practicable, the burden of taxation.

On March 3, 1893, Congress appropriated \$10,000 to be used by the Post-Office Department as an experiment, with a view of determining whether or not it was practicable to establish rural free deliveries in the country. This experiment was carried on until 1902, when Congress by law made it a permanent branch of the Post-Office Department. Appropriations for this purpose have consequently grown from year to year, until the year 1907 Congress appropriated for this purpose \$34,900,000, and for the year 1908 it appropriated the enormous sum of \$35,000,000. From a small beginning this system of free rural delivery has grown until April 1, 1908, there were in the United

States 39,038 rural delivery routes in operation throughout the United States, the approximate total mileage of these routes being 935,579 miles, divided among the States and Territories as follows:

States and Territories.	Mileage.	States and Territories.	Mileage.
Alabama.....	20,826	Nebraska.....	25,959
Arizona.....	221	Nevada.....	25
Arkansas.....	7,736	New Hampshire.....	4,797
California.....	6,650	New Jersey.....	6,020
Colorado.....	2,622	New Mexico.....	201
Connecticut.....	5,584	New York.....	40,828
Delaware.....	2,385	North Carolina.....	27,594
District of Columbia.....	121	North Dakota.....	9,056
Florida.....	3,215	Ohio.....	59,506
Georgia.....	35,823	Oklahoma.....	21,750
Idaho.....	1,633	Oregon.....	4,814
Illinois.....	67,239	Pennsylvania.....	47,879
Indiana.....	59,720	Rhode Island.....	685
Iowa.....	59,669	South Carolina.....	15,946
Kansas.....	45,126	South Dakota.....	12,784
Kentucky.....	15,771	Tennessee.....	35,739
Louisiana.....	2,329	Texas.....	40,032
Maine.....	10,010	Utah.....	1,040
Maryland.....	8,789	Vermont.....	7,193
Massachusetts.....	6,008	Virginia.....	20,188
Michigan.....	47,688	Washington.....	5,780
Minnesota.....	40,484	West Virginia.....	6,783
Mississippi.....	13,549	Wisconsin.....	38,555
Missouri.....	47,232	Wyoming.....	188
Montana.....	804		

When this work was started it was believed to be impracticable, because it was thought the task was too great. Notwithstanding these prophecies, the work has gone right along until to-day it is an assured fact. No man would to-day think of the Government abandoning this policy. It will be pushed until the entire domain of the United States is one network of rural routes.

If an appropriation of \$35,000,000 had been asked for this project at its beginning, it would have met with determined opposition, so much so that no doubt it would have been defeated. But by beginning with a small amount of money, appropriated for this purpose, the people have become educated along these lines. Practically all the people are to-day in favor of rural routes.

No one believes for a moment that the Government could withstand the drain upon its resources to undertake to aid the States in improving all the rural routes throughout the United States at one and the same time; but a beginning is all they want, and if we but begin this matter by making an appropriation for this purpose of only \$10,000,000 for the first year, I believe that such unbounded beneficial results will flow from it that people will soon see its wise and beneficent effect, and, like the rural routes, they will continue it, until at the end of a quarter of a century we will see all the great thoroughfares of commerce rocked, bought, paid for, and owned by the people.

The National Congress of Deep Waterways is now openly demanding of Congress an annual appropriation of the people's money of not less than \$50,000,000 for the purpose of increasing the transportation facilities of this country. Why not the farmers of the country make a similar demand, and why not give it to them?

There is no politics in this question. It is simply a question of equal and exact justice to all, with exclusive privileges to none. It is but a demand for an equal appropriation of the people's money to a class of people who have always stood their share of the burdens of the Government; it is but a demand for equality under the law. No better time to begin than now. To-day there is an available cash balance of the people's money in the Treasury of the United States of \$250,696,614.18.

Let this money go out into circulation by improving the highways of the country, and you will furnish work for the vast army of unemployed men now idle, and begging for bread; and in so doing we will build the country up, as it deserves to be built up, and aid a class of people that are deserving in their demands.

Sixty-seven and one-half per cent of the total revenues of the Government are to-day being expended in support of militarism directly and indirectly. This is, indeed, an appalling statement, nevertheless a veritable fact. If only one-third of this amount was given by the Government to aid the States or civil divisions of the States in the improvement of the highways of the country, in my judgment, in years to come by far a larger per cent of interest would be yielded to the Federal Government than will be if the policy be continued of constantly taxing the people for the support and maintenance of the military branch of the Government. This question is not

a new question by any means, but it is as old as Rome. The policy of the Government building roads was practiced by the Romans before the birth of Christ, and the roads built by the Roman Empire stand to-day as the wonder and admiration of the world.

Other governments in modern times, seeing the necessity of building up the highways of the country, have come to the rescue of people living in the rural districts. The Governments of France, Germany, Switzerland, and Italy are to-day appropriating millions of dollars to aid the people living in the rural districts to build and maintain the highways of the country.

Shall we, the most enlightened Government upon the face of the earth, take a backward step upon this advanced ground, or shall we be equal to the task and listen to the appeals of the people living in the rural districts, and aid them in the improvement of their highways? The strength of this country does not lie in the maintenance of standing armies, the building and equipment of powerful navies, but its strength lies, and I trust it always will lie, in the farmers of the country; and in order to strengthen them along these lines, it is time that the Federal Government should realize the just claims which they have upon it and begin the wise process of aiding them in the improvement of their public highways. [Loud applause.]

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES.

Friday, March 6, 1908,

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. HINSHAW said:

Mr. CHAIRMAN: H. R. 16143 is a bill reported favorably by the Committee on Insular Affairs. All the Republican members of that committee favor it, but four of the Democratic members for some reason oppose it. It provides that the sum of \$403,030.19 be paid to the Archbishop of Manila for the use and occupation of various cathedrals, other church property, and school buildings in the Philippines during the insurrection there and for a part of the damages done to such property during such occupancy. The chief questions involved are: First, to whom should this money be paid? There is no controversy about the use of the property and the damages done. The highest Catholic Church authority in those islands is the Archbishop of Manila, and, under a decision of the supreme court of the islands, the Kingdom of Spain had no interest in these church and school properties and no interest therein passed to the Government of the United States under the treaty of Paris. There is really no doubt that whatever compensation is made should go to the Catholic Church of the islands, represented by the archbishop.

Secondly, for what particular items should compensation be made? A board of church claims was appointed under a special order of the War Department to pass on all these claims. This board made a careful and exhaustive investigation. It appears that the military forces took possession of churches, contiguous parish houses, school buildings, seminary buildings, etc., and used them as hospitals, prisons, or barracks. After hostilities ceased the occupation continued until suitable quarters could be constructed for the garrisons. Of course during all this time the church authorities could have no use of these buildings and could not protect them. Much damage was necessarily done. The award of the board did not give compensation for damages done by the insurgents, nor for damages incident to military operations, nor for wanton damages by soldiers of the American Army, nor for the use and occupancy and damages by servants of the civil government. After excluding all these elements of damages the board made an allowance which is very conservative, \$363,030.19.

Many claims were excluded entirely on the ground that no rent was due, or that the damages were inflicted by the enemy. To this award the committee has added \$40,000 for damages to vestments, images, and sacred ornaments, for which, however, the church claimed a much larger sum. Colonel Hull, a member of the board, testified that the allowance should be \$500,000. Secretary Taft, who was thoroughly familiar with all of the facts

and conditions, also stated that the allowance should be not less than \$500,000. The absolute justice of this claim can not, therefore, be successfully disputed. These people, as the testimony tends to show, were noncombatants, not engaged in the strife, but their property offered the most convenient protection for our soldiers in their need and the exigencies and hardships of war demanded that they should use it; but that fact does not excuse the Government from making proper payment. There are numerous cases where the Government has paid similar claims in the United States. Many cases can be cited. Here are some: The Kentucky University was paid \$25,000 for the use and occupation of their buildings by the United States troops; East Tennessee University, \$18,500; the University of Alabama was given 46,000 acres of land by Congress to reimburse for their buildings destroyed by fire in 1865, during military operations, and there are many others. The horrors of war can not be compensated for, but a just Government can and will make proper restitution to those who suffer loss, due to no fault of their own, and where a direct benefit has accrued to the Government.

The Vreeland Bill Fair to All Sections of the Country.

SPEECH

OF

HON. JOSEPH R. KNOWLAND,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. KNOWLAND said:

Mr. SPEAKER: President Roosevelt, at the opening of the present session of Congress, appreciating the necessity and general demand throughout the country for currency legislation, expressed himself as follows:

We need a greater elasticity in our currency; provided, of course, that we recognize the even greater need of a safe and secure currency. There must always be the most rigid examination by the national authorities. Provision should be made for an emergency currency. The emergency issue should of course be made with an effective guaranty and upon conditions carefully prescribed by the Government. Such emergency issue must be based on adequate securities approved by the Government, and must be issued under a heavy tax. This would permit currency being issued when the demand for it was urgent, while securing its retirement as the demand fell off. It is worth investigating to determine whether officers and directors of national banks should ever be allowed to loan to themselves. Trust companies should be subject to the same supervision as banks; legislation to this effect should be enacted for the District of Columbia and the Territories.

The demand for currency legislation is now no less insistent than it was when Congress convened. The country has waited patiently, hoping that out of all the discussion there would finally result a measure that would at least provide an emergency currency, and thus prevent a recurrence of conditions which confronted the country last year. The close of the session approached and the prospects for currency legislation apparently grew less bright. A majority of the Republican Members of the House realized that the party would be held accountable for a failure to meet the situation, the result being that a conference was called, at which there was a full and free discussion, the conference adjourning over in order to afford every Member full opportunity to express his views. At this second conference a motion prevailed by an overwhelming vote that the recognition of commercial paper through clearing-house associations be approved as a safe and logical asset for emergency currency, and that the Chair appoint a committee of five to perfect a bill, the perfected bill to be reported to the conference at an adjourned meeting to be held within five days. The conference also expressed itself in favor of a currency commission.

The committee of five, of which committee I had the honor of being a member, took the Vreeland bill as a working basis, embodying as it did provisions recognizing commercial paper as an asset for emergency currency as indorsed by the Republican conference. The special committee addressed to every Republican Member of the House a letter in which certain questions were propounded touching features of the proposed measure, and asking for additional suggestions. Fully one hundred replies were received, and in addition to these many Members verbally expressed themselves to the committee. There was a

marked unanimity of opinion among the Members generally on the main features of the bill which the committee of five finally reported to the conference. This bill was indorsed by the Republican conference by a decisive vote of 183 to 16.

One of the strongest features of the Vreeland bill is its absolute fairness to all sections of the country. The money centers are not favored to the detriment of other sections. In case of a money stringency, the State of California, for instance, will be independent of New York. At my request the Treasury Department has compiled a table showing the amount of emergency currency to which each State will be entitled under the provisions of the Vreeland bill should it become a law. To my mind this table, which is appended, is the most convincing argument in favor of this measure and should appeal to business men in all sections of the country. It means commercial independence to the West particularly. While the Vreeland bill is not a perfect measure, as even its authors admit, it is nevertheless a workable emergency measure that will unquestionably prove most satisfactory in case of another money stringency.

TREASURY DEPARTMENT,
Washington, May 18, 1908.

HON. JOSEPH R. KNOWLAND,
House of Representatives, Washington, D. C.

SIR: In reply to your verbal request of the 15th instant, you will please find herewith a table showing the distribution, by sections and States, of additional bank circulation under the provisions of the bill (H. R. 21871) providing for \$500,000,000 of emergency currency.

Respectfully,

CHAS. H. TREAT,
Treasurer of the United States.

Memoranda relative to the distribution of additional bank circulation under the provisions of the bill (H. R. 21871) providing for \$500,000,000 of emergency currency.

States and Territories.	Bank capital and surplus Feb. 14, 1908.			National bank notes outstanding.	Proportion of \$500,000,000 additional circulation.
	Capital stock paid in.	Surplus fund.	Total.		
Maine.....	\$9,301,000	\$3,328,175	\$12,629,175	\$5,787,175	\$4,345,000
New Hampshire.....	5,410,000	2,356,800	7,766,800	4,896,215	2,640,000
Vermont.....	5,685,000	1,708,212	7,393,212	4,591,234	2,530,000
Massachusetts.....	59,067,500	33,896,896	92,964,396	31,584,760	31,790,000
Rhode Island.....	6,700,250	3,555,900	10,256,150	3,975,283	3,465,000
Connecticut.....	20,230,050	9,627,300	29,857,350	12,542,367	10,230,000
Total New England States.....	106,393,800	54,443,283	160,837,083	63,347,034	55,000,000
New York.....	158,476,170	136,805,927	295,282,097	100,793,927	101,223,000
New Jersey.....	19,879,500	18,234,348	38,113,848	12,032,832	13,041,000
Pennsylvania.....	113,268,793	116,313,509	229,582,302	84,846,030	78,660,000
Delaware.....	2,311,485	1,840,650	4,152,135	1,403,707	1,242,000
Maryland.....	17,801,200	10,394,247	28,195,447	13,379,937	9,729,000
District of Columbia.....	5,402,000	3,872,000	9,274,000	5,041,047	3,105,000
Total Eastern States.....	317,079,148	287,469,681	604,548,829	218,497,480	207,000,000
Virginia.....	12,468,500	7,594,427	20,062,927	9,795,207	6,877,500
West Virginia.....	7,817,500	4,131,783	11,949,283	6,796,213	4,061,000
North Carolina.....	6,052,500	1,885,350	7,937,850	4,795,160	2,685,500
South Carolina.....	3,485,000	1,098,119	4,583,119	2,745,450	1,572,000
Georgia.....	9,319,500	5,284,658	14,604,158	7,273,075	4,978,000
Florida.....	4,185,000	1,963,500	6,148,500	2,939,387	2,006,000
Alabama.....	8,254,300	3,096,561	11,350,861	6,404,705	3,864,500
Mississippi.....	3,225,000	1,375,700	4,600,700	2,519,000	1,572,000
Louisiana.....	8,695,000	4,252,866	12,947,866	6,731,145	4,454,000
Texas.....	40,011,730	17,437,883	57,449,613	23,001,227	19,584,500
Arkansas.....	3,825,000	1,351,250	5,176,250	1,738,897	1,768,500
Kentucky.....	16,262,400	5,802,836	22,065,236	14,218,632	7,532,500
Tennessee.....	9,345,000	3,702,228	13,047,228	7,971,080	4,454,000
Total Southern States.....	132,941,430	58,977,141	191,918,571	96,929,178	65,500,000
Ohio.....	59,094,100	25,490,469	84,584,569	41,883,103	29,158,000
Indiana.....	24,802,600	8,664,175	33,466,775	19,524,052	11,472,000
Illinois.....	55,468,500	30,428,136	85,896,636	35,233,865	29,307,000
Michigan.....	14,590,000	5,604,213	20,194,213	8,883,785	6,931,000
Wisconsin.....	15,740,000	6,103,151	21,843,151	12,052,795	7,528,500
Minnesota.....	20,491,000	11,086,023	31,577,023	12,697,710	10,874,500
Iowa.....	20,195,000	6,126,581	26,321,581	14,690,512	8,992,500
Missouri.....	28,215,919	16,046,791	44,262,710	24,725,978	15,176,500
Total Middle Western States.....	239,197,119	109,552,536	348,749,655	169,627,800	119,500,000
North Dakota.....	4,575,000	1,085,650	5,660,650	2,198,420	1,966,500
South Dakota.....	3,385,000	643,955	4,028,955	1,964,450	1,396,500
Nebraska.....	13,002,110	4,647,603	17,649,713	8,846,088	6,099,000
Kansas.....	12,067,500	4,089,215	16,156,715	9,330,910	5,588,000
Montana.....	3,580,000	1,622,653	5,202,653	2,156,208	1,785,500
Wyoming.....	1,610,000	792,500	2,402,500	1,215,600	826,500
Colorado.....	9,392,500	4,289,950	13,682,450	6,868,625	4,702,500
New Mexico.....	1,975,000	545,781	2,520,781	1,520,333	855,000
Oklahoma.....	12,215,350	3,063,040	15,278,390	7,416,493	5,272,500
Total Western States.....	61,712,460	20,777,412	82,489,872	41,507,127	28,500,000

Memoranda relative to the distribution of additional bank circulation, etc.—Continued.

States and Territories.	Bank capital and surplus Feb. 14, 1908.			National bank notes outstanding.	Proportion of \$500,000,000 additional circulation.
	Capital stock paid in.	Surplus fund.	Total.		
Washington.....	\$7,025,000	\$3,876,550	\$10,901,550	\$4,403,625	\$3,797,500
Oregon.....	3,796,000	2,374,125	6,170,125	2,448,300	2,156,000
California.....	30,347,800	13,918,103	44,265,903	25,398,510	15,361,500
Idaho.....	1,855,000	923,500	2,778,500	1,125,618	955,500
Utah.....	2,130,000	1,055,200	3,185,200	1,906,298	1,102,500
Nevada.....	1,607,000	397,100	2,004,100	1,453,120	686,000
Arizona.....	655,000	473,500	1,128,500	568,900	392,000
Alaska.....	100,000	72,100	172,100	62,000	49,000
Total Pacific States.....	47,515,800	23,090,178	70,605,978	37,366,371	24,500,000
Aggregate.....	904,839,757	554,310,234	1,459,149,991	627,274,990	500,000,000

* This amount is \$135,020 in excess of the issue that can be taken by the State under section 3 of the bill.

Emergency Currency Bill.

SPEECH

OF

HON. JAY F. LANING,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

MR. LANING said:

MR. SPEAKER: I shall vote for the Vreeland bill because I believe its enactment will be not only a step in the right direction, but it may be an example that will be courageous enough to at some time lead us away from the present system of bond-secured currency to something more potent for the monetary good of the country.

The national-bank notes are an emergency currency, having been evolved as a war measure. Congress adopted bonds as the method of securing currency for the purpose of creating a market for a large amount of Government bonds, the issue of which was a war exigency. This then seemed the only means of obtaining a perfect guaranty for United States notes. Such a security was needed for the currency in the critical times following the rebellion. Our bond-protected national-bank circulation has many good features to recommend it; but, like everything else, it has some defects.

Whoever thinks a faultless piece to see
Thinks what ne'er was, nor is, nor e'er shall be.

I presume that it will be conceded that to be a perfect circulatory medium any form of money must keep itself automatically in circulation up to its maximum point. The present bond deposit secured currency is not productive, but destructive of the free and full use of the money. It is not an accommodating medium for the wants of borrowers, for it is not elastic enough to expand to meet the periodical demands of the commercial, agricultural, and industrial agencies of the country.

It has its days of feast and its days of famine. It is out in plenty one season and becomes scarce another. It plays "hide and seek" with celerity. It is like the wind; no man can tell "whence it cometh or whither it goeth." Mr. Speaker, agricultural communities use but little money, except at crop-moving periods, and local bankers, rather than hoard it, send it to monetary centers and put it out at low-interest rates. From March to August it is finding its way from many country points to the cities, and from small cities to large ones, at cost of expressage and loss of interest, and it becomes concentrated, stagnated, and contracted for a while. Its holders loan it out on call to speculators, and then the autumnal trade expansion comes on and it is recalled and becomes dissipated, and goes through the process of redistribution and thus gets back into local use again. In these movements there is often delay and inability to get an adequate supply, and an ever-present suspense that puts dissatisfaction and expense upon farmers and makes it a dear money for manufacturers and merchants.

In an ideal system of currency banks should be able to put out directly with the people all the circulation possible, keeping it out in borrowers' hands as long as possible, instead of

reaching them indirectly through middlemen, who derive a profit in handling it.

When the demand for money and the supply of it work in unison, both being reasonably plenty, we have a cheaper money to the user and a more profitable money to the loaner of it, and it is a potent business stimulant.

A system of currency like the Fowler bill provides, which allows each bank to issue it at such times and in such quantities as to its officers seems desirable and profitable, and then retired, as it wills, without expense to itself while idle, and which can be properly guaranteed, is undoubtedly one "devoutly to be wished."

MR. SPEAKER, one great objection to the national-bank notes as a financial factor is that they are conducive to dear money and harmful to the debtor class.

For a long time the banker had to put up \$100 of bonds for \$90 of circulation, and had to pay about \$112 for the bonds. It took \$11 to get \$9 of currency to put into the hands of the people. Thus, for business use, about 25 per cent of the money for which a banker put up bonds was idle, and of course the banker, not being philanthropic enough to lose this, added it to his income by an increase of the interest rate he charged the borrower. The bank now gets about \$10 in notes for its \$11, and the loss is not so great, but still not an inconsiderable exaction from the borrower.

Bankers have all the time complained that the security forced from them was excessive, broader than the Bank of England puts up, or any other bank of the world—superfluously ample—thus placing a large amount of their capital beyond the bank's control and depriving it of that freedom in handling its resources which is essential to make the most of its facilities, to meet emergencies, and do an efficient banking business.

Because of the absence of profit in national-bank circulation money of that kind can not be made cheap to borrowers.

To illustrate further, Mr. Speaker, it takes bonds which cost 112 and are yielding 2½ per cent on their face only, a 5 per cent redemption fund, and a half per cent tax to satisfy the price of issuing national-bank notes. When the demand for money is light, banks send notes in for redemption, as they are doing now, there being \$50,000,000 of it now placed in the United States Treasury for that purpose, because it is more profitable for the banks to surrender it than keep it in their vaults with little chance to loan it. In times when it can be used, as the average income from it is so small, banks are loath to take it out again. If they do not send it in for redemption, when they have plenty, it is sent to New York, where Wall street gamblers are always willing to pay for its use, and where in times of panic they can never get it back.

As an illustration of this it may be said that there never has been a time since national-bank notes began when anything near the authorized amount of them to banks has ever been taken out for circulation.

In proof of this I want to read a table giving the number of national banks in the United States for the years given and their capital stock and circulation, in round numbers.

Year.	Number of banks.	Capital.	Circulation.
1873.....	1,940	\$483,000,000	\$336,000,000
1883.....	2,308	485,000,000	315,000,000
1891.....	3,573	658,000,000	128,000,000
1893.....	3,784	690,000,000	146,000,000
1900.....	3,602	607,000,000	205,000,000
1903.....	4,766	731,000,000	335,000,000
1907.....	6,429	883,000,000	610,000,000

It will thus be seen that in 1873 there was \$147,000,000 the national banks could have issued, while in 1893, the time of the panic, \$544,000,000 was due them on demand. In the close times of 1903 \$396,000,000 could have been taken out, while in 1907 \$273,000,000 was available.

This authorized additional circulation in any panic year would have been sufficient, if taken out, to meet the currency emergency and to have stayed the ravages of either of the money scourges that have been inflicted upon the innocent business, manufacturing, and industrial classes by the neglect of the banks to provide against such always possible, if not probable, events.

In 1874 General Grant vetoed an act of Congress increasing the national-bank and legal-tender notes on the ground that several millions of national-bank currency could be taken out voluntarily by the banks that were below their quota, without new legislation.

The principle involved in the Vreeland bill recognizes commercial paper as a proper basis for a circulating medium; that is, if a national bank has so far loaned out its funds that its limit has been reached and further demand exists, the com-

mercial paper it has taken is an asset upon which more bank notes may be issued. But the issue of this currency is safeguarded by compelling banks to a certain number and of a stipulated capital to go together, pass upon the paper, and become jointly and severally liable to the Government for the redemption of the additional currency taken out. The principle has been suggested before, but never worked out so completely. So far as actual practice is concerned, it is a new idea, and may develop great possibilities in the world of finance. Let it be well tried.

This additional currency can be issued only when the Government decides that an emergency exists, and whether the law is sound or unsound finance, the remoteness of the probability that its provisions will ever be invoked overrides any weakness it may be imagined to have, while the possibility that it may be serviceable makes it necessary that we have such a law in existence, lest we again be visited with our disastrous experience of 1893 and 1907.

Now, Mr. Speaker, it is not unlikely that this bill will be opposed by the Democratic side of this House. But that should not influence our action. It always opposes Republican measures, no matter how good they are. It never did anything else. The best definition lexicographers can give to the word "democracy" is, "opposition to republicanism." It is the party of negation and do-nothing opposition, while the Republican is the party of affirmative action and constructive legislation, from which the country has had benefits of great, incalculable value. [Applause on the Republican side.]

Democracy is a party with scarcely a success to its credit for fifty years. About the only affirmative legislative act it has given to the country during the short season of its control of Congress was the Wilson-Gorman tariff bill, which its own President said was "perfidy and dishonor."

Democrats may chide us that we had a panic in 1907 under our management of the Government, but they had a worse one in 1893, growing out of their positive mismanagement of its financial and economic affairs.

But, Mr. Speaker, the Democratic party has nothing to brag on, over the Republican party, as to its record on financial affairs and measures, and notwithstanding we have done so much of legislation and administration and it so little, we point to a record of almost unbroken successes and it to a series of admitted failures in nearly every effort.

During the four years ending July 1, 1860, the nation then being small and business being but little as compared to now, it made a deficit of \$63,000,000 in four years of administration, when the country was in a state of profound peace. Instead of meeting the deficiency squarely by some method of taxation, it borrowed money by the issue of Treasury notes, and the Government was made to pay a rate of 12 per cent to convert its issues into coin.

Prior to 1861, 1,600 different bank corporations, organized under the varying laws of thirty-four States, issued the money of the country. It was unsound in quality, subject to heavy discounts and exchange charges, and the frequent insolvency of some of the banks so often made it worthless, that it was not only burdensome to business, but brought many losses to the depositors. That currency was often known as "wild-cat" money. This was the Democratic system of banking, having grown up under and been fostered by its laws.

When the Republican party was inaugurated in 1861, it set about the task of lifting this unsafe and unsatisfactory currency and providing one in its place that would be uniform, adequate, and secure, and in the spring of 1863 the splendid national-bank system we have since used with such security for business and great satisfaction to the people was enacted against the almost solid opposition of the Democrats in Congress, who predicted that it was unworkable and unconstitutional and a damnable usurpation of the powers of the Government.

This currency, Mr. Speaker, was devoid of the faults of the Democratic antebellum money, and was not only a great service to the maintenance of the war, but brought the benefits of a stable currency to the business of the times to an extent that was beyond computation. The experience of the past forty years with it has developed a more highly educated set of bank officials and great improvement in banking methods, and the public have become so much more intelligent and exacting that they have been willing to suffer its few shortcomings rather than risk a return of the evils of a "wild-cat" currency they would assume in making a change.

In January, 1862, it became necessary for the Government to adopt a legal-tender circulating medium, the banks of the country having suspended specie payment December 31, 1861. This legislation met all sorts of objection from the Democrats in

Congress, obstruction being their tactics. They predicted disaster to the Republican party and the country, as they are now doing, but it is to be noted that their predictions never come true. They assailed the currency measure as "involving the destruction of all standards of value," as "disordering the operation of trade and commerce," and as bound eventually to bankrupt the Government, the banks, and the people. It was denominated as a measure without precedent in the history of the country, and the exercise of dubious powers no one had ever before claimed the Government possessed. Democratic orators unitedly and vindictively depicted the disasters an inflated currency without intrinsic value would engender, and their alarmists predicted that it would in time become so worthless that it would require a cord of greenbacks to buy a cord of wood. [Applause on the Republican side.]

In 1875, having reduced and funded the national debt to a point that confidence in the financial ability of the Government to maintain a stable currency was restored, the Republican party, Mr. Speaker, undertook the task of ridding the country of the evils of a fluctuating, depreciated paper currency which had been issued as a military necessity, and set January 1, 1879, as the date when the United States legal-tender notes were to be redeemed in coin, a four years' probationary period being taken to put the people in preparation for it.

In 1872 the platform of the Democratic party, adopted by its national convention, declared that—

A speedy return to specie payment is demanded alike by the highest considerations of commercial morality and honest government.

And they could, from their record of opposition to a paper money, naturally have been expected to favor resumption. But their habit of opposition got the better of them, and they missed a favorable psychological moment to be right and strong before the country.

Democratic politicians who had so ardently and vehemently opposed a greenback currency in 1862 as being unconstitutional, and gone to the Supreme Court to be beaten on that issue, and had called this money an unauthorized and dishonored forced loan, a menace to business, and the unjust invasion of the sanctity of private rights, now had a chance, Mr. Speaker, to cover themselves with glory by sticking to their original contentions. Here was an opportunity to get rid of this naughty circulating medium and get back to the "constitutional money of the fathers," as they called it, and of wiping out the dishonor that had, according to their arguments in 1862, been perpetrated by the Republicans.

And what did they then do? Just what they are doing today. Some of them claimed they were for resumption, but the kind they were getting was not good enough; some of them thought conditions throughout the country did not warrant it, and presenting one excuse and another as a justification nearly all the Democrats voted against a return to specie payments.

They pretended, Mr. Speaker, to know that resumption could not become a success, that we would be further from it in 1879 than in 1875, and they stood like a wall for continuing the currency they had so fiercely denounced, and in favor of perpetuating the alleged dishonor they formerly so vehemently decried.

Not only this, they went further and shouted that the irredeemable currency of 1862 was "a thing of beauty" to be held onto, "a joy forever" that should be kept unredeemed, and be made the feature of the financial system of the United States.

A Democratic Congress met in 1875 and voted to repeal the authority of the Secretary of the Treasury to sell bonds to get specie for a redemption fund; also to repeal the clause of the redemption law fixing the day for resumption. It pledged itself against the proposition to resume, and did everything possible that the votes of a majority in this House can do to make resumption impossible.

We had to fight out the political issues of "flat money" and of "rag baby" currency propositions they advocated, and it was with difficulty we finally triumphed over them at the polls.

In 1876 the Democratic party in its national convention nominated Tilden, and denounced the "financial imbecility of the Republican party" for not having theretofore resumed specie payments. It also denounced the resumption clause of the act of 1875 as a "hindrance" to resumption, and demanded "its repeal." Samuel J. Tilden, the Democratic candidate for the Presidency, characterized the fixing of the day as a "sham," and predicted it would end in "fresh calamity, distrust, and distress."

Then, as now, Mr. Speaker, the Democratic party was the party of inaction, while the Republican was the party of action. It was a party of destruction while the Republican was a party

of constructive statesmanship. Not one of their calamity predictions came as alleged, but on the contrary, resumption was ushered in ahead of time without a shock to the commercial, manufacturing, or industrial interests of the country.

It was the courage and brains of the Republican party in a critical time that made the issue of the greenback possible, and that party redeemed it by its courage, and thus kept the faith it had asked the people to repose in it. And so it will now have to be the leader in furnishing the people with a system of emergency currency to meet this new phase of the banking business, which the evolution and progress of the times have made necessary. The Democratic minority of this House has nothing to offer the country, and is practicing the same carping, criticising, opposing tactics it has made use of heretofore every time it has had an opportunity to do similar business. Like the dog in the manger, it refuses to eat, itself, and at the same time tries to prevent everybody else from eating. [Applause on the Republican side.]

The Forty-fourth, Forty-fifth, and Forty-sixth Congresses, for the six years extending from March 4, 1875, to March 3, 1881, and the Forty-eighth, Forty-ninth, and Fiftieth, for the six years from March 4, 1883, to March 2, 1889, were Democratic, and from March, 1879, to December, 1882, the Senate was Democratic, and these were halcyon days for freak currency propositions for legislation in Congress. What the Democrats tried to do to break down the wise monetary system previous Republican Congresses had enacted and a Republican President was trying to enforce was "a plenty."

Most of the Democrats had voted for the resolution of Weaver, the Democratic-Greenback leader of the House in 1876, and its nominee for the Presidency, substituting greenbacks for national-bank notes.

In February, 1878, Congress passed the act to remonetize the silver dollar and issue silver certificates over the veto of President Hayes. In 1879 the Democratic House passed a free-coinage act, but the Republican Senate defeated it. All these measures were designed to defeat the resumption act. Notwithstanding those were strenuous times for Republicans, when it seemed they had been deserted by the people, as judged by their verdict at the polls in electing a Democratic House, they stood manfully for the right, as God had given them to see the right, believing that the righteousness of their cause would be sure to win its triumph ultimately, and they were not to be disappointed. [Republican applause.]

In 1880, Mr. Speaker, the Democratic party straddled again and tried to be apparently on all sides of the money question by declaring in its national platform for—

Honest money—consisting of gold and silver, and paper convertible into coin on demand.

It did not propose to "get lost," no matter what phase of the question was laid before the people.

When it failed to get a greenback currency by direct means, Mr. Speaker, it tried indirect ones. It wanted "fiat money," honestly if possible, but if not, it wanted "fiat money."

The surplus of the United States Treasury has also been a source of discomfort to the Democrats, and they have always been anxious to dissipate it when one has been accumulated. The Republicans had then amassed one of about \$125,000,000 of gold reserve, to maintain resumption of specie payments, and that fact being accomplished, the Democratic statesmen laid awake at night to concoct schemes to get rid of it. But the Republicans stood steadfast for its maintenance in earnest of the continuance of sound finance.

The Morrison bill presented in this House proposed to let the greenbacks stand on their own bottom as a circulating medium, and become practically irredeemable currency, by taking away the reserve fund that supported them, and buying and retiring Government bonds with it. The Democrat Members of Congress were almost unanimous for this bill, and it passed both branches to be defeated by the refusal of a Republican President to sign it.

In 1882 they blandly voted to get rid of the national banks altogether, and go to a greenback currency in a simple way, by opposing the law to extend national-bank charters.

Following the greenback agitation, in which the Democratic party took the side of inflation, the silver movement developed. The "dollars of the daddies" and the so-called "bi-metallic currency" were simply inflation ideas.

The purchase of silver for coinage at 4,500,000 ounces a month was not fast enough for them, they wanted full and free coinage without waiting for it at the rate of that extensive acquisition per month.

In 1882 the Republicans provided for the issue of gold certificates against the gold reserves in the Treasury, and made the silver certificates available for bank reserves, and thus added a large amount to the per capita circulation of the country.

The campaign of 1884, when Cleveland was first elected, was not conducted on money lines, but the Democratic party again adopted its former blanket policy by declaring in its national platform:

We believe in honest money, the gold and silver coinage of the Constitution, and a circulating medium convertible into such money without loss.

Experience had been developing the fact that we were fast going to an exclusive silver basis, gold was being hoarded, and its effect was being felt in the business of the country, so that when Grover Cleveland became President, in order to be true to the principles of his party, as set forth in the platform on which he was elected, he attacked the silver purchase and coinage law and sought its repeal. But the Democratic Congress elected with him was deaf to his entreaties and insisted on trying to force the country upon a silver basis.

The money question was a subordinate one in the campaign of 1888. The obstinacy of the Republican Senate had prevented any change in the tariff laws, or any financial experiments, and the surplus in the Treasury had been gradually growing, until it was alarming to Democrats. Instead of paying it out to redeem bonds or currency notes, and thus cut down the public debt, President Cleveland, in 1887, proposed tariff revision and reduction as a surcease of the growth of the surplus, and in that recommendation lies the tale of his undoing in November of that year. In its national platform the Democratic party declared:

The money now lying idle in the General Treasury resulting from superfluous taxation amounts to more than \$125,000,000, and the surplus collected is reaching the sum of more than \$60,000,000 annually.

It also set forth a declaration for a "revision of the tax laws" and recommended a bill for the "reduction of revenues" then pending in the House of Representatives. I need not repeat the result of that election, as it is modern history.

Cleveland was elected the second time in 1892 and we were doomed to "four years more of Grover." From that time to March 4, 1897, he was in supreme command, supported by a Democratic Congress.

The platform on which Grover was then elected denounced the Sherman silver-purchase act, against the repeal of which the party had stood under his former Administration, as being a "makeshift" and declared for "both gold and silver" of equal value through "international agreement."

Cleveland tried to maintain the integrity of the Democratic party on the financial question, but was unable, Mr. Speaker, to do so. His party in Congress was against him, and it quarreled with him and continued its vacillating, soft money indorsing course until the close of his second term, when the party came out for "the unlimited coinage of silver at 16 to 1," and, following "Coin's Financial School," left Grover behind "poor, despised, forsaken," with scarcely a friend to do him reverence; and all because he was honest and stood for sound and sane finance.

Mr. Speaker, his traducers in 1900 to-day acknowledge him as a monument of intelligence and integrity, whose advice, if followed then, would have saved them the heartaches they have suffered by reason of subsequent defeats. The leaders of his party who maltreated him then did not have and never yet have shown him the courtesy of the apology which is due him for the insults it gave him, but the people have resented them and the party is so disestablished in the confidence of the people that it is not likely that it will ever again be permitted to reign over the halls of Congress, where financial legislation is to be prepared and enacted.

When the silver contest was over, Mr. Speaker, the Republican gold standard of 1900 was adopted, but the Democrats under Bryan did not have foresight enough to accept the inevitable. Five days after the passage of the "gold-standard law" the Bryan Democratic-Populist party in Nebraska met and declared for the free and unlimited coinage of silver and the substitution of greenbacks for bank notes. The national Democratic party that year "reaffirmed and indorsed" 16 to 1, and told again of the inadequacy of the gold supply and the oppressive effects of the gold standard. But prosperity had gained so much headway that such declarations were unheeded, and McKinley was reelected by such an increased majority that the gold standard was universally accredited as the choice of the American nation.

Certain it is, Mr. Speaker, that our Democratic friends, the enemy, could not have done us a more friendly and profitable act than they have committed by taking the position they have on the financial question.

In 1904 the national Democratic platform was silent as the grave upon the money question, but the party voted for the man who sent to the convention his memorable declaration that he

would not stand for anything other than an acquiescence in the gold standard, and thus committed itself to that policy.

And so it is that we have the triumph of honest money, brought about by and through the Republican party and its great leaders, an achievement over which all Christendom rejoices, and notwithstanding that Democrats have ceased their wails of opposition to it I am satisfied that the people who know of their crazy-quilt record will not want to give them another chance to be conspicuous in the financial legislation of the times. [Republican applause.]

And, Mr. Speaker, what can it say in its platform of 1908? It has no record to point to with pride, no policy to present for the future. It is, upon this question, like was said of the mule, "it has no pride in its ancestry or hope of posterity."

Democratic orators will undoubtedly talk in high-sounding phrases about the panic of 1907, but it will fall as flat as did their song about the "crime of 1873." I do not believe the American people will be deceived into letting them make capital out of such calamity howls. This disturbance was a baby beside the one of 1893, a direct outgrowth of Democratic imbecility in managing the affairs of the Government, while that of 1907 was one that came from nonpolitical causes, inasmuch as everybody had the utmost confidence in the Government and its operations.

Legislation like that provided for in the Vreeland bill is going to establish confidence that we can not again be hit by a scarcity of money and a panic created, and business will go ahead with confidence.

Mr. Speaker, manufacturers, merchants, and laborers complain that in times like those through which we have recently passed the bankers hoard the money, and the cry is to "save the banks." Business enterprises have to be shut down and sacrificed, and an army of clerks and laboring men put out of employment because their employers' money is sealed up in the vaults of the bank that is protecting itself at the expense of every other enterprise.

What I want to see is the passage of such a financial bill as will establish a monetary system that will do away with a recurrence of such events, that will not only save the banks from undue strain, but will operate to save the country and the people, who are ten to one to the banks, from such dire and painful results as flow from a financial panic. Such measures as the Vreeland bill or the Fowler bill are adequate to such needs, and their passage will be a further monument to the wisdom of the Republican party and its leaders in this Congress as well as another regulement to the passing of the Democrats who oppose it. The national Democratic platform will this year again declare for "tariff for revenue only." We are already committed to revision, and we welcome that "gauge of battle." We can defeat them again on that issue, as of old.

Mr. Speaker, the Democratic party is like an untamed bird in a cage. It sings sweetly, but it is imprisoned behind the wires of public opinion, that keep it from freedom. If it had full liberty, no knowing where it would fly to and how great the political mischief it would accomplish, as it has the capacity for a large amount. The people have believed in the sweet cadence of its songs a few times, but its conduct was such that it has always had to be caught and restrained again within a short time. The doleful and pitiful notes it pours out from its place of confinement sometimes excites the people's sorrow for it and sympathy for its condition, but knowing that its lamentations are only sentimental they never take them deeply to heart. [Applause on the Republican side.]

The Republican party is not one of omnipotence or divine purity. It is not "just and righteous altogether," but it has been trusted and found to be "of the people, for the people, and by the people," and its glorious achievements in politics and statecraft are a sufficient incentive and an adequate inspiration to keep it from perishing from political power.

When we consider, Mr. Speaker, the hesitating, shuffling, bobbing, changing position the Democratic party has occupied from time to time in reference to the issue and retirement of greenbacks and bank notes, the questions of specie payments, sound money, and the maintenance of a high-class monetary system for the country, is it any wonder that the people have been afraid to trust it in this body, from which it took its departure when Grover went out in 1896, and during the twelve years that followed has, by the voice of the people, been kept in a sad minority?

I suppose, in its lonesomeness, and while looking upon what it has lost by being banished from power by reason of its inconsistencies, it has been saying over to itself:

Of all sad words of tongue or pen,
The saddest are these, "It might have been."

But, Mr. Speaker, it was not to be, nor will not be. The militant Democratic party has never measured up to the great demands of the people for statesmanship. When the country has been asking for practical and needful legislation it has never been able to produce it, as is now exemplified in the present demand for an emergency currency.

The Democratic party has been a dreamer, has lived in the realms of fancy and has fed on the ethereal stuff that dreams are made of so much that it can not produce the real solid, substantial ideas that are wanted for successful constructive legislation.

It is the party of pessimism, always seeing the defects and foreseeing the calamities which will follow every legislative business proposition, while the Republican party sees the good things in it and the benefits it will accomplish. For my part, the Democrats are entitled to continue to see the hole in the doughnut, but Republicans prefer to see the doughnut itself.

Politics, Mr. Speaker, is one of the emotional traits of the human mind. Being a sentiment, and not a substance, no one can measure its force and extent with mathematical certainty. None of us have the gift of prophecy, nor can we "see ourselves as others see us," but I venture the prediction that if we could our Democratic brethren at least would be doing things much different than they are. If they had foresight instead of hindsight they would be spared some of their many mistakes.

I am no political sightseer or clairvoyant, but I think that with my vision I can foretell the effect—to reelect Republicans—which the agitation of the tariff question will have upon the people this year.

Prosperity has its "ups and downs." The lowering clouds that are now in the sky of the industrial world can not be gotten rid of by any single or hasty act of legislation, but they can be kept floating on to paralyze business weather by the continuance of a crusade against the doctrine of protection to American industries. Already, Mr. Speaker, they are disappearing before the radiance of the rising sun of returning prosperity. The winter of the laboring man's discontent will soon be made a glorious summer of hope and satisfaction, if not intervened by the disturbing action of the American people, through a reversal of the political control of this body and the nation at the forthcoming election contest.

The depression will disappear for good when the voice of the people is announced in November, that they will not again, by the same improvident action, permit it now to last for four years more, as it lasted four years from 1893 to 1897, by the election of a Democratic Congress and President. God forbid that the voters of my country shall so far forget themselves as they did in 1892, to reenact the verdict that then sent the country through four years of desperate business gloom. The repetition of such a verdict, Mr. Speaker, will compel all of us to endure four years of punishment for such political sins, from which we must wait till 1912 to be redeemed by another rising tide of the sentiment of an aggrieved people that will sweep the Democrats out of power if they enter again, and put the Republicans in possession of all the Government, as was done twelve years ago. [Loud applause by the Republicans.]

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. ADOLPH J. SABATH,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. SABATH said:

Mr. CHAIRMAN: The reasonableness and justice of the appropriation which this bill carries are manifest.

In 1808, during the hostilities in the Philippine Islands, our troops took possession of churches, convents, seminaries, and school buildings belonging to the Roman Catholic Church and transformed these buildings into hospitals, barracks, and prisons. In many instances these buildings were held long after peace was brought about. Great damages were done to these buildings, many of which were of beautiful architecture and elegantly furnished and decorated. Crucifixes, chalices, candelabra, vestments, organs, and scriptural paintings of great value were either damaged or destroyed by the soldiers through care-

lessness, reckless use, and in some instances by deliberate wantonness.

Because of military necessity we took these properties, practically evicted the rightful owners, and maintained absolute control and use of the premises.

I am satisfied beyond the slightest of doubt that the members of the board of church claims, created by an order issued by the War Department, who were sent to the Philippine Islands, clothed with the authority to investigate these claims, did their work in a most intelligent, conscientious, and thorough manner. Their estimate of the damages actually sustained amounts to a total of \$403,030.19; and in these figures the majority of the members of the Committee on Insular Affairs concur and report.

I am a firm believer in the doctrine of "equal rights to all, special privileges to none," whether it applies to individuals or religious denominations. Equity should govern this claim, because it is meritorious, and all religious prejudices should be eliminated. We are morally, if not legally, liable for the damages sustained to these properties. It is a just debt and should be paid. The amount of the appropriation for the liquidation of this claim is very meager, when the inherent values of the property damaged or destroyed are taken into consideration. The records in the Court of Claims disclose hundreds of instances where we have reimbursed churches and individuals whose property was either damaged or destroyed during the late wars. Therefore let us not now, nor at any other time, deviate from the course which we have pursued in the past.

The objections against this appropriation, as stated in the report of the minority, are frivolous, to say the least. For centuries and centuries governments have recognized officially the title of the Roman Catholic Church to all properties which it possessed. This free country of ours recognizes the right of all religious denominations to acquire and hold title to property.

It is not our purpose to interfere with the schism that exists between the Roman Catholic Church and the "Aglipayan" or Independent Philippine Catholic Church. I am of the opinion that the claim of the latter church is absolutely groundless and without foundation by reason of the fact that Aglipay and his followers forfeited every natural, moral, or legal right or interest which they might have had from the very moment they seceded and withdrew from the Roman Catholic Church.

In conclusion I wish to state that my views in the premises conform with the majority report as to the equity and justness of this claim.

The Vreeland and Williams Financial Bills.

SPEECH

OF

HON. JOHN C. CHANEY,
OF INDIANA.

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. CHANEY said:

Mr. SPEAKER: Last fall unfaithful bankers, overspeculators, and visionary capitalists in New York precipitated a money panic which, but for the inherent soundness of our circulating medium and the sturdy integrity of local financial institutions throughout the country, would have set back the country's prosperity a decade. There was no lack of money with which to do the business of the country. The speculators had only gobbled up the money, or caused it, through fear, to hide away in the great New York money and business center and other "centers" incident thereto, so that for the time being there was an actual lack, though anomalous, of the requisite money to carry on the daily transactions in those places. The entire country sympathized with this situation and suffered in common with the centers of trade. It was so sudden and surprising as to almost take the business world off its feet. The most fertile minds in accustomed finance stood in wonderment at it. With patriotic impulse the Secretary of the Treasury and the substantial men of large means cooperated together to equal the emergency; and they stayed the storm and turned back the ominous clouds of doubt and fear, for which relief the heart of the impassioned public beats with gratitude and pride. It proved to us that however excellent is our industrial system, and sound though our money may be, honesty must govern our banking institutions and business

integrity must be maintained if we would be sure of "the even tenor of our way."

The "quantitative theory" of money advocated by "Coin's Financial School" was, by this "financial flurry," shown to be utterly without reason, for there was known and acknowledged to be more money in the country than ever before—the actual per capita circulation equaling \$35.54. The great "industrial system" of the Government had prospered our people and filled the United States Treasury with money to spare. Instead of the people coming to the help of the Government, as was necessary in 1893, the Government found it easy in 1907 to second the efforts of the people and help stay the storm created by speculative hysteria in the great financial center of New York.

It is no discount of a man's business acumen that a thief breaks his strong box and steals his cash. It is no fault of the money that somebody takes it out of business and hides it away. Our money is good, and there is enough of it with which to do the business of the country if honest men are enabled to make it perform its functions. It is therefore plain that the remedy is to enable the honest business of the country to enjoy its circulating medium to the full. How is this to be done? It must be accomplished in one of two ways, namely: Secure the bank depositor directly, so that he will leave his unoccupied money in bank; or supply the place of the hidden money with an emergency currency equal to the demands of business. This was the problem of Congress at the beginning of the session. To meet this duty the Speaker appointed a Banking and Currency Committee immediately upon the assembling of the Congress. The President was so impressed with the necessity of legislation to meet the demands of the situation that he called emphatic attention to it in his annual message. Indeed, for a time after the panic broke he seriously contemplated an extra session to treat the subject. A study of the question soon disclosed the magnitude and delicacy of the money problem.

The fact that our paper-money circulation is based, for the most part, on the Government debt admonishes anyone and everyone that sooner or later some other basis of note circulation must be found, for in good business progress we must eventually discharge this debt. And again, although in normal times the Government debt is a safe basis for note circulation while it exists, it does not admit of such prompt expansion as is required in abnormal times, like that of last October. In fact, our plan of issuing paper money is not suited to emergencies like the panic of last year. It is doubtful whether men can be made honest by legislation. The idea, therefore, to pass a law to compel the honesty of a bank official is, upon reflection and due consideration, deemed of doubtful wisdom, and this is the reason why it is deemed impracticable to pass a law to secure bank depositors directly, however beautiful the notion is in theory. Honest officials must depend upon the stockholders of a banking institution, as a study of the question proves, and the directors must see to it that bank presidents and bank cashiers shall be faithful to their respective trusts. Concluding, therefore, that depositors will at times withdraw their money from the banks and hide it away from the channels of business, we are compelled to turn to the other plan of meeting the situation, namely, provide an emergency currency until we shall adopt some enduring basis for a paper-money circulation.

The Fowler bill is a plan for a permanent money system, and something of the fashion of this bill must take the place of the present system, and yet we are not sure of it. We are not sure that it is just the thing. We must study the question yet more. The money system we have has served all the important purposes of business since the days of Abraham Lincoln, and served them well. With integrity in control everywhere, the system we have would probably serve us for some years to come, and we can not make a radical change in it just now. There has, however, been misgivings for a few years as to the efficiency of our circulating medium in times when extraordinary amounts of money are required in the daily transactions of trade, as, for instance, in the crop-moving season. Careful business men have had ominous feelings about it several times, and mutterings of danger have been heard.

The currency we have is not elastic. It does not expand. It resists expansion. Notwithstanding it is the general consensus of opinion that we may not have a recurrence of the stringency of last fall, it is yet believed that a means of preventing such recurrence, in the event it does come, should be provided, and this session of Congress is expected to produce an emergency measure, at least. The House has been disappointed in the failure of the Committee on Banking and Currency to report a relief measure and has had to take up the subject independently of the committee. The result of three conferences among the majority Members is the Vreeland bill. The main features of this bill embrace principles adopted by the Bank-

ing and Currency Committee, however, namely, the creation of a commission to formulate a permanent currency for the bond-secured currency we have, and it provides a credit-currency circulation also, exactly what the committee proposes.

It is, however, not intended by the Vreeland bill to interfere with the note circulation we now have, but preserve it in all its integrity and usefulness and to supplement it with a credit-currency circulation of \$500,000,000, in case a money stringency comes to the business of the country. It is demonstrated that we have an abundant paper-money circulation for normal business, and that so far as ordinary business conditions are concerned the per capita circulation of \$35.54 is equal to all demands. It is the abnormal and extraordinary demands of business which require our attention now. It is to meet this latter demand that the Vreeland bill, after providing for a currency commission, enters the field. This extra \$500,000,000 may never be needed, and we hope it will not be needed, but we want to be ready should trouble come, as it did last fall.

The Vreeland bill provides that not less than ten national banks within a neighborhood territory, with a capital of \$5,000,000, may form a clearing-house association under the direction of the Secretary of the Treasury and become a corporate body, which shall be managed by a representative from each bank. Commercial paper held by the banks shall be a basis for an emergency paper-money circulation, provided that these banks have out, under existing law, notes based on Government bonds equal to 40 per cent of their capital stock, and also have on hand a surplus of not less than the 20 per cent of the capital stock of the bank.

The commercial paper offered by these banks shall be carefully examined and selection of such securities made therefrom as shall be sufficient to make good any paper money which may be issued thereon. These securities shall be submitted to the Comptroller of the Currency, and if satisfied of their soundness he shall authorize the issue of paper money thereon equal to 75 per cent of the cash value of the same, subject, of course, to the approval of the Secretary of the Treasury. By this bill the banks and the assets of all of the banks of each clearing-house association are made jointly and severally liable to the United States for the redemption of the notes thus issued, and the United States guarantees the redemption thereof. To make assurance doubly sure, the lien created by section 5230 of the Revised Statutes of the United States is made to "extend to and cover the assets of all banks belonging to the clearing-house association and to the securities deposited by the banks with the association pursuant to this act." As between the banks themselves, their several liabilities are in proportion to their respective shares in the association. This paper money is to be treated exactly like the present national-bank notes.

A section of the bill provides that each and every bank of the association shall have on hand at all times in gold or lawful money of the United States 25 per cent of its circulation taken out under this act. The banks at the reserve centers shall keep on hand 25 per cent of this additional circulation, and all other banks 15 per cent of such additional circulation, with suitable penalties for its violation.

Each and every section of the country is to have its share of this possible note circulation.

A heavy tax is placed upon this proposed emergency circulation, so as to insure its retirement when the occasion for its circulation has passed.

The details of the measure are to be carried out under appropriate rules and regulations of the Secretary of the Treasury.

As an emergency measure this seems to be a workable and practicable bill. It is doubtful if the \$500,000,000 of circulation authorized by this measure will ever be issued. It may be that none of it will ever be needed. The emergency for it may never come. It is simply for an emergency and nothing more.

The bill provides for a commission of six members from the House, six from the Senate, and six men to be selected by the President, to study out a permanent money system and report to a future session of Congress for consideration and action. We shall have a permanent financial system in due time, we may be assured.

This bill also provides for interest on Government deposits, which is demanded by a great number of the people.

It would seem, therefore, that the Vreeland bill looks in the right direction, and that it meets the demand of the hour.

THE WILLIAMS BILL.

In contrast with this bill is the Williams bill (H. R. 16730), which has the approval of "the peerless one," Mr. Bryan. Aside from the provisions of the Williams bill to secure bank depositors there is nothing in it to give it favorable consideration in this House. The first section of the Williams bill repeals the banking act in so far as there is permission given to

national banks to keep reserves in reserve cities, and that, by the next section, half of the reserves shall be gold or gold certificates. This, coming from the free-silver party and indorsed by Mr. Bryan, presents a paradox. Sections 4 and 5 limits the discretion of bank managers and bristles with penalties for violations of the act. Section 6 permits a bank to keep the half of its reserves now required in United States bonds, in bonds of a city or State, provided the State or city has not defaulted on the interest on its debts for ten years and whose debts are but 18 per cent of its taxable property, averaging the same for the last five years. Upon this sort of security the bill proposes an "emergency currency." Any State bank, savings bank, or trust company may accept the provisions of this Williams bill, and, holding any of the above-named bonds, may apply to the Secretary of the Treasury for emergency currency. Upon this currency issue the bank taking the same must pay one-eighth of 1 per cent per month for the first four months and one-half of 1 per cent per month for the second four months and 1 per cent per month thereafter.

This would not be a workable or practicable measure and would be impotent to provide an emergency currency.

Section 11 of the Williams bill puts up Government deposits to the highest bidder and provides details of which a fair distribution may be made among all the States. It requires also 2 per cent interest on deposits from all national depositories.

Section 13 secures common deposits in all national banks through a tax assessment up to an accumulation of fifteen millions.

Section 14 sets forth—

That any officer or director of any national bank who shall negotiate or make a loan where the purpose of the loan is a stock or produce gambling purpose, and that purpose is known to him or them, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine equal to the amount of the loan so unlawfully made and negotiated, or shall be punished by imprisonment for not less than thirty days, or by both such fine and imprisonment.

In short, this bill requires the cashier of the bank to inquire of every man what he wants with the loan, a thing which can never be any of the bank's business interest, and should not be. The bank officer's duty is to take ample security for each loan made, and, as to the moral risks of the loan, this should ever remain in the discretion of the bank, and it is doubtful if such a thing can ever become an essential business question.

As between the two bills before the House, it is not difficult to make a selection. The Vreeland bill is far superior to the Williams bill, which is in contrast, not in comparison, with the Republican measure.

I favor the Vreeland bill as against the Williams bill, believing that it meets the demand of the hour, whereas the Williams bill fails to point the way to wise financial legislation.

Increase of Pensions of Widows and Minor Children.

SPEECH

OF

HON. JAMES P. CONNER,

OF IOWA.

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

On the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war.

Mr. CONNER said:

Mr. SPEAKER: The proposition to amend the pension laws, by a bill reported from the Invalid Pensions Committee, whereby pensions of widows are increased from \$8 to \$12 per month, is just and reasonable, and meets my approval.

The amendment relates to the act of Congress of 1890, which gives to widows of soldiers \$8 per month; it does not change existing law, except in two particulars.

First. It increases the pension of a widow from \$8 to \$12 per month.

Second. It relieves her from the necessity of showing a net income from all sources of less than \$250 per year.

If this bill becomes a law, all widows of soldiers, where the marriage occurred prior to June 27, 1890, will be entitled to receive a pension of \$12 per month, regardless of the amount of their income.

While I approve the proposed change in the law as to widows of soldiers, it does not follow that other changes are not as desirable. It would seem that a widow in case of marriage to

a soldier after the act of June 27, 1890, would be as much entitled to a pension as one where the marriage occurred immediately prior to the act of 1890. It only proves the difficulty of enacting a law which does not discriminate against some one, and the committee evidently thought it would increase the appropriation too much to have the law apply to all cases where the marriage to the soldier occurred since 1890.

I have in mind a change which I regard as important as the one in this bill, and that is the proposition to amend the act of February 6, 1907, known as the "McCumber law," which provides for the payment of \$12 per month to the soldier who has reached the age of 62 years, \$15 per month to one who has reached the age of 70 years, and \$20 per month to one who has reached the age of 75 years. In my opinion the proposition to reduce the age to which the \$20 per month payment shall apply from 75 years to 65 years is not only just and reasonable, but in all fairness is demanded. There ought, at least, to be a material reduction below the age of 75 years at which the \$20 payment should apply.

Very few soldiers live, or expect to live, to reach the age of 75 years, when they can claim the benefit of the twenty-dollar payment under the McCumber law, and if it is not changed, as I suggest, it will prove of little practical benefit to the soldier.

There are 278,911 survivors of the civil war who have been granted pensions under the act of February 6, 1907; of this number 188,550 have reached the age of 65 years, 110,068 have reached the age of 70 years, and 44,529 the age of 75 years.

It is not an easy matter to determine just what will be the annual increase of the pension roll, but it probably will not exceed twelve or fifteen million dollars in the start, and will be reduced from year to year by reason of the great mortality among soldiers who served in the civil war. During the last year the number of deaths amounted to 31,201, or a little less than 5 per cent of the soldiers now on the pension rolls.

I have introduced a bill to make the twenty-dollar per month payment apply at the age of 65 years, in lieu of 75 years, as the law now provides, and I sincerely hope the committee, before the close of the session, will recommend the passage of this bill.

It may be claimed by some that the increased expense will be too great, but I do not believe the criticism is a just one. Of all the items of expense of the General Government, the one most patiently borne by the people relates to the pension of soldiers and seamen and those dependent upon them, and while the Government has been liberal in its policy of paying pensions—much more so than any other nation—still, in comparison with the great value of the services of the soldiers to the country and our immense wealth, it can not be said to have been extravagant in this regard.

My judgment is that the country is willing to adopt the policy which means a reduced number of battle ships each year and fewer appropriations for expositions and larger appropriations for its soldiers, whose heroic services and sacrifices saved the Union from destruction and made possible the greatest and most magnificent Government on earth. This generation can do nothing to honor itself more than to honor the soldiers who have fought the country's battles.

The Vreeland Currency Bill.

SPEECH

OF

HON. WILSON S. HILL,
OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. HILL of Mississippi said:

Mr. SPEAKER: In the limited time allowed by the drastic rule just adopted for debate there can be no elaborate or intelligent discussion of the currency question; neither can there be an intelligent discussion of the two bills which, by the rule adopted, are the only bills that can be considered by the House. This is indeed an unusual course. The bill that Congress is called upon to vote for or against is known as the "Vreeland bill" and was not brought into the House by a majority report of the Committee on Banking and Currency, which is constituted to deal especially with such questions, but that committee has been discharged, and the House has proceeded at once to the consideration of the Vreeland bill, which essays to reform the cur-

rency and to meet the demands of the country for an emergency measure.

No question is fraught with greater importance to the country than this, and yet the House of Representatives is required to deal with this question on the spur of the moment, as it were. The bill has just been placed upon the desks of the Members. They have not had an opportunity to carefully consider either this bill or the only one which can be proposed as its substitute. The House has not had the benefit of a committee report explaining the merits of the bill, nor has it had the benefit of a minority report pointing out its demerits.

It is true, no doubt, that this bill has been considered in the several caucuses or conferences held by the Republican party of this House recently, and it has been decided to present it, but no opportunity has been given the minority to examine into this question, and this legislation is to be "railroaded" through the House because the Republicans assume responsibility for all legislation. There can be no valid reason for such a case. This session of Congress could last until next December, and there is no reason for an early adjournment. If the business of the country requires it, Congress should stay in session long enough to fairly, carefully, and properly consider all matters of currency legislation.

It is true the House of Representatives has ceased to be a deliberative body, and it is unfortunate, but this bill is to be put through under whip and spur and marks a new era in the legislation of the House. Under the rule adopted no points of order can be made against any portion of the bill, no amendments can be made thereto; but the rule is magnanimous enough to permit one bill selected by the majority of this House to be offered as a substitute, and only that bill can be offered as a substitute. The poor privilege is not granted to the minority of selecting their own substitute. This has been done for them by the majority.

It is no defense of this action to say that the bill permitted to be offered as a substitute was drafted by the gentleman from Mississippi, the leader of the minority. The bill was drawn by Mr. WILLIAMS as a Member of this House, and it is not, nor was it intended to be, a party measure. The minority of the House has never considered in caucus or conference the Williams bill, and it is simply the bill of an individual Member, which was introduced in the early days of this session, and which, no doubt, even its author would like to amend and perfect at this time.

However, it is a splendid bill as it stands and well worthy the support of this House, and it would, no doubt, receive the indorsement of the country.

But, Mr. Speaker, I understand that, however good it may be, the Democrats will not be "made to take it." There have been many bills introduced at this session on the subject of currency reform, and we are entitled to the privilege of selecting from them one that is in accord with the combined wisdom of all the minority, and it is for us to say first what substitute we desire to offer and not for you to say what substitute we must offer.

If opportunity permitted, much could be said against the Vreeland bill. It contains two provisions, both equally objectionable. The first feature provides for an emergency currency, based on collateral of banks belonging to a certain association approved by a committee of that association of banks. This is asset currency, pure and simple; indeed, it is asset currency run wild, because it provides for an emergency currency based on such collateral as banks are willing to accept and lend to men upon, and this embraces almost every species of personal property. We would know many instances of an emergency currency based on cattle, horses, swine, and individual promissory notes. This is neither sound nor safe, nor is it such a currency as a people want nor as this great Government should allow.

Asset currency has long been condemned before the public, and yet the first feature of this bill means simply that.

The second feature of the bill provides for a currency commission, which of itself is an admission that the first provision of the bill—the asset currency—is only a makeshift and is not sufficient, for this commission is to examine into the currency question and make its report to the President of the United States by January 1, 1909, and he in turn can submit the report to Congress for its approval or disapproval.

In the first place, why have a commission at all? There is a Committee on Banking and Currency in this House, whose duty it is to deal with such questions. This committee is composed of men first elected to Congress by their constituents upon the idea that they are fit to deal with the great public questions, and they are then assigned to this committee by the Speaker upon the theory that they are specially fit to deal with that especial question. There is a corresponding com-

mittee in the Senate, and certainly it is not asking too much that the gentlemen of these committees should deal with this particular subject.

I am opposed to government by injunction, and am just as much opposed to government by commissions. Already there is a clamor in certain quarters for a "tariff commission," and there is already in existence a "Waterways Commission," which Congress will be asked to maintain and appropriate for. These are entering wedges and, if we engage in the commission business, it is not extravagant by any means to believe that we will be asked to appoint a commission to do everything that the committees of the House and Senate are required to do. Certainly we cut a sorry figure before the country when we abdicate our functions of legislating in favor of some commission, and it will not be long before the question can properly be asked, "What is the need of a Congress at all, if a commission is to do all its work?" Again, it may be properly asked "Why should this commission report to the President; why not to Congress direct, its creator?" "Why should the President be the intermediary between it and Congress?"

I am glad, indeed, that the Republican party assumes responsibility for the Vreeland bill; am glad that it goes to the country that it was solely responsible for the measure. Every Democrat will, no doubt, vote against it, and the people will understand how brief was the consideration of this most important question in the House of Representatives.

In the early days of the recent panic there was talk of an extra session of Congress to deal with the currency question, and when we convened in regular session the President in his annual message recommended the enactment of suitable laws at this session, and although we have been in session more than four months, nothing has been done, but to-day we are rushed into the consideration of the measure adopted by the Republican majority and brought before the House by the adoption of one of its most drastic rules, and, as I said before, the Williams bill, which, by the course of the majority, can alone be offered as a substitute for the Vreeland bill, has many good features and no doubt is a good bill.

But no Democrat can be forced by the majority to vote either for or against this or any other bill selected by the majority for them, and as there is no probability of the Williams bill's passage, it makes little difference what attitude we assume toward it when it is offered as a substitute.

This bill provides for an emergency currency to be issued upon approved State and municipal bonds. Everyone knows that currency based upon the taxing power of the United States Government rests upon a safe and solid foundation, and we know equally well that an emergency currency based upon the taxing power of States and municipalities rests upon a safe and secure foundation vastly different from the foundation asset currency necessarily rests upon.

It has been said in the discussion of this bill that the Williams bill meets the approval of William J. Bryan, and he is quoted as saying that it is the best currency bill that has been introduced. What Mr. Bryan says has and ought to have great weight not only with the Democrats in Congress, but the Democrats and the people of the country. His integrity, his patriotism, and his ability are unquestioned and, if called upon to follow the lead of any man, no doubt, the majority of us would prefer to follow the lead of William Jennings Bryan. But in matters of this kind the combined wisdom of the Democratic membership should be superior to that of an individual, and we should at least be allowed to say what we want and not be forced to do something that is indorsed by even such brilliant leaders of the Democracy as William J. Bryan and JOHN SHARP WILLIAMS. It is no repudiation of these great men for the party in the House to refuse to adopt the measure prepared by one and indorsed by the other when it is forced upon us by those unfriendly to the measure, to the author, and to the indorser.

Much talk has been indulged in about the closing days of this session. Why are these the closing days of the session? What is the occasion for this session to close? It has not been a long one by any means. The law does not require it to close, and it is only the excuse that attempts to justify the manner of legislation. We have seen passed in this House appropriation bills carrying millions of dollars, without any right to make points of order against any items in the bill, without any right to amend, and without the poor privilege of discussion. They have been passed under suspension of the rules, with twenty minutes' debate on each side—not a sufficient time to explain the purposes of the bill and not a sufficient time to intelligently assail the provisions of it.

But thus it is that the majority are pushing things to a close at this session, and as an excuse for their conduct claim that

the attitude of the Democrats makes it necessary. This is a poor plea, after the proud boasts that the party in power will proceed to legislate in its own way and in its own good time.

The people of America will be called upon this year to indorse or repudiate the course of the party in power. The intelligent, fair-minded citizens of this country expect and demand fair and full consideration of all matters before Congress and they will require of the party in power an explanation of these hasty acts of legislation, and the time is not far distant when the minority of this House will be converted into a majority, and then we can present the spectacle to the country of wise and wholesome legislation enacted into law after a fair, full, and careful consideration by the national legislators.

Of course, Mr. Speaker, this bill will pass. We are powerless to prevent it, but I predict it will not long remain a law if it is ever passed in its present form. The Senate has yet to act upon it, and, whatever may be the measure offered by that body, I predict here and now that the Vreeland bill will find no favor there.

Post-Office Appropriation Bill.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 14, 1908,

On the bill (H. R. 18347) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1909, and for other purposes.

Mr. HINSHAW said:

Mr. CHAIRMAN: At this point in the consideration of this bill I desire to submit a few remarks on the subject of the compensation of rural carriers. We are herein appropriating \$35,000,000 for the rural mail service. It is growing with the growth of the country. No one could have foreseen the vast expansion of this useful service, and no one would suggest its discontinuance. It is now as much a part of our postal service as the carrying of mails on trains, and the agents who so faithfully carry daily to every farmer his newspapers and letters are entitled to the same consideration given to the clerks on mail trains or in post-offices or to city carriers. The maximum salary now paid to city carriers in second-class offices is \$1,000, and under this bill the maximum salary allowed carriers in cities having first-class offices will be \$1,200. Some increases are made in this bill for clerk hire in third-class offices. Last year the salaries of rural carriers for standard routes was fixed at \$900.

I have a bill now pending before the Post-Office Committee allowing the salary of \$900 to apply to all routes of 24 miles or less, and for each mile a route exceeds 24 the carrier shall receive each day 10 cents per mile. I do not think this a sufficient increase to compare favorably with those who render a like service in cities and on trains, but it appeared to me to be the best advance that could in all likelihood be obtained at this time in view of the increase of last year. No doubt a provision should be inserted to deduct 10 cents per mile on routes of less than 24 miles in those regions where such routes prevail. In Nebraska there are few routes less in length than 24 miles, and many if not most of them are 28 to 30 miles in length. While it is true that most of our roads are good, many of them are hilly and cross rivers and smaller streams. The rural carrier has a great expense that no other postal employee must undergo. All keep two horses, many keep four. Feed is expensive, repairs to harness and wagon are almost a daily experience; the expense of horseshoeing alone is a large item. In addition to the salary, the Government should make an allowance of a lump sum large enough to defray all these expenses. The Government can well afford to be just to these men, who go through rain and snow, heat and cold, and carry information and entertainment to every section. It was anticipated that the postal deficit would keep pace with the expense of this service, but it has not done so. There has been such an unexpected and large increase of revenue arising on the rural routes from the enlarged use of the mails that the rural mails are now almost self-sustaining. I sincerely hope that Congress will speedily enact some comprehensive measure to equalize conditions among the various employees of the Postal Department and give the rural carriers an increase commensurate with the expense, the duties, and the exactions of the work involved.

Postal Savings Banks.

SPEECH

OF

HON. WILLIAM E. HUMPHREY,
OF WASHINGTON,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 18, 1908.

On the bill H. R. 21946, the general deficiency appropriation bill.

Mr. HUMPHREY of Washington said:

Mr. CHAIRMAN: It is true that the House has passed a currency bill, but the most devoted advocates of that bill do not claim that it is more than a temporary measure, designed merely to meet a possible emergency. Its strongest friends claim that the greatest benefit from its enactment will be to produce conditions that will make a trial of it unnecessary. As a temporary measure, to be used in case of panic, it will, I believe, be a benefit to the country. I regret that we can not also at this session pass a postal savings bank bill. Such bill would be of real and lasting benefit to the country, both in times of panic and prosperity.

I believe that this Congress should pass a postal savings bank bill along the general plan approved by the President and suggested by the Postmaster-General. I am in favor of a postal savings bank system for the reason that I believe it would have the following results:

First. It would relieve the present industrial condition.

Second. It would be a powerful influence in preventing panics in the future.

Third. It would encourage thrift and saving among a class of people where it is most greatly needed, those whose earnings are small.

Fourth. It would increase legitimate banking business.

Fifth. It would furnish an absolutely safe place for the savings of the poor.

The recent panic was different from any in our history. Panics are usually caused by crop failure, by stagnation of business, by low prices, and little demand for labor. But this time our panic came when our harvests were the most bountiful, when the people were busier than ever before, when prices were better than ever before, when wages were higher than ever before, when the demand for labor was greater than ever before, when the amount of business was larger than ever before, and when there was more money per capita than ever before. It was a panic of plenty. It was a panic of unfounded fear, a panic that was brought upon us because of lack of confidence of the people in banks. It was the panic that seizes the man who has loaned his money to his neighbor when he thinks that neighbor can not repay it or that he is gambling with it. Whether this panic was caused by speculation, by Wall street gambling, or by prosecution of millionaire criminals, it is unnecessary for the purpose of this consideration to inquire, for the financial result on the country was the same.

This panic was most pronounced among small depositors. If we had had at that time a postal savings bank system, this panic-stricken depositor would have placed his money in the postal savings bank instead of hiding it. The Government would then have given it to the bank of deposit in the community where it was received and this money would again have been put into active circulation. If we had a postal savings bank system to-day, millions now concealed would immediately appear and again be put to work doing the business of the nation.

As this amount increased, business would increase, confidence would increase, and our prosperity would be restored. The foreigner with his fear of private institutions, the ignorant with his suspicion of banks, the poor man with his small savings, the rich man with his millions, all have confidence, absolute and unshaken, in the Government. Every one would take the Government's promise. A run upon a postal bank would never occur. It is almost unthinkable. No man could ever lose a dollar. Consequently no man would ever be thrown into a panic for fear of its loss. In times of panic there would be a run, not on, but to, the postal savings bank; not to get money, but to leave it. The recent financial difficulty shows this faith in the Government, if any evidence was needed of the fact, for thousands bought postal notes payable to themselves and paid for the privilege. Take the one item alone; the amount of money sent out of the country by the foreigner. During the fiscal year of 1907, \$84,080,711 international money orders were issued by our Government. During the calendar year 1907, \$94,000,892

were issued, and from July last until December the first, inclusive, \$53,811,683 were issued. Why has this vast sum been sent abroad? Undoubtedly a large part of it was because the sender thought it was safer in foreign countries than here, but all these foreigners have demonstrated their absolute faith in our Government, and if we had postal savings banks, not a dollar would be sent out of the country because of fear that it would be lost. These vast sums, if we had postal savings banks, would undoubtedly very largely be deposited here while it was being accumulated, and most of it would now be here and in circulation. Of course, these sums, vast in the aggregate, are small compared with the entire earnings of those who sent them abroad. A great part of such earnings, under a postal savings bank system, would also go into the bank. If the foreigner has his money deposited here it has a tendency to give him more concern and a higher regard for our country. Then it most frequently happens that if they accumulate money and have it on deposit here that they will invest it here, and this must inevitably lead to keeping both the money and the man permanently in this country.

WHERE THE MONEY IS.

The amount of money in the United States is estimated to be a little over \$3,000,000,000. Of this sum, over \$300,000,000 is in the National Treasury; \$1,000,000,000 in the banks of the country, leaving over \$1,700,000,000 in the pockets of the people. This last mighty sum is the one that the postal savings bank would largely receive. We can realize how easily a shortage of money can be created and a fearful panic produced when we remember that this sum, vast as it is, can be entirely absorbed when fear seizes the people by a hoarding of less than \$25 by each person. This great fact demonstrates the tremendous importance of absolutely preventing any fear that will cause those of small means to withdraw from circulation even the little that they have. Think of the vast sum represented by \$25 per capita of this country and then remember that the average account in the savings banks of this country is over \$433 and the great necessity for a postal savings bank forces itself upon you. These figures show that only depositors of comparatively large means patronize the savings bank to-day. It demonstrates that the small depositor, either because of lack of convenience or because of lack of confidence, does not place his money in the banks. The small depositor is the one to be reached. If you will protect his deposits, he will protect the prosperity of the country.

Of the \$369,000,000 in the savings banks of this country, more than two-thirds are in New York and New England alone. Only 4 per cent is in the great State of Pennsylvania, and 5 per cent in the State of Illinois. These figures demonstrate that there is great necessity for some system that will be more generally patronized by our people, some system in which the people have more confidence. These figures further demonstrate that it takes but few, very few, dollars to be kept out of circulation by each person to absolutely paralyze business. And in times of financial trouble this is the very thing that does happen. This holding out of a very small sum by a very large number of people in times of panic is one of the greatest weaknesses and one of the greatest evils of our present financial system. A postal savings bank system would absolutely cure this trouble. We have seen tens of thousands all over the country rushing to the post-offices buying money orders. With postal savings banks every man that has a fear that his money would be lost would deposit it. Such bank in such time would be the one city of refuge for the panic stricken.

NO ADEQUATE FACILITIES.

We do not have proper facilities in this country in the way of savings banks. Private banks can not furnish these conveniences. It is not profitable for them to do so. This lack of proper facilities is strikingly shown by comparing our own with other countries. The following shows the number of savings banks in the countries named in proportion to their population: In Sweden, 1 bank for every 1,250 people; in England, 1 bank for every 3,000 people; in France, 1 bank for every 5,000 people; in Belgium, 1 bank for every 7,000 people; in Italy, 1 bank for every 7,000 people; in the United States, 1 bank for every 67,000 people.

This comparison is distinctly discreditable to us as a nation. There is only 1 savings-bank depositor in every 6 persons in New England. In the Western States there is 1 to every 18 persons; in the Middle States, 1 to every 48 persons; in the South, 1 to every 306 persons. In England the ratio of depositors is 1 to every 4.35 of its population. At this ratio we should have 20,000,000 depositors, and if their average deposit equaled those of England it would give us the tremendous sum of \$1,700,000,000. Certainly we could not expect that it would be less than this sum, for the earning capacity of our

people is greater and their wages are higher. This sum of \$1,700,000,000 is approximately equal to all the money in the United States outside of the Government vaults and the banks. This vast sum represents the money that is in the pockets of the American people, and this sum represents more than 60 per cent of all of our money. And this amount in the pockets of the people has greatly increased within the last few months. This vast sum is sufficient to do almost the entire business of the country, and yet to-day it is largely out of the channels of trade. If postal savings banks would make it available, it would solve the financial stringency. That postal banks would largely place this sum again in circulation is a proposition so plain that it seems to me that no man can doubt it if he will study the question. If it resulted only in getting from our depositors, per capita, one-third as much as is given by the English depositor, it would give us over \$560,000,000, a sum sufficient in itself to tide over any ordinary business depression. Take New England, the best-served portion of our country with savings banks—she has about 500 banks and 2,500 money-order post-offices. In the entire country we have 1,300 savings banks.

If we passed a postal savings bank law, immediately we would have 38,000 commodious savings banks conveniently located, known to the people, and sufficiently manned by competent officials. Every man, woman, and child would know the location of these banks, and every man, woman, and child would believe the security was absolute. It would take no advertising to get depositors. No question would be asked, no investigations made, relative to its safety. Every person that had a dollar who had no faith in private institutions would immediately place it in this bank. Does any sane man doubt the truth of these statements? Can any man doubt that immediately the countless millions now hidden in the pockets of the people would begin to come out of hiding? Can any man doubt that at least 50 per cent of the \$1,700,000,000 now in the pockets of the people—that is, the enormous sum of \$850,000,000—would soon be in the channels of trade? Can any man doubt that the panic that we have been suffering from, a panic caused entirely by the people's fear of banks and the banks' fear of themselves, would not have occurred if we had had in operation a savings-bank system?

Private banks do not meet all the requirements. They can not give the needed security, nor the needed convenience. The motive of gain will not permit them to give either. The first and the greatest of all requisites for a savings bank is the privilege of depositing small sums with absolute security. The working people of this country do not ask charity; all they ask is security; and this nation is a financial failure until it gives them the security. After one becomes a depositor he has more interest in the Government. It helps to make him a better citizen. It teaches him to hate anarchy and to despise socialism. He is better able to protect those for whom he toils. It prevents him from becoming a public charge.

WOULD BENEFIT REMOTE LOCALITIES THE MOST.

It has been urged that savings banks would work best where the population was densest. It has been said that this was one reason why European countries can use this system to more advantage than could be done in this country. I think exactly the opposite is true. To illustrate: It has been estimated that the average distance from the post-office to the savings bank in the different parts of our country is as follows: New England, 15 miles; Middle States, 25 miles; Southern States, 33 miles; Pacific coast and Rocky Mountain States, 55 miles. Thus, opportunity to deposit at the post-office would be of the greatest advantage in the most sparsely settled districts. It would furnish banking facilities where none now exist and where they are most needed. It would cause those who have no savings accounts to strive to get one. The difference in the cost of operation in the different portions of the country would be practically nothing, because the machinery is already furnished and in operation everywhere.

WOULD NOT INJURE BANKS.

Postal banks would not injure the regular banks. The only deposits that would go to the postal banks would be those that others could not get. No man would put his money in a postal bank at 2 per cent interest, if he had faith in another bank that would pay him 4 per cent. In places remote from other banks, the depositor, after making considerable of an accumulation, would often then go to the regular bank and deposit where he could get more interest. But if he had to go to the distant bank to deposit each sum no deposit would ever be made. It would cause many a depositor to learn the habit of saving that would eventually go to the banks who otherwise would never have anything to take to the bank. If we had postal savings banks, then in time of panic the money would go into the postal savings bank and then into the national bank and then back to the channels of trade. In times of greatest financial

stress, instead of money being secreted and withdrawn, it would come out of hiding, for every one would want to place what little he had where it could not be lost or stolen. It is true that if we had postal savings banks, in time of stress money would be drawn from other banks and deposited with the postal bank, but no more would be withdrawn than if the postal savings bank did not exist. Postal banks would not save other banks that did not have the confidence of the people, but it would largely save the business of the country. It would keep the money in circulation to do the business of the country.

COST OF THE SYSTEM.

The cost of a postal savings bank system would be almost nominal. The Government already has all the machinery and practically all of the agents necessary. Judging by Canada's experience, I do not believe that it would cost this Government \$100,000 per annum, and while I would not advocate that the Government should make money out of the system, yet undoubtedly the interest received on deposits over and above what the Government would pay, should the Government see fit to charge it, would much more than cover all expenses and guarantee all losses in connection with the system.

PROTECTING THE GOVERNMENT.

I fail to see any great danger of loss to the Government in postal savings banks. I can not see any great danger in the Government guaranteeing to pay a man a dollar if that man first gives the dollar to the Government. Honesty of the agent is the only thing necessary, and the history of this and every other nation demonstrates that this is easy of insurance always where the agent is not permitted to use the money or in any way to handle it except to hold it as the representative of the Government. This is an entirely different proposition from doing a banking business. That it is easy to absolutely protect the Government from loss is shown by the record of Canada where only \$25,000 have been lost in thirty years out of \$465,000,000 received and disbursed by postal savings banks. The Government should immediately deposit the funds received in postal savings banks with the nearest bank of deposit. The Government could easily protect itself from loss by these banks.

SHOULD THE GOVERNMENT ENGAGE IN THE BANKING BUSINESS?

The one great objection urged to postal savings banks, and it seems to me the only objection of much merit, is that the Government should not go into the banking business. This objection demands most serious consideration. I am unalterably opposed to Government ownership as a general proposition. I am opposed to the Government doing any business that can be as well done by private enterprise. We know only too well that the Government way of doing business is the most costly way. Government ownership tends to kill competition. It stifles individual effort. It destroys the greatest incentive to human endeavor—that is, that the reward shall be given to him who earns it. Government ownership is a dangerous doctrine, and anything approaching it should be adopted with greatest caution. It was with this feeling that I began the study of postal savings banks, and it was still retaining this feeling that I became convinced that we should establish such system. "Postal savings banks" is largely a misnomer. The Government would go into the banking business to this extent and this only: It would receive deposits and it would repay them. Even this much would be objectionable in any business that private enterprise could as well conduct. But our history is filled with panics. They come in time of prosperity. They come in time of adversity. They come without warning. They sweep over the country in a day, withering our prosperity as does the hot winds of the desert the blossoming harvest. The people rush to the bank, they withdraw their deposits, their money is taken out of circulation. And why is all this true? It is answered in a single sentence: Lack of confidence in the places where their money is kept. The people are afraid of banks; they are afraid of private institutions. Foolish they may be; their own action brings their own destruction, it may be; but, nevertheless, the great fact remains that they do it, and they will continue to do it as long as our present system remains.

What is the remedy for these evils? We may theorize as we will. We may argue as we will. We may travel around the circle as often as we will. But always and ever we will come back to the same point, always to the same answer, seek where we will, to the only remedy—the promise of the Government. Every human being in this country has absolute confidence in that remedy. The confidence in the remedy being complete, the remedy is complete in so far as it is applied. The promise of the Government is the only thing that can ever give us a satisfactory financial system. The promise of the Government is the only absolute remedy for panics. Some way and somehow we must provide a plan and a place where the promise of the

Government will stand behind every honest dollar deposited. Postal savings banks will do this, and this is why I am in favor of postal savings banks. No other scheme has yet been devised, even that the bankers themselves can agree upon, that will give absolute safety. While the operation of savings banks would be limited, it would be given almost entirely to those who need it most, to those who are most easily affected by panics to those who would suffer most severely from financial loss, to those of small earning capacity—the laboring classes; the poor.

THE GOVERNMENT ALREADY IN THE BANKING BUSINESS.

The Government is already in the banking business. We have more than 30,000 money-order offices in connection with the Post-Office. The business done by these offices last year amounted to over \$300,000,000 and involved 60,000 transactions. And this is a banking business, a money-exchange business, done in direct competition with the banks of the country. The Government also does other banking business. More than 25,000 soldiers deposit their money with the Government in military banks. Seamen deposit with the Government great sums of money. These deposits of our soldiers and seamen amount to millions, and the Government pays interest upon these deposits at the rate of 4 per cent. It has done this large business without loss. The Government is in the banking business in many other ways. It comes to the relief of banks in financial stress. It assists those who should be able to protect themselves. Instead of having the Government protect those that handle the depositors' money, that loan the depositors' money, that live off of the depositors' money, that speculate with the depositors' money, why should not the Government directly assist the depositor? The present system is exactly wrong in principle. The Government should directly protect the people and compel the banks to protect the Government. The one that uses the money, that profits by it, that controls it—the bank—should take the risk and stand the losses and not the depositor that has no control over his own after it goes into the bank. The Post-Office is already in the banking business. It does this successfully. It does it without loss, and the same machinery can, with equal safety and with equal success, accept and pay out money deposited with it. And this is all that would be required in postal savings banks.

WHAT THE PEOPLE DESIRE.

It has often occurred to me that occasionally it might be well for us to consider whether or not the people themselves might not know what they wanted. There seems to be an impression that there is something so sacred and so mysterious about the banking business that only the expert should be consulted about it, or is able to advise about it. But the experts to-day can not agree among themselves. The men in this country that take your money and mine can not agree upon a plan that they themselves believe will insure us that after they get it that we can ever get it again. How, then, can they expect us to have more confidence in them than they have in themselves? I have almost come to the conclusion that the votaries of the banking system are like the votaries of every other system that seek to cover it with mystery and sacredness, that it is done in order to further their own purposes. I am almost constrained to believe that the reason the bankers of this country can not agree as to what should be done is because they fear that any change may injuriously affect their interest. Nine people out of every ten in this country to-day want postal savings banks. This statement will not be controverted by any man that has attempted to know public sentiment upon this question. For one, I have concluded that perhaps this vast majority who agree are as wise as the few experts who can not agree. For one, I am willing to take the judgment of the people and let the people have what they want.

RESULTS.

Always the greatest stimulus to industry is the certainty that its fruits may be enjoyed.

I do not believe that the system of postal banks would be a universal panacea for all the financial ills that afflict us, but I do believe that such system would be of great help. It would greatly tend to produce industry, economy, and saving. These are the enemies of pauperism and the foundation of competence. He who has learned how to save a dollar has learned the first lesson of financial success. He who forms the habit of saving is building against intemperance and immorality. Frugality and morality are united everywhere throughout the world. Such system would furnish a safe place for the earnings of many who are now denied that privilege. In times of panic it would keep millions in circulation that now hide in secret places under lock and key. And above all it would say to that great class that is the foundation of all our greatness, our country's hope and our country's glory, the salvation of our

race, that class that needs the most protection from the Government and gets the least, those who in the sweat of their brow eat bread, the countless millions of our wage-earners, at least you have a place where you can put the dollar that represents your toll of hand or brain, your savings, your economy, your prudence, your privations, where it is absolutely secure and where you know you can get it in the dark hour of need. You have your country's promise and greater security than that no man can have.

In accordance with the rule adopted by the House giving leave to print on the currency question, Mr. Sherley submits the following paper, written by Mr. John M. Atherton, of Louisville, Ky.:

CURRENCY QUESTION.

Panics or financial disturbances have their origin generally in overtrading and expansion of credit. They may occur from other causes—unsound money, wars, internal dissensions, bad crops—but none of these conditions exist in this country at this time. We have peace at home and abroad. We have a sound money system, based upon gold and secured by the national faith. We have had a succession of bountiful harvests. We have been prosperous beyond any past experiences, and yet we have just passed through a severe financial storm, which may be followed by considerable depression for months. The development can not be too rapid without producing unhealthy conditions, industrial, financial, and social. Between cramping a steady, sound, and vigorous growth through a scarcity of money, with too high rate of interest, and encouraging a rapid, feverish, and extravagant growth through an abundance of money, with a too low rate of interest, there should be obtained, if possible, the happy middle course. The difficulty lies in the selection of the means to be employed to ascertain this middle course and keep in it. In some countries all legitimate methods of stimulation might be required to excite the people to the degree of energy necessary for great progress in all fields of industry. In this country stimulants are not needed, and our attention can be directed to the object of restraining an energy all too impulsive and impatient.

Experience teaches us that we are peculiarly given to overtrading and to overdiscounting the future. We go ahead, so long as money can be had, enlarging factories, extending modes of transportation, improving our cities and our farms, and adding to our amusements and pleasures in a thousand ways, until our very business life as well as our individual habits become extravagant.

How can this exuberance of growth and enjoyment be restrained to healthy limitations? If it is not possible to construct any efficient method of restraint, and if we accept these financial storms as unavoidable, we can then turn our attention to the task of devising the best mode of relief. But until every reasonable effort to restrain has been tried and found wanting, the country should not accept the hard conclusion that nothing can be done to ward off these recurring panics. If they can not be avoided, the intervals between them may be made longer and the loss resulting from them may be made less. In other words, if no restraint can be found and exercised adequate to the task of avoidance entirely, we may through some means or other manage to have fewer of them. It may be possible to make it more expensive for the country to run into conditions that usually end in panics, and yet the expense of prevention be infinitely less than the cost of cure. Fortunately the effort toward prevention will not add to the violence of the storm. A judicious mixture of restraint and relief should not be impossible either of conception or execution. There may be something defective in our present method for the circulation of our currency—some weak spot in the handling of our loan fund.

Banking facilities in this country consist of the national and State banks and other State institutions. These banks are organized and operated for private gain. The capital is the property of the stockholders and used to make profit for dividends. A bank considers the rate of discount and the security in making loans and does not consider the effect the loans may have on either expansion of trade or of credit. In fact, the banks are in a certain sense, subject to laws made to insure safety, money merchants, buying and selling money. They are a part of the great business life of the country and subject to the same impulses.

In a prosperous period, such as this country has experienced for many years, every branch of business has expanded and has required more money as the volume of business has increased and prices have advanced. Notwithstanding the increase of money, the use and, so to speak, the consumption of money have outrun the increase.

How is the use or consumption of anything, say wheat, regulated? By what we call supply and demand, and as the stock of wheat runs down price goes up. At least, assuming that the country had a limited supply of wheat for use during the year, the use would be restrained and controlled by the price. Is not money—the loan funds of a country—to be regulated by the same rules? Every borrower consumes so much of this loan fund. The banks put out more or less of this fund every day and in all parts of the country. Each bank has its customers whom it tries to hold and to whom it lends money. When these customers, in dull seasons of the year, do not require all the money the bank can lend, the bank seeks other customers, and if need be lowers the rate of interest—cuts the price—to get the money out. While this daily grind goes on it never occurs to the bank to refuse a satisfactory loan, lest money may be needed to move the fall crops. Then what good would come in the way of supplying crop-moving money from refusing one loan? This same process goes on, and finally the country is brought face to face with a financial stringency that now and then ends in a financial crash. Now, what remedy is proposed? More money at once is the universal answer. Certainly more money is required to assist the process of liquidation and to avert as far as possible the severity of the panic. But this course does not avert financial disturbances, however much it helps when they come.

While the clearing-house associations are able to do much to relieve the distress of a panic, they can not be expected to advise or compel their members to refuse loans and cut down profits that funds may be accumulated for future emergencies. Outside these clearing-house associations, there is and can be no concerted action among the banks, and if such action was possible it would not change the private character of the banking business.

Why not leave this national banking system practically undisturbed and establish a great central bank under some such provisions as these, to wit:

1. The capital to be provided by Congress, and not a single cent of that capital to be held by any bank or individual.

2. The central or Treasury bank to be confined in its operations to the Government of the United States and the incorporated banks—national and State.

3. Pay no interest on deposits, and maintain a reserve of 40 per cent against other than Government deposits.

4. No branches—only one bank located at Washington as the fiscal agent of the Government and as a Treasury bank, doing the banking business of the Government in accordance with bank methods.

5. Congress to direct the public moneys to be deposited in this Treasury bank. Also Congress to appropriate twenty millions a year for the next five years, by which time the capital will aggregate in cash \$100,000,000. Congress to authorize the Secretary of the Treasury to prepare and deliver to the Treasury bank United States 100-year 3 per cent bonds to the amount of \$400,000,000.

6. This Treasury bank may deal in foreign exchange and hold funds in foreign banks; may buy and sell United States bonds; may lend money to the United States and to the national and State banks and discount paper for the national and State banks, and may, subject to the provisions and limitations of this act, conduct the affairs of the bank to aid the general business interests of the United States by accumulating money when the demand is easy and hold the same to meet the demand when active.

7. The bank may fix the rate of interest or discount at which it will lend money or discount paper and change the same at its pleasure; and all transactions between the bank and any other banks, national or State, shall be exempted from the usury laws of any State.

8. After defraying the expense of the bank the profits arising from its operations, or so much thereof as may be necessary, shall be applied to the payment of the interest upon the United States bonds, issued in pursuance of this act, outstanding.

The residue of profits shall be held in gold coin or bullion, to be used to redeem any notes issued by the bank, and shall be so held except as paid out for the redemption of its notes until the amount of said fund shall reach \$100,000,000. After this fund has been thus accumulated the profits shall be applied to the maintenance of this fund, and any profits not required for the above purposes shall be applied to the payment of the principal of any United States bonds issued and sold under the provisions of this act.

9. The bank shall be controlled by a board of directors consisting of nine members, to be appointed by the President of the United States and confirmed by the Senate, and for a term

of years, as follows: Three shall be appointed for two years, three for four years, and three for six years, and as the terms expire the vacancies shall be filled by appointments for a full term of six years. The directors shall have the qualifications of the members of the United States Senate, except as to residence. The board shall elect one of its number president and shall elect two or more vice-presidents, who may or may not be members of the board of directors, and one or more cashiers, and make such other appointments as they may deem necessary to conduct the business of the bank.

10. All applicants to the Treasury bank shall be in writing, by mail or telegraph, and shall be filed and preserved in proper form for a period of not less than two years, and the applications from the banks of each State shall be kept separate, and the replies of the bank to each applicant shall be in writing and shall be filed and preserved in the same way.

The bank shall make public each day of the year, Sundays and legal holidays excepted, a condensed statement showing its condition, and the Secretary of the Treasury shall have the affairs of and the accounts of the bank examined when, in his judgment, it is desirable, and at least once in each six months.

11. All laws now in force for the management of the national banks shall apply to the directors and officers and employees of the Treasury bank, and the directors and officers and employees shall be subject to the same penalties for violation of said laws.

12. The central or Treasury bank may, under rules and regulations approved by the Secretary of the Treasury, have the use of the United States subtreasuries for the deposit therein of the funds of the bank, subject to the control of the bank, as if in its own vaults.

13. The directors shall make a fair and just distribution of loans and discounts between the various States, and shall not unduly discriminate in favor of any applicant or State to the prejudice of any other applicant or State.

This is intended to set out broad lines on which a strong central bank may be established for the regulation of the currency, with a view to giving steadiness to its circulation and use, and thus ward off, as far as possible, serious financial disturbances, and when such disturbances do occur, to aid in relieving them.

The rate of interest is the brake to be used to slow down the use of money, and to be effective, should be under control of an institution organized to promote the general good and not to make money for its stockholders as its chief and only purpose. Therefore, the power to raise and lower the rate should be left to the discretion of the directors of the bank and not fixed by statute.

The directors would act under the solemn responsibility of office as public servants of the people. They would be selected by the President for their fitness and would be confirmed by the Senate. This should be sufficient safeguard against incompetency.

Such an institution as the one referred to would not compete with the national and State banks for business. When the latter banks could supply the demand for money the funds of the central or Treasury bank would lie idle. As the supply in the local banks ran down, they would begin to apply to the Treasury bank for loans. The nature of these applications; the sections and cities from which they came; the amounts asked for; the rate of interest the applicants would pay; the kind of security or quality of business paper offered; the frequency and urgency of the applications—all this information centering in one bank—would enable the officers to regulate the loans and the rates with an accuracy and soundness of judgment which could not be reasonably expected in the ordinary banks. So long as the Treasury bank had no applications for loans the supply of money would be known to be ample at the time. No effort would be made by the Treasury bank to force its funds into use. It would not be driven into cutting rates or into doubtful investments to increase its earnings. It would hold its funds for future use. The percentage of the money in the country which such a bank should have to be able to exercise the necessary restraint upon the use of money and the necessary relief when emergencies arise is more or less a matter of judgment, if not experiment, in the beginning. Time and experience would determine the amount the bank should control, and until the amount is thus determined, or at least until the power of the bank has been exerted, it is the part of prudence and wisdom to err on the safe side and to limit the issue of currency to a sum that would not threaten inflation. In this, as in all human affairs, an ounce of prevention is worth a pound of cure. Seek to steady the use of money and to maintain a healthy growth of business should be the dominant thought in any effort at currency reform.

Some months ago—say the 1st of last December—money commanded from 10 to 25 per cent. To-day from 2 to 5 per cent. The expansion of trade and credit were allowed to go too far, and when the trouble came the remedy was applied too suddenly and too bountifully. As soon as the country has recovered from the nerve shock and has regained its equilibrium it will be enticed by cheap money into another round of overtrading, extravagance, and speculation. This central or Treasury bank could collect its loans at maturity and thus call in its emergency currency as soon as its issue had accomplished its purpose.

If Congress objected to an appropriation of twenty millions annually for five years to supply so much capital, the issue of United States bonds could be increased to \$500,000,000 and the bank authorized to sell \$300,000,000. The bank would have in its vaults the proceeds of the sale of bonds and the public moneys. If there was no demand for the bonds at or about par, the inference would be that there was no idle money or that more desirable investments were to be had. To avoid such contingency the safer and surer method of supplying capital in the beginning would be through appropriations by Congress. The point to work to would be to give the bank a large enough percentage of the money of the country to be used by the bank for conserving the use of money and for steadying the money market. The bonds could certainly be sold gradually and the proceeds, added to the capital supplied by appropriations by Congress, would put the bank in a position to aid in the steady and healthy expansion of trade, and yet to restrain the too free use of money that always results from very low rates of interest.

The bank could, in times of great ease in the money market, hold its funds.

It may be said the bank must do a certain amount of business to pay expenses. The expenses would not be very large, and if no use could be made of its funds it would be incontestable proof that at the time there was a surplus of money. It would be far cheaper to the people to pay the expenses than pave the way for financial trouble later on by the employment of these funds in overtrading and speculation. By intelligent observation the bank, once established, could soon be put in a position to make itself felt in the money market.

The objection to a great central bank heretofore has grown out of its transactions with individuals and with private business houses and corporations. This method required branches all over the country, which brought the bank in competition with local banks, and which could easily have been converted into a great political power under partisan management. But no such objection lies against a central or Treasury bank here suggested. This scheme lets the national-bank system entirely untouched and compels the central bank to do business through the national and State banks. The national banks may object to the deposit of the public moneys in a central or Treasury bank. But the public moneys are not a regular or even an essential part of a national bank's business. And while the public funds should not be beyond the reach of a healthy trade demand for money, there is no reason why they should not be loaned by a central bank for such rate of interest as would conserve public interests.

Under the Aldrich bill there is no power of restraint upon the too free or too easy use of money. In so far as it lodges the discretion to issue an emergency currency in the Secretary of the Treasury and the Comptroller of the Currency, it would seem safer against selfish action than could be expected from the banks or other interested parties. But it would be difficult to detach these officials from the administration of which they are a part. A board of directors of a great bank appointed by the President and confirmed by the Senate to execute the will of the people as expressed by statute would be responsible to Congress and much further removed from any political use or influence.

But the issue of currency when unavoidable is essentially a duty of the Government, which should be exercised by the Government without the aid or intervention of any security over which Congress has no control.

The amount of State, municipal, and railroad bonds outstanding and yet to be issued is practically unlimited. If the experiment proposed in the Aldrich bill works well in the beginning, it would be dangerously easy for Congress to increase the amount of emergency currency to be secured by such bonds. It may be said that the same is true of an issue by a central or Treasury bank secured by United States bonds. But Congress would be far less apt to issue United States bonds—that is, to create the security as well as currency—than to enlarge the issue to be secured by other bonds for the payment of which the people are not liable.

Apart from the fact that the Aldrich bill offers no feature of restraint, but really offers encouragement, the arbitrary tax of 6 per cent would delay the use of the currency by the stronger and sounder banks. The legal rate in many States is 6 per cent, and banks would be reluctant to apply for money to be used at a loss.

An emergency currency, based on the assets of banks, may be safe enough, but the discretion as to its issue can not be safely reposed in its direct beneficiaries. The seminal idea of a great national bank, under whatever name it is called, is found in our Constitution and in our framework of government. The executive power is lodged in the President, the legislative in Congress, the judicial in the Supreme Court. Thus we have a central authority in all these departments. The authority of each is fixed and limited by the Constitution. Why not a central authority in the department of currency as related to business and business life? If we can safely intrust the final and ultimate decision of all questions of interstate relations affecting life, liberty, as well as property, why can we not safely intrust a large degree of influence and power to a central bank as an adjunct and aid in the distribution, circulation, and use of a national currency? Confined absolutely in all of its transactions to the vast system of national and State banks, without a cent of private interest, such a bank could be safely intrusted to exercise sound and wise discretion for the benefit and welfare of the whole country.

Nothing short of pestilence or famine exerts a more injurious effect upon the people of a country than a period of feverish commercial and financial activity, with all of its attendant excitement and extravagance, to be followed by a period of dullness and depression, with all its disappointments and privations. One of the objects set out in the preamble of the Constitution of the United States for the formation of the Republic is to insure domestic tranquillity. The need of this tranquillity is apparent to-day to every casual observer, and this need is so imperative that it gives to the authors of the Constitution an almost prophetic wisdom. Every class of our people is involved in the disastrous consequences of these great and unhealthy periods of trade expansion and trade depression, which, on the one hand, encourage habits of indulgence and invite and stimulate enterprises which, on the other hand, must be suddenly abandoned. Whatever may be done in the way of currency legislation should be done with a view to averting these great trade and financial revulsions.

Domestic tranquillity can not be restored or maintained by any legislation that tends, in any degree, to encourage unhealthy trade conditions by holding out the promise of certain relief through the issue of paper money when relief can come only through the sufferings and losses and irritations and discontent which inevitably follow a sudden fall from great heights. Let us look rather to the hope of securing domestic tranquillity through a normal, steady, healthy growth. To this end a strong, truly national central bank, under a competent management and conducted for public good, would be a powerful aid and without any element of risk.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. JOHN F. BOYD,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. BOYD said:

Mr. CHAIRMAN: I have listened with pleasure to the instructive remarks made by the gentleman from Wisconsin [Mr. COOPER] and have taken some pains in looking into the merits of this bill and the claims made, and can say without qualification that the demands are just and the allowance fair, and I shall support the measure with all my heart. The statement made by some that we are making allowances in this case which were never made in similar cases before, is not to the point. It seems to me that we should not continue to be unjust if we have been unjust in refusing to make allowances on past claims, and the main question before the House seems to be, after all, whether this claim is a proper claim or not.

I have full confidence in the judgment of the majority of the committee that had charge of this bill, and their report has confirmed me in this opinion. The committee has fully investigated the ownership of these church properties, and has come to the conclusion that the title rests in the Roman Catholic Church. Even if I entertained the slightest doubt of the correctness of the conclusions reached by the majority, the words of Secretary Taft, uttered before a committee of the Senate on this question, would fully set my mind at rest. I give here the exact language he used:

I think that Congress might well vest in the Commission, with the supervision of the President and Secretary of War, power to make legal conveyances of the land which in equity belongs to the Catholic Church. When I say the churches and conventos stand upon public property, I ought to explain that under the Spanish rule the connection between the church and the state was so close that it was not thought important to take the title out of the state and put it into the church, before a church or convento was erected. My own judgment as a lawyer about the title is that the purpose in erecting these buildings was that they should be devoted to the uses of the church, and therefore whatever the title is in law, in equity they belong to the church for the benefit of the Catholic people of the parish. I think that such conveyances would show that the United States has no desire to deprive the church of properties that belong to it for its purposes. What we all wish to do, of course, is justice, and what the people of these islands have had the least of is impartial justice.

Now, there is no doubt in my mind regarding the correctness of the conclusion that all the church properties in the Philippines belong to the Roman Catholic Church—I mean those properties that were in its charge under the Spanish régime. The fear expressed that this money, if paid to the Archbishop of Manila, would be improperly diverted is born of a wrong conception, for in all cases where claims are voted to corporations they are made payable to the responsible head of that corporation, and in the case of the Roman Catholic Church the Archbishop of Manila is unquestionably the responsible head.

It seems to me that the proposition to divide this sum among the bishops is the result of a certain mental bias, and accuses the Archbishop of Manila, by inference at least, of partiality. General Edwards, chief of the Insular Bureau of the War Department, explains the situation quite fully and satisfactorily, as follows:

When I was in the Philippines the last time with the Secretary I found that the archbishop was not any too anxious to assume this responsibility, but it should be borne in mind that there is an American archbishop with four bishoprics under him. They are harmonious in any decision they might make, or, if the money be turned over to the archbishop, and he is not at all keen to have this done; in other words, just as Colonel Hull has said, he does not care about adjudicating these matters with the different churches, although it strikes me that that is the most practicable way. Any lump amount would be awarded to the archbishop, and he would reconcile the various amounts according to the dioceses under him.

In view of the self-evident justice of this claim, I shall support it with pleasure, and hope that the bill will pass.

Reasons of a Business Man Why the Vreeland Bill is Not Good Legislation.

SPEECH

OF

HON. GUSTAV KÜSTERMANN,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. KÜSTERMANN said:

Mr. SPEAKER: In looking over this latest edition of the Vreeland currency bill, I am pleased to see that my suggestion, made at our last conference, has been carried out, viz, to eliminate from it the words:

Such notes shall state upon their face that they will be redeemed by the United States in lawful money upon presentation at the Treasury.

While the striking out of this sentence, which was most dangerous to our entire monetary system, has greatly improved the bill, I am again deterred from voting for it because the amendment as now proposed of section 5172 of the Revised Statutes changes the security for even our present bank circulation from United States bonds to "either United States bonds or other securities."

The bank notes as we have them now, fully secured by United States bonds, are readily accepted by everyone, while confidence in this kind of money would naturally be lessened if the people receiving the proposed new issue of currency should find that all sorts of other securities were to be substituted for the good old United States bonds.

There is nothing worse than to have the people lose confidence in the stability of the money of the country; and if an emergency currency, to be made use of only in case of another great monetary stringency, is provided, we should not make any changes to affect our present system or, perhaps, to lower the value of our present national-bank notes.

The people know that every dollar of the national-bank notes is covered by United States bonds, and therefore they have no hesitancy in accepting them as readily as gold or any other kind of United States currency.

Instead of any hasty legislation along this line I would much prefer to have action delayed until a competent commission, after a most thorough investigation, can advise us what changes will be advisable in our monetary system.

Permit me to quote you from a letter just received from a banker in my district, who may well be classed among the most conservative in the country. He says:

If there is something fundamentally wrong in our currency and banking systems which bring about these periodic financial disturbances, then what we need is legislation to remedy the underlying defect, and not something that will be but pouring oil on the waters to quiet them after the storm has burst.

We have but scarcely recovered from the last upheaval, and the people, in their excitement, are demanding legislation of some sort, whether it fits the case or not.

But should not this be a matter for mature deliberation, for careful consideration, free from the frenzy of the passing hour? Would it not be better to postpone the present legislation and put the whole matter in the hands of a competent commission for their careful consideration and report?

There is no indication at present of another monetary stringency such as we passed through last fall.

But should it come, we will find our banks better prepared to meet it than before.

They hold larger reserves, they are more careful in the selection of their borrowers, they will not furnish money for purely speculative purposes, and the certificates of deposits run for a definite period. The people holding them know that the money is not to be paid back until the certificates fall due, and the banks, if possible, will see that these certificates do not fall due at a time when, from natural causes, the moving of crops and other conditions, a monetary stringency may be expected.

Besides appointing a commission, let the inspection of banks be made more rigid than at present.

Let it be made impossible for the cashier of a bank to become a defaulter for a million and over, as was the case in Pittsburg this past week.

To cover up his shortage this cashier again and again deposited fraudulent notes, whereas a rigid inspection and inquiry as to the maker or makers of the notes would have brought the defalcation to light at a much earlier date.

To become acquainted with the financial standing of the borrowers, the inspector should reside in the State or Territory in which the banks he is to inspect are located.

The inspector should at least be able to state whether the large borrowers are entitled to the credit they receive, and he should pay particular attention to the notes given by officers of the banks, whether tendered by the president, cashier, or a director.

He should also be able to ascertain approximately whether the reserves of a bank in other banking institutions are as stated, and whether the banking laws are strictly adhered to, especially that provision which prohibits the loaning to a single person or firm more than 10 per cent of the bank's capital and surplus.

We must have real live inspectors, not dummies who simply check up what is laid before them by officers of the banks.

Besides providing for a most rigid inspection, I would like to see that part of the Vreeland bill enacted into law which demands the charging of interest on all public moneys placed in regular depositories.

The statement of the United States Treasury on the 15th day of May, 1908, shows that \$188,000,000 have thus been deposited.

At 2 per cent interest this sum would bring \$3,760,000 per year, which, if placed in a separate fund and allowed to accumulate, might, in course of time, be made use of in the way of furnishing relief to depositors of defunct banks.

With a view to accomplishing this object, there are few bankers who would not gladly pay interest on national funds.

I wish that a chance were offered us to vote for section 12 and the succeeding sections of this bill which relate to interest on public money deposited in national banks and to the appointment of a currency commission.

Under the rule as adopted, however, no opportunity is given one to vote for these truly excellent provisions without taking the objectionable features into the bargain, and for this reason I regret that I am forced to cast my vote against the entire bill.

The Vreeland Currency Bill.

SPEECH

OF

HON. ANDREW J. VOLSTEAD,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. VOLSTEAD said:

Mr. SPEAKER: Without entering into any detailed discussion of the so-called "Vreeland currency bill," permit me to submit a few observations upon the subject. The history of the commercial nations shows quite clearly that in all periods of prosperity there is great expansion of credits, and that unless this expansion is limited in some way panic is inevitable. When the capital and surplus of a bank are only equal to, say, 10 per cent of its liabilities, any material shrinking of the bank's assets endangers the depositors. A panic usually means forced sales of assets at a great loss to obtain cash to pay depositors. This bill provides a way in which good assets can temporarily be converted into bank notes without such loss. This can not be done and should not be done except in case of stress. To prevent such notes from issuing when conditions are normal, the banks must first satisfy the Secretary of the Treasury that an emergency has arisen requiring such notes; then, after giving ample security from its assets, the bank must get not less than nine other banks to guarantee its notes and pay as a tax thereon 4 per cent for the first two months and 1 per cent additional for each month thereafter, until the rate reaches 10 per cent. In addition to this the bank must hold the same reserves against these notes as it is now required to hold against its deposits.

These requirements make it certain that none of these notes will go into circulation until they are absolutely needed and that they will promptly retire with the passing of a crisis. This legislation is not new in principle. England, Germany, and France have for many years permitted the issue of emergency currency, and such issues have proven of great value in preventing or lessening the disastrous effect of panics. In this country clearing-house certificates have at different times been forced into circulation for like purposes and with like effect. This bill, if it becomes a law, will substitute bank notes for such certificates and make such notes available for general use during a crisis. It is time that we have legislation along this line. The bill also provides for a commission to study our financial system with a view to a revision of currency legislation. It is contended on the part of many that our financial system is radically wrong, while on the other hand it is urged with equal earnestness that the system has worked well except for lack of elasticity in emergencies. This bill aims to give in a measure that elasticity. Both friends and foes of the present system should be placed upon this commission, so that both sides of this issue may be fully presented to Congress and the country. Every panic that we have had up to date has had its origin at New York and has been intimately connected with the stock market of that city.

The last panic followed an enormous shrinking in the values of the stocks and bonds of railways and other corporations. This lessened the value of bank assets and threatened the solvency of banks. Many of these securities had been issued as stock and bond dividends or bonuses on consolidation of properties and did not represent real investments. Their fictitious character had in some instances been concealed by the payment of unearned and fictitious dividends until they could be unloaded upon an unsuspecting public. When the crash finally came, as come it must, it materially affected the prosperity of the whole nation. Until something is done to prevent a repetition of this class of financiering, I do not believe that any currency legislation will ever prevent a panic. It may be contended that Congress has no power to control State corporations so as to prevent this evil. As to corporations not engaged in interstate commerce, the contention is no doubt correct, except so far as Congress may forbid a national bank from dealing in such securities, which is not an effective remedy. It is believed, however, that Congress may fix the limits within which a railway corporation engaged in interstate commerce may issue stocks and bonds, forbid such issue unless the par value is received therefor, limit dividends to net earnings, and prevent overcapitalization in the consolidation of carriers. If an act such as H. R. 21697 could be passed and made effective,

one of the chief causes of financial distrust and insecurity would be removed.

In support of the constitutionality of such an act allow me to call attention to the following facts:

Regulation of the issue of stocks and bonds and the payment of dividends is necessary upon economic grounds. A corporation that exercises a franchise as a carrier of interstate commerce owes to the public a duty to meet the requirements of commerce, and should submit to reasonable regulation to secure that end. It should not be permitted to issue fictitious stocks and bonds or any stocks and bonds at less than their fair value. According to the report of the Interstate Commerce Commission for the year ending June 1, 1906, the railways were then capitalized at about \$68,000 per mile, and they then owed more than \$73,000 per mile. The funded debt and capital stock outstanding aggregated \$14,997,674,980. It increased during that year \$720,055,966. On this capitalization there was paid \$595,357,908 for interest and dividends, which was then more than one-fourth of the total receipts from transportation. License to increase this capitalization without putting the proceeds into the property is license to rob the present and encumber the future.

It may be said that the value of the property of a carrier determines the amount of charges for transportation and not the outstanding stocks and bonds, but while this is true in theory it is not so in practice. Even if we secured a valuation on which to base our railway rates it would not do away with the necessity for a law like this. The limitations of transportation charges to reasonable returns on a fair valuation is not possible where the road is overcapitalized without impairing the efficiency of the service. The greater the capitalization the more of its earnings will be absorbed in fixed charges and less can be paid for maintaining the service. Overcapitalization compels exorbitant charges against the traffic so as to maintain efficient service. A right to issue such fictitious stocks and bonds can no more be defended than can the right to run a lottery. The parties who make the issue have an opportunity to manipulate and an interest in manipulating the affairs of the corporation so as to lead the public to believe that there is sufficient property and earning powers back of the stocks and bonds so issued to warrant a much higher valuation than they are honestly entitled to. It is a game of false pretense derisively called "high finance," and should be stopped.

To make any regulation of the issue of stocks and bonds effective and to prevent fraud on the public it is also necessary to control the payment of dividends. A corporation may readily be bankrupted by the payment of fictitious dividends. Judge Grosscup, speaking of the evil of fictitious issues of stocks and bonds, has this to say about the payment of dividends:

"But the restriction of capitalization to figures that are fair will accomplish little if the declaring and paying of unearned dividends be left to those who are in control of the corporations, for it is not on the par value of securities, but upon the size and regularity of dividend payments that the public makes up its judgment as to values, and it is not on mere capitalization that the schemer in corporate securities counts, but upon his ability to make the public believe that the capitalization has an earning power. Take the well-known case of some of the Chicago traction companies. Without dividends the securities issued would have remained near zero, and that, too, irrespective of how small the issue was; but with high dividends, paid year after year until they were no longer questioned, the securities rose in the stock market to par, and beyond that, irrespective of how large the issue was.

"It was not the capitalization, but the high dividends regularly paid for a long period that did the trick; not real dividends in any honest application of that word to earnings, but trick dividends—dividends that stripped the enterprise of its power to keep up with its public duty, that let the enterprise gradually but surely run down, and that borrowed millions for dividends on the top of the depletion. Indeed, the whole transaction was a moral crime—a crime that robbed honest men and women of the accumulations of a lifetime—a crime that is not fully expiated, either, by arraigning before the bar of public opinion the men who got away with the plunder. I arraign as accessory before the fact the people of the great State, who, scrupulously honest in their individual dealings, issued to the projectors of this crime the ready-made corporate weapons without which the crime could not have been committed.

"There should also be supervision over the consolidation of stock, property, and franchises of carriers, as such consolidations are usually attended with stock and bond inflations. Without such supervision and power to determine whether approximately fair values are exchanged, overcapitalization would continue.

"There was no power under the common law to deal in the stocks of another corporation. The obligation of a corporation to their stockholders and to the public is to use the funds devoted to their care to the prosecution of the business in which they are engaged. If a carrier can at will own or deal in the stock of other carriers, it can divert the funds which should be used for the service it owes the public and can destroy competition. (Green-Bryce's Ultra Vires, p. 95; Citizen's State Bank v. Hawkins, 71 Fed., 369; First National Bank v. National Exchange Bank, 92 U. S. 122; People v. Chicago Gas Trust Company, 130 Ill., 268; California Bank v. Kennedy, 167 U. S., 362; De La Vergne Company v. German Savings Institution, 175 U. S., 40; Railway Company v. Iron Company, 46 O. S., 44; Lanier Lumber Company v. Rees, 103 Ala., 622; Straus v. Eagle Insurance Company, 5 O. S., 59; Coplin v. Greenless & Ransom Company, 38 O. S., 275; Franklin Bank v. Commercial Bank, 36 O. S., 350; Railroad Company v. Hinsdale, 45 O. S., 556; Central Railway Company v. Collins, 40 Ga., 582; Hood v. Railway Company, 64 How. Pract., 20; Pierson v. Railroad, 62 N. H., 537; Hazelhurst v. Railroad, 43 Ga., 13; Nassau Company v. Jones, 95 N. Y., 115; Berry v. Yates, 24 Barb., 199; People v. Pullman Palace Car Company, 175 Ill., 125; 92 U. S., 122; Citizens' State Bank v. Hawkins, 71 Fed., 369; 130 Ill., 268; Central Railroad Company v. Collins, 40 Ga., 582; Berry v. Yates, 119; Millbank v. Railroad, 64 How. Pract., 20.)"

Several of these cases expressly decide that such stock ownership is unlawful because it promotes monopolies. (Marble Co. v. Harvey, 92 Tenn., 115, and cases cited.)

If it is really intended to prevent the consolidation of parallel and competing lines, some one besides the parties interested in the consolidation must determine whether the lines are in fact parallel or competing. The States have for all practical purposes repealed the Sherman antitrust law and the common law against conspiracies in restraint of trade by expressly authorizing all sorts of combinations in the form of corporations.

In *Trenton Potteries Company v. Olyphant* (58 N. J. Eq., 507) it is said that the laws of New Jersey permit a corporation to purchase the property of all competitors and create a monopoly, and that the courts can not prevent it. Under these State laws it is not even necessary that the corporations enter into a mutual agreement for a consolidation. One corporation can purchase a majority of the stocks of another corporation and thus effect a consolidation.

Unless Congress can place some limit upon State corporations that are engaged in interstate commerce it might as well concede that trusts and monopolies are beyond their reach and that the States have effectually repealed the commerce clause of the Constitution and substituted for regulations monopolies that absolutely own and control interstate commerce, stifling commerce, and dictating terms and prices at pleasure. It is under State laws of this kind that the trusts and combinations have been formed. Attorney-General Otis, of Ohio, speaking on this subject recently, said:

"Passing the matter of railroad combinations, as to which it may be said that through stock ownership the control of all American lines is now concentrated in seven groups of parent properties, we are chiefly concerned with the practical use that has been made of the new corporate power by the largest and strongest of our manufacturing and industrial enterprises.

"The United States Steel Corporation, organized under the laws of New Jersey, with a capital stock of \$1,100,000,000, owns a majority of the stock of eleven subsidiary companies, and controls industries scattered over the entire country under different styles and corporate names. The corporation owns and manages 213 manufacturing and transportation plants and 41 mines located in eighteen different States; it has more than 1,000 miles of railroad tracks to ore, coke, and manufacturing properties, and a lake fleet of 112 vessels. This stock ownership gives it control of hundreds of millions of capital that is not represented by its own billion dollars of stock.

"The Amalgamated Copper Company, incorporated in New Jersey, has no asset whatever except the stocks of other corporations. It owns all the stock of four operating companies and a controlling interest in seven others, and has taken them over by an issue of \$155,000,000.

"The American Smelting and Refining Company, organized under the laws of New Jersey, controls the business of thirteen corporations in which it either owns the entire stock or a majority interest. Associated with it are the American Linseed Company, the National Lead Company, and the United Lead Company, and they together control twenty-eight concerns and ninety-three affiliated corporations.

"The Standard Oil Company, incorporated in New Jersey, with a capital stock of \$110,000,000, controls, directs, and manages more than seventy corporations through its possessions of a majority of their stocks. Some of these companies own stock in still other corporations, and all together the combine operates more than 400 separate and distinct properties, thus monopolizing 90 per cent of the export oil trade and 84 per cent of the domestic trade. The market value of its capitalization is about \$650,000,000, and all this vast property was brought together under one head without the payment of stock in the companies that are held.

"The United Gas Improvement Company, incorporated in Pennsylvania, owns stock in thirty corporations doing the character of business for which it was organized, and in addition to this is interested in numerous street railway properties, including the New York City surface railways. With it is allied the Public Service Corporation of New Jersey and the Rhode Island Securities Company, which last named owns all the stock of the Rhode Island Company, which again has leased for nine hundred and ninety-nine years several of the important railroad companies doing business in that State. The power of this corporation, through this system of stock ownership, is scarcely calculable, and the value of properties controlled would equal hundreds of millions, although its own capital stock is but \$36,000,000.

"The American Tobacco Company, organized under the laws of New Jersey, with a capital stock of \$40,000,000, practically controls the whole market through its ownership of the stock of innumerable other corporations.

"The International Harvester Company, incorporated in New Jersey, with a capital stock of \$120,000,000, while probably not a holding company, maintains most, if not all, the corporations which it has bought out, and they are operated as if they were distinct and competing concerns.

"The American Sugar Refining Company, incorporated in New Jersey, with a common stock of \$40,000,000, controls fifty-three other corporations.

"The American Telegraph and Telephone Company, incorporated in New York, with a capital stock of \$250,000,000, control, through stock ownership, thirty-five subsidiary corporations.

"The Western Union Telegraph Company owns stock in twenty-four other corporations; the Distillers' Security Company owns 90 per cent of the stocks of the Distillers' Company of America, and has acquired ninety-three plants, representing 60 per cent of the industry; the Philadelphia Rapid Transit Company owns the stock of twelve elevated and street railway companies; the Brooklyn Rapid Transit Company owns the stock of seven others; the Metropolitan Securities Company of New York owns the stock of many traction companies and the controlling interest in others; the Inter-State Railway of New Jersey owns all the stock of the United Power and Transportation Company, which latter company controls the capital and franchises of about forty other projected companies in New Jersey and Pennsylvania, while the International Mercantile Marine Company of New Jersey owns a majority of the shares of many of the most important steamship companies whose vessels cross the Atlantic Ocean."

Every railway is largely engaged in interstate commerce, even though its rails do not cross State lines. Most of the railways now extend into a number of different States. Take as an illustration the Great Northern, incorporated under the laws of my State. Its lines of rails cross five States and extend into a number of others. The prosperity of these States depends in a large measure upon the wise management of this road. Such management affects not only State but also interstate commerce. If Minnesota unwisely limits the power of this corporation, that State is not alone affected, but every State that the road serves. If Minnesota permits this corporation to waste its resources so that it can not perform its duties to the public or permits it to engage in any conspiracy in restraint of trade, it may be more of an injury to other States than to Minnesota. If Minnesota has the power to control the management of this corporation in matters that affect service to the public, it follows that it may by its laws directly affect one of the largest industries in the State of Washington and materially lessen or enhance the prosperity of that State—in other words, legislate for the State of Washington.

When a State corporation engages as a carrier in interstate commerce it assumes a duty toward such commerce which it is under obligation to perform. The National Government must have the power to enforce this obligation or it must depend upon the State creating the corporation to guard its interests. Assuming that the State in guarding its own commerce has as an incident thereto power to guard interstate commerce in the management of corporations created by it, can this power be so extended that the State can manage a corporation engaged in interstate commerce that does not operate any railway in the State? It would seem evident that if the corporation does not operate any railway in the State where it is created, any attempt on the part of the State to interfere with its management would be an attempt to affect interstate commerce or commerce in some other State, and as such clearly beyond its jurisdiction.

Unless commerce in the State is affected the State has no interest in enforcing any law it may enact, and is not a proper party to enforce it. Its criminal statutes are usually ineffective, as the offense, if any, is not often committed within its jurisdiction. A State can not effectually control such a railway. The State of Minnesota tried to prevent the Great Northern, the Northern Pacific, and the Burlington railways from consolidating their stocks in the Northern Securities Company, but though such consolidation was contrary to the laws of the State, it failed for lack of territorial jurisdiction. The consolidation was not effected inside of the State, but in New York. The Great Northern Railway is a very important highway for all the States through which it passes. Its maintenance in an efficient condition is of the utmost interest to every State, as was clearly illustrated when recently it proved unable to care for the traffic. Shall these States for all time to come be compelled to depend upon the legislature of the State of Minnesota for laws to control this corporation in matters of vital concern to themselves? They can not be said to have consented to this condition, as they could not refuse to this corporation a right to enter the State to engage in interstate traffic. It might enter for that purpose against the wish of the State. (*Pembina v. Benn*, 113 U. S., 227, and *Pensacola Tel. Co. v. West U. Tel. Co.*, 96 U. S., 1.)

These corporations monopolize the public highways. If they do not perform their duties to interstate commerce they obstruct it. Is there any sense in contending that a charter issued by a State is so sacred that the National Government can not say to the corporation that it must so manage its affairs that it will be in condition to perform the duties which it has agreed to perform as a carrier of interstate commerce? The National Government can not be dependent on the will of the State or the pleasure of the corporation.

Nearly all the railways were at first mere local roads, beginning and ending in the same State, and were then only incidentally engaged in interstate commerce. They have outgrown that condition and have become national highways and national post-roads, chiefly engaged in interstate commerce. The State commerce is, in many States and upon many roads, incidental and almost negligible in quantity. This change in condition justifies and requires a change in the management of the corporations. These corporations have long since outgrown State control. Their traffic extends from sea to sea and reaches even beyond that to distant continents. To say that the management of such corporations, the chief instruments of interstate commerce, shall be left practically without control is not reasonable. Congress has a right to recognize this change in conditions and to say that these corporations are not local in character, but national; that they admit of and require uniform rules for their control.

I am not suggesting that Congress shall assume a power not vested in it by the Constitution. The Supreme Court has repeatedly held that any matter that affects interstate commerce which is not local, but national, in character, and that admits of a uniform rule for its control, is subject to the will of Congress. Pilots, harbors, wharves, roads, bridges, tolls, and freights, as is said in *Brown v. Houston* (114 U. S., 622), were for many years subject to State control, but under this rule have largely passed under national laws. State quarantine laws applied to interstate commerce until Congress passed a quarantine law. Safety appliances upon trains were a matter of State regulation, but Congress superseded such regulations by the national safety-appliance law.

In 96 United States, 9, it is said:

"The powers (over commerce) thus granted are not confined to the instrumentalities of commerce or the postal service known or in use when the Constitution was adopted, but they keep pace with the progress of the country and adapt themselves to new developments of time and circumstances. (See *Lottery Case*, 181 U. S., 321; 114 U. S., 196-623; 113 U. S., 205; 125 U. S., 465; 5 How., 504; 12 How., 298; 7 How., 282-423; 11 Pet., 102; Wheat., 122; 16 Pet., 539; 113 U. S., 205; 128 U. S., 96; 169 U. S., 133; 191 U. S., 477; 196 U. S., 1; 195 U. S., 332; 187 U. S., 137; 196 U. S., 1; 205 U. S., 1.)"

It is firmly established that a corporation created under the laws of one State can not claim the right to do business in another State. Corporate power can not extend beyond the jurisdiction of the sovereign granting it. There is an apparent exception to this rule as to corporations engaged in interstate commerce. (*Pensacola Tel. Co. v. Western Union Tel. Co.*, 96 U. S., 1-12.) A State can not exclude a foreign corporation from entering the State to carry on such commerce; but this is not in fact an exception, for the reason that the State has no jurisdiction over interstate commerce. It is as though such foreign corporation did not in fact enter the State, as it does not enter a field over which the State has jurisdiction. It enters the domain, or, so to speak, the territory in the State over which the National Government has exclusive control. As to interstate commerce, the National Government is a sovereign power.

The reason that permits a State to exclude from its borders a foreign corporation not engaged in interstate commerce would permit the National Government to exclude a State corporation from engaging in interstate commerce. Corporations are instrumentalities for the purpose of carrying on commerce; the powers they possess and the manner in which such powers are exercised directly affects commerce. Whoever controls these instrumentalities largely controls commerce. As States have no power over interstate commerce, they can not confer any power over this subject upon corporations created by them; hence State corporations can claim no right as against the National Government to engage in interstate commerce.

A State may not only exclude, but has power to control, a foreign corporation entering to do State business as fully as it can control its own corporations.

In *Orient Insurance Company v. Daggs* (172 U. S., 557) the court said:

"That which a State may do with corporations of its own creation it may do with foreign corporations. . . . The power of a State to impose conditions upon foreign corporations is certainly as extensive as the power over domestic corporations. (*New York Life Ins. Co. v.*

Cravens, 178 U. S., 389; *Waters Pierce Oil Co. v. Texas*, 177 U. S., 28; see also 155 U. S., 648, and 203 U. S., 151.)

Every argument that can be argued in favor of the doctrine that a State may control foreign corporations the same as it may its own corporations can be urged with equal force in favor of a like power in the National Government over State corporations seeking to do an interstate business, and the fact that State corporations have been permitted to engage in this business does not estop the National Government (203 U. S., 151); that is, the National Government has the same power to control State corporations engaged in interstate commerce as it has over its own corporations.

That Congress has the power to create and govern corporations engaged in interstate commerce is unquestionable. In 1829 it incorporated the Washington, Alexandria and Georgetown Steam Packet Company; in 1862, the Union Pacific Railway Company; in 1864, the Northern Pacific; in 1866, the Atlantic Pacific; in 1870, the Washington and Boston Steamship Company; in 1871, the Texas Pacific Railway Company, and in 1890, the North River Bridge Company. These acts do not create corporations to be governed by the State laws, but specify and define the corporate powers the same as State charters. These and other Federal corporations have run the gantlet of the courts and their powers have been held valid. In *Luxton v. North River Bridge Company* (153 U. S., 525) the court said:

"Whenever under the Constitution Congress can exercise a power, Congress can create a corporation to carry that power into execution."

"Congress has the power to create a corporation in the exercise of its power over interstate commerce." (See also *Wilson v. Shaw*, 204 U. S., 24.)

That Congress may control a State corporation engaged in interstate commerce the same as though the corporation was created by Congress is recognized in *Hale v. Henkel* (201 U. S., 43), where Justice Brown used this language:

"It is true that the corporation in this case was chartered under the laws of New Jersey and that it received its franchise from the legislature of that State; but such franchises, so far as they involve questions of interstate commerce, must also be exercised in subordination to the power of Congress to regulate commerce. Being subject to this dual sovereignty, the General Government possesses the same right to see that its own laws are respected as the State would have with respect to the special franchise vested in it by the laws of the State. The powers of the General Government in this particular are the same as if the corporation had been created by an act of Congress."

In the *Sugar Refining* case (156 U. S., 1) the court said:

"On the other hand, the power of Congress to regulate commerce among the States is also exclusive. The Constitution does not provide that interstate commerce shall be free, but by the grant of this exclusive power to regulate it it was left free except as Congress might impose restraint, [and where] the law passed by a State in the exercise of its acknowledged powers comes into conflict with that will (of Congress), the Congress and the State can not occupy the position of equal and opposing sovereignties, because the Constitution declares its supremacy and that of the laws passed in pursuance thereof; and that which is not supreme must yield to that which is supreme."

In the *Northern Securities Company Case v. U. S.* (193 U. S., 341) the court said:

"The power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States. Is there, then, any escape from the conclusion that, subject only to such restrictions, the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce?"

In *Sherlock v. Allen* (93 U. S., 99) the court said:

"It is true the commercial power conferred by the Constitution is one without limitation. It authorizes legislation with respect to all the subjects of foreign and interstate commerce, the persons engaged in it, and the instrumentalities by which it is carried on."

The Supreme Court has intimated that Congress has no power over the internal affairs of a State corporation, but no case has been found in which the court has defined what is meant by internal affairs. If it simply relates to such affairs as do not affect service to the public, such as the relationship of the stockholders and officers of the company to each other and to the corporation, it is perhaps immaterial upon this consideration.

In none of the cases that have been found has a court held a State statute void because it interfered with the internal management of a foreign corporation unless it was found to be an interference by the State with interstate commerce. Without a statute courts will not assume jurisdiction of the internal affairs of a foreign corporation, but if a State requires as a condition upon which a foreign corporation not engaged in interstate commerce may enter the State that it shall submit to control of its internal affairs the authorities are abundant that it would have to submit or stay out.

If the National Government has the same power over interstate that a State has over its domestic commerce, the National Government may impose a like condition upon State corporations doing an interstate business.

The reasons assigned why a State can not control the internal affairs of a foreign corporation are:

First. That the State courts can not secure jurisdiction over the necessary parties.

Second. That such control involves the enforcement of the laws of another State.

Third. That it is impractical to allow two or more States to prescribe laws for the same corporations, as such laws would be likely to conflict. (*Clark v. M. R. and L. A.*, 43 L. R. A., 390; *Condon v. Mutual Reserve Fund Assn.*, 44 L. R. A., 149; *Madden v. Penn. Electric L. Co.*, 181 Pa. S., 617.)

The first reason is not a valid objection to national control, as a Federal court may obtain the requisite jurisdiction.

The second reason would not apply to an act like this, as its enforcement would not involve the enforcement of a State but a national law. To the extent that any State statute might be in conflict with it the State statute would give way to that of Congress, which would be supreme. For this reason there could be no conflict between State and Congressional legislation; the latter would control.

This bill is in harmony with the legislative policy of many States.

There are limitations upon the issue of corporate stocks and bonds intended to prohibit fictitious issues in the constitutions of Alabama, California, Connecticut, Delaware, Idaho, Montana, North Dakota, Pennsylvania, South Carolina, and South Dakota, and there are statutes upon this subject in Kentucky, Minnesota, Missouri, New York, Wisconsin, Massachusetts, and other States.

The statutes of Massachusetts define the purposes for which railway stocks and bonds may issue and provide that railways may issue such stocks, bonds, and other evidences of indebtedness payable more than one year from date thereof as the board of railroad commissioners may determine to be reasonably necessary for the purposes for which such stocks and bonds may have been authorized, and all such stocks must be paid for in cash at the actual value as fixed by the railroad commission, but none can be sold for less than par. The statutes of New York make like provisions.

In *Mobile and Ohio Railway Company v. Tennessee* (153 U. S., 486) the Supreme Court held that dividends can only be rightfully declared out of net profits. The New Jersey corporation act provides that no corporation shall make dividends except from the surplus or net profits arising from its business, nor divide, withdraw, or in any way pay to the stockholders, or any of them, any part of its capital stock, or reduce its capital stock except according to the act. This in effect prohibits a stock dividend. United States statutes limit dividends on the Northern Pacific to actual net earnings and prohibit new stocks or mortgages or pledges of the property on future earnings. A State may enact a law prohibiting a corporation from issuing stocks to represent an increase in the value of its properties. *Fitzpatrick v. Dispatch Company* (83 Ala., 604).

The statutes of many States forbid consolidation of corporations. Massachusetts has a statute that forbids the increase of stock where a consolidation of gas or electric companies takes place. Under the common law it is not within the power of a corporation to purchase the stock of a rival corporation. (See *De La Vergne Co. v. German Savings Inst.*, 175 U. S., 40, and other cases cited herein.)

A State may make regulations for the transfer of the stock of a foreign corporation doing business in the State contrary to the provisions of the corporate charter. (*London, Paris, and Am. Bank v. Armstein*, 117 Fed. R., 601.)

Though authorized by its charter, a foreign corporation can not, in violation of the laws of the State, enter into a partnership with another corporation or lease the property of another corporation. (*Bishop v. American P. Co.*, 151 Ill., 284; *Van Stenleen v. Centr. R. R.*, 178-367.)

Foreign insurance corporations may be required to appoint an agent upon whom service of process may be made, submit to an examination of their books and funds to determine their solvency, give security, in the form of bonds or cash, to protect policy holders, and the form and effect of their policies and the power and responsibility of their agents may be prescribed. (89 Alabama, 483.)

In *Illinois Rwy. Co. v. Interstate Commerce Commission* (206 U. S., 441) it was held that permanent improvements can not be charged to operating expenses.

The power conferred by the Constitution upon the National Government over interstate commerce is affirmative in character and broad enough in terms to authorize Congress to prevent the States from exercising any control over such commerce, but in the absence of Congressional action State laws are permitted to apply and govern until superseded by Congressional enactment.

Lake Shore and Michigan Southern Railway v. Ohio, 173 U. S., 285:

"The right of the United States to control interstate commerce is not limited by any reserve police power in the State. The United States was granted the police power over interstate commerce and does not have to depend upon the action of any State to enforce any regulation. In the *Neagle* case (135 U. S., 69) the attorney-general of California admitted that the National Government has police powers. The court in that case said that there is a peace of the United States as distinguished from the peace of the State of California."

From the Supreme Court reports of the Debs, Logan, and Seibold cases, it would appear that it was argued that the United States has no police powers. I submit the court's answers to this contention:

In re Debs (158 U. S., 578) the court said:

"Within the limits of such enumerations (of power) it (the National Government) has all the authority of sovereignty, and in the exercise of the enumerated powers acts directly upon the citizen. No trace is to be found in the Constitution of an intention to create a dependence of the Government of the Union upon those of the States for the execution of the great powers assigned to it. Its means are adequate to its ends, and on these means alone was it expected to rely for the accomplishment of its ends. To impose on it the necessity of resorting to means which it can not control, and which another government may furnish or withhold, would render its course precarious, the result of its measures uncertain, and create a dependence on other governments which might disappoint its most important designs, and is incompatible with the language of the Constitution."

In *Logan v. United States* (144 U. S., 294) it said:

"It is argued that the preservation of peace and good order in society is not within the power of the Government of the United States, but belongs exclusively to the States. Here again we are met with the theory that the Government of the United States does not rest upon the soil and territory of the country. We think this theory is founded on an entire misconception of the nature and powers of the Government. We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the powers to command obedience to its laws, and hence the power to keep the peace to that extent."

And in *Ex Parte Seibold* (100 U. S., 396) the court said:

"If we indulge in such impractical views as these and keep refining and refining, we shall drive the National Government out of the United States and relegate it to the District of Columbia, or perhaps to some foreign soil. We shall bring it back to a condition of greater helplessness than the old confederation. The argument is based on a strained and impractical view of the nature and powers of the National Government. It must execute its powers or it is no government. It must execute them on land as well as on the sea, on things as well as on persons. But to do this it must necessarily have power to command obedience, preserve order, and keep the peace; and no person or power in this land has a right to resist or question its authority so long as it keeps within the bounds of its jurisdiction. Freund says in his work on police power: 'It is impossible to deny that the Federal Government exercises a considerable police power of its own. This power rests chiefly upon the constitutional power to regulate commerce among the States and with foreign nations, but not exclusively so.'"

The national quarantine laws, the safety-appliance law, the Hepburn railway-rate law, the Sherman antitrust law, the employers' liability

law were all enacted under the police power of the National Government. They are so classed by Freund in his work on police powers.

He says that the United States does exercise a considerable police power under the commerce clause of the Constitution.

In *Gloster Ferry Co. v. Penn.* (114 U. S., 215) the court cites with approval from Cooley's Constitutional Limitations the following:

"It is not doubted that Congress has the power to go beyond the general regulations of commerce which it is accustomed to establish, and to descend to the most minute directions if it shall be deemed advisable, and that to whatever extent ground shall be covered by these directions, the exercise of the State power is excluded. Congress may establish police regulations as well as the States, confining their operations to the subjects over which it is given control by the Constitution; but as the general police power can better be executed under the proper supervision of local authority, and mischief is not likely to spring therefrom so long as the power to arrest collision resides in the National Congress. The regulations which are made by Congress do not often exclude the establishment of others by the States covering very many particulars."

The doctrine in the employers' liability case is the broadest kind of recognition of the power of the National Government over interstate commerce. It extends not only to the objects of commerce, but also to the instrumentalities of commerce, though such instrumentalities only indirectly affect commerce. (*Brown v. Houston*, 114 U. S., 622-630; *Butterfield v. Stranahan*, 192 U. S., 420.)

So long as there remains upon the market billions of dollars of securities that may be inflated at any time, as the interest of unrestricted avarice may dictate, there can be no financial stability. Such securities do not appeal to the investors, and as a consequence they accumulate in the large financial centers, where they are held by the money that should move the crops and do the other business of the country. If legislation could be adopted that would prevent manipulation of these securities, a long step could be taken to prevent panics in the future.

General Currency.

SPEECH

OF

HON. JOSEPH W. FORDNEY,
OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 21, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. FORDNEY said:

Mr. SPEAKER: The vital issue before the American people pending the Presidential election—

Shall we stand steadfastly for a continuance of the policies which have made the country prosperous?

Shall the American people vote to abandon the cardinal principles of protection to our industries and our labor under which prosperity has blessed the Republic with increased wages to workingmen, greater opportunities for capital, and marvelous strides in our export trade, notably in exports of manufactured products?

Shall the American people, considering the tremendous progress and development during the ten years from 1897 to 1907, agree to change our trade policy under which this progress and development has come and invite increased foreign competition?

Shall the American people join in the criticism made by tariff smashers and free traders against minor defects of the existing tariff law or the assaults upon the principle of protection and agree to revise the schedules of the tariff downward to a less protective basis?

The protective tariff has proved its efficiency at every point wherein it is adequately protective. If it has failed in any degree, it has been only where its rates of duty have not been sufficiently protective to secure the domestic markets to American producers who invest American money and pay American wages. Should these rates be made less protective or more certainly protective?

The answer to these questions may be found in the records of our progress during ten years, compared with the years when low tariffs and free trade worked injury to our industries and our labor. These records constitute a demonstration of the soundness of protection.

PROGRESS OF THE REPUBLIC.

The story of our national progress from the earliest days to the present time has been often shown to be replete with suggestive facts demonstrating that this progress, industrially and financially, is greatest during the periods of protection. Such were the facts under the first protective tariff in the days of Washington and Hamilton.

At various periods in the history of the country the policy of low tariffs, tending toward free trade and the removal of duties upon commodities competing with those produced by domestic industry, has proved disastrous to investments in the United States and to the wages and opportunities of American workingmen. The country's history is covered by Government reports and the statistics of industries, showing that under low tariffs and free trade in competing commodities American industries have languished, wages have fallen, and demoralization and ruin have existed throughout the country.

The progress of the nation, industrially and in wealth accumulation, under the protective system during and following the civil war is within the memory of many men now living. It is a recognized fact that all of the periods of financial depression since that time, except those which existed during the Democratic Administration of 1893-1897, were, in large part, produced by monetary disturbances, having no direct relation to the tariff. Such is the fact with respect to the monetary troubles of 1873, following the change from paper to coin for the national currency. As to the panic period of 1893-1897, which ended with the change of the tariff policy from the low tariff and free-trade policy of Mr. Cleveland's Administration to the protective policy embodied in the existing Dingley law, it is demonstrable that the industrial depression and low state of wages throughout the country then existing were directly attributable to the threat of a change in the tariff policy of protection which had obtained up to the establishment of the Democratic free-trade tariff act of 1894.

As the deplorable industrial and financial conditions which existed from 1893 to 1897 are directly attributable to the Democratic tariff policy of low duties or no duties, so the improved conditions in industries and in wages in the period from 1897 to 1907 are directly attributable to the protective rates of the Dingley law.

THE PANIC OF 1907.

But, it is now asked, has not industrial depression appeared in the last year of the life of the Dingley law, following a season of monetary stringency? It is shown by Government records and from the conditions that existed in the industrial and financial centers of the country and of the world that the monetary disturbance of 1907 and the attendant industrial depression were ameliorated by the existence of the protective tariff law. Whatever augmentation the industrial disturbance had from any sources, apart from the flurry over the locking up of money in the banks of the leading banking centers of the country, came from two causes:

First. The agitation in favor of changes in the tariff law.

Second. The destruction of protective duties through treaties made with foreign countries—namely Germany and France—encouraging imports of competing commodities from those countries under conditions which allow exporters in those countries to make their "export prices" upon which duties are levied in the custom-houses of the United States.

Two things are perfectly manifest in connection with present discussion of the tariff policy of the United States, namely:

First. The fact that the Dingley protective tariff law has justified its existence, from every consideration of revenues and protection to American industries, through increased industrial activity, more work for American workmen, and increased wages.

Second. No justification has been furnished by those who favor changes in the existing tariff law for entering upon a revision of the tariff schedules.

Proof is abundant, from the records of the operations of the tariff law, that it is successful; that it has continued in its effectiveness for promoting the public welfare, even in the face of violent opposition and the blows it has received at the hands of its supposed friends. Industrial activity and work for those who wanted work, at steadily rising wages, continued down through the violent agitation for tariff revision in the winter of 1906 and 1907, and up to the announcement of our "reciprocity" policy with Germany and France, and the extension of the "export price" provision of the German trade agreement to practically all of the competing industrial nations of Europe.

Those who urge changes in the tariff schedules should submit some evidence that the protective-tariff law has failed to meet the requirements of the Government or the expectations of its friends. They should at least try to prove from actual experience or by reasonable argument based upon recognized facts in industry and trade that a reduction of the tariff would produce greater revenues, encourage more investments in American industrial enterprises, and give more work to American workingmen at increased compensation than has been the case during the life of the Dingley tariff law since 1897, or they stand discredited before the American people.

ISSUES IN THE UNITED STATES AND IN GREAT BRITAIN.

At this time, the mid-year of 1908, the people of the United States and Great Britain are treated to an interesting situation in respect to their foreign and domestic trade policies. After more than fifty years of free trade Great Britain is breaking away from that policy and promises soon to be lined up with the protection nations of the world.

The United States, on the contrary, is confronting a demand for tariff revision downward, and such changes in our tariff policy as shall encourage imports from Great Britain, Germany, France, and other nations.

Some of our people, following in the mistaken footsteps of their fathers of 1846, decline to take advantage of the errors of the English economists and statesmen, and fail to see wisdom in the present trend of sentiment in Great Britain.

Free trade has been disastrous to the British Empire. The world has been flooded with comments by the most enlightened British statesmen showing the folly of free trade. It seems idle to dwell on that subject, or to repeat quotations from British statesmen showing the evils which have come upon that nation through adherence to free trade, in view of the fact that the recent elections in England point conclusively to the speedy downfall of the free-trade system and the establishment of protection in keeping with the policy pursued by the British colonies.

Protection Germany and protection United States have forced Great Britain to a realizing sense of the danger which lurks in the free-trade system. When Bismarck brought the German States together in a combined Empire and threw around it the shield of protection he builded wisely, and the fruits of that great policy are now being shown in the augmentation of German industries and the marvelous development of her commerce throughout the world. Her products are laid down in British markets at prices with which the British manufacturers can not compete. These facts have been brought out in official reports by Government officers of Great Britain. Lower prices and steadily rising wages, under the protective policy, coupled with encouragement of transportation of exports by subsidized steamship lines, are battering down the prices of British wares, and German goods are being dumped on British soil to the dismay of her manufacturers. There is now a demand throughout Great Britain for a return to protection. The elections in the spring of 1908 strongly indicate a move in that direction among the electors of England. The Manchester idea of free trade has been rejected.

CHEAPER WAGES, CHEAPER MEN.

Whatever may be said about the wisdom of the repeal of the corn laws in cheapening the loaf to the British workmen, in view of the then scant area of British agricultural fields, the plan has not worked out successfully. Wages were held down for a time under lower cost of living produced by the cheaper loaf, made possible by the repeal of the corn laws. This situation enabled Great Britain to manufacture cheaper than her competitors.

But cheap cost of living and cheap men never can be made the basis of economic progress.

Saving in cost of production by lowering wages cheapens men, but it is not a sound, economic way to cheapen prices.

The United States adopted another plan after competing in the wrong way with Great Britain from 1846 to 1860. Germany and other European states later adopted that plan. When the United States adopted protection, notice was given to the world that the new policy meant higher wages, lower prices of commodities, and better conditions of industry and of workmen. The lowering of prices was brought about not by cheapening men, but by cheapening the cost of production by steam, electricity, and machinery. Prices have fallen, wages have risen, the exports of our products have increased, the imports of manufacturers have fallen off, and prosperity has been the reward of the sound economic policy adopted by the United States. On the other hand, failure has been the part of Great Britain in the great battle for the supremacy in the world's commerce.

THE WISDOM OF ALEXANDER HAMILTON.

The most notable book that has come from the pen of an Englishman touching the United States since Bryce's American Commonwealth is the Essay on Alexander Hamilton, especially that part of it which shows that the development of the British Empire depends upon the adoption and application of the principles of Hamilton to the British Empire.

The principles which Hamilton established for the American nation, to develop the estate of the Republic, to build up manufactures, to strengthen the bonds of American union through wise foreign policies, to strengthen the industries of the nation by protection and by an established system of sound credit,

have, in this day and generation, come into an unexpected honor. They are indorsed by a noted British writer.

Nothing has occurred which marks the tendency of British thought away from free trade—no, not even the great addresses of Joseph Chamberlain—more than the appearance of this book by an Englishman praising the wisdom and statesmanship of Alexander Hamilton.

It is the most amazing thing in the records of recent events that while Great Britain's wisest statesmen find justification for abandoning free trade, some Americans are advocating the abandonment of protection and the adoption of the policy that has been rejected by every commercial nation in the world save England, and is now tottering in that country.

If there ever was a time when the American people should pause and reflect, scan the records of their experience, and profit thereby, the present is that time.

GREAT BRITAIN HAS SUFFERED FROM COBDENISM.

The mistake of Great Britain was in carrying free trade too far, to manufactures as well as foodstuffs. The mistake which the United States might make would be in advancing one step on the highway to free trade and to the ruin of domestic industry. We need not stop with the lesson of our own experience. Compare the experience of Great Britain with that of Germany, and the lesson we shall learn will profit the people of the United States.

Great Britain has suffered from competition with Germany and the United States—more from the former than the latter. While the people of the United States are maintaining wage scales from double to treble greater than those of Great Britain and Germany, it is not to be expected that we shall be able to produce commodities as cheaply, in all lines, as do the countries which employ cheap men and pay them cheaply. But in those lines of industry in which machinery is chiefly employed we are gaining markets in competition with Germany and Great Britain.

But, says the free trader, if you are able to compete with the foreign producer in these lines, why maintain the tariff against those countries? Simply for the purpose of protecting the domestic market against "dumping" by foreign traders—just the thing which Great Britain complains that Germany and other States on the Continent are doing.

If protective rates are necessary to save the wage standard and the industrial progress of this nation, as has been demonstrated they are, protection must be adequate, complete, and effective at all times.

Open the doors of the American markets to "cheap foreign goods" at any time, and the foreign trader is quick to enter that door with commodities at the very time when the domestic industry can least withstand encroachments. "Dumping" surplus products is the means employed these days by the foreigner to break down the industries of competing nations.

How have the United States been able to affect seriously the trade of Great Britain? Simply by reducing the cost of production in some industries below the British standard, by perfected machinery, more ingenious than is employed by the British manufacturer, and by the advantage of free raw materials for the export trade through the operations of the "drawback" clause of our tariff law, instituted by Mr. McKinley, under which the American manufacturer, when manufacturing for the export trade, is able to obtain materials on the same basis with the foreign competitors in the export markets.

It is of material importance in considering the tariff policy of the nation and comparing results in different years, under low tariffs and protective tariffs, to give attention to the public revenues obtained and to the relative imports and exports.

DINGLEY LAW AS A REVENUE PRODUCER.

In the matter of Government revenues the Democratic tariff act of 1894 was a conspicuous failure. That law cut the duties so low on imported commodities that, notwithstanding the great increase in imports of dutiable goods which occurred during 1895, 1896, and that part of 1897 before the Dingley law went into effect, the receipts from customs were far below the requirements of the Government. In the matter of internal-revenue taxes also, the laws passed by the Democratic Congress were ineffective, made doubly so by the fact that taxes on articles under the internal-revenue law fail to produce revenues in times of industrial stagnation and inability of labor to obtain remunerative employment. The combined revenue-producing features of internal revenue and customs duties were grossly inadequate to meet the needs of the Government.

It was the aim of the Republican Congress which went into special session in the spring of 1897, under the call of President McKinley, to revise the tariff not alone on protection lines, but so to shape the revenue laws as to bring needed funds into

the Treasury of the United States. It was the estimate, conservatively made by the members of the committee which framed the Dingley tariff, that it would produce customs revenues to the amount of at least \$200,000,000, against from \$150,000,000 to \$176,000,000 produced by the Democratic tariff act which was to be displaced. In the second year after the Dingley law went into effect it fully met the expectations of its friends. A steady rise in revenues from customs duties has resulted during the life of this protective tariff law.

A glance at the receipts from customs and the receipts from all sources during the periods of Democratic free trade and Republican protection shows that the protective-tariff law and the conditions which have obtained under it have produced revenues adequate to meet the needs of the Government. The Democratic tariff act of 1894 was a conspicuous failure in all these respects. In the dark days of Democratic disaster, from 1894 to 1897, all revenues of the Government fell short, and it was one of the striking facts which can not be blotted from the minds of those who recall the incidents connected with that Administration that the Government was obliged to sell bonds to meet necessary expenses. The receipts from customs and the receipts from all sources during the two periods served as a striking illustration of the results from the change of policy in Federal finances. Here is the Democratic low-tariff period:

Year ending June 30—	Customs receipts.	Total receipts.
1895.....	\$152,158,617	\$313,390,075
1896.....	160,021,732	326,976,200
1897.....	176,554,127	347,721,705
Average.....	162,911,499	329,362,660

In the first year following the passage of the Dingley law the receipts from customs were inadequate. This was due to small importations, because of the fact that under the Democratic act, which had been in force during the three previous years, the markets of the United States had been glutted with foreign importations and it was impossible for the foreign exporters to place any more goods in the markets of the United States. Thus it was that the receipts from customs during the fiscal year ending 1898 amounted to less even than they were under the Democratic tariff act of the previous year.

Straightway, however, under the operations of the Dingley law the customs receipts moved up, and amidst the acceleration which all business conditions showed under the operations of the Dingley law the receipts from all sources showed heavy increases.

CUSTOMS RECEIPTS INCREASED.

The changes by years in the receipts from customs and from all sources are as follows:

Year ending June 30—	Customs receipts.	Total receipts.
1898.....	\$149,577,062	\$405,321,335
1899.....	206,128,482	515,960,620
1900.....	233,164,871	567,240,852
1901.....	238,585,456	587,685,338
1902.....	254,444,708	662,478,233
1903.....	284,479,582	590,396,674
1904.....	261,274,565	540,631,749
1905.....	261,798,856	544,274,685
1906.....	300,251,878	594,454,122
1907.....	333,230,125	665,306,134
Average.....	252,293,549	554,374,974

The revenue-producing influences of the Dingley law are shown by comparing its results by general averages during the past three years with the results achieved under the three years of the Democratic tariff act of 1894.

The three-year period of the Democratic act showed customs receipts averaging annually \$162,911,499. The general average for the Dingley law for the three fiscal years ending June 30, 1907, was \$298,426,953. This is nearly double the receipts obtained under the Democratic law. The total receipts show almost as high an average, relatively. The total receipts during the Democratic tariff law period averaged \$329,362,660. Under the Dingley law the average for the last three years was \$601,344,980.

The protective tariff law justifies itself by meeting the revenue requirements of the Government and the expectations of its framers.

IMPORT AND EXPORT FIGURES.

The relative imports and exports of the country under low tariffs and protective tariffs are of vital importance. Aggregate figures are valuable as showing trade results, but an analysis

of the figures is most important as showing the actual workings of the scientific policy of protection, compared with an unscientific policy of admitting commodities either free of duty or at low duties, to the injury of American industry and labor.

It need only be shown from the detailed workings of the Dingley tariff, compared with the workings of the Democratic tariff act of 1894, to prove wherein the protective measure is effective in promoting the interests of the American people by checking importations of finished products and encouraging the importations of raw materials and partly finished materials which enter into the manufactures of this country.

The Democratic tariff law gave greater encouragement to importations of finished products, with the result that American mills and factories keenly felt the competition from other countries, and, being crippled in their business, were thus disabled from furnishing employment to labor.

In general imports and exports the facts are all on the side of the Dingley law. This may best be shown not from the first few years in the operations of that law, which may be charged with being a spasmodic response to a new policy and the recuperation of the country from the ill effects of industrial stagnation. Take the latest years of the Dingley law period.

The importations of finished products have been proportionately less and the exportation of finished products proportionately greater under the Dingley law than they were under the Democratic tariff act.

In the three-year period of Democratic tariff the results were as follows:

Year ending June 30—	Imports of merchandise.	Exports of manufactures.
1895.....	\$731,969,965	\$183,595,743
1896.....	779,724,674	228,571,178
1897.....	764,730,412	277,285,391

In the last three years of the Dingley tariff the imports of merchandise and the exports of manufactures were as follows:

Year ending June 30—	Imports of merchandise.	Exports of manufactures.
1905.....	\$1,117,512,071	\$402,064,030
1906.....	1,226,562,446	459,812,656
1907.....	1,434,421,425	479,700,679

INCREASE OF MANUFACTURED EXPORTS.

These figures, covering the two periods of operations under former Democratic free trade and the present Republican protective tariff, illustrate in a forceful way the effectiveness of the protective policy in enhancing the exportations of manufactures. It is by noting some details in the workings of the two policies and their effects upon imports and exports that one may see the effectiveness of the protective policy in encouraging home manufactures. Then it is that imports of finished articles are proportionately less and exports of finished products are proportionately greater.

The Commerce Department of the United States publishes an instructive table showing the imports of merchandise by the great groups which cover the foodstuffs in crude condition, foodstuffs partly prepared, crude materials for use in manufacturing, manufactures for further use in manufacturing, and manufactures ready for consumption. It is in the effect of the two policies of free trade and protection upon these great groups of imported products that the value of the protective system is well illustrated.

In the fiscal years 1895, 1896, and 1897 the percentage of imports of completed manufactures ready for consumption ranged from 27 to 29 per cent of the total imports. In the fiscal years 1905, 1906, and 1907 the imports of finished manufactures ready for consumption ranged from 22 to 25 per cent of the total imports. In other words, the protective policy had the effect to curtail the proportionate imports of manufactured products.

Now, note the percentage of imports of crude materials intended for use in manufactures: In the fiscal years 1895, 1896, and 1897, the percentage of crude materials imported ranged almost exactly at 25 per cent for each year. Under the Dingley tariff the percentage of imports of these crude materials had increased to 33 and 34 per cent, respectively, for each year, 1905, 1906, and 1907.

DECREASE OF AGRICULTURAL IMPORTS.

Turning to the imports of crude foodstuffs and food animals, in which the farmers of the country are directly interested, because these articles come in competition with the products of the American farm, these striking comparative facts are brought out: During the fiscal years 1895, 1896, and 1897, the percentage of imports of foodstuffs ranged from 17 to 19 per cent of the total imports. Under the Dingley law policy, during the past three years, the importations of these foodstuffs has averaged from 10 to 13 per cent of the total imports—a point for the farmer to reflect upon.

The percentages of imports under the two laws are even more striking as to all manufactures and all foodstuffs, whether completed or in partly finished state. The percentage of foodstuffs partly prepared brought into the country during the three years of Democratic tariff was from 15 to 16 per cent of the total imports. During the last three years of protection the percentage of these imports ranged from 11 to 13 per cent of the total imports.

The percentage of imports of partly completed manufactures under the Democratic law ranged from 11 to 13 per cent of the total imports. Under the protective-tariff law the percentages have been from 16 to 19 per cent of the total imports.

These facts as to the proportionate importations of raw materials and finished products afford an interesting study in the operations of the two tariff policies as showing their effects upon domestic industry, whether of the farm or the mill. They prove conclusively that under the Democratic law a greater proportion of the total imports were articles which compete with the products of the farm, and that a much less proportion of completed manufactures have come in under the protective law than found entry to American markets under the Democratic tariff act.

It is a notable fact also that the tendency of the Democratic tariff law, during the few years of its existence, was to increase the proportionate percentages of imports of these various kinds of commodities against the interests of the American farmer and the American manufacturer.

FALL IN PRICES UNDER PROTECTION.

Among the arguments employed to support the doctrine of free trade or low tariffs none is more illusory than this:

Protection should be abandoned. It is not the cause of our great progress; we are a nation of tremendous resources; mills and factories would have sprung up, and we should have had a great accumulation of wealth and lower prices of commodities if the barriers of protection had not been raised as obstructions to free commerce.

Natural resources may lie forever unused unless quickened into life by industry. If, starting with the days of the colonial fathers, the American people had elected to go on buying 75 per cent of their manufactured products from Great Britain, and that policy had been continued to the present day, is it reasonable to assume that industries would have been developed here to produce articles for which there would be no demand in a market supplied by Great Britain?

Natural resources do not build mills. Mills are built to utilize natural resources.

The timber in the American forests, the iron, the coal, and other minerals were in the ground and the water powers were there when the aborigines roamed over the land. They were all here in the colonial days. But there were no industries to utilize these natural resources.

There are still undeveloped natural resources in this broad country of ours. They will not be developed by buying abroad what can be fabricated in American mills and produced on American farms. American capital and labor will not find opportunities for developing our natural resources if we buy what we need from foreign countries.

We must buy from foreign countries unless industries are established here to supply the wants of the American people.

All articles purchased abroad which can be produced in the United States deprive and rob American labor of its right to produce that article at home.

EXPORTING MORE MANUFACTURES THAN WE IMPORT.

Now, as to the effect of American industries upon prices: There has been developed in this country the most marvelous manufacturing plants on earth. We are now exporting more manufactures than we import. Is it within reason that these great manufacturing plants have had no influence in reducing prices? Would prices in the world's market have been as low as they are to-day if there had not been brought to bear upon the great processes of cheapening production the natural resources, the brains and brawn, and the machinery produced by American ingenuity?

Let us see what the market quotations show during two periods of American history. The following is a schedule of

prices quoted during the days of free trade before the civil war, and in a period of nine years after the Dingley law went into effect. They show:

Prices in 1860 and 1906.

Articles.	1860.	1906.
Ax.	\$1.49	\$0.90
Blankets, pair.	6.83	3.70
Blue shirting, yard.	.18	.09
Boots.	4.76	2.50
Calico, yard.	.15	.06
Carpets, yard.	1.31	.50
Cotton gloves.	.35	.20
Cotton hosiery.	.47	.25
Cotton knit goods.	.58	.40
Cotton thread, spool.	.09	.05
Crowbar, pound.	.12	.06
Drawing chains, pair.	1.29	.58
File.	.42	.20
Fork, 3-tined.	.99	.46
Flannel, yard.	.70	.34
Fruit cans, dozen.	3.00	.60
Gingham, yard.	.23	.09
Handsaw.	2.44	1.39
Hoe.	.85	.37
Hemp rope, pound.	.21	.11
Linen, yard.	.83	.42
Mowing machine.	121.15	45.00
Nails, iron, pound.	.08	.03
Oilcloth, yard.	.84	.31
Overalls.	1.20	.71
Pearl buttons, dozen.	.22	.14
Pins, paper.	.12	.06
Plow.	20.00	12.00
Rake, horse.	41.25	19.41
Reaper and binder.	247.85	116.00
Rubber boots.	4.83	2.74
Salt, barrel.	2.30	1.38
Shoes.	5.84	3.50
Sheeting, yard.	.13	.06
Shovel.	1.47	.80
Spade.	1.44	.84
Starch, pound.	.14	.10
Straw hat, good.	1.75	1.10
Straw hat, common.	.44	.23
Sugar, granulated, pound.	.19	.05
Sugar, brown, pound.	.16	.04
Sugar bowl.	.61	.32
Scythe.	1.22	.68
Tin dipper.	.25	.10
Tin milk pail.	.75	.39
Tin milk pan.	.37	.15
Ticking, yard.	.36	.17
Wagon.	130.00	75.00
Washboard.	.41	.22
Washtub.	1.20	.65
Wheelbarrow.	2.23	1.40
Wooden pails.	.45	.20
Woolen clothing.	24.00	10.00

PHILOSOPHY FOR WAGE AND PRICE CHANGES.

No problem in the issue over the tariff troubles the free-trade Democrat more than the wages of workmen and the prices of commodities. If prices rise, the free traders attribute the increase to the protective tariff. If the prices fall, the charge is that "protection has closed markets, caused the destruction of values and a fall in prices." If wages rise, "it is not the tariff that caused the increases;" but if wages fall, the protective tariff is denounced by the free trader as "the cause of the trouble."

It is a poor apology for an economic policy or principle of Government that will not work under all conditions and prove its soundness at all times.

In 1896 the Democratic party denounced protection as "robbery" and demanded that it be abolished, "because it has closed markets and so forced down prices that there is no longer any profit in industry." At the same time it was charged by the free traders that if Mr. McKinley were elected President and adequate protection were restored to take the place of the free-trade tariff passed by a Democratic Congress in 1894, the country would be sentenced to disaster, prices would rise beyond the ability of the people to buy, and foreign markets would be closed to the products of the American mills and farms.

In 1907, ten years after the Dingley tariff was passed, our opponents are charging that protection is the cause of high prices, and they repeat that "we can not sell where we refuse to buy." This allegation, in the face of the fact that the export trade of the nation has constantly increased and is greater today than ever before in our history.

A REASON FOR PROTECTION FAITH.

The rise of manufacturing in the United States and the steady increase in exports of all commodities furnish a reason for the faith which protectionists entertain that their policy is best for the nation; that under it all industries thrive, and so great a domestic manufacturing industry has sprung up that from a nation of planters, buying their manufactured products abroad,

we have come to be a manufacturing nation, selling abroad a greater amount of finished manufactures than are imported, and at the same time the sales of farm products in the domestic and foreign markets continue to increase, keeping pace with the development of the nation and the increased earning power and improved standard of living of our people.

It is shown from the official records that money wages have steadily increased under protection; that actual wages, being the purchasing power of each day's labor, have steadily increased.

Considering what is claimed regarding the rise in prices during recent years, notably in the last two years, it is demonstrable, from the records of prices current, that the principal advances in prices have been on breadstuffs, provisions, and other products of the farm, whereas the rise in the prices of manufactured commodities have, in some degree at least, been caused by the increased cost of labor, incident to the rise in money wages, and by the added cost of materials to the producers of finished products.

A forceful illustration of this fact regarding relative prices of materials and finished products is shown in the cotton-goods industry. The quoted price of standard prints in the New York market in 1896 was 2.60 cents a yard; in 1906 it was 3.60 cents, an increase of 1 cent a yard. During the same period the rise in the price of raw cotton was nearly 4 cents a pound. Raw cotton was quoted at 7.93 cents a pound in 1896 and 11.50 cents in 1906.

The price of refined sugar in the New York market in 1896 was 4.53 cents a pound. In 1907 it was 4.52 cents, a decline, though slight, in the price of a product that was given increased protection by the Dingley tariff over the rates imposed by the Democratic act of 1894.

The price of tin plate in the foreign markets of export to the United States in 1890, before the passage of the McKinley tariff placing a duty on tin plate, and creating an American tin-plate industry, was 3 cents a pound. In 1906 the price was 2.8 cents a pound. It has been as low as 2 cents a pound since 1890.

The average yearly price of tin plate, 14 x 20, per box of 100 pounds, at the mills in Pennsylvania, for 1900 was \$4.47; for 1903, \$3.97; for 1906, \$3.54.

RECENT WAGES AND PRICE RECORDS.

The official statistical bureaus of the United States have made several reports covering wages and prices through the greater part of the period in the life of the Dingley tariff law. These reports are in substantial accord respecting the increases in wages and prices, and they prove conclusively that the rise in wages has more than kept pace with the increased cost of living.

The United States Census collected statistics regarding the manufactures of the United States in 1900 and again in 1905. The Bureau of Labor in the Department of Commerce and Labor made a compilation in 1907 covering the wages and retail price of foods for 1906.

In summarizing an extended statement regarding the wage conditions in the United States for the year 1905, after the Dingley tariff law had been in operation for eight years, the officials of the Census reported that the average man employed in the manufacturing industries of the United States received wages amounting to \$11.16 per week. The average wages of all employees in all industries was \$10.06 per week. In some industries where technical skill is required the average wages ran as high as from \$16 to \$21 a week.

These generalizations on the average wages of the average employees in the manufacturing industries of the United States are borne out by the census returns for 1900 and 1905. The census statistics covered the next preceding years and furnish conclusive proof of the continued development of industries, the increased employment to labor, and the increased compensation they received.

In 1900 all the employees in the manufacturing industries of the country numbered 4,715,023. To these employees the aggregate annual wages paid was \$2,009,735,799. By dividing the aggregate wage fund, from which the more than 4,000,000 employees drew their wages, by the total number, it is shown that there was an amount aggregating more than \$427 for each person. Five years later the average amount possible to be paid each employee in these industries had increased to \$522. In 1905 the total number of employees in the manufacturing plants of the country had increased to 5,470,321 and the total wages paid to them had increased to \$2,811,590,532.

INCREASE OF INDUSTRIAL EMPLOYMENT.

Fully bearing out the well-known fact that the average wages of men in the manufacturing industries, as in all lines of employment, range higher than the average wages of all, on account of the smaller wages paid to women and children, the

census report shows that in 1900 the average wages paid to men, as shown by the division of the total wage fund paid by the aggregate number of employees, was \$485. In 1905 this had increased to \$554. In 1900 the aggregate number of men employed in the manufacturing plants of the country was 3,635,236. The aggregate wages paid to them was \$1,736,347,184. In 1905 the total number of employees in the manufacturing plants had increased to 4,244,538 and the aggregate amount of wages paid to them had increased to \$2,266,273,317.

Thus do the figures collected by the census prove the steadily increasing number of men finding employment in the manufacturing industries during a period of five years under the Dingley tariff; that the aggregate amount of wages paid to them substantially increased, as did also the aggregate amount which each wage-earner might receive from the total of the wage fund distributed.

Statistics collected by the Bureau of Labor of the Commerce Department on wages and retail prices of foods in 1906 set forth in detail the average increases and decreases in the number of employees, their hours of labor per week, the amount of wages per hour, the full-time weekly earnings per employee, and also the retail prices of food and the purchasing power of wages, measured by the retail prices of food. Also were included the full-time weekly earnings per employee.

WAGES PER HOUR HIGHER.

An important fact brought out by these comparisons of increases in wages and prices is stated by the Labor Bureau as follows:

As compared with the average for the ten-year period—1890 to 1899—the average wages per hour in 1906 were 24.2 per cent higher, the number of employees in establishments investigated was 42.9 per cent greater, and the average hours per week were 4.6 per cent lower. The average earnings per employee per full week were 18.5 per cent higher than the average earnings per full week during the entire ten years—1890 to 1899.

The retail price of the principal articles of food, rated according to family consumption of the various articles, was 15.7 per cent higher in 1906 than the average price for the ten years 1890 to 1899. Compared with the average for the same ten-year period, the purchasing power of an hour's wages in 1906, as measured by food, was 7.3 per cent greater, and of a full week's wages 2.4 per cent greater, the increase of the purchasing power of the full week's wages being less than the increase in the purchasing power of hourly wages, because of a reduction in the hours of labor.

There is no element in the economics of industry which makes for the betterment of the conditions of workingmen that does not show an improvement, according to this report by the Labor Bureau, after nine years of continuous operation of the Dingley tariff law.

The facts brought out cover increases in wages and increases in the cost of food, which bear heavily upon the incomes of the working people. Not only are the advantages shown to be greater on the side of the workman in the purchasing power of his daily wages, but that feature in the betterment of the condition of the workman which is fully as important as the increase of wages, namely, reduction in the hours of labor, has been made possible in the prosperity which has accompanied the operations of the tariff law since 1897.

WAGES HERE AND IN EUROPE.

So much has been said, in the past forty years of discussion of the advantages of the protective system to the United States, regarding the wide differences in favor of the wage-earners in this country compared with those in competing industrial countries of Europe that it is unnecessary to dwell upon this subject more than to repeat what is substantiated by the statistics of labor conditions in this country and in Europe, that the general average of wages in the United States range from double to treble those of European countries. It is important, however, to bring attention at this time to the differences in wages in the textile industries of this country and European countries, especially in view of the encouragement which has been given by recent trade agreements entered into between the United States and European countries.

On this point, the Washington correspondent of the American Economist, the publication of the American Protective Tariff League, showed on April 17, 1908, by quotations from the report of a special agent of the United States Commerce Department, some striking facts regarding wage conditions abroad compared with those in the United States:

It has been brought out in these reports by special agents that the average wages in the foreign cotton mills range from one-half to two-thirds lower than the wages of operatives in like mills in the United States. This is the fact of supreme importance in the economics of our international trade. All the finespun theories of free traders and low tariff advocates can not stand for a moment in the face of the facts brought out in these plain trade reports. For be it remembered in this connection that the reports regarding conditions of production in the cotton mills of the European states are brought out, not through an investigation by tariff experts desirous of arguing up or arguing down a tariff policy. They are the reports of special agents and Government consuls dealing only with exact facts as they find them in

the cotton-manufacturing districts of Europe, and are sent to the Commerce Department for publication in order that the cotton goods manufacturers of this country may be advised regarding the kind of competition that must be met in the domestic and in the foreign markets. To the expert in the trade and to the student of the economics of the problem these facts are of great value. But none of the facts speaks to the wage-earners in the cotton mills of the United States in such trumpet tones as this brief quotation from one of the statements issued by the Department, to wit:

"Special Agent Clark reports that stitchers in St. Gall (Switzerland) make \$8 to \$12 a week. In the same employment in New Jersey stitchers get from \$18 to \$30 a week. Shuttle fillers and overseers receive about the same proportionate increase in the United States over those employed in Switzerland."

Does it require any argument to demonstrate why it is that raw cotton can be shipped from the United States, fabricated in Swiss mills, and reshipped, in the form of competing manufactured goods, back to the markets of the United States, in the face of these differences in wage payments?

One United States consul reports from Belgium that certain high grades of cotton goods are exported in great quantities to the United States. The Department quotes this consul as saying regarding wage conditions in Belgium mills:

"The majority of the workers earn from 10 to 17 cents a day, and the best workers get only 20 cents a day. He says there are only 10 or 12 out of 15,000 who earn as high as 38 cents a day."

In the face of these facts regarding wage conditions in the foreign mills, it is proposed by some American people to revise the United States tariff at once and downward. Not content with sending raw cotton to Europe and buying it back in the form of manufactured goods to the amount of \$60,000,000 worth annually, it is proposed further to open the door to this kind of unjust and unfair competition, which strikes directly at the wage-earners in the cotton mills of the United States.

SAVINGS-BANK DEPOSITS.

Among the valuable statistics showing the real progress of the people is the increase in volume of deposits in the savings banks. While many wage-earners have deposits in the commercial banks, such as the national and State banks, a large percentage of the individual deposits in the commercial banks are made by merchants, manufacturers, and others whose deposit accounts are subject to frequent checking to meet the demands of business. This is not true—to the same extent, at least—with respect to the deposits in savings banks. The wage-earners of the country constitute a large proportion of the individual depositors in the savings banks. The changes in savings-bank deposits, therefore, registers in a peculiarly convincing way the real progress in wealth accumulation among the wage-earners of the country. This is true in the United States and in the leading industrial countries of Europe.

The rise in deposits in the savings banks of the United States in recent years has been marvelous. The following table illustrates that fact. It is desirable to compare the record during the life of the tariff act of 1894 with that of the past ten years.

The changes in the aggregate volume of deposits in savings banks for the different years are shown as follows:

Democratic free-trade years.	
1894.....	\$1,747,961,280
1895.....	1,810,597,023
1896.....	1,907,156,277
Republican protection years.	
1905.....	\$3,093,077,357
1906.....	3,299,544,601
1907.....	3,495,410,687

During the three-year period from 1893 to the end of 1896, the greater part of which time the Democratic free-trade tariff was in operation, the net increase in savings-banks deposits was about \$150,000,000. In the three-year period of Dingley protection, from 1905 to 1907, the increase was about \$400,000,000.

These figures are instructive. They show a marvelous increase in the aggregate. But the average amount due each depositor is a more significant fact. In the free-trade period, the average amount due each depositor ranged from \$365 to \$376. The average per capita of the United States during that period was about \$25. In the last three years of the Dingley-protection period, the average due each depositor was from \$423 to \$429, and the average per capita deposits in the United States had risen to nearly \$43 in 1907.

The average deposits in the savings banks of Germany show \$163 for each depositor; for France, \$74; for the United Kingdom, \$84; Canada, \$293.

The average deposits per capita of the inhabitants of these countries are as follows: Germany, \$46; France, \$22; the United Kingdom, \$23, and Canada, \$11.

The average deposits of the individual depositors in savings banks in all the countries of Europe is about \$112, against an average of \$429 in the United States.

PROSPERITY AND THE RAILROADS.

The industrial prosperity of the United States is registered in the success of the great railway lines which traverse nearly all sections of the country. In times of industrial prosperity the railroads are prosperous, and they quickly show the influences of industrial stagnation.

The railroads of the United States have been marvelously prosperous during the past ten years, although during a part

of the time they were subjected to legislation by Congress seriously affecting their policies and their rates through the interstate-commerce act, as amended by Congress two years ago, adopting a new policy in dealing with complaints against carriers engaged in interstate commerce. Even in the face of these changes in the law, which were calculated to affect in some degree, at least, the earning power of the roads, the prosperity of American railroads has been in keeping with the general prosperity of the country. That is particularly true during the past few years, as is shown by the statistics of the number of roads placed under receiverships and sold under foreclosures. The records cover the periods of Democratic free trade and under the Dingley protective law.

In the four calendar years 1894, 1895, 1896, and 1897 more railroads were placed under receiverships than during ten years in the life of the Dingley tariff law. The statistics on this subject are instructive for the two periods, covering the years of Democratic control in the administration of the Government and the years of Republican control down to the end of 1906 for which figures are available. During the early period the results were as follows:

PLACED UNDER RECEIVERSHIPS.

Calendar year.	Number roads.	Miles.	Stocks and bonds.
1894.....	38	7,025	\$395,791,000
1895.....	31	4,089	369,075,000
1896.....	34	5,441	275,597,000
1897.....	18	1,537	92,909,000

SOLD UNDER FORECLOSURE.

1894.....	42	5,643	\$318,999,000
1895.....	52	12,831	761,791,000
1896.....	58	13,730	1,150,377,000
1897.....	42	6,675	517,680,000

PLACED UNDER RECEIVERSHIPS.

1903.....	9	229	\$18,823,000
1904.....	8	744	38,069,000
1905.....	10	3,593	176,321,000
1906.....	6	204	55,042,000

SOLD UNDER FORECLOSURE.

1903.....	13	555	\$15,885,000
1904.....	13	524	28,268,000
1905.....	6	679	20,307,000
1906.....	8	262	10,400,000

During four years of Democratic tariff policy more than treble the number of roads were placed under receiverships than during the period of protection. The same relative conditions existed with respect to sales of railroads under foreclosure.

BUILDING NEW INDUSTRIES UNDER PROTECTION.

A few comparatively new industries have received the special consideration of Congress in recent years. The development of these industries under the protective tariff affords a notable illustration of the effectiveness of the protective policy in aiding in the development of industries which furnish opportunities for capital and labor.

Probably no efforts of the Republican party have been more bitterly denounced by the free traders than those directed toward the development of the tin-plate, beet-sugar, and button industries and the manufacture of cordage and twine and linen goods in this country. Beginning with the treatment which these industries received in the McKinley tariff act of 1890, and again in the Dingley tariff of 1897, opportunity was afforded for demonstrating what can be accomplished through wise protective legislation to promote domestic industries.

It will not be forgotten how the free traders denounced the efforts to give encouragement to these industries. Some facts brought out by the census reports are for this reason of particular interest at this time. The census reports for the years 1899 and 1904 are serviceable because they cover a period midway in the life of the Dingley tariff and afford abundant evidence of the actual workings of the protective system in giving encouragement to these industries for which protective rates were specifically provided, in the face of free-trade protests.

TIN PLATE.

In 1899 there was invested in the tin-plate industry in the United States capital to the amount of \$6,650,047, furnishing employment to 3,671 employees, who were paid annual wages aggregating \$1,889,917. The aggregate value of the output in that year was \$31,892,011.

That was the showing by an industry which had had its inception ten years before in the duties imposed under the McKinley

tariff. It was an answer to the free-trade claim that tin plate could not be produced in this country, and that we should go on buying tin plate abroad.

Five years more of protection showed, for the year 1904, an aggregate of capital invested in the tin-plate industry of \$10,813,239; wage-earners employed to the number of 4,847, to whom aggregate annual wages of \$2,383,070 were paid. The value of the aggregate output for that year had increased to \$35,283,360.

These figures furnish a striking example of real industrial progress in the United States under protection. In 1890 no production of tin plate in the United States was recorded, and the imports of tin plate for that year aggregated 680,060,925 pounds. The production of tin plate in the country reached for the last six months of that year 2,236,743 pounds. In 1905 the domestic production aggregated 1,105,440,000 pounds, and the importations of tin plate that year had fallen to 161,066,820 pounds. Within fifteen years, under the protective system, the domestic production of tin plate exceeded the importations before the industry was established, and the imports had fallen more than sixfold. At the same time opportunity was afforded for the investment of more than \$10,000,000 of capital and the distribution of nearly \$2,500,000 in wages to American workmen.

BEEF SUGAR.

The beet-sugar industry in the United States has not had the advantages of adequate and continuous protection, even during the life of the Dingley tariff. The industry is constantly menaced by such acts of Congress as opened to Cuban sugar freer access to the markets of the United States and the threats of increased importations of free sugar from the Philippines. In the face of these untoward circumstances remarkable progress has been made in the industry even in the past few years. In 1899 there was invested in the beet-sugar industry in this country \$20,141,710. Employment was given to 1,970 workmen, who received annual wages aggregating \$1,092,207, and the value of the aggregate product was \$7,323,857. In 1904 the aggregate capital invested in the industry had nearly trebled, going up to \$55,923,489. The number of workmen had increased to 3,963 and the aggregate annual wage payments to \$2,486,702. The value of the aggregate products for that year was \$24,393,794, and for the year of 1907 over \$40,000,000.

The adoption of Cuban reciprocity, which treaty reduced the import duty upon sugar coming into the United States from Cuba 20 per cent below the rate fixed in the Dingley tariff law, caused the construction of beet-sugar factories in the United States to halt and the capital invested in those already built to tremble with fear of further disaster to that industry by the agitation of free trade with the Philippine Islands.

That the enactment of Cuban reciprocity has been most disastrous to the United States is proven by a review of our exports to and imports from Cuba for the past eight years, which covers a period four years prior and four years subsequent to the enactment of that treaty. As an illustration, our exports to Cuba for four years prior to December 27, 1903—which was the date of putting Cuban reciprocity into effect—averaged, in round numbers, \$25,000,000 per year, and for the four years succeeding the adoption of that law our exports averaged \$40,000,000 per year, while during the same period our imports from Cuba amounted to about \$40,000,000 annually, and for the succeeding four years more than \$86,000,000 annually, and the 20 per cent reduction of duty given to Cuba cost the United States Government in the past four years more than \$40,000,000. So that in order to secure a market in Cuba in the past four years for an increase of \$60,000,000 in our exports we were compelled to take more than \$183,000,000 increase of Cuban imports and make her a present of \$40,000,000 in cash.

My Republican friends, I caution you to be careful in any steps you may take toward a reduction of our present tariff schedules.

It is a matter of interesting speculation among those who have watched the struggle of the beet-sugar industry in this country what it would have accomplished if, instead of those harmful conditions, the industry had been accorded adequate and continuous protection.

BUTTONS.

In this industry is included the pearl-button manufacture which was ridiculed by the free traders during the framing of the McKinley tariff of 1890. The button industry has made remarkable strides since 1890. In that year the capital invested aggregated \$4,212,568; the number of wage-earners employed was 8,685, to whom were paid annual wages aggregating \$2,828,238. The value of the output of the factories in that year was \$7,695,910. In 1904 the capital invested had nearly doubled, reaching \$7,783,900. The number of workmen had

increased to 10,567, and their annual wage receipts had reached \$3,680,196. The annual output of the industry had risen to \$11,133,769.

CORDAGE AND TWINE.

This growing industry has made great strides since 1880 under the encouragement of protective duties. In that year less than \$12,000,000 was the value of the aggregate output and a million and a half dollars registered the payment in wages. In 1899 the capital invested in the industry amounted to \$29,375,470; the number of workmen was 13,114, to whom wages were paid annually aggregating \$4,113,112. The value of the product of that year was \$37,849,651. In 1904 the capital invested in the industry had risen to \$37,110,521; the number of workmen to 14,614, receiving annual wages aggregating \$5,338,178. The value of the output for that year had increased to \$48,017,139.

LINEN GOODS.

The linen industry in the United States has at no time received the encouragement to which it is entitled, considering what is believed could be accomplished with adequate protection. Our present trade policies have unjustly, it is believed, encouraged the importations of linen goods from foreign countries directly against the policy intended to be established by the terms of the Dingley law. In 1890 less than a million dollars were invested in the linen industry in this country, and the aggregate output of the mills was about a million and a half dollars' worth. In 1899 the aggregate capital invested was \$5,688,990, the number of wage-earners employed was 3,283, to whom was paid \$1,036,830. The annual output was valued at \$4,368,159. In 1904 the capital invested had increased to \$6,293,878, the number of wage-earners to 3,811, wages paid to \$1,324,621, and the aggregate annual output to \$5,856,388.

ARE THESE TARIFF RATES TOO HIGH?

Vigorous complaints are made by free traders and revisionists against certain schedules of the Dingley law as being "too high." The iron and steel, earthenware, glass, and lumber schedules, particularly, are denounced. Comparisons of the rates with those of the preceding Democratic tariff and the changes in importations from year to year show that these complaints are without warrant.

A tariff law to be adequately protective should have the effect to keep down importations to a minimum, in order that the domestic industries which produce like commodities and furnish opportunities for American capital and employment for American wage-earners be not too much encroached upon by foreign competing importations.

In respect to the iron and steel schedules, the average rates of duty are only 10 per cent higher than they were in the Democratic tariff of 1894. On many articles the rates were not increased by the Dingley law.

Whether the tariff law in its application to the metals is now adequately protective may best be shown by the importations of iron and steel during recent years. In the period from 1905 to 1907, fiscal years in each instance, the importations of iron and steel nearly doubled, rising from \$23,500,000 worth in 1905 to \$40,500,000 worth in 1907. The imports of iron and steel during 1895 and 1896, under the operations of the Democratic tariff, amounted to about \$24,000,000 worth for each year. The increases in importations under the Dingley law have been heaviest during the last few years in the life of that act.

The importations of earthenware, stone and china were increased from \$11,600,000 worth in 1905 to \$13,700,000 worth in 1907. The importations of this class of goods under the Democratic tariff act in 1895 were about \$9,000,000 worth and in 1896 nearly \$11,000,000 worth.

INCREASED IMPORTATIONS.

The importations of glass and glassware were \$6,000,000 worth in 1905, and in 1907 they had increased to \$7,500,000 worth. Under the Democratic tariff act in 1893 they were \$6,500,000 worth, and in 1896, \$7,400,000 worth. The increase in the average ad valorem rate of duty in the schedules covering earthen and glass ware amounted to about 20 per cent.

Among certain advocates of a change in the tariff on lumber, the "preservation of American forests" is the chief reason advanced. Others claim that the rates of duty are inordinately high. The importations of lumber in 1905 amounted to \$23,000,000 worth, and in 1907 they had risen to \$32,500,000 worth. Under the Democratic tariff, 1894, the importations of lumber were about \$7,000,000 worth, in 1896 they were \$8,500,000 worth. Under the Democratic law white pine lumber was admitted free of duty. An increase of about 7 per cent was made in the average ad valorem rates of duty in the schedules relating to all woods by the Dingley law over the Democratic act

of 1894, and lumber was transferred from the free list to the dutiable list.

Only one conclusion is logically to be drawn from these changes in importations, namely: Whether the increases in rates by the Dingley law over the Democratic act were great or small, clearly the rates of the Dingley law admit of steadily increasing importations of these goods, and to that extent displace domestic manufactures in their own markets.

Is it desirable that these rates shall be revised downward, and give greater opportunities for foreign commodities to enter American markets, displacing articles produced by American labor?

DEVELOPMENT OF THESE INDUSTRIES.

Whether the Dingley tariff law is adequately protective to these industries is to some extent shown by the imports of competing commodities. Undoubtedly there has been a great development, increased capital invested, and increased wages paid to a larger number of employees during the life of the law.

In respect to the iron and steel industry it is shown by the census reports that the aggregate capital invested increased from \$1,500,000,000 in 1900 to \$2,331,000,000 in 1905. The number of employees increased from 737,900 in 1900 to 857,292 in 1905. The wages increased from \$384,233,000 to \$482,357,000 in 1905. The aggregate increase in the value of the product was \$370,000,000.

In regard to lumber, the increase in capital invested was from \$730,000,000 in 1900 to \$1,013,000,000 in 1905. The number of employees from 672,000 to 736,000, and their aggregate annual wages increased from \$253,600,000 to \$336,058,000. The increase in the value of the products was about \$214,000,000.

The showing as to chemicals, glass, and stoneware, is somewhat in keeping with the inadequacy of the protective rates to secure to the industries in these lines the markets of the country.

The increase in capital invested in the earthenware and glass industries was from \$335,400,000 in 1900 to \$553,846,000 in 1905. The number of workmen increased from 231,700 to 285,360, and their aggregate wages increased from \$102,867,000 to \$148,471,000. The increase in the aggregate product was about \$120,000,000.

The increase in capital invested in the chemicals and allied products was from \$1,139,000,000 in 1900 to \$1,504,000,000 in 1905. The increase in average number of employees was from 182,237 to 210,165. The increase in their aggregate annual wages was from \$71,594,000 to \$93,965,000. The increase in the value of the product was a little less than \$300,000,000 worth.

MANY RATES BELOW PROTECTIVE LINE.

There are other schedules of the tariff law which will demand attention in any revision.

Cotton goods: The importations of cotton manufactures in 1905 aggregated \$49,000,000 worth, and in 1907 they had increased to \$73,700,000 worth. In 1895, under the Democratic tariff, the importations of cotton manufactures amounted to about \$33,000,000 worth, and in 1896 to \$32,400,000 worth.

Chemicals: In 1905 the value of imported chemicals was \$64,700,000 worth, and in 1907 these importations had increased to \$83,000,000 worth. In 1895 the importations of chemicals aggregated \$43,500,000 worth, and in 1896 about \$48,000,000 worth. The figures are more striking when one notes the changes in imports of dutiable chemicals only, thus showing whether the rates of duty are adequate to protect the domestic industry. In 1905 the value of dutiable chemicals imported was \$25,000,000 worth, and in 1907 the imports were \$32,000,000 worth. The dutiable imports of chemicals in 1895 were \$13,000,000 worth, and in 1896 \$13,700,000 worth.

The increase in the average ad valorem rate of duty in the chemical schedule by the Dingley law over the Democratic act was less than 2 per cent.

On the general question whether the Dingley law rates are high and are unduly excluding imports of merchandise, these facts should be noted:

DUTIABLE IMPORTATIONS.

In 1905 the total value of merchandise admitted free of duty was \$517,442,000 worth; in 1907 the value was \$644,000,000 worth. Of merchandise dutiable the imports in 1905 were \$600,000,000 worth, and in 1907 \$790,000,000 worth. The increase in three years under the Dingley law was \$127,000,000 worth of merchandise admitted free of duty and \$190,000,000 worth of merchandise subject to duty.

In 1895, under the Democratic tariff, the imports of merchandise free of duty were \$363,000,000 worth, and in 1896 \$370,000,000 worth. Of merchandise subject to duty the imports in 1895 were \$368,000,000 worth, and in 1896 they were \$410,000,000 worth. Under the Democratic tariff the importa-

tions of articles admitted free of duty increased during a single year only \$7,000,000 worth, while the importations of merchandise subject to duty increased \$42,000,000 worth.

THE MONETARY STRESS OF 1907.

Several causes are properly assignable for the monetary stress of 1907:

1. A universal financial disturbance pervaded the chief commercial centers of the world. Business depression prevailed throughout the commercial centers of England, Germany, France, Austria, and Italy.

2. The effects of monetary stress in the United States began to be felt in July, 1907, following violent agitation for "tariff revision" by the then coming Congress and the announcement of the adoption of the "trade agreement" with Germany, whereby German exporters and those of other European countries became participants in the concessions contained in that agreement with respect to "export prices." These concessions promised immediate advantages to foreign producers on their sales in the markets of the United States. Those advantages were speedily realized in increased importations of competing commodities, which had the effect to call a halt on orders to American mills.

3. Heavy crop movements in the West in the autumn of 1907 created unusual demands for currency.

4. The banks in the leading centers were pressed for funds. The failure of two or three trust companies in New York under conditions which indicated overspeculation and improper management of the banking and loan departments of these institutions caused "a run," which spread to many banks in New York and caused a tightening of money. In order to save even the most solvent banks from failure, the clearing-house associations issued certificates. This system extended throughout the commercial centers, because it was impossible for the interior banks to obtain their funds, which, in common with those of all depositors, were locked up in the central reserve and reserve centers.

5. The tightness of money had the effect further to curtail orders and to influence adversely activities in industrial operations already slackened by tariff agitation and threats of increased imports.

BANEFUL EFFECTS OF TARIFF AGITATION.

The real seat of the disaster to business in the United States was, as is seen, the adoption of some policies and the advocacy of others that would be unfavorable to American industry.

For many years the Dingley tariff accomplished the results for which it was enacted. Under its operations the United States became the foremost industrial nation of the world. At the zenith of its success, when, judging from constantly increasing importations of competing products and the vanishing of our favorable trade balances, many of its rates had become inadequate for the continued encouragement of the industries of the United States, there came from many of its friends, as well as from all its foes, from many professed protectionists, as well as from all free traders, from numerous manufacturers as well as from all importers, a clamor for tariff revision downward.

When it became apparent that such a revision could not be immediately effected by the consent and cooperation of Congress, a tariff agreement was entered into by which undervaluations of foreign competing products were made possible.

Simultaneously with the incubation of this scheme of indirect downward tariff revision further classifications were made upon competing imports by which many rates theretofore undisturbed were effectually destroyed.

One of the two great political parties, standing always for free trade, stands pledged to the overthrow of the Dingley tariff.

American producers who are able to sell the bulk of their goods at reasonable prices at home and their surplus products at the best obtainable prices abroad, and thus afford constant employment to American labor, are threatened with the transfer of their products to the free list.

Under these conditions is it strange that fear of impending disaster drove American capital into hiding? Every unfriendly revision of American tariffs has produced disaster for the American people. Could the Dingley tariff be revised and reversed downward without a similar result? High financiering might have produced a "little flurry in Wall street," and individual "plunging" might have wrecked a few financial institutions, but the universal fear of the destruction of the foundation of our national prosperity, protection, alone could bring about the conditions which have developed in connection with the monetary stress of 1907. A return to sound protective policies in the treatment of our industries and our foreign trade is the only remedy for our present unfortunate situation.

What is the lesson the American people must learn from experience with tariff tinkering and revision downward by trade agreements? Reflect upon what former Secretary Shaw of the Treasury Department said:

I should regret a tariff war (referring to alleged threats by Germany to impose maximum duties against American products), but there are some things preferable to humiliation by consent. If we are to make concessions to Germany, the same concessions should in all fairness be made to every other country, and then Germany would have the same cause to complain she has now. Her proposition is that she shall have better terms than any as a prerequisite to granting the United States as favorable terms as she grants several other nations.

The blunder made by the national Administration was the result of an effort to stretch "reciprocity" beyond the express limitations of the laws of Congress—to make concessions upon competing products, contrary to the policy of protection. The basis upon which concessions might be made was marked out plainly in the written law of the land and did not include changes in the customs policy of the nation.

REVISION DOWNWARD MEANS DISASTER.

It matters not whether protection be destroyed by a revision of the tariff downward through a law of Congress or by trade treaties.

Either plan spells disaster to the American people.

The protectionists of the country have fought off direct attacks upon the tariff, but an indirect and effective attack upon the integrity of the system was made through the trade agreement entered into by our trade treaties with the German Government. That agreement violates not only the principles but the specific provisions of the protective-tariff law and the customs-administration act, under which the tariff schedules of the United States are enforced at the ports of entry for foreign goods.

The marked falling off in all imports since the financial troubles which began in this country in the fall of 1907 has been accompanied by reduced aggregate importations from Germany. That fact is exhibited, however, in its strongest light, only in lines of goods upon which the opportunities for undervaluations by the German exporters are least favorable. On other lines the increase in imports of German commodities has been marked. It is sufficient to show what the general aggregate figures represent in respect to the imports and exports. That is made plain if one takes the Treasury reports of this country showing a decline in imports from Germany, as exhibited by the aggregate valuations, and then turns to the reports of declared exports from consular districts in Germany during the same period.

The latest consular report published by the Commerce Department from the consul-general at Berlin, Germany, gives a detailed account of the increases and decreases of declared exports from Germany by consular districts during 1907, compared with 1906. The increase in the aggregate of these declared exports amounted to \$6,315,796. Of the thirty consular districts reported upon, increases in declared exports are shown by more than twenty.

IT CHANGED INDUSTRIAL CONDITIONS.

The American Protective Tariff League, in its publication, *The American Economist*, brings out the facts regarding the influences of the German tariff agreement upon the trade and industry of the United States and makes it clear that changed industrial conditions followed the adoption of that trade agreement in July, 1907. The article published on May 1, 1908, tells the story of tariff revision downward by Executive order for the benefit of foreign producers, and the instantaneous effect of that action upon the business conditions in the United States:

When the German tariff agreement went into effect July 1, 1907, American labor was fully employed, American markets were crowding American mills, imports and exports were large and increasing, transportation facilities were inadequate for the demands of business, and additional facilities for increasing business were projected everywhere.

Four months later capital was in hiding, banks had suspended, fear had taken possession of the American people, and the United States was in the throes of a great panic. Four months later still two-thirds of the American factories and mines were either idle or on short time; 200,000 idle workers had returned to Europe; 300,000 empty freight cars were standing idle upon completed American railroads, and projected facilities for increasing business were abandoned.

The German tariff agreement had revised the American tariff downward by making the undervaluation of German products convenient. Referring to this subject, President Roosevelt in his message of December 3, 1907, said:

"Acting upon the invitation of the German Government, I sent to Berlin a commission.

"In this inquiry I became satisfied that certain vicious and unjustifiable practices had grown up in our customs administration. Under our practice, as I found it to exist in this case, the abuse had become gross and discreditable.

"Secret statements were obtained from informers and discharged employees and business rivals, and upon this kind of secret evidence the values of imported goods were frequently raised.

"I accordingly caused the regulations governing this branch of the customs service to be modified. Moreover, our Treasury agents are accredited to the Government of the country in which they seek information, and in Germany receive the assistance of the quasi-

official chambers of commerce in determining the actual market value of goods.

"These changes of regulations were adapted to the removal of such manifest abuses that I have not felt that they ought to be confined to our relations with Germany; and I have extended their operations to all other countries which have expressed a desire to enter into similar administrative relations."

It being self-evident that reductions in market values are equivalent to reductions of ad valorem tariff rates, the foregoing is both remarkable and startling.

It must be conceded that undervaluations are as old as ad valorem tariffs, and that customs officials when unhampered can seldom stop systematic undervaluations. But when restricted to the assistance of the foreign shipper's own chamber of commerce in ascertaining the market value of the shipper's own goods, a successful effort of the Treasury agent to stop undervaluation is impossible. Naturally this kind of assistance must be more "vicious and unjustifiable," "gross and discreditable," than are likely to be the "secret statements" "obtained from informers and discharged employees and business rivals" who know whereof they testify.

If Treasury agents are expected to assist in making undervaluations convenient, then by all means let them be accredited to the country in which they seek information, and let their arrival be heralded by a display of fireworks and the music of brass bands. But if they are to stop undervaluations, let them return to their former methods, which, in the opinion of McKinley, were neither "vicious," "gross," nor "discreditable."

Although the German tariff agreement, now operative as to all the competing countries of Europe, was consummated without the consent or approval of Congress, and although its effects have undoubtedly proved injurious to American labor and production, no step has yet been taken by Congress to challenge or in any manner test its legality. Possibly this neglect of a vital matter is explainable on the score of the exigencies of a political campaign near at hand. But it should not be forgotten that there are exigencies in the industrial situation which demand attention. In ignoring the latter out of consideration for the former it is more than possible that the political situation and outlook will not be improved.

It has been said, and we believe it is a fact in history, that no political party in this country has ever survived a panic. That being the case, it might prove to be the part of wisdom to remedy panic conditions as far as possible prior to the casting of the ballots which are to determine the result of this year's Presidential election. The German tariff agreement is one among the panic conditions, and a very potential one, as many people believe.

FROM DEEP CONVICTION.

Mr. Speaker, if it shall be thought that I have been unduly severe or inexpediently outspoken in censure of the foreign-trade policy which has actuated the Administration in the consummation of the so-called "German tariff trade agreement"—whose provisions have been extended to practically every producing country of Europe—my answer is that this criticism springs from a deep conviction that such a foreign-trade policy is utterly wrong—wrong economically, wrong commercially. The United States can not possibly gain advantage through reciprocity in competing products. It must invariably be the loser. No benefit to the people of our country can come through a policy which seeks to increase our export trade at the heavy cost of compelling us to accept increased quantities of competitive imports. Nothing but loss and injury will ever result from such a departure from the safe, sane lines of fair and equal protection to all labor and all industry. As bearing upon this question I quote the following pertinent interrogations from a recent issue of the *American Economist*:

How can reciprocity in competing products be made to harmonize with the policy of protection?

How can we enlarge our foreign trade by international trade agreements unless those agreements provide for an increased inflow of competitive merchandise?

How can we arrange reciprocity dickers with foreign countries unless we do discriminate in tariff duties in favor of the countries thus favored?

The answer is that none of these things can be done, because each proposition is self-contradictory.

With this conclusion, I am in entire accord. Our foreign trade stands in no need of artificial stimulants. Its growth, under eleven years of adequate protection, has been the wonder of the world. Alike in exports and in imports, we have practically doubled our foreign trade in these eleven years. When we surrender any part of protection's benefits in reaching out for "more foreign trade" we are chasing after a pot of gold at the foot of a rainbow; we are grabbing for the distant nickel and overlooking the dollar that is right under our noses. That is what we did when we entered into that foolish treaty with Cuba; that is what we did—grabbed the nickel and overlooked the dollar—when we became a party to that German tariff-trade agreement; that is what we shall do whenever we permit crafty foreign bargainers to persuade us that we can gain by a foreign-trade policy that robs American labor of its wages and robs American production of its profits.

THE "POOR FARMER" AND THE "INFANT INDUSTRY."

Two propositions are advanced by the opponents of protection as reasons for their objections to that policy. One is its alleged "injury to the farmers of the country," the other that "protection should not be allowed upon any basis, except for a brief time in the interests of infant industries."

The influence of protection in planting factories next to the farm is one of the most beneficent that has attended the policy during all its history. The rapid advancement of manufactur-

ing industries throughout the Middle West has come to be recognized as the greatest boon to that agricultural section. The diversification of industries has an admittedly helpful tendency in upholding the prices of breadstuffs and provisions, which find reader and better markets by reason of the development of manufactories in close proximity to the field of agricultural endeavor. It has long ceased to be a subject of reproach, even among the most virulent free-trade advocates, that "protection is only for the benefit of the few manufacturing plants in New England." The great industrial States of the Middle West are developing manufacturing plants so rapidly that the center of production in manufacturing is transferred next to the farms.

Regarding the effect of continued protection upon the agricultural sections, testimony is furnished by Secretary Wilson, of the Agricultural Department, that in the year 1907, closing a period of ten years of protection under the Dingley law, the American farmers had their greatest prosperity. In his last annual report, covering the year 1907, Secretary Wilson said:

Wealth production on farms in 1907, as expressed in value, transcended the high record of 1906, which was itself much above the highest amount before reached. In arriving at the total the farm products of the year are estimated in value for every detail presented by the census and at that point in production at which they acquire commercial value.

The grand total for 1907 is \$7,412,000,000. This is \$657,000,000 above the value of 1906, \$1,103,000,000 above that of 1905, and \$2,695,000,000 above the census amount for 1899.

The value of the farm products for 1907 was 10 per cent greater than 1906, 17 per cent over 1905, 20 per cent over 1904, 25 per cent over 1903, and 57 per cent over 1899.

A simple series of index numbers shows the progressive movement of wealth production by the farmers. The value of the products in 1899 being taken at 100, the value for 1903 stands at 125, for 1904 at 131, for 1905 at 134, for 1906 at 143, and for 1907 at 157.

During the last nine years wealth estimated as above explained was created on the farms to the fabulous amount of \$53,000,000,000.

That is the answer, made by the highest authority in this country, to the question as to the effect upon the progress of the great agricultural industry, and whether the policy of protection is a help or a hindrance to agriculture in the United States.

PROTECTION AND COTTON MANUFACTURE.

There is no better illustration of what might, at one time in the history of the protective policy, be termed an "infant industry," than is cotton manufacture. This industry has enjoyed almost sixty years of more or less adequate protection. The progress of cotton manufacturing furnishes conclusive proof that it is not a question of time in the application of protective duties nor the age of the industry, but simply a question of the relative conditions in competition and whether cotton manufacturing in foreign competing countries keeps pace in the matter of standard of wages paid and other elements in cost of production with cotton manufacturing in the United States. If it has not, there is necessity for the maintenance of protection to the American industry sufficient to equalize the difference in conditions of production.

In 1878 Great Britain consumed 3,073,000 bales of cotton annually, and in 1904 her consumption of raw cotton had decreased to 3,017,000. During the same period the consumption of raw cotton in manufacturing plants in the United States had increased from 2,024,000 to 3,909,000 bales.

In 1900 there were 1,055 plants manufacturing cotton goods in this country, with capital invested aggregating \$467,240,157. In 1905 the number of plants had increased to 1,154, and the capital invested had increased to \$613,110,655. There was an increase of 14,000 in the number of employees, and the value of the material utilized by them increased from \$176,251,527 to \$286,255,303. This marks the progress in five years only of the protection period.

Striking are the facts with regard to the imports of cotton goods during various periods covered by protective tariffs and low tariffs as applied to cotton goods.

In the period from 1891 to 1892, under the McKinley tariff, which was reasonably protective to cotton manufacturers, imports of cotton goods declined from \$29,712,624 to \$28,323,841.

In 1894, the year of the passage of the Democratic tariff act, as illustrating the tendency of foreign producers to withhold exports to the American markets pending prospects for lower duties, the imports of cotton goods declined to \$22,346,517 worth. In 1896, two years after the passage of the Democratic act, the imports of cotton manufactures had increased to \$32,437,504, or nearly \$3,000,000 greater than the record made under the higher protective rates of the McKinley Act in 1891.

As an answer to the question whether the existing rates of the tariff are adequately protective on cotton goods, and insure to the domestic industries that measure of protection which is embodied in the principle of "equalizing conditions of production in this country and abroad," it is observed that in 1905, after seven years of Dingley tariff protection, the imports of

cotton goods had risen to \$54,517,059 worth. In 1906 a further increase was recorded to \$68,911,375 worth. In 1907 the imports had reached the stupendous total of \$79,524,943 worth.

The question to be answered by those who denounce the cotton manufacturing as an "overgrown industry which no longer needs protection" is, whether it is adequately protected under existing rates, when the annual increases in imports of cotton goods aggregate, for the past few years, more than \$10,000,000 a year?

WOOL AND HIDE DUTIES.

The policy of imposing protective duties on materials that are the product of the American farm is vigorously denounced by opponents of protection. The advocates of dutiable raw materials have defended this policy upon the sound basis that raw wool produced on the farm is a finished product of the farmer's industry; that raw wool is as much entitled to recognition in a policy of universal protection to American industries as any other product, whether of the field or of the factory.

The Dingley tariff act restored to the dutiable list raw wool, which had been placed on the free list by the act of 1894.

The questions to be answered in a candid consideration of free wool or dutiable wool are whether the farmer has received a fair return for his product under the protective system, and what the influence of dutiable wool has been upon the industry of woolen manufacture. If the farmer has not obtained adequate return in increased price for his products, the wool duties, to that extent, have proved insufficient. If, under protective rates on raw wool, woolen manufacturing has failed to make reasonable progress, wool duties are at least open to criticism.

The facts in the wool industry and woolen manufacturing conclusively demonstrate that the protective policy has justified itself. It has been a steady influence in the maintenance of the price of raw wool in the American market.

The price of fine Ohio washed wool in 1891, under the McKinley tariff, which imposed protective rates on wool, was 31 cents a pound. In 1895 and 1896, under the Democratic tariff and free wool, the prices were 18 and 17 cents, respectively. Under the Dingley law, with wool restored to the dutiable list, the price in 1898 had risen to 28 cents a pound, in 1904 to 32 cents, and in 1906 to 33 cents.

During the protection period 1900-1905 a tremendous advance was recorded in the woolen and worsted goods industries in the United States. The capital invested increased from \$256,494,372 in 1900 to \$302,767,417 in 1905. There was an increase of 16,000 in the number of employees and an increase of \$11,000,000 in their aggregate annual wages. The value of the woolen and worsted goods produced in 1900 was \$238,744,502, and in 1905 it was \$307,941,710.

As to hides, a similar showing is made. Hides were transferred from the free list to the dutiable list by the Dingley law, and in 1905 the importations of dutiable hides amounted to 113,000,000 pounds and in 1907 to 135,000,000 pounds. The importations of hides, on the free list, in 1895, under the Democratic act, were 171,000,000 pounds, and in 1896 they were 164,000,000 pounds.

An important fact to be borne in mind in connection with the duties on materials is that under the law importers of foreign "cheap materials" who desire to compete with foreign manufacturers in foreign markets may import materials and, on competing articles therefrom for export, obtain a refund of duties paid on imported materials. This is under the "drawback" section of the tariff law. This policy, adopted by many American manufacturers, affords a plain reason for ability to compete in some lines with foreign manufacturers.

The increase in capital invested in the boot and shoe industry from 1900 to 1905 was from \$90,819,233 to \$122,526,093. There was an addition of about 9,000 in the number of employees during that period and an increase of \$11,000,000 in their aggregate annual wages. The cost of all materials used in the boot and shoe industry advanced from \$168,633,694 to \$197,363,495, while the increase in the value of the products of the industry was from \$253,969,580 in 1900 to \$320,107,458 in 1905.

In the leather goods industry, separately classified by the census, there was an increase during the period from 1900 to 1905 of \$3,000,000 in the capital invested, a million dollars in the wages paid to labor, and an increase of 1,500 in the average number of employees. The increase in the cost of materials was \$36,000,000, and the increase in the value of the product aggregated \$48,000,000.

These are the facts which free-trade opponents of duties on wool and hides must meet and overcome before they can prove that duties on these materials are "injurious to the industry of the farm and the factory."

THE PROOF OF THE PUDDING.

During five years of the period covered by the operations of the Dingley protective tariff law there has been witnessed the addition of more than \$4,000,000,000 to the capital invested in manufacturing industries in the United States; more than a million additional employees have found employment in those industries, and more than \$4,000,000,000 has been added to the value of their annual products.

The workingmen in these industries have obtained an increase of a billion dollars in their aggregate annual wages, and the average individual wage increased more than \$100 a year.

The increase in all exports was from \$1,050,997,000 worth in 1897 to \$1,923,395,000 worth in 1907—almost doubling in ten years.

The value of the products of the farm exported in 1907 was \$1,050,000,000, or almost precisely equal to the value of the total exports of the country in 1897.

The values of farms and farm property, quoted by the census returns of 1890 at \$12,180,501,538, reached the stupendous figure of \$20,514,001,838 in 1900.

Individual deposits of money in the savings banks of the country increased from \$1,893,413,564 in 1897 to \$3,299,544,601 in 1906. The individual deposits in national banks increased from \$5,094,735,370 in 1897 to \$12,215,767,666 in 1906.

No reason has been given—none can be given—why a policy in government under which these results have been achieved should be changed.

Petty attacks have been made upon minor defects of the tariff law, and these attacks have been reiterated by free-trade enemies of the protective system.

The duty of the hour for the American people is to accept the actual results accomplished under the protective tariff as conclusive proof of the wisdom of that law, rather than heed the noisy objections and complaints of its enemies, who furnish neither facts nor logic to support their demand that protection be destroyed and that the country shall adopt a low tariff or a free-trade tariff.

The American Navy.

I again exhort the Government and the country to realize promptly and practically that the maintenance of our Navy in an amplitude of power adequate to any emergency is intimately blended with our hope of lasting peace, with the augmentation of our vast commercial enterprise and prosperity, and, above all, with that grand and imposing naval renown which has come in our age to be manifestly the surest and the cheapest defense of a great nation. (Gideon Welles.)

SPEECH

OF

HON. GEORGE EDMUND FOSS,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, April 10, 1908,

On the bill (H. R. 20471) making appropriations for the naval service for the fiscal year ending June 30, 1909, and for other purposes.

Mr. FOSS said:

Mr. CHAIRMAN: I rise to speak to the American Navy, that arm of our national defense which Lincoln once called "Uncle Sam's webfoot."

I would not snatch one laurel from the wreath which adorns the brow of the American soldier, but only seek to pay a tribute of deserved respect to the American sailor. The sailor on the sea has always supplemented the efforts of the soldier on the land, and the great results which have been achieved have been due to the combined strength of both.

The brilliant achievements of the American sailor in the war of our national independence, when our Navy first consisted of only a small fleet of eight vessels, in command of Commodore Essex Hopkins, early inspired a feeling of pride in our Navy. The names of Biddle and Barry and Nicholson and Whipple and of others I might mention recall the daring and bravery of that period.

What schoolboy has not read with admiration the story of John Paul Jones, as with the *Ranger* he ransacked the coasts of England and Scotland, or pictured him upon the deck of the *Bon Homme Richard* when, amid the storm and smoke of battle, the English captain of the *Serapis* inquired: "The *Richard* ahoy! Have you struck your colors?" And the doughty Jones replied: "No; I have not yet begun to fight!" That battle established the prowess of the American Navy upon the sea.

Who, sir, has not read with satisfaction of our naval achievements in the war with the Barbary powers:

How Truxtun fought, how Somers fell,
How gallant Preble's daring host
Triumphed along the Moorish coast,
Forced the proud infidel to treat,
And brought the Crescent to their feet.

The next great conflict was the war of 1812, which gave us the freedom of the seas. Search history through, and where will you find as gallant a band of sea captains as those who walked the decks of the American ships during that struggle?

There were Decatur and Bainbridge, and Lawrence, whose dying words, "Don't give up the ship," emblazoned on a canvas, became the oriflamme of victory to Perry and his fleet upon Lake Erie. There was Porter, who so gallantly defended the *Essex* in the fight with the *Phoebe* and the *Cherub*, where our Farragut, then a boy, is said to have first engaged in naval warfare. There was Hull, by whose skillful seamanship the old *Constitution*, which the English contemptuously called "a bundle of pine boards under a bit of bunting," outsailed the English fleet, and later overcame the *Guerriere*. There was Macdonough, whose brilliant victory on Lake Champlain made him one of the commanding figures of all naval history.

Says a recent historian:

The Republic of the United States owed a great deal to the excellent make and armament of its ships, but it owed still more to the men who were in them.

Then, again, in our war with Mexico the Navy played an important part, for it was under the fire of its guns that our Army was landed at Vera Cruz, and through the combined efforts of both sailor and soldier that the war terminated to the glory of our country.

Then, again, in the civil war the blockading of the Eastern and Southern ports; Dupont's terrible circle of fire off Port Royal; the silencing of the *Merrimac* by the *Monitor*, called "the cheese box of Ericsson;" the opening of the Mississippi by Foote and Porter; the capture of New Orleans; the terrible fight in Mobile Bay, where Farragut, lashed to the shrouds of the *Hartford*, directed the "grand, wild storm of battle;" the daring of Cushing, and the sinking of the *Alabama* by the *Kearsarge* tell their own story of the achievements of the American Navy in that war.

No historian can ever write a complete history of that great contest and leave out the daring of the American sailor any more than he could write it and leave out the bravery of the American soldier. The one cooperated with the other, and both together, inspired by the same devotion to a common cause, preserved the Union of the North and the South, which time is fast cementing into a peace, a perpetual peace, in the everlasting bonds of American brotherhood.

A union of lakes and a union of lands,
A union that time can not sever;
A union of hearts and a union of hands,
And the flag of our Union forever.

THE BUILDING OF OUR NEW NAVY.

At the close of the civil war we had 683 vessels on our Navy list, 579 being steamers and 104 sailing vessels, but there was a general clearing out and a reduction of the Navy down to a peace basis. The sailing craft was practically abandoned. Comparatively few new vessels were built. Our Navy was allowed to go to pieces, and decaying time reduced what was left of the most powerful Navy in the world to where it ranked only twentieth.

Such was its condition in 1881, when the Secretary of the Navy, at that time Mr. William H. Hunt, called the attention of the country to the importance of building up the new Navy. In his report of that year he said:

The condition of the Navy imperatively demands the prompt and earnest attention of Congress. Unless some action be had in its behalf it must dwindle into insignificance. From such a state it would be difficult to revive it into efficiency without dangerous delay and enormous expense. These things ought not to be. While the Navy should not be large, it should at all times form a nucleus for an emergency. Its power for prompt and extended expansion should be established. It should be sufficiently powerful to assure a navigator that in whatever sea he shall sail his ship he is protected by the Stars and Stripes of his country.

On the 29th of June, 1881, Secretary Hunt appointed a board of naval officers, with Rear-Admiral John Rodgers at its head, to report upon the Navy, and "to determine the requirements of a new Navy."

On November 7, 1881, this board reported, and recommended the building during the eight years following of enough vessels to make our Navy consist of twenty-one ironclads, seventy unarmored cruisers, twenty torpedo boats, and five rams. This really was the first definite step toward the beginning of a new Navy. Secretary Hunt, however, was soon succeeded by Mr. William E. Chandler as Secretary of the Navy, who, in his re-

port of November 29, 1882, called the attention of Congress and the country to the deplorable condition of our ships. He reported that the available armored vessels were only thirteen single-turreted monitors, and the available cruisers were thirty-seven. He also recommended at that time that we should not repair these old ships in cases where the estimated cost of repair would exceed 20 per cent of a new ship of the same size and the same material, and this provision was enacted into law.

This was an important step at that time, inasmuch as it shut off the needless repairs of old ships and emphasized the importance of building new ones.

But the first authorization for new ships came soon after in the appropriation act of March 3, 1883, when the new cruisers, *Atlanta*, *Boston*, *Chicago*, and dispatch boat *Dolphin*, sometimes called the A, B, C, and D of the new Navy, were authorized. The first two of these ships were cruisers of about 3,000 tons each, and had a speed of 15½ knots. The *Chicago* was a larger cruiser, with a displacement of 5,000 tons and a speed of 18 knots. The *Dolphin* had a displacement of a little less than 1,500 tons, and her speed not quite 16 knots. These ships were all built by John Roach & Sons, at Chester, Pa. The total cost of these four vessels aggregated \$4,268,801.

Two years later, in 1885, Congress authorized the construction of two more protected cruisers, the *Charleston* and *Newark*, and two gunboats, the *Petrel* and *Yorktown*. This added 10,000 tons more to the new Navy, and thus it was under the Administration of President Arthur we began the building up of our new Navy through the authorization of these eight war vessels above described.

Under the Administration of Cleveland Mr. William C. Whitney became Secretary of the Navy, and succeeded Mr. Chandler. Mr. Whitney was, like his predecessor, strongly in favor of the building of a new navy, and, accordingly, in his report of November 13, 1885, called special attention to the importance of the subject and recommended more and larger ships, and in 1886, during the first session of the Forty-ninth Congress, there was authorized a naval programme consisting of two second-class battle ships, the *Maine* and the *Texas*, of over 6,000 tons each; a protected cruiser, the *Baltimore*, of 4,400 tons; four monitors, the *Amphitrite*, *Montadnock*, and *Terror*, of 4,000 tons each, and the *Puritan*, of 6,000 tons; a dynamite-gun cruiser, the *Vesuvius*, and the torpedo boat *Cushing*. These added to the Navy approximately 36,000 tons.

Thus, under two Administrations, the one Republican and the other Democratic, was established the policy of the construction of the new Navy, and ever since then this policy has been regarded as it should be—a national and not a partisan one. Every year since then, with the exception of 1901, whether the country has been governed by a Republican or a Democratic Administration, new ships have been authorized by Congress and added to the Navy. Webster once said, "At the water's edge all politics cease," and it has been so with the building up of our Navy.

It was necessary at first to secure our steel forgings from abroad. Secretary Chandler in his annual report of November, 1882, stated—

That the country is not now capable of making the steel forgings necessary for heavy rifle cannon, and they must therefore be procured from abroad or inducements offered to steel manufacturers to engage in their production.

This was the problem which faced the Department in the early beginnings of our new Navy, and it was not until June, 1887, that the necessary inducements to manufacturers of this country were given, when Secretary Whitney made a large contract for armor and gun forgings with our steel manufacturers. To use his own words, this was accomplished in two ways:

The first step was the discontinuance of all purchases of armor and gun steel abroad, and the second step was to permit the wants of the Department for armor and gun steel to accumulate until contracts could be made of such magnitude as to induce competition of domestic manufacturers upon the condition of their erection of a plant in this country adequate to the manufacture of both iron and gun steel up to the standard of European requirements.

At this time the armor and armament already authorized by Congress involved the expenditure of \$9,000,000. The Navy Department therefore advertised for bids for all its requirements of armor and gun steel for ships of war, stipulating that it should be of domestic manufacture and allowing two and one-half years for the building of a plant. The result of this was a contract made with the Bethlehem Steel Company by which a plant was built at Bethlehem, Pa., for the manufacture of armor and gun steel, and later, in 1890, the Carnegie Company also secured from the Department a contract for armor, and from that time on it may be said of all of our ships that they are of domestic manufacture.

When we reflect that at the beginning of our Navy we had no great shipyards capable of building battle ships and that we were obliged to go abroad for our forgings, and when we consider that to-day we are not only building all of our own ships, but we have built ships for Japan and Russia, we can be justly proud of the splendid progress which we have made, and to quote the words of Secretary Tracy, who afterwards succeeded Secretary Whitney:

We have proved that at a time when war-ship construction seemed almost a lost art in this country American mechanics could create it anew and place the United States where it was seventy years ago, when the vessels of this Navy were the best of their class afloat. We have fostered and developed a branch of industry in America which may, if kept up, attract to itself no inconsiderable share of the profits that now go to shipbuilders abroad.

Thus we have demonstrated that our country can build a navy on American plans and of American manufacture—in short, under a policy distinctly American—that to-day inspires the just pride of every American citizen.

A distinguished American once said:

The cannon and the ball that defend your land should be native here. * * * The steel that edges the sword and points the bayonets of your defense should be of national metal.

And so, likewise, our American battle ship, the guardian of our national honor upon the sea, not only floats an American flag, but represents, from the top of her masthead to the keel beneath the wave, the strength of American material, the genius of American engineering, and the superiority of American workmanship.

Our largest ships up to this time were the two second-class battle ships the *Maine* and *Texas*, but in 1888 Congress authorized our first armored cruiser, the *New York*, a ship of 8,200 tons, with a speed of 21 knots, costing \$4,400,000. This was another type of a vessel which was to play an important part in our new construction. In 1890, under the Administration of President Harrison, Mr. Tracy, who succeeded Mr. Whitney as Secretary of the Navy, recommended a further increase of the Navy, and even larger ships for the Navy, and it was on June 30, 1890, that the first first-class battle ships were authorized. These were the *Indiana*, the *Massachusetts*, and the *Oregon*, each having a displacement of 10,288 tons, with a speed of approximately 16 knots, and costing \$6,000,000 each. At this time we had brought into our Navy substantially all the different types of ships which we have to-day—the first-class battle ship, the second-class battle ship, the armored cruiser, the protected cruiser, the unprotected cruiser, the monitor, the gunboat, and the torpedo boat.

On June 19, 1892, Congress authorized another first-class battle ship, the *Iowa*.

Under Cleveland's second Administration Mr. Herbert, who had previously been the chairman of the Committee on Naval Affairs of the House, became Secretary of the Navy and did much toward increasing it. He came into his position with a knowledge of naval affairs which made his administration an efficient one. Congress on March 2, 1895, authorized two battle ships, *Kearsarge* and *Kentucky*, and also a number of torpedo boats. On June 10, 1896, and I well remember the time, as this was during my first session as a Member of the House, Congress authorized the three battle ships, *Alabama*, *Illinois*, and *Wisconsin*, and ten torpedo boats. The naval programme of that year added 36,000 tons to the Navy and was one of the largest up to that time, but it was soon to be distanced by larger programmes which followed.

Under McKinley's Administration Mr. John D. Long, of Massachusetts, became Secretary of the Navy and strongly recommended the upbuilding of the Navy, which was further increased by the splendid programme of the second session of the Fifty-fifth Congress, when 59,000 tons were added to the Navy in the shape of battle ships, gunboats, torpedo-boat destroyers, torpedo boats, and monitors. In 1899, the third session of the Fifty-fifth Congress, our largest naval programme was authorized, consisting of three first-class battle ships, three armored cruisers, and six protected cruisers. This increased the tonnage of the Navy by 105,000 tons. In 1900 our naval programme amounted to 100,000 tons. In 1901 Congress failed to make any authorization, in view of the large authorizations which had been made in the two previous years, but in 1902 there were added 62,000 tons to the Navy. Under Secretary Long a greater tonnage was added to the American Navy than during all previous years since the beginning of its construction.

Mr. William H. Moody, formerly a Member of the House of Representatives, succeeded Secretary Long in 1902, and his incumbency in the office was signalized by the authorization of Congress in 1903 of five first-class battle ships, the largest number of battle ships ever authorized in a single year. This programme added 77,000 tons to the Navy. In 1904 Congress au-

thorized three battle ships and four scout cruisers, a tonnage of 56,000.

Congress in 1905, under Secretary Morton, authorized two first-class battle ships of 16,000 tons each, the *South Carolina* and the *Michigan*. In 1906 and 1907, under Secretary Bonaparte, Congress authorized two first-class battle ships of 20,000 tons each, the *Delaware* and *North Dakota*, and five torpedo-boat destroyers and some submarines. And this year, under Secretary Metcalf, we are authorizing two more first-class battle ships, which will be duplicates of the *Delaware* and *North Dakota*, and ten torpedo-boat destroyers and eight submarines.

When the present naval appropriation bill becomes a law, we will have built, building, and authorized 31 battle ships, a dozen armored cruisers, 11 coast-defense vessels, 49 cruisers of different types, 31 torpedo-boat destroyers, 32 torpedo boats, and 28 submarines.

This year we have authorized 42,000 men, increasing our quota by 6,000. We have now 3,164 officers on the active list in the Navy, 950 midshipmen under instruction and 2,500 apprentice seamen. In addition to this we have a Marine Corps consisting of nearly 9,521 men and 329 officers; a Navy thoroughly modern in every respect and of the highest standard of efficiency. Our Navy to-day ranks third among the navies of the world, but I believe that ship for ship and man for man we have the best Navy in the world.

There has been a wonderful evolution, and one might almost say a revolution, in the construction of ships and in the training of men since the days of the civil war, and this has all resulted from that memorable contest between the *Merrimac* and the *Monitor* nearly fifty years ago. We can recall conflicts in our history where there were more men engaged, more ships and more guns in action, and a greater sacrifice of human life, but no battle has ever been fought which has had more influence upon the evolution of navies than this. This one revolutionized the navies of the world.

The 9th of March, 1862. What a day that was! I can see the *Merrimac*, that old frigate of 3,500 tons which had been sunk by the Federals when they deserted the Norfolk Navy-Yard, but afterwards raised by the Confederates and roofed over with pitch pine and oak 2 feet thick, and then plated with 4-inch iron, with an iron-plated ram at her bow, and ten guns all ready for action, and 300 picked men on board under Commodore Franklin Buchanan. The day before she had rammed the *Cumberland*, with her thirty guns, and the *Congress*, with her fifty guns, off Newport News, and withdrew to Sewalls Point across the way, expecting on the following day to finish the *Minnesota* and the rest of the Federal fleet. The easy victory of the *Merrimac* over these ships startled the whole country. The Secretary of the Navy, Mr. Welles, relates what took place at a cabinet meeting called by Mr. Lincoln on the receipt of the news:

The *Merrimac*—

Said Stanton—

will change the whole character of the war; she will destroy, seriatim, every naval vessel; she will lay all the cities on the seaboard under contribution. I shall immediately recall Burnside; Port Royal must be abandoned. I will notify the governors and municipal authorities in the North to take instant measures to protect their harbors.

Such was the consternation of the officials at Washington.

But they had failed to count upon the little *Monitor*, which had just arrived upon the scene from New York and taken her position behind the *Minnesota*. When the *Merrimac* the next morning, started for the *Minnesota*, this little ironclad, called the "cheese box of Ericsson," with her one large turret and two guns, and a crew of fifty-seven under Lieutenant Worden, unexpectedly appeared and, without apology, made for the *Merrimac*.

The battle raged furiously for hours, when the *Monitor*, for some reason or other, drew off, but afterwards returned to the fight, but the *Merrimac* had left for the Norfolk Navy-Yard. Many writers have disputed on which side to place the palm of victory. It was celebrated on both sides, by the North and South, as a great naval victory for each. The fight with the *Congress* and *Cumberland* on March 8 was overwhelmingly on the side of the Confederates. The fight with the *Monitor* the following day was a drawn battle, but, at the same time, the *Merrimac* completely failed in her purpose to destroy the rest of the fleet. Neither vessel was able to inflict any serious damage on the other, although the boats, smokestack, and muzzles of two of the guns of the *Merrimac* were shot away. The *Merrimac* lost two killed and nineteen wounded, while on the *Monitor* only Lieutenant Worden was seriously injured.

This contest, however, between ironclads revolutionized naval architecture everywhere. The battle of the *Merrimac* with the *Cumberland* and *Congress* demonstrated that wooden ships could not stand up against ironclads, and the battle of the

Monitor with the *Merrimac* demonstrated that the ironclad was the only ship that could hold its own against the ironclad. The shipyards of the world which were then building vessels for navies stopped and took notice of the great lesson drawn from this encounter, and immediately started in to profit by it.

The effect of this fight was described by the London Times of that day, which said:

Whereas we had available for immediate purposes 149 first class war ships we have now two, these two being the *Warrior* and her sister *Ironside*. There is not now a ship in the English Navy apart from these two that it would not be madness to trust to an engagement with that little *Monitor*.

The lessons of that fight can be easily perceived in the construction of our ships of war at the present time. The little *Monitor* became the prototype of the great battle ship, and its turret has been duplicated and multiplied to such an extent that our new battle ships, authorized at the last session of Congress will contain five large turrets with two 12-inch guns each.

The wooden ship with its masts and sails is gone, and in its place has come the heavily armored cruiser and battle ship, made almost exclusively of iron and steel.

Another difference marks the transition from the old to the new in that our ships to-day no longer fight at close range, but at a distance of 2 and 3 and even 4 and 5 miles.

A wonderful evolution has gone on in the making of guns, so that practically now one 12-inch gun is equivalent to many of the old style. Rear-Admiral O'Neill (retired), who was Chief of the Bureau of Ordnance during the Spanish-American war, estimated that the muzzle energy developed by one round of the 12-inch gun was equal to that of fifty-four rounds of the old 9-inch smoothbore gun which was the popular one of the civil war. So that it is safe enough to say that a modern battle ship to-day could easily put out of action a whole fleet of ships of the civil war period. Such has been the advance in naval progress since the first battle between ironclads.

Admiral O'Neill, in an address before the New York Yacht Club, said:

My first service was on board the 22-gun sloop of war *Cumberland*, and it was my fortune to witness and participate in the naval engagement at Newport News and Hampton Roads, in March, 1862, when the Confederate ironclad *Merrimac* destroyed the *Congress* and *Cumberland* and then found her match in the little *Monitor*, the prototype of the present battle ship.

All the vessels of this period were built of wood and were armed with cast iron, smooth-bore guns, firing quick-burning black powder and cast iron, spherical shot and shell. There were no steam auxiliaries for steering, getting up anchor, or for other miscellaneous purposes now so common, and work of all kinds was performed by man power only. The use of electricity was hardly known outside the laboratory. The ships were dimly lighted with oil lamps and candles, and in cold weather we huddled around a so-called "hot shot," which had been feebly warmed in the galley fire, as no means were supplied for heating ships in those days. Distilling apparatus was not in use, and all fresh water for drinking, cooking, and washing purposes was brought from shore or caught from the awnings when it rained. Steam launches did not exist, and all boating was done under oars or sails, and naval vessels were simplicity itself in their construction, armament, and equipment. Gunnery as a science as now understood was practically unknown, though some attention was paid to gun drill and target practice.

All is changed since that day, and wooden ships, masts and sails, cast-iron guns, round shot, and quick-burning powder, and, in fact, almost everything that was peculiar to the ships of 1862, has nearly, if not entirely, disappeared, and the ponderous battle ship of to-day, clothed with heavy armor, bristling with more than half a hundred guns, crammed with the costly products of the steel mill and the machine shop, and representing an investment of nearly \$7,000,000, expresses our twentieth century idea of the most perfect fighting machine for naval warfare.

When I look back and consider the numberless and marvelous changes that have taken place during my official career, covering a period of forty-one years, in almost everything pertaining to ships of war, it seems to me as if I must have lived in some prehistoric age; and I am amazed that we, who began amid such simple surroundings, should have been able to acquire in later life even a rudimentary knowledge of so many difficult and complex subjects, many of which were absolutely unknown in our younger days.

Not only has the ship changed, and the guns, and the powder from black to smokeless, but also the training of men and officers in the Navy. The day of old Jack Tar, that picturesque character described by Cooper, is gone. No longer can we see Old Jack, rough and rugged in appearance, but warm and tender within, sitting on the quarter-deck, watching wind and sail, smoking his pipe and driving dull care away, but in his place has come the trained machinist, the trained engineer, and the trained gunner, familiar with machinery and engines, for after all the great battle ship is nothing more nor less than a mighty mechanical workshop in which every man has something to do.

The cost of all the ships of the new Navy which we have built or are building or have authorized, including those under the present naval appropriation bill, will be approximately \$350,000,000. We have appropriated for the building and maintenance of the Navy during the last twenty-five years, during which we have been building it, \$1,244,657,000, and to this we will add this year approximately \$120,000,000, making in all about \$1,364,657,000.

In this connection it is perhaps not immodest for me to say that of this \$1,364,000,000 which Congress has appropriated for the new Navy during the last twenty-five years, more than \$1,000,000,000 has been appropriated while I have had the honor to be a member of the Naval Committee. And I may say further that during this time Congress has authorized three-fourths of the present tonnage of ships; in all nearly 640,000 tons out of a total of 850,000 tons which will measure our naval strength when the present naval bill becomes a law. Up to 1895 we had authorized 211,285 tons; we had authorized only six battle ships—the *Indiana*, *Massachusetts*, *Oregon*, *Iowa*, *Kearsarge*, and *Kentucky*. So it will be seen from this that our American Navy has been built up practically within the last thirteen years.

Since I have been chairman of the Naval Committee Congress has authorized 16 battle ships, 7 armored cruisers, 3 protected cruisers, 3 scout cruisers, 2 gunboats, 15 destroyers, 22 submarines, 7 colliers, a tonnage of 453,876 tons out of a total tonnage of 850,432 tons for the new Navy. The above includes all the ships which will be authorized this year.

Appropriations for the naval establishment.

Year and Congress.	Annual.	Additional.	Total.
1883 (47-2)	\$14,819,976.80		\$14,819,976.80
1884 (48-1)	15,894,434.23	888,260.79	16,782,695.02
1885 (48-2)	14,980,472.59	1,272,447.42	16,252,920.01
1886 (49-1)	15,070,837.95	981,812.93	16,052,650.88
1887 (49-2)	16,489,907.20		16,489,907.20
1888 (50-1)	25,767,348.19	496,306.57	26,263,654.76
1889 (50-2)	19,942,835.35	2,208,152.08	22,150,987.38
1890 (51-1)	21,692,510.27	573,553.35	22,266,063.62
1891 (51-2)	24,136,035.53	1,193,886.47	25,329,922.00
1892 (52-1)	31,541,654.78	123,195.92	31,664,850.70
1893 (52-2)	23,543,385.00	67,872.99	23,611,257.99
1894 (53-2)	22,104,061.38	290,063.61	22,394,124.99
1895 (53-3)	25,327,126.72	148,235.85	25,475,362.57
1896 (54-1)	29,416,245.31	1,199,469.12	30,615,714.43
1897 (55-1)	30,562,660.95	658,233.62	31,220,894.57
1898 (55-2)	33,008,234.19	92,298,741.59	125,307,975.78
1899 (55-3)	56,098,783.68	6,449,009.38	62,547,793.06
1900 (56-1)	48,099,969.58	5,482,801.32	53,582,770.90
1901 (56-2)	65,140,916.67	4,375,858.78	69,516,775.45
1902 (57-1)	78,101,791.00	6,280,760.80	84,382,551.80
1903 (57-2)	81,876,791.43	2,795,257.30	84,672,048.73
1904 (58-2)	97,505,140.94	6,127,974.46	103,633,115.40
1905 (58-3)	100,336,679.94	15,084,317.81	115,420,997.75
1906 (59-1)	102,091,670.37	2,417,049.56	104,508,719.93
1907 (59-2)	98,958,507.50	784,790.82	99,743,298.32
Total	1,092,502,977.45	152,148,052.49	1,244,651,029.94

The "additional" appropriation for 1896 was appropriated in two sessions of Congress—(54-1) and (54-2).

The "additional" appropriation for 1898 includes \$50,000,000, which was appropriated for "national defense."

As will be seen from the table, in 1883 our annual appropriation act amounted to about \$15,000,000. In 1893 it was \$23,500,000. In 1903 it was \$81,876,000. In 1905 it was over \$100,000,000, and it has been that ever since, until this year, when it has reached its highest mark of over \$120,000,000. With our present number of ships it will cost \$100,000,000 every year to maintain our Navy. This is indeed a large sum, but it must never be forgotten that while a navy is a great luxury in time of peace, it is indispensable in time of war. One hundred million dollars a year means a little more than \$1 for every man, woman, and child in our country, about 3 per cent of our increasing foreign trade, about 14 per cent of our national wealth, the cheapest insurance in the world. While it has cost much to build up our new Navy and to maintain it, yet what American is not proud of the fact that to-day we have upon the Pacific coast the largest fleet of any nation?

A few months ago when the President of the United States gave the order that sent the fleet around the Horn out into the Pacific we heard a great deal of criticism from the public press, particularly in the vicinity of New York. The fleet has passed into the Pacific and we hear no criticism now. A fleet of sixteen battle ships, aggregating 223,000 tons, commanded and officered by 14,000 men, the greatest fleet of recent years, which could be duplicated only by England herself, has passed safely from the Atlantic around into the Pacific. We had criticism a few months ago; we have none now because everybody recognizes that it was a good order which the President made. What use is it to build up ships unless we have them in fleet formation? What use is it to build up a navy unless we send that navy out on long cruises where the men can be properly disciplined and trained? What do you think Rojestvensky would have given if he could have made the cruise from Cronstadt to Tsushima in time of peace before he was compelled to do so in time of war? Do you not think his fleet would have been in better condition to meet the enemy in the Sea of Japan if he had made the cruise at least once before in time of peace?

This cruise of the American fleet around the Horn has been very profitable to the American Navy, because it has disciplined and trained our officers and men. We have been able to find out the weaknesses in our personnel, if any exist, and not only that, but it has been of great benefit also to the matériel of the American Navy. We have learned whether our ships were good for anything or not, and the word just coming back to us from Magdalena Bay has been that our ships were even better than when they started on the cruise and the personnel more highly trained and better disciplined than when they first set sail from Hampton Roads.

Another thing which this cruise has called to the attention of the American people is that the American Navy is a national institution; that we are building up a navy for the protection of the Pacific as well as the Atlantic; that we are a two-oceans country; and necessarily, if the American Navy is to be the instrument of our national defense, we must have a two-oceans navy—a fleet upon the Pacific as well as a fleet upon the Atlantic.

This cruise of the Navy into the Pacific has called the attention of the country to another important thing. Wherever that fleet has gone it has been met in every port with the hospitality and the cordiality for which the people of the South American countries are famous. It has tended to cement in closer bonds the relations between our country and the South American Republics. It has given force and efficacy to the words of our able Secretary of State, who made a visit to the leading Republics of South America a few months ago, and it has bound those Republics to us by closer ties than any single thing which could have happened.

The people of South America recognize that we are bound together in one common destiny, and that the American Navy and the American people propose to maintain and uphold the Monroe doctrine and have the ability to do so. Not only has the cruise been beneficial in that respect, but, Mr. Chairman, it has called the attention of the country also to the fact that we are moving westward in our national development. All our history has been made along the shores of the Atlantic, all our wars have been along the shores of the Atlantic. Our war for national independence and our war for the freedom of the seas have been largely along the shores of the Atlantic. But we are passing now in our national development from the Atlantic westward to the Pacific. We are beginning to realize what William H. Seward said on the floor of the American Senate fifty years ago, that the Pacific Ocean, its islands and its shores and the great region beyond, would some day be the chief theater of events in the world's great hereafter.

Now, this passing of the fleet from the Atlantic to the Pacific has called to the attention of every American citizen the onward growth of American thought and American development. And let me say to you that no country to-day stands higher in its influence and power in the Pacific than our own nation, and it has come by a long and logical course of events. It was in 1852 that Perry sailed with his little fleet into the Bay of Yeddo and knocked at the gates of old Japan—that Japan which had been closed for hundreds of years to foreign treaty, to foreign commerce, or to foreign intercourse. But Perry lay there knocking, knocking, knocking at the gates of old Japan, until finally the gates flew open. Flew open to what? Flew open to commerce, flew open to treaty, flew open to the new and rising nation of Japan. It was an American fleet which opened the door. And a few years ago, when I had the pleasure of visiting Tokyo and was a guest in the Taft party of the Japanese secretary of state, he on that occasion alluded to the visit of Commodore Perry more than fifty years ago, and said that was the beginning of the development of the new and modern Japan.

It was only about ten years ago that the United States acquired the Hawaiian Islands, the key of the Pacific, and here the other day this House passed a bill establishing a naval station at Pearl Harbor in recognition of the fact.

Our influence in the development in the Pacific has been moving on. The next stepping-stone in the American development in the Pacific was when the fleet of Dewey left Hong-kong and sailed into the Bay of Manila on that bright May morning and destroyed Spanish sovereignty in those islands. The next stepping-stone in the development of American influence was when the Congress of the United States established a government over the Philippine Islands under an American flag, a flag that never waved over any people but to bless and to save. The next stepping-stone in the development of American influence in the Pacific was the splendid and matchless diplomacy of John Hay, late Secretary of State, in insisting upon the preservation of the integrity of China and opening up the ports to the commerce of the world. The next stepping-stone in the develop-

ment of American influence in the Pacific was when the Congress of the United States authorized the building of the great Panama Canal, which will bring these two great oceans, the Atlantic and the Pacific, into everlasting fellowship. The last stepping-stone in the development of American influence was when the President of the United States invited the representatives of Russia and Japan, who were then engaged in war, to come to our own shores and here, in a Government navy-yard, settle their dispute. And it was so successful that the name and influence of the American nation is greater to-day all over the Pacific than that of any other country in the world.

The American people are in favor of continuing the policy of building up the American Navy, because they recognize that we have interests which must be defended and protected.

I can well remember that when the Spanish-American war first began the whole popular mind at once turned to the condition of our Navy, which was then a very small one, and more or less anxiety was felt all over the country for fear it would not be able to cope with the Spanish fleets, and up and down the Atlantic coast from one end to the other ran a wave of consternation when the Spanish fleet sailed from the other side, its destination being unknown to our people. The cry was then, "My kingdom for a navy!"

One thing must always be borne in mind, and that is that it takes longer to obtain a good navy than a good army. With the army practically every thing is personnel; with the navy it is personnel plus material. That is to say, we must have not only men, but ships, and it takes years to build the ships, and longer to train the men in the Navy than it does in the Army, and when war is declared every man must be on his ship and at his post of duty. No time then for building up a navy.

In our past wars we have relied considerably upon the volunteer forces for an army. Men left the office and the farm and the workshop, enlisted, and after a few months of discipline and training made fairly good soldiers, and many, too, have had military training in their younger years; but with the Navy it is different, by reason of the evolution which has gone on in the construction of our ships. It does not follow that because a man can sail a vessel he can now make a good sailor, but, on the contrary, he must have months and even years of training in mechanics, so as to familiarize himself with all the different machines on board one of our ships, in order to become an efficient man in time of war.

There are many who think that we ought to spend more money upon internal improvements, deepening of harbors, and building of public buildings, and not so much upon the Navy, but the question is, Which is the more important, internal improvements or national defense? I think I voice the sentiment of the American people when I say that national defense, preparation for war against foes within and foes without, outweighs all consideration of internal improvements. National defense must stand first and always first.

Then there are many others who urge objection to the building up of the Navy under such pleas of sophistry as these: "Where is our foe? Are we not at peace with all the world? What is the necessity for building up a navy?" That sort of argument might have been used six months before the Spanish-American war broke out. Nobody thought there would be a war even three months before it was declared. Russia did not expect a war with Japan, but the first shot was fired by Japan before the Russian minister left Tokyo, or the Japanese minister left St. Petersburg.

While our people are a peaceful people and desirous above all other things of pursuing the arts of peace, yet who is able to tell how soon just provocation might arise for war with some foreign country? We do know that this country has had a number of wars in the last hundred years, and other countries too, and even during the last ten years England, as well as our own country, has been at war; likewise Japan and Russia, and it was only a few years before this that France and Germany were engaged in a contest of arms, so it would appear from this that nations have not reached that stage of moral perfection which Tennyson foresaw:

Till the war-drum throb'd no longer,
And the battle-flags were furled
In the Parliament of man,
The Federation of the world.

There are many, also, who believe that the peace conference will result in the establishment of a national court of arbitration, whereby all disputes between nations will be settled without an appeal to the sword; but while everyone is in hearty sympathy with the great purpose of the peace conference, yet few really believe that in the present stage of the progress of the world any real solution of the problem will be satisfactorily worked out, at least not for a generation or two, and this is plainly evident from what has already taken place.

The first peace conference was held in 1890, called by the Czar of Russia, one of the purposes being the discussion of the question of disarmament, and a resolution was passed recommending disarmament; but what has been the result since the last peace conference was held at The Hague, eight years ago?

All the leading nations of the world have built larger fleets than ever before, and all of them together have added more than 2,000,000 tons of ships to their navies, equivalent to 100 English *Dreadnoughts*, to say nothing of the fact that the Czar, who called the peace conference into existence, has been engaged in a great war, where more men were engaged in land battles on either side and a greater tonnage of ships with the greater weapons of warfare on the sea than ever known before. Is there anything in this to inspire us to the opinion that it would be safer for the country to do away with our Navy?

The second peace conference last summer was held at The Hague, but what inspiration have we received from that which would lead us to think that there is no necessity for any further building up of the Navy?

The President in his message says:

It was hoped The Hague Conference might deal with the question of the limitation of armaments. But even before it had assembled informal inquiries had developed that, as regards naval armaments, the only ones in which this country had any interest, it was hopeless to try to devise any plan for which there was the slightest possibility of securing the assent of the nations gathered at The Hague. No plan was even proposed which would have had the assent of more than one first-class power outside of the United States. The only plan that seemed at all feasible—that of limiting the size of battle ships—met with no favor at all. It is evident, therefore, that it is folly for this nation to base any hope of securing peace on any international agreement as to the limitation of armaments.

Would any American have been willing to submit the questions which have provoked war in our own country in the past to a tribunal, the majority of whose representatives must necessarily be composed of the representatives of monarchical institutions of the Old World? Is it reasonable to suppose that we would ever have existed as a nation if the questions which provoked the war of the American Revolution had been left to such a peace commission, dominated by the potentates of other countries? What would have been the result of the struggle between our own country and England in the war of 1812, or in the great civil war, where it is said that the English nation was on the side of the South? The result would probably have been the establishment of two republics, one in the South and the other in the North, if the controversy had been left to a peace conference.

What would have been the result, too, of the Spanish-American dispute which ended in war? These are questions which are not unreasonable to be considered in connection with a permanent tribunal for the settlement of all controversies between nations. There are questions or disputes pertaining to the honor and integrity of the country which can never be settled except by resort to arms.

While war is terrible, and ought never to be entered upon until all honorable means of averting it have been exhausted, yet, nevertheless, it is infinitely more to be desired than a peace the result of surrender upon first demand, as must necessarily be the case when a nation is not backed up by military power. It behooves a nation to always stand and insist upon an honorable peace, but that kind of a peace can seldom, if ever, be attained, unless backed up by preparation for war, and while we may dream of peace and preach it and pray for it, yet the only safe and sure course for a nation in the meantime to pursue is to prepare for war.

There are some who think that we need only a small navy, inasmuch as we are isolated from other nations upon this hemisphere, and therefore are not in danger of attack from foreign foes. That is an old argument, but one which grows weaker every year, for science and steam have annihilated space, and electricity has brought us in speaking distance with other countries.

If it were true that we did not need a navy years ago, when our possessions were confined to this hemisphere, how much more, on the contrary, do we need it now when we have Hawaii and the Philippines, with innumerable other possessions to defend and protect?

And then, too, we have the Monroe doctrine to maintain—a doctrine which was enunciated by James Monroe in 1823, and has from time to time been revived, as occasion might require, and given a newness of life, so that to-day it remains the great cardinal principle of our policy upon this hemisphere. Of what use this doctrine unless we have behind it the ability to maintain it whenever it may be assailed?

We will have the Panama Canal to defend. While it may be said that the Panama Canal will multiply the efficiency of our fleet by permitting us to reach the Western coast in a shorter space of time than it took the *Oregon* to come from there here,

yet, nevertheless, it must be conceded that this building of the Panama Canal will open up a waterway for all the ships of the world, and in so doing will make the Caribbean Sea practically a new Mediterranean, full of ships of commerce, which may occasion the necessity for a larger Navy.

We have a growing foreign commerce which needs protection. During the last few years that commerce has gone forward with rapid strides, and to-day we are sending products of the soil and of the factory into every known portion of the globe. We have sent locomotives and rails to Russia for the great Trans-Siberian Railroad. We have built bridges in Africa. We have sent trolley systems to Egypt, agricultural implements to China and Japan, and even the flag pole which floats the Japanese flag on the Mikado's palace in Tokyo was taken from the forests of Washington.

American enterprise and American genius are capturing the markets of the world, and our commercial interests are interwoven with those of every other civilized country. During the past year our foreign commerce has been greater than ever before known, exceeding more than \$3,000,000,000.

We need a navy also to protect the rights of American citizens wherever they are. You will recall that a few years ago an American by the name of Mr. Perdicaris, son of a former consul of the United States to Italy, was one evening sitting at dinner in his country place at Tangier, in Morocco, when he was suddenly surprised by a band of bandits, with Raisuli at their head, who took him and carried him up into the heights of Morocco and demanded a ransom for him. The friends of Mr. Perdicaris appealed to the United States Government for his protection, and what was the result? Our Government immediately took measures for his recapture. An American fleet was sent to the Bay of Tangier under the command of Admiral Chadwick, and in that fleet was the *Olympia*, famous in the battle of Manila, and the *Brooklyn*, famous in the Santiago fight, and about the time that little fleet dropped anchor in the bay a message went from the Secretary of State to the authorities in Morocco holding them responsible for law and order within their realm. It was a simple message, but how effective. "Perdicaris alive, or Raisuli dead," and Perdicaris came back alive.

What did that mean to you and to me? It meant that every American citizen, wherever he is, under whatever sky, on whatever shore, in whatever clime, is under the protection of the United States Government, and a government that can not protect the humblest of its citizens is unworthy of the name.

We need a navy to maintain and support our foreign policy with other countries. Unfortunately, the world has not reached that stage in civilization where the Golden Rule has become the first canon of international law. I hope we will reach it some day, but it will be in the far-off future. Nations to-day are moved in the consideration of international questions not entirely from a sense of justice, but in a large degree, I regret to say, by the strength of the military power that lies behind. And there is many a half-civilized people who recognize no virtue unless it comes backed up by physical force. Of what good, therefore, is a foreign policy unless supported by sufficient power to give it efficacy.

Then, too, we have more than 10,000,000 wards to guard in the far-off Pacific. We are engaged in the great work of civilizing this vast number of people and lifting them from the low estate of ignorance and superstition up into the clear, bright sky of enlightenment and liberty, and until that is accomplished and they are able to govern themselves we are bound by every sense of national duty to stand as a watch guard over them, while they are climbing the steep slopes of education in their endeavor to fit themselves for self-government.

Let us continue our policy of building up a strong and efficient Navy for the protection of all our interests, upon this hemisphere and on the other; a Navy that shall stand always for peace, that kind of peace that is honorable among men and justifiable of God; that peace that never makes surrender of national duty, of national honor, or national obligation. Let us write the inscription across every battle ship: "The American battle ship; let it ever be prepared for war, but may it never be called upon to fire a single shot."

Let us maintain such a Navy as will give to our country in every hour of international emergency that calmness and that poise which becometh a great people, slow to anger and plenteous in mercy, so that if we must fight—and pray God may we never fight—we may strike with all the energy that nerved the arm of Macdonough on Lake Champlain, of Perry on Lake Erie, of Farragut on Mobile Bay, and Dewey at Manila, for justice, righteousness, civilization, liberty, and the progress of mankind.

APPENDIX A.

STATEMENT REGARDING CRITICISMS OF NAVY—REAR-ADMIRAL G. A. CONVERSE, UNITED STATES NAVY (RETIRED).

NAVY DEPARTMENT,
Washington, D. C., February 6, 1908.

SIR: In compliance with your verbal instructions I have the honor to submit the following statement in regard to certain criticisms which have appeared from time to time in the public prints and elsewhere purporting to describe matters connected with the Navy and which, from their character, would seem to have been prepared by persons whose knowledge of the subjects discussed was limited and incorrect. These articles have undoubtedly caused wrong impressions, which a statement of the facts may in a measure correct.

In investigating this matter recourse has been had to the official records of the Department; to the reports made by officers of our Navy and of foreign services well qualified to pass upon the subjects handled; to professional and other publications of acknowledged authority and high standing, and to other sources also recognized as authoritative.

The records and correspondence bearing upon the designs of our earlier battle ships are voluminous and complete, and it is apparent that the subject was thoroughly considered and discussed during the preparation of the designs of these vessels, and although decided differences of opinion appear, there seems to have been ample justification for the designs which finally received the approval of the Department.

It is not claimed that mistakes have not been made or that our ships are without faults, but in view of the then state of the art of battleship building, this fact is not to be wondered at. It is remarkable that the mistakes were so few and that none were really serious. In this respect our record will compare most favorably with that of foreign services.

GENERAL NOTES.

Criticisms have been frequently made of the fact that a few of our large vessels are not fitted with automobile torpedoes, and at the present time it is recognized that the absence of these torpedoes is somewhat of a disadvantage. At the time of the design of the large vessels, which are not fitted with torpedoes, the question of the advisability of giving them a torpedo outfit received careful and thorough discussion and consideration, and the outfit was omitted for what were deemed very good and sufficient reasons. At the time these vessels were designed (from about 1900 to 1902) the torpedo had an effective range of about 1,000 to 1,200 yards, and it was not expected that hostile ships would engage in action within that distance, the torpedo became a weapon of secondary importance, and it was not thought that the installation of this comparatively secondary weapon in large vessels would longer justify the assignment of the necessary space, which could be used to so much more effective military purpose otherwise. As late as 1905 a most distinguished admiral of the British navy, writing of the use of the torpedo during the naval operations of the campaign of 1904, in the war between Japan and Russia, stated:

"It is not too much to say that the experience of the late campaign, confirming as it does the arguments of students of tactics in these days of long-range guns, justifies a demand that torpedoes should be withdrawn from the armament of cruisers and battle ships."

Since our large cruisers and battle ships not fitted with torpedoes were designed the effective range of the torpedo has undergone a great increase, and it is now claimed to be efficient up to 4,000 yards. This improvement has rendered them again, as in former days, a weapon to be reckoned with, and consequently we readopted them, and all our large vessels designed since this improvement carry torpedoes, as do also all of the other vessels originally so designed wherever it has been practicable to so rearrange their underwater space as to enable the tubes and accessories to be installed.

It may be stated that our policy of temporarily abandoning the torpedo for battle ships and armored cruisers when it failed to keep pace with what was considered battle range for guns, and again taking it up when improvements made it once more a useful and effective weapon within the battle ranges, was not different from the policy pursued by foreign navies.

Referring to some of the criticisms recently appearing in print, it may be stated in general terms that in our Navy sighting hoods were put on turrets, because no other practicable way of pointing the guns effectively existed. No criticism, however, seems to have been made by the critics to the fact that all other navies with turreted ships follow the same system, and for the same reason as ourselves.

The test of battle only will decide a suitable type of conning tower. As experience is gained the towers of our ships are modified, so far as possible, to meet the conditions required, and towers for ships building are designed in accordance with the latest reliable data. Changes of form, etc., have not been adopted simply because some foreign conners have evolved a novelty, but because it was not apparent that they were sufficiently superior to our own to justify such change until it had been demonstrated by actual test that they possessed merit. But we have never hesitated to adopt an idea that promised increased efficiency.

It is not advisable to adopt as fulfilling service requirements ideas evolved solely from the results of target practice, as such may be in many respects misleading. Ships fight in the open, rolling sea, at fast and varying speeds, constantly changing ranges, with always some pitching or rolling motion, and requiring for efficient sighting a large field of view for the gun pointer, much of whose light is shut off by reason of his protected position behind armor, and who fires at a target the speed and direction of which may be also constantly changing; whereas at target practice it is the invariable custom to choose a smooth sea and ideal weather conditions, the firing ship moves at a fixed speed and fires at a stationary target generally at a known range; only one ship fires at a time, and, be it remembered, with no shots striking or coming toward the firing ship to disconcert or excite the men pointing the guns. Battle conditions—that is, conditions under which we are likely to fight—should be the criterion and not the ideal conditions selected for target practice.

It is noted that in one of the criticisms recently made in a printed article the author refers, in condemning the heights of our broadside batteries, to the disadvantage these guns would work under in an engagement where the enemy is to windward, and states that the leeward position is to be sought inasmuch as the ship so situated is clear of her own smoke. The "weather gauge" was a primary advantage in the days of sailing ships, and its advantage over the lee is greater to-day than this critic seems to think. It is doubtful if any captain would select the leeward position, and particularly so if there was any sea running, as most probably would be the case. Modern gunpowder

gives out little or no smoke, and therefore the great advantage claimed by the critic above referred to fails; but instead, the leeward ship has the greater and more important disadvantage of the smoke from his antagonist's funnels and of flying spray and moisture obscuring the glass of the telescopes, which will seriously interfere with the aiming and firing of the guns. The question of the direction of the sun is also one of much importance, and if it is a case of choice of windward position with the sun at his back or leeward position with the sun in his face, there is little doubt but that the critic above referred to would change his views. Practical experience is the best of all teachers, and it requires this as well as study to discuss professional matters, otherwise in advocating a small and perhaps unimportant advantage sight may be lost of the several more weighty and overmatching disadvantages.

The question of the selection of an efficient or satisfactory range finder is one that we have been struggling with for years, and the fact of its not having been developed is due not to any lack of human effort or ingenuity. Other nations have experienced the same difficulty. Our ships are now supplied with the best range finder thus far known. The main difficulty lies in the physical impracticability, at the present stage of human knowledge, of being able to measure trigonometrically a distance of several miles from the necessarily short base line possible to be had on board the measuring ship. Many of the greatest minds of the world have been engaged on this problem for years, but unfortunately with no great success up to the present day.

To the claim that we have no means of handling a fleet in a fog, it may be said that at the present stage of human knowledge it will always be a difficult problem to properly handle a fleet in a fog, and in this respect our Navy does not differ from others. We are possibly neither behind nor ahead of other nations in this respect. When nature permits us to see through a fog, or science develops a means of penetrating its cloud, we can hope to overcome this difficulty, but until then we will, like all other human beings, be compelled to struggle with the problem.

The international regulations for preventing collisions at sea, which have been enacted by Congress into law, require that the steam whistle or siren shall be so placed that its sound will not be intercepted by any obstruction, and consequently our steam whistles and sirens, in compliance with this law, are placed forward of the smoke pipes. While it might be undoubtedly more convenient and less trying upon the hearing of the officer of the deck if the whistle were placed abaft the smokestack, yet so long as the law remains as at present we can not place the whistle where its sound will be obstructed.

In a recently published magazine article severe criticisms were made regarding accidents (the dates of which were specifically stated) which have happened in the turrets of three of our battle ships, and it was claimed that, notwithstanding these accidents, prior unfortunate experiences, and of the recommendations and reports of various officers thereon, nothing was done to remedy the defects complained of. It is inconceivable that a person would jeopardize his reputation for veracity by making such specific statements upon matters of the character referred to without verifying his data or satisfying himself as to the reliability and trustworthiness of the source from which his information was obtained.

The official records of the Department amply and clearly disprove the statements made as to nothing having been done to remedy the defects alleged to exist in our direct leading ammunition hoists, as prior to the unfortunate accident on board the *Missouri* in April, 1904, both the Bureaus of Ordnance and Construction and Repair had endeavored to obtain a satisfactory form of shutter doors designed to close the opening in the turret floors after the passage of the ammunition cars to the guns. A design developed at the Washington Navy-Yard in March and April of 1904 was authorized to be constructed, with a view to its application to the turrets of the *Virginia* class of battle ships then under construction, as well as to all other vessels as far as practicable. Before, however, this shutter, which was attached to the ammunition hoist rails, was completed, a satisfactory shutter attached to the turret itself was perfected and has since been applied in all turrets.

As early as January, 1904, the Bureau of Ordnance took up the matter of the design of a two-stage ammunition hoist with a company well known as manufacturers of ordnance and ordnance material, in connection with a model subsequently exhibited by them at the World's Fair, St. Louis. Every effort was made to put an ammunition hoist of this type in the U. S. S. *New Hampshire*, and contracts were actually made in August, 1905. It was found, however, that the design was too heavy, involving a total increase of structural weight of the turrets of more than 150 tons, and that it could not be installed without greatly exceeding the weights allowed for ordnance outfit.

Modifications of this type of hoist were subsequently made, by which its weight was greatly reduced, and the adoption of this hoist, or a hoist of similar nature, was determined upon by the board on construction prior to the accident on the *Georgia*. The report of the special turret board simply confirmed the action of the board on construction, but was not received until months after the type of turret above referred to had been decided upon, and did not therefore cause the adoption of the turret, as has been claimed by the incorrectly informed persons alluded to.

It is needless to add that all criticisms made from time to time concerning any detail of our ships which have reached the board on construction, have received its careful attention and consideration; whether the criticism was important and well based, or whether it was, as the majority have proved to be, lacking in merit, no difference was made in taking them up, for all have been carefully weighed. When the conditions and circumstances seemed to merit action by the board, such has been invariably taken.

To criticize is human nature, and men interested in a subject or its development are generally much given to making suggestions or criticisms regarding changes which in their opinions would be improvements. Particularly is this the case where little or no responsibility lies with the critic, and perhaps more so even when one has a professional interest in the subject under consideration. To the person, however, charged with the responsibility of the adoption of the changes suggested by the critics, and particularly so where such changes may seriously affect the public welfare and involve the expenditure of large sums of Government money, it is only natural that he, having this great responsibility, should require that the advantages claimed for the alterations be satisfactorily proved before the time, labor, and money necessary to carry out the suggested ideas are expended. This very proper requirement is in many cases resented by critics, some of whom are prone to publish their grievances because of the not immediate acceptance of their ideas and to claim that inventions and improvements are not

adopted as they should be, that those in authority are too conservative, and to make various other allegations.

If such critics were to investigate, they might find that in many cases their own ideas were not entirely original, that perhaps others had been working along the same or similar lines and had perhaps evolved a more completed project, or even, perhaps, that experiment had proved their schemes not suitable for naval purposes. It is this question of investigating and demonstrating the usefulness of an invention, suggested change, or alteration before adoption and before authorizing the expenditure of large sums of public money which protects the Government, but at the same time affords the critic, who has no responsibility toward the country, the opportunity so many avail themselves of, to criticize unfavorably and perhaps unjustly the person upon whom the direct responsibility for the protection of the interests of the Government really lies, and who, in so far as the Navy is concerned, and about whom I feel qualified to speak, are faithful to their trust.

In concluding this report, which has been made after a thorough consideration of the defects known as well as claimed to exist in the battle ships of our Navy, and using the most reliable and authentic data obtainable, the following facts may be regarded as established:

Battle drills.—In recent years our Navy has paid much attention to war drills and exercises, and the tendency has been to continue to increase and widen our experience in this respect. These drills have been, however, necessarily carried out with the limited number of ships available, which, unfortunately, did not make a homogeneous fleet, but now, with sixteen practically similar battle ships in commission, we hope to gain great advantages from the continuation of the battle-drill drills begun with those ships last year as soon as the fleet could be withdrawn from the Jamestown Exposition.

Freeboard of our ships.—Examination of the plans and other reliable data concerning our own and foreign ships of the same date of design shows clearly that in the matter of freeboard we compare, with the exception of the *Indiana* and *Kentucky* classes (the first built battle ships of the Navy), most favorably. With reference to the British and Japanese battle ships, which have given good results under service conditions, our vessels have in the main more freeboard, and in the instances where they exceed us it is only by such few inches as may be, for any practical advantages, ignored.

Height of gun positions.—Here again, excepting the *Indiana* and *Kentucky* classes, our ships carry their forward turret guns generally as high or even higher above water than similar ships of the British and Japanese navies, and in the heights above water of guns firing on the broadside we are noticeably in the lead. Everything considered, our gun heights are amply sufficient to meet the necessities of battle, second to those of no other nation in effectiveness, and can be used efficiently in any sea fighting in which naval actions are at all likely to take place.

Armor.—A comparison of the height of armor belts of our ships with those of foreign ships of same date of design shows that in general our armor belt is somewhat higher above water and furthermore that the armor of our ships is usually thicker and fully as well distributed both above as well as below the water line. In the matter of the main armor belt, about which much criticism has appeared, when our ships are brought into actual combat we have nothing to fear from any alleged superiority of foreign vessels of the same date of design.

Turret designs.—The turret designs of our ships are in the main very similar to those of the French and to the great majority of ships of the British and Japanese navies. The general arrangement of the magazines about a "handling room" into which the ammunition hoist leads is also similar in all navies. The dangers which we and others have principally to contend with are those of liability to flareback at the breech of the gun and the accidental ignition of grains of powder. The remedy is twofold—by preventing the escape of all gas from the breech of the gun into the turret; and second, by the interposition of partitions or screens fitted with doors and flaps along the route of the powder charges from the handling rooms to the gun, by which means the flame from the burning grains would be prevented from coming in contact with the powder in transit. Devices to accomplish both of these results have been installed in our ships. The advantages of the two-stage ammunition hoist in the matter of safety are not manifest, nor have they been fully established over the straight-lead hoist which we have heretofore used in our service. We are in our latest designed ships installing the two-stage hoist, primarily because it affords a more rapid supply of ammunition to the guns, but its adoption as our future standard has not yet been decided upon.

Supply of ammunition.—It may be stated with certainty that no navy has as yet ammunition hoists capable of supplying ammunition to the guns at the rate called for by our modern target practice conditions; nor will the guns, in all probability, in action require ammunition at those rates. Our hoists are not inferior to those of foreign ships, and with the changes to be made or already made in them will meet all the necessities of our ships.

In and out turning screws.—We built some vessels with in-turning screws, because of their supposed advantages and because, also, foreign navies with larger experience were doing the same. We ceased building such vessels when we had satisfied ourselves that the advantages were supposed rather than real.

The Kearsarge and Kentucky.—The exposed openings of the gun ports of these vessels are recognized as being larger than desirable. The two ships, however, are efficient and serviceable vessels and are in no sense of the word the failures some persons have alleged. The enlarged port area was a necessity due to improvement in the efficiency of the gun mounts and was but a small factor of disadvantage when compared with the several advantages which made the guns of those two ships superior as weapons of war to any which we had theretofore constructed. These two ships were, however, designed more than twelve years ago and do not, of course, embody all the improvements of up-to-date ships, and on this account it is the intention to give them a general overhauling as soon as the funds are available.

Torpedoes.—At the present time our supply of torpedoes is less than it should be. This fault, however, is due to the inability of our manufacturers to build them, and not to any lack of effort upon the part of the Navy to procure a sufficiency. It is hoped in the near future this present difficulty may be overcome. The output of torpedoes will be materially increased by the torpedo factory now building at the Naval Station, Newport, R. I., and which will soon be in full operation.

Gun sights and range finders.—In these respects our ships are in no manner second to those of other navies.

Finally.—Our ships are not inferior to those in foreign service. We have made compromises in our designs of battle ships, because it is impossible to construct a perfect battle ship; such compromises have, perhaps, detracted from the desired perfect ship in some respect, but at the same time have made it possible to improve upon some other

existing disadvantages, and, on the whole, the compromises, each and all, have tended toward a nearer approach to the desired perfect finality. Other nations have labored and will, like ourselves, continue to labor under this same difficulty in endeavoring to approach as near as possible to that impossibility—a perfect battle ship. In making compromises in the building of our ships, I am satisfied that in every instance all concerned in the work have acted honestly and patriotically, and only with the desire to produce the best ship possible. The result has been in each case, ship by ship and year by year, an improvement upon all that have preceded, and no ship has been built by us inferior to those of any nation designed at the same time.

The quality of the matériel of our Navy is inferior to none; in quantity of vessels alone we are lacking. With an increase in number of ships the American Navy will have been supplied the only feature necessary to make it second to none in all that tends toward fighting efficiency, and when the stress of actual combat, if such should ever unfortunately come, brings the only really practical test, our country need have no misgivings or fear but that our battle ships will give an excellent account of themselves and prove themselves all that we have designed them for and know them to be.

Very respectfully,
G. A. CONVERSE,
Rear-Admiral, United States Navy (Retired).

The SECRETARY OF THE NAVY.

UNITED STATES NAVY—ALLEGED STRUCTURAL DEFECTS IN BATTLE SHIPS—SUPPLEMENTARY STATEMENT OF CHIEF CONSTRUCTOR CAPPS, WITH LETTER OF THE SECRETARY OF THE NAVY TRANSMITTING.

NAVY DEPARTMENT,
Washington, April 15, 1908.

MY DEAR SENATOR HALE: There is forwarded herewith the supplementary statement of the Chief Constructor in relation to certain alleged defects in battle ships of the United States Navy. The Department's letter to you, under date of March 9, 1908, fully expressed its views concerning this subject, and subsequent reports received from the commander in chief of the Atlantic Fleet and the naval constructor attached to his staff have strengthened the conviction which I previously entertained with respect to the location of water-line armor, height of freeboard, height of gun axes, etc. Admiral Evans in his recent report makes allusion to the inability to fight the broadside guns under certain conditions of weather, and states that such guns are not high enough for efficiency under all conditions. This criticism is likewise applicable to the majority of broadside guns of battle ships of all navies wherever such guns are mounted below the main deck, as is the case with the British, Japanese, and German navies. It may be remarked, in passing, that such a location is the only available one for the majority of the guns of the intermediate battery on all battle ships built or building, and in the United States Navy the height of such secondary battery guns above the water is somewhat greater than the height of similarly located guns in the majority of battle ships of the British, German, and Japanese navies. In our battle ships of the *Delaware* and *South Carolina* classes, now in course of construction, this criticism concerning intermediate battery guns has little force, inasmuch as the main battery is concentrated in heavy guns mounted in turrets on the upper decks, the intermediate battery being required solely for defense against torpedo-boat destroyers and torpedo boats.

In view of the misunderstanding which seems to exist in some quarters as to the degree of responsibility of Admiral Converse and the Chief Constructor for alleged defects in battle ships now attached to the Atlantic Fleet, it seems proper for me to emphasize definitely the fact that neither Admiral Converse nor Admiral Capps had any responsibility whatever for the designs of battle ships now in active service, and therefore the exhaustive reports of those officers concerning alleged defects in naval matériel should be accepted without qualification as being the impartial reports of officers who have no personal responsibility for the designs of the ships of the fleet recently under criticism, but whose official position gives them unusual opportunity to know all the facts pertaining to the method of developing designs of those vessels and the good results which have so far been obtained in their subsequent construction.

There are also forwarded herewith, for the information of your committee, copies of the recent reports of Admiral Evans and Naval Constructor Robinson concerning the behavior of vessels of the Atlantic Fleet during the passage from Hampton Roads to Magdalena Bay, also their comment for the information of the Department in connection with future design work. Practically all of the criticism contained in these reports had already been discounted and disposed of in the designs of the *Delaware* and *North Dakota* class. Although detailed comment upon the above-noted reports is now in course of preparation by the board on construction, I have deemed it advisable to forward the reports at this time for the general information of the committee, although it is my opinion that they should not be published, and certainly not in advance of the preparation of the detailed comments thereon.

Very truly, yours,
Hon. EUGENE HALE,
Chairman Committee on Naval Affairs, United States Senate.

NAVY DEPARTMENT,
BUREAU OF CONSTRUCTION AND REPAIR,
Washington, D. C., April 13, 1908.

SIR: In conformity with the request of the committee, I have the honor to submit the following supplementary statement concerning certain matters relating to naval matériel. In order that this statement may be as brief as possible, no attempt will be made to cover ground which has already been fully covered, except where further comment may appear to be necessary for the complete and comprehensive disposition of such criticism as may not have been already disposed of. No attempt will be made to traverse, in detail, the evidence of critics who have appeared before the committee, since it is understood that this is not desired. Failure, therefore, to take note of such criticism should not be construed as indicating that such criticism is founded on fact.

It also appears to be desirable, at the very beginning of this supplementary statement, to emphasize the fact that practically all of the criticism to which our battle ships have recently been subjected is directed against completed vessels, and does not apply, to any material extent, to vessels which have been designed during the past four years. The only criticism directed at the vessels of the *Delaware* class, for instance, is that affecting the submergence of the lower edge

of the main water-line belt armor, and the original criticism with respect to the location of this armor has been so materially modified as to be negligible, and would appear to have been fully and completely disposed of by the letter of the Secretary of the Navy to the chairman of the Senate Naval Committee under date of March 9, 1908, and by subsequent specific comment of Admiral Evans, commander in chief of the Atlantic Fleet, in his letter of March 6, 1908.

The location of the water-line belt armor on the *South Carolina* and *Michigan* being practically identical with that of similar armor on the *Delaware* and *North Dakota*, the disposition of such criticism with respect to the *Delaware* necessarily includes the *South Carolina* and *Michigan*.

It is true that the freeboard forward on the *South Carolina* is lower than that on the *Delaware*, and the freeboard aft is one deck height less than the after freeboard on the *Delaware*. It should be specially noted, however, that the *South Carolina* and *Michigan* were designed to meet the specific provision of the act of Congress for the most powerful battle ship on a trial displacement of 16,000 tons. That the designers of the *South Carolina* and *Michigan* met these requirements of Congress in a most satisfactory manner would seem to be fully proved by the unusually commendatory comments concerning this design which have appeared in foreign publications, already quoted in the chief constructor's special report of February 14, 1908, and by specific and direct approval of seagoing officers of our own Navy. A recent evaluation (prepared by a foreign naval officer) of the fighting strength of battle ships of the principal navies of the world ascribes to the *South Carolina* the maximum fighting efficiency of any ship considered, the United States *South Carolina* being placed as No. 1, with the British *Dreadnought* as No. 2. This will doubtless be considered by certain critics as a too partial judgment of the good points of the *South Carolina* as compared with the *Dreadnought*. It is well to remember, however, that the broadside battery of the *South Carolina* is equal to that of the *Dreadnought*, the target area is less, and the armor protection unquestionably greater, the points of inferiority being those of speed and, in a heavy seaway, a freeboard which would place the *South Carolina* at a slight disadvantage as compared with the *Dreadnought*.

With respect to the freeboard of the *South Carolina*, it should be noted that the freeboard forward is practically identical with that of the latest Japanese battle ships, and also almost identical with that of battle ships of the highest freeboard now attached to the Atlantic Battle Ship Fleet. It is also equal, or superior, to that of all battle ships of the Japanese navy which participated in the battle of the Sea of Japan, and is approximately equal to the freeboard of the large majority of the battle ships of the British navy designed prior to 1905. The freeboard aft is in conformity with the design of battle ship most highly approved by the Walker board in 1896, also by the general board in 1903 and 1904, so that the general features of the *South Carolina* class, so far as concerns freeboard, both forward and aft, would appear to have met with the entire approval of some of the most distinguished seagoing officers of the United States Navy.

The battery arrangements of the *South Carolina* and *Delaware* classes are such as to give the maximum broadside fire for the heavy guns, and in this respect these vessels have a distinct advantage over foreign battle ships whose battery arrangement has been developed on different lines.

In view of the very complete data already submitted for the consideration of your committee, it does not appear to be necessary to devote further attention to the characteristics of the *South Carolina* and *Delaware* classes.

With respect to the general criticisms which have been made concerning the disposition of water-line belt armor, freeboard, height of gun axes, etc., on battle ships now attached to the fleet, it would seem that the committee had already been fully advised as to the facts. It appears, however, that there are those who lay special stress upon the insufficient height of the after heavy guns of vessels of the *Iowa*, *Alabama*, *Maine*, *Mississippi*, and *South Carolina* classes, and who claim that that feature of those vessels is gravely in error. In this connection, it seems only necessary to invite attention to the fact that the Walker board in 1896 specially commended the arrangement of freeboard on the *Iowa*, and for the battle ships then under consideration by that board recommended that—

"They should have high freeboard forward and low freeboard aft, substantially like the *Iowa*."

Also, the general board, in a communication dated December 15, 1903, in which it set forth the characteristics which should be embodied in battle ships of about 16,000 tons, stated specifically that they should—

"Have high freeboard forward. In this respect the *Iowa* type impresses favorably."

It is worthy of note that all the military and seagoing characteristics of each battle ship built for the United States Navy have been passed upon by a board of officers, a majority of whose members belong to the seagoing branch of the Navy, and that the designs of each battle ship are approved by the Secretary of the Navy before advertisement for their construction is made.

It may also be noted that officers who have commanded vessels of this type have reported that all the guns of the main battery could be fought in any weather in which battles are likely to be fought. Reports have also been recently received from the commander in chief of the Atlantic Battle Ship Fleet, and the naval constructor attached to his staff, which state that while a somewhat higher turret gun forward would be desirable to fight with full efficiency at 15 knots in a "trade-wind" sea, no weather was encountered on the recent voyage of the Atlantic Fleet where turret guns would be out of action, except so far as flying spray in a few cases might have affected the gun sights—this last condition, however, being one which a few additional feet freeboard forward would not remedy.

The report of the Chief Constructor, of February 14, 1908, and the appendix thereto, which are part of the testimony before your committee, give in considerable detail the principal characteristics of the battle ships of the United States Navy, as well as those of typical battle ships of foreign navies. The heights of freeboard, heights of gun axes, and location of water-line armor therein set forth, were determined with the greatest accuracy possible, and, subject to the correction of the minor errors—principally typographical—the data therein contained are believed to be as accurate as can be determined from the information accessible to the Navy Department and its Bureaus and Offices.

The tables above referred to show that the battle ships now in commission in the United States Navy are in no sense at a disadvantage as to freeboard, gun heights, and arrangement of armor as compared with vessels of the principal foreign navies.

As distinctly stated, the data given in the tables was for the "designed" displacement, inasmuch as the most accurate information available concerning foreign ships was based upon that displacement. The "deep-load" characteristics for battle ships of our own and foreign services would vary in approximately the same degree as those given for the "designed" displacement in the table.

It is believed that in certain foreign designs full allowance of ammunition and stores is provided instead of the two-thirds allowance provided for American vessels, but this would not ordinarily involve a difference in draft, freeboard, etc., of more than 4 inches. On the other hand, the coal carried at designed displacement in the very large majority of foreign battle ships is no greater than that carried by battle ships of the United States Navy, and is in many cases less, as is fully set forth in the table given in Appendix A.

It should also be noted that any attempt to determine the overdrafts of vessels by taking the recorded "log" drafts and making allowance for the difference between the actual coal reported on board and the coal provided to be carried on the designed displacement, is entirely misleading and inaccurate. Such a method, as ordinarily carried out, involves errors due to inaccuracies in the recorded log draft; errors due to differences in density of water; errors due to failure to take into consideration the actual stores, ammunition, etc., on board; errors due to inaccurate log reports as to coal actually on board; failure to take into account the excess water in trimming tanks, double bottoms, etc.—this last-named item alone, on certain battle ships of the Atlantic Fleet during the recent voyage to the Pacific coast, having involved as much as 500 to 800 tons additional weight. Any estimate of overdraft, therefore, based upon the draft of the ship and the amount of coal on board, as recorded in the log, would seem to be too obviously inaccurate to require further comment.

The actual overdrafts of vessels of the United States Navy, as compared with their designed drafts, are carefully and accurately determined immediately after delivery of the vessels to the Government, so that the errors noted in the preceding paragraph are entirely eliminated. Accurate data so obtained shows that, of the battle ships now attached to the Atlantic Fleet, the *Virginia* had the greatest overdraft as compared with her designed draft—the overdraft in the case of the *Virginia* being 11 inches. The maximum overdraft of the other vessels of the *Virginia* class was 9½ inches. The overdraft of the five vessels of the *Connecticut* class varied from 4½ to 6 inches. The overdraft of the other seven battle ships of the fleet was 3½ inches for the *Alabama*, 3½ inches for the *Missouri*, and 6 inches for the *Ohio*, 7½ inches for the *Kearsarge*, *Kentucky*, and *Illinois*, and 9½ inches for the *Maine*.

As noted in previous reports and testimony, the overdrafts of United States battle ships were largely due to changes and additions which were made after the approval of the designs, and, in many instances, after the actual construction of the vessels had been advanced to a considerable extent; and where there were differences in overdrafts on sister ships these differences were largely attributable to difference in type of boilers and details of machinery installation.

Before dismissing the subject of overdrafts of battle ships, it is worthy of special note that the last three battle ships completed, namely, the *New Hampshire*, *Idaho*, and *Mississippi*, have been constructed quite within the designed estimates of weight, so that those vessels will be slightly underdraft instead of overdraft. In explanation of this condition, it is merely necessary to state that the development of details and the changes authorized on those vessels subsequent to the approval of the designs were such as to not materially increase the displacement of the vessels.

The completion of battle ships, or any other class of ships, within the "designed" displacement is almost entirely a question of adhering to the original features of design. If radical changes are made in the design, involving large additional weight, overdraft for the completed vessel must inevitably be expected.

In view of the foregoing statements and the mass of evidence already offered concerning the location of water-line armor on battle ships, it would seem quite unnecessary to dwell further upon this phase of recent naval criticism, so that I will dismiss it by quoting the following extract from the latest communication on this subject, contained in a letter addressed to the Secretary of the Navy by the commander in chief of the Atlantic Fleet, under date of March 17, 1908:

"Even with smooth seas and practically no wind the swell at times caused such rolling and pitching as to expose the lower portion of the armor belt even at heavy load; hence the lower limit of armor should not be raised. (Italics not author's.)"

The above is too definite and conclusive to require any comment other than that those vessels were, in many instances, heavily overlaid, and the lower edge of the armor was therefore immersed in many cases more than 7 feet.

FREEBOARD AND GUN HEIGHTS.

The data already submitted to the committee with respect to freeboard, both on our own and foreign battle ships, would seem to be quite sufficient to preclude the necessity of making extensive allusion thereto in this supplementary statement. The present tendency in battle-ship design is to concentrate the heavy battery in turrets mounted upon the upper deck, and, for our latest vessels, those of the *Delaware* class, to have a freeboard forward one deck height higher than was formerly the case. The major part of the intermediate battery for torpedo defense must of necessity be mounted "between decks."

The tables already submitted give accurate data concerning the freeboard, gun heights, etc., of United States and typical foreign battle ships, and the most casual inspection of such tables indicates that the United States is at no disadvantage with respect to freeboard and gun heights as compared with battle ships of foreign navies. The low freeboard aft on certain United States battle ships has already been considered and disposed of, and requires no further attention.

It is worthy of note that an officer who has only recently returned from Japan, and who has had unusual opportunity to communicate with Japanese naval officers, confirms the statement previously made, that the most recent design of Japanese battle ships provides for a moderate freeboard, approximately equal to that of the *Connecticut* class, and that for designs in prospect, which contemplate a vessel even larger, the Japanese have no intention of increasing their height of freeboard. The latest design of battle ship in the United States Navy, it may be noted, has more than 5 feet greater freeboard forward than the latest designed Japanese battle ship.

TRIAL TRIPS OF NAVAL VESSELS.

Judging from questions asked by various members of the committee, and the replies thereto by witnesses, there would seem to be a very imperfect understanding in the minds of many as to the contract requirements for trial trips of naval vessels, and the rigor with which

such contract requirements are enforced. At the request of the committee there are hereto attached a copy of the contract for the *Delaware* and a copy of the contract for the *Louisiana*. (Appendices B and C.)

Allusion having been made during the progress of this investigation to the practice of the Navy Department of giving bonuses for speed in excess of the contract requirements, it should be noted that the contracts for naval vessels have contained no provision for the granting of a speed bonus since January, 1894, more than fourteen years ago. None of the battle ships now attached to the Atlantic Fleet were subject to bonuses for speed in excess of the contract requirements.

It would also appear that there are those who believe that naval vessels never attain in actual service the speed called for by the contracts for those vessels. As a matter of fact, not only is the contract speed of United States naval vessels attained during the official trial under the rigidly enforced conditions specifically provided in the contract, but with boilers and machinery in good condition and with clean bottoms, the "contract speed" has been attained in actual service by a large number of naval vessels when much more heavily loaded than they were during their contract trials. With hull and machinery in the condition just indicated, and engines developing the horsepower which was actually obtained on their trial trips, the majority of United States battle ships could attain their contract speed with all stores on board and bunkers full of coal. The *Minnesota*, a representative of the five most recently designed battle ships now attached to the Atlantic Fleet, has since delivery to the Government, and with a naval crew, exceeded by more than eight-tenths of a knot the speed required by the contract, and this with all stores and ammunition on board and bunkers nearly full of coal.

As a matter of fact, the contract trials of vessels built for the United States Navy are most carefully conducted, the vessels being loaded to such a draft that the mean displacement during the official trial will be that required by the contract. Judging by reports contained in scientific journals, many vessels of the British navy have been tried at a displacement considerably less than their designed displacement. Such a condition has never obtained in the contract trials of United States naval vessels; and should a United States naval vessel when subjected to trial be lacking in any portion of the armor, armament, outfit, fittings, ammunition, stores, etc., allowance therefor is made by the addition of an equivalent weight of water in the double bottoms or trimming tanks, or by placing an additional allowance of coal in the bunkers.

So far as the designer is concerned, there would be no difficulty whatever in having the contract trials conducted at the deep-load displacement, with all stores and ammunition on board and the bunkers full of coal, rather than at a less displacement with a certain proportion of stores and ammunition on board and an arbitrary amount of coal in the bunkers. If such a method should be adopted, however, the Navy Department would not derive any benefit therefrom, since allowance would necessarily be made for the anticipated decrease in speed which such an increase in displacement would involve. Moreover, the data so obtained would not be comparable with that obtained from similar vessels previously tried in the United States Navy, as well as in foreign navies, and in any comparison resulting therefrom the vessels of the United States Navy, when tried at their deep-load displacement, would appear at a disadvantage as compared with foreign vessels tried at a displacement considerably less than the deep-load displacement.

It is worthy of special note, however, that the difference in speed due to difference in displacement of the vessel at trial load and deep load would not be the "two or three knots" mentioned in the testimony before the committee. As a matter of fact, for battle ships now attached to the United States Atlantic Fleet, as well as those in course of construction, the speed at deep-load displacement, with all stores, ammunition, etc., on board and bunkers full of coal, would rarely be as much as one-third of a knot below that at the trial displacement when the engines were developing the same horsepower. This reduction of one-third of a knot in speed would be approximately the maximum and would only occur at high speeds. At low speeds the reduction due to increase in displacement would be proportionately less, the horsepower, of course, being assumed to remain the same at the trial and deep-load displacements.

In this supplementary statement I have merely attempted to bring out more clearly facts which would assist the committee in arriving at correct conclusions concerning the characteristics of battle ships of the United States Navy and the conditions under which their designs have been developed. The somewhat extensive allusion that has been made in previous reports and in the testimony to foreign practice, and especially to the case of the *Royal Sovereign*, was deemed necessary in order that the committee might fully understand foreign procedure in such matters. The case of the *Royal Sovereign* was given particular prominence on account of the very extensive technical criticism which the designs of that vessel received. The comments contained in the report of the Chief Constructor of February 14, 1908, and the diagrams and tables thereto attached, should leave no possible doubt in the mind of anyone as to the characteristics which it was desired to specially emphasize in connection with the considerations of the designs of the *Royal Sovereign* class. These were obviously "height of freeboard," "height of gun axes," and "location of the lower edge of the water-line belt armor." That the vessels of the *Alabama*, *Maine*, *Idaho*, and *South Carolina* classes had low freeboard aft had no particular bearing upon the case, especially since the fact that these vessels had a low freeboard aft was fully set forth in the tables. Nor was it a matter requiring special note that the upper belt armor of certain groups of battle ships in the British navy was of the same thickness as the lower belt armor, especially when twelve battle ships in the British navy, whose upper belt was of the same thickness as the lower belt, had main water-line armor whose maximum thickness was just equal to or less than the upper belt armor of the *Vermont* class. All the pertinent facts in the case were fully set forth in the text or the tabular statements, and unless the text of the report had been extended to quite unjustifiable length it has to be assumed that those who may desire to indulge in criticism will take the trouble to look over the tabular data and appendices as well as the body of any report whenever in doubt as to the exact meaning of the text.

In conclusion, I beg to repeat the brief summary statement contained on pages 70 and 71 of the Chief Constructor's hearing before the Senate Naval Committee on Senate bill No. 3335, as follows:

"To make a very brief summary of the salient points of this morning's hearing, I should like to state that the principal subjects of criticism, so far as they concern the Bureau of Construction and Repair, were the 'height of freeboard,' the 'height of gun axes,' and the 'distribution of water-line belt armor.'"

"I showed, I think, conclusively and made reference to reports and previous hearings that these three subjects have already been given the most serious consideration not only in our own but in foreign navies; that a very eminent board of admiralty, fortified by the unanimous opinion of some of the most distinguished officers of the British navy, had fully passed upon these subjects; that an equally conspicuous board in our own service, presided over by the late Admiral John G. Walker, had in 1896 given a most positive statement as to the essential characteristics of a battle ship, making specific comment concerning 'freeboard,' 'gun heights,' and location of water-line armor belt; that the general board of the Navy, as recently as 1903-4, had still further reinforced previous service opinion as to the freeboard requisite in a battle ship and had named the *Iowa* as a type which impressed favorably; the *Iowa* , be it noted, having less freeboard than any of the battle ships of the present Atlantic Fleet except the *Keokuk* and *Kentucky* ; also that the question of distribution of water-line armor had been given the most careful consideration in connection with each design of battle ship developed; that the designs of all United States battle ships were passed upon by the board on construction, the majority of whose members were seagoing officers; that at all times the Construction Bureau of the Navy Department has been in the closest touch with the seagoing element of the service; that the officers of the construction corps are selected from specially qualified officers of the line, are then given additional instruction in naval architecture, and ultimately transferred to the construction corps, full details as to the method of selection and subsequent training being given in the special reports heretofore alluded to; that all of the ships of the British navy and the Japanese navy, with the exception of the latest type, the *Dreadnought* , and possibly the *Majestic* , had approximately the same height of freeboard, height of gun axes, etc., as American vessels of approximately the same date; that the Japanese battle ships engaged in the battle of the Sea of Japan were designed and built in England and followed in their design the British school, having moderate freeboard; that the Japanese battle ships in the battle of the Sea of Japan appeared to have no difficulty whatever in fighting their batteries to great advantage in spite of the character of the weather, which was described by Mr. Reuterdaahl himself as being 'nearly a gale.'

"There seems, therefore, no possible escape from the conclusion that the 'freeboards,' 'heights of gun axes,' 'water-line distribution of armor,' etc., of battle ships of the United States Navy have been based upon the best possible judgment of representative officers of the seagoing branch of our own and foreign services, and that the battle ships of the United States Navy are in these respects fully equal to similar vessels in the British and Japanese navies."

The most recent information received from the commander in chief of the Atlantic Fleet, from the naval constructor attached to his staff, and from an officer who has recently returned from an inspection of certain foreign dockyards fully convinces me of the accuracy of statements heretofore made in my reports and the testimony before the committees of Congress concerning the general excellence of battle ships of the United States Navy, not only as regards vessels in course of construction, but those in commission and attached to the Atlantic Fleet, due allowance being made, of course, for those developments in naval matériel subsequent to the completion of certain battle ships now in active service.

There are attached hereto, as requested by the committee, copies of the contracts for the *Delaware* and *Louisiana* , a copy of the report of the board of which Admiral J. G. Walker, United States Navy, was president, submitted to the Navy Department under date of May 18, 1896, and a copy of the report of the special turret board; also tabular statement giving lengths and widths of side armor on United States battle ships.

Very respectfully,

W. L. CAPPS,
Chief Constructor, United States Navy, Chief of Bureau.

Hon. EUGENE HALE,
Chairman Committee on Naval Affairs,
United States Senate.
(Through Secretary of the Navy.)

APPENDIX D.

LETTER OF CAPT. R. R. INGERSOLL, UNITED STATES NAVY, CHIEF OF STAFF,
TO REAR-ADMIRAL EVANS, UNITED STATES NAVY, IN COMMAND OF THE
FLEET.

DEPARTMENT OF THE NAVY,
GENERAL BOARD,
Washington, April 16, 1908.

SIR: In accordance with the instructions contained in your letter of the 14th instant, No. 26000-6, to submit a brief communication embodying the substance of the statements with respect to the location of the water-line armor on our battle ships and the general excellence of our battle ships, as made to you in conversation, I have the honor to submit the following:

1. During the recent voyage of the Atlantic Fleet it was observed on many occasions in the moderate seas which were met with, particularly in the trade-wind sea from Trinidad to Rio de Janeiro, that the whole of the armor belts below the water line on the ships of the fleet was exposed. In discussion of this fact with other officers of the fleet it was the consensus of opinion, so far as I know it, that the position of the lower limit of the armor belts should not be raised, for the reason that if in a moderate trade-wind sea the lower edge of the armor belt is exposed, the damage possible by a shot under the armor belt would be enormously greater than a much heavier projectile could inflict striking above the water-line belt. That is to say that the protection afforded by the present width of armor belt in its present position is greater than if it were raised.

2. The exposure of the lower edge of the armor belt was noticeable even when the ships were deeply laden with coal and stores, as well as with double bottoms filled with fresh feed water for boilers.

3. In my opinion our ships, class for class and of corresponding date of construction, are the equals of the ships of any other nation and in many respects the superiors. They are as well protected by armor, have rather more offensive power, are as fast, and have as great a steaming radius as ships of the same date and class in other navies.

4. In conclusion, I beg to emphasize my belief that our ships are as efficient in design and construction as those of the same date in other navies.

Very respectfully,

The SECRETARY OF THE NAVY.

R. R. INGERSOLL,
Captain, United States Navy.

APPENDIX C.

[Scientific American, New York, Saturday, January 18, 1908.]

The Reuterdaahl attack on our Navy.

1.—WHO DESIGNED OUR NAVY?—WAS THE SEAGOING OFFICER IGNORED?

The present reply to the recent attack on the ships of our Navy and the men who design them is, it is needless to say, in no sense inspired. It is written purely in the interests of truth, being based upon facts with which we have long been familiar, and most of which have appeared in earlier issues of the *Scientific American*; and it is devoid of course of any personal feeling. When Mr. Reuterdaahl states that he is highly appreciative of the American Navy, we believe him—and this in spite of the fact that, if all he alleges be true, the ships of that Navy, under certain battle conditions, would be unable to fire their guns, and must promptly be sent to the bottom. Moreover, we are prepared to admit that some of the points in this article, and particularly those dealing with the bureau system and the scant encouragement shown to the American inventor, are well taken. But having made this reservation, we do not hesitate to say that, from first to last, the article is so full of technical errors regarding the ships themselves—errors which range from slight variations from the facts up to absolute misstatements—that, for anyone who has an intimate knowledge of the matériel and methods of the Navy, it carries its own direct refutation. But, unfortunately, of the thousands of American citizens who may have read this article not one in ten thousand probably has any such knowledge of the facts, and hence it follows that no end of people who have always taken a patriotic and very proper pride in our Navy must necessarily find their faith rudely shaken. Unfortunately there have not been wanting certain officers of the line who have lent themselves freely to the questioning of the newspaper reporter, and have so far indorsed the general trend of the article as to convey the impression that the whole of it is true; and this in spite of the fact that they must know perfectly well that much of it is a gross exaggeration.

In the first place, then, let it be clearly understood that the present controversy is as old as the Navy itself, and that many of the criticisms now made public have been urged over and over again, carefully debated, and action taken upon them in the secret—and very properly secret—deliberations of the Navy Department. It is the bold publication of the whole matter in an article whose inspiration seems to bear strong internal evidence of being semi-official that has brought the subject so prominently and suddenly to the wide attention of the public. It is not our intention to enter, in the present issue, into any detailed refutation of the many misstatements made by Mr. Reuterdaahl regarding the matériel—i. e., ships, guns, armor, etc.—of our Navy. This matter we shall take up in a succeeding article. What we wish to do here is to clear the ground and put our readers in a position for judging the question more intelligently, by showing how it has become possible that there should be such an apparently wide divergence of opinion between the men who design our ships and the men who command and fight them. And let it be noted here very carefully that we speak of an apparent divergence of opinion, for we shall show that, so far from the seagoing officers having nothing whatever to say about what kind of vessels shall be built, they have been in the actual majority on the many boards that have determined the characteristics of our ships, and on some questions have outvoted the constructors at the ratio of ten to one. The Navy Department has been scrupulously careful to give them every opportunity to express their views and, indeed, has been in the habit of sending out official letters inviting the most frank discussion and the freest offering of any suggestions.

The designing of battle ships and cruisers is without doubt one of the most complicated and difficult tasks in the world—so rapidly do new ideas become old, so swiftly do novel and revolutionary methods become popular. And the naval constructor would be more than human if, in the midst of these ever-changing standards and ideas, he should always succeed in building a ship that embodies only those elements which are bound to remain permanent in the years to come. At his best he is but human. He is no seer or prophet. At times he is bound to make mistakes; a fact which, as the official records show, he is perfectly willing to admit.

One serious fault and crying injustice in the whole of this discussion is the fact that the impression has been conveyed, and purposely conveyed, that the work of determining the characteristics of our war ships is exclusively confined to the Bureau of Construction and Repair; that this Bureau is a kind of "close corporation," extremely jealous of its prerogatives and slow to accept any suggestions from the outside, and that it is peculiarly marked by that narrow range of outlook which is supposed to distinguish the purely technical, the "office" man, from the "practical" outside man. Now, the merits of this question are necessarily of a nature which can be determined only by reference to the official records of the Navy Department, in which, fortunately for this discussion, is to be found a full history of the deliberations which preceded the final choice of plans for the ships of our modern Navy.

Who is it, then, that is responsible for the design of our war ships, and what share, if any, had the seagoing officers in determining the characteristics of the ships which a certain clique among them now so freely condemn? There is a provision of the Navy Regulations by which the "general supervision over the designing, constructing, and equipping of new vessels for the Navy" is delegated to what is known as the "Board on Construction," which is composed of the chiefs of the four Bureaus of Equipment, Ordnance, Construction and Repair, and Steam Engineering, with an additional officer of the seagoing branch. The chiefs of the first two named Bureaus are seagoing officers, and these two, with the additional officer above named, serve to place the seagoing element, as compared with the Construction Corps, in the proportion on this board of three to one. That does not look as though the constructive branch had any arbitrary control over the design of ships or that seagoing officers were without adequate representation. Moreover, on the 1st of July, 1907, there were thirty-four seagoing officers serving as assistants in the Bureau of Ordnance and Equipment, and on duty under the Bureau of Ordnance at the Washington Navy-Yard. These thirty-four officers are thoroughly representative of the seagoing branch of the naval service and are in close and constant touch with the chiefs of their respective Bureaus, and advantage is taken of their wide practical knowledge in matters affecting the preparation of new designs. By this arrangement the Board on Construction has the advantage of suggestions born of the practical knowledge of the seagoing officers upon such features as magazine arrangements, ammunition stowage, coaling arrangements, and the location and method of installation of all mechanisms coming under the cognizance of the Bureau concerned.

Clear proof of the important part played by the seagoing officer in determining the military features of our ships will now be given in connection with the battle ships which have been designed since the Spanish war; and just here it will be well to draw attention to the fact that at the close of the war and at the request of the Bureau of Construction and Repair a special order was issued by the Secretary of the Navy to commanding officers of vessels requesting that those who served during the war make reports as to the operation of their ships, specifying both the good points and the bad points and suggesting any improvements which might be desirable. An analysis of the numerous reports submitted indicates that, in the opinion of the seagoing officers of that period, such defects as existed were not of a serious character. The criticism was the result of the experience, under war conditions, of seventy-five officers; and they were so favorable as to lead the Chief of the Bureau of Construction to state in his next annual report that with regard to the strength, stability, seaworthiness, and maneuvering powers of the vessels of the various classes, the war experience tended to confirm the favorable opinions previously arrived at and to demonstrate the general success of the designs.

At the close of the war the three battle ships of the *Illinois* class were in course of construction, and, encouraged by the results of the war as endorsing the general system of construction, the plans of the new *Maine* class provided for vessels of the same general character as the *Illinois*, but with more speed and greater displacement. Thus it will be seen that as far as the military features of the six battle ships of the *Illinois* and *Maine* classes are concerned, they were substantially endorsed by the specific reports of seventy-five officers who saw active service during the war, and that they were worked out by a board the majority of whose members were seagoing officers.

The Scientific American holds no brief for the board on construction, and we bring these facts before the public simply to correct the absolutely false impression that the determination of the leading features of our war ships is restricted to a single bureau, and that it does not embody the rich and valuable experience of the seagoing officers of the line.

Following the *Maine* came the five ships of the *Virginia* class, whose otherwise admirable qualities are marred by the fact that they carry the double-deck turret, one of the most unfortunate mistakes ever committed in any navy. The double-deck turret was nothing new in our service. It was the design of a young ordnance officer which was enthusiastically taken up by the seagoing officers of the line and, because of its theoretical advantages, became extremely popular. It is on record in the files of the Navy Department that the naval constructors to a man bitterly opposed the introduction of this type of mounting, and it was installed upon the *Kentucky* and *Kearsarge* against their strong protest. They opposed the turret on several grounds, among which were the following: That there was a lack of independent action of the 8-inch guns; that four guns of two different calibers on one single mounting would deliver a less volume and a less accurate fire than if the two types were severally mounted; that the great concentration of weight at the ends of the vessel and the enormous weight on the roller path were objectionable; that the efficiency of four important guns was dependent upon one controlling apparatus, and that the error of one gun pointer enters into four guns.

Unfortunately, after a bitter fight to keep it out of these five splendid ships, the influence of the seagoing officers was successful in incorporating the double turret. In the first plan for the *Virginia* class the majority of the board on construction proposed an armament of four 12-inch guns in two turrets and eight 8-inch guns in four turrets, mounted amidships; but one seagoing member of the board dissented from the majority report and recommended that four of the 8-inch guns be superposed upon the 12-inch turrets. This opened up the old controversy of the *Kearsarge* period, and in order to have the subject well thrashed out, the Navy Department made an addition to the original board of construction of eight additional seagoing line officers, thus forming a special board for the purpose. This board approved by a majority report the use of the superposed turret. Later another special board was convened, consisting of the board on construction, with the addition of two rear-admirals and five captains, and, as a final result, ten out of the twelve members signed a majority report in favor of installing the superposed turret in the *Virginia* class. One rear-admiral and the naval constructor signed a minority report. In these two boards the ratio of seagoing officers to naval constructors was, respectively, ten to one and eleven to one, so that the superposed turret must ever be looked upon as the special protégé of the seagoing officer.

The superposed turret, moreover, came very near being emplaced upon the *Connecticut* and the *Louisiana*, a minority report of the board which decided on their plans advocating an armament of four 8-inch guns superposed on the 12-inch turrets, and four 8-inch guns in broadside turrets. The final designs for these ships, from which the superposed turret was excluded, were adopted only after an extended discussion, in which the question of the battery arrangement alone was made the subject of report or suggestion by upward of eighty naval officers.

The designs for the following three ships, *Vermont*, *Kansas*, and *Minnesota*, are practically identical with those of the *Connecticut*, some slight changes being made in the distribution of the armor.

The faults of the two battle ships, *Idaho* and *Mississippi*, are directly chargeable to the mischievous custom of Congress, by which it specifies the limits of displacement of the ships which it authorizes. This was put at the ridiculously low figure for a modern battle ship of 13,000 tons, and on this limited displacement the board was requested to design, forsooth, "two first-class battle ships carrying the heaviest armor and the most powerful ordnance of vessels of their class." Under the circumstances something had to be sacrificed. Four of the five members of the board on construction, including two of the three seagoing members, recommended a vessel with battery arrangement similar to that of the *Connecticut*, but carrying four less 7-inch guns, with a lower freeboard aft, and having 1 knot less speed, submerged torpedo tubes being also omitted. The Navy Department, before approving this report, invited an expression of opinion from nine officers of large experience in the Navy, which was duly offered. In submitting its final report, the board on construction stated that the designs of these 13,000-ton ships did not "represent its opinion of what first-class battle ships should be nor what the United States Navy should have."

The naval appropriation act of March 9, 1905, authorized the construction of two 16,000-ton battle ships, and the final plans of these vessels, which are now known as the *South Carolina* and *Michigan*, embodied the all-big-gun idea. These ships were the first to embody an arrangement of turrets which, although it was subjected to much criticism at the time of its first publication, seems now likely to become the standard practice throughout the navies of the world. We refer to the method of mounting the eight 12-inch guns in four center-

line turrets, so as to allow all of the guns to fire upon either broadside. This arrangement, like that of the emplacement of eight 8-inch guns in four turrets arranged quadrilaterally, as in the *Oregon*, originated in the Bureau of Construction, and it bids fair to be a permanent feature in future battle ships. The excellence of the design of these ships is beginning to meet with the approval which it merits, and we give the following quotation from a well-known foreign paper which is devoted exclusively to naval matters: "Few, if any, ships are likely to be built in the future which can not use all guns on either broadside. This may be taken as certain. America, in the *South Carolina*, led the way in this direction, and the ship of the future is bound to be some improved variation of her." * * * There is some good reason to believe that, taking all things into consideration, the *South Carolina* type is the best all-big-gun ship yet in hand."

The plans of the 20,000-ton battle ships *Delaware* and *North Dakota* were unanimously approved by the board on construction, the majority of whose members are, as we have seen, seagoing officers. They were subsequently referred to and approved by a special board, the majority of whose members were seagoing officers, and finally were indorsed by special act of Congress.

It will be evident from the foregoing review of the facts regarding the responsibility for the design of our warships, as recorded in the files of the Navy Department, that the ships of our Navy represent the accumulated experience and critical judgment, not merely of one bureau of the Department, but of the very pick and flower of the personnel of the Navy. Having fully established this fact, we shall, in our succeeding issue, take up seriatim the charges made by Mr. Reuterdahl against the matériel of the Navy, and we shall show that though, in one or two cases, the charges are to the point, they are, as a general rule, grossly in error.

[Scientific American, Saturday, January 25, 1908.]

The Reuterdahl attack on our Navy.

II. ARE OUR SHIPS INFERIOR TO THOSE OF THE LEADING FOREIGN NAVIES?

Replying in our last issue to the charge that the supposed faults in the war ships of the United States Navy are due to the fact that the designing of these ships is confined to a particular board and certain bureaus, and that the seagoing officer has little to say about the matter, we proved conclusively that, so far from his being ignored, the seagoing officer has been in the majority on the various boards which have determined the leading characteristics of our vessels. We showed that our ships, and particularly those built since the Spanish war, embody the ripe experience of the ablest men in the various branches of the naval service. Yet we are asked by Mr. Reuterdahl, in McClure's, to believe that "the ships of the battle fleet of the United States are in exactly the same condition as the Russian ships at Tsushima;" that the guns, mounted at low elevation, protrude from rawling gun ports, into which volumes of water will pour in a sea-way, and through which shells will enter and burst, killing the gun crews, cutting the ammunition hoists to pieces, and blowing up the magazines; that the whole of the thick armor belt is generally below the water line, and that shells would blow in the thinly armored sides above the submerged belts; that our ships are without torpedoes and torpedo tubes and without suitable guns to fight off the enemy's destroyers, and so forth and so on—the upshot of it all being that our Navy is in no condition to go to war, and therefore, we suppose, must be considered as of practically no consequence at all. In the present article we will take these charges seriatim, and show that, generally speaking, they are either gross exaggerations or have no basis whatever of fact.

It has long been recognized among naval experts that all criticisms and comparisons of ships, if they are to have any value, must be referred to some common standard, comparison being made only between ships of the same date and the same displacement, and all questions of draft, freeboard, height of guns, etc., being referred to some common water line. The broad underlying fallacy which vitiates not merely Mr. Reuterdahl's article, but the whole of the campaign of criticism of the past few months, is that this essential principle has been largely ignored.

1. Submerged armor belts.—Mr. Reuterdahl states that "of all our battle ships not one shows the main armor belt 6 inches above the water when fully equipped and ready for sea." As a matter of fact, our ships, if we include those now building, show from 18 inches to 11 feet 6 inches of thick armor above the water line when fully equipped. Because the water line of a ship must change with the amount of load she has on board, it is necessary to have some fixed datum to which her displacement, draft, freeboard, etc., may be referred. This datum in our own and the British navy is known as the mean or normal water line. It is the level at which our ships float when they have about two-thirds of their ammunition and stores and about 800 or 900 tons of coal aboard; and it is at this draft that the ship is required to make her specified speed during the Government trials. Thus in the case of the *Vermont*, whose designed normal or mean draft is 24 feet 6 inches, the top of the armor belt at this draft is 4 feet 3 inches above the water line, and in this condition she is carrying two-thirds of the full supply of ammunition and stores and displaces 16,000 tons. At the designed full-load displacement she displaces 1,650 tons more. It takes 63.14 tons to sink the *Vermont* 1 inch deeper in the water, and hence the addition of 1,650 tons will add 26 inches to her draft. Hence, at full-load draft, the top of the belt would be still 25 inches above the water. Similarly, the *Maine* increases her draft from normal to full-load displacement by 20 inches, leaving 22 inches of the main belt above the water at full load. In preparing for a cruise like that to the Pacific, however, a large amount of extra material is taken aboard, and the last pound of coal is crowded into the bunkers. One of the battle ships now on the Pacific cruise, in addition to spare propeller blades, anchors, etc., carries an extra crank shaft for her engine. But even with this added load the ship in question showed her belt above the water line.

There has been altogether too much wild talk about submerged armor belts, and its absurdity is evident when it is brought to the cold test of facts and figures. A naval officer recently assured the writer that the *Virginia* not long ago started from a navy-yard with the top of her belt 2 feet below the water. Now, in dissecting this statement we find that at normal load, when the *Virginia* displaces 15,000 tons, this mark is 3 feet above the water; so that, according to our informant, she must have sunk 5 feet, or 60 inches, below her normal draft. It takes 60.95 tons to sink the *Virginia* 1 inch below her normal draft. Therefore, to get her belt 2 feet below the water, she must have taken on board 2,657 tons dead weight, and her displacement must have been 18,657 tons, 700 tons greater than that of the huge British battle ship *Dreadnought*. This is a fair sample of much of the absurd talk

that has been indulged in during the past three months on this question of submerged armor belts.

Furthermore, even if the belts were submerged, which they are not, when our ships start out to fight and find the enemy, the consumption of coal, provisions, water, etc., would bring them up several inches a day, and by the time they met the enemy it is probable that they would be floating not much below their normal draft, with several feet of the belt above water.

2. *Low freeboard.*—Mr. Reuterdaahl has much to say about the "low-ness" of American ships, and he would have us believe that the forward decks are much lower than those of foreign ships. He says: "All" (the italics are ours) "modern battle ships in foreign navies have forward decks about 22 to 28 feet above water." We have no space to consider the various foreign navies in detail, and in this reply we will confine ourselves to the acknowledged leader of them all—the British navy. What are the facts? With one single exception—the *Dreadnought*—there is not a British battle ship in commission with a forward deck 28 feet above the water, all the other modern battle ships being, like our own, three-decker ships—that is, having a berth deck, gun deck, and main or upper deck above the protective deck; and the height between decks being about the same for all ships, viz, from 7 feet 6 inches to 8 feet, it follows that the height above normal water line is approximately the same. As a matter of fact, on several of our ships the height between decks is greater than on the British ships, and the freeboard is correspondingly greater. The two photographs herewith shown of the *King Edward* and the *Vermont*, selected because the ships are of about the same date of design, show the *Vermont* to have actually a foot more freeboard on the same normal flotation line. The "draft marks" (figures painted on the side) on the *King Edward* clearly indicate the position of the normal water line for her known normal draft of 26 feet 9 inches.

3. *Broadside guns useless in a seaway.*—The question of freeboard is intimately associated with that of the height of guns above water. Though we have not at hand the figures of freeboard of the British ships, the low elevation of broadside batteries on certain crack British ships as compared with our own proves conclusively that their freeboard must generally be considerably lower, and not, as Mr. Reuterdaahl states, considerably higher, than that of our ships of the same date. Therefore all his pictorial description of the trouble our turrets and broadsides would encounter when steaming in a seaway may be relegated to that land of fiction to which so much of this article belongs.

Not only would "one-third of our guns" not be "useless in a seaway," but the muzzles of the guns would be clear of the water when the eight battle ships of the *King Edward* class and the two battle ships *Swiftsure* and *Triumph* class, to say nothing of the four armored cruisers of the *Drake* class, would be rolling theirs under.

We have always been a great admirer of Mr. Reuterdaahl's marine pictures; and one of the chief elements of their charm, for the writer at least, is their freedom of treatment. The trouble with the present article is that the artist has carried this freedom of treatment into a field from which it should have been most rigidly excluded. The statement that "broadside guns of foreign battle ships and cruisers are, generally speaking, twice as high as ours, and many of them three times as high," would be startling, indeed, if it were true. As a matter of fact, our broadside guns are as high as the similar broadside guns in the German and Japanese navies, and, as we have seen, are from 2 to 4½ feet higher than those in some of the finest modern battle ships and cruisers of the British navy.

The question of giving ships a lofty freeboard is not as simple as Mr. Reuterdaahl seems to think. To add a forecastle deck, raising the freeboard from 20 to 28 feet, means the addition of an enormous weight, and, on a given displacement, involves heavy sacrifices, either in guns, armor, speed, or coal supply. Grave questions of stability are also encountered. We hear much in this controversy about the high freeboard of the French ships. As a matter of fact, there are two schools of designs: The French, favoring lofty freeboard, and the British, American, Japanese, and to a less extent the German, favoring a 20-foot freeboard. The British, of whom Mr. Reuterdaahl mistakenly gives the impression that they have several 28-foot freeboard ships, were content with 20 feet until the great length of the *Dreadnought* compelled the addition of a forecastle deck to give her good sea-riding qualities. All this talk about flooded turrets and broadside guns useless in a seaway is no more, and not as much, applicable to our own Navy as it is to the others of the same school. The battle of Tshushima was fought by Japanese ships of the same freeboard as our own and in weather that was described in Admiral Togo's report as "rough." But we have yet to hear that the Japanese broadside guns were "useless in a seaway;" and our broadside guns are as high, if not higher, than theirs.

4. *Poor protection for gun crews.*—Mr. Reuterdaahl's imagination never leads him so far away from the facts as when he comes to speak of the poor protection for gun crews due to overlarge gun ports and the poor subdivision of the broadside batteries. The story of the "enormous" turret ports of the *Kearsarge* and *Kentucky*, and the pathetic incident of the "painted wooden canvas screens" has been retailed to the public ad nauseum. As a matter of fact, these turret ports are large only in comparison with the naturally smaller ports which appear in turrets using an inclined face of the character shown on our front-page engraving. The *Kentucky* and *Kearsarge* are pretty old ships, as things go nowadays, for their designs were prepared some thirteen years ago. The turret ports were no larger than the necessities of the type of gun mount used at that period demanded. The fronts of the turrets of the *Alabama* class, which followed the *Kearsarge*, are inclined, and the ports are proportionately smaller. It is an abuse of the ethics of fair criticism to keep ringing the changes on the supposed poor design of this out-of-date ship, without making any reference to the fact that in all of our later ships the ports have closed in on the guns until the protection is ample. Mr. Reuterdaahl is so fascinated with these "yawning gun ports" that apparently he sees double, if not quadruple, for he tells us that "the openings above and below the guns in the turrets of these ships are 10 feet square." Were this indeed the case, there would be not 1 square foot of the port plate left, and the Empire State express could drive bodily into the turret without let or hindrance. Well might "the service journal, the Navy," say that "these ships are not fit for service in battle line against a really modern vessel." In his search for further proof of poor protection for our gun crews, Mr. Reuterdaahl goes back to ships that were authorized from twelve to seventeen years ago, and speaks of the broadside guns which "stand glowering from unprotected or badly protected openings as wide as double doors;" but he omits to state that most foreign ships of the same date used the same wide ports, and that many of them, notably in the British navy, mounted their guns in the open with nothing but shield protection. So also he states, by implication, that there is no attempt at isolation of the

separate broadside guns from shell fire on eleven of our battle ships, upon which, as a matter of fact, special screen protection has been carefully provided.

5. *The open shaft to the magazine.*—That Mr. Reuterdaahl's criticisms of the open shaft, or well, leading down from the turret guns to the handling room below is well made, is proved by the fact that what is known as the "interrupted hoist," with a floor cutting off the upper from the lower part of this shaft, is being installed on our latest ships. It is only fair, however, to bear in mind the considerations which led to the adoption of the present type of hoist. In the first place, at the period when it was designed, our ordnance officers were anxious to avoid a very serious defect which existed in many foreign ships, and noticeably the British, namely, that the loading could be done only in one position. That is to say, if a ship were firing on the broadside, her turret guns would have to be swung back to the axial position for loading to bring the breech in line with the loading tray and rammer, an arrangement which entailed a great loss of time and a slow rate of fire. Our officers designed a hoist which rotated with the gun and its carriage, and brought the ammunition direct from the handling room to the breech, no matter on what point of bearing the gun was laid. This, of course, necessitated an opening direct down to the handling room. In its later form the hoist was given a high speed of 600 or 700 feet a minute, and it is believed to give a more rapid service and enable a faster rate of fire to be obtained than is possible with the big guns of other navies. The hoist gave great satisfaction, and no complaints were heard until the introduction of smokeless powder developed the danger of "flarebacks." To meet this difficulty the Ordnance Bureau provided gas ejectors for blowing the combustible gases out of the gun before the breech was opened, and stringent regulations were laid down to prevent crowding of ammunition up to the gun in the effort to obtain rapidity of fire at target practice.

Later, an intersecting floor of steel was placed at the mid height of the turret shaft, with an automatic shutter, which lifted as the charge passed through and then fell by its own gravity, shutting off the handling room from the turret. With a view to shutting off the ammunition room from the handling room floor below the turret, the doors of the ammunition room are provided with circular hinged shutters, and the instructions are that these shutters shall be closed except when a charge is passed through them. Now, it is well known in the Navy that, in the zeal to secure good target records, these safety devices have, at times, been rendered inoperative; and it is a fact that much of the loss of life in the target-practice accidents of recent years would have been avoided had the safety devices been fully utilized, and the instructions for safeguarding the powder been strictly followed. There is one feature in which the hoisting gear of our turrets is subjected to unjust comparison with that of foreign battle ships. The impression may be gathered from Mr. Reuterdaahl's description that every foreign battle ship has an independent ammunition hoist, with track, ammunition cars, and cable complete in itself. This is not the case. There is but a single cable, and the auxiliary gear consists of a hand-operated crank-shaft geared to the motor shaft, which drives the one cable. Should the motor be short-circuited or otherwise injured, the driving shaft can be hand-operated, but, of course, at only a slow speed. If a shell fragment should cut this cable on a foreign ship, the whole hoist would be immediately put out of business and the turret would be just as completely disabled as our own.

6. *Lack of torpedoes and destroyers.*—We are entirely in agreement with Mr. Reuterdaahl in his belief that our weakness in torpedo-boat destroyers is a distinct menace to the efficiency of the Navy. Congress should make liberal appropriations for ships of this type, which should be of not less than 750 tons displacement and 30 to 32 knots speed. Such boats should be of sufficient strength and freeboard to enable them to cruise with the fleet in any weather. But Mr. Reuterdaahl is in error when he considers that the lack of submerged torpedoes in the ships of the Pacific Fleet is a serious matter. Expert opinion on this question has been "seesawing" for several years, according as the speed and range of the torpedo or the range and deadliness of armor-piercing gun fire have been in the ascendancy. In 1903 the General Board, speaking on this question, said: "The range, speed, and accuracy of torpedoes have so greatly increased within the last year or two that at the present time the torpedo may be considered a weapon of offense to be seriously reckoned with up to 3,000 yards, and even more. Since gun fire, in order to result in a decisive action, must be delivered at a range not greatly exceeding 3,000 yards, it follows that the tactics of fleet actions will hereafter be influenced by the presence or absence of torpedoes." Since that opinion was given the battle range has increased from 3,000 to 8,000 or even 10,000 yards, as witness the remarkable shooting up to 9,000 yards made by our own *Connecticut* during the past summer. At such ranges the torpedo becomes an incumbrance, and the space occupied by the submerged torpedo room may much better be given up to coal or stowage.

In concluding this answer to the criticisms of Mr. Reuterdaahl's article, and to the general campaign of criticism by which it was preceded, we wish to state that the Scientific American has based its statements upon facts which are either of its own knowledge or gathered from public Government documents. We believe that after a careful consideration of the facts as here presented the general American public will agree with us that our Navy stands second to none in the general efficiency of its ships.

There is one feature, however, in which our ships are superior, and often greatly superior, ton for ton, to the ships of other navies. We refer to the exceptionally heavy armament which they carry. Since the days of the Revolutionary war it has been our aim to mount upon our ships heavier batteries than were carried by foreign ships of corresponding size, and to this policy very largely have been due most brilliant victories, particularly where single ships were engaged. That policy has been steadily followed in the creation of our new Navy, whose birth may be dated from the year 1883. Although Congress has persisted in the most unreasonable practice of stating what the displacement of the ships shall be, the Department has succeeded in equaling the foreign ships in speed, protection, and coal supply, and at the same time has greatly outmatched them in the weight of the armament.

[Senate Document No. 427, Sixtieth Congress, first session.]

HEARINGS ON ALLEGED STRUCTURAL DEFECTS IN UNITED STATES BATTLE SHIPS.

Mr. HALE presented the following article from the Scientific American (April 4, 1908) on the hearings on alleged structural defects in United States battle ships.

THE SENATE HEARING ON THE ALLEGED DEFECTS OF OUR NAVY.

The Senate hearing on the alleged defects in the vessels of our Navy was held with a view of ascertaining the exact facts regarding the freeboard, position of water-line armor, height of guns, and other

features of our battle ships as compared with those of the leading foreign navies. The proceedings were very exhaustive, and resulted in the presentation of a vast amount of information, accompanied with detailed plans bearing upon these important points. The people of the United States will be gratified to learn that the evidence which has thus far transpired is not only a complete vindication of the excellence of the ships of our Navy, but it proves them to be, in some respects, decidedly superior to foreign ships of the same date and type.

It was evident from the testimony given by certain seagoing officers who have been active in criticism of our ships that they indorsed the allegations made in what is known as the Reuterdahl article. Now, the charge made in that article (and it is well to be perfectly clear on this point) was not so much that our ships could be made better than they are (a fact which everybody is prepared to admit), but that our ships are inferior, and greatly inferior, to the ships of foreign navies. It is with this last statement in particular that we have always taken decided issue. *The Scientific American* claims (and not a word of truth has been adduced to show the contrary) that our battle ships of any given type and date are as efficient as foreign battle ships of the same type and date, and in respect of their armament are greatly superior.

The official cross sections of a large number of typical foreign battle ships, which were presented in the recent Senate hearing, prove that this contention is absolutely correct. Compared with the British and Japanese ships, our armor belts are as thick, and sometimes thicker; they are in the same position with regard to the water line; our freeboard is as great, and in some cases greater; our broadside guns are carried as high, and generally higher; our rate of ammunition supply is as rapid, and in many ships more rapid; and (greatest surprise of all) the open ammunition hoist to the turrets is not peculiar to our own Navy, but is found in several of the crack battle ships and cruisers of other navies.

That the above comparison is a high testimony to the quality of our ships will be recognized when we mention that the cross sections cited are of such ships as the British *Royal Sovereign*, *Majestic*, *King Edward*, and *Dreadnought*, and the Japanese *Asahi*, *Mikasa*, *Kashima*, and *Aki*; and we may mention just here that even in the case of the two crack battle ships, *Mikasa* and *Asahi*, of the Japanese fleet, the broadside guns are only about 12 feet above the water line, as against from 14½ to 15½ feet on our own ships. So, also, in the comparison with contemporaneous French ships, it is found that the thickness and position of our armor belts is fully as satisfactory; that the armoring of the top sides is greatly superior, and that in respect of the freeboard only and the heights at which the guns are carried have the French ships any so-called "advantage." That lofty guns and towering top sides have been adopted at the expense of stability is shown by the fact that, with one exception, the French-type Russian battle ships which fought in the battle of the Sea of Japan proved their topheaviness by turning turtle and going to the bottom. Furthermore, the one French-type ship, the *Orel*, which was captured by the Japanese, was changed by them to the American type by cutting down her decks and lowering her gun positions, as is clearly shown in the illustrations on page 241 of this issue.

According to press dispatches, Rear-Admiral Evans has sent to the Department a report upon the behavior of our ships during the Pacific cruise, in which certain suggestions are made with reference to the questions of armor belts, turrets, freeboard, etc., which are now in debate. The report contains the opinion of a naval constructor detailed especially to watch the behavior of the vessels, and of various seagoing officers in charge of the ships. In due course, when this report becomes available, we hope to give a review of its salient features. According to press dispatches, Naval Constructor Robinson noted that although, in the main, the voyage was made in quiet weather the ships at times rolled sufficiently to expose the unarmored bottom below the belt, and hence the suggestion of some of the officers that the belt be made wider is accompanied with the stipulation that the bottom of the belt be left in its present low position. It is suggested that the additional weight due to wider belts be compensated for by the removal of what is termed "superfluous weight." We believe that no small reduction of weight can be made in this way, for it is a notorious fact that our ships carry, in the way of comforts and conveniences for officers and men, much weight that is not to be found in foreign battle ships. It is also stated that Rear-Admiral Evans "recommends taking off the after bridges;" though why he should do this, when it was at his earnest insistence, and in opposition to the strong wish of the construction department, that an extra flying bridge was built aft on the *Connecticut* for his special use, we are at a loss to understand. Commenting on the suggestion of some of the commanding officers that the belts might be raised from 6 inches to a foot higher (which, by the way, would bring them just where they were designed to be before extra weights were added during construction) Admiral Evans says:

"But even this is open to question, for it has been noted that even when heavily laden and in the smooth to moderate seas, which have thus far characterized this cruise, the ships frequently expose their entire belt and the bottom plating beneath.

"It must be remembered that even a 5 or 6 inch shell, of which there would be a great number, could inflict a severe and dangerous injury if it struck below the belt, while otherwise the water line, even with the belt entirely submerged, is, on account of the casemate armor and coal, immune to all except the heaviest projectiles.

"The fact is that under the sea conditions in which battles may be fought a belt 8 feet in width, if considered alone, is too narrow to afford the desired protection wherever it may be placed, and the question becomes an academic discussion, with certain arguments on each side.

"It is understood that on the latest ships this question is of little import, as the citadel armor is but 1 inch less in thickness than on the water line, and for those ships already built it is believed that when the bridges are removed and all weights which would be landed should war break out are taken into consideration, the ship will rise to the 6 to 12 inches, which is believed to be the maximum that it could be desired to raise them."

If, as is reported, the admiral states that the broadside guns "can only be used to advantage when the battle ships are not steaming more than 10 knots," we can only say that bad, indeed, must be the case of the battle ships of other navies, the majority of which carry these guns from 1 to 3 feet nearer the water than do our own ships.

The country is to be congratulated on the fact that the recent wild and baseless criticism of our ships should have been made just when the fleet was starting for the Pacific. In spite of the fact that most of it was either false or grossly exaggerated, it has done an incalculable amount of good; for, as a result of the discussion and investigation which has followed, a large amount of information has been made

public regarding our ships, which scarcely could have become known in any other way. Not only have they now a more intelligent knowledge of our Navy, but the confidence of the people of the United States in the excellence of our ships has been greatly strengthened. As a further indorsement, there has come the brilliant success achieved by Admiral Evans and his officers and men in bringing that fleet through its 14,000-mile trip in perfect order and two days ahead of the schedule time.

APPENDIX D.

APPENDIX ACCOMPANYING HEARING OF THE CHIEF OF THE BUREAU OF CONSTRUCTION AND REPAIR BEFORE THE COMMITTEE ON NAVAL AFFAIRS, HOUSE OF REPRESENTATIVES, IN RELATION TO ALLEGED DEFECTS IN DESIGN OF UNITED STATES BATTLE SHIPS.

N. B.—The following extracts from foreign publications are submitted without comment and merely as indicating European opinion with respect to some typical designs of United States naval vessels:

"Extracts from a paper contributed to the proceedings of the Institution of Naval Architects (London) in 1891, on 'Some recent war-ship designs for the American Navy,' by J. H. Biles, subsequently professor of naval architecture at the University of Glasgow, and extracts from the discussion of the above-noted paper.

"Extracts from the French annual 'Les Flottes de Combat,' 1907, and the English annual 'All the World's Fighting Ships,' edition of 1905-6 and edition of 1907.

"Also a few extracts from foreign periodicals commenting on various designs of vessels of the United States Navy, as follows:

"Engineering of March 26, 1907, in relation to the designs of the *Alabama* class.

"Engineer of June 14, 1901, in relation to casemates and the attitudes of the British, French, Japanese, and Italian services with respect thereto.

"Engineer of July 12, 1901, giving a comparison of the qualities of various foreign vessels and United States vessels of the *New Jersey-Virginia* class.

"Engineer of December 27, 1901, containing further comments concerning vessels of the *New Jersey*, *Virginia*, and *Connecticut* classes."

TRANSACTIONS OF THE INSTITUTION OF NAVAL ARCHITECTS, 1891

"Some recent war-ship designs for the American Navy,"

[By J. H. Biles.]

Referring to the earlier protected cruisers, Mr. Biles says:

"The American ship designers and builders have shown that they are capable of producing vessels quite equal to their promises, and at least equal to the best European practice." (Referring to the *New York*.)

Compared with the *Edgar* class, this vessel is much more powerfully armed and much better protected. Her sustained sea speed will probably be greater. She is, however, 800 tons more displacement, and should therefore be a superior vessel. * * * The coast-line battle ships (the *Indiana*, *Massachusetts*, and *Oregon*) are the most important vessels of this programme. * * * They have been designed 'to be able to fight vessels carrying the heaviest guns and armor,' and by inference comparison with our most recent battle ships can not fail to be courted. * * * The armament of these vessels seems to be more powerful than that of any European battle ships, there being four guns capable of piercing any armor afloat and eight 8-inch guns capable of penetrating almost any armor, and certainly of penetrating the armor at the ends of the belts and on the barbettes and redoubts of most of our battle ships at close quarters.

"Of course, in order to attain this result something has had to be sacrificed—or, rather, something is not existent in these ships which exists in the larger ones. The speed estimated, compared with our latest battle ships, is probably about 1½ knots less. The coal supply is 500 tons less.

"The breadth of the armor belt is 1 foot less, but it is as wide as that of the *Admiral* class, which has not the advantage of the 5-inch belt above.

"As these vessels will probably have to act very much nearer their base than European vessels, their bottoms will probably be in better condition, so that the real speed would not be much, if any, less. For the same reason their coal supply need not be so large, and therefore it would seem that their preponderance of armament would give them an advantage in a combat near their own coast line with any European vessel. They are distinctly superior in most respects to any European vessel of the same displacement, and for the purpose intended, of protecting the American coast line, they seem to be quite a match for any ships afloat. They can keep the sea as well as any battle ships, and must not be looked upon as coast-defense vessels in the ordinary restricted sense, though they are called coast-line battle ships. Compared with the *Admiral*, their freeboard at the ends is 15 inches higher, and compared with the turreted battle ship *Hood*, it is practically the same. It is, however, 8 feet less forward than the barbetted battle ship of the *Royal Sovereign* class. Judging by the amount of water which will come on board the Atlantic liner with a freeboard forward of 26 feet, the chance of fighting the 31-inch turret guns end on in a head sea is not very great, but the 8-inch guns could probably be fought in almost any weather. * * * In maneuvering power this ship will be superior at her normal load draft to the *Royal Sovereign* class on account of her less length and draft."

DISCUSSION ON THE ABOVE PAPER.

By Admiral, the Right Honorable Sir John Hay, K. C. B., D. C. L., F. R. S. (vice-president):

"I think, my lord, this paper is rather an eye opener. * * * In Mr. Biles's statement I think he indicates that the United States are now becoming a great naval power and that they are beating us in speed. Speed is of very great consequence, and that is exactly what the United States did some seventy years ago. While we were supposing ourselves to be the first naval power of the world, they built a certain number of very large ships and captured all the frigates which were supposed to be their equals, except in one or two famous actions. * * * I think the fact that the United States is coming back again into the range of great naval powers * * * makes it necessary that she should be considered in all the estimates of naval power which we have hitherto been conducting rather with reference to our possible European relations."

By Admiral A. F. R. De Horsey, K. C. B. (associate):

"* * * I am glad to see that our friends across the Atlantic, with their great cleverness, stick to water-line protection. * * * Any damage above the water line, however much the ship may roll, may probably be temporarily repaired, but there is a poor chance of dealing with injury below the water line."

By Mr. W. H. White, C. B., F. R. S. (vice-president):
 The facts show that in America the reconstruction of the Navy has been undertaken in a most businesslike manner. Our friends there at first did not produce rival designs, but obtained from this country designs and working drawings for ships and engines. The first result at which they aimed has been most satisfactorily achieved. Ships are now afloat built in the States from designs acquired here which compare favorably with ships of the same date built in this country. Having got through that stage of progress, the Americans are undertaking designs of their own. As regards the freeboard in the battle ships and the heights of the guns above the deck and above water, Sir Nathaniel Barnaby has well said that there is an essential difference between the *Admiral* class in the royal navy and the new American naval vessels. There are, however, ships like the *Nile*, *Trafalgar*, and *Victoria*, where the speed is practically the same and the freeboard is about the same as the Americans contemplate. The general feeling of naval officers is, however, in favor of our later practice in the *Royal Sovereign* class. The new vessels are, it is true, called 'coast-defense vessels' in the official programme, but we are also told that they have a coal supply, or rather a bunker capacity, that would give them the power to go almost anywhere that other battle ships could go. With bunkers filled the thick armor would be about on the level of the water line. That is a matter calculated upon and accepted by the designers as a feature to which they do not object when the bunkers behind the 5-inch armor are full of coal. We have ships which come into the same class. I do not myself see the least objection to filling up the bunkers—they exist—but I think that what needs to be clearly understood is that the nominal speeds of which we have heard are associated with a certain weight of coal in the ship, and not with the condition of full bunkers. So long as there is such a clear understanding no harm is done."

LES FLOTTES DE COMBAT, 1907.

This annual contains references to various United States vessels, as follows:

Iowa.—May be compared to the *Carnot*."

NOTE.—*Carnot* laid down, 1891; completed, 1896. *Iowa* laid down, 1893; completed, 1897.

Kearsarge and Kentucky.—The superimposed turrets offer certain advantages in simplicity of working and saving of weight, but if the turning axis is displaced (or the thinner upper turret disabled) one-half of the battery is out of action. The secondary battery is well protected and the speed is sufficient for a battle ship. Everything on this slightly modified *Iowa* has been installed in as simple and practical a manner as possible. The main battery has been reduced in favor of the secondary, which will perhaps be slightly restricted as to arcs of fire. On the other hand, the protection has been considerably improved and the armor belt extends to the stem."

Alabama.—If we compare this class with the preceding one, we see that much attention has been paid to the protection and that the gun positions will be habitable during action. Speed is not increased. In America this is considered as a secondary factor for battle ships. The *Alabama* type is preferable to the *Majestic* from every point of view. While it has as much freeboard, it is on less draft and displacement. It has more armor and armament and a speed approximately equivalent."

NOTE.—*Majestic* laid down February, 1894; *Alabama* laid down December, 1896.

Connecticut.—These battle ships, which are a reply to the British *King Edward VII*, are better protected than the latter for the same displacement, and, in particular, are more heavily armed."

New York.—This cruiser, which was a complete success, was in advance of all others built at the same time and still holds a good place among them."

Brooklyn.—Her sponsons are excellently arranged and the forecastle at a height of 10 meters makes her superior to most cruisers now afloat. She could fight in any weather. Her protection is more than adequate."

Tennessee.—These vessels, which much resemble the English *Drake* as to their general arrangement, speed, and displacement, have, however, the advantage of a complete belt. Their main battery is just double that of the *Drake* and they have two more 6-inch guns and eight 3-inch. They are inferior to the English *Duke of Edinburgh*."

Jane's Fighting Ships (ed. 1905-6, p. 380.)

To the United States belongs the credit of being the first nation to sanction that battle ship with a uniform armament of big guns, which has hovered on the horizon of the building programmes of most of naval powers. In large cruisers no departure is being made. The *Washington*, which is the most powerful armored cruiser afloat, is the standard model, so far as can be gathered. No cruisers of moderate dimensions are contemplated, the American ideal that every ship is to be the best possible of its class being faithfully adhered to.

Jane's Fighting Ships, 1907—Preface.

Few, if any, ships are likely to be built in the future which can not use all guns on either broadside. America in the *South Carolina* led the way in this direction, and the ship of the future is bound to be some improved variation of her.

Certain tables upon page 433 are a new feature. These tables omit all ships projected under 1907-8 programmes. Such figures would slightly increase United States superiority in long-range attack. The extraordinary high figures for United States ships afford food for considerable thought, for both in ships with high-powered guns or impervious to vital injury at long range the United States fleet is superior to any other navy in the world. Even by the inclusion of 40 caliber (12-inch) of types extinct so far as new ships are concerned the United States of America is an extremely good second and the corresponding lead in invulnerability outside 7,000 yards is considerably increased.

EXTRACTS FROM TABLES REFERRED TO.

(a) Ships with high-powered guns. Number of ships able to attack outside 7,000 yards:

	British.	United States.	French.	German.	Japanese.
6-inch Krupp armor.....	56	34	28	13	21
9-inch Krupp armor.....	30	23	17	3	14
11-inch Krupp armor.....	7	10	10	3	8

* Includes three protected cruisers.

(b) Ships impervious to injury at long range. Number of ships whose water-line belts are safe outside 7,000 yards against—

	British.	United States.	French.	German.	Japanese.
Modern 9.2 to 10 inch guns....	25	33	38	28	15
12-inch 40-caliber.....	8	24	23	12	5
11-inch 50-caliber.....					
12-inch 45 caliber.....		8	1		1

NEW WAR-SHIP CONSTRUCTION.

The *Dreadnought* herself was found to have certain minor defects. Her fighting power has, however, probably been overestimated. There is very little reason to believe that she is "equal to two *King Edwards*," despite her undoubted belt superiority. An extremely important point about a battle ship, recognized far more fully in the United States than anywhere else, is embodied in the following observations of Mr. Robinson, of the United States Constructional Board:

"The writer is of the opinion that at some periods in all services too much consideration has been given in design to the development of characteristics tending to efficiency in individual ship action to the detriment of a corresponding efficiency in squadron or fleet action. This has doubtless been due to lack of proper knowledge available as to squadron or fleet maneuvers, a knowledge recently much augmented by the naval maneuvers conducted by the different countries and by the experience gained in the Spanish-American and Russo-Japanese wars. The attainment of the desired results in the *South Carolina* and *Michigan* could only be reached from a most careful consideration of all questions and the elimination of such features as were considered least tending to fighting efficiency under the conditions in which they might naturally be called upon to act. These considerations led to the arrangement of battery shown in the belief that broadside fire through a considerable arc from bow to stern was of vastly more moment in fleet action than volume of fire ahead or astern. It seems to be generally conceded that this deduction is correct."

The merit or otherwise of the *Dreadnought* depends upon the sort of fleet unit that she makes. The United States 1906-7 programme embodied a development of the *South Carolina* and having ten of her 12-inch on the broadside should be considerably superior to the *Dreadnought*. The *South Carolina* and *Michigan* are characteristically American.

There is room for considerable doubt as to whether the upper big guns can fire over the lower turrets without putting the latter temporarily out of action, but the ships have probably been unduly criticised because of this. Any arrangement that permits of all guns being used on either broadside is open to some kind of criticism. For broadside fire the American ships seem very well adapted, and that, rather than the "four guns and on," was the chief thing aimed at by the designer. The alternative method of securing this result, as in the *Infleible* type of cruiser, while superior for end-on fire on paper, is inferior in the matter of actual broadside discharge, since one turret has to fire over the decks, a thing for one or two reasons open to criticism. Discussing the paper of Mr. Robinson already referred to, the Engineer (London) said:

"It is almost an axiom in Europe that in the United States they are not very particular what a war ship is so long as she 'whips creation' on paper. Those who hold this view will find their faith severely shaken by the singularly able paper of Naval Constructor Robinson already referred to. The opinions expressed are understood to be those of the Bureau of Naval Construction, to which Mr. Robinson belongs."

Mr. Robinson begins with the *Indiana* and tells us, what few of us have realized before, that that ship was designed as a "coast defender" pure and simple; hence, many of her obvious defects, when regarded as a battle ship of ordinary type. She is, as a matter of fact, merely a monitor of large size and large secondary armament. The *Iowa*, says Mr. Robinson, was an attempt to turn the *Indiana* into a seagoing ship. Then he traces the course of the modern American Navy, with many candid admissions as to the difficulty before naval architects. Quite a formidable one, he says with emphasis, is the modern demand for increased comfort aboard, bathrooms, etc. Without any beating about the bush, the author describes these as peacetime attributes and shows that on a given displacement every comfort means a corresponding loss of efficiency. These comforts are demanded and they must be supplied, but they have to be paid for somewhere in the total displacement. Of course this is a truism, but Mr. Robinson has been the first to tackle it boldly. The American board on construction apparently intend to oppose, so far as may be, the combined hotel and war ship ideal, which in some navies has made so much headway of late.

It is not necessary to follow Mr. Robinson through his review except to here note the constant call upon naval architects to provide for fresh necessities, such as improving coaling facilities, storage of high explosives, and so on. As we have already mentioned, the popular idea is that in America they do not bother much over these things. After reading Mr. Robinson's paper, we are driven to suspect that no other nation bothers so much. Thence he proceeds to the *South Carolina* and *Michigan*, in which both cost and displacement were fixed before the naval architect commenced his labors. The point is one that all critics of these ships ignore. Without these limitations it is easy to design something better than the *Dreadnought*, but to design a *Dreadnought* of 2,000 tons less displacement is quite another matter.

The aim has been to produce a ship suitable for fleet action, rather than a vessel for individual combat against something similar to herself. This has led to a strict elimination of features which may be described as "luxuries" rather than "necessaries." There is some good reason to believe that, taking all things into consideration, the *South Carolina* type is the best all-big-gun ship yet put in hand.

The extinction of the protected cruiser is in many ways remarkable. *Gazelles* and scouts all suffer from their small size and small endurance. There are few more curious views in modern naval programmes than this ignoring of war needs. The U. S. S. *Birmingham* class scouts, with a considerable endurance, represents the realization of sound perceptions in the direction of protected cruisers, as in them alone of all small cruisers is there a sufficiency of coal.

EXTRACTS FROM SOME FOREIGN PERIODICALS REGARDING DESIGNS OF UNITED STATES VESSELS.

[Engineering, March 26, 1897.]

Discussing Admiral Highborn's paper on the *Alabama*, the editor says:

"The design of the ship differs materially from that of recent vessels of a similar class in the British navy; indeed, it is marked throughout by originality and boldness of arrangement, both in general features and matters of detail. The armored protection is very complete. * * * It will be seen * * * that the central portion of the ship is completely inclosed by armor, extending from 4 feet below the load-water line to the level of the upper deck, or a height of about 23 feet, the minimum thickness being 5½ inches."

[The Engineer, June 14, 1901.]

"Some time ago the Engineer prophesied that casemates would be an exploded idea for new British battle ships. We hear that the new 18,000-ton battle ship will have continuous batteries like the *Mikasa*, *Benedetto Brin*, all modern American ships, and all save the latest French battle ships. Bearing in mind the progress of explosives, we can not but see that the Admiralty are wise in returning to the old broadside ironclad idea."

[The Engineer, July 12, 1901.]

"In conclusion we may give the broadsides of existing ships of the same type as the *King Edward*: *King Edward*, four 12-inch, two 9.2-inch, five 6-inch; *Mikasa*, four 12-inch, seven 6-inch; *Tavritchesky*, four 12-inch, eight 6-inch; *Brin*, four 12-inch, two 8-inch, six 6-inch; *Wittlesbach*, four 9.4-inch, nine 6-inch; American, four 12-inch, four 8-inch, four 6-inch. Reckoning an 8-inch as equal to one and one-half 6-inch shell power, we get the totals: British, *King Edward*, 31 in a minute; Japanese, *Mikasa*, 29 in a minute; Russian, *Kniaz P. Tavritchesky*, 32; Italian, *Benedetto Brin*, 31; German, *Wittlesbach*, 29; American, *New Jersey*, 44. All these ships, except the *Wittlesbach*, are identical in design. The *Wittlesbach* is perhaps a rather superior design in defense, the guns being more scattered, though it is not clear how she will use her offense to the full without interference. In general she is, however, of the same type. The Russian ship completing for sea is of low freeboard, but otherwise identical with the *King Edward* in the placing of her guns. She is less seaworthy and rather less likely to be hit. The *Brin* has recently been launched. The American ship is still in the clouds and may be made more powerful. As she is, however, it will be seen that she is far and away the leader. For each ship "the best in the world" claim has been put forward, but on paper the 16,500-ton American seems to carry off the prize. In speed and armor she is equal to the *King Edward*."

NOTE.—Instead of the figures given above, the *New Jersey* class on a displacement of 14,948, have six 8-inch and six 6-inch on the broadside, making a total of 49 points, instead of 44, as given above.

[The Engineer, December 27, 1905.]

"No war ships, perhaps, have had so many vicissitudes as the United States battle ships of the *New Jersey* class. Once again they have been definitely decided on, permanently, perhaps, now; but it need not be forgotten that earlier designs have been 'final' also. There is no getting away from the fact that each new finality has been better than the preceding designs. As with each the displacement has gone up, this is not to be wondered at; but the great and essential point is this increase in displacement. In the past American ideals have tended to 'whip creation' with the minimum displacement; now obviously nautical influences can be seen at work, with the result that we observe an honest striving after a real best, in place of what, rightly or wrongly, has hitherto been under suspicion of being rather a paper best. In fine, America is now definitely settling to building American war ships to American needs."

Further along in the same editorial comment appears the following reference to the designs of the *Connecticut* class, full report upon which had been submitted to Congress a short time before. After inviting attention to various alleged defects, the editor makes the following comment:

"We have drawn attention to these defects not in a carping spirit, but because in spite of them we still hold these 17,604-ton ships, so far as the meager details available allow, superior to any other battle-ship designs, not merely as ships, but per ton of displacement."

"A very important feature * * * is the abolition of triple screws, after which the Engineer in Chief is supposed to hanker. Executive officers seem to have formed the opposition, and they have carried the day on the grounds that however advantageous the triple system may be in coal economy it lacks the tactical advantage of the twin-screw system. Purely engineering disadvantages might also be alleged, but the primary question is one of fighting capacity. With two screws there is over 8,000 indicated horsepower available for assistance in a sudden turn; with triple screws considerably less power is available. This is the gist of the argument that has carried the day again with the United States Construction Board, and it argues a sound appreciation of a war ship as a fighting machine before all else. This is the dominant note all through the report, from the specific reasons against wood sheathing—of which we shall have more to say on another occasion—the situation of magazines, and facility of ammunition supply. Never before do we remember to have seen American designs thought out with so single an eye to the practical in all things."

NOTE.—In the foregoing extracts the italicizing is not the author's.

[Scientific American, New York, Saturday, May 2, 1908.]

SIR WILLIAM WHITE ON THE AMERICAN NAVY.

In the course of a recent conversation with Sir William White, the editor of the *Scientific American* asked the distinguished naval architect for his estimate of the relative value of the ships of the United States Navy compared with those of the leading navies of the world. He replied that if a comparison were made of ships of the same date and the same type, he considered that the United States vessels were the equals of any war ships afloat.

Now, the value of this approval lies in the fact that Sir William has had a more intimate and extended experience in the design of modern war ships than any living naval architect. For a period of about twenty years he was the chief constructor of the British navy. What Ericsson was to the low-freeboard, coast-defense monitor White is to the modern, high-freeboard seagoing battle ship; and in the *Royal Sovereign* he introduced a type which, for two decades, has formed, in most of its essential features, the standard battle ship for the leading navies of the world. In his active career he has designed a greater number of battle ships and cruisers probably than any three naval architects combined.

Sir William informed us that he had followed the Senate investigation of the supposed defects in our ships with much interest and that he disagreed with the charges as originally stated in the Reuterdahl article. Taking the case of the *Dreadnought*, which was cited as an instance of how our own ships should have been armored, but were not, he made the startling statement that whereas, at full load, the American ships are depressed on an average 27 inches below the nominal flotation line, the *Dreadnought*, when so loaded, was depressed from 4 to 4½ feet; and that whereas at full load the American ships show from 6 to 9 inches of the thick belt above the water, the English ship has the corresponding belt from a foot to a foot and a half below water! He further stated that whereas in the fully loaded condition the *Dreadnought* shows only ½ to ¾ feet of 8-inch side armor, the *Connecticut* and class show from 15 to 16 feet of 7-inch side armor above the water. Therefore he considered, as well he may, that the *Connecticut* is better protected than the *Dreadnought*.

Even more disastrous to the critics of our Navy were the comments of Sir William on the question of the direct versus the interrupted hoist. Mr. Reuterdahl and others have stated, time and again, that the direct hoist, giving direct communication from the handling-room floor to the breech of the gun, is a type of construction peculiar to our own Navy, which is full of danger; and they have urged that it should have been abandoned long ago in favor of the interrupted hoist, which according to them was introduced in foreign navies to avoid the dangers inherent in the direct hoist. Thus, Mr. Reuterdahl in his recent letter to the *New York Sun*, referred to in another column, states that there is not in any foreign turret a hoist of the type we use. Now, upon this point no one is so qualified to speak as Sir William; for he informs us that it was he himself who designed the interrupted hoist nearly twenty years ago—the critics have told us that this was a comparatively modern improvement, which our slow-moving Department has refused to adopt—and that he did not design it because the interrupted hoist was less dangerous, but because he believed it would secure a faster service of ammunition to the guns! He stated furthermore that the majority of the armored ships of the world make use of the direct hoist, and that it is in no sense peculiar to the United States Navy.

And thus once more are the fallacies and the absurd exaggerations of this ill-advised onslaught upon our Navy shown to be not only baseless, but positively absurd—this time by one who is at once the foremost naval architect of the day and an outside critic of unquestioned impartiality. Let us hope that with this final and truly comic pricking of the "open hoist" turret bubble, the American public will be granted a well-earned repose.

[From the Boston Transcript.]

SIR WILLIAM HENRY WHITE PAYS TRIBUTE.

Sir William Henry White, K. C. B., F. R. S., was in Boston yesterday, and last evening attended a dinner at the Tavern Club tendered him by Josiah B. Millet, at which prominent naval officers of Boston were present. Sir William was for nearly twenty years, or up to 1902, the responsible designer of all British warships, and in knowledge of naval construction he is not surpassed by any man in the world. He is also deeply interested in American naval affairs and naval officers. Rear-Admiral F. T. Bowles, former Chief Constructor, United States Navy, and now president of the Fore River Engine Company, and Rear-Admiral Capps, present Chief Constructor, were both his pupils in naval construction. It was this interest in our naval programme that induced Sir William to reply at length to a reporter's questions regarding the faults in our Navy as outlined by Henry Reuterdahl in McClure's Magazine. He plunged at once in medias res:

"Reuterdahl says in his article that the American ships are greatly inferior to foreign ships. He says that the thick armor in the water-line region, called the armor belt, is the life of the ship, and that, in the American ships, is only 6 to 9 inches above water when they are loaded up for sea, while in foreign ships the corresponding belt armor is better placed. And he speaks of the British *Dreadnought* as being in every way superior, as far as belt-armor defense is concerned, to the American ships."

"Now, I say he is all wrong as to his facts. The American ships, when they are floating at what is called their normal water line in still water, and upright, have their belt armor about 2½ to 3 feet above that water line. You see that is the hypothetical water line—when the ship has certain weights on board, not representing her full load. The American official reports show that when the ships of the American Navy are fully laden they are about 27 inches deeper than that. And then the thick armor belt in the region of that water line still is 6 to 9 inches above water. So far Reuterdahl is correct. But he is absolutely wrong in regard to the *Dreadnought's* thick armor belt. When the *Dreadnought* is fully laden she is drawing from 4 to 4½ feet more than at her normal water line, and her thick armor belt is then a foot to 18 inches below water, and she is left with a height of armor only 4 to 4½ feet above the surface in still water."

"The American ships when fully laden are about 27 inches deeper than at the normal line. The *Dreadnought* is 4 to 4½ feet deeper—about twice. The American ships fully laden have their armor belt 6 to 9 inches still above water. The English ship has her corresponding thick armor a foot to 18 inches below water. And the English ship's defense on the sides is then restricted to armor that rises 4 to 4½ feet above water and is only 8 inches thick. The American ships of the *Connecticut* class have on their sides, for a considerable portion of their length, a vertical armor corresponding to the 8-inch armor of the *Dreadnought*—it may be a little less than 8 inches—extending 16 feet above water. So that as far as the *Dreadnought* and the *Connecticut* are concerned, the *Connecticut* is better protected above the water line."

"Now, this belt armor, in my opinion, is only a fetch. If the ship is upright and at rest in still water, and you have that thick armor belt at the water line, that portion of the ship would be, of course, well protected. But that portion, as a matter of fact, is the most difficult to hit. If the shots fall ever so little short they will ricochet and turn up. If they are high in elevation, of course they will pass over the thick armor belt."

"The water line is never the real water line when the ship is at sea. If the ship is moving, the waves formed by her motion in still water will bury that thick armor—that water line. If there are waves passing the ship, they rise above that thick armor. If the ship heels over ever so little, this belt goes under water, no matter where it is placed."

"These considerations led me, twenty years ago, to recommend to the English Admiralty that they should abolish the thick armor. And my design, which was used exclusively for a period of sixteen years, made the armor a uniform thickness from the main deck down."

"My first designs which were accepted had the thick water-line belt, but in 1888 I recommended the other course. In the *Royal Sovereign*

class the armor rose about 9 to 10 feet above the normal water line and about 5½ feet below—that is to say, the side armor was 15 to 16 feet in width. Naval opinion of that day was exactly that which Reuterdahl now holds. And so we had armor at the water line 10 inches thick, and that went 3 feet above the water line. For the rest of the height it was 5 inches thick.

"Previously there was no armor above the belt. The armor was all at the water line. The Germans have built ships within the last twelve years like that—simply a belt and no side armor above."

"What I wanted to do was, instead of having a 10-inch armor belt at the water line and a 5-inch armor above that, to distribute that weight uniformly over the same areas, and in the *Majestic* class, which was the original of all modern battle ships and which I designed about 1893, I was allowed to make the armor on the hull uniformly 9 inches thick, and did so, so that there is a wall armor of the same depth as in the *Royal Sovereign* class and of the same weight, but it had a uniform thickness of 9 inches all the way up."

"We have followed that design in England until the *Dreadnought* was built, and of course with her I had nothing to do. In the *Dreadnought* they revert to the thick water-line belt, which, as I have said, at the normal line extends about 2½ to 3 feet above still water, and when the ship is deep laden 1 to 1½ feet under water—that is to say, they go back to the arrangement which was abandoned fifteen years ago."

"This argument about the water-line belt being the life of the ship is all humbug, because you do not know where the water line is. Directly she burns out coal or uses up stores or does anything to diminish her draft that water line changes, and directly you put in water or the ship heels over or moves through the water it changes."

"When you go to sea you may have the ship rolling, so that her armor comes wholly out of water. You never go to sea with the fleet without seeing large portions of the unarmored bottoms of the ships."

"The fundamental error is in making such a fetish of the water-line belt. What you want to do is to get all the vertical height of armor you can on the side above the belt or water line, and then, when you have fixed on your limit of weight, this must also be considered. All experience proves that the chance of damage to the hull of the ship increases with its height above water."

"In the battle of Tsushima it was not the armored sides of the Russian ships that suffered, but their superstructures. The ships were not sunk by perforation of their armor, but by the perforation of their thin sides above the armor and the entrance of water into the upper parts of the ships."

"If the armor of the Russian ships had been the same as the armor of the *Connecticut*, what would have been the result?"

"It would have been vastly better for the ships. This is the point: The Russian ships had a smaller armored area above the water than the *Connecticut*, therefore they could stand battering less, and the *Dreadnought* has less armored area above the water than the *Connecticut*, taking both ships at deep draft."

"When the people talk, as Reuterdahl does, about the *Dreadnought* being such a superior vessel to the *Connecticut* in the defense, they ignore the small vertical height of armor when the ships are at deep draft."

"Does not the *Connecticut* answer all Reuterdahl's requirements as expressed in his criticisms?"

"No. What he says is that the life of the ship depends upon the water-line belt. If you admit that premise, then his argument is all right. He says a 6-inch armor above the water-line belt might be of some value, but would be quite secondary. I say that all experience proves that the increase in the vertical expansion above water of the side armor is of fundamental importance in enabling the ship to stand battering."

"There are plenty of instances in the case of the Russian ships in the war with Japan where the armor, according to all formula, should have been penetrated and was not penetrated, and the Russians, who may be supposed to know what happened, have in their later designs extended the area of the armor enormously and reduced the thickness. That has been their answer to it."

"What reasons were given by the British Admiralty for reverting to an abandoned type of armor in the case of the *Dreadnought*?"

"They decided to have an armament of ten 12-inch guns. They had therefore to provide a great weight of armor for the redoubts in which these great guns and their turntables are placed. That was a necessity, you see, to protect the armament. Then they found that with a given size of ship, with a given total weight of armor available, they could not continue to protect so large an area on the side."

"With the *Connecticut* or the *King Edward* arrangement your armor serves two purposes—it protects the battery in which you place your smaller guns and also serves to maintain buoyancy and stability by being on the side of the ship."

"If you have to put in 12-inch guns, you must protect with armor the towers in which they are placed. In the *Connecticut* or *King Edward* there are four 12-inch guns; therefore you have two towers. But when you get ten 12-inch guns, as in the *Dreadnought* or the *North Dakota*, you are obliged to take armor from the sides and put it on the towers."

"The total depth of armor on the *Dreadnought* along the side is about 13½ to 14 feet, a little less than before. And, again, the reversion to the thicker water-line belt means you have to concentrate weight there—a thing to which I have always taken exception. I think that is going back to a fallacy; it is a mistake. And you know they have not continued to use the same thickness of belt line in the latter ships of the *Dreadnought* class. They have kept the 8 inches above, but have less than 11 inches below. In other words, the difference between the upper and belt armor is less in the later ships."

"There is another thing which Mr. Reuterdahl criticised, and that is the direct hoists from the magazines to the rear of the guns. Taking it as a matter of fact again, if you were to take all the armored ships of the world at the present time on the effective lists, you would find the very great majority of them with nothing but direct hoists. It is not peculiar to American ships at all."

"Now, I have been reading the testimony given at that investigation in Washington, and from that it appears perfectly clear that the accidents that have happened are only indirectly associated with the direct hoist. The primary cause of accident has nothing to do with the hoist."

"Having said that, I ought to say that I am the man who brought out the broken hoist—that is, lifting the ammunition up a certain height from the magazines into an ammunition room and there transferring it to another hoist not in a direct line. I did that nearly twenty years ago, but I did not do it because of the danger of the direct hoist. When you have a direct hoist from the magazine up to the rear of the guns, which may be 50 feet if the gun is placed high, it takes an appreciable amount of time to lift the charge from the magazine to the gun before

you can load. Now, I said if I could put in two stages—one that would bring the ammunition to within 6 or 7 feet of the gun, and then a second set of men, who had nothing to do with the first operation, to lift it the remaining distance to the gun—I could save considerable time. That is the reason I did that, and not because of any danger."

"The inexperience of the men and the conditions of target practice are to blame. As long as you give the prize to the men who fire the most ammunition in a given time, or hit the target most frequently in a given time, they will play that game. But you will remember that the Japanese admirals, Fushimi and Togo, gave orders that that practice was not to be followed."

"In the battle of the 10th of August, outside Port Arthur, the Japanese fired away nearly all their ammunition, and were only saved by the merest good fortune. And they were not able to follow up the Russians, because they did not have reserve ammunition."

"Now, as to the freeboard and height of guns above water, all I need say about that is that the facts are again not in Mr. Reuterdahl's favor."

"It is quite true that in the swifter cruisers of the British navy I introduced a high forecastle, because they were going to drive hard and fast against the sea; but in the battle ships I kept along at a steady height of freeboard and of guns above water, and that was practically maintained all the time I was there, because it was proved to be enough by experience at sea."

"There are two requirements. There is the maintenance of speed; that demands a high bow, whether it is an Atlantic liner or a battle ship. Then there is the fighting power in a seaway; and of course there you never want to place your guns higher than you are obliged to, because by raising them you raise your center of gravity and reduce your stability accordingly."

"Reuterdahl's contention is that the existing American ships are disadvantageously situated as compared with European vessels. I say that is not so. The cruisers in your Navy have not such a great height of freeboard forward as I have given to our cruisers, but in that respect it is not a question of power, but simply a question of the maintenance of speed at sea."

"There is one thing more that I should like to say, and I think it is vital. I have known the American Navy from the start. It is not generally known that the modern American Navy started with the purchase of two of my designs from Armstrong's. That was in 1885. From those designs the *Charleston* and the *Baltimore* were built."

"The first thing I want to say in this connection is that you have in those men naval architects as capable as any, in my judgment, in the world, because they have been properly trained, and besides they are picked men."

"The second thing I want to say is that your shipbuilding yards are quite equal to any we have in their equipment and management and all that. They have come later, and they have the advantage of all the accumulated experience we have had to go upon. And there is American ingenuity at the back of all that on the mechanical side."

"And the result is that, in my opinion, you have a fleet that, ship for ship, comparing the ships designed at a given date—and that is the only fair comparison—is equal to anything the world contains. And next to the British navy I think your Navy is the best in the world."

"These wholesale criticisms and severe condemnations are not justified. There is no shop that you can not criticise; but criticism to be of value must be the result of experience. No one would want to avoid that kind of criticism. But what I do say is that these are not subjects that can be properly discussed in the public press or in magazine articles. They must be dealt with dispassionately and quietly."

APPENDIX E.

[House Report No. 1398, Sixtieth Congress, first session.]

NAVAL APPROPRIATION BILL.

Mr. Foss, from the Committee on Naval Affairs, submitted the following report to accompany H. R. 20471:

The Committee on Naval Affairs, to whom was referred so much of the President's annual message as relates to the naval establishment, together with the annual estimates of the Navy Department, submit herewith H. R. 20471, making appropriations for the naval service for the fiscal year ending June 30, 1909, with the following statement:

The amount carried by this bill is \$103,967,518.43.

The estimates of the Department amounted to \$125,041,349.80.

The committee, after careful consideration of these estimates, made deductions to the amount of \$22,518,831.37, and under "Increase of the Navy" recommend an appropriation of \$1,000,000 toward the construction of submarine boats, and \$445,000, within the discretion of the Secretary of the Navy, for the construction of subsurface torpedo boats.

The following table gives a comparative statement of the appropriations for 1908 furnished by the Navy Department, the estimates for 1909, and the amounts recommended in this bill:

Naval establishment.	Appropriated, 1908.	Estimates, 1909.	Recom- mended by this bill.
Pay of the Navy	\$21,000,000.00	\$26,086,201.00	\$27,274,201.00
Pay, miscellaneous	675,000.00	723,000.00	723,000.00
Contingent, Navy	65,000.00	65,000.00	65,000.00
Naval station, Island of Guam:			
Maintenance and care of lepers and other special patients	16,000.00	15,000.00	15,000.00
Bureau of Navigation	1,990,063.00	2,586,257.85	2,438,276.00
Bureau of Ordnance	11,715,406.75	21,414,606.75	10,744,722.75
Bureau of Equipment	7,528,028.00	10,236,978.00	9,424,849.00
Bureau of Yards and Docks	1,129,632.90	1,731,438.70	1,429,632.90
Public works, Bureau of Yards and Docks	3,124,940.00	12,054,822.00	3,170,400.00
Public works, Secretary of the Navy:			
Naval Academy	380,000.00	247,000.00	47,000.00
Public works, Bureau of Navigation:			
Naval training station, Califor- nia	89,000.00	29,500.00	29,500.00
Naval training station, Rhode Island	58,912.00	140,890.00	139,890.00
Naval training station, Great Lakes	700,000.00	1,095,600.00	1,095,600.00
Public works, Bureau of Ordnance	370,280.00	571,460.00	152,800.00
Public works, Bureau of Equipment	10,000.00	10,000.00	10,000.00

Naval establishment.	Appropriated, 1908.	Estimates, 1909.	Recom- mended by this bill.
Public works, Bureau of Medicine and Surgery.....	\$285,000.00	\$450,000.00	\$360,000.00
Bureau of Medicine and Surgery.....	405,900.00	425,000.00	385,000.00
Bureau of Supplies and Accounts.....	7,365,845.21	7,337,320.30	7,321,882.09
Bureau of Construction and Repair.....	8,102,824.25	8,502,824.25	8,202,824.25
Bureau of Steam Engineering.....	6,729,420.00	7,120,240.00	6,309,420.00
Naval Academy.....	440,728.36	483,582.86	475,728.36
Marine Corps:			
Public works.....	210,000.00		
Paymaster.....	2,843,908.46	2,972,685.08	2,948,201.08
Quartermaster.....	2,417,089.00	3,508,971.00	2,316,999.00
Increase of the Navy:			
Construction and machinery.....	12,713,915.00	9,832,962.00	9,832,962.00
Armor and armament.....	10,000,000.00	7,000,000.00	7,000,000.00
Equipment.....	750,000.00	400,000.00	400,000.00
Subsurface or submarine boats.....	500,000.00		1,445,000.00
Total.....	100,303,602.93	125,041,349.80	108,967,518.43

The first paragraph of the bill relates to—
PAY OF THE NAVY.

Pay of the Navy.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Pay of the Navy.....	\$21,000,000.00	\$26,086,201.09	\$27,274,201.09
Pay, miscellaneous.....	675,000.00	723,000.00	723,000.00
Contingent, Navy.....	65,000.00	65,000.00	65,000.00

The estimates as submitted in the Book of Estimates for the naval establishment called for an increase of 3,000 men, and later, at the hearings before the committee, it was demonstrated that an increase of 6,000 men in all would be necessary to man ships that are in commission and those about to be commissioned. The total estimate for pay for the 42,000 men and officers amounts to \$27,274,201. After careful consideration the committee judged it to be unwise to reduce this estimate, in view of the fact that at the time of the hearings the enlisted force was recruited within 600 men of the full allowance, and for the past three or four months over 2,000 men have been recruited monthly. It is therefore the belief of the committee that the additional 6,000 men herein provided for will be shortly recruited, and the amount herein recommended will be necessary for pay.

The additional 6,000 men are recommended, as it will be necessary to put the following ships in commission within the next few months: *California, Mississippi, Idaho, New Hampshire, South Dakota, North Carolina, Montana, Chester, Birmingham, and Salem*, and in addition 1,500 men are required to commission torpedo boats not now in commission.

The appropriation for "Pay, miscellaneous," has an apparent increase of \$48,000. This increase is due to a plan of consolidating all the charges pertaining to the Navy Department and its bureaus for ice, telephone rentals and tolls, telegrams, cablegrams, and postage, foreign and domestic, post-office box rentals, and express charges, so that they may be paid through one office instead of being paid through offices in the several bureaus, thereby preventing the multiplication of vouchers and duplication of work, which will result in economy. The various bureaus and appropriations from which these charges have been heretofore paid have been reduced in amounts equal to the amount necessary to pay these various charges. Therefore, while there is an apparent increase of \$48,000 in this appropriation, there has been a corresponding reduction of \$48,000 in the appropriations from which these charges have been heretofore paid. Otherwise the appropriation "Pay, miscellaneous," remains the same as last year, while that for "Contingent, Navy," likewise remains the same.

BUREAU OF NAVIGATION.

The following table is a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts recommended in this bill:

Bureau of Navigation.	Appropriated, 1908.	Estimates, 1909.	Recom- mended.
Transportation.....	\$400,000.00	\$550,870.00	\$475,000.00
Recruiting.....	121,340.00	130,000.00	130,000.00
Contingent.....	15,000.00	20,000.00	12,462.00
Gunnery exercises.....	120,000.00	140,000.00	130,000.00
Outfits on first enlistment.....	600,000.00	900,000.00	900,000.00
Maintenance of naval auxiliaries.....	500,000.00	571,540.00	525,000.00
Naval training station, California.....	50,000.00	61,000.00	60,652.00
Naval training station, Rhode Island.....	71,000.00	80,000.00	79,511.00
Naval training station, Great Lakes:			
Maintenance.....	20,000.00	30,000.00	29,800.00
Salaries clerical force (1 clerk, in- crease of \$200 submitted).....	6,940.00	7,140.00	6,940.00
Naval War College.....	15,700.00	20,700.00	15,700.00
Naval Home, Philadelphia, Pa.....	73,688.00	75,017.86	70,151.00
Total.....	1,990,663.00	2,586,267.86	2,438,276.00

The appropriation for transportation has been increased \$75,000, because the Navy has enlisted more men this year than in any previous year, and a great many of the recruits came from the interior and had to be transported to the various stations along the coast, and transportation has increased in cost greatly. The Navy Department has been unable to make satisfactory contracts with the railroads, as has previously been the case, and a great many of the recruits have been transported to the Pacific coast, thereby necessarily increasing the amount of this appropriation.

The appropriation for "Outfits on first enlistment" is increased to \$900,000 by reason of the increased cost of materials which enter into the manufacture of the outfit and the increase in the number of enlistments, as heretofore stated. A deficiency of about \$300,000 is estimated under this appropriation for the present year.

The provision for the "Maintenance of naval auxiliaries" has been increased \$25,000; this increase is due to the fact that the wages of all the men on auxiliaries have been increased. There are eighteen vessels included in the Naval Auxiliary Service, each one having a crew of from twenty-five to forty men, and from seven to nine officers each.

The appropriation recommended for the naval training station in California has been increased from \$50,000 to \$60,652, an increase of \$10,652. The committee deemed this increase proper in view of the fact that a great many more men will be at this station on account of the fleet's being on the Pacific, and as recruits are enlisted from the interior they will be transported to this training station in California. The appropriation for the Rhode Island Naval Training Station has been increased by \$8,500 in order that many of the enlisted men who now do work not incident to the naval service about the station can be taken from this work and engaged in the work for which they enlisted, and their places to be taken by others not in the naval service. The appropriation for the naval training station, Great Lakes, has likewise been increased \$9,860, for protection of the water front. The appropriation for the Naval War College is the same as last year, and there is a decrease of about \$3,500 in the Naval Home, Philadelphia.

BUREAU OF ORDNANCE.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts recommended in this bill:

Bureau of Ordnance.	Appropriated, 1908.	Estimates, 1909.	Recom- mended.
Ordnance and ordnance stores:			
Procuring, producing, preserving, and handling ordnance material.....	\$4,000,000.00	\$4,500,000.00	\$4,500,000.00
Ammunition and other supplies for new ships.....	750,000.00	1,284,000.00	2,750,000.00
Smokeless powder, purchase and manufacture of.....	500,000.00	650,000.00	650,000.00
Machine tools for navy-yard, Bos- ton, Mass.....	39,000.00		
Machine tools for navy-yard, New York, and magazine, Dover, N. J.....		10,000.00	10,000.00
Machine tools for navy-yard, Mare Island, Cal.....		50,000.00	50,000.00
Auxiliary hoist, building No. 111, navy-yard, Mare Island, Cal.....		3,500.00	3,500.00
For Naval Gun Factory, Washington, D. C.:			
New and improved machinery for existing shops.....	150,000.00	150,000.00	150,000.00
Machinery, cupolas, furnaces, etc., for proposed new foundry.....		122,000.00	
Remodeling 110-ton crane in north gun shop.....		30,000.00	
Machinery for locomotive house.....		12,000.00	
Mines for issue (for mine ship).....		100,000.00	
Experimental work in the devel- opment of armor-piercing pro- jectiles, fuzes, powders, and high explosives, erosion tests, mounts, sights, etc.....		200,000.00	
Advance base outfits.....		780,000.00	
Modernizing battery of Iowa.....	36,000.00		
Modernizing batteries of Monterey and Monadnock.....	20,000.00		
New turret sights for 4 monitors of Arkansas class.....	16,000.00		
New battery for the Brooklyn.....	177,200.00		
Modifying mounts and providing new sights.....	100,000.00	135,000.00	60,000.00
Replacing 3-pounder and 6-pounder guns and mounts and sights on board battle ships and armored cruisers by 3-inch 50-caliber guns, mounts, and sights.....		830,000.00	415,000.00
Purchase or manufacture of new am- munition-hoisting arrangements for all turret ships to and including the South Carolina and Michigan.....		2,112,000.00	
Replacing 8-inch guns on Maryland and class (20 guns).....		502,000.00	250,000.00
Replacing 12-inch Mark III with Mark V guns on all battle ships (18 guns).....		1,108,000.00	
Lining eight 12-inch Mark III guns.....		93,000.00	350,000.00
Replacing firing locks on 5-inch and 6-inch guns.....		45,000.00	45,000.00
Replacing small arms and automatic guns.....		1,195,500.00	
Fire-control instruments for battle ships, monitors, and cruisers.....	300,000.00	300,000.00	300,000.00
Reserve stock of mines and mine ap- pliances.....	100,000.00	300,000.00	
Torpedoes and converting torpedo boats, etc.....	300,000.00	1,150,000.00	650,000.00
Reserve ammunition.....	4,000,000.00	4,000,000.00	
Reserve guns for ships of the Navy.....	750,000.00	453,000.00	
Repairing, modernizing, and fitting with sights 4-inch and 5-inch guns and mounts not needed for vessels in commission.....		500,000.00	
Reserve torpedoes and appliances.....	250,000.00	500,000.00	300,000.00
Torpedo station, Newport, R. I.....	70,000.00	75,000.00	70,000.00
Naval Militia.....	60,000.00	100,000.00	100,000.00
Repairs, ordnance.....	30,000.00	50,000.00	30,000.00
Contingent, ordnance.....	20,000.00	20,000.00	14,066.00
Civil establishment.....	47,206.75	54,606.75	47,206.75
Total.....	11,715,406.75	21,414,606.75	10,744,772.75

The appropriation for "Ordnance and ordnance stores" has been increased by \$500,000. This might be termed the working appropriation of the Bureau. A large part of this appropriation is for target

practice, and owing to the fact that there will be in full or partial commission during the fiscal year of 1908-9 24 battle ships, 12 first-class cruisers, 66 second and third rate vessels, 60 torpedo vessels, and 15 auxiliaries, making a total of 177 vessels, an increase for target practice must be provided for. This appropriation includes all work at navy-yards, magazines, and naval proving grounds; all material and labor necessary for the care and preservation of ordnance stores on shore and afloat; furniture in ordnance buildings at navy-yards and in magazines and stations; labor, watchmen, fuel, tools, and a great variety of miscellaneous items not otherwise provided for.

The appropriation for smokeless powder is increased \$150,000. The committee deemed it wise to allow this increase for the purpose of reworking deteriorated or useless powder at Indian Head powder factory. This process renders useless powder of great value at one-fourth the cost to manufacture the same quantity of new powder.

The appropriations "Ammunition and other supplies for new ships" and "Reserve ammunition" have been consolidated under the appropriation "Ammunition and other supplies for ships." Upon investigation the committee found that there had accumulated under the appropriation "Increase of the Navy, armor and armament" a large quantity of ammunition which was only available for use on new ships as they were placed in commission, and likewise a large quantity under the appropriation "Reserve ammunition" which could not be properly used on the ships in commission, but held as a reserve supply. As this resulted in a deterioration of this ammunition the committee deemed it wise that the ammunition accumulated under these two appropriations should be made available for issue and used before deterioration and replaced by new ammunition from time to time.

The appropriation for new and improved machinery at the Naval Gun Factory, Washington, D. C., is the same as last year.

The committee recommend the completion of the work of modifying the 4-inch 40-caliber mounts and the 5-inch 40-caliber mounts, but reduces the appropriation to \$60,000. The committee also recommend an appropriation of \$415,000 for replacing the 3-pounder and 6-pounder guns by 3-inch 50-caliber or larger guns, because of the increased effective range of the latest type of torpedo. These new guns give the ships protection from long-range torpedo discharge. The committee also recommend the replacing of 8-inch Mark V guns with 8-inch Mark VI guns on the *Maryland* and her class, and the relining and converting of 12-inch Mark III to Mark IV guns; also the replacing Mark IX two-firing locks with Mark X firing locks on 5 and 6 inch guns, in order that the batteries of the ships may be kept in the highest state of efficiency.

The appropriation for fire-control instruments for the ships is the same as last year.

The committee recommend an appropriation of \$650,000 for torpedoes and converting torpedo boats, in order that the torpedo boats may be brought up to the highest degree of efficiency for the discharge of the modern torpedo, and that the most modern torpedoes be either purchased or manufactured for the same. In addition thereto the committee recommends an appropriation of \$300,000 under the title "Torpedoes and appliances," the latter appropriation being intended mainly for the cost of manufacture of torpedoes and appliances at the Government's torpedo station at Newport, R. I. The appropriation for the maintenance of the torpedo station at Newport is the same as last year.

The committee recommend an increase of the appropriation "Arming and equipping Naval Militia" to \$100,000, in order that this branch of the Naval Reserve of the United States might be more efficiently conducted.

BUREAU OF EQUIPMENT.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Equipment.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Equipment of vessels.....	\$3,250,000.00	\$4,250,000.00	\$3,750,000.00
Coal and transportation.....	4,150,000.00	5,000,000.00	5,000,000.00
Contingent equipment.....	15,000.00	15,000.00	11,821.00
Ocean and lake surveys.....	75,000.00	75,000.00	75,000.00
Depots for coal.....		600,000.00	450,000.00
Chain-making machine.....		100,000.00	
Equipment machinery plants.....		150,000.00	100,000.00
Civil establishment, Bureau of Equipment.....	38,028.00	46,978.00	38,028.00
Total.....	7,528,028.00	10,236,978.00	9,424,849.00

The appropriation "Equipment of vessels" is increased \$500,000 over the appropriation of last year. This increase is due to the increased number of ships put in commission and the necessity of fitting them with fire-control apparatus, as well as wireless telegraphy. The greater part of the increase is due to items for electrical work. The Department is asking an increase of \$690,000 alone for the electrical branch. There are 75 vessels of the Navy fitted, or about to be fitted, with wireless, and it is estimated that the maintenance of the stations on board ships amounts to \$50,000 annually. In this appropriation is included an item of \$35,000 to cover necessary work to be done on vessels loaned or to be loaned to the States for the use of Naval Militia. In view of the increased number of ships in commission and about to be commissioned, the committee recommend the increase above stated.

The appropriation "Coal and transportation" is increased \$850,000. The committee recommend this increase because of the greater number of ships in commission and the policy of the Department to have fleet maneuvers on such a scale as to test the battle efficiency of the fleets. The principal causes of the increase are as follows:

- Increase in the number of purposes for which the appropriation is applied.
- Increase of the number of ships in commission.
- Increase in size of ships and consequent coal consumption.
- Increase in the first cost of coal at tide water.
- Increase in freight rates due to transporting coal to greater distances than heretofore.

An appropriation of \$450,000 is recommended by the committee for "Depots for coal," which will enable the Secretary of the Navy to execute the provisions of section 1552 of the Revised Statutes, which amount is to be used for completing the coal depots at San Diego and California City Point, as there is a very pressing demand for coaling stations on that coast.

BUREAU OF YARDS AND DOCKS.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Yards and Docks.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Maintenance, yards and docks.....	\$350,000.00	\$1,500,000.00	\$1,250,000.00
Contingent, Bureau of Yards and Docks.....	30,000.00	30,000.00	30,000.00
Civil establishment.....	149,652.90	201,438.70	149,652.90
Total.....	1,129,652.90	1,731,438.70	1,429,652.90

The committee recommend an increase of \$300,000 under the appropriation "Maintenance of Yards and Docks." This increase is due to the consolidation of the heat, light, and power plants in all the navy-yards, whereby it is believed a great reduction in cost will ultimately be realized. Another item in the increase is due to the fact that all the telephones installed in the various navy-yards are now placed under this Bureau instead of being under several, as heretofore. It is believed this will result in a great saving. Another item in the increase is due to a considerable increase in the cost of labor and material. There will likewise be an increase in cost on account of the change in the system of accounting, which will enable the Paymaster-General to give an exact account, and is an excellent system, whereby the value of stock on hand can be ascertained at any time.

PUBLIC WORKS, BUREAU OF YARDS AND DOCKS.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Navy-yards and stations.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Portsmouth, N. H.....	\$244,900.00	\$871,350.00	\$156,000.00
Boston, Mass.....	128,500.00	435,500.00	197,800.00
New York, N. Y.....	263,809.00	628,000.00	286,000.00
Philadelphia, Pa.....	125,500.00	993,225.00	150,000.00
Washington, D. C.....	85,000.00	985,047.00	48,000.00
Charleston, S. C.....	287,000.00	402,500.00	125,000.00
Norfolk, Va.....	365,500.00	1,950,500.00	505,000.00
Mare Island, Cal.....	248,500.00	786,800.00	211,000.00
Puget Sound, Wash.....	258,500.00	1,491,500.00	420,000.00
Pensacola, Fla.....	242,500.00	157,800.00	30,800.00
New Orleans, La.....	156,309.00	75,000.00	31,000.00
Tutula, Samoan Islands.....	6,000.00	15,000.00	15,000.00
Olongapo, P. I.....	90,900.00	555,500.00	100,000.00
Island of Guam.....	22,500.00	32,000.00	32,000.00
Cavite, P. I.....	13,000.00	59,700.00	59,700.00
Culebra.....	2,000.00	11,100.00	11,100.00
Newport, R. I.....	7,840.00		
Key West, Fla.....	44,500.00	23,000.00	
Guantanamo, Cuba.....		425,000.00	
Plans and specifications for public works.....	30,000.00	40,000.00	30,000.00
Repairs and preservation at navy-yard.....	500,000.00	750,000.00	600,000.00
Hawaii.....	3,100.00	6,000.00	6,000.00
Floating derrick.....		300,000.00	100,000.00
Total.....	3,124,940.00	12,054,822.00	3,170,400.00

It will be seen from the above table that the estimates amounted to \$12,054,822; but after careful consideration of these estimates and hearings thereon the committee recommend this year a total of \$3,170,400, which is a small increase over the appropriation of last year. The committee recommend the insertion of the following provision regarding the expenses of consolidation of power plants, etc.:

"The Secretary of the Navy shall report to Congress at the commencement of the next regular session the amount of money expended on consolidation of power plants since the authorization for such consolidation was given. In 1904, such statement to be in detail for each navy-yard and to indicate amount expended for building and machinery separately; also to include a statement of the value of building and power plants at each navy-yard at the date of the above-noted authorization; also the total amounts appropriated for power houses and power-plant extensions which had not been utilized on April 27, 1904, the date of the authorization of the consolidations."

It will be noted that the committee recommend the expenditure of money in the navy-yards and stations principally toward the completion of the consolidation of the heat, light, and power plants, work which has already been begun and is well advanced.

PUBLIC WORKS UNDER THE SECRETARY OF THE NAVY.

The committee recommend an appropriation of \$62,000 under this appropriation, in which is included \$15,000 for maintenance and care of lepers at the naval station, Island of Guam. The remaining \$47,000 is for the enlargement of the water plant at the Naval Academy and other smaller items. The enlargement of this water plant at the Naval Academy will result in a total saving of from \$18,000 to \$20,000 a year in water bills.

PUBLIC WORKS, BUREAUS OF NAVIGATION, ORDNANCE, EQUIPMENT, MEDICINE AND SURGERY.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts recommended in this bill for public works under the Bureaus of Navigation, Ordnance, Equipment, and Medicine and Surgery:

Public works.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Bureau of Navigation:			
Naval training station, California.....	\$39,000.00	\$29,500.00	\$29,500.00
Naval training station, Rhode Island.....	58,012.00	140,890.00	139,890.00
Naval training station, Great Lakes.....	700,000.00	1,095,600.00	1,095,600.00
Total.....	797,012.00	1,265,990.00	1,264,990.00

Public works.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Bureau of Ordnance:			
Naval magazine, Dover, N. J.	\$22,000.00		
Naval magazine, St. Juliens Creek, Md.	14,000.00	\$12,450.00	
Naval proving grounds Indianhead, Md.	34,130.00	314,760.00	\$14,760.00
Naval magazine, Fort Mifflin, Pa.	8,200.00	22,100.00	14,000.00
Naval magazine, Mare Island, Cal.	50,000.00	33,000.00	11,500.00
Torpedo station, Rhode Island.	12,500.00	124,300.00	54,150.00
Magazine, Iona Island, N. Y.	23,950.00	17,500.00	10,000.00
Magazine, Puget Sound, Wash.	75,000.00	34,350.00	34,350.00
Pensacola, Fla.		5,000.00	5,000.00
Olongapo, P. I.		8,000.00	8,000.00
Total	369,780.00	571,460.00	152,360.00
Bureau of Equipment:			
Naval Observatory, grounds and roads.	10,000.00	10,000.00	10,000.00
Bureau of Medicine and Surgery:			
Naval hospital, Pensacola, Fla.	25,000.00	50,000.00	
Naval hospital, Puget Sound, Wash.	75,000.00	75,000.00	75,000.00
Naval hospital, Washington, D. C.	60,000.00		
Naval medical supply depot, Canacao.	25,000.00		
Naval hospital, Norfolk, Va. (act of June 29, 1906)	100,000.00	100,000.00	100,000.00
Naval hospital, Annapolis, Md.		125,000.00	85,000.00
Naval hospital, Great Lakes.		100,000.00	100,000.00
Total	285,000.00	450,000.00	360,000.00

PUBLIC WORKS, BUREAU OF NAVIGATION.

The committee recommend improvements to the amount of \$29,500 for the naval training station in California, \$139,890 for the naval training station in Rhode Island, and \$1,095,600 for the naval training station, Great Lakes. This appropriation for the Great Lakes naval training station completes the buildings in accordance with the provisions of the act of Congress approved June 29, 1906, and will complete the electrical mains and conduits and pay the cost of inspection, architect's fee, and other necessary improvements to the station.

PUBLIC WORKS, BUREAU OF ORDNANCE.

The committee recommend minor improvements to the extent of \$14,760 at the naval proving ground, Indianhead, Md.; \$14,600, naval magazine, Fort Mifflin, Pa.; \$11,500, naval magazine, Mare Island, Cal.; \$54,150 at torpedo station, Newport, R. I.; \$10,000, naval magazine, New York Harbor; \$34,550, naval magazine, Puget Sound, Washington; \$5,000, navy-yard, Pensacola, Fla., and \$8,000 for naval magazine, Olongapo, P. I., making a total of \$152,360, a reduction of over \$217,000 in the appropriation for last year.

PUBLIC WORKS, BUREAU OF EQUIPMENT.

An appropriation of \$10,000 is recommended, the same as last year, for the Naval Observatory.

PUBLIC WORKS, BUREAU OF MEDICINE AND SURGERY.

The committee recommend an appropriation of \$75,000 to complete the naval hospital at Puget Sound, as authorized by the naval act of March 2, 1907; also \$85,000 for the erection of new wards at the naval hospital, Annapolis, Md. The need of the contagious wards contemplated to be built by this appropriation has been demonstrated by an epidemic of diphtheria among the midshipmen at Annapolis in the past four months, when the patients had to be quartered in tents. One hundred thousand dollars is recommended to complete the appropriation for the naval hospital at Norfolk, Va., as authorized by the act of Congress approved June 29, 1906. A like appropriation is recommended for a naval hospital at Great Lakes, as at present there is no provision made for the sick at that station.

PUBLIC WORKS, MARINE CORPS.

The committee recommend an appropriation of \$210,000 for public works for the Marine Corps, a reduction of \$137,000 in last year's appropriation. Of this amount, \$70,000 is for the purchase of ground adjoining quartermaster's depot and building an addition to same, which is urgently requested. The remaining appropriation is divided among the navy-yards, Philadelphia, Pa., Norfolk, Va., Charleston, S. C., Boston, Mass., New York, N. Y., Olongapo, P. I., and Sitka, Alaska.

BUREAU OF MEDICINE AND SURGERY.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Medicine and Surgery.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Medical department.	\$255,000.00	\$270,000.00	\$270,000.00
Naval hospital fund.	40,000.00	40,000.00	
Contingent, medicine and surgery.	55,000.00	60,000.00	60,000.00
Transportation of remains.	10,000.00	10,000.00	10,000.00
Repairs, medicine and surgery.	45,000.00	45,000.00	45,000.00
Equipment, naval hospital, Guantanamo.	900.00		
Total	405,900.00	425,000.00	385,000.00

The appropriations, as will be seen from the above table, are practically the same as last year, there being an increase of \$20,000 due to the enlistment of additional men under the provision of the naval act of March 2, 1907.

BUREAU OF SUPPLIES AND ACCOUNTS.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Supplies and Accounts.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Provisions, Navy.	\$6,526,866.87	\$6,547,903.75	\$6,547,903.75
Contingent, supplies and accounts.	175,000.00	170,000.00	170,000.00
Freight, supplies and accounts.	500,000.00	500,000.00	500,000.00
Civil establishment, supplies and accounts.	103,978.34	119,416.55	103,978.34
Total	7,305,845.21	7,337,320.30	7,321,882.09

The appropriation "Provisions, Navy" is practically the same as last year. The other appropriations of this Bureau remain the same as last year.

BUREAU OF CONSTRUCTION AND REPAIR.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Construction and Repair.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Construction and repair of vessels.	\$7,900,000.00	\$8,750,000.00	\$8,000,000.00
Improvement of construction plants:			
Navy-yard, Portsmouth, N. H.	15,000.00	15,000.00	15,000.00
Navy-yard, Boston, Mass.	20,000.00	20,000.00	20,000.00
Navy-yard, New York, N. Y.	20,000.00	20,000.00	20,000.00
Navy-yard, League Island, Pa.	15,000.00	15,000.00	15,000.00
Navy-yard, Norfolk, Va.	12,000.00	12,000.00	12,000.00
Navy-yard, Charleston, S. C.	20,000.00	20,000.00	20,000.00
Navy-yard, Pensacola, Fla.	15,000.00	15,000.00	15,000.00
Navy-yard, Mare Island, Cal.	15,000.00	15,000.00	15,000.00
Navy-yard, Puget Sound, Wash.	20,000.00	20,000.00	20,000.00
Naval station, New Orleans, La.	10,000.00	10,000.00	10,000.00
2 seagoing tugs.		300,000.00	
Civil establishment.	40,824.25	40,824.25	40,824.25
Total	8,102,824.25	9,252,824.25	8,202,824.25

The appropriations for this Bureau are substantially the same as last year, an increase of \$100,000 being recommended under the appropriation "Construction and repair of vessels," to be used for vessels loaned to the Naval Militia of the various States.

BUREAU OF STEAM ENGINEERING.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Bureau of Steam Engineering.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Steam machinery:			
For completion, repairing, and preservation of machinery, boilers, etc.	\$3,500,000.00	\$4,065,000.00	\$3,750,000.00
For purchase, handling, and preservation of material stores, etc.	2,000,000.00	2,500,000.00	2,250,000.00
For incidental expenses for naval vessels and yards.	6,000.00	6,000.00	6,000.00
Improvement of steam engineering plant:			
Portsmouth, N. H., Navy-Yard.	30,000.00	75,000.00	30,000.00
Boston, Mass., Navy-Yard.		25,000.00	25,000.00
New York, N. Y., Navy-Yard.	40,000.00	40,000.00	40,000.00
Philadelphia, Pa., Navy-Yard.	25,000.00	25,000.00	25,000.00
Norfolk, Va., Navy-Yard.	25,000.00	40,000.00	25,000.00
Pensacola, Fla., Navy-Yard.	10,000.00	30,000.00	10,000.00
Mare Island, Cal., Navy-Yard.		75,000.00	25,000.00
Puget Sound, Wash., Navy-Yard.		50,000.00	25,000.00
New Orleans, La., naval station.		10,000.00	10,000.00
Guantanamo, Cuba, naval station.		10,000.00	
Cavite, P. I., naval station.	25,000.00	15,000.00	15,000.00
Olongapo, P. I., naval station.	20,000.00	25,000.00	25,000.00
Engineering experimental station, United States Naval Academy, Annapolis, Md.:			
Salaries.	5,520.00	12,240.00	5,520.00
For civilian assistant to director.			
For 1 chemist.			
For 1 skilled mechanic.			
For 1 electrical mechanic.			
Contingent.		1,000.00	
Experimental work at engineering laboratory.	25,000.00	30,000.00	25,000.00
Buildings.			
1 house for quarters for engineering director (officer).			
1 house for quarters for assistant to director (officer).			
1 house for quarters for assistant to director (civilian).			
Civil establishment:			
At all navy-yards and stations.	17,900.00	36,000.00	17,900.00
Total	5,729,420.00	7,120,240.00	6,309,420.00

The appropriations for this Bureau are practically the same as last year with the exception of an increase of \$250,000 under "Steam machinery" and \$250,000 for the preservation of machinery tools in navy-yards and stations and the handling and preservation of all machinery stores and running the yard engines. This increase is due to the fact that the Navy is larger and more ships are in commission.

Also \$65,000 is recommended for the care of the machinery of the vessels loaned to the Naval Militia of the various States.

NAVAL ACADEMY, CIVIL ESTABLISHMENT.

The following table gives a comparative statement of the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Naval Academy.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Pay of professors and others.....	\$133,408.26	\$142,462.76	\$134,608.26
Pay of watchmen, mechanics, and others.....	100,000.00	125,000.00	125,000.00
Pay of steam employees.....	20,343.06	20,343.06	20,343.06
Special course athletics.....	3,000.00	5,000.00	5,000.00
Repairs.....	30,000.00	30,000.00	30,000.00
Heating and lighting.....	50,000.00	60,000.00	60,000.00
Contingent.....	108,977.04	100,777.04	100,777.04
Total.....	440,728.36	483,582.86	475,728.36

It will be seen from the above table that the appropriations are practically the same as last year. An increase of \$25,000 under "Pay of watchmen, mechanics, and others" is recommended first, for increased labor in the power house, and second, increased labor to the care of buildings. This increase is due to the number of laborers and not to the increase of pay for same.

MARINE CORPS.

The Marine Corps is a military branch of the naval service and consists to-day of 278 officers and 8,771 men, and is fully recruited.

The following table shows the appropriations for 1908, estimates for 1909, and the amounts carried in this bill:

Marine Corps.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Pay, officers' active list.....	\$598,140.00	\$609,713.00	\$609,713.00
Pay, officers' retired list.....	115,000.00	115,000.00	115,000.00
Pay, enlisted men active list.....	1,883,555.20	1,954,084.00	1,955,000.00
Pay, enlisted men retired list.....	67,422.00	84,469.00	84,469.00
Undrawn clothing.....	85,569.98	98,707.80	98,707.80
Mileage.....	40,000.00	45,000.00	45,000.00
Hire and commutation of quarters.....	20,000.00	30,000.00	30,000.00
Civil force.....	30,311.28	35,711.28	30,311.28
Total "Pay, Marine Corps".....	30,311.28	35,711.28	30,311.28
Quartermaster's department:			
Provisions.....	548,503.00	648,543.00	648,543.00
Clothing.....	600,092.00	650,920.00	650,920.00
Fuel.....	80,000.00	110,000.00	100,000.00
Military stores.....	225,782.00	250,782.00	230,000.00
Transportation and recruiting.....	186,000.00	236,000.00	236,000.00
Repairs of barracks.....	78,836.00	88,836.00	88,836.00
Forage.....	17,700.00	17,700.00	17,700.00
Hire or commutation of quarters.....	51,548.00	60,000.00	60,000.00
Contingent.....	280,800.00	330,800.00	285,000.00
Total quartermaster's department.....	2,070,089.00	2,814,971.00	2,316,999.00
Total Marine Corps, exclusive of public works.....	4,914,087.46	5,787,656.08	5,265,200.08

The small increases under "Pay, Marine Corps," are because a greater proportion of officers are serving abroad and a great proportion of officers became entitled to longevity pay during the past year. The increase of \$13,000 in "Undrawn clothing," is due to the expected discharge of 3,000 men upon the expiration of their enlistment, and they are entitled to be paid the money value of the clothing they have saved. The increase of \$100,000 in the appropriation "Provisions, Marine Corps," is due to the increased cost of 16 per cent in the cost of rations. An increase of \$50,000 is recommended under "Clothing, Marine Corps," because of the fact that about 1,000 men are serving in Cuba, in the field, at such work as is particularly destructive to their uniforms. An increase of \$20,000 under "Fuel, Marine Corps," is necessitated by the increase due to the Army act which increased the number of rooms to which officers are entitled, and, therefore, the amount of fuel that they consume. The increase in "Transportation and recruiting, Marine Corps," is due to the fact that the cost of transportation of the military has increased considerably, as the Department is unable to make competitive contracts with the railroads. The increase under "Repairs of barracks," is due to the repairs to the barracks on the Isthmus of Panama being paid from this appropriation, where the Isthmian Canal Commission has formerly paid for same. The other appropriations for the Marine Corps remain practically the same as last year.

INCREASE OF THE NAVY.

The following table shows the amounts appropriated for 1908, estimates for 1909, and the amounts carried in this bill:

Increase of the Navy.	Appropriated, 1908.	Estimates, 1909.	Recommended.
Bureaus of Construction and Repair and Steam Engineering:			
Increase of the Navy, construction and machinery.....	\$12,713,915.00	\$9,832,962.00	\$9,832,962.00
Increase of the Navy, armor and armament.....	10,000,000.00	7,000,000.00	7,000,000.00
Increase of the Navy, equipment.....	750,000.00	400,000.00	400,000.00
Increase of the Navy, subsurface or submarine boats.....	500,000.00	-----	1,445,000.00
Total.....	23,963,915.00	17,232,962.00	18,677,962.00

The following table shows the degree of completion of our ships now under construction.

Vessels building for the increase of the Navy are listed in the following tables, which include all those authorized by law, with the

exception of one gunboat for the Great Lakes, authorized in 1898, and submarine boats appropriated for by the last Congress:

Vessels building under contract.

Name.	By whom building.	Estimate of—		Contract time.	Expiration of contract time.
		Degree of completion July 1, 1907.	Probable date of completion.		
BATTLE SHIPS.		<i>P. cent.</i>		<i>Months.</i>	
Mississippi	Wm. Cramp & Sons.	88.96	Dec. 7, 1907	38	Mar. 25, 1907
Idaho	do.	81.98	Feb. 10, 1908	40	May 25, 1907
New Hampshire.	New York Shipbuilding Co.	75.40	Aug. 10, 1908	38	Feb. 27, 1908
Michigan.....	do.	19.40	Mar. 8, 1910	40	Nov. 20, 1909
South Carolina..	Wm. Cramp & Sons.	17.48	Feb. 5, 1910	41	Dec. 21, 1909
Delaware.....	Newport News Shipbuilding Co.	.....	Aug. 6, 1910	36	Aug. 6, 1910
North Dakota ...	Fore River Shipbuilding Co.	.....	June 21, 1910	34½	June 21, 1910
ARMORED CRUISERS.					
California	Union Iron Works	99.90	May 18, 1907	36	Jan. 10, 1904
South Dakota ..	do.	97.50	Oct. 2, 1907	36	Do.
North Carolina..	Newport News Shipbuilding Co.	83.77	Mar. 12, 1908	36	Jan. 3, 1908
Montana	do.	76.96	May 27, 1908	36	Do.
SCOUT CRUISERS.					
Chester	Bath Iron Works.	81.26	July 10, 1908	36	May 4, 1908
Birmingham	Fore River Shipbuilding Co.	81.60	Mar. 12, 1908	30	Nov. 17, 1907
Salem	do.	80.80	June 23, 1908	34	Mar. 17, 1908
TORPEDO-BOAT DESTROYERS.					
No. 17.....	Wm. Cramp & Sons.	.....	Oct. 10, 1909	24	Oct. 10, 1903
No. 18.....	do.	.....	do.	24	Do.
No. 19.....	New York Shipbuilding Co.	.....	Sept. 28, 1909	24	Sept. 28, 1909
No. 20.....	Bath Iron Works.	.....	do.	24	Do.
No. 21.....	do.	.....	do.	24	Do.
SUBMARINE TORPEDO BOATS.					
Octopus	Fore River Shipbuilding Co.	97.00	Nov. 3, 1907	18	Sept. 6, 1905
Viper	do.	95.00	Oct. 16, 1907	18	Do.
Cuttlefish.....	do.	97.00	do.	18	Sept. 18, 1905
Tarantula	do.	95.00	Nov. 3, 1907	18	Do.

a Delivered to Government.

Vessels building at navy-yards.

Name.	Where building.	Estimate of—		Con- struc- tional period.	Expiration of cnstruc- tional period.
		Degree of com- pletion, July 1, 1907.	Probable date of com- pletion.		
COLLIERS.					
Vestal	Navy-yard, New York, N. Y.	<i>P. cent.</i> 30.70	Aug. 1, 1908	<i>Months.</i> .....	.....
Prometheus	Navy-yard, Mare Island, Cal.	.70	.....	.....	.....
SEAGOING TUGS.					
Patapsco	Navy-yard, Ports- mouth, N. H.	16.00	Jan. 1, 1908	.....	.....
Patuxent	Navy-yard, Nor- folk, Va.	9.00	Sept 30, 1908	.....	.....

The amount necessary to be appropriated to pay for the work now progressing and contracted during the next fiscal year is \$17,232,962.

PREVIOUS NAVAL PROGRAMMES.

List, by years and sessions of Congress, of naval vessels authorized by acts of Congress from 1883 to 1907, inclusive.

1883 (47TH, 2D)—Page 7.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
Atlanta.....	Protected cruiser.....	Tons. 3,000	Knots. 15.60	Ft. In. 16 10	\$617,000
Boston.....	do.....	3,035	15.60	17 0	619,000
Chicago.....	do.....	5,000	18	20 4	880,000
Dolphin.....	Dispatch boat.....	1,485	15.50	14 3	315,000
Total.....	-----	12,521	-----	-----	2,440,000

APPENDIX TO THE CONGRESSIONAL RECORD.

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List, by years and sessions of Congress, of naval vessels authorized by acts of Congress from 1883 to 1907, inclusive—Continued.

1885 (48TH, 2D)—Page 33.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Charleston (destroyed).	Protected cruiser.	3,370	18.2	18 7	\$1,017,500
Newark.	do.	4,008	19	18 9	1,248,000
Petrel.	Gunboat.	892	11.70	11 7	247,000
Yorktown.	do.	1,710	16.14	14 0	455,000
Total.		10,070			2,907,500

1886 (49TH, 1ST)—Page 45.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Amphitrite.	Monitor.	3,990	10.5	14 6	
Baltimore.	Protected cruiser.	4,413	20.096	20 0	\$1,325,000
Cushing.	Torpedo boat.	105	22.5	4 10 3	159,400
Maine (destroyed).	Second-class battleship.	6,682	17.45	21 6	2,500,000
Monadnock.	Monitor.	4,005	12	14 7	
Puritan.	do.	6,060	12.4	18 0	
Terror.	do.	3,990	10.5	14 6	
Texas.	Second-class battleship.	6,315	17.8	22 6	* 2,500,000
Vesuvius.	Dynamite-gun cruiser.	229	21.42	10 7 3	350,000
Total.		36,489			6,834,400

1887 (49TH, 2D)—Page 62.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Bennington.	Gunboat.	1,710	17.5	14 0	\$490,000
Concord.	do.	1,710	16.8	14 0	490,000
Manitowoh.	Monitor.	3,990	10.5	14 6	
Monterey.	do.	4,084	13.6	14 10	1,628,950
Philadelphia.	Protected cruiser.	4,410	19.678	19 6	1,350,000
San Francisco.	do.	4,098	19.525	18 9	1,428,000
Total.		20,002			5,386,950

1888 (50TH, 1ST)—Page 81.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Bancroft.	Gunboat.	839	14.37	12 2	\$250,000
Cincinnati.	Protected cruiser.	3,213	19	18 0	* 1,100,000
Detroit.	Unprotected cruiser.	2,089	18.71	14 7	612,500
Marblehead.	do.	2,089	18.44	14 7	674,000
Montgomery.	do.	2,089	19.05	14 7	674,000
New York.	Armored cruiser.	8,900	21	23 3 3	2,985,000
Olympia.	Protected cruiser.	5,870	21.686	21 6	1,796,000
Raleigh.	do.	3,213	19	18 0	* 1,100,000
Total.		27,002			9,191,500

1889 (50TH, 2D)—Page 99.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Castine.	Gunboat.	1,177	16.032	12 0	\$318,500
Katahdin.	Ram.	2,155	16.11	15 0	930,000
Machias.	Gunboat.	1,177	15.46	12 0	318,500
Total.		4,509			1,567,000

1890 (51ST, 1ST)—Page 119.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Columbia.	Protected cruiser.	7,375	22.8	22 6	\$2,725,000
Ericsson.	Torpedo boat.	120	24	4 9	113,500
Indiana.	First-class battle ship.	10,238	15.547	24 0	3,063,000
Massachusetts.	do.	10,238	16.21	24 0	3,063,000
Oregon.	do.	10,238	15.79	24 0	3,222,810
Total.		38,339			12,187,310

1891 (51ST, 2D)—Page 138.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Minneapolis.	Protected cruiser.	7,375	23.073	22 6	\$2,690,000

1892 (52D, 1ST)—Page 157.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Brooklyn.	Armored cruiser.	9,215	21.91	24 0	\$2,988,000
Iowa.	First-class battle ship.	11,340	17.09	24 0	3,010,000
Total.		20,555			5,998,000

1893 (52D, 2D)—Page 176.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Helena.	Gunboat.	1,397	15.50	9 0	\$280,000
Nashville.	do.	1,371	16.30	11 0	180,000
Plunger.	Submarine torpedo boat.				150,000
Wilmington.	Gunboat.	1,397	15.08	9 0	280,000
Total.		4,165			890,000

* Built in Government yard.

* Maximum cost.

List, by years and sessions of Congress, of naval vessels authorized by acts of Congress from 1883 to 1907, inclusive—Continued.

1894 (53D, 2D)—Page 196.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Foote.	Torpedo boat.	142	24.534	5 0	\$97,500
Rodgers.	do.	142	24.49	5 0	97,500
Winslow.	do.	142	24.82	5 0	97,500
Total.		426			292,500

1895 (53D, 3D)—Page 214.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Annapolis.	Gunboat.	1,060	13.17	12 5	\$227,700
Dupont.	Torpedo boat.	165	28.58	4 8	144,000
Kearsarge.	First-class battle ship.	11,540	16.816	23 6	2,250,000
Kentucky.	do.	11,540	16.897	23 6	2,250,000
Marietta.	Gunboat.	1,000	13.02	12 0	223,000
Newport.	do.	1,000	12.29	12 0	229,400
Porter.	Torpedo boat.	165	28.630	4 8	144,000
Princeton.	Gunboat.	1,100		12 9 3	230,000
Rowan.	Torpedo boat.	182	27.074	5 1 3	160,000
Vicksburg.	Gunboat.	1,000	12.71	12 0	229,400
Wheeling.	do.	1,000	12.88	12 0	219,000
Total.		29,752			6,306,500

1896 (54TH, 1ST)—Page 237.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Alabama.	First-class battle ship.	11,565	17.103	23 6	\$2,660,000
Craven.	Torpedo boat.	146.4	30.5	4 7 3	184,000
Dahlgren.	do.	146.4	30.5	4 7 3	194,000
Davis.	do.	154	28.41	5 10	81,546
Farragut.	do.	270	30.13	6 0	227,500
Fox.	do.	154	23.13	5 10	81,546
Gwin.	do.	45.78	20.88	3 3	39,000
Illinois.	First-class battle ship.	11,565	17.449	23 6	2,595,000
McKee.	Torpedo boat.	65	19.82	4 3	45,000
Mackenzie.	do.	65	20.11	4 3	48,500
Morris.	do.	104.75	24	4 0 3	85,000
Talbot.	do.	46.5	21.15	3 3 1	39,000
Wisconsin.	First-class battle ship.	11,663	17.174	23 8 1	2,674,950
Total.		35,989.83			8,955,042

1897 (55TH, 1ST)—Page 258.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Bailey.	Torpedo boat.	290	30.198	6 10	\$210,000
Chesapeake.	Training ship.	1,175		16 6	112,600
Goldsborough.	Torpedo boat.	247.5	30	5 0	214,500
Stringham.	do.	340	30	6 6	236,000
Total.		2,042.5			773,100

1898 (55TH, 2D)—Page 281.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Arkansas.	Monitor.	3,235	11.50	12 6	\$900,000
Bagley.	Torpedo boat.	175	29.2	4 1 3	161,000
Bainbridge.	Torpedo-boat destroyer.	420	29	6 6	283,000
Barney.	Torpedo boat.	175	29.1	4 1 3	161,000
Barry.	Torpedo-boat destroyer.	420	29	6 6	283,000
Biddle.	Torpedo boat.	175	28	4 1 3	161,000
Blakely.	do.	200	26	5 10 3	550,400
Chauncey.	Torpedo-boat destroyer.	420	29	6 6	283,000
Dale.	do.	420	28	6 6	290,000
Decatur.	do.	420	28	6 6	290,000
DeLong.	Torpedo boat.	200	26	5 10 3	159,400
Florida.	Monitor.	3,235	11.50	12 6	925,000
Gunboat No. 16.	Gunboat.	537			260,000
Hopkins.	Torpedo-boat destroyer.	408	29	6 0	291,000
Hull.	do.	408	29	6 0	291,000
Lawrence.	do.	402	30	6 6 3	281,000
Maine.	do.	402	30	6 6 3	281,000
Macdonough.	do.	402	30	6 6 3	281,000
Massachusetts.	First-class battle ship.	12,300	18	23 6	2,885,000
Missouri.	do.	12,240	18	23 6	2,885,000
Nevada.	Monitor.	3,228	11.50	12 6	962,000
Nicholson.	Torpedo boat.	174	26	4 6	165,000
O'Brien.	do.	174	26	4 6	165,000
Ohio.	First-class battle ship.	12,440	18	23 6	2,890,000
Paul Jones.	Torpedo-boat destroyer.	420	29	6 6	285,000
Perry.	do.	420	29	6 6	285,000
Preble.	do.	420	29	6 6	285,000
Shubrick.	Torpedo boat.	200	25	5 2	129,750
Stewart.	Torpedo-boat destroyer.	420	29	6 6	282,000
Stockton.	Torpedo boat.	200	24.75	5 2	129,750
Thornston.	do.	200	26	5 2	129,750
Tingey.	do.	165	26	4 8	168,000
Truxtun.	Torpedo-boat destroyer.	433	30	6 0	288,000
Whipple.	do.	433	30	6 0	288,000
Wilkes.	Torpedo boat.	165	26.50	4 8	146,000
Worden.	Torpedo-boat destroyer.	432	30	6 0	288,000
Wyoming.	Monitor.	3,218	11.50	12 6	975,000
Total.		59,335			19,494,050

List, by years and sessions of Congress, of naval vessels authorized by acts of Congress from 1883 to 1907, inclusive—Continued.

1899 (55TH, 3D)—Page 305.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
California.....	Armored cruiser.....	13,680	22	24 1	\$3,800,000
Chattanooga.....	Protected cruiser.....	3,200	16.5	15 9	1,039,966
Cleveland.....	do.....	3,200	16.5	15 9	1,041,650
Denver.....	do.....	3,200	16.5	15 9	1,065,000
Des Moines.....	do.....	3,200	16.5	15 9	1,065,000
Galveston.....	do.....	3,200	16.5	15 9	1,027,000
Georgia.....	First-class battle ship.....	14,948	19	29 9	3,560,000
Nebraska.....	do.....	14,948	19	23 9	3,733,600
Pennsylvania.....	Armored cruiser.....	13,680	22	24 1	3,890,000
Tacoma.....	Protected cruiser.....	3,200	16.5	15 9	1,041,900
Virginia.....	First-class battle ship.....	14,948	19	23 9	3,560,000
West Virginia.....	Armored cruiser.....	13,680	22	24 1	3,885,000
Total.....		105,034			28,784,116

1900 (56TH, 1ST)—Page 332.

Adder *.....	Submarine torpedo boat.....				\$170,000
Charleston.....	Protected cruiser.....	9,700	22	22 6	2,740,000
Colorado.....	Armored cruiser.....	13,680	22	24 1	3,780,000
Grampus *.....	Submarine torpedo boat.....				170,000
Holland *.....	do.....				*150,000
Maryland.....	Armored cruiser.....	13,680	22	24 1	3,775,000
Milwaukee.....	Protected cruiser.....	9,700	22	22 6	2,825,000
Moccasin *.....	Submarine torpedo boat.....				170,000
New Jersey.....	First-class battle ship.....	14,948	19	23 9	3,405,000
Pike *.....	Submarine torpedo boat.....				170,000
Porpoise *.....	do.....				170,000
Rhode Island.....	First-class battle ship.....	14,948	19	23 9	3,405,000
St. Louis.....	Protected cruiser.....	9,700	22	22 6	2,740,000
Shark *.....	Submarine torpedo boat.....				170,000
South Dakota.....	Armored cruiser.....	13,680	22	24 1	3,750,000
Total.....		100,086			27,590,000

1902 (57TH, 1ST)—Page 396.

Connecticut *.....	First-class battle ship.....	16,000	18	24 6	*\$4,212,000
Dubuque.....	Gunboat.....	1,050	12.50	12 3	295,000
Louisiana.....	First-class battle ship.....	16,000	18	23 9	3,990,000
Paducah.....	Gunboat.....	1,100	12	12 9	355,000
Tennessee.....	Armored cruiser.....	14,500	22	25 0	4,035,000
Washington.....	do.....	14,500	22	25 0	4,035,000
Total.....		63,150			16,922,000

1903 (57TH, 2D)—Page 427.

Cumberland *.....	Training ship.....	1,800		16 5	*\$370,000
Idaho.....	First-class battle ship.....	13,000	17	24 8	2,969,500
Intrepid.....	Training ship.....	1,800		13 5	*370,000
Kansas.....	First-class battle ship.....	16,000	18	24 6	4,165,000
Minnesota.....	do.....	16,000	18	24 6	4,110,000
Mississippi.....	do.....	13,000	17	24 8	2,969,500
Vermont.....	do.....	16,000	18	24 6	4,179,000
Total.....		77,600			19,193,000

1904 (58TH, 2D)—Page 458.

New Hampshire.....	First-class battle ship.....	16,000	18	24 6	\$3,748,000
North Carolina.....	Armored cruiser.....	14,500	22	25 0	*4,400,000
Montana.....	do.....	14,500	22	25 0	*4,400,000
Chester.....	Scout cruiser.....	3,750	24		*1,900,000
Birmingham.....	do.....	3,750	24		*1,900,000
Salem.....	do.....	3,750	24		*1,800,000
Vestal.....	Fleet collier.....				*1,250,000
Prometheus.....	do.....				*1,250,000
Total.....		56,250			20,648,000

1905 (58TH, 3D)—Page 488.

South Carolina.....	First-class battle ship.....	16,000	18.5	24 6	\$3,540,000
Michigan.....	do.....	16,000	18.5	24 6	3,585,000
Total.....		32,000			7,125,000

* See history submarine boat legislation.
 * Purchase price.
 * Built in Government yard.
 * Maximum cost.

List, by years and sessions of Congress, of naval vessels, etc.—Continued.
 1906 (59TH, 1ST)—Page 523.

Name.	Type.	Displacement.	Speed.	Mean draft.	Contract price of hull and machinery.
		Tons.	Knots.	Ft. In.	
Delaware.....	First-class battle ship.....	20,000	21	26 11	\$3,987,000
No. 17.....	Torpedo-boat destroyer.....	700	28	8	*585,000
No. 18.....	do.....	700	28	8	*585,000
No. 19.....	do.....	700	28	8	*645,000
	Submarine or subsurface torpedo boats (not exceeding \$1,000,000; \$500,000 appropriated).				500,000
Total.....		22,100			6,302,000

1907 (59TH, 2D)—Page 557.

North Dakota.....	First-class battle ship.....	20,000.00	21	26 11	\$4,377,000
No. 20.....	Torpedo-boat destroyer.....	700.00	28	8	624,000
No. 21.....	do.....	700.00	28	8	624,000
	Limit of contract for submarine and subsurface torpedo boats, act June 29, 1903, increased to \$3,000,000; \$500,000 appropriated.				500,000
Total.....		21,400.00			6,125,000
Grand total.....		754,762.33			

* Limit of cost increased from \$750,000 to \$800,000, act of March 2, 1907.

* Limit of cost increased to \$3,000,000, act March 2, 1907.

NAVAL PROGRAMME.

The committee recommend this year the following:
 "That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed, by contract or in navy yards, as hereinafter provided, two first-class battle ships, to cost, exclusive of armor and armament, not exceeding \$6,000,000 each, similar in all essential characteristics to the battle ship authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1908; ten torpedo-boat destroyers, to have the highest practicable speed, and to cost, exclusive of armament, not to exceed \$800,000 each."

The committee further recommend the following provision:
 "That the Secretary of the Navy is hereby authorized and directed to contract for eight submarine torpedo boats, in an amount not exceeding in the aggregate \$3,500,000, and the sum of \$1,000,000 is hereby appropriated toward said purpose, and to remain available until expended: *Provided*, That all such boats shall be of the same type heretofore determined to be superior as the result of the competitive tests held under the provisions of the naval appropriation acts approved June 29, 1906, and March 2, 1907, unless on or before October 1, 1908, a submarine torpedo boat of a different type and of full size for naval warfare shall have been constructed and submitted to the Navy Department for like trial, and by such like trial by said Department demonstrated to be not inferior to the best submarine torpedo boat in the competition above referred to."

The committee further recommend the following provision:
 "That the Secretary of the Navy is hereby authorized, in his discretion, to contract for or purchase one destroyer or torpedo boat of the type known as subsurface, semisubmerged (or the like), the essential feature of which is to have during its operation some portion of the hull or superstructure always on or above the surface, such vessel to cost not to exceed \$400,000 and to have a speed of not less than 22 knots; also two small vessels of like type, having a speed of not less than 16 knots, and to cost not to exceed \$22,500 each: *Provided*, That before any vessel of the type provided for in this paragraph shall be purchased or contracted for a vessel of such type shall have been constructed complete and of full size for naval warfare and submitted to the Navy Department for such trial and tests as the Secretary of the Navy may in his discretion prescribe, and as the result of such tests be demonstrated to have fulfilled all the reasonable requirement of naval warfare for a vessel of its class; and for these vessels the sum of \$445,000 is hereby appropriated, to be available until expended."

FOREIGN NAVAL PROGRAMMES.

NAVY DEPARTMENT,
 Washington, February 4, 1908.

SIR: I have the honor to submit herewith information compiled at your request by the Office of Naval Intelligence concerning building programmes of the principal naval powers.

Very respectfully,

TRUMAN H. NEWBERRY,
 Acting Secretary.

HON. GEORGE EDMUND FOSS,
 Chairman of Committee on Naval Affairs,
 House of Representatives.

OFFICE OF NAVAL INTELLIGENCE,
 February 1, 1908.

NAVAL BUILDING PROGRAMMES.

The building programmes of the principal foreign powers for the year 1907 are described in the Annual Report of the Secretary of the Navy for the fiscal year 1907, page 3, et seq:

"FOREIGN SHIPBUILDING PROGRAMMES.

"In foreign shipbuilding programmes of the current year the characteristic feature of all is the presence of battle ships of heavy displacement, destroyers, and submarines, and, with the German excepted, the omission of armored cruisers. The speed and displacement of battle ships are increasing in all countries, and there is a marked tendency toward a reduction in the number of calibers of guns composing the armament. The armament of the latest type of battle ships is composed

of heavy turret guns and of smaller guns intended for defense or against torpedo craft. The latter, however, are increasing in caliber to such a degree that in some ships of recent design they are of the same calibers that were used but a few years ago for the intermediate battery.

"The absence of armored cruisers from the new programmes is worthy of note and may be ascribed to the tendency toward the merging of the battle-ship and armored-cruiser types. With the increase in size and power of the armored cruiser the distinction between that type and the battle ship has become less and less clearly marked, until in the English *Invincible* class it has almost disappeared. Having reached a limit in armored-cruiser construction in the *Invincible* class, England is about to return to a smaller type of cruisers for commerce protection and police duties, and it has been announced in Parliament that 'the further construction of large armored cruisers is not, in the judgment of the Admiralty, immediately required. Attention will, however, be directed in the immediate future to the development of the 'scout' class and to the evolution of a new type of cruiser to take the place of the obsolescent *Edgar* class.' [It should be noted, however, that England already possesses a large number (thirty-two) of armored cruisers.] The development of the scout is also a subject that is engaging the attention of other foreign admiralties. Torpedo boats of less than 200 tons no longer find place in recent programmes. Several nations are building torpedo boats of 200 to 300 tons, and nearly all are building destroyers, the displacements of which vary from 400 to 800 or 900 tons, and show a steady tendency to increase.

"Submarines, also, are increasing in size as well as in numbers, the largest being 577 tons, now building in France. Germany and Austria have recently been added to the list of nations engaged in building submarines. The number and types of vessels building in the several countries are indicated below:

"ENGLAND.

"The naval estimates have been submitted to Parliament and provide for the following new construction: One battle ship (improved *Dreadnought*), one large armored cruiser (*Invincible* type), six fast protected cruisers (scouts), sixteen torpedo boat destroyers (*Tribal* class), and a number of submarines estimated to cost £500,000 (\$2,433,250).

"The new vessels of the *Dreadnought* type, Nos. 5, 6, and 7, of which one has been named *St. Vincent*, are to be known as the '*St. Vincent*' class. Their armament is stated to be similar to that of the *Dreadnought*, but the displacement has been increased to 19,300 tons. The fast unarmored cruiser scout, known as the '*Boadicea*,' is to have a speed of 25 knots. The total sum of money to be expended for ship-building during the coming fiscal year is \$39,418,650.

"FRANCE.

"In view of the large number of vessels building under former programmes, which include six battle ships of the *Danton* class just laid down, four battle ships of the *Justice* class near completion, four large armored cruisers and a large number of destroyers and submarines, the programme for 1907 provides for the beginning of five destroyers and ten submarines. The sum authorized for new construction is \$18,696,346.

"GERMANY.

"According to the 'fleet law,' which authorizes a continuous building policy and specifies the building programme for each year up to and including 1917, there was authorized this year two battle ships, one armored cruiser, two protected (small) cruisers (scouts), twelve torpedo-boat destroyers, and \$714,000 to be expended for submarines.

"The amount to be expended for new construction is \$30,575,800. The characteristics of the battle ships are not announced, but it is believed that they are to be of more than 18,000 tons displacement and are to carry a very large number of heavy-caliber guns. The armored cruiser is believed to be of about 19,000 tons displacement,

to carry a number of heavy-caliber guns, and to have turbine engines. The small cruisers are to serve as scouts and possess high speed.

"JAPAN.

"The naval budget, as passed by the Diet and approved by the Emperor, carries appropriations amounting to \$17,965,793 for the construction and repairs of ships. This includes the cost of repairs to ships in commission as well as the restoration of the Russian prizes and the building of new ships. About \$12,500,000 of the whole amount will be devoted to increasing the navy, the restoration of Russian prizes, and new construction.

"The numbers and types of ships to be laid down are not yet officially announced. It is generally understood, however, that according to the programme Japan will, in the near future, lay down two battle ships of the most powerful type and displacement and several torpedo-boat destroyers and submarines. Two submarines are now building for Japan in England. A third battle ship is also included in the Japanese shipbuilding scheme, and it has been recently reported that a large battle ship has been contracted for in Great Britain for the Japanese Government, but this report appears not to be made with authority if true.

"RUSSIA.

"No definite programme has been announced. The minister has been authorized to include in his budget of 1908 an annual appropriation of \$15,000,000 for construction and armament of war ships in excess of the unexpended balance from 1906. Two battle ships of the largest type have been begun in St. Petersburg.

"ITALY.

"The naval budget for 1907-8 includes a provision for the beginning of one battle ship of 16,000 tons, a considerable increase in displacement over recent Italian battle ships.

"AUSTRIA.

"The programme for 1907 provides three battle ships of 14,500 tons, a very marked increase over previous Austrian displacements. It also includes a provision for six submarines, which are under construction or contracted for.

"BRAZIL.

"The Brazilian programme, which has been under consideration for some years and finally adopted, includes three battle ships, about 19,000 tons each; two scout cruisers; eighteen torpedo boats and destroyers; three submarines; one mining vessel.

"The cost of these is to be spread over a period of years. Of the above, three battle ships, two scout cruisers, and ten destroyers are actually under construction or contracted for in British yards.

"A tabular statement indicating the number of vessels building or already authorized under the shipbuilding programmes of different nations follows:

"Foreign vessels building or authorized.

	Battle ships.	Armored cruisers.	Cruisers or scouts.	Destroyers.	Torpedo boats.	Submarines.
England.....	7	6	1	13	24	21
France.....	8	4	0	40	14	63
Germany.....	6	2	5	12	0	2
Japan.....	4	2	3	3	0	2
Russia.....	6	3	0	4	0	6
Italy.....	4	4	1	4	11	3
Austria.....	3	0	1	8	13	6
Brazil.....	3	0	2	10	0	3

"The tonnage, sea strength, and personnel of the various naval powers to November 1, 1907, is given in the following tables:

War-ship tonnage of the principal naval powers, number and displacement of war ships, built and building, of 1,000 or more tons, and of torpedo craft of more than 50 tons—November 1, 1907.

Type of vessel.	Great Britain.				France.			
	Built.		Building.		Built.		Building.	
	Number.	Tons.	Number.	Tons.	Number.	Tons.	Number.	Tons.
Battle ships, first class ^a	52	749,090	4	72,300	19	228,641	8	139,820
Coast-defense vessels ^c	12	73,300			12	73,300		
Armored cruisers.....	32	372,800	6	95,550	19	166,580	4	54,394
Cruisers above 6,000 tons ^d	19	183,950			3	24,409		
Cruisers 6,000 to 3,000 tons ^d	45	200,280	1	3,300	13	52,549		
Cruisers 3,000 to 1,000 tons ^d	26	56,305			12	23,152		
Torpedo-boat destroyers.....	142	53,235	8	7,556	35	10,594	25	9,001
Torpedo boats.....	47	7,490	24	6,436	257	24,322	14	1,358
Submarines.....	39	9,966	9	3,352	41	5,532	58	22,460
Total tons built and total tons building.....		1,633,116		188,494		609,079		227,033
Total tons built and building.....		1,821,610				836,112		

Type of vessel.	United States.				Germany.			
	Built.		Building.		Built.		Building.	
	Number.	Tons.	Number.	Tons.	Number.	Tons.	Number.	Tons.
Battle ships, first class ^a	22	292,146	7	114,000	22	260,250	6	98,400
Coast-defense vessels ^c	11	45,334			8	33,200		
Armored cruisers.....	10	128,445	2	29,000	8	79,600	2	34,200
Cruisers above 6,000 tons ^d	5	43,800			1	6,300		
Cruisers 6,000 to 3,000 tons ^d	17	61,370	3	11,250	18	74,160	3	11,050
Cruisers 3,000 to 1,000 tons ^d	19	26,317			19	40,685		
Torpedo-boat destroyers.....	16	6,957	5	3,750	60	26,298	12	7,560
Torpedo boats.....	32	5,615			48	8,539		
Submarines.....	12	1,632	7	2,142	1	180	2	360
Total tons built and total tons building.....		611,616		160,142		529,032		151,570
Total tons built and building.....		771,758				680,602		

War-ship tonnage of the principal naval powers, number and displacement of war ships, built and building, of 1,000 or more tons, and of torpedo craft of more than 50 tons—November 1, 1907—Continued.

Type of vessel.	Japan.				Russia.			
	Built.		Building.		Built.		Building.	
	Num-ber.	Tons.	Num-ber.	Tons.	Num-ber.	Tons.	Num-ber.	Tons.
Battle ships, first class ^a	11	152,548	2	38,950	5	62,600	4	58,600
Coast-defense vessels ^c	3	18,786			4	21,380		
Armored cruisers.....	11	108,900	2	29,200	4	46,200	3	24,000
Cruisers above 6,000 tons ^d	2	13,130			7	46,460		
Cruisers 6,000 to 3,000 tons ^d	10	38,994	1	4,100	1	3,100		
Cruisers 3,000 to 1,000 tons ^d	7	15,288	2	2,600	7	8,800		
Torpedo-boat destroyers.....	54	19,413	3	1,143	93	33,834	4	2,420
Torpedo boats.....	77	6,842			57	6,834		
Submarines.....	7	800	2	626	25	3,755	6	2,077
Total tons built and total tons building.....		374,701		76,619		232,943		87,097
Total tons built and building.....				451,320				320,040

Type of vessel.	Italy.				Austria.			
	Built.		Building.		Built.		Building.	
	Num-ber.	Tons.	Num-ber.	Tons.	Num-ber.	Tons.	Num-ber.	Tons.
Battle ships, first class ^a	10	130,629	3	37,275	3	31,800		
Coast-defense vessels ^c					6	41,700		
Armored cruisers.....	6	39,200	4	39,320	3	18,800		
Cruisers above 6,000 tons ^d								
Cruisers 6,000 to 3,000 tons ^d	1	3,530			2	8,000		
Cruisers 3,000 to 1,000 tons ^d	10	21,920			3	7,050		
Torpedo-boat destroyers.....	13	4,133	4	1,460	4	1,600	2	800
Torpedo boats.....	66	7,804	11	2,305	36	4,285	3	600
Submarines.....	3	407	3	450			6	1,600
Total tons built and total tons building.....		207,623		80,810		113,235		3,000
Total tons built and building.....				288,433				116,235

^a Battle ships, first class, are those of (about) 10,000 or more tons displacement.

^b Omitting the *Léna*.

^c Includes smaller battle ships and monitors.

^d All unarmored war ships of more than 1,000 tons are in this table classed according to displacement as cruisers. Scouts are considered as cruisers in which battery and protection have been sacrificed to secure extreme speed. The word "protected" has been omitted because all cruisers except the smallest and oldest now have protective decks.

N. B.—The following vessels are not included in the tables:

Those over 20 years old, unless they have been reconstructed and rearmed since 1900.

Those not actually begun, although authorized.

Transports, colliers, repair ships, torpedo depot ships, converted merchant vessels, or yachts.

Vessels of less than 1,000 tons, except torpedo craft.

Torpedo craft of less than 50 tons.

Relative order of war-ship tonnage.

At present.		As would be the case were vessels building now completed.	
Nation.	Tonnage.	Nation.	Tonnage.
Great Britain.....	1,633,116	Great Britain.....	1,821,610
United States.....	611,616	France.....	836,112
France.....	609,079	United States.....	771,758
Germany.....	529,032	Germany.....	680,602
Japan.....	374,701	Japan.....	451,320
Russia.....	232,943	Russia.....	320,040
Italy.....	207,623	Italy.....	288,433
Austria.....	113,235	Austria.....	116,235

SEA STRENGTH.

SHIPS.

TABLE I.—Vessels built November 1, 1907.

	Battle ships. ^a	Armored cruisers.	Cruis-ers. ^b	De-stroy-ers.	Tor-pedo boats.	Sub-ma-rines.	Coast-defense ves-sels. ^c
England.....	52	32	90	142	47	39	0
France.....	19	19	28	35	257	41	12
United States.....	22	10	41	16	32	12	11
Germany.....	22	8	38	60	48	1	8
Japan.....	11	11	19	54	77	7	3
Russia.....	5	4	15	98	57	25	4
Italy.....	10	6	11	13	66	3	0
Austria.....	3	3	5	4	36	0	6

^a Battle ships, first class, are those of (about) 10,000 tons or more displacement.

^b Includes all unarmored cruising vessels above 1,000 tons displacement.

^c Includes smaller battle ships and monitors. No more vessels of this class are being proposed or built by the great powers.

TABLE II.—Vessels building or to be built, November 1, 1907.

	Battle ships.	Armored cruisers.	Cruis-ers.	De-stroy-ers.	Tor-pedo boats.	Sub-ma-rines.
England.....	^a 7	6	1	13	24	21
France.....	8	4	0	40	14	63
United States.....	^b 7	2	3	5	0	7
Germany.....	^c 6	2	5	12	0	2
Japan.....	4	2	3	3	0	2
Russia.....	6	3	0	4	0	6
Italy.....	4	4	1	4	11	3
Austria.....	3	0	1	8	13	6

^a England has no continuing shipbuilding policy, but usually lays down each year about four armored ships, with a proportional number of smaller vessels.

^b Two of these, the *Mississippi* and *Idaho*, are very nearly completed. ^c Germany has a continuing shipbuilding policy, authorized by the Reichstag, and extending to the year 1917. This authorization provides for the building between 1907 and 1917 of 16 battle ships, 12 armored cruisers, 22 smaller cruisers, and 132 torpedo vessels.

NOTE.—The following vessels are not included in the tables:

Those over 20 years old unless they have been reconstructed and rearmed since 1900.

Transports, colliers, repair ships, converted merchant vessels, and any other auxiliaries.

"Vessels of less than 1,000 tons, except torpedo craft. Torpedo craft of less than 50 tons.

"In making comparisons of naval strength, and particularly of naval increase, the fact should be taken into consideration that the rapidity of construction varies materially in different countries.

"In England, Germany, and Japan battle ships and armored cruisers are completed in two to three years; in the United States from three to four years; and in France, Italy, and Russia not less than four years are required.

"Table II includes vessels authorized but not yet laid down, as well as those actually under construction.

TABLE III.—Personnel.

Rank.	England.	France.	Germany.	Japan.	United States.
Flag officers.....	96	45	34	55	*18
Captains and commanders.....	618	360	299	245	*182
Other line officers and engineers ^b	3,289	1,874	1,732	1,571	751
Medical officers.....	521	409	234	306	282
Pay officers.....	537	187	189	263	210
Warrant officers.....	*2,007	1,484	2,033	1,064	638
Enlisted men.....	98,973	51,926	*42,400	41,070	34,062
Marine officers.....	490		86		277
Enlisted men (marines).....	17,526		1,230		8,147

^a The United States now has, in addition, temporarily, as extra numbers, due to promotion for war service, 4 flag officers, 13 captains, and 14 commanders.

^b Does not include midshipmen.

^c Includes chief gunners, chief boatswains, chief signal boatswains, chief carpenters, chief artificer engineers, chief schoolmasters.

^d Includes 1,250 men of the naval infantry. The German naval infantry forms an expeditionary corps. Its duty in war is to defend, and in peace to garrison, the home fortified ports. One battalion forms the garrison of Kiauchau, China.

PROGRAMMES FOR 1908-9.

The programmes for 1908, as far as they have been determined or published, are as follows:

ENGLAND.

The programme for 1908 has not yet been published. Unofficial statements indicate that it will probably include the following:

- Two battle ships (*Dreadnought* type).
- Four medium-sized armored cruisers (improved *Edgar* type, foreshadowed last year).
- One large ocean-going destroyer ("special" or *Swift* type).
- Some ocean-going destroyers ("tribal" type).
- Or—
- Two battle ships (improved *Dreadnought* type).
- One armored cruiser (*Infexible* type).
- Two medium-sized armored (or protected) cruisers (improved *Edgar* type, as foreshadowed last year).
- Six unprotected cruisers (or scouts, *Boadicea* type).
- Twelve ocean-going destroyers.
- A number of torpedo boats and submarines.

FRANCE.

The programme for 1908 is now being discussed in Parliament. The construction of six battle ships of 21,000 tons displacement and 20 knots speed is proposed, and appears to meet with general approval. Tentative designs for these ships are now being discussed.

GERMANY.

The programme of shipbuilding for the German navy is at present governed by the fleet law of 1900, amended in 1906.

This law establishes the total number of ships of each class which the navy is to contain when the authorized building programme shall have been carried out, and fixes the period within which each class of vessel shall be replaced, as follows:

	Authorized strength.	Age limit (years).
Battle ships.....	38	25
Large (armored) cruisers.....	20	20
Small (protected) cruisers.....	38	20
Torpedo craft.....	144	12

A shipbuilding programme was accordingly established which contemplated the attainment of the authorized strength by the year 1920, as well as the building of substitutes for such existing ships as should reach the age limit during the period covered by the programme; the ships to be laid down were distributed over the years 1906-1917.

It is now proposed to amend this by reducing the age limit of battle ships from 25 to 20 years. This proposal has been approved by the federal council.

The reduction in the life of battle ships will necessitate the replacement of three more battle ships between 1908 and 1917 than is contemplated by the present system, i. e., a total of sixteen ships. This brings about a rearrangement of the building programme, as shown by the following table.

It is to be noted, however (as shown in the table), that sixteen ships having been provided for between 1908 and 1916, an additional ship is set down for 1917.

Number of substitute battle ships to be laid down.

Year.	Present law.	Proposed law.
1908.....	2	3
1909.....	2	3
1910.....	1	3
1911.....	1	2
1912.....	1	1
1913.....	1	1
1914.....	1	1
1915.....	1	1
1916.....	1	1
1917.....	2	1
Total.....	13	17

The immediate effect of the change is apparent from a glance at the table. During the four years beginning 1908 there will be laid down eleven battle ships instead of six. Add to these the two ships of the 1907 programme, and it is seen that by 1914 (allowing three years to build a battle ship) Germany will possess thirteen battle ships of upward of 19,000 tons displacement each.

The entire programme, as amended by the proposed law, would be as follows:

Year.	Battle ships.	Armored cruisers.	Protected cruisers.	Torpedo craft.
1907.....	2 substitute.....	1 additional.....	2 substitute.....	6 additional, 6 substitute.
1908.....	3 substitute.....	do.....	do.....	Do.
1909.....	do.....	do.....	do.....	Do.
1910.....	3 substitute, 1 additional.	do.....	do.....	Do.
1911.....	2 substitute.....	1 additional, 1 substitute.	do.....	Do.
1912.....	1 substitute.....	1 substitute.....	do.....	Do.
1913.....	do.....	do.....	do.....	Do.
1914.....	do.....	do.....	do.....	12 substitute.
1915.....	do.....	do.....	do.....	Do.
1916.....	do.....	do.....	do.....	Do.
1917.....	do.....	do.....	1 substitute.....	Do.

The estimates for the coming year contemplate a total expenditure of over \$82,000,000, of which one-half is for new ships and armaments. This is a large increase over the current estimates, as shown below:

	For ship construction and armament.	Total.
Current estimates (1908) (required to carry out present law).....	\$32,346,580	\$68,272,680
Proposed amendment (1908) (required to carry out proposed law).....	41,613,208	82,565,944

This programme is now being considered by the Reichstag.

JAPAN.

The programme for 1908 has not been officially announced. Two battle ships of over 19,000 tons displacement are to be laid down in the near future, and the proposed building of two large armored cruisers (of more than 18,000 tons), together with very fast scouts, has been reported, but not yet substantiated. It is also reported that other battle ships and armored cruisers, in addition to those mentioned above, are proposed for construction in 1908.

RUSSIA.

The new programme has not yet been announced. It is reported to include a number of the largest type of battle ships.

ITALY.

The estimates of the ministry of marine for the fiscal year 1908-9 provide for continuing or completing work on all ships now under construction, including the 16,000-ton battle ship authorized in 1907. It is proposed to build altogether four of the new type battle ship, together with six 28-knot scouts and a further addition to the torpedo flotilla.

AUSTRIA.

The new programme has not yet been announced.

Vessels completed during 1907.

ENGLAND.

	Tons.
<i>Hibernia</i> , battle ship.....	16,350
<i>Agamemnon</i> , battle ship.....	16,500
<i>Lord Nelson</i> , battle ship.....	16,500
<i>Achilles</i> , armored cruiser.....	13,550
<i>Cochrane</i> , armored cruiser.....	13,550
<i>Natal</i> , armored cruiser.....	13,550
<i>Warrior</i> , armored cruiser.....	13,550
4 destroyers (tribal class).....	3,165
12 torpedo boats.....	2,700
12 submarines.....	3,768

113,183

FRANCE.

<i>Démocratie</i> , battle ship.....	14,860
<i>Justice</i> , battle ship.....	14,860
<i>Liberté</i> , battle ship.....	14,860
<i>Jules Ferry</i> , armored cruiser.....	12,550
<i>Victor Hugo</i> , armored cruiser.....	12,550
6 destroyers.....	2,010
44 torpedo boats.....	4,198
3 submarines.....	1,186

77,074

GERMANY.		Tons.
Pommern, battle ship	13,200	
Hannover, battle ship	13,200	
Scharnhorst, armored cruiser	11,500	
Gneisenau, armored cruiser	11,500	
Koenigsberg, cruiser	3,450	
Stuttgart, cruiser	3,450	
Stettin, cruiser	3,450	
17 destroyers	9,132	

JAPAN.		Tons.
Tsukuba, armored cruiser	13,750	
Ikoma, armored cruiser	13,750	
13 destroyers	4,875	

NOTE.—The following vessels, which have been undergoing extensive reconstruction since the close of the Russian war, have been completed and fitted for service during the past year:

		Tons.
Mikasa, battle ship	15,200	
Yamami (ex Orel), battle ship	13,500	
Soya (ex Variag), cruiser	6,500	

New construction completed during 1907	32,375
Reconstruction completed during 1907	35,200

Total tonnage added to Japanese navy during 1907—67,575

RUSSIA.		Tons.
Rurik, armored cruiser	15,000	
Kagul, cruiser	6,675	
25 destroyers	11,094	
5 submarines	1,020	

ITALY.		Tons.
Regina Elena, battle ship	12,425	
4 destroyers	1,460	
16 torpedo boats	3,359	

AUSTRIA.		Tons.
Erzherzog Ferd. Max, battle ship	10,600	
3 destroyers	1,200	
13 torpedo boats	2,600	

The following table shows the vessels that have been under construction in the several countries during the past year:

Name.	Type.	Displacement.	Keel laid.	Remarks.
ENGLAND.				
Hibernia	B	16,350	January, 1904	Completed January, 1907.
Agamemnon	B	16,500	October, 1904	Practically completed end 1907.
Lord Nelson	B	16,500	November, 1904	Do.
Bellerophon	B	18,600	December, 1906	
Temeraire	B	18,600	January, 1907	
Superb	B	18,600	February, 1907	
St. Vincent	B	19,200	December, 1907	
Achilles	A C	13,550	January, 1904	Completed March, 1907.
Cochrane	A C	13,550	February, 1904	Completed February, 1907.
Natal	A C	13,550	January, 1904	Completed April, 1907.
Warrior	A C	13,550	November, 1904	Completed June, 1907.
Defence	A C	14,600	February, 1905	
Minotaur	A C	14,600	January, 1905	
Shannon	A C	14,600	do	
Invincible	A C	17,250	April, 1906	
Inflexible	A C	17,250	February, 1906	
Indomitable	A C	17,250	March, 1906	
Boadicea	C	3,300	July, 1907	Completed 1907.
Cossack	d	810	1905	Do.
Mohawk	d	775	1905	Do.
Tartar	d	785	1905	Do.
Ghurka	d	795	1905	Do.
Afridi	d	810	1905	
Swift	d	1,800	1905	
Saracen	d	893	October, 1906	
Amazon	d	888	do	
Nos. 1-12	t b	215	1905	Do.
Nos. 12-24	t b	260	1906	
Nos. 25-36	t b	1907		
A 13	Sub.	204	1905-6	Do.
C 3-C 14	Sub.	314	1906	
C 15-C 18	Sub.	314	1906	
D 1	Sub.	(?)	1906	
FRANCE.				
Démocratie	B	14,860	May, 1903	Do.
Justice	B	14,860	May, 1902*	Do.
Liberte	B	14,860	do.*	Do.
Vérité	B	14,860	do.*	Do.
Danton	B	18,350	1907	
Mirabeau	B	18,350	1907	
Voltaire	B	18,350	June 1, 1907	
Diderot	B	18,350	December, 1906*	

*Signifies date of contract or of order to dockyard; where there is no * the date is that of the actual laying of the keel.

Name.	Type.	Displacement.	Keel laid.	Remarks.
FRANCE—continued.				
Condorcet	B	18,350	December, 1906*	
Vergniaud	B	18,350	do.*	
Jules Ferry	A C	12,550	1901	Completed 1907.
Victor Hugo	A C	12,550	March, 1903	Do.
Jules Michelet	A C	12,550	June, 1904	
Ernest Renan	A C	13,644	August, 1903*	
Edgar Quinet	A C	14,000	November, 1905	
Waldeck Rousseau	A C	14,000	June, 1906	
Styler	d	335	March, 1904	Do.
Pierrier	d	335	October, 1904	
Tromblon	d	335	July, 1904	Do.
Obusier	d	335	do	Do.
Mortier	d	335	September, 1904	Do.
Carquois	d	335	July, 1905	
Trident	d	335	do	
Fleuret	d	335	May, 1905	Do.
Coutelas	d	335	do	Do.
Glave	d	335	do	
Poignard	d	335	do	
Cognée	d	335	May, 1906	
Hoche	d	335	August, 1906	
Massue	d	335	November, 1906	
Sabretache	d	335	November, 1906*	
Oriflamme	d	335	do.*	
Etendard	d	335	do.*	
Fanion	d	335	do.*	
Sape	d	335	do.*	
Gablon	d	335	do.*	
Branlebas	d	335	do.*	
Fanfare	d	335	do.*	
Hussard	d	335	October, 1906*	
Voltigeur	d	335	do.*	
Tirailleur	d	335	do.*	
Chasseur	d	335	do.*	
Spahi	d	335	do.*	
Carabinier	d	335	do.*	
Janissaire	d	335	December, 1907*	
Mameluk	d	335	do.*	
46 torpedo boats	Sub.	97	1904*	44 boats completed 1907.
Emeraude	Sub.	390	December, 1904	Completed 1907.
Opale	Sub.	390	do	Do.
Rubis	Sub.	390	do	Do.
Saphire	Sub.	390	May, 1905	
Topaze	Sub.	390	March, 1905	
Turquoise	Sub.	390	do	
Guepe No. 1 and No. 2	Sub.	45	October, 1904	
Omega	Sub.	301	February, 1904	
Circe	Sub.	351	April, 1905	
Calypso	Sub.	351	do	
Pluviose	Sub.	398	August, 1905	Do.
Ventose	Sub.	398	do	Do.
Q 53-Q 60	Sub.	398	do	
Q 62-63	Sub.	398	do	
Q 64-Q 69	Sub.	398	do	
GERMANY.				
Q 70-Q 72	Sub.	398	August, 1906*	
Q 75-Q 80	Sub.	398	do.*	
Q 83-Q 88	Sub.	398	do.*	
Q 73	Sub.	577	do.*	
Q 74	Sub.	530	do.*	
Q 82	Sub.	555	do.*	
Q 89	Sub.	355	do.*	
Q 90-Q 99	Sub.	398	August, 1907*	
Pommern	B	13,200	April, 1904	Do.
Hannover	B	13,200	do	Do.
Schleswig Holstein	B	13,200	July, 1905	
Schlesien	B	13,200	do	
Ersatz Bayern	B	18,000	May, 1907	
Ersatz Sachsen	B	18,000	April, 1907	
Ersatz Baden	B	18,000	July, 1907	
Ersatz Wurttemberg	B	18,000	May, 1907	
Scharnhorst	A C	11,500	June, 1905	Do.
Gneisenau	A C	11,500	June, 1904	Do.
"E"	A C	15,000	December, 1906	
"F"	A C	19,200	September, 1907	
Koenigsberg	C	3,450	July, 1904	Do.
Stuttgart	C	3,450	1905	Do.
Stettin	C	3,450	1905	Do.
Nurnberg	C	3,450	December, 1905	
Dresden	C	3,800	1906	
Ersatz Pfeil	C	3,800	1907	
Ersatz Greif	C	3,800	1907	
Ersatz Jagd	C	3,800	1907	
G 131-G 136	d	480	1905	Do.
S 138-S 149	d	520	1906	Do.
V 150-V 161	d	(?) 630	1907	(?)
Submarines		(?)	(?)	(?)
JAPAN.				
Satsuma	B	19,150	May, 1905	Launched Nov. 15, 1906.
Aki	B	19,800	December, 1905	Launched Apr. 15, 1907.
Tsukuba	A C	13,750	January, 1905	Completed Jan., 1907.
Ikoma	A C	13,750	March, 1905	Completed Dec., 1907.
Kurama	A C	14,600	September, 1905	Launched Oct. 21, 1907.
Ibuki	A C	14,600	May, 1907	Launched Nov. 22, 1907.
Tone	C	4,100	October, 1906	Launched Oct. 24, 1907.
Yodo	C	1,250	1905	Launched Nov. 19, 1907.
Mogami	C	1,350	1906	Launched Oct. 31, 1907.
Shirayuki	d	875	May, 1905	Completed 1907.

*Signifies date of contract or of order to dockyard; where there is no * the date is that of the actual laying of the keel.

Name.	Type.	Displacement.	Keel laid.	Remarks.
JAPAN—continued.				
Hatsuharu.....	d	Tons. 375	1905.....	Completed 1907.
Yudachi.....	d	375	March, 1905.....	Do.
Mikatzuki.....	d	375	June, 1905.....	Do.
Nowake.....	d	375	August, 1905.....	Do.
Shirotoye.....	d	375	July, 1905.....	Do.
Yunagi.....	d	375	1905.....	Do.
Utsuki.....	d	375	1905.....	Do.
Shigure.....	d	375	1905.....	Do.
Minatsuki.....	d	375	1905.....	Do.
Nagatsuki.....	d	375	1905.....	Do.
Matsukaze.....	d	375	1905.....	Do.
Kikutsuki.....	d	375	1905.....	Do.
Uranami.....	d	375	1907.....	
Isonami.....	d	375	1907.....	
Ayanami.....	d	375	1907.....	
2 submarines.....	s	314	1907.....	Building in England.
RUSSIA.				
Evsfai.....	B	12,700	1903.....	
Ivan Zlatoust.....	B	12,700	November, 1903.....	
Imp. Paval I.....	B	16,600	October, 1903.....	
Andreï Pervosvanni.....	B	16,600	January, 1903.....	
Rurik.....	A C	15,000	1905.....	Completed 1907.
Bayan.....	A C	8,000	1905.....	
Pallada.....	A C	8,000	1905.....	
Adm. Makharoff.....	A C	8,000	1905.....	Building in France.
Kagul.....	C	6,675	March, 1901.....	Completed 1907.
Pamiat Merkuria.....	C	6,675	September, 1901.....	
4 destroyers.....	d	615	1904-5.....	Do.
5 destroyers.....	d	500	1904-5.....	Do.
13 destroyers.....	d	350	1904-5.....	Do.
4 destroyers.....	d	605	1906.....	
2 submarines.....	s	150	1904.....	Do.
3 submarines.....	s	240		Do.
Akula.....	s	360		
Minoga.....	s	117		
4 submarines.....	s	425		
ITALY.				
Regina Elena.....	B	12,425	September, 1901.....	Do.
Vittorio Emanuele.....	B	12,425	do.....	
Napoli.....	B	12,425	October, 1903.....	
Roma.....	B	12,425	September, 1903.....	
San Giorgio.....	A C	9,830	July, 1905.....	
San Marco.....	A C	9,830	July, 1907.....	Do.
Pisa.....	A C	9,830		
Amalfi.....	A C	9,830		
Artigliere.....	d	365	1904.....	Do.
Bersagliere.....	d	365	1904.....	Do.
Granatiere.....	d	365	1904.....	Do.
Lanciere.....	d	365	1904.....	Do.

Name.	Type.	Displacement.	Keel laid.	Remarks.
ITALY—continued.				
16 torpedo boats.....	s	Tons. 210	1904-5.....	Completed 1907.
3 submarines.....	s	150		
AUSTRIA.				
Erzherzog Ferd. Max.....	B	10,600	1903.....	Do.
Ersatz Tegetthof.....	B	14,500	1907.....	
Ersatz Rudolph.....	B	14,500	1907.....	
Ersatz Zara.....	C	3,500	1907.....	
Ulan.....	d	400		Do.
Streiter.....	d	400		Do.
Wildfang.....	d	400		Do.
Scharf-chutze.....	d	400		
Uskose.....	d	400		
6 submarines.....	s		1907.....	

TABLE I.—Vessels built, February 1, 1908.

	Battle ships.	Armored cruisers.	Cruisers.	Destroyers.	Torpedo boats.	Submarines.	Coast-defense vessels.
England.....	53	32	90	146	47	42	0
France.....	18	19	26	38	234	42	11
United States.....	* 23	10	40	16	32	12	11
Germany.....	22	8	38	60	48	1	8
Japan.....	11	11	19	54	74	7	3
Russia.....	5	4	15	93	57	25	4
Italy.....	10	6	11	17	66	3	0
Austria.....	3	3	5	4	30	0	6

* Idaho and New Hampshire not included.

TABLE II.—Vessels building or to be built, February 1, 1908.

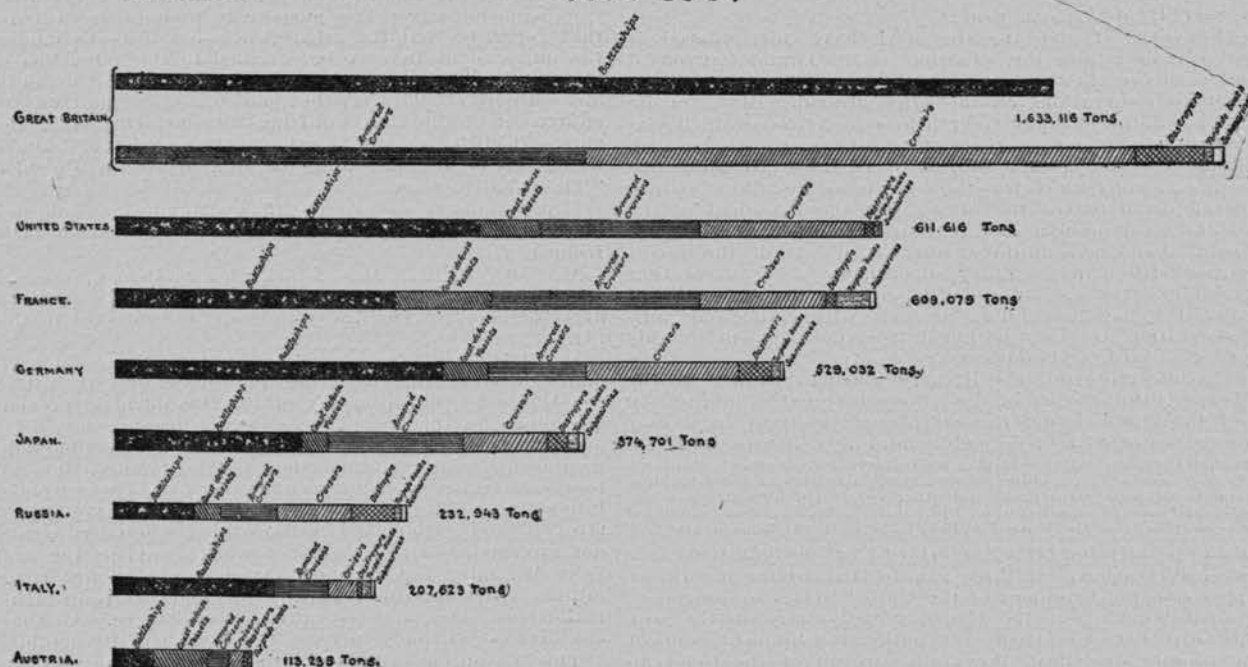
	Battle ships.	Armored cruisers.	Cruisers.	Destroyers.	Torpedo boats.	Submarines.
England.....	6	6	1	9	24	18
France.....	12	4	0	37	2	59
United States.....	6	2	3	5	0	7
Germany.....	9	3	7	24	0	(?) 2
Japan.....	4	2	3	4	0	2
Russia.....	6	3	0	4	0	6
Italy.....	7	4	1	0	11	3
Austria.....	3	0	1	8	10	6

* Includes vessels in 1908 programme.

WAR SHIP TONNAGE OF THE PRINCIPAL NAVAL POWERS.

November 1, 1907

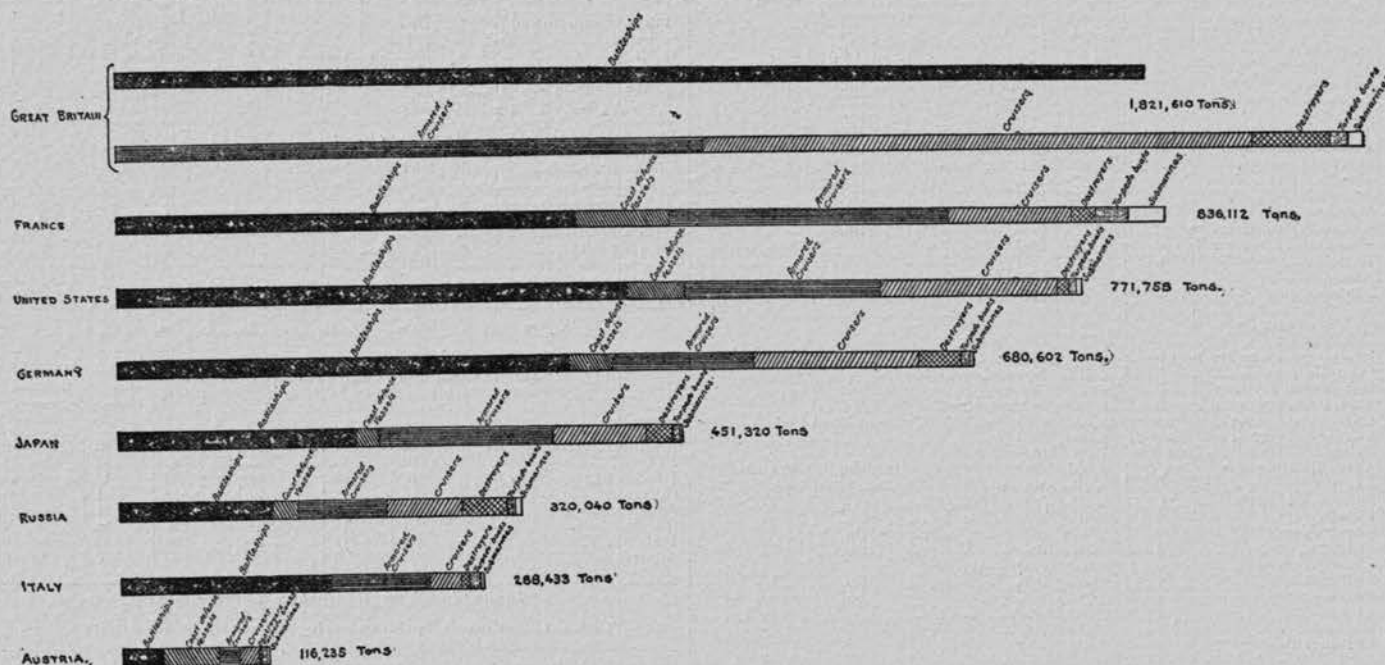
SHIPS BUILT.



WAR SHIP TONNAGE OF THE PRINCIPAL NAVAL POWERS.

November 1, 1907.

SHIPS BUILT & BUILDING.



Agricultural Appropriation Bill.

SPEECH

OF

HON. MARCUS A. SMITH,

OF ARIZONA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, March 30, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 19158) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909—

Mr. SMITH of Arizona said:

Mr. SPEAKER: If the amendment I have just offered is adopted it will relieve the situation at the Grand Canyon of Colorado and prevent the further doubling up of separate kinds of executive reservations on the same ground. Take, for instance, one of the military reservations in Arizona which was abandoned and a forest reserve was spread over it. Under such conditions the land became subject to all laws governing forest reserves, among which was the right to locate mining claims, and develop and patent the same. But the President of the United States, by proclamation or Executive order, or what not, held said abandoned military reservation within the forest reservation still under military supervision, so as to prevent any possible settlement on or development of the same. What are alleged to be fine mining grounds within this old military reservation are thus withheld from development by this ridiculous, absurd, and unnecessary "order."

But let me cite you a still more glaring instance of the President's peculiar sense of the powers invested in him by the laws of the land. Under the act passed last year or a year or two ago, volume 24, of the public land laws, it was enacted—

That the President of the United States is hereby authorized in his discretion to declare by public proclamation historic land marks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the public lands, owned or controlled by the Government of the United States, to be national monuments.

And the penalty for taking or injuring or touching them is a fine of \$500, I believe, or three months' imprisonment. Under that provision the President of the United States by proclamation, dated Washington, the 11th day of January, in the year of our Lord 1908, declared as a national monument, subject to the penalty described, the grand canyon of the Colorado River. The law was designed for the pure purpose of preserving the prehistoric land marks of the country, the cliff dwellers, the Casa Grande ruins, and things of that sort erected by human

hands, as the bill showed on its face, and yet under the provisions of this law, the President—probably advised thereto by somebody who must have known nothing about the construction of the statute—takes a vast territory of country here, as I measure it about 56 miles long by 26 miles wide, and declares it a national monument and makes it so absolutely sacred that a man would be afraid to cut a switch from that land to encourage the speed of his horse.

You can not make a road in it, you can not take a rock out of it, you can not move a thing in it. Now, there is in contemplation a railroad to be built along the rim of that canyon to let the people see it. Under present conditions you go to one place and look down into that mighty gorge. You ride at a heavy expense behind teams kept by the railroad company 5 or 10 miles and then look down in the same gorge and at the very same objects. The purpose is to build a railroad along that gorge, so that the greatest wonder of God's hand, except the universe itself, may be revealed to the astonished wonder of the beholder. But under this Executive order, made without any authority whatever, the public must be shut off from the enjoyment of the most uplifting, awe-inspiring sight that ever spread itself before the human eye since God said "Let there be light," up to and including the time when the President said "Thou shalt not see."

Every industry west of the Rocky Mountains could be in full blast within that mighty chasm and would never be noticed from its rim.

Mr. MONDELL. May I ask the gentleman, does not the gentleman think there is danger of that Grand Canyon washing away or being carried away unless it is protected in this manner?

Mr. SMITH of Arizona. I observe the humor of the gentleman's question, and thank him for thus calling the attention of the House to the absurdity of this Presidential proclamation. The object of the law under which he presumed to act was to preserve from destruction or defacement destructible objects, or monuments, and certainly could not be tortured into applying to a vast region of country simply because it was wonderful or interesting. No; you can not carry it away, you can not destroy it, and a thousand men working a hundred years could not even deface it. It will not wash away, as the gentleman from Wyoming facetiously observes, for a mighty river for a million years has been hurling its angry torrents against its rock-ribbed sides, and the canyon is still there. All that water can ever do will only increase the wonder of its depth.

This Executive order could have had no purpose behind it except to prevent an independent railroad from being built along the rim. It should by all means be built, and before this session closes I shall introduce a bill for that purpose.

The people of the West have now very few rights or liberties that are not at some point invaded by Executive orders or Bureau edicts or impudent special officers, whose business seems to be to give all the trouble possible to every settler on the public domain. Between the enormously large military reservations, Indian reservations, and forest reservations, there is very little room to move about without a challenge to "halt."

Forest reservations are very proper when the reserve has timber on it, but when it is spread all over creation regardless of trees it becomes a nuisance, if not a crime. If, instead of preserving trees and conserving the water supply, it shall include grazing lands, and by renting such to the favored for grazing purposes only, it is an outrage that should be at once stopped. I believe every State and Territory is of right entitled to utilize the resources within its boundaries.

The public lands do not of right belong to the people of the whole United States, but they are or should be held by the Government in trust for the present and future residents of the State or Territory in which such lands lie. I am a little afraid that we are going a little fast in the hysterical ardor to conserve all our resources for the benefit of posterity. Was it not Josh Billings of blessed memory who wanted to know "what posterity had ever done for us?" If we save our coal and iron and lumber for the use of posterity, then posterity, actuated by the lofty example of their fathers, must likewise preserve these resources for their posterity, and time will show at last a nation of fools sitting among the resources essential to its growth and happiness still preserving things for posterity—still "conserving their resources." Old man Arch Edger's caution will have become a national characteristic. When that most conservative gentleman was kicked down stairs and out of the front door of a hotel by an irate Kentuckian, his friends, amazed, knowing that he was armed, asked him why he did not defend himself. He replied that he only had one load in his pistol and he was saving that till he got in a tight place. I call that conserving his resources. I think he was conserving it for posterity.

Mr. Speaker, I observe with a feeling of profound apprehension the rapid strides being taken toward centralization in our Government. The Executive is encroaching on the powers reserved by the Constitution to the other two coordinate branches. Everything now is being done by commissions and bureaus and special functionaries appointed by the President. It is time to call a halt and take some observations of the road over which we have come and make some provident arrangements for a safer journey ahead of us. I see my time has expired. At the next session I hope to be able to give to the House a full history of the various bureaus as they touch and affect the interest, prosperity, and development of the Territories.

A Proper Currency System.

SPEECH

OF

HON. THEODORE E. BURTON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

The House having under consideration the bill (H. R. 21871) to amend the national banking laws—

Mr. BURTON of Ohio said:

Mr. SPEAKER: In order to understand pending currency legislation it is necessary to describe the different kinds of money now in use. The monetary system of the United States has several marked distinctive features:

1. The motley character of our money—metallic and paper.

The present circulation, May 1, 1908, including that in the Treasury and bank reserves, may be classified under four principal varieties:

(a) United States notes (greenbacks) resting directly upon the credit of the Government.....	\$346, 681, 016
(b) National-bank notes secured by United States bonds and resting indirectly upon the credit of the Government.....	697, 645, 698
(c) Gold having intrinsic value.....	1, 639, 267, 384
(d) Silver having partial intrinsic value and resting for the difference between actual and face value upon the credit of the Government.....	563, 007, 982
Total.....	3, 246, 692, 080

To these four may be added a fifth variety, which assumed great prominence after the silver-purchase act of July, 1890, namely, Treasury notes issued against silver bullion. This bullion, however, has nearly all been coined into silver dollars, and there now remains only \$5,152,000 of these notes. In order to obtain the absolute total, subsidiary coins less than \$1 must be added, amounting to \$144,809,002.

The total stock of money in the United States on the 1st of May, 1908, including the above varieties, subsidiary silver, and Treasury notes, was \$3,396,653,082.

Against gold and silver in the Treasury certificates are issued for convenience merely. The amount of gold certificates is approximately \$850,000,000 and of silver certificates \$463,000,000.

2. A second feature is the very large circulation per capita, which on May 1, 1908, was \$35.37, greater by nearly \$15 than in the period of maximum inflation in the civil war, and by almost an equal amount than in the very prosperous years of 1880 and 1881; greater also by approximately \$10 than ten years ago, and this notwithstanding the increased use of checks and other substitutes for currency. With the single exception of France, the per capita circulation is larger than in any other of the great commercial countries. There can be no complaint of scarcity in the aggregate amount of money in the country.

3. A third distinctive feature as compared with other advanced nations is the absence of paper money issued by banking institutions, save that secured by Government bonds. Additional emphasis is given to this fact by the manifest preference in this country, barring, perhaps, only the Pacific coast, for paper money as against metallic money for daily use. The amount of paper money is very large, exceeding \$1,000,000,000, but all of it rests directly or indirectly upon the credit of the Government. The issuance of notes by the Government has been discarded in practically every other progressive nation.

It has been very generally agreed that material changes are required in our monetary system, at least so far as relates to the issuance of paper money. In saying this it is not necessary to find fault with the legislative policies of past years. Our existing forms of money have a merit unsurpassed anywhere in their security and the absolute confidence which they command.

The United States notes or greenbacks served an excellent purpose in the civil war. The national-bank notes are part of a policy which furnished stability and uniformity to a banking system, and conferred almost incalculable benefit in the way of creating a market for Government bonds. The depreciated silver currency is the most objectionable, but in view of the very large demand for circulation of coins of small denominations, the outstanding silver and silver certificates are absorbed by the people without serious embarrassment.

Our monetary system, nevertheless, is not abreast with those of other countries, and is fatally lacking because of its rigidity. Issues of currency should be so adjusted as to secure in the greatest possible degree adjustment in volume to the demands of trade. The demand for money, metallic or paper, is, of course, greater in the autumn than in the spring. It increases with the expansion of enterprise or a rise of prices. When, also, by reason of panic, money is withheld from circulation or hoarded, the need for additional currency is very pressing. This elasticity or provision for necessary expansion and contraction in quantity is wanting here, though at the same time it must be conceded that the natural fluctuations are at a maximum; that is, the contrast between the maximum and minimum amounts required is more noticeable in the United States than anywhere else. To secure elasticity, therefore, is a primary object which should always be kept in mind.

It will, I think, be agreed that the following principles and facts should be borne in mind in any proposition for a reform of the currency:

1. Contraction, or decrease in volume, alike with necessary expansion, should be secured. An inflated currency is always a source of danger. In any growing country where opportunities for investment are numerous and profits are gained from a rise of prices there is a constant tendency to absorb the existing supply of money. The surplus may be utilized for speculation or for doubtful enterprises. As a consequence when an additional supply is required, as inevitably will be at certain seasons and in prosperous years, it is difficult to obtain the requisite amount. To prevent redundancy it will be helpful to furnish motives for the withdrawal of unnecessary bank notes by the removal of restrictions upon their cancellation. The present laws have in mind the maintenance of the value of Government bonds. They also carefully safeguard against any considerable decrease in the volume of paper money. The requirement that not more than \$9,000,000 of national bank-note currency can be withdrawn in any one month is based

upon these objects. Such a requirement is not in accord with a perfect currency system.

2. No system should be accepted which does not afford absolutely undoubted security for every bank note in circulation. The people will not and should not tolerate the issuance of bank notes which would be rendered of doubtful value by the failure of any banking institution. Not only is safety essential, but confidence as well. Bank notes must not only be safe, but they must be above suspicion.

3. It should always be borne in mind that paper currency is simply another form of credit, like a promissory note, and its volume should always be made to conform as nearly as possible to the normal demands of trade. No measure contributes more to a proper determination of the amount which should be in circulation than a requirement for the prompt and convenient redemption of notes in gold. It is a practically universal rule in all countries having a sound monetary system that the bank, treasury, or other agency which issues paper money must provide for its redemption.

4. No corporation or individual should be able to derive undue or unfair profit from the issuance of bills. On the other hand, no prejudice should be tolerated against such institution or agency as is best fitted to exercise the privilege. With but very few exceptions the most progressive countries have abandoned the issuance of paper money by the Government, so that this function is exercised by banks, either national or private, but all under careful governmental regulation.

5. The natural conservatism which arises from the customs and habits of the people, and from established methods of transacting business, renders difficult, if not impossible, the immediate acceptance of revolutionary changes in existing forms and issues of money. The people are slow to accept innovations. Business, which should always be cautious and conservative, looks with disfavor upon sudden transitions. Thus it is desirable that new methods should depart from the existing order slowly and that we should bear in mind the impossibility of adopting radical changes, even though theoretically correct. An entire readjustment of the system of currency issues can be safely accomplished only by successive steps.

Two general plans have been advocated for a permanent solution of the currency question:

1. Allowing the issuance of paper money by banks against their credit or assets. This proposition involves a fundamental change in the security for note issues, but furnishes a method which would afford the most natural response to the varying demands of business. The circulating notes which a bank can issue should bear proportion to its financial strength and the amount of its resources. Yet oftentimes when the assets of banks are largest the quantity of their outstanding currency is smallest. To meet such a situation it is maintained that the right should be granted to issue currency to meet the demands of depositors and borrowers.

It is objected that this would grant a dangerous privilege to a multitude of banking institutions managed with an infinite variety of intelligence and even of honesty, and that any such plan would entirely lack that element of cooperation which is so essential in any sound money system.

To meet the objection of the want of proper security, it is proposed that the note issues of banks should be protected by a guaranty fund, say, of 5 per cent of the total note issues of all banks, to be collected in the form of a tax; also by the maintenance of reserves and by a requirement for redemption.

The discussion of this subject in recent years has shown a very decided disposition to increase the severity of the requirements advocated.

In the year 1894, the American Bankers' Association, in one of their yearly meetings, unanimously indorsed what is known as the "Baltimore plan." This allowed the withdrawal of the deposit of bonds as security, the issuance of circulating notes to the amount of 50 per cent of the capital, with a tax of only one-half of 1 per cent per annum. Provision was made for an additional circulation of 25 per cent, with a larger tax. Banks issuing circulation were asked to deposit a redemption fund of 5 per cent as under the existing law. A guaranty fund was to be created through a deposit of 2 per cent of the amount of circulation received the first year; thereafter a tax of one-half of 1 per cent upon the average amount of the outstanding circulation until this fund should equal 5 per cent of the entire circulation outstanding. Notes of insolvent banks were to be redeemed out of the guaranty fund, and in case the latter became exhausted the Government, of course, was given a prior lien upon the assets of the failed banks and could enforce the liability of shareholders.

It will be noticed that this plan provided an annual tax upon circulation of only one-half of 1 per cent, required no reserve,

relieved the banks from any liability for redemption in gold, made each individual bank liable only for its own failure, except, of course, as it shared in the guaranty fund of 5 per cent. The whole burden of redemption was thrown upon the Treasury. This, too, was at a time when the quantity of gold in the country was less than half what it now is, and when the Treasury Department had been compelled to resort to the issuance of bonds and various other shifts to maintain the gold reserve.

Notwithstanding the palpably insufficient requirements under this proposed plan, some who strenuously advocated it in 1894 now criticize the Vreeland bill, although it provides a minimum tax of 4 per cent per annum, the maintenance of reserves, a deposit of securities in excess of issues, and the joint and several liability of associated banks, on the ground that the latter measure does not afford sufficient security and would lead to inflation.

Progress has been shown by the bill which, it is understood, is now favored by the bankers of the country, and known as H. R. 15262, introduced by the gentleman from Illinois [Mr. McKINNEY]. This bill provides for what is to be called "national-bank guaranteed credit notes." Under its provisions a bank with outstanding notes secured by Government bonds to the amount of 50 per cent of its capital stock might in the first instance issue in the form of credit notes an amount equal to 40 per cent of the notes secured by United States bonds, but not exceeding 25 per cent of its capital. Upon these it is proposed there shall be a tax of 2½ per cent per annum, or 1½ per cent in January and July. A further issue, limited to half as much, is authorized under a tax of 5 per centum per annum, but the total of all notes of every kind must not exceed the amount of the paid-up capital. Reserves are provided of the same amounts and under the same regulations as in the case of deposits. Five per cent of guaranteed credit notes must be deposited in lawful money with the Treasurer whenever credit circulation is issued, which, with the taxes mentioned, is to constitute a guaranty fund to redeem the notes of the failed banks. Cities conveniently located are to be designated for current daily redemption of these notes. This measure, which marks so great an advance upon the so-called "Baltimore plan," yet falls short of the absolute requirement of redemption in gold, and does not provide for any community of liability among the banks taking advantage of its privileges.

It is not believed, or it is certainly very doubtful, whether the people would or should, without ample trial, accept any plan which leaves the all-important obligation of the ultimate redemption of bank notes to single banks, even though they be reinforced by a guaranty fund. Deporable as the prospect may be, it is not beyond the possibilities that disastrous failures might occur in such numbers as to render inadequate the security provided by such a plan, at least in the days of its early operation.

It has been repeatedly alleged that the guaranty fund provided in this and similar bills would be sufficient beyond peradventure, but the question very naturally arises, if such is the case, Why should not all banks, or at least associations of banks, enjoying the privilege of note issue, join in a guaranty of the notes?

Another bill of a very radical nature is that introduced by the gentleman from New Jersey [Mr. FOWLER], which has many commendable features and makes elaborate preparations for the changed conditions which would be brought about by its adoption. It carries to the extreme the individual action and privileges of the separate banks. It imposes upon the banks the obligation of redeeming their notes in gold. It looks to the virtual abolition of the present independent or subtreasury system and to the retirement of the greenbacks. It directs the retention of a larger share of the reserves of the banks in their own vaults. But the changes advocated are too radical to be seriously considered at this time. As originally introduced it contained many features which have met with very strong opposition, such as the joint guaranty of deposits of all failed banks.

2. Another general plan is the establishment of a central national bank, dealing largely if not exclusively with national banks and with the Government. It is urged that the experience of other countries has shown that such an institution is best able to provide for the general benefit. By raising the rate of discount in times of unnatural expansion such a bank could check improvident enterprises. It would be potent in controlling the export and import of gold and in the intelligent direction of the necessary increase and decrease of paper currency. To the argument that it would involve the formation of a great bank under the domination of the Federal Government it can be answered that the National Treasury, especially through its subtreasuries, is now performing the func-

tions of a bank without the advantages which would belong to a duly incorporated institution.

In the discussion of this question from the standpoint of theory it must be conceded that the great preponderance of arguments favor such a solution. Yet two banks of the United States have been established and abandoned. Both became the subject of political controversies and were very much hampered in their usefulness by contending theories pertaining to their management and to their relations with the people. It should be said, however, that this is a day of enhanced intercourse and greater realization of the community of interest and the desirability of conducting operations on a large scale. Also there is an increasing disposition to acquiesce in the assumption of larger powers by the Federal Government; so that popular objections which formerly existed against such a plan might not assert themselves.

However reluctantly we may reach the conclusion, it is evident that at this session no permanent solution of the great problems involved can be reached. Popular opinion has not crystallized upon any one plan. There is a very wide divergence of opinion among those regarded as most expert in their understanding of currency questions. It is highly desirable, however, that something should be done at this session. That man would be very bold who would say there was no possibility of a demand for additional currency before another session of Congress. A great crop or any unforeseen contingency might create a necessity for a material increase in volume. We must bear in mind, also, as another factor, the increased caution of financial institutions in lending, as a result of the crisis of last autumn. The overwhelming probability is that with the diminished extent of industrial operations, resulting in decreased employment, and in view of the natural timidity after a panic and during a Presidential year in engaging in new enterprises, there will be no serious currency scarcity next autumn. But it is our duty to provide, if we may, for probable or possible exigencies.

There is another reason why the pending bill or some other should be adopted, namely, the desirability of trying some of the plans for a changed currency with a view to determining what is workable and what the people will accept. As I have already said, no revolutionary change can be accomplished in a day. This second object I regard as quite as strong a reason for currency legislation as the usual argument that we should provide for a stringency similar to that of last autumn.

It is important to give the essential provisions of the two most prominent bills now pending before Congress.

1. The so-called "Aldrich bill" (S. 3023), which passed the Senate March 27 last. The distinctive feature of this measure is the right to issue circulating notes upon bonds other than those of the United States. It gives to any national banking association having circulating notes secured by the deposit of United States bonds to an amount not less than 50 per cent of its capital stock, and which has a surplus of not less than 20 per cent, leave to make application to the Comptroller of the Currency to issue additional circulating notes to be secured by the deposit of bonds issued by any State, city, county, or other political division, which has been in existence for a period of ten years and has not defaulted in the payment of principal and interest of any funded debt; also whose funded indebtedness does not exceed 10 per cent of the valuation of its taxable property. The bonds of the insular government of Porto Rico, of the Philippine Islands, and of the city of Manila are also available.

Circulation may be taken out to the extent of 90 per cent of the market value, though not in excess of the par value of the bonds; but not to an amount so that the notes secured by the Government, as well as by the various bonds named in the bill, shall exceed the amount of unimpaired capital and surplus of the issuing bank, nor shall the total amount of such circulating notes at any time exceed \$500,000,000.

These latter notes are to be taxed at the rate of one-half of 1 per cent per month for the first four months, and afterwards three-fourths of 1 per cent per month, the proceeds of the taxes to be paid into the Division of Redemption of the Treasury and credited to the reserve fund held for the redemption of United States notes. Unlike the notes secured by Government bonds, there is no limit on the amount that can be withdrawn, but money deposited for the withdrawal of notes shall be retained in the Treasury as a special deposit. There are other provisions, but those just given refer especially to currency.

The arguments for this bill are that since 1863, the date of the passage of the national banking act, bank notes have only been issued upon the security of Government bonds, and it is alleged that this arrangement has given satisfaction. With the decrease of the national debt the larger share of the bonds have been paid off, yet the wealth and population of the country have

increased, and, consequently, requirements for currency. Thus under existing regulations there is no means of furnishing an adequate basis for the circulating medium, at least in times of stress. State, county, and municipal bonds come nearest to Government bonds in their essential qualities; hence the available security for circulating notes should be enlarged by including the former in the list of bonds which banks may offer for currency.

The supporters of the Aldrich bill look with disfavor upon any plan for issuing notes upon the credit of banks or against their assets. They regard it as desirable, at least for the time, that the least possible change be made from present methods.

There are valid objections to this proposed measure. The national bank is, or should be, essentially a commercial bank, investing its funds in the discounting of paper and supplying the demands of its customers. There are few banks which, under present conditions, could avail themselves of the provisions of this bill. The total amount of the prescribed securities held by all the national banks is estimated at less than \$60,000,000. If it should be adopted, any bank in order to issue currency must either carry a certain share of its capital in municipal or other bonds or else procure them by purchase at a time when presumably its cash would be at a minimum and the demands upon its resources at a maximum. The price of the bonds described would, no doubt, be materially increased in value when needed, yet when the emergency had passed and the bank should desire to withdraw its notes the bonds purchased would no doubt have to be sold at a loss.

There is another objection which has some force. In providing a standard for the securities to be accepted, whether under the bill or otherwise, it would be necessary that the bonds of very many municipalities and other political divisions would have to be rejected. This rejection would have a marked effect upon their sale, and might prevent or seriously impair the credit of cities or other political divisions and hinder them in the accomplishment of necessary improvements. Again, it must be said that, in whatever way the issuance of currency may be managed, whether by a central bank or otherwise, the recent tendency has been almost universal to place less reliance upon bonds and long-time securities and more upon commercial paper. Indeed, it is questionable whether the latter class of assets do not have greater stability of value than the former. In any event there can be a readier realization upon them, and in providing for the redemption of circulation, and its necessary increase or decrease, the most liquid assets are the best.

2. The most sanguine can not expect any permanent solution of the currency question at this session, yet among all the bills introduced that which is best suited to bridge over the present situation is the Vreeland bill. It is not claimed that it is a model measure. Possibly some slight changes in phraseology or in minor details would improve it, but for the purpose of assuring a safeguard against panics, avoiding inflation, providing safety, and blazing the way for future legislation, it is the best obtainable.

Any temporary measure should be entirely safe, acceptable to the people, and workable. Does the Vreeland bill meet these essential requirements?

(a) Safety is secured by the requirement that not less than ten banks, having an unimpaired capital and surplus of five millions or more, shall associate themselves together and be jointly and severally liable for the circulating notes issued by all of them. Moreover, no currency can be issued by any bank unless it shall have deposited with the association securities, including commercial paper, to an amount not less than one-third in excess of the notes issued. These securities are to be approved by the officers of the association and by the Secretary of the Treasury, as already stated. In view of their common guaranty the interest of all the banks is obtained for the careful selection of securities. The notes are a paramount lien on the assets of every member of the association. A reserve in gold or lawful money of 25 per cent in reserve cities and 15 per cent in nonreserve cities must be maintained in accordance with the regulations providing for deposits against all notes issued.

A portion of this reserve, 5 per cent of the notes, must be maintained at the Treasury for a redemption fund. To avoid inflation, a tax at the rate of 4 per cent per annum is imposed for the first two months and an additional 1 per cent monthly thereafter. When the reserve requirements are taken into account, it will appear that for the first two months the tax is 5.33 per cent in central reserve cities and a somewhat less amount in other localities.

This tax belongs to the national revenue. It is to be noted that the Government is the ultimate guarantor of these notes, but it is not believed that circumstances could arise under which

it would become responsible. In any event, the tax would more than recompense it for any loss.

(b) As regards the acceptability to the people of this bill, due regard should be had for popular sentiment, but this does not mean that a measure must conform to the selfish interests of some or to the prejudices of others. The notes would, however, command the confidence of the people, because they are amply secured, not only by the banks but by the ultimate guaranty of the Government. They would in no essential particular vary from a form of money already in use.

(c) Is it workable? It is clear that the tax is so high that notes would be issued only in times of stringency. There is a requirement that in order to issue them banks must already have outstanding security by Government bonds of 40 per cent of their capital, but this would not prove a serious obstacle. The apportionment among the States has been tried in former acts relating to national banks and has not been found to be helpful. Nevertheless, the demand for such a provision is so widespread that I do not believe a measure could be passed which omits it.

Clearing-house associations have already shown that associations of banks, as contemplated in this plan, will issue substitutes for currency under circumstances less promising and without legal warrant. If such a law had been upon the statute books last autumn, the dire distress of the panic would have been greatly mitigated, ruinous sacrifices in values would have been avoided, and confidence would not have suffered so serious a shock.

There are other provisions in the bill, including one for interest on Government deposits; but its main object is to provide a temporary currency. There is a section authorizing a commission of eighteen members, whose duty it shall be "to investigate carefully the causes of the recent financial crisis and the relation of the banking and currency system thereto, and make recommendations to Congress for such changes in the existing banking and currency system as may, in their opinion, be desirable." The people have been considering monetary problems since the late crisis with more eagerness than for years. It may be confidently anticipated that the general interest in a reformed currency system will render the duties of such a body more easy and will contribute to the framing of laws which will confer universal benefit by relieving the country from the destructive influences of panics and promoting the prosperity of the people.

Emergency Currency.

SPEECH

OF

HON. EDMUND H. HINSHAW,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. HINSHAW said:

Mr. SPEAKER: President Roosevelt, in his message of December, 1907, said:

Provision should be made for an emergency currency. The emergency issue should of course be made with an effective guaranty and upon conditions carefully prescribed by the Government. Such emergency issue must be based on adequate securities approved by the Government and must be issued under a heavy tax. This would permit currency being issued when the demand for it was urgent, while securing its retirement as the demand fell off.

In a previous message to Congress the President referred to this subject in the following terms:

It must never be forgotten that this question concerns business men generally quite as much as bankers; especially is this true of stockmen, farmers, and business men in the West; for at present at certain seasons of the year the difference in interest rates between the East and the West is from 6 to 10 per cent, whereas in Canada the corresponding difference is but 2 per cent. Any plan must, of course, guard the interests of Western and Southern bankers as carefully as it guards the interests of New York or Chicago bankers, and must be drawn from the standpoints of the farmer and the merchant, no less than from the standpoints of the city banker and the country banker.

Mr. Speaker, since the panic of last October the people generally have been of the opinion that some national legislation should be enacted to prevent, if possible, a repetition of similar conditions and results. It is generally believed that the real cause was the inflation of values and the overextension of credit, especially in the great cities like New York. In the farming communities no such condition existed, and there was not the slightest excuse for a stringency of money. This was especially true of Nebraska, where the people were very pros-

perous, had paid most of their debts, and had money in the banks. The great demand for money for investment and speculation overtaxed the resources of the metropolitan banks, distrust and loss of confidence ensued, and depositors began to withdraw their money and hoard it. When the country banks sought to withdraw their reserves and deposits the great central banks found themselves unable to meet these demands and were threatened with suspension. Their securities were usually ample and good, but could not be hastily converted into currency or liquid assets. Hence they resorted to the expedient of issuing "clearing-house certificates," a temporary and unlawful proceeding, but which probably saved countless banks from suspension and their creditors from great loss. All these certificates were paid, and no one lost a dollar on account of their issuance. Such a situation, however, is far from desirable.

To be sure, it would not often occur, and the panic itself has long since disappeared, but the conditions then existing have left in the country a feeling of uncertainty and a timidity of capital, which otherwise would seek investment, employ labor, and build up the country.

Wide conflict of opinion developed, and no two agreed on a remedy. Some thought that nothing should be done. The Republican majority of the Congress, charged with the responsibility of legislation, believed that a failure to enact some legislation to prevent a recurrence of financial crisis and depression might itself engender panic.

After frequent conferences and free and general suggestions from the Members of Congress and from the whole country, the House passed H. R. 21871, known as the "Vreeland bill." It is not the result of any one man's investigation or suggestion, but embraces the criticisms and amendments of many men. No legislation is ever perfect, and can not by any possibility meet the full views of all. What does this bill as amended in conference provide?

1. That not less than ten national banks may combine into a "clearing-house association," having a capital and surplus of at least \$5,000,000; and upon the approval of the Secretary of the Treasury may become a body corporate; that not more than one such association shall be formed in any city, and that the banks forming any such association shall be located in a territory composed of a State or part of a State or contiguous parts of one or more States.

These provisions prevent the concentration of such associations in large money centers, and make it possible, if found desirable, to establish "clearing-house associations" in any State of the Union. The amount of \$5,000,000 aggregate capital and surplus is believed to be small enough to insure the formation of these organizations in any part of the country. In the original bill the amount was placed at \$10,000,000, but was amended to \$5,000,000, and a provision was incorporated to make it necessary to localize the associations in States, and I believe this amendment will be of great assistance to the country banker if occasion should ever arise for him to take advantage of this law, and, of course, his depositors would be thereby better enabled to ward off the evil consequences of a money panic, which last fall compelled the virtual suspension of specie payments for a short time throughout the land. Any national bank, having the required qualifications under this law, can not be excluded from joining an association if it applies.

2. The essential provision of the bill provides that any bank in such an association, having circulating notes outstanding secured by the deposit of United States bonds to an amount not less than 40 per cent of its capital stock, may deposit its securities, including commercial paper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and the securities are amply sufficient, shall have issued to it additional circulating notes to an amount not exceeding 75 per cent of the cash value of the securities so deposited.

If municipal, State, or national bonds are deposited for currency, there shall be issued 90 per cent of the value of said bonds. Not more than 30 per cent of the amount represented by the capital and surplus can be issued on securities other than bonds and commercial paper so used must be first class and running not more than four months.

3. That the assets of the particular bank and the assets of all banks belonging to such association shall be liable to the United States for the redemption of such additional circulation. Additional security can be demanded at any time. The total amount of notes, however, which a bank may issue shall not at any time exceed its unimpaired capital and surplus. The maximum issue for the whole country shall never exceed \$500,000,000. In addition to all this security, the bank shall deposit with the Treasury 10 per cent of all notes issued as "a redemption fund," which practically amounts to a reserve.

4. It is expressly provided that an equitable distribution between the various sections of the country shall be maintained, so that it will be impossible for Wall street or any great financial center to monopolize or control the issuance or withdrawal of this currency.

5. This emergency currency is taxed. If secured by 2 per cent United States bonds, it is taxed one-half per cent a year; if secured by United States bonds bearing a rate higher than 2 per cent, it is taxed 1 per cent per annum. The circulating notes to be issued under this act, secured by the assets of the bank, including commercial paper, shall be taxed for the first month 5 per cent per annum, and thereafter an additional tax of 1 per cent per annum for each month until 10 per cent is reached. This additional currency can be retired from circulation by a deposit with the United States Treasurer of lawful money or national-bank notes and a proportionate share of the securities may be withdrawn.

The notes state upon their face that they are secured by United States bonds or other securities according to law, and that the banking association promises to pay them on demand. These notes are redeemable in lawful money on presentation by the United States Treasury.

5. Another important section provides that all public moneys deposited in depositories shall pay interest as fixed by the Secretary of the Treasury, but not less than 1 per cent, and shall be equal and uniform throughout the United States.

6. A national currency commission of eighteen members is created to investigate carefully the causes of the recent financial crisis and to recommend to Congress further legislation, as this law operates only till 1914.

Briefly stated, these are the main provisions of this act. It is strongly recommended and approved by President Roosevelt, who has recommended repeatedly "emergency currency." He believes that a safety valve should be created for just such a crisis as we had last year. He, as well as the remainder of us, does not believe that this currency will often be needed, but the fact that it can be made available at any time on short notice by any part of the country will maintain confidence and make it unlikely that it will ever be called for at all. The disposition to hoard money or withdraw it from the bank will be averted. A depositor usually does not care for his money if he is sure the bank has it on hand.

While it is not likely that the necessity will arise for resort to this form of currency, it is generally believed that the fact that such a law is on the statute books will itself inspire confidence and prevent the hoarding of money.

I am sure that all of us are only anxious to do the wise and patriotic thing—to restrain the raids of the great commercial centers on our prosperity and put no weapon in their hands with which they may work havoc at unexpected seasons on the industries of the country. If it were not for the unrelenting opposition of the Members of Congress from the eastern part of the country and many from the South, with whom I have talked, a much better solution of this question could be put into law. I mean that there should be a system of guaranteeing and insuring bank deposits. I believe this can be safely and inexpensively done. A small tax on deposits to be paid by the banks will create a sufficient fund, and the increased confidence thereby established in the banks will amply reimburse them by bringing from hiding large sums of money into the banks and into circulation. Runs on banks would then be a thing of the past, all men would implicitly believe in the security of their savings, and I confidently believe that panics would be unknown.

Many of us have urged this proposition on Congress, but on both sides of the Chamber much hostility exists. The large and strong banks would be benefited, as well as the smaller ones. All usually are affected by lack of confidence, and it is many times for the security of the well managed and solvent banks that no unexpected raids be made on smaller and less solid institutions. We have just now by far the largest aggregate and per capita circulation in our history. More than \$35 per person is certainly adequate for all our needs. Whatever legislation we have should be directed to the prevention of its absorption in great speculative ventures and to secure its equitable distribution. More rigid State and national laws should be enacted to prevent the reckless speculation on margins, which entices and misleads thousands in cities and in country and threatens the very stability of our financial system and is an unmixt evil. Happy is that land where economy prevails, wild speculation does not exist, and men are content with moderate and honest gains. Otherwise the prosperity which has been so unbounded would be imperiled. This law may supply that elasticity in our circulating medium which will afford defense against panic and disaster and make sure a continuance of industrial activity.

Revision and Codification of the Penal Laws.

SPEECH

OF

HON. CHARLES L. BARTLETT,
OF GEORGIA,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 11, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration H. R. 11701, a bill to codify and amend the penal laws of the United States—

Mr. BARTLETT of Georgia said:

Mr. CHAIRMAN: Section 23 reads as follows:

SEC. 23. No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall be fined not more than \$5,000.

A motion has been made to strike out that part of the section which refers to the qualifications of jurors in the State courts and which declares a penalty against the State officers who may be charged with the selection or summoning of jurors in the State courts for obeying the laws of the State.

Mr. Chairman, I desire, as I made the motion to strike out this entire section, to call the attention of the committee for a minute to the position I take upon it. I am in favor of the amendment offered by the gentleman from New Jersey [Mr. HUGHES], but this is a section which was put in the law in 1871 to enforce the fourteenth amendment, growing out of the peculiar conditions then existing in the South. It has served its purpose, and, in my judgment as a lawyer, no part of this section 19 now proposed to be reenacted into law can stand the test of constitutionality except that part which deals with the franchise, because the Supreme Court of the United States has in a number of cases, which I have here before me, but which I have not, of course, time to read, declared that the fourteenth amendment simply dealt not with individuals, but with States, when it declared that it could not deprive a citizen of his rights guaranteed to him by the Constitution of the United States.

I have the compilation here of these decisions, and the statutes, and I have the decisions themselves, which I will undertake to put into the Record. But independent of all that, Mr. Chairman, we ought not longer to permit this section to remain upon the statute books, because it is never now used except for the purpose of undertaking to charge people with conspiracies and thereby drag them into the courts of the United States for a violation of the laws of some State or for a pretended violation of the laws of the United States. It has been used as a cloak and a cover beneath which there has been exercised the power of the Federal courts to oppress and wrong the citizens of the States. There are a few cases, it is true, that have reached the Supreme Court of the United States. There are a few cases that have reached the court of appeals, because in nine cases out of ten they are so frivolous and so evidently not authorized by the law that, outside of the arrest and the annoyance of carrying the citizen to the United States commissioner or binding him over to the United States circuit court, there is nothing left of it.

Among the reserved rights of the States not granted to the General Government is the establishing of the court of justice; the appointment of judges and the making of regulations for the administration of justice within each State according to its laws on all subjects not intrusted to the Federal Government is the peculiar province and duty of the State legislatures. The several States retain all the powers of legislation delegated to them by the Constitution which are not expressly taken away by the Constitution of the United States. (See *Calder v. Bull*, 3 Dallas, 388.) The right to prescribe who shall be qualified to serve as jurors in the State courts is the exercise of one of the sovereign rights, the reserved rights of the States; to prescribe that an officer of the State shall be punished by a Federal court for obeying the laws of his State in the selection of jurors for a State court is to annihilate and destroy the power of the State to make regulations for the administration of justice as its legislature may determine, and this, in effect, will destroy the reserved rights of the State. To such a doctrine I am opposed, and this statute, which was passed in the time of heated political and sectional animosity, should no longer cumber and disgrace the statute books.

It rests with each State to prescribe such qualifications as it deems proper for jurymen, taking care only that no discrimina-

tion in respect to such service be made against any class of citizens solely because of their race. This was decided by the Supreme Court of the United States in the case of *Jugiro* (140 U. S., 297). In that case the court says:

No person charged with crime involving life or liberty is entitled by virtue of the Constitution of the United States to have his race represented upon the grand jury that may indict him or upon the petit jury that may try him. And so far as the Constitution of the United States is concerned, service upon grand and petit juries in the courts of the several States may be restricted to citizens of the United States. It rests with each State to prescribe such qualifications as it deems proper for jurors, taking care only that no discrimination in respect to such service be made against any class of citizens solely because of their race. (See also *Spies v. United States*, 123 U. S., p. 168; *Baldwin v. Franks*, 120 U. S., pp. 685-688 and 689.)

This case, when read carefully, fully sustains this proposition. To the same effect is *Logan v. United States*, 144 U. S., 289; 46 Fed. Rep., 383, and 51 American Decisions, 94, note.

This and kindred sections ought not longer to remain on the statute books. Until the Supreme Court of the United States decided these cases great wrongs and outrages had been perpetrated upon citizens of certain parts of this Union. That time has passed away, and with this era of good feeling between the sections it ought to pass away forever. [Applause on the Democratic side.]

William James Bryan.

REMARKS

OF

HON. JOHN M. NELSON,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

Sunday, May 3, 1908.

On the following resolutions:

"Resolved, That in accordance with the order of the day an opportunity be now given for tributes to the memory of Hon. WILLIAM JAMES BRYAN, late a United States Senator from the State of Florida.

"Resolved, That, as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career, the House, at the conclusion of these exercises, shall stand adjourned.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the family of the deceased."

Mr. NELSON said:

Mr. SPEAKER: Upon the request of a colleague I offer this humble tribute to one whom I never knew in mortal flesh, but to whose spirit I feel a kinship—a spirit richly endowed with all the attributes of a common humanity.

Like a luminous comet out of the Southern sky, unexpected, resplendent, startling—quickly passing as it came—pleasing to the eye as mysterious to the mind, such was the brief, too brief, legislative career of WILLIAM JAMES BRYAN, late United States Senator from the State of Florida.

Life. What is life? The world's mystery, to which the Author of life alone holds the silvery key. Death. What is death? The heaven's mystery, to which the Lord of heaven alone holds the golden key. Life and death, twin mysteries of mysteries, portals invisible to mortal eye, set at either end of earth's existence, through which enter eternal spirits that for a few fitful moments of time assume form and feature, pass through God's inscrutable processes of purification in some fiery furnace of affliction, and then disappear from mortal sight for evermore.

Whence? Why? Whither? How? These are the troubled questionings of time, but the hopeful, aye, the certain, revelations of eternity.

Every human life has a strange fascination for every other human life, and each is more or less a magnetic center from which and to which flow currents of thought and affection that move this world of men. And that soul center is the more influential force which is nearer to the Ultimate Source of all that is true, good, and beautiful in time and in eternity.

Hence it is not how long life lasts, but how wisely and how well one lives, that tells for true greatness. Thus this youthful, brilliant public servant, whose star burst upon us so suddenly from the balmy Southland, attracted at once and to an unusual degree the attention of his colleagues in the Congress, because of a pleasing personality, a successful past, and a refulgent promise of a long and useful service in high place for his country.

In private and in public comment was made on his youthful years, so unusual in the high place to which he had attained,

which attainment was itself to young America an inspiration and a hope. His very name provoked discussion so similar to that of another distinguished statesman, a name known as a household word from the Gulf to the Great Lakes and from sea to sea; and lastly, his real abilities, his approved devotion to public duty, and his unswerving fidelity to high patriotic ideals led his friends to predict for him a great and glorious destiny.

It was not to be. The broken promise of a long and splendid career for this strangely favored man but reechoes the old and everlasting truth that "Man proposes, but God disposes."

It is for us to believe that God knoweth best what is best for us all. What are years—a decade, a score, a century—in the eyes of the Everlasting One? In His eternal purpose a thousand epochs are like a day.

After all, what is the glory of place and power and pomp? The poet, Gray, in contemplation of the tombs of those of the old world once counted rich, noble, and great, uttered this sentiment, the pathos of which reechoes in the heart of every man:

The boast of heraldry, the pomp of power,
And all that beauty, all that wealth e'er gave
Awaits alike th' inevitable hour.
The paths of glory lead but to the grave.

From the tributes paid to WILLIAM JAMES BRYAN by those who knew him best and loved him well, we believe that he was truly one of nature's noblemen, endowed with a soul that turned on the poles of truth, set in the purpose and the will to do right as he saw the right, and imbued with the spirit of service to his fellow-men, which is brotherly love. Hence departing, to his dear ones he left behind him a great sorrow, it is true, but also the glorious legacy of a stainless name. Great, doubtless, seemed their loss. To a friend Mr. BRYAN's brother wrote these pathetic words:

The State has lost a public servant, others have lost a personal friend, and it seems to those of us who were of his family that we have lost everything.

But gracious years will soften their sorrow; and there will remain to them the loving memory of one of whom it may be said:

He is not dead
Who in his record still earth shall tread
With God's clear aureole shining round his head.

And in their hearts his friends may say:

As a star that leaves its place
Fills the heavens with passing grace,
Did he set our hearts aglow,
Where he was a shadow rests,
Veiling void in aching breasts,
He but heeds the immortal rule,
Lifted to the Beautiful.

The Vreeland Bill Is a Makeshift—The Killing of It Would Be No Murder.

SPEECH

OF

HON. J. DAVIS BRODHEAD,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. BRODHEAD said:

Mr. SPEAKER: There is something the matter with our currency laws. The recent panic showed that fact. The country has been looking to this Congress for some logical, philosophical, remedial legislation. The Republican party, with its majority in this House, has the responsibility resting on it to provide the legislation demanded by the people and by the conditions of the country. Now, after months of alleged deliberation, we are given this makeshift.

I do not pretend to understand our currency system, nor am I, individually, able to write a bill which would cure the financial ills under which we are suffering; but if I did make that pretense and did assume the responsibility and failed to produce anything better than this Vreeland bill, I ought to give way to some one else.

This much is certain, the "Grand Old Party" has failed to give us good legislation on our currency.

Mr. Speaker, I have received this morning a letter from a banker who has given careful study to our banking laws, a former United States bank examiner and at present president of the Easton Trust Company, in the city of Easton, in my district,

and I now ask that it be read and printed as part of my remarks:

EASTON, PA., May 15, 1908.

HON. J. DAVIS BRODHEAD,
House of Representatives, Washington, D. C.

MY DEAR BRODHEAD: I have been anxiously awaiting the appearance of the Vreeland bill, and thank you very much for your prompt copy. The Vreeland bill is merely an expedient. It is nothing more than the legalizing of a method which the recent crash evolved as a necessity. It is crude and perhaps insufficient, but it probably is the only thing this Congress will produce. It assumes that the business of the country is performed by the national banks, and points out no way by which State institutions can be supplied with currency in panic conditions to supply the vast volume of business which is done through them.

It is a premium on banking transactions with national banks and a discrimination against all State institutions. The Government makes it impossible to use any currency save such as is issued by them, and in this bill determines that currency relief can and shall only come through the national banks, and as the terms of the bill restrict the amount of their currency output, State institutions can not be aided through the kind agency of their sister national institutions.

I am afraid it is a delusion and a snare and will prevent prompt and reasonable legislation upon this question, notwithstanding the magnificent array of a commission which the bill proposes to create—a commission large in number, thereby inviting much confusion of wisdom, and most important in salaries, thereby inviting modern graft expedients in the obtaining of membership.

The bill is neither fish, flesh, nor good salt herring. It is a sop to Cerberus, a tub to the whale, and its originator doubtless thinks there is sufficient dust in it to blind the eyes of a gullible public. We have hoped for much from this Congress to make impossible such disasters as occurred last autumn, but, with all respect to our masters, nothing has arisen from the much wisdom in financial directions which promises anything of good, and the avoidance of Congress leaves the commercial world in the same ditch that patchwork legislation and lack of legislation and stupid legislation have placed us in for many years.

I observe the Democrats will probably vote against this bill. If they should succeed in killing it there will be no murder on their conscience, as there is no observable object in putting life into such a measure. It is the most transparent effort at avoidance of legislation, most gravely demanded, that has yet been placed upon the records of the House.

I am not criticising this bill. I am merely groaning in utter hopelessness. There seems to be neither the will, nor the power, nor the intellectual ability in Congressional circles to make a reasonable guess at the cause of our frequent financial troubles, nor to apply a logical, philosophical remedy to that evil.

Yours, very truly,

R. E. JAMES.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. THOMAS F. MARSHALL,

OF NORTH DAKOTA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. MARSHALL said:

Mr. CHAIRMAN: This bill provides for the payment to the Archbishop of Manila, as trustee of the Catholic Church of the Philippine Islands, of claims for the use, occupancy, and damages to church property in those islands.

Not being a lawyer, I am not competent to discuss the matter from a legal standpoint, and am therefore very glad that the legality and justice of the claim has not been attacked—in fact, all practically agree that this is a just claim and that it ought to be paid.

As far back as 1906, President Roosevelt sent the following message to Congress:

To the Senate and House of Representatives:

I herewith submit to the Congress the report of the Secretary of War and of the Judge-Advocate-General in reference to the claims presented by the representatives of the Roman Catholic Church for amounts due from the United States to the various Roman Catholic churches in the islands for use and occupation by troops of the United States, and for damages during such occupation. I cordially indorse all that is said in these reports, and earnestly hope that the amount recommended by the board will be immediately appropriated, in order to do what is really an act of substantial justice to the Roman Catholic churches of the Philippines, in accordance with the suggestion of the Secretary of War. It is not only a matter of equity that we should pay this sum, but for the reasons set forth by the Secretary of War it is very greatly to the interest of the people of the Philippine Islands that it should be paid. I have accordingly approved the action of the Secretary of War in directing that the same board be reconvened, or another convened, to report on the advisability of paying additional sums to the Roman Catholic churches in the islands in view of the damages inflicted upon them by reason of the war and by the insurgents. I feel that this is peculiarly a case where in the interest of the Philippine people themselves it would be wise for the Congress to exercise a large liberality.

THEODORE ROOSEVELT.

THE WHITE HOUSE, December 5, 1906.

At the hearings Secretary Taft made the following statement:

I think that \$363,000 is much too low for rent and damages in occupation by our troops. It is much too low, because of the difficulty of

bringing in evidence so long after the event. I think the board went through the matter with great care. But there are a great many claims filed in excess of the \$363,000 that, nearer to the event, might have been proven. The burden of course was on the claimants; but with the immense loss that the church suffered from war, and other causes, I am quite sure that the increase of \$363,000 to a half a million or more would be no injustice.

All will agree that no one has a better knowledge of the facts, and none will question his judgment.

Likewise, I have great confidence in the Committee on Insular Affairs, and in the chairman of that committee, the gentleman from Wisconsin [Mr. COOPER], who brings in this report.

The action of the committee was based on the report of the commission, which made a very exhaustive investigation.

The claims of the minority as to the number and rights of the so-called "Independent Catholic Church," are not well founded. The letter of Bishop Hendrick, of the Philippine Islands, to Hon. SERENO E. PAYNE, of recent date, shows very clearly that the membership of the Independent church is grossly overestimated in the minority report, and be that membership large or small, their claim of any interest in this money should not be considered, for it is made very clear in the testimony, particularly that of Colonel Hull, that there was no organized Independent Catholic Church at the time for which the claim is made by the commission, and furthermore, there is a statement to the effect that no claim was contemplated.

In the face of all the facts I feel that the committee has made a clear and strong case, and that the amount is very reasonable and just, being but a small percentage of the total amount claimed, and it is the duty of Congress to provide for its payment as provided in the bill.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. JOHN W. LANGLEY,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. LANGLEY said:

Mr. CHAIRMAN: It seems to me that there is too much unnecessary mystery made of this claim of the Catholic Church. Every official authority of which I am advised is in favor of the payment of this claim. President Roosevelt urged it in a special message to the Senate. Secretary Taft urged it before the Committee on Insular Affairs and, in fact, recommended the allowance of a larger sum. The board of church claims, composed of three competent Army officers, have pronounced the award fair and just. Under the circumstances the logic of the report of the minority is difficult to comprehend. For instance, it avers that of the "five judges subscribing to the majority opinion four are members of the Roman Catholic Church, and not one of the court is a member of the Independent Philippine Catholic Church, although three are Filipinos." If the purpose of the report is to argue that these judges were not capable of arriving at a correct decision because they were Roman Catholics, then it would naturally follow that in the case of a claim of a Protestant church in this country our Supreme Court could not arrive at a correct decision if the majority of the members favoring that claim were Protestants. The minority report clearly leads to such an inference.

But one of the most startling statements in the minority report refers to the numerical strength of the Independent Philippine Catholic Church. On this point the report says:

The Independent Catholic Church, of which Archbishop Gregario Aglipay, who prior to the insurrection was a native priest, is the acknowledged head, observes all of the rites, ceremonies, and festivals of the Roman Catholic Church, and differs with that organization only in the fact that it does not acknowledge the control of the Vatican. It is claimed for the Independent Catholic Church that it has more than 250 priests and 20 bishops, that it has a number of seminaries located at various points in the islands, and that it has a membership of 4,000,000 souls. Its opponents do not concede that its membership is so large, and sometimes place it at 3,000,000 or even less; but Bishop Brent, of the Episcopal Church, who has resided at Manila for a number of years, and than whom there can probably be found no higher authority, has, it is reported, but recently estimated the membership of this branch of the church at 4,000,000. It can be most conservatively and safely said that it outnumbers the membership of the Roman Catholic Church two to one, and that in many of the parishes the priests, and all those who hold the Catholic faith, have identified themselves with the Independent Catholic Church.

Now, if this church is the owner of these properties, how is it that it lost nothing during the war and the insurrection and has no claims to present to this Congress? The fact is that the official figures, furnished to the gentleman from New York [Mr. PAYNE] by Bishop Hendrick, of the Roman Catholic Church, entirely disprove the statements in the minority report as to the numerical strength of the Independent Filipino Church.

I shall quote from the Bishop's letter just enough to show the great disparity in the two claims, and I will add that the figures given by the Roman Catholic bishop have the official indorsement of the Philippine government. The Bishop gives the following figures, which I quote in part from his letter:

GONZAGA COLLEGE,
Washington, D. C., March 5, 1908.

To the Hon. SERENO E. PAYNE.

DEAR SIR: Replying to your inquiry as to the number of Aglipayanos in the Philippines, permit me to say that the diocese of Cebu contains 2,000,000 of Christians. I have been to all the dioceses, and say that the proportion is as follows:

Cebu—700,000, Aglipayanos 1,000; Leyte—500,000, Aglipayanos 100; Bohol—250,000, Aglipayanos 75; Northern Mindanao—150,000, Aglipayanos 10,000; Siquijor—35,000, Aglipayanos none; Samar—400,000, Aglipayanos none; total—2,035,000, Aglipayanos 11,175.
The diocese of Nueva Caceres, about 850,000, Aglipayanos 8,000.
Diocese of Jaro, about 1,200,000, Aglipayanos 50,000.
Allowing 70,000 Aglipayanos in Manila and 35,000 Aglipayanos in Nueva Segovia, there appears a total of 174,175.

It is very plain to my mind that, with these facts before us, reenforced by the indorsement of President Roosevelt and Secretary Taft, we can not err in allowing the full amount of this claim, and I shall therefore take pleasure in voting for it.

The "Do-Nothing" Congress.

SPEECH

OF

HON. JOSEPH J. RUSSELL,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. RUSSELL of Missouri said:

Mr. SPEAKER: The first session of the Sixtieth Congress will soon adjourn, and its work will become a matter of history. It has already won the deserved appellation of "The do-nothing Congress," and the merited condemnation of the American people.

Mr. Speaker, from the beginning of this session it was evident that the policy of the leaders of the party in power was to pass the appropriation bills and to do but little else. It was soon made manifest by the comments of the press of the country, and the petitions and appeals of the people, that some remedial legislation was expected and demanded by our constituents. President Roosevelt, with his ear to the ground, heard the distant but distinct rumblings of the public discontent, and he foresaw the people's emphatic disapproval of the indisposition of Congress to heed their demands.

The President was so impressed with the importance of certain measures that he was not content with the transmission of his usual message at the opening of Congress, in which he earnestly urged their consideration, but on the 31st day of January he sent to Congress a second, and on the 25th day of March a third message, calling the attention of Congress to the great importance of a number of proposed laws, and of the necessity of their enactment. Some of his proposed measures met with Democratic favor and among those recommended by him in these several messages that were indorsed by the Democrats were the following:

- To put wood pulp on the free list.
- An amendment to the Sherman antitrust law.
- An eight-hour law for Government employees.
- To prevent the abuse of injunctions.
- To prevent corporations from contributing to Presidential campaign funds, and to provide for publicity of such contributions.

No one of these bills has been enacted, for the good and sufficient reason that Speaker CANNON did not so desire.

The disposition of this Congress to do nothing for the relief of the people was early discovered by the Democratic leaders of the House, and after such insinuations had been expressed upon the floor of Congress and in the press of the country Hon. W. P. HEPBURN, of Iowa, one of the old "war horses" of the dominant party, and for more than twenty years a Member of Congress, sought both to denounce such insinuations among his

party enemies and to dispel such apprehensions among his party friends, and in his speech, delivered on the 3d day of February, when discussing the President's message, said:

In every recommendation of his message the American people stand by him, ready to uphold his hands, ready to demand that the legislation that he asks shall be given in order that those recommendations may be made effective through the courts. There may be gentlemen who say there will be nothing done by this Congress. I do not believe it. I assert that the American people are earnest in the purpose of so clothing the Executive with power that he may be able to accomplish the reforms that are advocated in this measure, and if men stand in the way, Mr. Chairman, they will be run over and may be disfigured badly in the contact.

Still, with that threat hurled in the faces of the Republican Members of Congress, no one of these laws above mentioned has been passed, and no one of the "big five" who have "stood in the way" and made their enactment impossible has as yet been "run over" or "disfigured," but the vehicle of the righteous indignation of the people should and will justify the prophecy of Colonel HEPBURN in the November election.

Speaker CANNON is not only the presiding officer of the lower House, but he is under the present rules the absolute supreme dictator of this body, and with the assistance of his four trusted lieutenants, who with him constitute the "big five," control absolutely not only all legislation enacted by the House, but determine what measures shall have consideration. Any bill offered in the House can be considered and voted upon with the Speaker's consent, but without his consent such consideration and vote is absolutely impossible.

If three-fourths of the membership of the House desire the enactment of a certain law, still it can not be even considered if the Speaker is against such consideration. The Chicago Evening Post, a Republican paper, in a recent editorial, in forceful language has denounced this modern usurpation of power in the following words:

To what depths of degradation the House of Representatives in the Congress of the United States has sunk, JOHN SHARP WILLIAMS effectively showed his 80,000,000 countrymen yesterday.

For Mr. WILLIAMS forced upon the Republic the almost incredible spectacle of 164 duly elected Representatives of the people pleading in vain for the mere opportunity to present to their fellow-legislators in any shape or form a legislative proposal which they unitedly favored.

One hundred and sixty-four servants of the people demanded a right which the Constitution gives them and which their oaths of office oblige them to use. One insolently self-made master of the people ignored that demand and rendered it futile. Could travesty of democratic government go further?

The very fact that so vital a protest as that made by the minority was presented with the clownish trappings of a mock revival meeting gives startling evidence of the vicious thoroughness with which the regime of JOSEPH G. CANNON, SERENO E. PAYNE, and JOHN DALZELL has stamped out in the lower Chamber of Congress the sense of political morality, the habit of common decency, and the ideals of representative government. It is to-day astoundingly clear that the things which America holds most high have become in the House of Representatives merely the objects of a cynical and contemptuous pity.

With solemn humbug, with party buncombe, with ancient political cant Speaker CANNON has completed the wretched work of turning the free legislative assembly of a democracy into a shameless autocracy. He himself, singly and unaided, now dares to speak, think, and act for 386 men whom the people have laboriously chosen to make their laws for them. The rule of the majority, a fundamental principle of the nation, he disregards with a cool impudence that would not be tolerated in the Russian Duma.

About thirty Republicans offered bills to put wood pulp and print paper on the free list, and many more of them favored these and other bills recommended by the President and urged by the Democrats, but they, too, were as helpless as infant children and as powerless as moonshine upon a frozen fountain.

I have been here as the Representative of over a quarter of a million of people, who have been taught by the frequent boasts of the leaders of all political parties that this is a free Government and representative in form. I have had many petitions and innumerable letters from my district asking me to vote for a number of measures favored by my constituents, but in almost every case the Speaker has persistently refused to allow these bills to be considered.

The minority leader, Hon. JOHN SHARP WILLIAMS, observing the "do-nothing" policy of the Republican leaders, determined to and did inaugurate a so-called "filibuster," but which, in fact, was misnamed. It was not a filibuster in its usual sense, as it was not intended to, and did not in fact, obstruct legislation, but was intended to focus public attention upon the questions of the hour, and to emphasize the importance of enacting some of the remedial legislation demanded by a Republican President, and to so arouse public opinion as to drive their public servants to heed the demands of the people, or to fasten the responsibilities upon those who are to blame for their failure to do so.

Mr. WILLIAMS did not inaugurate this policy until it was evident that the leaders intended not to pass these bills. He announced this programme on the 24th day of March, and after

the House had been in session nearly four months with nothing done but a useless waste of time.

Congress convened on the 2d day of December, and a careful examination of the record shows that the House was only in session eleven hours and nine minutes in the first five weeks of its existence. Occasionally an ill-advised or overzealous member of the majority party will claim that the Democratic minority has obstructed the legislation desired by the people, but such a claim is absolutely untrue, as Mr. WILLIAMS on divers occasions publically announced in the House that he and every member of his party was ready and willing at all times not only to facilitate the consideration of such measures, but to assist in their passage.

The leaders of the Republican party in the House have not pretended to claim that the Democrats have in any way obstructed their plans, and among a number of other similar statements made upon the floor Hon. SERENO E. PAYNE, the Republican floor leader, on the 6th day of April in one of his speeches, said:

We will go on with the legislation of this country, and the majority will decide in their own good time, and despite any let or hindrance from the gentleman from Mississippi and his voting trust, which it is reported he had organized on that side last Saturday, to stand by him in every obstructive method to stop legislation; notwithstanding that, we will go on and write on the statute book just what we on this side of the House desire.

In the face of this and many similar declarations by the Republican leaders, it must be assumed, as we know it to be true, that all of the remedial legislation desired by the people and demanded by the President that has not been passed was purposely defeated as a matter of choice by the party in power.

The Republican leaders have been unwilling to pass a publicity campaign contribution bill, but have attempted to deceive the people of the country, who demanded such legislation, by coupling with this measure some of the features of the old force bill, giving Federal control over State elections, and preparing the way for the cutting down of the Southern representation in Congress and in Presidential elections.

It was perfectly understood by every man in Congress that there was no possibility of this hybrid offspring of Republican desperation and cowardice ever becoming a law, nor was it ever so intended by the Republican leaders.

The Democrats in the House in good faith desired the enactment of a campaign publicity bill, and many of the Republicans also favored it and introduced such bills, but the Speaker and the leaders of his party were against it for the reason that they desire to collect corporate money, with which they hope to perpetuate their party in power, and the Speaker of the House has persistently refused to permit this bill to be considered upon its merits. They ingrafted upon this bill the odious features of the force bill to accomplish its defeat, knowing that no self-respecting Democrat would vote for it, but by this subterfuge hoping to blindly lead the people into believing that they had favored and voted for a campaign contribution bill.

This legislative pretense has lived its short life of twenty-four hours, served its purpose in showing the utter insincerity of its pretended supporters, died in the Senate, and now silently sleeps in its grave in the Senate committee room, without any friend in any party to hope for its resurrection. The only thing that this Congress has been able to do with facility and dispatch has been to loot the Treasury.

Mr. TAWNEY, the chairman of the Committee on Appropriations, has warned the House that the unprecedented extravagance of this session of Congress will necessarily lead to a deficit in the revenues of the current year of \$150,000,000.

It has been the most extravagant Congress that ever convened, having appropriated more than \$1,000,000,000 in one single session, and of this enormous expenditure of the people's money over four hundred millions was appropriated for the support of the military arm of the Government, while less than \$12,000,000 has been appropriated for the benefit and encouragement of the all-important vocation of agriculture. In spite of the urgent appeals of the President in behalf of the waterways, no bill for river improvements has been passed at this session, and even a small appropriation to pay the expenses of the Waterways Commission has been postponed until next session.

If anything was needed to insure the triumphant election of William J. Bryan, the requirements have certainly been furnished by the record of this Congress in its "do-nothing" policy, its duplicity, its insincerity, its vigilant care for the welfare of the corporate interests and the protected industries of the country, and the utter disregard of the rights and welfare of the common people.

I ask to insert in the RECORD, as a part of my speech, the following address of William J. Bryan, entitled "Individualism

versus Socialism," published in the Century Magazine, April, 1906:

The words "individualism" and "socialism" define tendencies rather than concrete systems; for, as extreme individualism is not to be found under any form of government, so there is no example of socialism in full operation. All government being more or less socialistic, the contention, so far as this subject is concerned, is between those who regard individualism as ideal, to be approached as nearly as circumstances will permit, and those who regard a socialistic state as ideal, to be established as far and as fast as public opinion will allow.

The individualist believes that competition is not only a helpful but a necessary force in society, to be guarded and protected; the socialist regards competition as a hurtful force, to be entirely exterminated. It is not necessary to consider those who consciously take either side for reasons purely selfish; it is sufficient to know that on both sides there are those who with great earnestness and sincerity present their theories, convinced of their correctness and sure of the necessity for their application to human society.

As socialism is the newer doctrine, the socialist is often greeted with epithet and denunciation rather than with argument; but, as usual, it does not deter him. Martyrdom never kills a cause, as all history, political as well as religious, demonstrates.

No one can read socialistic literature without recognizing the "moral passion" that pervades it. The Ruskin Club, of Oakland, Cal., quotes, with approval, an editorial comment, which asserts that the socialistic creed inspires a religious zeal and makes its followers enthusiasts in its propagation. It also quotes Professor Nitto, of the University of Naples, as asserting that "the morality, that socialism teaches is by far superior to that of its adversaries;" and it quotes Thomas Kirkup as declaring, in the Encyclopedia Britannica, "that the ethics of socialism are identical with those of Christianity."

It will be seen, therefore, that the socialists not only claim superiority in ethics, but attempt to appropriate Christ's teachings as a foundation for their creed. As the maintenance of either position would insure them ultimate victory, it is clear that the first battle between the individualist and the socialist must be in the field of ethics. No one who has faith in the triumph of the right (and can he contend with vigor without such a faith?) can doubt that that which is ethically best will finally prevail in every department of human activity.

Assuming that the highest aim of society is the harmonious development of the human race physically, mentally, and morally, the first question to decide is whether individualism or socialism furnishes the best means of securing that harmonious development. For the purpose of this discussion individualism will be defined as the private ownership of the means of production and distribution where competition is possible, leaving to public ownership those means of production and distribution in which competition is practically impossible, and socialism will be defined as the collective ownership, through the state, of all the means of production and distribution.

One advocate of socialism defines it as "common ownership of natural resources and public utilities and the common operation of all industries for the public good." It will be seen that the definitions of socialism commonly in use includes some things which can not fairly be described as socialistic, and some of the definitions (like the last one, for instance) beg the question by assuming that the public operation of all industries will necessarily be for the general good. As the socialists agree in hostility to competition as a controlling force, and as individualists agree that competition is necessary for the well-being of society, the fairest and most accurate line between the two schools can be drawn at the point where competition begins to be possible, both schools favoring public ownership where competition is impossible, but differing as to the wisdom of public ownership where competition can have free play.

Much of the strength developed by socialism is due to the fact that socialists advocate certain reforms which individualists also advocate. Take, for illustration, the public ownership of waterworks. It is safe to say that a large majority of the people living in cities of any considerable size favor their public ownership—individualists because it is practically impossible to have more than one water system in a city, and socialists on the general ground that the Government should own all the means of production and distribution. The sentiment in favor of municipal lighting plants is not yet so strong, and the sentiment in favor of public telephones and public street car lines is still less pronounced; but the same general principles apply to them, and individualists, without accepting the creed of socialism, can advocate the extension of municipal ownership to these utilities.

Then, too, some of the strength of socialism is due to its condemnation of abuses which, while existing under individualism, are not at all necessary to individualism—abuses which the individualists are as anxious as the socialists to remedy. It is not only consistent with individualism, but is a necessary implication of it, that the competing parties should be placed upon substantially equal footing; for competition is not worthy of that name if one party is able arbitrarily to fix the terms of the agreement, leaving the other with no choice but to submit to the terms prescribed. Individualists, for instance, can consistently advocate usury laws which fix the rate of interest to be charged, these laws being justified on the ground that the borrower and the lender do not stand upon an equal footing. Where the borrower is left free to take advantage of the necessities of the borrower, the so-called freedom of contract is really freedom to extort. Upon the same ground, society can justify legislation against child labor and legislation limiting the hours of adult labor. One can believe in competition and still favor such limitations and restrictions as will make the competition real and effective. To advocate individualism it is no more necessary to excuse the abuses to which competition may lead than it is to defend the burning of a city because fire is essential to human comfort, or to praise a tempest because air is necessary to human life.

In comparing individualism with socialism it is only fair to consider individualism when made as good as human wisdom can make it and then to measure it with socialism at its best. It is a common fault of the advocate to present his system, idealized, in contrast with his opponent's system at its worst, and it must be confessed that neither individualist nor socialist has been entirely free from this fault. In dealing with any subject we must consider man as he is, or as he may reasonably be expected to become under the operation of the system proposed, and it is much safer to consider him as he is than to expect a radical change in his nature. Taking man as we find him, he needs, as individualists believe, the spur of competition. Even the socialists admit the advantage of rivalry within certain limits, but they would substitute altruistic for selfish motives. Just here the individualist

and the socialist find themselves in antagonism. The former believes that altruism is a spiritual quality which defies governmental definition, while the socialist believes that altruism will take the place of selfishness under an enforced collectivism.

Ruskin's statement that "government and cooperation are in all things and eternally the laws of life; anarchy and competition, eternally and in all things, the laws of death," is often quoted by socialists, but, as generalizations are apt to be, it is more comprehensive than clear. There is a marked distinction between voluntary cooperation upon terms mutually satisfactory and compulsory cooperation upon terms agreeable to a majority. Many of the attempts to establish voluntary cooperation have failed because of disagreement as to the distribution of the common property or income, and those which have succeeded best have usually rested upon a religious rather than upon an economic basis.

In any attempt to apply the teachings of Christ to an economic state it must be remembered that His religion begins with a regeneration of the human heart and with an ideal of life which makes service the measure of greatness. Tolstoi, who repudiates socialism as a substantial reform, contends that the bringing of the individual into harmony with God is the all-important thing, and that, this accomplished, all injustice will disappear.

It is much easier to conceive of a voluntary association between persons desiring to work together according to the Christian ideal than to conceive of the successful operation of a system, enforced by law, wherein altruism is the controlling principle. The attempt to unite church and state has never been helpful to either government or religion, and it is not at all certain that human nature can yet be trusted to use the instrumentalities of government to enforce religious ideas. The persecutions which have made civilization blush have been attempts to compel conformity to religious beliefs sincerely held and zealously promulgated.

The government, whether it leans toward individualism or toward socialism, must be administered by human beings, and its administration will reflect the weakness and imperfections of those who control it. Bancroft declares that the expression of the universal conscience in history is the nearest approach to the voice of God, and he is right in paying this tribute to the wisdom of the masses; and yet we can not overlook the fact that this universal conscience must find governmental expression through frail human beings who yield to the temptation to serve their own interests at the expense of their fellows. Will socialism purge the individual of selfishness or bring a nearer approach to justice?

Justice requires that each individual shall receive from society a reward proportionate to his contribution to society. Can the state, acting through officials, make this apportionment better than it can be made by competition? At present official favors are not distributed strictly according to merit, either in republics or in monarchies; is it certain that socialism would insure a fairer division of rewards? If the government operates all the factories, all the farms, and all the stores, there must be superintendents as well as workmen; there must be different kinds of employment, some more pleasant, some less pleasant. Is it likely that any set of men can distribute the work or fix the compensation to the satisfaction of all, or even to the satisfaction of a majority of the people? When the Government employs comparatively few of the people, it must make terms and conditions inviting enough to draw the persons needed from private employment; and if those employed in the public service become dissatisfied, they can return to outside occupation. But what will be the result if there is no private employment? What outlet will there be for discontent if the Government owns and operates all the means of production and distribution?

Under individualism a man's reward is determined in the open market, and where competition is free he can hope to sell his services for what they are worth. Will his chance for reward be as good when he must do the work prescribed for him on the terms fixed by those who are in control of the Government?

As there is no example of such a socialistic state as is now advocated, all reasoning upon the subject must be confined to the theory, and theory needs to be corrected by experience. As in mathematics no one can calculate the direction of the resultant without a knowledge of all the forces that act upon the moving body, so in estimating the effect of a proposed system one must take into consideration all the influences that operate upon the human mind and heart; and who is wise enough to predict with certainty the result of any system before it has been thoroughly tried? Individualism has been tested by centuries of experience. Under it there have been progress and development. That it has not been free from evil is not a sufficient condemnation. The same rain that furnishes the necessary moisture for the growing crop sometimes floods the land and destroys the harvest; the same sun that coaxes the tiny shoot from Mother Earth sometimes scorches the blade and blasts the maturing stalk. The good things given us by our heavenly Father often, if not always, have an admixture of evil, to the lessening of which the intelligence of man must be constantly directed. Just now there are signs of an ethical awakening which is likely to result in reforming some of the evils which have sprung from individualism, but which can be corrected without any impairment of the principle.

The individualist, while contending that the largest and broadest development of the individual, and hence of the entire population, is best secured by full and free competition, made fair by law, believes in a spiritual force which acts beyond the sphere of the state. After the government has secured to the individual, through competition, a reward proportionate to his effort, religion admonishes him of his stewardship and of his obligation to use his greater strength, his larger ability, and his richer reward in the spirit of brotherhood. Under individualism we have seen a constant increase in altruism. The fact that the individual can select the objects of his benevolence and devote his means to the causes that appeal to him has given an added stimulus to his endeavors. Would this stimulus be as great under socialism?

Probably the nearest approach that we have to the socialistic state to-day is to be found in the civil service. If the civil service develops more unselfishness and more altruistic devotion to the general welfare than private employment does, the fact is yet to be discovered. This is not offered as a criticism of civil service in so far as civil service may require examinations to ascertain fitness for office, but it is simply a reference to a well-known fact, viz, that a life position in the Government service, which separates one from the lot of the average producer of wealth, has given no extraordinary stimulus to higher development.

It is not necessary to excuse or defend a competition carried to a point where it creates a submerged fifth, or even a submerged tenth,

to recognize the beneficial effect of struggle and discipline upon the men and women who have earned the highest places in industry, society, and government.

There should be no unfriendliness between the honest individualist and the honest socialist; both seek that which they believe to be best for society. The socialist, by pointing out the abuses of individualism, will assist in their correction. At present private monopoly is putting upon individualism an undeserved odium, and it behooves the individualist to address himself energetically to this problem in order that the advantages of competition may be restored to industry. And the duty of immediate action is made more imperative by the fact that the socialist is inclined to support the monopoly, in the belief that it will be easier to induce the Government to take over an industry after it has passed into the hands of a few men. The trust magnates and the socialists unite in declaring monopoly to be an economic development, the former hoping to retain the fruits of monopoly in private hands, the latter expecting the ultimate appropriation of the benefits of monopoly by the Government. The individualist, on the contrary, contends that the consolidation of industries ceases to be an economic advantage when competition is eliminated; and he believes, further, that no economic advantage which could come from the monopolization of all the industries in the hands of the Government could compensate for the stifling of individual initiative and independence. And the individualists who thus believe stand for a morality and for a system of ethics which they are willing to measure against the ethics and morality of socialism.

Catholic Church Claims in the Philippine Islands.

SPEECH

OF

HON. HARRY M. COUDREY,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 6, 1908.

On the bill (H. R. 16143) to provide for payment of the claims of the Roman Catholic Church in the Philippine Islands.

Mr. COUDREY said:

Mr. CHAIRMAN: The claims involved in this bill are so eminently fair and just that I am surprised that so much time is taken up in discussion. The objections urged by the minority seem to me to be almost frivolous, and several statements in the minority report are so extraordinary that I am inclined to review at least some of them.

The first statement refers to a comparison between the numerical strength of the Independent Filipino and the Roman Catholic churches. On this subject the minority report says:

The Independent Catholic Church, of which Archbishop Gregorio Aglipay, who prior to the insurrection was a native priest, is the acknowledged head, observes all the rites, ceremonies, and festivals of the Roman Catholic Church and differs with that organization only in the fact that it does not acknowledge the control of the Vatican. It is claimed for the Independent Catholic Church that it has more than 250 priests and 20 bishops; that it has a number of seminaries located at various points of the islands, and that it has a membership of 4,000,000 souls. Its opponents do not concede that its membership is so large, and sometimes place it at 3,000,000, or even less. * * * It can be most conservatively and safely said that it outnumbers the membership of the Roman Catholic Church two to one, and that in many of the parishes the priests and all those who hold the Catholic faith have identified themselves with the Independent Catholic Church.

In striking contrast with these figures are the official statistics of the religious population, given in a letter to the gentleman from New York [Mr. PAYNE] by Bishop T. A. Hendrick, of the Roman Catholic Church. The Bishop does not deal in grand generalities, but comes down to the exact numbers, given in detail. I give the first part of his letter as a sample:

GONZAGA COLLEGE,
Washington, D. C., March 5, 1908.

To the Hon. SERENO E. PAYNE.

DEAR SIR: Replying to your inquiry as to the number of Aglipayanos in the Philippines, permit me to say that the diocese of Cebu contains 2,000,000 Christians. I have been to all the dioceses, and say that the proportion is as follows:

Cebu, 700,000; Aglipayanos, 1,000. Leyte, 500,000; Aglipayanos, 100. Bohol, 250,000; Aglipayanos, 75. Northern Mindanao, 150,000; Aglipayanos, 10,000. Siquilhor, 35,000; Aglipayanos, none. Samar, 400,000; Aglipayanos, none. Total, 2,035,000; Aglipayanos, 11,175. * * *

T. A. HENDRICK.

There is more of the same kind in the letter, and the proportions hold out about the same. The bishop figures out that of the 6,800,000 Christians 174,135 are Aglipayanos—that is, members of the Independent Filipino Church—and the rest are Roman Catholics.

It is plain that the figures of the minority are all wrong, and the deductions which they base on these figures are equally wrong. There is throughout the minority report a distrustfulness of the Archbishop of Manila, as is evidenced by the fear that the moneys paid to him may be diverted to improper purposes. This fear is repeatedly expressed in the questions asked at the hearings, and again in the report. The Archbishop of

Manila comes from my home city of St. Louis, where he is so well and so favorably known and so highly regarded that any attempt on my part to defend him must appear ridiculous. The people of St. Louis, regardless of denominational affiliations, feel proud of the fact that one of their priests had been selected for the difficult task of reorganizing the Catholic Church in the Philippines, a task which the archbishop has carried out with signal ability and which will reflect honor and glory on the first American archbishop of the Philippine Islands.

I am heartily in favor of this bill and shall vote for it with pleasure. I have examined into its merits and feel that it is a just bill. In closing I wish to quote the strong language of President Roosevelt, used in a message to the Senate, on the subject of this claim.

The President said in part:

I cordially indorse all that is said in these reports and earnestly hope that the amount recommended by the board will be immediately appropriated, in order to do what is really an act of substantial justice to the Roman Catholic churches of the Philippines, in accordance with the suggestions of the Secretary of War, Mr. Taft. It is not only a matter of equity that we should pay this sum, but for the reasons set forth by the Secretary of War it is very greatly to the interest of the people of the Philippine Islands that it should be paid. I have accordingly approved the action of the Secretary of War in directing that the same board be reconvened, or another convened, to report on the advisability of paying additional sums to the Roman Catholic churches in the islands in view of the damages inflicted upon them by reason of the war and by the insurgents. I feel that this is peculiarly a case where in the interest of the Philippine people themselves it would be wise for the Congress to exercise a large liberality.

With these words of the President I fully agree, and hope that this bill will pass.

Executive Usurpation.

SPEECH

OF

HON. HENRY T. RAINEY,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. RAINEY said:

Mr. SPEAKER: I think we may venture this year to talk again about the Constitution and to call attention to some of the things it contains. There was considerable discussion about the Constitution in this country one hundred and twenty years ago, and in those times we really knew something about that instrument. It is not popular to talk about it now. We attempted to talk about it seriously in 1900 and in 1904. In those years we called attention to the fact that far away in the islands of the sea we were becoming an empire. They charged us with being disloyal and wanted to know whether we proposed to haul down the flag or not. They appealed to the patriotism of the country to vindicate our right to establish a government beyond the sea, with or without the consent of the governed. We insisted in the campaigns of those years that we could not maintain our institutions if we were half republic and half empire; we insisted that we were embarking on that career which would mean in the end the destruction of our constitutional form of government as the people understood it one hundred and twenty years ago. But the martial spirit ran high, people eagerly read the story of American achievements and military successes in far-away lands among alien peoples, and the warning contained in the Democratic platforms of those years was unheeded.

DANGERS OF IMPERIALISM.

In the light of a condition which prevails to-day I want to call attention again to the dangers of imperialism and of a disregard for the Constitution of the country. If I had made a speech in the campaign of 1900, and if in that speech I had predicted that in less than six years from that time the President of the United States would be exercising in a portion of the Western World, without any authority of law, rights greater than those exercised by any king or potentate, the newspapers the next day would have proclaimed that I was an alarmist of the most violent type. If I had predicted at that time that in less than six years laws for the government of a portion of the territory of the United States would be made by Executive order—by the President of the United States—without any authority from the Congress, conservative Republican papers the next day would have ridiculed the statement; and yet to-day

in an important part of the territory belonging to the United States that condition of affairs prevails.

NO JURY TRIAL.

If I had been rash enough to make the statement eight years ago that in less than a decade from that time, in a territory belonging to the United States, over which the Constitution was supposed to extend, men charged with criminal offenses would be refused a trial by jury and, in spite of their protests, would be tried by a judge alone, such a statement would not have been seriously considered. If I had said that in less than eight years from that date, in United States territory, a man charged with a capital offense would be tried before a judge, denied the right of trial by jury, and condemned to death, many would have laughed at the prediction. As a matter of fact, although we pointed out the dangers of imperialism, no man believed or assumed to predict that these things would be possible in five or six years.

Four years ago, by treaty with the Republic of Panama, we acquired title to a strip of land 10 miles wide extending across the Isthmus of Panama, and we also acquired possession of certain islands in the bay of Panama, and of certain lands, on either side of the isthmus, extending under the sea for a distance of 3 miles from the land. By Article II of the treaty the Republic of Panama granted to the United States in perpetuity the "use, occupation, and control" of this territory and of certain islands near the shore. By Article III of the treaty the Republic of Panama granted to the United States:

All the rights, power, and authority within the zone mentioned * * * which the United States would possess and exercise if it were the sovereign of the territory within which said land and waters are located to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power, and authority.

By this treaty the Canal Zone became as much a part of the United States as any portion of the State of Illinois. The flag went there of course and the Constitution, as a matter of law, goes there if it goes anywhere.

On the 28th day of April, 1904, at the second session of the Fifty-eighth Congress, a measure was enacted for the temporary government of the Canal Zone which provides that:

Until the expiration of the Fifty-eighth Congress, unless provision is sooner made for the temporary government of the Canal Zone, the power to make rules and regulations for the Canal Zone shall be vested in such persons and exercised in such manner as the President shall direct.

At that time we had not acquired possession of the Canal Zone; we had not settled with the French company, nor had we paid the Republic of Panama the \$10,000,000 we agreed to pay her; we had sent no men there, and we were not yet materially interested in that part of the world. A few days after the passage of the act, however, we completed our contracts, paid over the money, sent several companies of troops to the Isthmus, and took possession of the property of the French company and of the Canal Zone according to the terms of our agreement with Panama and with the canal company. A few rules were adopted for the temporary military government of the Zone and for better sanitation under military direction, but not much was done in the matter of enacting rules and regulations for the Canal Zone prior to the adjournment of the Fifty-eighth Congress. This Congress adjourned on the 4th day of March, 1905, and on the same day there expired the right of the President to make laws for the Canal Zone.

HIS GREAT CARE.

After the act of April 28, 1904, and prior to the termination of the Fifty-eighth Congress, the President sent to Congress forty-two messages, some of them related to the Canal Zone, but in none of them did he call attention to the fact that his authority to issue rules for the government of the Zone would terminate on the 4th day of March, 1905. Since that time and without any authority, the President has enacted enough laws for the government of the Canal Zone to fill a large volume.

Prior to the 4th day of March, 1905, he delegated to the Isthmian Canal Commission the right to enact laws for the Canal Zone, and during that period twenty-four acts were adopted. They fill a volume of 241 pages. Each one of these laws commences "By authority of the President of the United States be it enacted by the Isthmian Canal Commission." There was some authority, whether lawfully exercised or not, for this most unusual method of enacting laws. That authority, however, ceased on the 4th day of March, 1905. The President continued his official messages to Congress; at times they came almost every day. From the 28th day of April, 1904, when the act to which I have called attention went into force, until the present time the President has sent to Congress 203 messages, on every imaginable subject—the size of a man's family, simplified spelling, how to support country churches, the servant-girl prob-

lem, etc. No other President has ever sent to Congress in the same length of time one-third as many messages. The President, however, called attention in none of them to the necessity for providing for the government of the Canal Zone.

He always carefully avoided any suggestion which might take away from him the authority he was and is illegally exercising. Of these messages, nine related to the Canal Zone. But in none of them did he request the enactment of legislation which would curtail in any way the power he was illegally exercising. On the contrary, on the 21st day of January, 1907, when Congress was in session, the President wrote a letter to the Attorney-General of the United States asking him how he could continue to exercise the power of an emperor in the Canal Zone in spite of the fact that the life of the Fifty-eighth Congress had ended. It would have been just as easy to send a message to Congress asking Congress to resume its functions, but the President did not select this republican method of doing things. He wanted to go down to posterity as the author of a "code" of laws; he was anxious to become the Justinian of the twentieth century.

Nearly fourteen hundred years ago the Emperor Justinian issued his "code" of laws. Through all the centuries the "code," "pandects," "constitutions," and "institutes" of the great Roman Emperor have exercised a powerful influence upon the jurisprudence of the nations. The President of the United States wanted the opportunity, whether the Constitution permitted it or not, of accomplishing for succeeding centuries what Justinian I was able to accomplish for the centuries that followed him. Historians agree that the great Roman Emperor was a man of ability and industry, and they agree that he was "unscrupulous, vain, and easily influenced." In the future historians writing of the present period of American history will not accord to the President of the United States any great amount of ability or industry, but they will have no difficulty in agreeing upon the proposition that he was "unscrupulous, vain, and easily influenced." In these particulars only does the President of the United States resemble the great Roman Emperor.

OPINIONS TO ORDER.

The present Attorney-General is a skilled courtier. He prepares opinions to order. He first finds out what kind of an opinion the President wants and then prepares that kind of an opinion. In answer to the letter of the President written on the 21st day of January, 1907, nine days later, while Congress was still in session, and Congress remained in session for over a month thereafter, the Attorney-General sent his opinion to the President holding that the President, without the intervention of the Isthmian Canal Commission, and without further authority of Congress, had the right to govern the Canal Zone "ex necessitate rei." Immediately thereafter the President of the United States in puny imitation of the Emperor of Rome, on the 22d day of March, 1907, after the adjournment of Congress, launched upon an unsuspecting world "The Code of Civil Procedure of the Canal Zone"—a book containing 197 pages, which, together with the laws previously enacted to which I have called attention, make the most remarkable "code" of laws in existence to-day in any civilized country of the world.

I have somewhat carefully examined this "code" of laws. The title page of the Roosevelt "Code" contains the following Executive order:

Under authority vested in me by law it is ordered that the within code of civil procedure shall be in force within the Canal Zone on and after May 1, 1907.

THEODORE ROOSEVELT.

THE WHITE HOUSE, March 22, 1907.

And then follows the Roosevelt "Code," covering 197 closely printed pages. If we had insisted in the campaign of 1904 that laws would, in such a short time, be issued in this country in this arbitrary, imperial, unconstitutional, unauthorized manner, the statement would not have received serious consideration.

In order to determine whether the President will receive favorable consideration in future generations on account of the Roosevelt "Code" of laws I want to call attention briefly to some of the provisions of these remarkable statutes. A man charged with murder is not indicted by a grand jury; they simply proceed against him by the information filed by the prosecuting attorney. In obtaining the facts upon which the information is based witnesses are examined by the prosecuting attorney, but the examination must be private. It is not necessary to arrest the defendant by a warrant, fair on its face, in accordance with the custom developed by hundreds of years of civilization in English-speaking countries. The judge may simply telegraph the warrant to any portion or to all portions of this small strip of territory.

After the defendant is arrested he is tried before the judge of the district court. Under no circumstance can he have, under these laws, a trial by jury. The law provides that he must be confronted by the witnesses against him, except where depositions of witnesses have been taken in the presence of the defendant or of his counsel and where he may have had an opportunity to cross-examine the witnesses. These wonderful statutes also provide that the deposition of an insane witness may be taken and may be used against the defendant whether the defendant has had an opportunity to cross-examine the witness or not; and the deposition of any witness, who can not after the exercise of due diligence be found in the Canal Zone, can be used against the defendant whether the defendant ever had an opportunity to cross-examine the witness or not. In English-speaking countries for centuries a man charged with a crime has had the right to meet the witnesses against him face to face in open court. Depositions of absent witnesses or insane witnesses can be used against a man charged with a crime in no other part of the world. We have gone into this code only in a limited way as yet, but we have examined it to a sufficient extent to indicate that the Roosevelt "Code" is hardly adapted to present-day civilization.

MUST SHOW INNOCENCE.

On the trial of a defendant charged with the crime of murder, the law of the Canal Zone provides that when the homicide is proven the burden shifts and is on the defendant to show that the act complained of was "justifiable or excusable." In other words, under the Roosevelt statutes, it is not necessary to prove the guilt of the person charged and all the elements that go to make up the crime "beyond a reasonable doubt," but, on the contrary, the defendant must prove "beyond a reasonable doubt" that he is innocent of the crime charged.

This remarkable code provides for a change of venue on the application of the defendant upon the ground that "a fair trial can not be had in the district." Inasmuch as there is to be no jury and he is to be tried simply before the judge, the reason, therefore, for the change of venue, of course, is that the judge is prejudiced. The law goes on, in a subsequent section, to state that the application for a change of venue "will be granted if the judge is satisfied that the representations are true." In other words, the question of fact presented is, Can the trial judge give the defendant a fair trial? Upon this question of fact the judge himself passes; and I undertake to say that a judge can not be often persuaded to find this question of fact against himself.

The law provides that where the penalty is death or imprisonment for life the judge may summon "two municipal judges to sit with him"—or "two mayors"—or "two well-qualified residents." These assistants, however, pass only on the questions of fact in the case. The defendant is not allowed a single challenge, he can not object to the persons summoned by the judge to sit with him, or to either of them. Concurrence of two of the three so constituting the trial court is required for a verdict; it is therefore impossible for this court to fail to reach a verdict. The law provides that in the event of the death penalty being awarded, death shall be inflicted by hanging.

REFUSED JURY TRIAL.

It may astonish many to hear that under this infamous code in the Canal Zone, where the flag has gone, and the Constitution, a man charged with a capital offense demanded a trial by jury and was refused that right. This man has been tried and has been sentenced to death. For over a year he has been confined in one of our prisons there, awaiting the infliction of the death penalty by hanging. His execution, however, has been postponed by the governor from time to time. Like the revision of the tariff, the execution of this man has probably been postponed until after the election. At that time, if the President should succeed himself, or if the gentleman who is pledged to carry out the "Roosevelt policies" is elected, we may expect to see the Roosevelt "code" of laws in full swing once more on the Isthmus of Panama, and there will be no further postponement of this execution.

THE APPEAL.

The defendant may appeal his case; in that event the case goes to the supreme court of the Isthmus. The supreme court of the Isthmus is composed of the three district judges of the Isthmus, including the judge who imposed the sentence. The defendant therefore appeals from the judge who sentenced him, sitting as a district judge, to the same judge sitting as a supreme judge. I undertake to say that for a thousand years no code of laws so infamous as this has ever been enacted in any civilized country.

I have called attention at length to this situation; the statements I have made, startling and improbable as they may seem,

can easily be substantiated. I am prepared to furnish the authority for everything I have said about the usurpation of authority on the Canal Zone by the President of the United States. Are we approaching a crisis in our history as a nation or not? Have our fears some considerable foundation in fact?

ITS GREAT IMPORTANCE.

The Canal Zone is at the present time one of the most important sections of the world; no part of this country outside of our cities is so thickly populated; we have expended there already nearly \$150,000,000; we will be called upon to expend in that section of the world within the next four or five years two hundred and fifty or three hundred million dollars more. We have induced to go there 5,000 of our own brightest young men; many of them are there with their wives and families—this infamous code of laws is made to apply to them. We have brought 3,000 laborers from Spain and almost as many from Italy, intelligent, hard-working men, coming from civilized countries—this code of laws is provided for their government. We brought from the island of Jamaica seventeen or eighteen thousand negroes, all of them intelligent and a large portion of them able to read and write; they come all of them from a well-governed island controlled by England—we have provided this infamous code of laws for them also. In addition to this population the Canal Zone teems with a large native population. It is full of native villages. The characteristic that first commands attention in the natives of Panama is the profound respect these people have for law and the unquestioned obedience they yield to those in authority. I have been there recently, and this native characteristic attracted my attention early in my visit to the Isthmus of Panama. There is absolutely no excuse for promulgating this code of laws in that part of the world. The fact that a President of the United States can be developed, in our short imperialistic career, who has become so intoxicated with power that he is willing to usurp such authority as this and to assume the responsibility for this indefensible code of laws shows the rapidity with which we are drifting upon the rocks under the management of the Republican party.

HIS NEW ORDER.

After having proceeded without a jury trial on the Isthmus of Panama for nearly three years, without explanation, on the 6th day of February of this year the President of the United States issued Executive Order No. 750, granting a jury trial in the Canal Zone "in all criminal prosecutions wherein the penalty of death or imprisonment for life may be inflicted." This Executive order provides that in these cases the accused "shall enjoy the right of trial by jury in the district where the crime is committed," and prescribes the method of selecting the same. The order was posted and went into effect on the Canal Zone on the 25th day of February. The reason for it is apparent—an election is approaching. The Roosevelt policies will not stand close inspection. It was absolutely necessary to modify the Roosevelt "Code" in this particular, and the order was made. It will make a campaign document, and can be easily revoked after the campaign is over if the President succeeds himself or if some one is elected who will "carry out the Roosevelt policies."

The Republican party controls both Houses of the National Congress, and they have the Executive. The responsibility for this infamous code and for these dangerous tendencies rests absolutely upon the party in power.

NOT FOR THE PEOPLE.

The tendency of the Republican party is away from government by the people. The importance of the lower House of Congress is lessening every day. The tendency is to take away from the Congress the power it ought, under the Constitution, to exercise and to confer it upon commissions and upon the President. The Dingley tariff act authorized the President without consulting Congress to fix higher tariffs. Is it necessary to submit to any Congress the question of tariff revision under the present law if the tariff is to be revised upward? The Dingley Act provides in effect that if a country is imposing a tariff against us higher than the President thinks it ought to be he can raise the tariff to suit himself on that particular schedule against that particular country. When the proposition was made, at the time the Dingley bill was under consideration, by the Democrats that the President have the right also to lower tariffs, the Republican Members solidly voted against the proposition and on the Democratic side they solidly voted for it.

TREATY HIGHEST LAW.

There is a Republican theory that the tariff ought to be adjusted by measures of reciprocity; that the President ought to have the right to enter into tariff treaties with other na-

tions, based upon theories of reciprocity. A treaty becomes the highest law of the land. We have found out recently in the Japanese school question in California that California under the law could not conduct her schools as her citizens might want to conduct them if the United States entered into a treaty with Japan to the contrary. In other words, treaties are the supreme law of the land; they can not be altered by Congress; they can not even be construed by our courts. The lower House of the Congress—the popular body—the Representatives who come direct from the people and are elected by a direct vote of the people and are directly responsible to the people—can have no voice in the making of a treaty. Every treaty robs the people of something. The fewer reciprocity treaties we have the better, if government of the people and by the people is to be preserved in this country.

IN OFFICE FOR LIFE.

A century and a quarter ago Hamilton contended that the President ought to be elected for life, and intimated that Senators ought to be elected for a like period. Upon such theories as this one of the great parties in this country was established. To-day a considerable portion of this party in opposition to all the precedents—in opposition to the position taken by Washington, Jefferson, and Jackson—is seriously advocating three successive terms for the present occupant of the White House, who seems at the present time about to be compelled to accept another term. The Annanias club is getting larger every day, but it remains a significant fact that he who says the President will accept another term is not being added to this constantly growing organization.

The Republican party has not only failed in its duty to provide a proper government for the Canal Zone, but it has in almost every particular since its organization failed to properly discharge the obligations of government.

PROBLEMS THE SAME.

The same problems which confronted us at the end of the civil war confront us now. It has been the policy of the Republican party for forty years to push farther and farther into the future the solution of these great economic questions, and to-day, without any plans for the future, they simply propose to stand pat. At some indefinite time in the future they promise to settle the questions which press upon us now.

The war left the country burdened with a national debt of tremendous size; Government credit during the war and at the close of the war was in a precarious condition; the temptation to use banks and banking to sustain the credit of the Government proved to the Republican party to be irresistible. A system of taxation was devised to meet the expenditures of the war, and a system of banking was based upon our tremendous national indebtedness. To-day we find ourselves maintaining the old war taxes and we still find ourselves with a currency based upon a debt.

NO CHANGE.

During all the decades that have passed since the surrender at Appomattox these two questions have been presenting themselves for solution—how to get rid of war taxes and how to change our absolutely absurd and irrational banking system. No other great commercial nation in the world maintains a currency based upon a debt. No other great commercial nation in the world has ever clung for almost half a century after a war to a system of war taxation. The Republican party has shown itself absolutely incapable of handling either of these great questions, and during all the period of its supremacy since the war no other economic questions than these have demanded solution.

During all these decades the struggle in the Republican party has been to maintain itself in power; it has been a fight on its part for the offices and the spoils that go with them. In order to maintain itself in control of the offices it has represented always the classes. The struggle on the part of the bankers has been to maintain our present currency system. The bankers in this struggle have been able to carry with them the managers of our great industries who depend upon the banks for credits, and the effect of the fight has been to perpetuate a successful struggle of the classes to maintain our productive system and our financial system intact. A man who had the courage to challenge the correctness of our currency system prior to the present year was considered unsafe and unsound, and was pronounced to be a man absolutely unreliable politically and unworthy of confidence.

DEBT STILL HANGS.

No attempt has been made to pay off our national debt—to pay it off would destroy our currency system. Our tariff system has been maintained upon the theory, first, that we wanted

it to protect our infant industries, and now it is insisted we are maintaining it for the purpose of protecting labor. The Democratic party during all the years that have elapsed since the war has been engaged in an assault upon our illogical currency system and upon our equally illogical tariff system, and has been demanding changes that until now have never been conceded by any considerable portion of the conservative party in this country to be desirable or reasonable.

We made a fight for more money in 1896 and they charged us with championing a dishonest dollar—a 50-cent dollar. Not long ago the bankers who criticised the Democratic leaders in 1896 were circulating millions and millions of dollars' worth of certificates which had nothing back of them except the fiat of a bank. Bankers now everywhere throughout the length and breadth of the land are agreeing with us and are declaring our currency system to be both absurd and irrational.

PROTECTION NOT NEEDED.

Our factories have grown so strong that from our Atlantic ports there flows across the sea into the capitals of the Old World a stream of American-made goods. Our industries no longer need protection, and yet the Republican party is entering upon another national campaign without proposing or even promising to remedy our defective banking system or to change our unfair system of tariff taxation. They propose, in the Aldrich bill, to still further patch up a currency system which they admit to be absurd; and from sea to sea they are demanding not a measure of permanent character, but simply a measure which will afford some temporary relief. The Senator from Rhode Island, who had charge of the bill advocated by the bankers, frankly admitted in debate upon the floor of the Senate that his measure, if enacted into law, would only furnish temporary relief.

CRISIS IS HERE.

The crisis precipitated by our absurd currency system and by our irrational method of levying tariff taxes is here—it can no longer be postponed. This cancerous growth demands the application of the surgeon's knife, but the Republican party has not the courage to adopt that method. It proposes to cover up and hide from view these questions until it succeeds in obtaining another four years' lease of power and the Federal offices that go with it. In the present crisis you can expect nothing from the party which for forty years has had always present the opportunity to deal with these questions from a standpoint of statesmanship and which has absolutely failed to discharge its duty. For nearly that entire period of time the effort of the party now in power was to keep alive the fires of sectional hate in order to keep these questions in the background.

A new generation is here now—men are beginning to understand, both in the North and in the South, that the war is over. The solution of these great economic questions can no longer be postponed by calling attention to the issues of half a century ago. It is easier to cross party lines now than it ever has been, although the fundamental principles which divide the great parties are more strongly defined than ever.

NOT PROPER REMEDY.

The bills proposed by the party responsible for currency legislation simply extend into the coming years the system against which the people are protesting in no uncertain terms. They would prove of immense benefit to the railroads against whose bonds it was proposed to issue currency. They would prove of tremendous advantage to the holders of certain securities whose value has been uncertain on account of the injection of water in unlimited quantities into the stock of great corporations. All the legislation you have proposed is in line with the Republican policy of legislating for the classes. There is one solution of the currency question—adopt in this country the system which makes panics in other commercial nations impossible; abolish here the system to which we alone of all the great commercial nations cling; adopt here a rational banking system.

To coin and issue money is an attribute of sovereignty which ought never to be abandoned. We have surrendered this privilege to the banks, and both the Vreeland bill and the Aldrich bill propose to make this surrender more complete than it has ever been. This surrender, however, is in absolute harmony with the principles and tendencies of the Republican party.

THE TWO RIGHTS.

There are two rights which ought always to be exercised by the State, the right to levy taxes and the right to issue money. The policy of the Republican party is to surrender to the banks the right to issue money and to the protected industries the right to levy taxes. Those rights, however, which ought to belong to the state and to the individual are constantly being

turned over to the General Government under the present methods of the party in power.

Does anyone deny now that the tariff is a tax and that the consumer pays it? Does anyone deny that back of the tariff our protected industries fix a selling price equal to the cost of production plus the profit they ought to have on their investment and the amount of protection they receive from the tariff? Does anyone deny now that back of the tariff wall they make one charge to consumers at home and a lower charge to consumers abroad? In many instances the tariff tax is so large as to prohibit importation. But whether it prohibits or not, who collects the greater portion of the tax paid by the consumer, the Government or the protected industry? There can be but one answer.

We believe the time has come to restore to the Government the functions that rightfully belong to it and to protect the individual and the States in the rights that ought under the Constitution never to be taken away.

The Lovering Life-Saving Service Bill.

SPEECH

OF

HON. WILLIAM C. LOVERING,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, March 17, 1908.

On the bill (H. R. 17710) to increase the efficiency of the personnel of the Life-Saving Service of the United States.

Mr. LOVERING said:

Mr. SPEAKER: While I might consume an hour or more in telling the House of the great work that has been performed by the Life-Saving Service, a few minutes only will suffice to state the importance and merit of the Service, and the demand for this measure of relief. That the work of the Life-Saving Service is an exceedingly perilous, arduous, and exacting occupation is easily shown.

The Service is not to-day up to the standard that it once was when the pay of the men was more nearly commensurate with the cost of living. Other callings have drawn some of the best men off from this Service, and it is to-day in a crippled condition. It can only be brought up to and maintained at the proper standard by a greater inducement to the men to enlist and remain in the Service.

There are about 2,000 men, including officers and surfmen, in the Service. Five hundred of these are inexperienced men, such as they have been obliged to accept in an emergency, but who, with experience in the Service, will become, after a while, as good as any. Many have fallen out, seeing nothing in it for them in the future. The employment is for less than twelve months per annum, the average being nine and one-fourth months. On the Pacific coast it is twelve months, on the Atlantic coast it is ten months, and on the Lakes and the Gulf it is eight months.

With the exception of the No. 1 surfmen, who are practically Lieutenants to the keepers, and under this bill receive \$70 per month, these men receive \$65 per month. Out of this amount the men are obliged to furnish their own mess and living, their own uniforms and clothing, and as 80 per cent of the men are married and have other homes they are obliged to maintain these in addition.

The total cost of the Life-Saving Service in 1906 was \$1,404,972. Under this bill the cost will be \$1,635,062, making an additional cost of \$230,000.

Since the organization of the Life-Saving Service thirty-seven years ago the entire cost to the Government has been \$35,209,699.03, or an average cost per annum of \$951,613.48. Whether this has been warranted or not is shown by examining the other side of the ledger. During that period property imperiled has been involved to the amount of \$251,516,284. Property has been saved, ships and cargoes, to the amount of \$199,457,597, or an amount large enough to have built all the battle ships and all of the protected cruisers in our Navy, together with their complete armor, armament, and equipments. Few of us realize what it costs to build a battle ship, but it takes more money to build an ordinary battle ship of the class of the *Connecticut* or *Kansas* than it did to build the new Congressional Office Building or to build the Library of Congress.

But better than the record of all the property it has saved, is the record of the lives it has saved. One hundred and twenty-

one thousand six hundred and twenty-seven lives have been imperiled and have received aid from the Life-Saving Service. Exactly how many of these lives that were saved might otherwise have been lost it is impossible to say, but it is many, many thousands, a number equal to more than the whole United States Army and Navy.

Now, as to the character of the work that these men do. By some it is thought they lead an idle life. This is by no means the case. During the time they are in service they are obliged to maintain the strictest drill and exercise daily. They are obliged to patrol the seacoast, which is one of the most trying occupations that a man is called upon to endure. They are obliged to rescue the drowning and resuscitate them. They are obliged to know how to handle a boat and all the appliances for rescue; how to fire a line over a wreck with accuracy; how to bring men ashore either in boats or by the breeches buoy.

As a matter of fact, their most trying and hazardous service is when the weather is the worst, the winds are the strongest, and the seas are the highest. Then it is that these men are called upon to show the best that is in them, and they almost never fail. They hurriedly button on their oilskins. Taking off their watches and other valuables, they hand them to their wives, if they be present, saying, "Give this to John, or Mary, if I do not come back," and, bidding them a hasty good-by, they start out on their perilous voyage, from which they realize they may not return.

Furthermore, in time of war the surfmen are drafted into the United States service to do military duty. The records of their services in this capacity are notable. During the Spanish war they were on duty and under military and naval orders all of the time, watching the coast, preparing to stand off any enemy that might approach. During all the military and naval maneuvers on the coast they were ordered to cooperate with the Army and Navy.

Mr. Speaker, it will be difficult to find a class of men in our Government who are subjected to more hazardous service or who daily live nearer to death's door than do these men of the Life-Saving Service, for whom this bill provides relief.

A British View of Our Financial and Industrial Status and Outlook.

SPEECH

OF

HON. JAMES S. SHERMAN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. SHERMAN said:

Mr. SPEAKER: The view of Great Britain on the financial and industrial status of the United States is not uninteresting. It is also instructive, and for that reason, under the leave to print, I ask that the following be inserted in the RECORD:

The cloud of uncertainty which has been hanging over the business element of the United States is, in the opinion of the British commercial agent in this country, passing away. In a recent report to Parliament on this subject, Mr. Seymour Bell, the British commercial agent in the United States, says:

"The year 1907 was one of sharp contrasts in the United States. It was a year of great activity and deep depression. During the earlier months all industries were exceedingly busy and mills were working at their utmost capacity. Many unfilled orders had been carried over from the previous year and buyers were experiencing great difficulty in getting delivery of their goods. The railway lines were congested, wages were at their highest, and the high price of commodities raised the price of living to an extreme point. It was recognized by all those in a position to form an independent opinion that this tremendous industrial activity could not last, that it was merely a question of time before a reaction would set in. It became quite evident that the country was living beyond its means.

"Money was becoming scarce and the railways and other corporations were encountering great difficulties in obtaining the capital necessary to carry on the improvements and extensions which were in process of being carried out. Speculation in mining and real estate had been rife and personal extravagance was at its height. This all tended to place additional burdens on the money supplies which were hardly adequate to carry on the industries of the country. The railways were among the earliest and greatest sufferers from the financial stringency. They found it almost impossible to dispose of securities at a reasonable price and were forced to issue short-time notes at a comparatively high rate of interest to enable them to continue their developments. As wages were high, owing to the scarcity of labor, and high prices were being paid for materials, the net earnings of the railways were considerably reduced, although the gross earnings showed an increase. This brought about lower quotations for railway shares, and the industries followed the downward path.

"The situation was peculiar. On the one hand, there were the manufacturers with more orders than they could fill and busy enlarging their plants, merchants selling large quantities of goods at satisfactory prices, labor in such demand that even with the addition of the 1,200,000 immigrants it was necessary to employ inefficient workers at

good wages. On the other hand, there was dear money, owing to scarcity.

"When, owing to a failure in New York, light was thrown on the management of some of the large financial concerns in the city, public confidence, which had previously been undermined by certain investigations, gave way completely, resulting in an acute money panic. Careful students of the situation had foreseen a collapse before the end of the year, but did not anticipate that it would come with such suddenness.

"The panic was entirely financial. It has, it is true, brought about a widespread suspension of trade and industry throughout the country, but as it occurred at a time when there was no accumulation of surplus gold, there has been no throwing on the market of merchandise at ruinous prices, the usual accompaniment of industrial panics. The manufacturers, on the contrary, faced the inevitable, and without delay proceeded to curtail the supply and thus reduce such chances as there might have been of glutting the market with unsaleable articles. Fortunately for the country, warning of the trouble was given early, and it was possible to take steps in time to prepare for it.

"As to the length of time the present depression will last, it is difficult to form an opinion. It must not be forgotten that the farmers, who form the backbone of American prosperity, have not been affected by the financial situation. Though the crops in 1907 fell short in quantity as compared with 1906, higher prices were obtained, and the farmers received considerably more money for their crops than in the previous year. A country that produces crops valued at nearly \$1,500,000,000 is unlikely to suffer long from industrial stagnation. It represents too large an amount to be held long uninvested. Farmers have had nine years of almost uninterrupted prosperity, their buying power is high, and the towns dependent upon them will remain prosperous.

"The farmers, who a few years ago owed money, now own money and have an assured outlet for their products, as there is no over-supply.

"The cloud of uncertainty, which has been hanging over the country for so long and gradually growing more threatening, is now passing away, and it may be said that the worst of the storm has now passed. There will in all probability be mercantile disturbances for some months to come, but readjustment and recuperation are well under way, and unless labor troubles should retard the improvement or monopolies of capital interfere to keep up prices at too high a level, it is expected that before many months have passed business will be on a safer and more normal basis."

And in this connection let me draw your attention to a comparative statement of the condition of this country under Democratic and under Republican administrations:

COMPARISON OF DEMOCRATIC AND REPUBLICAN AVERAGES.

Table of annual averages of national financial and industrial conditions during the administrations of Presidents Cleveland, McKinley, and Roosevelt.

[Annual average for periods named.]

[Compiled from the Statistical Abstract of the United States.]

	1893-1896.	1897-1900.	1901-1903.	1904-1907.
Interest-bearing debt, million dollars.....	696	941	944	895
Annual interest charge, million dollars.....	27.9	37.5	27.6	23.3
Annual interest per capita.....	\$0.41	\$0.48	\$0.35	\$0.28
Treasury receipts, net ordinary, million dollars.....	331	459	570	586
Government expenditures, ordinary, million dollars.....	365	475	496	574
Money in circulation, million dollars.....	1,592	1,859	2,264	2,654
Money in circulation, per capita.....	\$23.29	\$25.13	\$28.61	\$31.60
Bank clearings, total, million dollars.....	51,700	73,300	114,000	138,823
Bank clearings, New York, million dollars.....	29,066	45,131	74,202	87,655
Bank deposits, total, million dollars.....	4,757	6,223	9,139	11,667
Bank deposits, savings, million dollars.....	1,813	2,169	2,760	3,374
Depositors in savings banks, millions.....	4.9	5.6	6.8	7.9
Industrial life insurance in force, million dollars.....	793	1,217	1,723	2,229
Life insurance, total, in force, million dollars.....	5,635	7,394	10,051	13,206
Imports, total, million dollars.....	758	733	917	1,192
Exports, total, million dollars.....	856	1,251	1,430	1,651
Excess of exports over imports, million dollars.....	98	519	513	459
Exports of manufactures, million dollars.....	211	375	462	640
Imports of raw material for manufacturing, million dollars.....	179	218	294	400
Gold: Excess imports over exports, million dollars.....	450	50	4.5	50
Exports to Asia and Oceania, million dollars.....	34	79	93	132
Crude rubber imports, million pounds.....	33	45	53	65
Pig tin imports, million pounds.....	42	63	80	88
Tin plate imports, million pounds.....	494	164	142	138
PRODUCTION.				
Coal, million tons.....	165	210	270	338
Pig iron, million tons.....	7.96	12.21	17.27	22.64
Steel rails, million tons.....	1.27	1.75	2.73	3.15
Steel, total, million tons.....	4.96	9.23	14.21	29.09
Tin plate, manufactured, million pounds.....	226	698	857	1,141
Minerals, total value, million dollars.....	575	731	1,319	1,629
Cotton, total value, million dollars.....	266	300	334	584

COMPARISON OF DEMOCRATIC AND REPUBLICAN AVERAGES—continued.
Table of annual averages of national financial and industrial conditions,
etc.—Continued.

	1893-1896.	1897-1900.	1901-1903.	1904-1907.
PRODUCTION—continued.				
Beet sugar, 1,000 tons	26	54	170	320
Wool, million pounds	271	272	302	296
Raw silk, imports, million pounds	8.02	11.09	13.30	18.79
Cotton used in manufacturing, million bales	2.51	3.38	3.85	
Animals on farms, total value, million dollars	2,050	1,942	3,034	3,526
Horses on farms, total value, million dollars	709	512	1,005	1,606
Cattle on farms, total value, million dollars	879	1,060	1,325	1,374
Sheep on farms, total value, million dollars	87	97	161	180
Net earnings of railways, million dollars	333	416	540	705
Dividends paid by railways, million dollars	83	107	168	227
Passengers carried, millions	558	535	650	760
Freight carried 1 mile, billion tons	89	100	155	158
Railways placed under receivership, miles	11,474	1,697	193	1,214
Railways sold under foreclosure, miles	7,951	5,125	795	395
Railways built, miles	1,900	2,891	4,439	5,100
Railways, average receipts per ton mile	\$0.85	\$0.76	\$0.75	\$0.78
Tonnage of vessels passing through Sault Ste. Marie Canal, million tons	14	20	23	36
Failures, liabilities, million dollars	230	123	128	141
Post-office receipts, million dollars	77	92	122	162
Wheat, average price per bushel	\$0.70	\$0.876	\$0.831	\$0.991
Corn, average price per bushel	.444	.390	.455	.597
Oats, average price per bushel	.313	.275	.408	.411
Homestead entries, number	6,174	6,328	14,241	12,944

* Excess exports.

Tariff Taxation is the Mother of Trusts, the Robber of Consumers, and the Deceiver of the Laboring Man.

SPEECH

OF

HON. WYATT AIKEN,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. AIKEN said:

MR. SPEAKER: There has been so much misrepresentation of the effects of revising the tariff, at different times, that it is hard to winnow the real truth. While the tariff is to-day too high, its greatest evil lies not in the fact that it is excessive, but that it makes unjust and unreasonable discriminations.

It may as well be stated at the outset that free trade is not and has never been the policy of the Democratic party. Indirect taxation is recognized by all as being the most suitable method of raising revenue; and the extravagant policy of the Republican party has made a pretty stiff tariff necessary, even for raising revenue. That this is the paramount issue to-day there can be no doubt.

The Republican party has been so merciless in its oppressions, through this instrumentality, that it has at last stirred up formidable rebellion in its own ranks; and the day has come when outraged Republicans, as well as Democrats, demand a measure of relief. Undoubtedly, those who have deceived the innocent voter heretofore, by shifting the issue to alleged evil consequences of Democratic administration, must find a more substantial and plausible reason for not revising the tariff. It is true that the effort is again being made to postpone the real issue, but this is mainly by those whose confidence in the gullibility of the people has grown into a mania.

Just prior to the Congressional elections in 1906 the distinguished Republican leader in the House, on being importuned by some of his brethren from Massachusetts to give some little crumb of hope for tariff revision with which to soothe their clamoring constituents, said:

Congress is not prepared to revise the tariff schedules in that calm judicious frame of mind so necessary to the proper preparation of the tariff act at a time so near the coming Congressional elections.

But the Congressional elections have passed, and on the hope held out that there would be revision after the elections a very much reduced Republican majority was returned to power. Of course those who know the real disposition of this party to dare the vengeance of the people to the limit in the interest of the trusts did not expect revision. And for those Republicans knowing this, who for no better reason than party loyalty have been hopelessly hanging on, this must indeed be bitter. But what does this same distinguished leader say at this time? He says nothing can be done now, because we are "at the heels of a financial panic and on the eve of a Presidential election." Away with right; it is the party that must prevail. He dare not openly dispute the necessity; but like the hopeless sinner of Holy Writ, he exclaims: "Go thy way for this time; when I have found a more convenient season" and so forth.

Well does he know that there are sufficient tariff revisionists in the Republican ranks, who, if allowed to deflect in a popular election, would insure an overwhelming Democratic victory. They must be held in line on promises as vague as they are willing to swallow, but held they must be. Once the party has again triumphed at the polls, it is easy enough with the party lash to coerce its own minority in Congress. A majority of the Republicans would continue an excessive, discriminating tariff until the people, despoiled of their all, become mere vassals of the trusts.

It is interesting to witness some of the plans devised for deferring revision. The latest is the suggestion that a tariff commission be appointed (and even this goes too far for some of the brethren) to go over the tariff lists. The reason is apparent. This commission would, of course, be named by "stand-pat" brotherhood. It would not report until after the Presidential election, and the nature of its report might well be predicted.

Pressed by its own creatures, the trusts, whom it has sworn to protect in their rapacious greed; badgered by the people, who have stood the limit of corporate oppression, the Republican party has made itself ridiculous by its timid and inactive course in this Congress.

But there are prominent Republicans who realize that the time has come when the issue must be met. Witness the protest of the Republicans of Massachusetts, who are on the eve of revolt. Witness the statement of Governor Cummins, of Iowa, thrice governor of the State on the Republican ticket. He said:

All the robberies and thefts committed by all the insurance companies' officers since the business of life insurance originated do not amount to the extortion due to the Dingley bill for one year.

The very men who are enjoying the fruits of excessive protection, seeing the advancing storm of outraged public opinion, have thought to avert it by confessions and concessions. Mr. Mills, president of the National Association of Implement and Vehicle Manufacturers, made the following startling confession:

When Congress gave us 45 per cent, we needed only 20 per cent, they gave us a Congressional permit, if not an invitation, to consolidate, form one great trust, and advance our prices 25 per cent, being the difference between the 20 per cent needed and the 45 per cent given. This difference would give a net annual profit to my company only of from five hundred thousand to six hundred thousand dollars, and to the industry at large a net increase in profit of sixty or seventy-five million dollars.

It will be noted also that Mr. Mills frankly admits that the act of Congress, in practically shutting out foreign competition by excessive tariff rates, was taken as an invitation to consolidate and so shut off home competition. There is no more doubt that trusts are the immediate offspring of protective tariff than there is doubt that the sun shines. The physical facts proclaim it. Why, during the little more than ten years of the operation of the Dingley law 655 independent corporations have been merged into 33, forming giant trusts in almost every conceivable line of business. In these are not included the steel trust—greatest of them all—incorporated at \$1,404,000,000, nor the Standard Oil trust, that octopus that draws its blood from every man who burns a lamp.

If these physical facts are doubted, surely none will doubt the testimony of the witnesses for the defense. I have quoted Mr. Mills. I now quote Mr. Havemeyer, than whom no one is better authorized to speak. He said:

The mother of all trusts is the customs tariff bill. The existing bill and preceding ones have been the occasion of the formation of all the large trusts, with few exceptions, inasmuch as they provide for inordinate protection to all of the industries of the country, sugar alone excepted. There is probably not an industry that requires protection of more than 10 per cent ad valorem. It is the Government through its tariff laws which plunders the people, and the trusts are merely the machinery for doing it.

It gives one that tired feeling to hear the President and the leaders of the Republican party talk of throttling, exposing, and otherwise curbing the encroachments of trusts, when with

blandness they feed these creatures, overfat from the tariff table. One might as well expect to destroy a field of nut grass by mowing the surface and leaving the nuts in the ground unharmed as expect to curb the trusts while they are fed on excessive tariff rates.

By the way, it may be remarked that Mr. Havemeyer complained that his trust alone was not receiving adequate protection. The last annual report of the American Sugar Refining Company shows net earnings of \$9,000,000 and a surplus of \$2,500,000, after paying a 7 per cent dividend. Mark you, however, the refining process is only the difference of 13 cents per hundred between the tariff on the crude article and the tariff on the finished product. While that going to the refiner may be comparatively small from a trust standpoint, the 1½ cents per pound protection granted the Southern sugar planters, yielding a benefit of something like \$10,000,000, cost the people of the United States \$76,000,000 excess for their raw sugar.

We are not kicking against the little mite that comes to the South, so long as the policy of plundering is in vogue, but it only serves to demonstrate how the people pay for the protection of the few. There is some excuse for a tariff on sugar, when the thousands of producers are benefited. There is some excuse for a high tariff on beef when the thousands of cattle raisers are benefited. There is some excuse for high tariff on cotton products, when the hundreds of thousands of producers of raw material are indirectly benefited. But for the Standard Oil trust and the steel trust, who themselves take the crude product from mother earth and from their own claims, thereby benefiting none but a few operatives, there can now be no just claim for excessive protection. Cotton-seed oil bears a tariff of only 4 cents per gallon. A tax of 15 cents per gallon is laid on kerosene oil that in its crude state gushes spontaneously from the ground. Why the difference? This high tariff, of course, shut out the foreign product and induced the consolidation of all domestic companies, thereby shutting out competition at home. It is no poetic fancy that we so often hear, that the Oil King has raised oil a cent or two to reimburse after some display of philanthropy. There is absolutely no reason for the rise or fall of oil except as it is willed by the master. The Standard Oil Company during the years 1904 and 1905 made a profit of 60 per cent per annum on its watered millions of stock.

The great steel trust earned during the year ending January 30, 1907, \$164,490,945, and of this amount \$80,000,000 was contributed by excessive tariff. Where have all these profits gone? Two men, born in obscurity and comparative poverty, in the short space of a lifetime have amassed fortunes running far up into the hundreds of millions and far in excess of the private possessions of any potentate on earth. Is there any legitimate business at which a man can amass such wealth in the short space of a lifetime? We have no quarrel with these men personally, but with their methods and with a Government permitting such methods we are forced to take issue. The capital stock of the great steel trust alone is one seventy-seventh of all the property of the United States. Should not this trend toward the centralization of wealth awake the sleeping people, who are even now owned by less than 200 money barons? Centralized wealth means an aristocracy of wealth and the broadening and deepening of caste lines; it means arrogance and effeminacy of the rich and the hostile vassalage of the poor. It marks the decadence of government as surely as history repeats itself.

There is no hope of checking this evil through the Republican party. It is senior partner in the business. It has not scrupled to take its toll from the trust pile for campaign purposes. It has promised "to love, obey, and protect," and this it will do, though all the people beg. The trusts and insurance companies contributed in one year to the Republican party for campaign purposes over \$16,000,000. Does this not carry with it some obligation?

An amusing feature of Republican campaign thunder is its great solicitude for the poor laboring man. Poor laboring man, "how many crimes have been committed in thy name!" Do not care anything about the poor trust magnate. He can shift for himself on the eve of elections, and the poor laboring man can shift for himself the day after. Who are these poor laboring men referred to? Are they the corn or wheat growers of the West and Middle West? No; these men produce more corn and wheat than any other country in the world, and corn and wheat can not be shipped here free of duty to compete with our products. Are they the cotton growers of the South? No; the South has a practical monopoly of cotton and the producer receives no benefits of the tariff except the crumb that comes indirectly from the tariff on the manufactured article. Are they the cattle raisers of the West and Southwest? No; there is

no country that raises sufficient beef to compete with the cattle men of our own country, at home. Then who are these laboring men? The Republican campaigner means for the term to apply to every man who eats bread by the sweat of his face. In reality, the only laboring man who may claim direct benefit from the tariff is that man who is engaged in the manufacture of a protected article; constituting a very small per cent of the labor of the United States. I would not cut one cent from his wages, and the facts show that he would lose nothing under a revised tariff.

With all our high tariff rates, has the laborer really been benefited? Has he received his part of the spoils? If so, what mean these frequent strikes that are so disastrous to both labor and capital? The price of necessities, the cost of living, as stated by Byron W. Holt before the National Civic Federation, has advanced 55 per cent in the United States in the last ten years. Everybody knows how nearly the average laborers' wages are adjusted to his absolute necessities, and that 55 per cent advance in his expense of living is scarcely met by his advance in wages. And then, too, there are great hosts of laborers, clerks, officers, and professional men, who receive not one cent from the tariff, but who are forced to pay tariff-made prices for their necessities.

But is not excessive tariff, in some respects, a positive hindrance to trade? The law of barter and exchange is as old as the human family; and nations, like individuals, trade most where they find their own commodities have the readiest and easiest market. In the year 1902 the foreign exports of English manufactured goods, a free-trade country, amounted to \$1,200,000,000, while that of the United States amounted to \$400,000,000. In the year closing August 31 last, Great Britain, taking most of her raw material from us, exported 20 yards of cotton cloth for every yard exported by us, besides 255,000,000 pounds of yarn. Our exports of cotton goods have not grown an iota in five years.

Last year our total exports of manufactured articles to China amounted to less than \$6,000,000. Almost every day we hear that there is no market for coarse cotton goods, and yet the price of cotton goods is not low. What is the explanation? It is largely this: China is buying her coarse goods in a market where her own commodities find easy access. She is simply governed by the law of barter and exchange. As a consequence our mills are running on short time, and the laborer is left to do the best he can on his reduced earnings. Is there not just the suggestion of a lesson in these statements?

Let us go even a step further. Existing tariff rates are so high on some articles as to exclude the foreign competing product altogether. Of course the whole list might be raised so as to exclude all imports. Then there is no doubt about high tariffs reducing our imports. The figures and facts quoted above show that foreigners do not trade largely with us except for food products, for which latter fact we may thank the Bountiful Giver and not the protective tariff. Now, then, if our exclusive policy limits the purchase of our manufactures largely to our own people, is the nation really the gainer thereby? Individuals may grow richer or poorer, but is the common Treasury benefited? Does not the only addition to national wealth come from its sales to foreign countries?

If high tariff fleeced the stranger along with ourselves, we could bear the burden with less irritation. But the fact is every manufactured article we send abroad is sold to the foreigner for much less than it can be bought at home. Necessarily so, for abroad it comes in competition with unprotected manufactures of the same kind, and it must seek the same level. One or two notable illustrations will suffice to demonstrate the principle.

There is a provision of the tariff law that an article made in this country and sent out of the country can be brought back free of duty if it has not been improved upon or advanced in value. A certain broker in England bought a lot of American watches at foreign prices, about 30 per cent less than the American price, wholesale. He reshipped these same watches to the United States, free of duty, and sold them far below the trust prices. When this began to leak out the trust was, of course, up in arms, and refused to fulfill the balance of the contract. The broker entered suit, and the trust paid a heavy fine rather than furnish more watches. Now, to obviate a recurrence, every foreign dealer who buys American-made watches is drawn up in the most binding agreement that he will not sell the goods in the United States unless they are improved or changed, in which case they are dutiable. A common fraud is practiced upon our people by the trust sending their movements and cases abroad, putting on Swiss dials, and selling the same here as Swiss goods. All kinds of damaging testimony have been

lodged with the Department of Justice touching the conduct of the watch trust, but the Department has complacently received it as information.

We will cite another case in point going to show the discrimination against the home market. A certain firm in Portland, Oreg., wishing to buy a carload of tin plate and sheet steel, secured the cooperation of a firm in Vancouver, British Columbia, who bought the goods in their own firm name, paying eight to ten dollars per ton less than the Portland firm would have been forced to pay if buying direct. When the goods were shipped, the draft, with bill of lading attached, was sent to the Vancouver firm, who immediately paid it and forwarded it to the firm in Portland. The goods in transit had to pass through Portland, but on arrival there the real owners armed with the waybill claimed delivery of their goods, and the road could do nothing but comply. And so, by a little international conspiracy, the trust was outwitted for once.

An American engaged in a small railroad enterprise in Georgia, and another in Honduras, asked for prices of rails and was informed that the rails for the Georgia road would cost him \$28 per ton and the rails for the Honduras road would cost him \$20 per ton.

In the name of outraged justice, in whose interest have the manufacturers of this country been fondled, fed, and fattened? Are our home people alone to be fed to this hydra-headed industrial cannibal? May the day soon come, and I think it will, when the little independence that is left in us will assert itself!

And now we come to the old campaign chorus of the Republican party, that high tariff and prosperity go hand in hand. No greater fallacy was ever flaunted in the faces of an overcredulous people. In the first place, this country has not had an inadequate tariff in forty years. The rates under the so-called "Democrat tariff," better known as the "Wilson Act," averaged 42 per cent against 50 per cent, the average under the McKinley Act. The Republicans have time and again asserted with bold effrontery that the Wilson revision act was responsible for the panic of 1893. The fact is the Wilson bill did not become law until 1894, and the panic was raging for fourteen months before its passage.

The Republicans lowered the tariff lists an average of 6 per cent in 1872 and there was a panic in 1873. Tariff rates were soaring along at the top notch when the panic, the effects of which are still felt, came on, causing a loss of property and a shrinkage in values of more than thirty-five hundred millions of dollars. How will the gentlemen on the other side of the Chamber classify these two Republican panics? One was under a lowered tariff; the other was under the highest of all tariffs.

The one occurred after some slight revisions; the other on the crest of twelve years of standpatism. The fact is, the tariff does not bear materially on the financial system, except in so far as it makes possible the paying of dividends on inflated stocks, thereby taking from the proper channels of trade the currency of the country. And if there is some indefinable connection between tariff revision and panics there is no fear that the Republicans will undertake to ferret it out just at this time, owing to their press of business in adjusting their present dilemma. When, without foundation, they were charging former panics to Democratic tariffs it would have been well to have remembered that little quotation: "Past follies have present obligations and old sins have long shadows."

Bureau of Mines.

REMARKS

OF

HON. GEORGE F. HUFF,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 21, 1908.

On the bill (H. R. 20883) to establish in the Department of the Interior a Bureau of Mines.

Mr. HUFF said:

Mr. SPEAKER: Representatives from the United Mine Workers of America and men engaged in mining of every kind, also operators generally, appeared at different times before the committee, and the unanimous request was for this bill. President Roosevelt in a message to the present Congress said:

A Bureau of Mines should be created under the control and direction of the Secretary of the Interior, the Bureau to have power to collect statistics and make investigations in all matters pertaining to mining, and particularly to the accidents and dangers of the industry.

Eulogy on Hon. George W. Smith.

REMARKS

OF

HON. MARTIN B. MADDEN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Sunday, April 19, 1908.

The House having under consideration the following resolution:
Resolved, That in pursuance of the special order heretofore adopted the House now proceed to pay tribute to the memory of Hon. GEORGE W. SMITH, late a Member of this House from the State of Illinois.
Resolved, That as a special mark of respect to the memory of the deceased and in recognition of his distinguished public career the House at the conclusion of the exercises to-day shall stand adjourned.
Resolved, That the Clerk communicate these resolutions to the Senate.
Resolved, That the Clerk send a copy of these resolutions to the family of the deceased."

Mr. MADDEN said:

Mr. SPEAKER: Of the public characteristics of our lamented colleague and of his legislative achievements other Members have spoken in high praise. It was not my privilege to serve long with him in this honored body, and I had therefore no personal opportunity to study from close range his public undertakings. I did enjoy, though, a very close personal acquaintance with him, and it is a sincere satisfaction to me to be able to say in paying tribute to his memory, that he was one of the most lovable gentlemen that I have ever known. I can bear testimony to his high personal character and to his warm-hearted manliness. He never failed when opportunity offered to do for a friend some needed kindness, and he was always ready to fight with all his might for any cause in which he enlisted.

Of his many virtues honesty and truthfulness were the most pronounced, and it was these sterling qualities which won for him the respect and the esteem of his friends and acquaintances.

It was not necessary for him to set up proof in substantiation of his positive assertions. His word was as good as his bond, and when he declared to one who knew him as I did that he would do thus or so, it was all but done.

Like most other men, he had some minor faults, but they were not grievous ones.

Best men are born of faults and are better it is said for having been a little bad.

So spoke the great Shakespeare, and in those words I believe he told a great truth. I have never known a so-called "faultless man" to do for himself, his friends, or his country any real good, but the faults of our lamented friend were, when compared with his many virtues and graces, rendered nugatory if not entirely undiscernible.

GEORGE W. SMITH, like most men who come to Congress, and who amount to anything after they come here, learned early in life that the pathway to success is not strewn with roses. His struggle for an education was severe. He made many sacrifices that he might attain success, but he did succeed. I am told that his clear understanding of the principles of jurisprudence, his ready wit, and his forceful, though generous and magnanimous, character, made him a formidable competitor of the most distinguished members of the bar in his section of the State from which so many illustrious men have come.

For eighteen years Mr. SMITH was an honored and useful Member of this body. He was not a great orator, nor did he grapple with the weightier matters of state. He was, however, an indefatigable worker, and by hard study and close application he acquired a fund of information which enabled him intelligently to examine into and understand the many complicated questions which a Member of Congress is required to pass upon in order that by his action and his aid the interests of his constituents and his country may best be conserved.

By the death of our beloved colleague the old soldiers of his district sustain a loss that can only be expressed in tears. To their cause he was more devoted than he was to his own interests.

There never was a time in his public career when he would not have sacrificed his last dollar or exerted his greatest efforts to do for some needy soldier an act of kindness, but while he was partial to the old soldier, and while it always seemed easier for him to come to their assistance than to do aught else, his great, good heart would not permit him to refuse aid to any worthy person who, coming with honest purpose, applied to him for help.

It is easy to understand how a man endowed with great goodness of heart, as was our friend to whose memory we now

pay tribute, could find such delight in promoting and elevating the happiness of his fellow-man. He could not by selfishness seek to promote his own interests at the expense of the welfare or the happiness of others, for of selfishness he had none.

It is still easier to understand how men will love, admire, and give themselves to one thus great and good. Men always have and always will lavish their affection and give their earnest support to leaders possessing lofty ideals, warm sentiments, and noble hearts, and the success of our friend in all of his political contests shows conclusively that he possessed all of these attributes.

The service he rendered to his constituents made every one of them his debtor, and here in this Chamber, the scene of most of his public labors, it is peculiarly becoming that we, his colleagues, should pay tribute to his memory.

General Deficiency Appropriation Bill.

"The attitude assumed by the majority in Congress during this session has demonstrated to tariff reformers, to organized labor, and to the consumers of the country the utter hopelessness of any relief from the ills they complain of except by driving the Republican party from power."

SPEECH

OF

HON. WILLIAM PRESTON KIMBALL,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 18, 1908.

On the bill H. R. 21946, the general deficiency appropriation bill.

Mr. KIMBALL said:

Mr. SPEAKER: I desire to submit a few observations upon the general subject of the present tariff laws, suggested by the very general discussion that has been carried on for some time, both in and out of Congress, upon the subject of the modification of the Dingley bill by placing wood pulp and white print paper on the free list. The gentleman from Massachusetts [Mr. TIRRELL], in a speech delivered on this floor on the 13th of February last, in discussing this subject, said:

Yet, strange as it may appear, although the matter has, in my judgment, excited more interest and comment during the past year than any other article upon the tariff schedule, we have up to this failed, as far as I can learn by reading the comments in the newspapers, or by the addresses on this floor, to ascertain one single reason why it should be done. No facts, no data have been given.

At the risk of being regarded as a trespasser upon the preserves of the select committee of the House now engaged in having hearings and endeavoring to ascertain whether or not there is a paper trust, and as a modicum of information for the gentleman from Massachusetts [Mr. TIRRELL], I will now read an extract from the Lexington Leader, a daily Republican paper published in the city of Lexington, Ky., where I reside. This article appeared as an editorial in that paper under date of December 26, 1907:

NEWSPAPERS AND THE PAPER TRUST.

Kentucky is just now torn up over the iniquities of the tobacco trust, which is powerful enough to practically fix the price at which farmers shall sell their crops and retail dealers shall sell manufactured tobacco. The Leader is not familiar with all the ins and outs of the tobacco monopoly, but if it is one-half as grasping and as remorseless as the white paper trust, we don't blame the farmers for resisting to the utmost limit within the law, although we can not approve of violence and destruction of property.

The newspapers are popularly supposed to be all powerful in avenging the wrongs of others, but they are at this time practically at the mercy of a monopoly that controls the supply of their principal "raw material" and are powerless to secure relief or redress.

The newspaper publishers of America are, indeed, facing a serious, even desperate, situation in the advancing cost of white printing paper. Natural conditions have contributed to some extent to the increased price of paper, but the formation of an ironclad and far-reaching combination of practically all the paper mills of the country is responsible for the greater part of the enormous tax placed upon newspapers of the country by this advance.

The International Paper Company, a gigantic corporation, generally known as the "paper trust," owns a majority of the paper mills and ground-wood plants and largely controls the available spruce forests of the country, from which printing paper is manufactured, and the smaller paper-making concerns from which competition might be expected have by some remarkable coincidence increased their prices exactly as the big trust has done and offer identically the same quotations in every instance.

White paper, which in 1906 cost \$1.80 to \$2 a hundred pounds, jumped to \$2.25 early in 1907, then to \$2.50 and even \$2.75, and publishers have been warned to contract for their 1908 supplies early or take chances on \$3 a hundred pounds.

The Leader made some weeks ago what is considered under present conditions an advantageous contract for 10 carloads of paper in 1908 at \$2.60 a hundred net, an increase of 70 cents a hundred over its 1906

contract price. On a car of 45,000 pounds this means an advance of \$315, and on the year's consumption of paper, between 9 and 10 carloads, this means an increase of about \$3,000 a year in the cost of white paper alone.

This estimated advance takes no account of the enlargement of the Leader from 8 pages daily to 10 or 12 nearly every day and from 16 pages on Sunday to 24, 28, and 32 pages, but is based upon the increase of the cost of paper of the same quantity and quality.

Every car of paper used in 1908 will cost \$300 more than the same car cost in 1906, and the actual expense to the Leader of issuing the same number of papers of the same size will be \$3,000 more in 1908 than in 1906, without a chance to recover a dollar of this increased cost except by increasing subscription or advertising rates. The enlargement of the paper since 1906 adds just that much more to the cost of white paper, but that may be considered as fully offset by the greater amount of advertising space secured.

The problem with all newspapers is how to meet this burdensome tax from which there seems to be no present appeal. Regardless of whatever effect the general financial stringency may have, the Leader is face to face with an addition of \$3,000 to a single item of its fixed charges, with its modest circulation.

The newspaper from which this extract was taken has about 6,000 daily subscribers. The addition of \$3,000 annually to its fixed charges means that it will cost its owner 50 cents more per subscriber to furnish the paper during the year 1908 than it cost during the year 1906. The editor and proprietor of this paper is a practical newspaper man with many years' experience. He came to Lexington twenty years ago from Canton, Ohio, and established his paper in a strong Democratic community, and from a small beginning it has grown until it is now a very valuable property. The editor is Mr. Samuel J. Roberts, who for the last eleven years has held the office of internal-revenue collector for the seventh district of Kentucky, having been appointed to that position by President William McKinley. He was brought up at the feet of the great protectionist, and when a younger man was employed on the paper edited by Mr. McKinley in Canton. I allude thus personally to Mr. Roberts in order that I may not be suspected of trying to convict the paper trust on the testimony of those who are hostile to the protective theory.

Before proceeding further I desire to read from two of the messages of the President of the United States to the present Congress. In his first message, which came at the opening of Congress, he said:

There should be no tariff on any forest product grown in this country, and, in especial, there should be no tariff on wood pulp, due notice of the change being of course given to those in the business, so as to enable them to adjust themselves to the new conditions. The repeal of the duty on wood pulp should, if possible, be accompanied by an agreement with Canada that there should be no export duty on Canadian wood pulp.

Again, in his message of March 25 last, in which he was urging Congress to prepare for the revision of the tariff by the collection during the coming recess of Congress of information by which to guide the Ways and Means Committee in the performance of their duty, he said:

I am of the opinion, however, that one change in the tariff could with advantage be made forthwith. Our forests need every protection, and one method of protecting them would be to put upon the free list wood pulp, with a corresponding reduction upon paper made from wood pulp, when they come from any country that does not put an export duty upon them.

The recommendations of the President in regard to this important matter—important to every publisher of every book, magazine, and paper of every kind and description, from the Bible down to the smallest weekly publication in the United States—do not appear to have left a deep impression upon the majority of the House of Representatives. Though many wood-pulp bills were introduced by Republican Members, and the Democratic leader has assured the House that at any time thirty Republicans would break away from the House machine and vote with the Democrats on this question that a bill to this end would be passed, only one of them has come forward and offered to do so, and although a petition signed by every Democratic Member of the House, save two who were absent, was presented to the distinguished Speaker of the House, who probably owes as much of his fame to newspapers as to any other source, asking him to recognize any Member of the House, Democratic or Republican, as he might choose, to move the suspension of the rules and to discharge the Ways and Means Committee from the further consideration of this subject and to pass the Stevens bill or some like measure advocated by the publishers of the country, he has refused to do so and will continue to refuse until the end.

The consideration of this matter by a select committee, under a resolution offered by the Speaker himself, was a ruse merely intended for delay and to prevent any real consideration of the subject by the present Congress, upon the theory that one breach in the protection wall might result in a serious attempt at a general revision of the tariff schedules. For, if the publishers of the country were to be relieved from the merciless pillage of the paper trust, no reason could be given why the

other classes of the people similarly pillaged should not have the same relief; but after this matter had been committed to the safe-keeping of the House select committee investigating the paper trust under the resolution introduced by the Speaker, and knowing that it could not be brought to the front again to confuse and embarrass the protection leaders in the House of Representatives, they actually permitted one slight breach to be made in the protection wall. The House, the other day, passed an act introduced by the distinguished protectionist from Missouri [Mr. BARTHOLDT] putting "tea sweepings" on the free list.

It is not possible that one-tenth of 1 per cent of the people of America know what tea sweepings are or the purpose for which they are used. It seems to be the trash or refuse from tea, used in the manufacture of caffeine, the chief seat of which industry is said to be in the district represented by the gentleman from Missouri [Mr. BARTHOLDT]; but it was carefully provided in that bill that these tea sweepings, in order to be placed on the free list, must be denatured and rendered entirely unfit for human consumption. Think of the absurdity of enacting legislation like this in the face of the great clamor from one end of the country to the other for the general revision of the tariff; a revision in the interests of the masses of the people; a revision in the interests of the consumer, who, after all, pays the tariff upon every article affected by the schedules. A few manufacturers of caffeine have received this special favor, while hundreds of thousands of newspaper, magazine, and book publishers all over the country are denied this reasonable and proper legislation, which even the great protectionist President of the United States says is their due and asks a Republican Congress to grant.

I must confess that a great many of the newspapers in the United States deserve little sympathy in their present predicament. If it had not been for the advocacy of a high protection tariff by the Republican newspapers of the United States the leaders of the Republican party could never have secured the enactment of the present unjust and outrageous tariff laws.

The newspapers that supported the Dingley Act and advocated the highest rates of tariff possible may be divided into three classes: Those that actually believed in the theory of high protection; those that supported it because it was advocated by the political party with which they were affiliated, and the other, and perhaps smaller class, that had been subsidized by the protected interests. But they are all in the same boat now, for the paper trust, like all of the brood, has no political convictions. It would just as soon rob a paper advocating high protection as one advocating tariff for revenue only. It would just as soon rob the publisher of a Bible as the publisher of a sporting paper.

Still, the publishers should have the relief they seek, because no country, under any guise whatever, ought to inflict wrong and injury upon any class of its citizens.

The predicament in which the publishers of the country find themselves is a pointed illustration of the evils of high protection. They have discovered at last that the benevolent and mysterious foreigner, who was formerly said to pay the tariff, has suspended payment. Whether this suspension was caused by the late Republican panic, I am not able to say. But they have realized by sad experience—by an experience that illustrates a condition and not a theory—that the consumer pays the tariff taxes.

The publisher of the Lexington Leader, with the addition of \$3,000 per year to the fixed charges of his plant, will take good care, of course, that that amount is made up from the patrons of his paper, as will all of the other publishers. The advertising rates will be increased. Gradually, perhaps, but surely the subscription prices will be increased. The merchant, finding that the rate of advertising has been increased, will likewise increase the prices of his wares in order to meet the additional expense of advertising them. So in a short time the increased price of white print paper will fall upon those who buy newspapers and those who buy the goods and wares of the merchants who advertise with the newspapers.

The paper trust is only one of more than 100 similar concerns that have come into existence since the passage of the tariff of 1897. With the coming of that legislation the American manufacturer found that it was impossible for the foreign manufacturer to compete with him, and, foreign competition having been eliminated by the gracious legislation of the Republican party, the manufacturers of almost every kind of article proceeded to form themselves into a trust by the combination of all the manufacturers of each particular class into one giant corporation and then to raise the prices of their output to an outrageous extent, and thus fleece the consumer of the country at will. This is exactly what the paper trust has

done. Competition excluded by the high rates of the Dingley tariff bill, various manufacturers of paper and wood pulp saw no reason why they should cut each other's throats when they could impose almost any price they chose upon the consumer of wood pulp and print paper without any fear of molestation.

The utterances of the President of the United States in the two messages referred to and the complaint of my friend and neighbor, Mr. Roberts, are both serious admissions against the maintenance of a high protective tariff. For if the removal of the tariff upon wood pulp and print paper will restore the trade in those articles to former legitimate conditions and furnish the American publisher with his stock of paper at a reasonable figure and end the exactions of the trust or "working arrangement" between the manufacturers, then is it not fair to assume that the placing of the tariff on wood pulp and white print paper was the cause of the present conditions about which the publishers so justly complain? And are not the same conditions true with respect to every article of use in America that is manufactured by any other trust or lawful combination? The confederating of capital for useful, legitimate, and lawful purposes is never objectionable. Great enterprises can not be successfully carried on without such confederation; but when capital confederates for the purpose of stifling competition or destroying the great law of supply and demand and of obtaining more than the just measure of its reward, then such confederation is a crime. It is now admitted by the protection leaders that the time has "almost" arrived when there should be a revision of the tariff schedules, but that it would be very unwise to attempt such a revision until after the Presidential election of 1908. To this end all suggestions of revision, including the relief to the publishers, has been sidetracked until after the election. In the meantime the Ways and Means Committee of the House of Representatives will proceed to collect data and consider the tariff, with a view to its revision at a called session of the Sixty-first Congress, provided, of course, that the Republicans have a majority in the House of Representatives.

This proceeding gives the whole matter away. This holdup of the question until after the election gives notice to every manufacturer in America that if the Republican party elects the next President and obtains control of the next House of Representatives, each of their particular cases will have to be passed upon by a Republican Congress, and that it would be wise to contribute something to the campaign fund. This view is borne out by the fact that the House of Representatives a few days ago passed a sort of political campaign publicity bill, to which was added what is known as the "Crumpacker bill," which provided for the reduction of Southern representation in Congress in States where the colored vote has been disfranchised by constitutional amendments, and also a provision placing the control of the Federal elections in the hands of the Federal courts. It is not intended that this bill shall be passed by the Senate, at least not before the next Presidential election.

On January 14 last, when the House of Representatives had under consideration the criminal-code bill, I offered an amendment to the act of January, 1907, which prohibits national banks from making "money contributions" for campaign purposes, and to prevent corporations generally from making such contributions at any election where Federal officers are to be elected. The amendment proposed to strike out the words "a money contribution" and insert the words "any contribution of money or anything of value," which was adopted on a division, but defeated when tellers were demanded by the gentleman from Pennsylvania [Mr. Moon], the chairman of the Committee on the Revision of the Laws, who had charge of the bill.

It was defeated by the votes of the Republican majority, only one of them making any protest, and that was the gentleman from Wisconsin [Mr. Cooper]. But his protest came after the vote had been taken. Under the law, as it now stands, it will be unlawful for any corporation to make a "money contribution" of \$10,000 to the Republican campaign fund next fall, but it will not be unlawful to make such a contribution in stocks, bonds, or anything of value readily convertible into money. The amendment would have given the law some efficiency for good, but might have interfered with "frying the fat" from the trusts and unlawful combinations of capital now flourishing under the high protective-tariff system, which we are assured is to be revised after the Presidential election "by its friends."

The attitude of the Ways and Means Committee toward revision is well illustrated by a recent occurrence at a meeting of the committee when the gentleman from Missouri [Mr. CLARK], the ranking Democrat on the committee, called up the following House bills which were pending before the committee, and by the unanimous votes of the Republican Members the

consideration of all of them was indefinitely postponed. Each of these bills was intended to modify, in some respect, the tariff rates in the interest of the consumer.

Tariff bills pending before Committee on Ways and Means May 18, 1903.

Committee Docket No.	Bill No.	Introduced by—	Articles affected.
1	3	Mr. Thomas, N. C.	Paper and materials.
4	93	Mr. Williams	Works of art.
5	101	do.	Philippine products.
6	102	do.	Hides, leather, and manufactures of.
8	105	do.	Minimum of five-sixths of present rates.
8	105	do.	Shipbuilding materials.
10	107	do.	Coal.
11	108	do.	Reciprocity in hides, leather, and manufactures of.
13	110	do.	Reciprocity with France.
14	112	do.	Rates not exceeding 100 per cent on any article.
15	113	do.	Hides, leather, and manufactures of.
16	114	do.	Watches.
17	115	do.	Antitoxin and diphtheria serum.
18	116	do.	Linotype and composing machines, wood pulp, and white paper.
19	153	Mr. Robinson	Printing paper, wood pulp, and materials.
22	191	Mr. Macon	Philippine products.
24	204	Mr. Clark, Mo.	Wood pulp, white paper, and materials.
27	235	Mr. Shackelford	Printing paper and wood pulp.
28	238	do.	Printing paper, wood pulp, and Linotype machines.
35	273	Mr. Stanley	Articles made in United States and sold abroad.
50	405	Mr. Rainey	Shipbuilding materials, etc.
55	467	Mr. Griggs	Linotype machines and parts.
61	556	Mr. Thomas, N. C.	White paper and materials.
69	3935	Mr. Byrd	Pulp, paper, and manufactures of.
77	4795	Mr. Thomas, N. C.	Linotype machines and parts.
78	4815	Mr. McHenry	Timber, lumber, bark, and wood pulp.
86	6111	Mr. Weiss	Shipbuilding materials, etc.
88	6113	do.	Print paper, wood pulp, and materials.
96	6292	Mr. Perkins	Lumber, wood, paper, pulp, and works of art.
99	7579	Mr. Booher	Lumber.
100	7580	do.	Coal.
103	7621	Mr. Richardson	Lime nitrogen, or calcium cyanamid.
107	7678	Mr. Byrd	Agricultural implements, household effects, etc.
108	9070	Mr. Hamilton, Iowa	Shipbuilding materials.
109	9071	do.	Pulp, paper, and materials.
110	9076	Mr. Howland	Timber, lumber, etc.
113	9150	Mr. Williams	Products of American nations.
118	9188	Mr. Adair	Paper, wood pulp, and materials.
119	9190	Mr. Fulton	Lumber, paper, hides, leather, and manufactures, farm implements and machinery.
124	10451	Mr. Ansberry	Lumber.
125	10452	do.	Coal.
128	10472	Mr. Dixon	Pulp, paper, and materials and Linotype machines.
129	10473	do.	Articles sold cheaper for export.
131	10488	Mr. Küstermann	Petroleum.
133	10522	Mr. Tou Velle	Agricultural implements.
134	10523	do.	Paper and pulp.
135	10541	do.	Binding twine and materials.
143	11314	Mr. Adair	Shipbuilding materials.
150	11748	Mr. Fulton	Articles imported in American ships.
151	11753	Mr. Wallace	Wood pulp and paper.
152	11781	Mr. Küstermann	Chicle.
157	12129	Mr. Russell, Mo.	Iron ore, pig and bar iron.
161	13008	Mr. Miller	Tariff Commission.
168	13652	Mr. Stephens, Tex.	Reciprocity in beef and pork products.
176	14270	Mr. Adair	Lumber.
177	14388	Mr. Rauch	Wood pulp, paper, and materials.
178	14391	Mr. Hamilton, Iowa	Philippine products.
186	15221	Mr. Parsons	Floor matting.
193	16072	Mr. Williams	Petroleum and products.
193	16308	Mr. Smith, Mo.	Barytes, barium sulphate and compounds.
205	16755	Mr. Haugen	Fence and barbed wire.
207	16882	Mr. Rainey	Petroleum and products.
211	16937	Mr. Flood	Saws.
216	16982	Mr. Houston	Petroleum and products.
219	17045	Mr. Hull, Tenn.	Antitoxin and diphtheria serum.
220	17043	do.	Farm implements and machinery.
221	17049	do.	Coal.
228	17875	Mr. Flood	Fence and barbed wire.
236	18335	Mr. Candler	Agricultural implements, clothing, etc.
240	18608	Mr. Stevens, Minn.	Wood pulp, printing paper, etc.
251	19672	Mr. Small	Shipbuilding materials.
252	20071	Mr. Sulzer	Pulp and paper.
253	20072	do.	Wood, lumber, pulp, paper, and works of art.
254	20191	do.	Articles sold cheaper abroad.
274	21403	Mr. Gaines, Tenn.	Pulp and paper.

I call the attention of the committee to the fact that H. R. No. 3857 was introduced by the chairman of the Committee on Ways and Means, the gentleman from New York [Mr. PAYNE]. The title of the bill is, "A bill to amend an act entitled 'An act temporarily to provide revenue for the Philippine Islands and

for other purposes,' approved March 8, 1902." The purpose of this bill appears to have been to regulate the tariff rates so as to give the Philippine Islands some measure of relief from its present exactions. Yet, it was sent to the junk pile along with the other 260 bills, by the votes of the Republican majority. This bill was accompanied to the junk pile by H. R. 112, introduced by the gentleman from Mississippi [Mr. WILLIAMS], which provides, in effect, that no tariff rate shall exceed 100 per cent ad valorem on any article. I append the following table showing some of the schedules affected by this bill and the per cent of duty on those schedules. It will be observed that the rate ranges from 111.85 per cent to 407 per cent ad valorem:

Some average ad valorem tariff rates over 100 per cent under the act of 1897, known as the "Dingley law."

SCHEDULE A—CHEMICALS, ETC.

Paragraph.	Article.	Tariff rate.	Average value per unit.	Per cent.
1	Tannic acid.....	50 cents per pound.....	\$0.41	122
2	Alcoholic perfume.....	60 cents per pound and 45 per cent ad valorem.	2.12	407
11	Borax.....	5 cents per pound.....	.024	230
21	Sulphuric ether.....	40 cents per pound.....	.10	400
21	Fruit ethers.....	\$2 per pound.....	1.05	190
56	Whiting ground in oil (putty).	1 cent per pound.....	.005	200

SCHEDULE B—EARTHS, EARTHENWARE, AND GLASSWARE.

99	Filled glass bottles, $\frac{1}{2}$ pint to 1 pint.	1 $\frac{1}{2}$ cents per pound.....	\$0.013	115
99	Same, less than $\frac{1}{2}$ pint.....	50 cents per gross.....	.34	148
a 101	Unpolished cylinder common window glass, less than 16 by 24.	1 $\frac{1}{2}$ cents per pound.....	.026	150
104	Cast polished plate glass, finished or unfinished, all above 24 by 60 inches square.	35 cents per square foot.	.19	180
108	Spectacles.....	45 cents per dozen, and 20 per cent ad valorem.	.42	127

a See paragraph 187, states \$0.026 per pound, other sizes in proportion.

SCHEDULE F—TOBACCO.

215	All other tobacco.....	55 cents per pound.....	\$0.20	275
216	Snuff.....	do.....	.35	158
217	Cigars, cigarettes.....	\$4.50 per pound and 25 per cent ad valorem.	4.48	125

SCHEDULE G—AGRICULTURAL.

232	Rice.....	2 cents per pound.....	\$0.018	111.85
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SCHEDULE H—SPIRITS AND WINE.

289	Spirits from grain.....	\$2.25 per gallon.....	\$0.85	264
294	Bay rum.....	\$1.50 per gallon.....	.66	222
299	Cherry juice.....	60 cents per gallon.....	.38	156

SCHEDULE K.—WOOLEN GOODS.

366	Yarns.....	27 $\frac{1}{2}$ cents per pound and 40 per cent ad valorem.	\$0.11	278
374	Brussels carpet.....	44 cents per yard and 40 per cent ad valorem.	.32	175

SCHEDULE N.

420	Fire crackers.....	8 cents per pound.....	\$0.054	147
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The Republican party has never revised the tariff except to pile on more of it, and if the high protection theory is correct, they are right, because, if protection is a good thing, the more we have of it the better. If the tariff is revised by them again it will be done in the same old way. It is urged that the revision should be made by its friends. The protective tariff has no friends, except its beneficiaries, and its beneficiaries are only those who are enabled to rob the consumer by means of its iniquities. The revision of the tariff by its friends would be as absurd as calling a convention of porch climbers to devise new laws for the protection and security of the home or the assembling of a parliament of bawds to devise means to prevent the social evil.

The Louisville Courier-Journal in a recent issue, under the head of "Incubators of iniquity," in discussing the matter of the Ways and Means Committee of the House of Representatives sitting during the recess of Congress to consider the tariff, assisted by the Senate Committee on Finance:

The Ways and Means Committee of the House of Representatives, captained by SERENO E. PAYNE, standpatter, taking orders from JOSEPH G. CANNON, standpatter, will sit during the recess of Congress to consider the tariff, assisted by the Senate Committee on Finance. This would be hugely diverting were it not so genuinely depressing. His Satanic Majesty sitting to consider improvements in the Sabbath-school system, Friar Tuck preparing a temperance lecture, Robin Hood framing a bill of rights, King Richard III drafting improvements for the Decalogue, Nero writing verses upon the joys of the simple life, or Ananias declaiming against the unrighteousness of the alibi witness would not be more grotesque than SERENO E. PAYNE et al. pondering the problem of revising the Dingley schedules. All Baba and the Forty Thieves acting as a Christian Endeavor Society would be as likely to advance the cause of Christianity as NELSON B. ALDRICH's Committee on Finance and its expert assistants are to collect material that will result in the introduction of a bill looking to the amelioration of the existing tariff law.

The well-defined purpose of the Republican leaders to revise the tariff upward and in the interest of its friends, the manufacturers, may experience a rude shock at the coming November elections. The people are becoming aroused as they contemplate the enormities of the situation; even the newspaper publishers have begun to sit up and take notice. Rumbblings of discontent with present conditions and of a lack of confidence in the party in power is heard in the land. The attitude assumed by the majority in Congress during this session has demonstrated to the tariff reformers, to organized labor, and to the consumers of the country the utter hopelessness of any relief from the ills they complain of, except by driving the Republican party from power. Confederated with and protecting every interest that oppresses the people, and turning a deaf ear to every demand for relief, it is doomed to defeat in November unless "justice has fled to brutish beasts and men have lost their reason."

The Freeland Currency Bill.

SPEECH

OF

HON. WILLIAM A. RODENBERG,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. RODENBERG said:

Mr. SPEAKER: In one of the greatest of Shakespeare's great dramas we find these words of Iago to Roderigo:

Put money in thy purse; follow these wars; defeat thy favor with an usurped beard; I say put money in thy purse. * * * Put money in thy purse. These Moors are changeable in their wills—fill thy purse with money."

While there is nothing whatever to admire in the character of Iago, who, if living to-day, would, by unanimous consent and without roll call, be classified as an "undesirable citizen," yet it would seem that the most conspicuous exponent of latter-day Democracy, the peerless one, William Jennings Bryan, had adopted Iago's advice in toto and made it the guiding star of his political life. Twelve years ago poor and penniless, possessing a modest equity in a modest home, endowed only with a matchless voice and a magnetic personality, he has continued to put money in his purse, until to-day his wealth, it is said, approximates \$1,000,000.

Predatory wealth is still denounced, and soulless corporations are still excoriated by the great commoner, but while the denunciation and excoriation are going on the shekels continue to flow into the coffers of William Jennings Bryan. But "these Moors are changeable in their wills." Now and now only is the accepted time. No opportunity must be lost, no advantage overlooked. Dives must feast and Lazarus can look out for himself.

As proof of this absorbing lust for gold, this overmastering desire for the accumulation of great riches which has taken complete possession of the "tribune of the common people," I insert herewith in the Record an article written by Mr. George R. Crow and published in the Chicago Tribune of May 17, 1908, and which explains why Mr. Bryan manifests such intense eagerness for the Democratic nomination for the Presidency,

although confronted with sure and certain defeat at the polls in November:

BRYAN A GAINER EVEN IF BEATEN—NEBRASKAN ABLE TO PAY HIGH PRICE FOR NOMINATION AND PROFIT COMMONER—\$280,000 A YEAR IS AIM? ORGANIZATION OF "LOYAL" INTO "MILLION" ARMY AT 60 CENTS MEANS A FORTUNE.

William Jennings Bryan could afford to pay \$150,000 or more for the Democratic nomination to the Presidency, even if he knew positively that he would be defeated.

If nominated, Mr. Bryan, I believe, expects the circulation of his weekly magazine, the Commoner, to go to the 1,000,000 subscribers. This would yield him a net personal profit of \$280,000 per year.

Like other shrewd political captains of his party, does he believe that if nominated he will be defeated, but wishes the nomination as an advertisement for his own private ventures, notwithstanding the fact that the Democratic party might stand a good chance of electing Johnson, if nominated? Is a question often asked.

Certainly Mr. Bryan's experiences have not been such as to encourage in him the belief that defeat is impossible.

Like the alert man he is, he is profiting by his experiences of the past, for Bryan knows the financial value of the Presidential nomination. It has enabled him to make an income of \$60,000 a year, exclusive of placing him in the same class with plutocratic life insurance and railroad presidents.

However, the tidy sum of \$60,000 per year is only the beginning toward the colossal amount Mr. Bryan must expect to make out of the Commoner, through using the Democratic Presidential nomination to lure over half a million dollars into his coffers before November 6, 1908.

\$280,000 A YEAR IS POSSIBLE.

If Mr. Bryan's fond hopes, as expressed in circulars now being mailed to advertisers by the Commoner office, are realized, his net profit, derived from the Commoner alone during the year 1908 will be at the annual rate of \$280,000.

It is just possible that this may have something to do with the irrepresible zeal with which he is seeking a nomination to the Presidency, for it is a fact that whether elected or defeated he will be vastly the gainer financially through having had the nomination.

Under these circumstances, perhaps, the recent developments in New York State and elsewhere, which make his election practically an impossibility, do not dismay him.

After reading his interview with newspaper men in New York regarding his income, published in the Chicago Tribune on April 21, 1908, and dated April 20, 1908, one may question his sincerity and his motives, particularly in view of the results of an investigation made by me.

On April 21, 1908, I called at the Chicago office of the Commoner, in suite 711, at 185 Dearborn street. The office is in charge of Mr. J. P. Limeburner, the direct and authorized representative of William Jennings Bryan, the editor and proprietor.

I asked for information regarding the Commoner's advertising rates, its present and past circulation, and the prospects for an increase should Mr. Bryan be nominated. I found the office banking largely on a tremendous circulation as the result of Bryan's possible nomination.

COMMONER'S POWER DECLARED.

On April 23, 1908, I received a letter from the Commoner office, together with the "million-circulation circular," to which the letter refers. The letter was as follows:

"Mr. GEO. R. CRAW,
"401 1/2 Grand boulevard, Chicago, Ill.

"DEAR SIR: Complying with your request of this morning, we are inclosing you herewith matter to show the Commoner is one of the best mail-order papers in the country.

"Inclose you our million-circulation circular. Mr. Bryan seems to be very optimistic regarding reaching that point before the year is over, and the stack of letters I saw coming in to the Lincoln office on my last visit there a short while ago indicate it will reach the mark. There is not a better medium to-day, pro rata cost, to carry your business in than the Commoner. It is one of the papers not affected by the new post-office ruling.

"I believe, however, it is not necessary to explain any further to you regarding the matter, as you fully understand conditions that will make the Commoner a potent force this year for advertisers. It will be a good stroke of policy for you to get in, and get in at once, or else in a short time you will be up against higher rates.

"Hoping we may convince you it will be a good thing for you to use the Commoner, we remain,

"Yours, very truly,

J. P. LIMEBURNER,
"Per B. L."

Mr. Bryan keeps in constant touch with his Chicago office, and its statements regarding the Commoner are as authentic as if they came from Editor Bryan himself.

No one reading Mr. Bryan's "One million paid circulation" circular can doubt that "the brief review of present and coming events" refers to Mr. Bryan's possibility of becoming the Democratic Presidential nominee.

FIGURES ON COST.

Without knowing what it costs Mr. Bryan to publish and mail his paper and a knowledge of the amount of advertising published by him, with what he receives in subscriptions, it would be impossible to arrive at the net income paid him by the Commoner each year, but to a man versed in the "ins and outs" of the publishing and advertising business, the obtaining of the information is comparatively easy.

Taking a number of copies of the Commoner of different dates, I asked the Western Newspaper Union, 65-67-69-71 Plymouth place, for a quotation on a twenty-page magazine, the same as the Commoner, and the next day I received a letter embodying the quotations, as follows:

"Mr. GEORGE R. CRAW,
"401 1/2 Grand boulevard, Chicago, Ill.

"DEAR SIR: We take pleasure in quoting you on printing 150,000 copies of a twenty-page magazine, size 11 by 13 1/2 inches, on the same paper used by Bryan's Commoner, the net sum of \$1,470. If you use regular No. 1 print, price will be \$60 less.

"The price quoted above includes all of the composition, electrotyping, presswork, binding, and mailing complete, you, of course, to furnish us with a proper mail list.

"Should be very pleased to do the work for you, and can guarantee prompt and satisfactory service.

"WESTERN NEWSPAPER UNION,
"R. G. GALUSHA."

HOW PROFIT PILES UP.

I can confidently state that Mr. Bryan is publishing the Commoner at a cost of less than \$1,102.50 each issue, or \$57,330 per year. It costs him \$10,150 per year for postage. Thus the total cost per year of publishing and mailing the Commoner is \$67,480.

The above figure is so high that it will take care of the expense of the Chicago office, the Lincoln plant, and the literary matter published in the Commoner, editorial and contributed.

The nominal subscription price of the Commoner is \$1 per year, but from a study of its clubbing offers I find that a net receipt of over 60 cents per each subscription is maintained by Mr. Bryan, and when he says he has a circulation of 145,000 copies weekly, which he is willing to prove at any time by post-office receipts, I am willing to believe it.

At 60 cents each net this yields Mr. Bryan a yearly revenue from subscribers alone of \$87,000. Subtract from this the cost of publication, which includes all expenses in connection with the publication of the Commoner, together with the postage, and there is left an annual net profit for Mr. Bryan of \$19,500.

Add to this his yearly net receipts from advertising in the Commoner, which, according to figures given me in the Commoner office, approximate \$40,000 in cash for the last "panicky year," and we find that Mr. Bryan's total net income is nearly \$60,000 per year yielded by the Commoner alone. Besides this his lectures and magazine contributions bring him thousands additional each year.

STORY OF EARNINGS INTERESTING.

Under a million circulation the net profit of the Commoner to Mr. Bryan would be at the rate of over \$280,000 per year. In the face of the above facts Mr. Bryan's statement of April 12, made to the press in New York City and published in the Chicago Tribune April 21, is interesting. He then said:

"My income is derived mainly from my lecturing, with some addition from articles written for other publications and something from my own paper, but the amount has been greatly exaggerated.

"I make more speeches for nothing than for pay and devote more time to public work than to private gain.

"My political prominence has been an advantage in that it has given me a larger reading circle and a larger audience, but I could have used the prominence in other ways to greater pecuniary advantage.

"For instance, I was offered \$25,000 a year as counsel for a corporation, but it would have taken me out of the political field. By lecturing and writing I can make what I need in half the time and have the rest for public work."

It might be said that the Nebraskan tries here to make it appear that his income is not as much as \$25,000 per year. He says he can make what he "needs" in half the time that he would have to put in as counsel for a corporation and have the rest for public work.

According to my figures and his statement, what he "needs" must come to about \$60,000, and this amount does come from the Commoner alone. The time put in for public work is an advertisement for those branches of his endeavors which are getting the money.

"RECRUITS" PAY 60 CENTS EACH.

That Mr. Bryan's hope of a million circulation for the Commoner before November, 1908, is not an idle one. I will state that a page in the Commoner of March 27, 1908, tells of "Working for the Commoner 'Million army.'" The members of that "army" pledge their assistance—no money mentioned—to the Democratic party and contribute 60 cents in cash to Mr. Bryan's pocket, receiving in return a subscription to the Commoner for less than a year. And how the Democracy is "biting," as evidenced by the names of hundreds of subscription "army" workers, who send in from two to fifty new subscriptions, accompanied by the cash, at 60 cents per head.

When a man is shrewd enough to inject respectively religion or politics into a money-making proposition he is sure to get the money.

Government Guaranty of Bank Deposits.

SPEECH

OF

HON. JOHN G. McHENRY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. McHENRY said:

Mr. SPEAKER: Congress has now been in session for a period of six months, with but a few days remaining until it is proposed to adjourn the session.

When we came here in December to take up our duties, we found the country in a combined state of industrial, commercial, and financial panic of a character and intensity such as we had never before experienced.

In the midst of unprecedented prosperity, with our factories, mills, and mines working overtime, plenty of work for every man who wanted work and at fair wages, our farms yielding the largest crops in the history of American farming and selling at prices above the past ten years' average, the financial crisis came to our country and people as an electric shock, paralyzing the wheels of commerce and of all industrial activity, affecting the personal interests of every man, woman, and child in America; bringing want and suffering and hunger to many by depriving them of their only asset and income, their right and opportunity to work.

In the history of this Government never has the Congress of the people been called together at a time when there was a greater need for immediate legislative action to stop a panic of fear which had become world-wide by providing such remedial legislation as would restore public confidence and safeguard the country against the recurrence of a similar condition from similar causes. Never in the history of this Government has Congress so flagrantly violated the trust and confidence of the people, proved itself more incompetent to rise to the occasion, or displayed a more vulgar abuse of political power in refusing absolutely to respond to the demands of the country and the people.

During the five months of our session, we have passed the usual appropriation bills—nothing more. Willing to spend the people's money, but unwilling to help them earn it. In other words, it has taken 391 Congressmen and 92 Senators five months to do what any board of directors of the average bank or business corporation would have accomplished in a couple of weeks, and during these five months we have been willing, with an indifference characteristic of the true Wall street spirit, to permit over 2,000,000 working men to walk the streets without work and enter the soup-house column, which the Republican party has always said could not happen under a high protective tariff and a Republican Administration, and without any evidence of record that the House is willing or intends to even try to ameliorate this condition. But we are told that the panic is over and that we do not need any legislation now. The crisis is passed and the panic is over, it is true, but the business depression is still on and is likely to continue for some time. But of this I shall speak later.

Mr. Speaker, I am here as a Representative of a great district and a great State. In Pennsylvania alone there are to-day over a quarter of a million of people out of employment. It is because of this condition and the seeming tendency of Congress to ignore its duties to the plain people that I find sufficient justification as a member of the Banking and Currency Committee to address the House upon the question of financial legislation.

FEDERAL GUARANTY OF BANK DEPOSITS.

It has become apparent—in this I hope I may be mistaken—that it is the determination of the dominant party to place no adequate currency legislation on the statute books at this session. All legislation with reference to this subject has resolved itself into a question of party policy; the needs of the country or the people have become matters of secondary consideration. Better that the country should suffer than the Republican party should suffer; better that workingmen be out of a job than Congressmen; better to continue the policy of postponement, defer action, and promises by commission, which have so successfully fooled the people during the past years, rather than risk the enactment of laws that might displease the Wall street and banking interests of the country.

So it is needless to discuss emergency currency or any other form of currency legislation at this time, but I want to call the attention of the House and country to one thing that can still be accomplished at this session and which will go a long way toward safeguarding the country against the recurrence of a money panic through which we have just passed, and for the brief time allotted me I will confine my remarks to the subject of "the cause and the remedy."

THE CAUSE.

As to the underlying causes of this panic there is considerable disagreement, but after six months of study, discussion, and hearings, your committee is unanimously agreed upon two fundamental truths: That the cause of this panic is primarily due to a loss of public confidence, and its remedy, therefore, must lie in such measure or measures as shall tend toward a restoration of public confidence.

As to the cause, there are those who think that a panic must come every few years about the same as a pestilence used to come in biblical times, and that panics will come at stated intervals, regardless of any law or condition. There are others who declare that we have had too much prosperity; that we have all been spending too much money; living too high. Others think that it has been brought about by dishonest corporate management, while others believe that it is a Wall street attack upon the Administration; others believe that it is a shortage of money, while others think we have had not only too much of the "big stick," but too much of the brass-band method of swinging it. While I do not believe that any one of these reasons is directly or wholly responsible for the recent panic, yet it is no doubt true that each cause has indirectly contributed its portion in the making up of this general state of public fear, and if I were called upon to define the actual cause of the recent panic I would define it in two words—

"FEAR" AND "GREED."

The people of the United States for the past few months have been in a state of mind such as has never before existed in the history of our country. About one and one-half years ago we began reading statements—mere half-dozen-line statements—from men of high standing in the financial world and who are classed as "captains of industry," saying that a period of retrenchment was about due. It was a new word to the American people. Such had been their progress and success that they had no time to stop and learn what was to them a new thought and a new language. The half-dozen-line statements began to extend to a quarter column and to a column and a half. From the retired captains of industry, statements began to come from the lieutenants, from the merchants, the manufacturers, the bankers, and to this chain was added the editorial admonition that it was time to retrench. But still the American people gave no heed to their masters and failed to learn the meaning of the word.

There are no people so quick to learn or so quick to forget as the American people. They saw our great American farms producing the most wonderful yield in the history of our country and farm products selling at a higher price than the general average for the past ten years. Railroad stocks and bonds, securities of all kinds at the high mark, and Wall street, that dream and hope of gamblers and despair of outside investors, surpassing in its golden harvest the dreams of Cræsus. Panic? No! Impossible with such conditions. We believed the country had outgrown Wall street. We believed in our honesty and energy, and believed ourselves able to cope with any possible condition which might arise; but we had not included in our reckoning the power of public fear.

"THE BIG STICK."

For a period of three or four years the daily newspapers of the country have heralded, almost without intermission, the dishonesty and wrongdoing of various corporate managements. Beginning with the investigations of the great life insurance companies of the country, which hold almost unlimited millions of the people's assets, then the railroads and various trusts came in for their share of condemnation, from the Chief Executive down to the pettifogging politician, and with all this publicity and distrust, with what result? The insurance companies have a greater financial consolidation to-day than ever before. Freight rates have continued to increase to the individual shipper. Prices of trust-made articles have continued to advance, and if fines were levied, the people knew full well that the fines must come from the pockets of the people. So the one result of these various investigations has been to excite in the minds of the people a feeling of general distrust and loss of confidence, not only in their Government or the corporate management of the country, but between individuals and neighbors. We have heard much preaching about the ideals of good citizenship, but the practical tendency has been to drift away from the teachings of the Bible, which gives us that divine fundamental law of humanity, "Love thy neighbor as thyself." In its place has been substituted "Distrust both thy neighbor and thyself."

The greatest asset of any man is character and credit. These are the privileged possessions of every honest man and woman, but they can only be gained, and once gained can only be sustained, through honesty and industry. The greatest asset of this or any other nation is public and individual confidence, which must rest upon the supporting base of the individual character and credits of our citizens, and to the extent that each is dependent upon the other, they both respond to any attack made upon either. So, judging by actual results and not by theories; by existing facts as gleaned from the profit and loss balance sheet of the American people and not from the "mere talk" that filters down from high places, the burden of economic loss, due from loss of public confidence, invariably falls upon the common people.

Instead of working to strengthen and build up public confidence, it would seem that every element of political and financial power which now so completely dominates our country had conspired to its complete destruction. So we find the combined circumstances which had staged the scene with psychological correctness for a general stampede of fear, and when a great institution like the Knickerbocker Trust Company of New York, believed by everybody to be perfectly solvent and which has since proven to be entirely solvent, one of the strongest institutions of the country, closed its doors in the face of thousands of depositors clamoring for their money, the first tremor of fear passed through the American nation, and when during the days following one bank failure after another followed in rapid succession throughout the country the work of the "would be" reformer and Wall street conspirator was complete with the issuance of clearing-house certificates, converting a

whole nation of optimists of unbounded courage into a nation of pessimists and frightened citizens.

PANICS.

In the intelligent presentation of this subject I want to explain my use of the word "panic" and the words "Wall street," as used for convenience in portraying the thought which I have in mind. The failure of the Knickerbocker Trust Company was the one thing needed to produce a crisis. A crisis may or may not be followed by a panic. A panic may or may not be followed by a business depression, but in this instance we had first the crisis and then the money panic, in which everybody wanted to get hold of his own money and put it where he was sure of getting it when he wanted it. After the panic came the business depression, which is still with us and will continue to be with us for several months to come, and if Congress continues this play of party policy, ignoring the demands of the country, we can expect this business depression to continue with us for several years instead of several months.

For convenience and brevity, I will confine myself to the use of the word "panic" exclusively, for that is the word generally recognized by the people as descriptive of any economic disturbance, whether it be a crisis or a panic or depression.

WALL STREET.

In using the term "Wall street" I want to be distinctly understood. I do not belong to that class of political demagogues who are continually raising a hue and cry against Wall street, but I simply use it as a term to express a given character. Wall street, as a medium of exchange, has become so much a part and parcel of our financial system that it is just as inseparably connected with the commercial interests of the country as the grain markets are necessary for the interchange of the farmers of the world.

Through the medium of Wall street—the exchange—hundreds of millions of dollars of gold have been brought into the United States from foreign investors, and whether the gold comes here from Europe through the sale of stocks and bonds or through the sale of farm products the result on our balance sheet is just the same. As a public market place for the sale of stocks and bonds, Wall street has brought many millions of dollars of foreign capital into this country to help build our railroads, factories, and mills, thus giving employment to hundreds of thousands of American workmen.

To the extent of its usefulness Wall street is therefore entitled to full credit, but behind Wall street—the business exchange—we find the MAN—the colossal power of two or three or a half dozen men who to-day hold, under our present financial system, the destiny and prosperity of the entire American people. They have violated no statute law. They have done perhaps what ninety-nine men out of a hundred would do were they similarly situated—a system has grown up and they have grown with it. Wall street has become one of the mediums for the system, and through this medium a few men, with their country allies and their great ally of American fear, HAVE THE POWER ABSOLUTELY TO CREATE A PANIC ANY TIME THEY WISH.

The Wall street type of man is not confined to New York, but is found in every village, town, and hamlet of this country. I will describe him not only as he appears to my mind's eye, but as I find him existing in fact. As a rule he is an elderly gentleman with a benevolent appearance. Various opportunities have come to him in the past for making money and he has grasped them, which is his right and privilege. He has learned the value of economic science, the knowledge of fictitious values and knows the purchasing power of the dollar. He knows that DURING TIMES OF PANIC PRICES FALL and that he can then buy ordinarily twice as much for his dollar in the time of panic as he can during the time of prosperity. He is the man who watches for sheriff's sales and takes advantage of his neighbor's adversity. As a matter of diversion he may give away public libraries or other forms of public charity, which is considered by this class of men as the cheapest form of advertisement and indirect gain. He is the kind of man who, having made his money in a community, refuses to reinvest it for the benefit and upbuilding of the community.

For instance, he would rather invest his money in destructive stock speculation that holds the promise of great return than in constructive enterprise which would give employment to labor. Ordinary 6 per cent interest does not satisfy him. The farmer with a good first mortgage can not borrow from him, because this little Wall street man has learned by experience that if he keeps some ready money at hand, either in the form of cash or credit, there comes a period of opportunity, at least twice every year, for him to buy something at less than its real value and thus increase the purchasing power of his gold. So continued has been his success and so

great his absorption and love for power and gold and self that he has come to believe, and with all sincerity, that he has become the possessor of wealth by order of "divine right," and that the most beneficent charity toward the masses is to limit their earning capacity and to take from them what they earn as quickly as possible.

This type of man is naturally opposed to any form of legislation that will benefit the common people, and it is this same type of man which now controls this Government and this Administration. So when I use the term "Wall street," I mean that it shall apply to a type of man, and not Wall street as a public market and exchange, which I consider an economic necessity to the full development of the business interests of the country.

A FEDERAL GUARANTY OF BANK DEPOSITS.

Under the present national banking law the Comptroller of Currency has the absolute power to post a notice over the door of any national bank at any time and declare the bank closed. If the United States Government is going to take a part in the banking business and assume absolute authority to this extent, I want them to go still further, and when they cause the doors of a bank to be closed, to say to the depositors, We will see that your money is returned to you. When we consider that this thing which we call money is created only by and through the medium of the United States Government, and when we consider how vitally important this money is to the commercial needs of the country and to the happiness and welfare of our people, it would seem to be only fair and equitable and right that our Federal Government should offer every inducement in the interest of commerce and trade to cause the individual holder of this money to deposit it in our various banks in order that it may come into circulation and may be used in the ordinary channels of trade. To-day we have in round figures a total amount of currency in the United States of \$3,400,000,000, or a per capita of \$35. This small amount of money must handle an annual volume of business of \$100,000,000,000.

So it can readily be seen that it is vitally important that we have every possible dollar in actual circulation. Based upon the present deposit basis each dollar of actual cash is supporting at least \$4 of credit.

It has been estimated that there is at least \$1,000,000,000 of currency in the pockets of the people and in the bureau drawers and hiding places at home. While no system can be devised to have all the cash of the country available in the banks, nor is it desirable to do so, but I believe that with a form of guaranty which will satisfy the depositor that his money is safe under any and all conditions our lines of deposits will be increased by many millions of dollars. And each million dollars' increase in our bank deposits gives to the commercial interests of the country an increased business credit of \$4,000,000. In other words, if the deposits of the country are increased to the extent of \$25,000,000, the commercial interests of the country have an additional available credit for active use of \$100,000,000.

IDLE MONEY.

The dollar that is carried in a man's pocket or hidden away in the bureau drawers or under the carpet is entirely useless and is doing nobody any good. Ordinarily speaking, the working man or the farmer who hoards his money at home, who does not deposit it in his home bank, where it can be used for the commercial benefit of his community, is just as much a miser to the extent of his savings as the Wall-street man with his countless millions—with this difference, the Wall-street man has no fears for the future. With him it is not a question of bread and butter or providing a little competence against old age. With the workingman and the farmer the savings mean everything, and he can not be blamed, especially in times of general panic and commercial unrest, for withdrawing his savings from the bank and converting them into cash and taking them home until the wave of panic has passed. Therefore, it should be the duty of this great Government not only to create the dollar, but to regulate the banking interests of the country so as to surround each institution with every possible safeguard and insure the depositor absolutely against loss. After this is done it is then sufficient time to charge the wage-earner with individual selfishness and lack of patriotism in refusing to adopt the public banking house for the safe-keeping of his money.

When we consider, first, that the United States Government alone has the power of creating money, and when we consider, second, that the great majority of this actual money belongs to the farmers, miners, and mechanics, and all wage-earners of the country, we discover that if they did not bring the money which they have earned as a result of their labor and deposit it in the various banks of their communities the business of the country would be absolutely paralyzed and could not be

carried on. Therefore, it becomes important for the great development of our country and in the interest of our whole people that the Government should now assume a function which lies within its power, and which, had it exercised that power prior to last October this recent panic would not have occurred.

I disagree entirely with the economic student and expert who can point with accuracy to recurrent panics at stated intervals in support of his theory that panics are bound to come periodically, and that prosperity is a special panic-breeder. We used to have epidemics of contagious diseases, but have stopped them by the applied science of medical skill. I believe we have reached a sufficient stage of development in the commercial and industrial life of our country to be able to profit by past experience and apply such scientific treatment, through legislative acts, as to make impossible a recurrence of a panic produced by purely artificial causes. I am willing to admit that certain natural forces may combine to cause a panic, but I am unwilling to believe or admit that in a country so highly advanced in civilization and economic science as we are now, or should be, that it can be possible for a cycle of panics and business depressions to come at stated intervals of from five or ten or fifteen years of their own volition.

It strikes me as the most absurd thing imaginable for a great body of intelligent men, such as are represented by the leading financiers, to subscribe to that theory and to pass the word along the line that the "black plague" of panic will be due next year—get ready for it; hide your money; withdraw your orders; stop buying; stop consuming; stop work. There are two terms for which the Republican party must assume total responsibility, both for the authorship and their perpetuation, and these are "stand pat" and "sit tight." You have "stood pat" for the corporate interests of the country for the past ten years, and we now have the spectacle of this great American nation "sitting tight" and in comparative idleness. Over 300,000 freight cars standing idle, and over 2,000,000 people out of employment. Why? Because of crop failure, one of the natural causes of panic? No. Because of wars or preparation for war, another of the natural causes of panics? No; but because a few Wall street men wanted to secure certain business interests and properties, and pursued their usual method of getting them. They did not expect the thing to go so far as it did, but thought they could do what they had done a thousand times before—let the crisis extend until values had fallen sufficient to bring the desired properties under their own control and at their own price, and then stop the panic—but they had not reckoned upon one element, which is absolutely uncontrollable, and that is the element of universal public fear.

So I reaffirm my statement that this panic was one of fear and greed, instituted by the greed of the Wall street man to gratify his own designs and purposes, and the devastation was made complete by a combination of fear of both the bankers and depositors of the country.

THE REMEDY.

In the effort to provide a remedy against future panics, Congress is confronted with one of two propositions: To either make a revolutionary change of the entire banking and currency system of the United States or to approach the task by a process of evolution, correcting each mistake in our present laws as we discover it and removing each cause from the future as it has developed in the past. The appointment of a commission, which it is quite evident will be done, means that no positive action is to be taken with reference to any material change at this session.

THEFORE IT BECOMES NECESSARY FOR US TO CONSIDER THE EXPEDIENT OF DEVISING A REMEDY SUCH AS I PROPOSE, AND WHICH, HAD IT BEEN APPLIED TO THE LAST PANIC, WOULD HAVE STOPPED IT; AND IF APPLIED TO FUTURE CONDITIONS, FUTURE PANICS OF A SIMILAR CHARACTER WILL NEVER OCCUR.

The solution of this problem is exceedingly simple, and we need not so much a statistical knowledge of the banking conditions of the world as we need courage and confidence in one another; as we need to apply modern American methods to meet modern American conditions. In working out a definite plan to help the present and safeguard the future with relation to causes which have produced the recent panic, we have but one thing to keep in mind, and that is to *restore and maintain confidence in the minds and hearts of both the depositor and banker.*

While I am a national-bank man myself, and believe the national banking system to be the finest banking system in the world, yet I feel that our country has outgrown the national banking system as an exclusive system and believe that any national banking law which Congress may enact should include in its special benefits the State banks, trust companies, and sav-

ings banks, while at the same time leaving to them their rights and privileges as separate State institutions. I have prepared a bill along this line, House bill 12862, and ask unanimous consent that it become a part of my remarks:

[H. R. 12682. Sixtieth Congress, first session.]

A bill to restore public confidence and safeguard the people's savings against loss through bank failures.

Be it enacted, etc., That on and after the passage of this act the United States Government shall guarantee all depositors in all banks accepting the provision of this bill against loss for any and all moneys which are now and may hereafter be deposited by them in said banks.

SEC. 2. That all national banks shall be entitled to receive this Government guaranty immediately upon making application in due form, which application must show the solvency of such bank at said time.

SEC. 3. That all regularly chartered State banks, savings banks, and trust companies shall be entitled to receive this Government guaranty: *Provided*, Their financial condition, after examination, shall be approved by the Comptroller of the Currency and the Secretary of the Treasury of the United States: *And provided further*, That the laws of the State wherein said bank or trust company is located shall be made to conform to the requirements of this act.

SEC. 4. That no bank accepting the Government guaranty shall at any time use its surplus for the payment of dividends or salaries.

SEC. 5. That when a guaranteed bank or trust company shall have sustained a loss, through a depreciation of its securities or otherwise, to the extent of reducing its surplus below the amount as shown upon its statement at the time of receiving the Government guaranty, it shall be deemed unlawful for said bank to pay dividends upon its capital stock or increase the salaries of officers or employees until its surplus has been restored to the amount as set forth in its statement at the time of making application for the Government guaranty.

SEC. 6. That any bank or trust company accepting the Government guaranty and having a surplus less than 100 per cent of its capital shall add to its surplus fund from its net profits each year an amount equal to 4 per cent of its capital until its surplus shall equal its capital.

SEC. 7. That if any bank or trust company accepting the provisions of this act shall sustain a loss or losses in a sum or sums greater than its accumulated surplus, or, if from any cause, the deposits are suddenly withdrawn, the Comptroller shall cause the deficiency to be supplied as hereinafter provided. Any bank receiving such assistance shall give to the Comptroller a 6 per cent annual interest-bearing collateral note, depositing with the Comptroller such securities from the bank's files as the Comptroller may choose. Said note shall be paid by the bank in full, with interest, from the first net earnings of the bank.

SEC. 8. That immediately on the passage of this bill, and each six months thereafter, the Comptroller of the Currency shall be, and he is hereby, authorized and directed to levy and collect a semiannual tax of one-tenth of 1 per cent of the capital stock of each national bank, State bank, savings bank, or trust company accepting the provisions of this bill: *Provided*, That all moneys received from said tax shall be set aside from the general treasury fund and used exclusively as a depositors' insurance fund, for the purpose of reimbursing depositors of any failed bank provided for under this bill: *And provided further*, That in the event the above-named tax is not sufficient to meet said losses, the Comptroller of the Currency is hereby authorized and directed to levy and collect such additional tax as the exigencies of the case may warrant: *Provided further*, That when the depositors' insurance fund, as above described in this section, shall have accumulated to an amount of \$10,000,000, then no further assessments or taxes shall be levied for the purposes of this bill until said fund shall have been reduced through the payments of depositors' losses to an amount less than \$10,000,000, or until such time as in the judgment of the Comptroller he shall deem wise to renew the tax, as above provided.

SEC. 9. That it shall be unlawful for any bank to increase its loans or investments or increase its salaries to officials or pay dividends while a 6 per cent Government note is outstanding against it.

SEC. 10. That the law as applied to national-bank reserves, examinations, stockholders' personal liability, and processes of liquidation shall also apply to all Government guaranteed banks.

SEC. 11. That when a bank has received assistance from the Government and given its 6 per cent note as provided for in section 5, the Comptroller of the Currency, with the consent of the Secretary of the Treasury, shall have the right to place a Government bank expert in charge of the bank's affairs for such length of time as the exigencies of the case may require, the expense to be paid by the bank or to become a part of the bank's liabilities. And he shall further be empowered, with the consent of the Secretary of the Treasury, to make such recommendations for the future operation of said bank or banks or take such further or other action in the matter as in his judgment may be deemed necessary or advisable.

SEC. 12. That all moneys received by the Comptroller from the collection of principal or interest from outstanding 6 per cent notes from banks that have received assistance under the act shall become a part of the depositors' insurance fund as provided in section 8, and shall not be appropriated for any other purpose.

Sections 13 and 14 provide for the repeal of the present bank-note circulation tax.

EXPLANATORY SUMMARY OF THE BILL.

In a brief analysis of this bill, which I propose, section 1 makes the acceptance of the measure voluntary and is not compulsory—that is, a bank may or may not join this guaranty fund, as it may deem wise.

Section 3 permits all State banks, savings banks, and trust companies to receive the benefit of this Government guaranty providing their financial condition after examination shall be approved, and that the laws of the State wherein said bank or trust company may be made to conform to the requirements of this act.

Sections 4, 5, and 6 have in view the upbuilding and strengthening of the surplus of each bank and makes the surplus and reserves of trust companies and State banks uniform throughout the country.

Section 7 makes it possible for any bank to meet a run and receive help in time of panic or distress.

Section 8 provides the levying of a semiannual tax of one-tenth of 1 per cent of the capital stock of each bank accepting the provisions of the bill, the money received from said tax to be used as a depositors' insurance fund, and provides for the levying of an additional tax to meet depositors' losses, should it become necessary, and for the suspension of the tax, after a fund of \$10,000,000 has been accumulated, until further needed.

Section 9 is to prevent a bank borrowing money from the insurance fund for the purpose of increasing its loans.

Section 10 places the State institutions under the same supervision as national banks, and will have a tendency to prevent the "kiting" of securities back and forth between national banks and trust companies, which is now the general practice and is one of the indirect causes of bank failures.

Section 11 provides for the removal of the cause of the bank's embarrassment and for the continuation of the business.

Sections 13 and 14 repeal the tax on circulating notes, and which I now recommend should be eliminated from this bill.

CAUSE OF BANK FAILURES.

Banks never fail except for one of three specific causes—violation or neglect of the banking laws upon the part of the officers or directors; bad investments, which is one cause of a hundred, or embezzlement upon the part of the cashier or officers. In either of these cases a failure might have been prevented by a closer surveillance upon the part of the Government. This being true, I hold that the Government is, to a certain extent, an accessory before the fact in every national-bank failure, and the UNITED STATES GOVERNMENT SHOULD EITHER WITHDRAW ENTIRELY FROM THE BANKING BUSINESS OR ASSUME ITS rights and privileges by guarding the business in the interest of the public welfare still more closely.

The national banking business of this country is operated upon a strictly scientific basis and properly officered and the present laws lived up to there is no reasonable excuse for any national-bank failure, and in all the history of American banking we have yet to record the first failure of any national bank where the laws have been rigidly observed.

A BANK THAT HAS ONCE BEEN SUCCESSFUL SHOULD NEVER BE CLOSED.

Banks will make bad loans and meet with losses just the same as a manufacturer or merchant will make bad sales and have their losses, but where a bank is so located as to supply a public necessity and with a line of deposits to make it profitable there is no reason under the sun why that bank should close its doors, and under the operation of my bill there will never be any more bank failures or suspensions.

The application of the proposed law would work with automatic and scientific precision, and if losses have been sustained to the extent of impairing the surplus and capital of a bank, the Comptroller has it in his power to remove the cause and, INSTEAD OF CLOSING THE DOORS, THE BANK GOES ON DOING BUSINESS. There has never yet been a bank failure within the limit of my observation or knowledge but where the cause of the failure being removed, the BUSINESS RE-ORGANIZED, PUBLIC CONFIDENCE RESTORED, the bank has invariably recovered its losses and continued as a dividend-paying proposition to its stockholders.

In providing a Government guaranty there would never be an additional tax levied to meet any loss, for there never would be any extraordinary withdrawal of deposits, and so long as the banker can rely with a reasonable degree of certainty that his deposits will remain at a normal state he can tell with very great accuracy just how far he can extend his accommodations to the merchant and manufacturer and general borrower. He can tell what loans can be safely renewed, as well as what new loans can be made. Our recent panic, as far as the country at large is concerned, was caused more by fright upon the part of the banker than upon the part of the depositor. The average banker is not only an honest man, but a man of the highest integrity in his community and who prides himself upon his being able at all times to give his depositors their money when they ask for it. So, when a condition of panic exists each conservative banker wants to keep his own institution strong, and proceeds immediately to increase his cash reserve, TO CALL IN OUTSTANDING LOANS, AND TO REFUSE TO GRANT ANY NEW LOANS. While in many cases there is no real justification for this procedure, and notwithstanding the harm he works upon his individual community and as an integral part of the banking system of the country contributes his share of harm toward the country, yet he can not be censured, for the reason that he does not know how soon

his depositors may be frightened and line up in front of his window demanding cash, so a form of a guaranty which will satisfy the depositor under any and all conditions is just as essential for the benefit of the banker as it is for the depositor, and still more IS IT ESSENTIAL FOR THE FAIR INTERESTS OF THE BORROWER.

The records from the national-bank examiners' reports show that a tax of less than one-tenth of 1 per cent would have been more than ample to meet all losses to depositors during the past forty years. Since 1865 the average yearly national-bank losses have not exceeded \$850,000, while my bill provides a fund of \$2,000,000 annually. But bankers themselves are generally against this proposition, and argue that it is unfair to tax good banking institutions for the unsound banking of other institutions. That a bill of this kind would encourage poor banking and would relieve the responsibility which the bankers feel toward the depositors and, finally, as the real milk in the cocoanut of this proposition, the men who have built up a large and prosperous banking institution feel that under a Federal guaranty all banks would possess the same element of strength and they, in consequence thereof, would have some difficulty in holding all their patronage.

GOVERNMENT CAN NOT LOSE.

Under this bill the Government and associated banks are first protected by the capital-stock investment; second, by the surplus and undivided profits; third, by the stockholders' liability, representing three times the capital stock, and I would like to ask if any Member in this House knows of any banking institution anywhere that he would not be willing to-day to take its business over upon that basis. This is what we would do under my bill. Instead of liquidating the affairs of a bank and creating losses we continue the business without drawing a dollar from the National Treasury, and APPLY THE EARNINGS OF THE BANK TO REPAY THE LOSSES BEFORE THE STOCKHOLDERS GET ANY DIVIDENDS.

I repeat that this bill would work out with automatic and scientific correctness and that before the Government can sustain a dollar of loss or the individual bankers bear an additional assessment to meet a loss you have, first, all the bank's assets; second, the capital stock; third, the surplus; and, in addition to all that, the stockholders' liability of 100 per cent. As a business proposition I know that you would be willing to take over the banking business of the country to-day upon that basis, and especially so would you take it over if you could have the privilege which you have under this bill of examining the conditions of the bank before it is permitted to receive this guaranty. The general average of bank-stock dividends or net earnings throughout the United States is 15 per cent annually. The annual tax provided herein is 2 mills on the capital stock.

So the argument against the tax falls in the evidence of past history and our general knowledge of the banking business. But even suppose the banks were obliged to bear this small tax. If it can be shown to be in the interest of the public welfare, the tax would be justifiable, though it would seem to be beyond all argument and the widest possible stretch of imagination that the bankers would not receive through the increased deposits which would come into their vaults because of a guaranty of this kind and a larger loaning and earning capacity because of a more steady volume of deposits, sufficient to increase their net earnings very much greater than any possible tax which might be imposed. But in the consideration of this proposition we have the interest of the whole people to safeguard and protect and not the special interest of the Wall street banks.

As to the question of this bill encouraging wild-cat banking, it will have the opposite effect; because each bank in a community will then have an interest in each other bank and will be on guard as to its own affairs as well as its neighbor's affairs. The same argument would be just as reasonable as applied against life insurance, that a man would be more disregardful of his health because his life is insured, or it could be applied to fire insurance, that a man would be more careless of his property because his property was insured. If business history teaches us anything, we have learned that insurance is a fundamental and economic principle, and the question of this insurance is not so much to prevent the loss as to prevent the wide spread of harm which comes from a loss of this character, and the opposition of banks to this bill is not because of a fear of loss to themselves, but because of a selfish fear of a competitor's possible gain.

FEWER BANK LOSSES IN FUTURE THAN IN THE PAST.

This recent agitation for reform, judging from actual results, has been used more as a political asset than for the ac-

complishment of real good to the masses, and has included within its realms various attacks upon the general banking business. True, men in high places have proved faithless to the trust and confidence imposed in them by their business associates and by the general public. Isolated cases of this kind always have existed and always will exist. There is one element of good, however, which will come from this panic and this general business reorganization. Corporate management of all kinds, whether applied to industrial pursuits or to the general banking business, will be cleaner and of a higher personal order than at any time in the past, and that, too, without any change whatever in existing laws.

Losses through national-bank failures will be less in the future than they have been in the past. Men are growing better, and the standard of individual honor among all classes of business men is higher to-day than it ever was before, and no man is willing to forego the good will of his fellow-citizens and bring upon himself and his family the social ostracism of his whole community by taking the speculative chances of violating the laws of the land or the betrayal of the trust of his associates. It is impossible, therefore, to concede that because the possibility of loss is removed from his depositors the banker is going to take greater risks than he ever did before. The banker of the present day has no thought of the depositor's loss at all. He is concerned entirely and solely for his stockholders, and, knowing as he does that before the Government can supply the loss to his depositors that he must first give up the earned surplus of his bank and call upon the stockholders of his bank to pay an assessment of 100 per cent upon their stock, the same degree of conservatism will exist as before, and more so, for the reason that the Comptroller of the Currency will have authority under this bill to remove any officer or director from any bank whose conduct has been in direct opposition to the best interest of the bank. Had this law been enforced, such a condition as was found in the Knickerbocker Trust Company could not possibly have existed.

Again it has been urged that if the Government were to guarantee the banking business it could with the same degree of reason be expected to guarantee the merchants' business, the manufacturers', the farmers', and so forth. The absurdity of this form of argument carries with it its only rebuttal as being unworthy of earnest consideration. Under the provisions of this act the Government assumes no direct responsibility. IT DOES NOT GUARANTEE THE BANKING BUSINESS—it does not release the stockholders' liability. It merely requires the bank to return the depositors' money any time they call for it. It would never pay a dollar out of the people's Treasury and simply acts as a trustee to receive and disburse this insurance fund.

Furthermore, a merchant may fail, but his failure has only to do with himself and his immediate creditors; but when a bank fails it involves the stockholders, the depositors, and the business interests of the whole community. The banking business is not a private business, but is a quasi public function, and it is but fair and right and equitable that the Government should consent to act as a medium for conserving the mutual interests of the stockholders, the officers, depositors, and borrowers of the community.

Now, just one word to the banker who is afraid that his less deserving competitor is going to be given an undue advantage. This applies to about 99 per cent of all bankers, because they all believe that they have the best and most conservatively managed institution. If you will make inquiry into the success of a banking institution, you will find behind that institution an asset which neither law nor government can give, and that is the human energy in the form of the cashier and active officers of the bank. I care not what the competition may be, the same causes which have worked to build up a successful business will continue to hold that business regardless of any and all law. We can see the evidence of this fact in every walk of commercial life. We see one merchant eminently successful and in the same block another merchant sold out by the sheriff. One man will go on a farm and make it pay, while another man may go upon the same farm and with practically the same conditions prove a failure. One man begins the manufacturing business on a small scale, and in the course of time has developed a tremendous business, while, upon the other hand, we see men in the same line of business, with the same opportunities, not meeting with anywhere near the same degree of success.

So the human element—the element of personal equation—will always be the business-getting and business-holding element in the banking business just as well as any other form of business, and a uniform law which will insure the same degree of careful, honest management and place all upon an equal footing, instead

of working harm to any one institution will work a benefit, both directly and indirectly, to all banking institutions.

The argument of Banker Smith that it is unfair to give his competitor across the street, Banker Jones, the same advantage which he has, is the most foolish argument advanced. The man who is in the banking business purely as a question of individual profit, without any regard whatever in the good which he can do his community, is a misnomer, and the sooner he goes out of the banking business the better for himself and for his community, because he is violating the fundamental laws of the banking business and will meet with failure sooner or later, or, at least, will not bring to his community that degree of success which he should and to which his community is justly entitled.

EMERGENCY CURRENCY.

Now, just a word as to emergency currency. No one can tell with any degree of certainty whether or not we have a sufficient amount of currency to meet our legitimate business needs. I am inclined to the belief that with a form of guaranty where we can count upon a fixed amount of money, available at all times, with a fair degree of accuracy, perhaps our present currency is ample. Any ordinary plan of emergency currency without a depositor's guaranty would prove a failure in a time of universal panic. Upon the other hand, a depositor's guaranty law may prove to be sufficient to meet all demands without provision for emergency currency. Of the numerous bills brought before the Committee on Banking and Currency there were but four given any consideration at all, viz, the Fowler bill, the Williams bill, the Aldrich bill, and the Vreeland bill. Of these the most pernicious measure of all, the Vreeland bill, was permitted to come before the House, and as an object lesson for the American people the action of the House with reference to the Vreeland bill was such as to invite the serious thought and consideration of the American people.

Never since the days of the civil war has there been any legislative measure up for consideration of more vital importance to the people of the United States than the present question of currency and banking reform. This subject applies to neither Democrats nor Republicans as a class, but does apply to every man, woman, and child in this country, and here, after six months of panic, in this, the greatest legislative body in the world, we are presented by the leader of the majority with a financial measure, not with the view of affording relief, but with the twofold object of serving a political purpose and of continuing the Wall street monopoly of the money of the country.

A PREDATORY MEASURE.

The Vreeland bill is so cunningly devised as to give a few of the larger city banks absolute control of a proposed issue of five hundred million dollars (\$500,000,000) in greenbacks. Thus we see the Republican party, the gold-standard party, the stand-pat party, going from one extreme to the other of trying the most dangerous experiment of unloading five hundred million dollars (\$500,000,000) of greenbacks upon the American people, with practically no security back of them except the promise of the bank to pay. Such a measure would stand no possible show before a deliberative body after a period of full and fair discussion, and instead of allowing ample time and free speech for the education of the House and country upon the subject, the gag rule is applied, giving to each side two hours of debate and removing all right to amend, upon this vitally important measure. The extreme fright of the Republican managers seems to have caused them to lose all judgment, and, strange to say, they intended to force this bill through merely to strengthen a failing political cause at the next election. As a Democrat, speaking from a standpoint of politics, which has no right to be injected into this consideration, but which has been forced upon us by gentlemen of the other side, I would have been willing to see the Vreeland bill become a law, for with it would have come the absolute disapproval of the great American people. The Vreeland bill is such that not a single country bank would have dared accept its provisions, and any national banking law which does not accord equal rights and privileges to every national bank, whether its capital is \$25,000 or \$25,000,000, is not a just law and will not stand the practical test of the science of banking or supply the wants of the people. The bill simply legalizes clearing-house certificates, lending to the Wall street banks the full authority and power of the people's Government, that the centralization of the banking power of the country may become still more intensified and in times of panic or depression used as a weapon against the people and for the interest of Wall street, because the practical workings of this bill will centralize the issue of so-called "money" to the exclusive use of the stock gambler and will be absolutely and entirely beyond

the reach of the commercial or manufacturing interests of the country.

That there is an element of danger in every form of emergency currency that could be issued there can be no doubt. We can learn but little from the banking systems of the Old World for practical application here, for there is no country on the globe which I am willing to place in the same class with that of America. Take France, Germany, England, Italy—all these countries are developed and with settled business habits. England has \$100,000,000 less currency than she had ten years ago. The needs of their people are entirely different from the needs of the American people. Though a system of currency or finance is successful in France or England or Germany, it can not be said with any degree of certainty that the same system would be equally successful here. Our national banking system has enabled the American people to develop 40 per cent of the entire banking capital and deposits of the whole world. It has enabled such men as Carnegie and Rockefeller to amass fortunes equal to the total amount of currency of our country; and yet it is this class of men who condemn the national banking system as being the worst system on earth.

POSTAL SAVINGS BANKS.

With reference to a Federal guaranty of deposits, I find some men who oppose it, because, they say, it is paternalism, and that the Government has no right to enter into such a contract, and others who object upon the ground that it gives their competitors an advantage of which they are unworthy. TO THIS I WILL ANSWER THAT YOU MUST NOT FORGET THAT ALL LAWS COME FROM THE PEOPLE. FOR A TIME THE POLITICIAN REPRESENTING CORPORATE INTERESTS CAN THWART THE PEOPLE'S WISHES, BUT IN THE END, IN THIS AMERICAN FORM OF GOVERNMENT, WHICH STANDS AS THE GREATEST HUMAN GOVERNMENT IN THE WORLD TO-DAY, THE PEOPLE WILL RULE.

If you have any doubts in your mind as to whether the people want their Government to assume this trusteeship for their deposits, all you have to do is to ask your people and you will be convinced. And I want to warn you that the demand for a Government guaranty is finding voice in a proposed postal savings-bank law, and every local banker must choose between a Government guaranty of deposits and home competition among his fellow-bankers with equal opportunities, or competition with the post-office banker with Uncle Sam as his backer. I will probably be obliged to vote for a postal savings bank if the measure comes before the House, because my constituents want me to do so. But I want to say here and now that I consider a postal savings bank a most dangerous innovation in partisan politics, which will become the most dangerous intruder and competitor in the banking business that any banker has ever yet encountered or even contemplated.

The bitter fight of the Wall street elements to gain control of the treasuries of the large insurance companies in which men were driven to suicides' graves or banished from their country, and many honest men despoiled both of money and reputation in order that special Wall street interests might prevail, would be but a bagatelle as compared to the fight which will take place to secure control of the people's Government and this enormous fund of money which will pour into Washington from the 70,000 post-offices throughout the country.

Suppose that each post-office would receive on deposit under normal conditions an average of \$10,000, and this would be a small average, it would represent a total of \$700,000,000, not in credits but actual cash, or almost one-third of the total available cash in the country to-day. But it is argued that this money will be redeposited in the banks. But, Mr. Chairman, there is an element of chance in this which our people and the industrial interests of the country can not afford to take. Every community needs the money which has been created by the energy of the men and women of that community for its further development and for the local manufacturing and commercial needs. A post-office now receives, say, \$10,000 of the money of that community. It is sent to Washington and taken away from the local borrowers. There would be no method of distribution whereby this money could be returned with equal fairness to all concerned unless the law is made clear and imperative that all money so received shall be redeposited, not in one bank in the town but in all banks in the town, and even with the greatest safeguard with which you could surround such a law the bulk of this money would drain into Wall street, just as the bulk of the \$200,000,000 now in the Treasury goes to Wall street banks for speculative purposes.

Suppose, for instance, a postal savings bank law had been in force last October at the time of the Knickerbocker failure, with the streets filled with people standing for hours with their

pass books waiting to get their money. What would have been the result? All individual depositors in New York City would have withdrawn their accounts and taken their money to the post-office. Not only every bank in New York City would have been obliged to close its doors, but every bank in the United States. A postal savings bank would simply add fuel to the flames in time of panic and place another weapon in the Wall street manipulators' hands whereby this people's Government is made subservient to the interest of the Wall street system, and it is most astonishing to hear the argument advanced that the Government has no right to assume the responsibility of a depositors' guaranty by persons who, upon the other hand, advocate a postal savings bank system, whereby THE GOVERNMENT PLACES ITSELF IN A POSITION TO RECEIVE ALL THE DEPOSITS OF THE COUNTRY AND WITHOUT ANY RESTRICTION WHATEVER AS TO HOW THOSE DEPOSITS SHALL BE DISTRIBUTED AMONG THE BORROWERS.

PROFIT AND LOSS ACCOUNT OF PANICS.

In every disturbance of the industrial or commercial interests of the country, such as take place during a time of a money crisis, a panic, or a business depression, both of which we have had during the past six months, there takes place an economic change. In every business transaction where there is a profit and a loss, one man or interest receives the profit by and through the loss of another person or interest. So in times of panics the volume of money remains the same, but its ownership changes hands and its purchasing power increases because of falling prices. Those who lose in a time of panic are the producers of the country—the farmer, the laboring men of all classes, the small merchant, manufacturer—in fact, every branch of legitimate business or commercial industry suffers with the laboring class; while the only interests which profit by a panic are the individual Wall street interests, such as I have described and which control the money power of the country through the medium of the present banking system and the Wall street exchange.

So it is fully apparent that panics come at stated intervals, because they serve the purpose of the money interests of the country in maintaining a high purchasing value for their money and of preventing the laboring and industrial interests of the country from accumulating more than these philanthropists think is good for them. So we have the spectacle of a new form of American slavery where 85,000,000 people have less constructive or defensive power than a half dozen Wall street men whom I can name. Our 85,000,000 people represent 85,000,000 separate units with their surplus earnings pouring into one centralized base, and it would seem most strange, and yet it is painfully true, that while the 85,000,000 people produce and create the wealth of these United States through their various forms of occupation and by the sale of their labor, yet they delegate with scientific certainty to six men the power to say not only what they shall pay for everything they must buy, but also what they shall secure for the sale of their physical energies in the wages they receive.

UNDER OUR PRESENT SYSTEM OF FINANCE IT MATTERS NOT TO THE WALL STREET INTERESTS WHAT DEMANDS THE PEOPLE MAY MAKE UPON LEGISLATION, FOR SO LONG AS THEY, "THE INTEREST," CONTROL BOTH THE PARTY IN POWER AND THE MONEY OF THE COUNTRY, THEY HAVE THE POWER TO FORCE THE PEOPLE INTO ABSOLUTE SUBMISSION BY TAKING THE BREAD OUT OF THE DINNER PAIL, WHICH SIX FINANCIERS AND SIX POLITICIANS NOW HAVE THE POWER TO DO, ARE DOING AND HAVE DONE TIME AND AGAIN.

Our system of banking and currency is so rigid and the entire fabric so interwoven with our industrial and commercial needs that a severe shock to any part is felt throughout the entire system. We have, in round figures, about \$3,400,000,000 of actual cash in the United States, of which but two-thirds is in active circulation. So the entire volume of business of the United States, totaling over \$100,000,000,000 annually, must be transacted through the medium of our three billion cash, or each dollar must be turned at least from 50 to 100 times each year in order to meet the ordinary business demands.

ENORMOUS DEMAND UPON OUR CURRENCY.

Now, when we stop to consider that Congress is collecting \$1,000,000,000 in cash from the people each year, that the total sum of local and State taxation far exceeds this sum; the vast sums required for railroads, waterworks, electric-light and gas plants, the building and operation of mills and factories, the harvesting and marketing of our farm products, and the building and improvement of homes, we can understand how rapid must be the passage of the dollar between one and another in the prompt payment of business obligations, and how neces-

sary it is that every available dollar shall be deposited in our banks where it may be made available at all times not only for the depositor but for general public use, subject to the rules and regulations of modern banking.

Therefore, when there is an interruption in the passage of the dollar, such as we have seen during the recent money crisis, business halts. If a panic follows the crisis and fear enters the hearts of our people, everybody waits and business becomes paralyzed. Then is when an economic change takes place. Property values fall and property ownership passes from the weak to the strong; suffering and hunger come to those who have nothing to sell but their labor, for they can not sell their labor.

This interruption will follow an extraordinary cause, such as war, earthquake, crop failure, or fire. Suppose, for instance, the great cities of Chicago, New York, and Philadelphia were to be destroyed by a fire, which always represents an absolute loss. The protection by insurance merely distributes the burden of loss; the money of the country would be withdrawn from the commercial needs and used for the rebuilding of the cities, and until they were rebuilt and the money returned to the regular channels of trade we would have a business depression.

During our present depression we have had none of these extraordinary causes, nor have we had any overproduction or excessive accumulation of manufactured products, so the cause must therefore be a purely artificial one and of Wall street origin. Any violent change or withdrawal of bank deposits reacts immediately upon the business interests of the country. So when labor becomes too insistent with its demands or the farmer begins to ask a higher price for his products, and because of these higher prices for labor and the products of labor the national balance sheet of profit begins to turn in favor of the producer, the Wall street interests call a halt, and by causing a withdrawal of fifty to one hundred million dollars from circulation can produce a panic within twenty-four hours' time. Interest rates jump from 6 per cent to 150 per cent. Loans are called; credit refused, regardless of the strength or security of the borrower, and then—the strange fatality of our present system—the people become panic-stricken and, thinking only of self-protection, rush to their banks and withdraw their deposits, thus innocently becoming direct instruments in the hands of Wall street in bringing about their own destruction. And the panic of Wall street greed and public fear is on.

TWO CLASSES OF BANKS.

Under our financial system there have sprung up two classes of banks, which may properly be termed "Wall street banks" and "people's banks."

A banking institution is by no means a private affair, but is a quasi-public institution, and in its individual management and the laws which govern it there are four separate interests to be conserved, viz, the government—either national or State—the stockholders, the depositors, and the borrowers.

It is a matter of deepest regret to observe in the speeches in this House and in the general attitude of the public a growing hostility toward all banks in general. This is a grave error. The banks of our country represent the very essence of our national vitality and the sole medium which has enabled us to achieve our wonderful industrial and commercial progress. They should be held inviolate and sacred not only by the public, but by the officers who have taken a solemn oath to manage them honestly and in the best interest of the Government and the public.

The true mission of a bank is to make a central place of deposit, where the moneys of a community may be collected for safe-keeping and made available for the commercial uses of the community.

The people's bank type of bank manager realizes the true functions of his bank and recognizes his duty toward the community to which his bank owes its existence. If his county or town or township needs money for public improvements, he furnishes it for them. If the local manufacturer needs additional money for the development of his business which gives employment to men, and the security he offers is good, he is taken care of, thus establishing a practical degree of scientific cooperation between the wage-earner and capitalist of mutual benefit. If the farmer or home builder or merchant needs money, and his indorser or security is good, he gets it, and being so favored he can, perchance, increase his own earnings, which in turn adds to the strength of the community, and again demonstrates the true principle of mutual cooperation.

The Wall street banker looks upon his bank as a personal matter, with no other concern than to declare large dividends for his stockholders. He chafes under any and all Government restraint. He denies the right of the public to participate in the benefits which should flow from all banks. If the stock gambler will pay 10 per cent or 100 per cent for money he gets

it, even to the extent of calling the loans of the manufacturer, causing him to close down his plant, throwing men out of employment—the very men perhaps whose productive energy has been flowing into the banks through the deposits of their savings. But this type of banker forgets everything but self-profit, and so filled is he with the “divine right” idea that he eventually comes to look upon the deposits of his bank as being his own personal money and there for his exclusive benefit. This principle seems to underlie every financial measure which has been favorably considered by this Congress, and is most strikingly exemplified by the distinguished Senator from Rhode Island, the Republican leader in the Senate, in his speech, delivered in the Senate on March 20, 1908.

In discussing the question of a Federal guaranty of bank deposits, he says:

The people of the States of the Union are not interested in this question. They are not the depositors. I refer to the common people. The people who deposit in the banks and the people who borrow the resources of the banks are business men who can take care of themselves, and there is no reason why we should run mad in this idea of paternalism.

Whether the distinguished Senator really did not know, or whether, in the heat of debate, he was willing to make such a statement for its immediate effect upon his colleagues, believing that it would go unchallenged, is a matter upon which we will probably never be enlightened.

The statement, as compared with the facts, is but in accord with the usual attitude of the “Wall street” man toward the people. There are to-day 15,000,000 bank depositors in the United States, and with a Government guaranty the number would be doubled. Of the deposits of the average bank, fully 70 per cent is made up of small accounts, representing the individual savings of the people. Banks must look to the “common people” for their support. It is upon the large number of small deposits from which the average bank must make its loans and make its profit. The merchant or manufacturer may have a good, strong balance to-day, but the needs of his business may cause him to check it all out and make him become a borrower to-morrow. Therefore his deposits can not be counted on for loanable funds. Upon the other hand, the small savings of the wage-earner and the farmer usually continue for a definite period undisturbed and, under normal business conditions, continue to accumulate.

THE PEOPLE OR WALL STREET.

The time has come in America when the real issue between “Wall street” and the people must be squarely met. It can not be wholly met by legislation. Neither morals nor honesty can be legislated into men. You can not prevent a hungry man from breaking into your smokehouse at night and stealing a ham by merely locking the door, nor can you prevent a “Wall street” man from violating the law if it is to his interest to break the law.

Both may become lawbreakers, but there is a difference in the punishment. The hungry man who steals something to eat is called “a thief” and sent to jail, while the “Wall street” man who steals a railroad or a bank is called “a financier” and addressed as “My Dear Mr. Carrymon: I will be delighted to see you and discuss with you the issues of the campaign.”

Notwithstanding the fact that this has been a failure of doing nothing, spendthrift Congress, its very inaction and sort of respond to the needs of our commercial and industrial life are destined to bring about a resulting benefit to the American people far greater than any possible legislation, by forcing the people to recognize their helplessness and the utter futility of looking to Congress for relief, of depending entirely upon government or law or a President, and of bringing to their direct attention the absolute and irresistible power which they have within themselves. *The great question of the present and of the future is not one of Democracy or of Republicanism, but whether our 85,000,000 people, representing 85,000,000 working, thinking, earning units, creating by their labor all the wealth of the country, shall be masters of their own destinies and their own Government, or whether they shall be the slaves of the “Wall street” interests. There can be no disguising the fact that the fight is now on between the people and Wall street. The political party which stands for the people will live. The party which stands for Wall street will die, for the people have so decreed.*

The legitimate banking interests and the general business interests of the United States have learned that the interests of the farmer and wage-earner are theirs; that true prosperity must begin with the people and radiate from the people. They have learned that the tariff extracts a toll of \$12,000,000,000 per year from the pockets of the people, transferring this sum into the treasuries of the consolidated trusts of the country. For confirmation of this statement see the report of the last

conference of the manufacturers of the United States. Think what this means—an average direct and indirect per capita tax of \$140 for every man, woman, and child in America. They have learned that the collection of these vast sums not only does not contribute to the profits of the merchant or banker or small manufacturer, but weakens the purchasing power of the people from whose business they must live. They have learned that prosperity can not be created either by the President or Congress, but that it can be destroyed by them through the destruction of public confidence; that the President of the United States may be as wise as Solomon, as persistent in his efforts for good as Moses, and honest as the patriarchs; yet if Wall street controls the lawmakers in Congress, the efforts of the President are void of practical results other than that of getting votes for his party.

The annual collection of these vast sums from the people and their concentration into the hands of a few, the continued weakening of the power of resistance upon the part of the people, and adding to the cumulative power of the centralized, predatory interests have assumed proportions of the most grave concern and can reasonably be viewed as a national menace.

That a change must come there can be no doubt. That \$5,000,000 people will submit to the form of slavery as imposed by the predatory interests for all time is beyond conception. But the change must and will come by evolution, not by revolution. To destroy or to take by force, whether by Executive order or by mob rule, is anarchy. To create, build up, or produce is patriotism and statesmanship, and it is this last-named policy to which the people of the United States are about to address their energies in a practical and scientific way.

PEOPLE'S BANKS.

To this end the farmers and workingmen of Pennsylvania have made a substantial beginning. They are beginning right, and at the bottom. They realize that all power comes from the control of the dollar which they have produced, and they have decided to continue not only the ownership of their dollars, but the control of them as well, by the establishment of their own banks, owned and managed by themselves, in the interests of the people and not in the interests of “Wall street.” They are willing and want their savings to be used for the benefit of their communities, but they are unwilling that their money shall be exchanged for the watered stock or bonds of Wall street or be used by the trusts as additional weapons against them. The movement of the Pennsylvania farmers and miners and producers of all classes is destined to become world-wide in its operation, and eventually the crowning consummation will lie in the establishment of a great central bank, owned and managed by the people, not owned and managed by the Government or the politicians, as the leaders of the present majority party would propose.

The people of the United States, the “common people,” so named by Senator ALDRICH, have on deposit to-day in the various banks and trust companies of America over \$10,000,000,000, or enough surplus to buy control of the Standard Oil, United States Steel, and every great railroad in this country. With the ownership of these and kindred great enterprises would not only come an increased earning, but the ownership and control of the Government would again pass to the people. For the men who control the money of our country will always control our Government, and it is useless to try to disguise this economic and practical fact.

THE POWER OF THE PEOPLE.

The people do not as yet realize their own power. Suppose every bank depositor in the country should withdraw his deposit; what would be the result? I leave it to your imagination. As an illustration of the financial power of the “common people,” suppose some day some one in whom the American people have confidence will say to the people, “Let us get together and pool our forces for mutual benefit. Let each person lay aside the sum of 5 cents each day for a year and found a people's national bank, to be controlled by a board of trustees of public men of the highest honor.” It would mean a capitalization of over one and a quarter billion dollars, or more than the total capitalization of all the national banks in the United States to-day. It would put an end to artificial panics and business depressions. It would permit the business of the country to go on without interruption and forever stop this process of letting the American people go just so far and then pulling them back to begin all over again.

ECONOMIC LOSS TO THE NATION.

If there is one free right of American workmen, it is the right of employment at living wages, but Wall street denies that right.

To-day we have upward of 200,000 men and women out of employment in Pennsylvania. In the United States there are over 2,000,000 workers out of employment, and it fills my heart with pity for these men and women, who are willing to work, begging for work that they may earn an honest living, their employer willing and ready to employ them, but unable to collect his bills or sell his product. Never have our farmers been more prosperous. The wheels of industry were running to the full capacity; everybody laying plans with cheerfulness and with hope for the future. The farmer was selling his crops at good prices and paying off his mortgages and making improvements upon his farm. The wage-earner was busy every day in the week at good wages, laying aside his savings in the bank, preparing to buy a home or making payments upon his home. The very air was filled with happiness and with prosperity when all at once, like a flash of lightning from the clear sky, the panic came, and spread like a pall over this beautiful country. What a travesty upon our boasted American liberty to maintain a financial system that to-day is being used by the powers behind Wall street to force the savings from the people with the same regularity and precision as the flow and ebb of the tide. Think for a moment of the economic loss to this country because of our wage-earners out of employment. Two million of idle workers, representing a daily loss of \$3,000,000 in wages alone, and many times more than this amount in creative wealth, and it is upon the earnings of these people that all business success depends.

THE WAGE-EARNERS SUFFER MOST.

Again, consider the position of the worker from a humane standpoint. All they have to sell is their own physical energy. Each day that they are forced to remain idle cuts off for all time just so much of the only asset they and their families have. The day's wage lost to the worker is gone forever, for he can not do two days' work in one—nature forbids it. Then why should we permit a condition that deprives the worker of his right? Who benefits by it? No one but the Wall street interest. A Federal guaranty of bank deposits would have prevented the recent panic and the present business depression.

I do not claim that a depositor's guaranty will be a panacea for all our ills, but it will be the first step in the dawning evolution of a Government for the people. Give the American people a proper financial system and they will produce such results as will astonish the whole world. But so long as you continue the present policy of a few years of prosperity and then a few years of fright and loss and fear, you will soon convert a progressive nation into a nation of cowards.

Six months ago the business men of this country were going about their business with absolute confidence. To-day they are afraid of the future. A nation of men who walk boldly up to the cannon's mouth without a tremor are to-day frightened and trembling for the future of their wives and children because a little handful of men down in Wall street have their clutch upon the very lifeblood of our whole financial arterial system.

WHY DELAY ACTION?

I have confidence in the honesty and ability of the legitimate bankers of our country. They, more than any other class of men, are responsible for the progress of our nation. For the up-building of communities, the uplifting of humanity, I feel that the banker's calling is a worthy one, and for Christianizing and civilizing influences the banks and trust companies go hand in hand with the church and the press, and I can see no reason why these men, who have built up these splendid institutions and who have given to them their best thought, the best of their lives, imparting to them their personality and their individual honor, why they should be placed at the mercy of a frightened mob when Wall street waves the red flag of panic to accomplish its own selfish end and gains.

The manufacturer and the merchant have become inseparable and important factors in the working out of our scheme of human progress, but they are left helpless between two conflicting forces of absolute power—at the mercy of the fear of the depositor and banker upon the one hand and the greed and avarice of Wall street upon the other. We can not remove Wall street greed by legislative enactment, but we can remove the element of public fear and bring about a stability of available credit by a form of Government guaranty of bank deposits, such as my bill provides.

It is evident, Mr. Chairman, that nothing is to be done at this session to afford relief to the country, but if you refuse, at least, the degree of relief which is here proposed and which could be so easily accomplished, your party must assume the full burden of responsibility, and when Members of the other side are seeking reelection they must explain to the

voters why Congress delegates its most important work to expensive commissions.

Why delay action? Why adjourn Congress until we have decided this question? Why not remain here and do our duty to our constituents and to the country? If you will restore to our people a full measure of confidence, factories and mines will continue to run without interruption, giving steady and profitable employment. The bright young Americans, who are the keenest of all human elements, will continue to market the products of our forests and mines, and bring the gold of the world here. The farmers will continue to increase their production to feed a busy people, and the real kind of prosperity—that which gives to the man who toils a just reward for his labor—will be with us permanently and uninterruptedly.

Vacations of Postal Clerks, Letter Carriers, and Other Employees.

SPEECH

OF

HON. HENRY M. GOLDFOGLE,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, March 10, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 18347) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1909, and for other purposes—

Mr. GOLDFOGLE said:

Mr. CHAIRMAN: The amendment I now offer ought to receive the favorable consideration of this House. It is designed to give to postal clerks, carriers, and other postal employees a deserved vacation with pay, the maximum to be thirty days. They are, in my opinion, as much entitled to the thirty-day vacation as thousands of other Government employees in various branches of public service, many of whom do not perform as laborious work as these postal men.

The clerks, carriers, and postal employees are among the most efficient and hard-worked men in the public service. In the large cities of this country, especially in the very large ones, the clerks and carriers have for years past been underpaid. Ever since I came to Congress I advocated an increase of their pay. I have been steadfastly a friend of these men, for when I espoused their cause I knew I stood for justice and for the right.

In the large cities of this country living expenses have enormously increased. Year by year the cost has gone up steadily, yet for years the salaries remained the same. Recently, however, Congress did see fit to increase the pay. That increase was richly deserved. It was deserved on merit. It was well earned by these postal men. Yet I regret that the increase was not larger, for these men deserve well of the Government. For one I shall always stand opposed to unnecessary, improper, or extravagant expenditures, but I shall always be willing to vote for decent, adequate, living wages for services faithfully performed.

The question upon my amendment is whether you will grant these men, who in season and out of season have done their duty well, a thirty-day vacation. The community at large recognizes the fact that these men work hard. They get the benefit of that work. In a greater or less degree every man, woman, and child is benefited by the work of these men. It is not too much, I feel sure, to give them a fair vacation. They deserve it. During the year these men are necessarily compelled to work so steadily that they can have but little time to devote to their families. They can not very well take off days for enjoyment or recreation outside of vacation, because they can ill afford the loss of a day's pay. In the course of years, as these men grow old, they necessarily encounter the ills and infirmities incident to old age.

The character of their work tends to sap their strength and vigor. They are not in any pensioned class. They receive none of the good things that seem to come from the Government to many more favored classes of employees who work less, earn less, but seem somehow to have more influential friends. Right here in Washington we see daily hundreds of Government employees occupying what in the language of the street are called "soft places," yet these, and others throughout the land, get their thirty-day vacations, and many the additional "thirty-day sick leave." I do not begrudge it to them. Perhaps they

need it. Some of them well deserve it and rightfully ought to have it. But I do ask you not to deny it to the postal men now that you have been asked to grant it and have opportunity to vote for it.

I believe the adoption of this amendment will go far toward increasing the efficiency of the service. Make these men feel that we have an interest in them, that we are mindful of their comfort and their physical well-being, and you will make of them more willing men in the service. They need the rest this amendment would give them. After the enjoyment of a thirty-day vacation, with opportunity to give to their wives and children the comfort and recreation that they will then be better able to afford them, they will be the better prepared to return to their arduous work. It means, too, better health, greater strength, better mental and physical improvement of the men.

This is a meritorious measure. It will but place these postal men, the clerks, carriers, and employees mentioned in the pending amendment, on the same plane as scores of other employees in the public service.

Now, I earnestly appeal to my friend, the able chairman of the Post-Office Committee, to withdraw his point of order. There is merit in the proposition. It has been suggested that if we do not insert this vacation feature in the bill the Senate will do so. I should dislike to see this amendment ruled out, the Senate adopt it, send it over here, the House yield, as it ought to do, and we then lose the credit which should be ours for doing justice to the men who richly deserve such a vacation as this amendment proposes. I hope the objection may be withdrawn.

Postal Savings Bank System.

SPEECH

OF

HON. CHARLES B. LAW,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 21, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. LAW said:

Mr. SPEAKER: The subject upon which I wish briefly to address the House is one which I believe has not received, and is not now receiving the serious consideration which it deserves. Legislative bodies generally move in response to the demands of public sentiment, and it happens that the voices of those who would be most directly benefited by the proposed postal savings bank system are rarely heard in loud public protest or demand. The close and sympathetic observer sees them by hard toil and painful economy gathering together a few hundred or perhaps a thousand dollars, and then through insufficient knowledge or information as to what private banking institution to trust, and through consequent distrust of them all, hoarding their hard-earned savings or sending them to their native lands to be deposited where the Government, in which their confidence is supreme, will guarantee repayment on demand.

It can not be doubted that in ordinary times many millions of dollars are thus hoarded, and this is particularly true in times of financial disturbance. It is estimated by the Treasury Department that during the four or five months of the recent financial panic the hoarding amounted to \$300,000,000. This enormous amount was withdrawn from the channels of trade.

These people who hoard their savings because they distrust all private banking institutions have an absolute and abiding faith in the credit of the Government of the United States. Give these people the opportunity to avail themselves of the faith and credit of the Government by a proper postal savings bank system, and the millions hoarded will quickly come forth from the secret hiding places and through the agency of the Government will be turned into the legitimate channels of trade.

If the immigrant who comes to our shores is to be admitted, every possible effort must be made to avail ourselves of the benefits of his industry and thrift. The foreign born of this country accumulate many millions of dollars every year. More than \$70,000,000 was sent by immigrants through our Post-Office Department to Europe during the fiscal year ending June 30, 1907. It is fair to assume that this represents but a small portion of the total savings of these people. It is asserted upon apparently good authority that a very large share of the

amount sent abroad by immigrants is actually deposited in the government savings banks of the countries to which it is sent. It is natural that it should be so, for these people at least have faith in government responsibility. Their reasoning is by no means absurd or fallacious. They reason thus: "I know that some banks are safe and others are not. I do not know how to find out which ones I may trust. I worked very hard to save these few dollars, and I can not afford to take any chance of losing this money, even though I get no interest on it."

It is true that the vast majority of the people who hoard their savings are not able to avail themselves of sources of information as to the reliability of private banking institutions, and the consequent hoarding of their money is not wholly illogical or without reason.

The Government possesses to an extraordinary degree the very information which the possessor of small savings lacks. It has means of knowing in what banking institutions funds may be safely deposited. It has an agent in the Comptroller of the Currency who may at any time, upon request of the Secretary of the Treasury, examine into the condition of a bank where funds have been deposited. It can be provided that postal savings depository funds shall be a prior lien upon the assets of any bank in which such funds are deposited. With all these safeguards the Government runs little or no chance of loss. In effect the Government is really called upon to do little more than to extend to the possessors of small savings the benefit of its superior knowledge as to what banking institutions may safely be intrusted with these funds. If these people had the advantage of the Government's sources of information, there would be far less need of the Government's intervention.

The postal savings bank system is no longer in the experimental stage. It has been established and successfully maintained in many countries, including England, Canada, Austria, France, Italy, and Russia. It was established in England in 1861, and its history there and in all other countries where it has been tried has been one of successful development and extension. No backward step has ever been taken. It is true that the system in all its details employed in any other country might not be practicable here, and that the details of a law to establish the system in this country must be worked out to fit the peculiar conditions existing here. The fundamental principle, however, will be the same.

A bill, admirably calculated to bestow the benefits to be derived from a postal savings bank system, has been favorably reported by the Senate Committee on Post-Offices and Post-Roads. The provisions of the bill are best stated in brief in the language of the report, as follows:

The bill reported provides for the establishment of postal savings depositories for depositing savings at interest with the security of the Government for the repayment thereof, and designates the money-order post-offices and such others as the Postmaster-General may, in his discretion, from time to time designate as savings depositories to receive deposits from the public, and to account and dispose of the same according to the terms of the act.

The depositories are to keep open for the transaction of business every day, Sundays and legal holidays excepted, during the usual post-office business hours of the town and localities where the respective depositories are located, and during such additional hours as the Postmaster-General may designate.

To begin with, the Postmaster-General may, if he deems such course desirable, confine the depositories to post-offices of the Presidential grade, and thereafter extend the system to all other money-order offices as rapidly as practicable.

Accounts may be opened by any person of the age of 10 years, and a married woman may open an account free from interference by her husband. A trustee may open an account for another person. No person can open more than one savings account, except when acting as trustee for another person.

A depositor's pass book will be delivered to each depositor, in which the name and other memoranda necessary for identification will be entered and entry of all deposits shall be made.

One dollar or a larger amount in multiples of 10 cents will be necessary to open an account, but deposits of 10 cents or multiples thereof will be received after an account is opened.

Upon receiving a deposit the postmaster is required to enter the same in the pass book of the depositor and immediately notify the Postmaster-General of the amount of the deposit and the name of the depositor. The Postmaster-General, upon receipt of such notice, is required to send an acknowledgment thereof to the depositor, which acknowledgment shall constitute conclusive evidence of the making of such deposit.

Interest is allowed at the rate of 2 per cent per annum, computed annually, on the average deposit during each quarter of the year. One thousand dollars is the maximum deposit allowed to the credit of any one account, and interest will not be paid on any amount to the credit of an account in excess of \$500.

Pass books must be forwarded to the Postmaster-General on the anniversary of the making of the first deposit for verification, posting, and credit of interest due. Withdrawals may be made under rules and regulations to be prescribed by the Postmaster-General. Deposits are exempt from seizure under any legal process against the depositor, and they are also exempt from taxation by the United States or any State. The name of a depositor or the amount to his or her credit may not be disclosed unless by order of the Postmaster-General.

Postal savings funds are to be deposited by the Postmaster-General in national banks located as near as may be in the neighborhood where

such deposits were received, at a rate of interest not less than 2½ per cent per annum. If deposits can not be made in national banks at the specified rate of interest, the Postmaster-General may, with the approval of the Secretary of the Treasury and the Attorney-General, invest the same in State, Territorial, county, or municipal bonds.

The act applies to all the States and Territories, the District of Columbia, the district of Alaska, and Porto Rico.

One-fourth of 1 per cent commission is allowed to fourth-class postmasters for services rendered in connection with postal savings deposits, but no additional compensation is allowed to postmasters or employees in offices of the Presidential grade for services in connection with postal savings accounts.

Due provision is made for report by the Postmaster-General to Congress on all important details relating to the administration of the law. An appropriation of \$100,000 is made for the purpose of carrying the law into effect, and all statutes relating to the embezzlement, conversion, improper handling, retention, use, or disposal of postal and money-order funds, and the punishments provided for such offenses are extended and made applicable to postal savings depository funds.

I think this bill, if enacted into law, would make suitable and proper provision for the establishment of postal savings depositories in this country. The law could from time to time be modified to meet the exigencies of the service and to provide for extension and development as might seem wise.

No greater work can be done by the Government or by Congress than that which tends to encourage thrift and economy, particularly among our working people. In times of industrial depression, when many thousands of able-bodied and willing men are thrown out of employment, municipal bodies and charitable organizations spend enormous sums of money to relieve destitution and want, but the resources thus employed are inadequate to meet the situation. The most deserving are sturdy enough in their independence to abhor charity, and much of the destitution goes unrelieved. Charity is at best an expedient to relieve misfortune or acute distress. It should be a last resort. Much of the necessity for charity can be removed by measures wisely designed to encourage the habit of saving in times of prosperity for old age or the inevitable rainy day.

The postal savings bank system properly developed and conducted would do more than any other thing I know of to encourage the disposition to save. It would supply depositories located at points most convenient to the people and open for business at hours when they could most conveniently make deposits.

That feature of the Senate bill permitting a deposit as low as 10 cents will save many a dime from dissipation. However, it must not be forgotten that the great benefit to be derived by all the people and the country at large will be the turning of hoarded money into the channels of trade.

I think that \$1,000 should be the maximum deposit allowed to the credit of any one account. When a man has accumulated \$1,000 he is in a position to invest in real estate and that is what he should do. To own his home should be the ambition of every man. Real estate offers one other form of investment of which none is afraid.

Mr. Speaker, I hope this measure may yet receive the favorable consideration of Congress.

The Universal Advance in Prices.

The Democratic claim that the rise in prices in the United States during the past few years is owing to the tariff makes interesting the following extracts from Consular Reports showing that the advance has been universal.

SPEECH

OF

HON. JAMES S. SHERMAN,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. SHERMAN said:

Mr. SPEAKER: Under the leave to print granted by the House, I desire to call attention to the following statements regarding the advance in prices of various commodities, as shown by the consular reports from various countries:

The German statistical office has prepared a very careful comparative statement showing the general increase in the prices of all commodities during the past few years. As a basis for comparison the office adopted the average prices of commodities during the decade ending in 1898. With these prices are contrasted the rates current in the month of June, 1907. The following are the percentages of increase: Cereals, 25; animal products, 27; agricultural products of foreign origin, 20; textiles, 55; and mineral products, 60.—*Consul Thomas H. Norton, of Chemnitz, Germany.*

The retail price of bread has just been advanced in Nottingham on all grades, from 6 to 6½ cents for the best two-pound loaf. Advances have been general throughout England. In the past six months alone

flour has risen \$1.95 per sack of 20 stone, and a further rise is probable. The cost of living in this country has increased in the past two years.

* * * Sugar, tea, cocoa, pepper, cutlery, carpets, blankets, various canned goods, and other household articles cost more than a year ago.—*Consul F. W. Mahin, Nottingham, England.*

From articles recently appearing in French publications, based on carefully collected statistics, it is shown that prices of the various kinds of leather and of prepared skins in general have of late years greatly increased, and are still increasing; in fact, in so formidable degree as to seriously menace certain French industries which manufacture and employ these materials. The situation shows increases attaining the height of 60 per cent as regards hides and skins generally, whether raw or tanned, and of from 80 to 110 per cent as regards their products—footwear and gloves.—*Consul Chapman Coleman, of Roubaix, France.*

Formerly Athens was a very cheap place in which to live, but in recent years the price of articles of food and necessities have advanced until they are as high, if not higher, than in America. The cost per pound in United States currency of some of the principal articles are: Butter, \$1.03; beans, 5 cents; boiled ham, \$1.04; raw ham, 45 cents; beef, sirloin 17 cents and fillet 38 cents; lamb, 32 cents; pork chops, 18 cents; leaf lard, 19 cents; sugar, 10 cents. Eggs sell for 33 cents per dozen; salmon, 54 cents per can; fresh milk (cow's), 54 cents per gallon; petroleum, 75 cents a gallon, and coke, \$10 per ton.—*Consul-General George Horton, Athens, Greece.*

* * * The steady advance in the cost of raw material, which is becoming a very serious matter, is due to a number of causes, chief among which may be mentioned the comparative smallness of the production, the great increase in the consumption, the high cost of labor in the producing districts, and the effect upon production and wholesale distribution of artificial restrictions.—*The London Times.*

The prices of family necessities in the city of Breslau in 1906 compared with 1896 show the following increases: Men's wear, from 10 to 60 per cent; women's wear, from 10 to 60 per cent; food and drink, from 13 to 85 per cent; fuel, from 12½ to 22 per cent; soap, 60 per cent, and kitchen utensils, bedsteads, mattresses, etc., from 15 to 20 per cent; while wages have advanced from 25 to 66½ per cent. The principal cause of all this, in the opinion of the association, is the strong and rapid advance in wages in all branches of trade. Employers naturally raise their prices to meet the higher wages and dearer materials.—*Consul H. L. Spahr, of Breslau, Germany.*

The trade has gradually passed into the hands of great companies which have well defined and profitable "working arrangements" and which in the United States would be known as "trusts." The greatest tobacco company is very powerful and controls directly or by contracts a large number of shops in each city or town.—*Consul D. W. Williams, Cardiff, Wales.*

At the beginning of the year jute prices stood at figures much above normal, and the general expectation was that the near future would see a return to ordinary levels; but, instead of declining, rates continued to advance. As exemplifying the increased price of yarn, it may be mentioned that 8-pound fine Rio warp rose from 52½ cents per spindle in January to 85 cents at the close of the year. * * * The year under review has, it is said, marked a higher range of prices for burlaps than has been reached in any year since the American civil war, when many large fortunes were made by Dundee manufacturers who supplied cloth to the United States.—*Consul J. C. Higgins, Dundee, Scotland.*

During 1905 the increase in prices of provisions was so great that everybody suffered, the working classes in particular. The prices of meat advanced so that the poor class could not afford to buy the article, but had to look for a cheaper nourishment. * * * Manufacturers complain of the high prices of wool, which were severe during the last quarter of the year.—*Consul G. E. Eager, Barmen, Prussia.*

Consul W. Bardel, of Bamberg, reporting on prices of agricultural and food products in Germany, furnishes a table which shows that, with the exception of potatoes and hay, each article enumerated is dearer now (1906) than it was in 1905. A comparison of prices for the two years shows the following advances in price: Wheat, from \$39.27 to \$41.17; oats, from \$30.94 to \$38.08; beans, from \$76.87 to \$78.54; beef at wholesale, from \$292.74 to \$305.12, based on prices per metric ton.—*Monthly Consular Reports, November, 1906.*

There has been a steady rise in price during the year in American chilled meats. Hind quarters rose from \$11.35 at the opening to \$12.53 at the close of the year, and forequarters from \$7.38 to \$7.95 during the same period. Argentina chilled and frozen was in evidence in the same market and participated in the advanced prices; chilled hind quarters made \$7.95 at the opening of the year and at the close were \$8.52, and forequarters \$6.25 to \$7.91 during the same period. Frozen Argentine hind quarters in January were \$7.38 and in December \$8.32; forequarters in January \$6.92 and December \$7.38. Foreign pork rose from \$11.92 in January to \$15.33 per hundredweight in December.—*Consul William H. Bradley, Manchester, England.*

* * * The cost of all raw materials, especially of metals, advanced greatly during the year.—*Consul S. P. Warner, Leipzig.*

* * * The individual has suffered to a considerable extent during the past year owing to the abnormally high prices of the necessities of life, especially of meat. A matter of some anxiety is that, notwithstanding the general prosperity, the selling prices of the majority of manufactured articles can not be advanced in the requisite proportion to meet the higher cost of production, caused by the raw materials having, during the last year, increased exorbitantly in price in a number of cases, and also the cost of labor increased, due to the higher cost of living.—*Consul Walter Schumann, Mainz, Germany.*

* * * Owing to the advance in prices of all grades of leather, prices of manufactured goods were increased 10 per cent.—*Consul-General G. W. Roosevelt, Brussels.*

Beginning 1906, American prime plain white oak was sold at about \$57, and is now quoted at from \$64 to \$65 per 1,000. Hemp industries were kept busy with orders, but profits were very unsatisfactory. Raw prices rose faster than the prices of finished products could be raised. Linen weaveries and bleacheries had a good business year, yet prices could not be raised to correspond with the increased raw material prices. The rise in the price of coal was severely felt by this industry. Wages were increased from 10 to 15 per cent. * * * Artificial wool suffered under increased raw product prices. Manufacturers of sacks, canvas, and wagon covers had a satisfactory year, but raw materials advanced as much as 25 per cent, while by combination the manufacturers were able to obtain only a 10 per cent increase on their goods.—*Consul E. T. Liefeld, Freiburg.*

A report of the director of agriculture affirms that prices of food grains all over India have advanced rapidly and unprecedentedly.—*Consul-General W. H. Michael, India.*

Practically all foodstuffs, meat, dairy products, eggs, vegetables, fruits, etc., must be brought from a distance and are abnormally high in price. Fresh beef retails at from 25 to 35 cents per pound; eggs at 2 to 3 cents apiece; ham at from 37 to 40 cents per pound; apples at from 7 to 10 cents per pound, and flour, potatoes, green vegetables, etc., proportionally high. Fuel is also expensive.—*Consul G. N. Ifft, Annaberg, Germany.*

The rise in import prices in 1906 in the United Kingdom was estimated at 5.3 per cent and in export prices 5.4 per cent.—*Consul-General Robert J. Wynne, London.*

Prices for the staple products of Egypt have risen steadily. A splendid crop was obtained, the Nile flood was at its most useful height, and nothing is heard of on any side but prosperity.—*Consul-General Lewis Norris, Cairo.*

The prices at which asphalt work has been constructed have been very high, both on account of the high cost of material and labor.—*Consul-General G. E. Anderson, Rio de Janeiro, Brazil.*

Prices of products so increased that the landed proprietor, who had trouble formerly to make a profit of \$1,000 on 100 acres of land, found himself taking net \$4,000 from the same property. Cotton went up from \$8 or \$10 to \$20 or more.—*Consul-General Iddings, Cairo, Egypt.*

The prices obtained for the three principal grades of Indian tea in 1906 showed a substantial improvement over the previous two years.—*Consul E. H. Haldeman, Bombay, India.*

I append herewith current prices per ton on anthracite coals, together with prices for the same period in 1906 in shillings and pence. Maltling, large, present price, 25s.; price for same period of 1906, 20s.; Big vein and Peacock vein, present price, 22s. 6d.; price in 1906, 13s. 3d.; Red vein, present price, 17s.; price in 1906, 9s. 3d.—*Consul J. H. Johnson, Swansea, Wales.*

The price of fiber in Monterey during the past two years appears to be from 12 to 18 cents Mexican currency, the present price being about 18 cents Mexican currency per kilo.—*Consul-General P. C. Hanna, Monterey.*

Wheat commanded an advance price of 6 to 12 marks (mark = 23.8 cents) per ton of 2,204 pounds.—*Frankfort (Germany) Chamber of Commerce.*

The prices of vegetables have been about 40 per cent higher than the average, and bid fair to remain so until next summer. There has also been an increase in the price of meat, owing to the greater cost of articles necessary to the fattening of animals for the market.—*Consul E. L. Belisle, Limoges, France.*

Prices over here for finished pieces of furniture are from 50 to 100 per cent higher than could be obtained in the United States.—*Consul-General William F. Wright, Munich, Bavaria.*

The enormous increase in the price of glove leather seriously embarrassed this industry, as the prices of the manufactured article would not follow the advance in the raw material. The prices in lamb leather advanced from 60 to 70 per cent, and assortments were quite inferior, which brought the difference in value to about 100 per cent.—*Consul U. J. Ledoux, Prague.*

A pessimistic view is maintained by reason of the continued high price of raw materials and of all manufactured articles. The continuance of this condition will inevitably cut the production.—*Consul J. C. McNally, Liege.*

In 1906 the zinc market was particularly active and the demands exceeded the supply. The average yearly price was \$129.94 per metric ton (2,204.6 pounds), or \$8.12 higher than for previous year. The average price for spelter ex-ship London in 1906 was \$136.20, against \$122.79 in 1905. The average price of lead in 1906 was \$83.97 per metric ton, against \$68.48 in 1905.—*Consul J. C. McNally, Liege.*

During 1906 the wholesale price of olive oil was about 50 cents per gallon, while in 1906 it was over 75 cents per gallon. The cost would have been still higher had it not been for the large quantity of stock left over from the preceding year.—*Consul James L. Long, Patras.*

During the year the price of shelled almonds rose gradually from \$8.70 to \$14.50 per hundredweight. They are now held at \$16 to \$16.86 for the better grade of shelled nuts.—*Consul Milo A. Jewett, Trebizond.*

The prices of oak, walnut, and mahogany have increased from 30 to 40 per cent, according to species and quality, and the same may be said of supplies made of copper and iron, such as locks, hinges, and doorknobs, which has increased from 10 to 15 per cent; varnish, turpentine, and glue increased from 5 to 8 per cent, while glass of all kinds increased approximately 10 per cent.—*Consul W. P. Atwell, Ghent.*

The wool market has been a rising one, the price of raw material having increased steadily since the beginning of the year.—*Consul W. P. Atwell, Ghent, Belgium.*

The automobile, the bicycle, and electrical industries are consuming more and more rubber and the price of the raw material increases daily. That produced in the Belgian Congo, which brought \$1.54 per 2.2 pounds in 1902, has this year sold at \$2.38 per 2.2 pounds.—*Consul W. H. Hunt, Tamatave, Madagascar.*

The average prices of meats, per pound, in cents, in Munich, in the years indicated were as follows: Oxen, 12-19 in 1904, 15-19 in 1906; cows, 10-15 in 1904, 15-18 in 1906; swine, 11-19 in 1904, 13-17 in 1906; sheep, 8-11 in 1904, 10-13 in 1906.—*Consul-General W. F. Wright, Munich, Bavaria.*

The fact is that day by day olive oil is becoming more difficult to purchase and prices are continually rising.—*Consul-General B. H. Ridgely, Barcelona, Spain.*

The price of hard wheat from Russia is higher than usual this year.—*Consul-General George Horton, Athens, Greece.*

Consul W. Bardel writes from Bamberg, Germany, that while food and clothing have become much dearer in Germany, the prices for rents have materially increased also.

The prevailing high price for domestic bacon created a large demand for American bacon.—*Consul F. S. Hannah, Magdeburg, Germany.*

The enormous demand for hides has advanced the price in the last ten years 50 per cent, and in the case of "heads," 800 per cent. The price for dry hides per 80 pounds ten years ago was about \$4.66, whereas to-day the price is about \$15 per 80 pounds. The necessary effect of this advance and the advancing price of hides will be to increase the price of boots and shoes, both imported and homemade.—*Consul-General William H. Michael, Calcutta, India.*

As an example of the extent of the increase in price, it is stated that imported leathers have advanced 10 to 125 per cent on common sorts, and waxed splits for heavy boots and leggings from 20 to 25 per cent, and all bid fair to go still higher.—*London Commercial Intelligence* (quoted by Census Reports, November, 1906).

Mills are forced to buy and pay the prices asked for hemp, which are about 20 per cent higher than last season.—*Vice-Consul H. M. Byington, Naples, Italy.*

Manufactured leads have reached a point which has not been touched since the Franco-German war.—*Consul H. W. Metcalf, Newcastle-upon-Tyne, England.*

The selling price of cocoa is just at present much higher than it has been for years, and in the opinion of those best qualified to judge it is likely to reach a price considerably higher, the reason being that the production is not by any means keeping pace with the increasing consumption.—*Consul W. W. Hanley, Trinidad.*

Consul Solomon Berliner, of Tenerife, responds as follows to inquiries from different parts of the United States as to the cost of living in the Canary Islands and how they compare in this respect with the United States: "I am informed that fifteen years ago no place in the world was cheaper to live in than the Canary Islands, but during the last five or six years the conditions have entirely changed, and there can be but few places where the necessities of life are more costly. The prices of articles grown locally have advanced from 10 to 20 per cent.

Wool, the greatest export, is selling for over 13 pence a pound, almost double the price of six years ago.—*Consul William A. Prickett, Auckland, New Zealand.*

There has been a decided rise in the cost of wool, cotton, and linen, which are the chief materials of which Kidderminster carpets are made. The advance in wool is said to have been from 100 to 125 per cent over the cost in 1901 and 1902.—*Consul Albert Halstead, Birmingham, England.*

Camphor prices are very high, and the cultivation has been extended.

Copra is very high in price, and those who have coconut-palm estates are making large profits. The plumbago trade is also paying high prices.—*Special Agent W. A. G. Clark, on Industries of Ceylon.*

The price of coal in the last ten years has increased from \$6.50 to \$8.17; pine ties from 40 to 80 cents, and oak ties from 75 cents to \$1.15.—*Consul W. D. Shaughnessy, Aguascalientes, Mexico.*

Hides are scarce, and prices for the same are steadily advancing.—*Consul Louis Kaiser, Mazatlan, Mexico.*

High price of coal is a serious matter for British railways, which use about 12,000,000 tons a year for locomotive purposes. The mines now demand an advance of 3 shillings (73 cents) a ton (of coal) on the last contract price.—*Consul F. W. Mahin, of Nottingham, England.*

The price of alcohol works out to about 45 francs the 100 kilos. This is a very high price; previously it was much lower, less than one-half this figure.—*Consul-General E. H. Ozmun, of Constantinople.*

The cost of cotton seed at Alexandria is at present (August, 1907) abnormally high, being 81½ plasters an ardeb (an ardeb equals 5.4474 bushels), while the normal price would be nearer 60 plasters. (Plaster equals about 5 cents.) The price of oil is about \$142 an English ton, as compared with a normal price of over \$100.—*Special Agent W. A. Graham Clark, writing from Beirut, Syria.*

While the prices paid for raw jute were the highest known, the advance in the price of jute manufactures was not in proportion. Raw jute advanced 57 per cent in value and jute bags advanced 21 per cent in value. Gunny cloth advanced 31 per cent in value.—*Consul-General W. H. Michael, of Calcutta.*

Every branch of the local industries has profited by the general advance in orders. As a consequence prices have gone up considerably; coal has increased from 40 to 65 cents per ton, iron has followed in the same ratio, raw silk has advanced from \$10 to \$12.50.—*Consul H. S. Brunot, St. Etienne.*

The price of the best bore-hole coal was fixed at \$2.50 per ton by a combination formed last year. Taking the amount of coal exported last year and calculating at \$2 per ton, which was actually above the average price, the increased selling price will result in a return of approximately \$2,000,000 above the value placed on the coal exported last year. The trade anticipated this year should amount to \$2,500,000, in round numbers.

The prices touched by copper, tin, lead, and silver in 1906 have greatly stimulated the mining industry, and it is believed the official figures of the mines department, not yet available, will show another record output.—*Mr. Burrill, Sidney.*

In the case of calves the price experienced an unusually strong increase, rising from \$5.95 to \$13.33 in 1903, and from \$6.19 to \$16.18 in 1907.—*Consul E. T. Liefeld, Freiburg.*

The German statistical bureau has just issued a summary of the average prices of food products in the Empire during the past year which shows clearly that the general increase of cost in the United States for the necessities of life is simply a part of a world-wide movement. Of ten leading articles—wheat, rye, barley, oats, peas, beans, potatoes, straw, hay, and beef—all show an increase except potatoes and hay, and leading articles of foodstuffs show an increase of from 2 to 10 per cent.—*Consul Thos. H. Norton, Chemnitz.*

To give an idea of the great increase of price of olive oil in this city it will suffice to quote the following: During the month of January olive oil in Seville ran up to 16.12 pesetas; that is double, with a slight difference, the price paid four years ago. It must be noted that these are warehouse prices and only when sold in large quantities, and to this already excessive price we must add a charge of 3.13 pesetas per arroba for excise tax.—*Consul L. J. Rosenberg, Seville.*

WAGES AND FOOD PRICES IN FRANCE.

Consul Louis Goldschmidt, of Nantes, under date of January 28, transmits the following report covering the wages and food prices in Nantes, which, the consul says, may be considered a city of average prosperity, as compared with other cities in France and in Europe generally:

Considerable has been published lately in America concerning the increased cost of living and the comparative pay of labor in the United States. In some cases the writers have tried to demonstrate that it is only in the United States that the cost of articles of daily consumption has increased to any considerable degree. Statements are also frequently made to the effect that, although the wage of the laboring classes abroad is usually lower than the wage of the same class of labor in the United States, nevertheless living abroad is so much cheaper that the laboring class is just as happy and just as prosperous as the American laborer. In demonstrating that this is not the fact, statistics will be given, as far as they have been possible to obtain, of (1) the wages paid to various labor classes in Nantes; (2) the cost of articles of food, fuel, light, etc., entering seriously into the daily consumption of laboring people; and (3) the cost of rent of rooms or apartments.

The wages paid to the various classes of organized labor in this city, which may be considered a city of average prosperity in France and Europe, are given herewith as furnished to me by the secretary of the Nantes Labor Exchange. It is fair to assume that the maximum pay is given to organized labor; in fact, many classes of labor not organized are paid much lower wages than are here given.

Wages paid per day of ten hours.

Adjusters of machinery	\$1.00 to \$1.20
Blacksmiths	1.10 to 1.40
Blacksmiths' helpers	1.00 to 1.20
Bookbinders	1.00 to 1.20
Carpenters, timber workers	1.10 to 1.30
Carpenters, housework	.95 to 1.00
Dock laborers	.80 to 1.00
Chair makers, piecework	.90 to 1.00
Coopers, piecework	1.00 to 1.40
Electricians (installing lighting)	.75 to .90
Factory laborers	1.40 to 1.60
Lithograph printers	.90 to 1.10
Locksmiths	.90 to 1.00
Machine tenders (labor saving)	.90 to 1.00
Masons and marble workers	1.00 to 1.30
Molders	.90 to 1.00
Paper hangers, idle about four months in the year	1.10 to 1.30
House painters	1.00 to 1.20
Pattern makers	.80 to .90
Plasterers	1.10 to 1.60
Saw tenders, power saws	.70 to 1.00
Sculptors in stone for building	1.10 to 1.30
Shoemakers	1.00 to 1.20
Slaters and roofers	.60 to 1.00
Stonecutters	.75 to .80
Sugar refiners:	
Men	.40 to .60
Women	.90 to 1.00
Tanners and curriers	1.30 to 1.80
Typesetters	1.20 to 1.60
Wagon smiths	.90 to 1.00
Wheelwrights	1.00 to 1.20
Wagonmakers (woodworkers)	1.00 to 1.00
Wagon painters	
Willow and rattan workers	

Wages paid per week.

Bakers	6.00 to 8.40
Hairdressers, with board and room	5.00 to 12.00
Draftsmen, industrial	30.00 to 60.00
Engineers (stationary engines)	26.00 to 32.00
Railway engineers (engine drivers)	26.00 to 60.00
Railway firemen	24.00 to 34.00
Truckmen	18.00 to 24.00

Household service, with board and lodging:

Women servants	4.00 to 6.00
Women cooks, average	6.00 to 7.00
Manservants, trained	5.00 to 10.00
Store employees:	
Men	
First year after apprenticeship	15.00
Second year after apprenticeship	20.00
May eventually reach	30.00
Women	
Second year after apprenticeship	10.00
Third year after apprenticeship	15.00
May eventually reach	25.00

In nearly all the foregoing trades and employments an apprenticeship of two years, without pay, must be served. Domestic labor in the rural districts is from 25 to 40 per cent less than the foregoing rates. In establishments where dressmaking and tailoring for women are done the seamstresses are paid, after two years' apprenticeship without pay, a daily wage of from 15 to 20 cents, while exceptional workers may, after a number of years, reach 50 cents; foot-machine workers, 60 cents; forewomen, \$1; women cutters and fitters, \$60 per month; men cutters, \$80 per month.

COST OF FOOD.

Price of foodstuffs in Nantes per one-half kilogram ($1\frac{1}{2}$ pounds) run as follows in American cents:

"Beef for soup, 12 to 18, sirloin, 30, and tenderloin, 45; veal, 20 to 24; pork, fresh, 18 to 22, salted, 18 to 21, sausage, 24; ham, 25, or cooked, 35; horse meat for soup, 6, steak, 16, and tenderloin, 28; lard, 16; butter, according to season, 25 to 44; cheese, common, 24, Swiss, 28, and French, 20; fish, salted, 8, herrings, salted, 16, and smoked, per dozen, 22; coffee, common quality, 35; coffee, better quality, 40 to 50; chicory, 7; sugar, common, 5½ to 6, sugar, lump, 6½ to 9; tea, 60 to 80; chocolate (cocoa and sugar), 25; prunes, dried, 25; potatoes, 1½; macaroni and similar pastes, 7 to 20; rice, 7 to 10; tapioca, 24; flour, common, 4; salt, common coarse, 3, refined for table, 4; beans, dried, 6; alimentary oils, repressed, 12, peanut, 14, and olive, 16 to 25; fowls (each), chickens, 80; turkeys, \$3 to \$4; geese, \$3 to \$4; ducks, \$1.40 to \$1.60; eggs, 18 to 40; wines, common red and white, per quart, 4 to 8.

"In household necessities kerosene, common, costs 6 and better quality 8 cents per quart; soap, common laundry, 7 cents, and candles, 9 to 10 cents per pound. Coal costs \$10 to \$12 per ton; wood, \$7.50 to \$9 per cord."

On most articles of food the municipality collects a tax upon their entering the city limits. Consequently people living in the smaller outlying towns are enabled to purchase some of the articles for food at a little lower price than the market price in the city. However, the mass of the laboring people live within the city limits, and consequently are not affected by this difference. These taxes, which are paid in all the larger French cities, help to defray the expenses of the municipality and may be considered a direct tax upon all consumers of these products.

Inquiring carefully into the average price paid for rent of rooms and houses by working people here, it is learned that the average price paid per room in apartments or lodgings occupied by the laboring class is from \$18 to \$20 per year. Thus, a laboring family occupying a three-room apartment, composed of a general living room, a bedroom, and a kitchen, pays from \$50 to \$60 per year. These rooms do not contain the usual conveniences found in American houses.

WATER AN EXTRA CHARGE—COST OF CLOTHING.

Running water is not always found in the houses, and when found must be paid for by each tenant. Where the houses are of more modern construction, and are healthful and well ventilated, the cost of rooms is greater. In late years there have been some improvements in the construction of houses for laboring people, and more modern small

cottages have been constructed in the outskirts, which rent at from \$100 to \$160 per year. However, the average working family here can not afford to pay so much for their house rent, and must consequently live in the larger houses in the older quarters, where rents are cheaper, but where they are generally far from healthy, are ill lighted, and poorly ventilated.

The average cost of clothing in general here is not far, if any, below the cost of clothing in the United States. The cost of all articles of cotton is more expensive here than in the United States, while articles of linen are generally cheaper. Clothing made of woolen goods may be considered somewhat cheaper here, particularly considering the lower price of the finer grades of wool goods. However, a workman can purchase a better ready-made suit of clothes in the United States for from \$10 to \$15 than he can purchase for the same amount in this country. An ordinary business suit of tweed costs, when made by a local tailor, from \$20 to \$25, and I am quite sure than an article of clothing as good and as well fitting can be obtained from an American tailor at about the same price.

CONDITIONS OF LABOR.

Taking all these facts into consideration, concerning the condition of labor here as compared with labor in the United States, one may say that labor here has not reached the degree of prosperity that labor has reached in the United States, nor in any way approaching thereto. A great deal has been done and is being done in the way of organizing labor, and this will undoubtedly result in much good for the laboring classes here. Their condition is much better than it was a few years ago, and it is tending to constant amelioration as regards wages, but this condition can not be compared with that of the laborer in the United States, and when the cost of living for laborers in Europe is compared with the cost of living in the United States the fact should be taken into consideration that the laborer of Europe does not live as well as the laborer in the United States, nor are his requirements as many.

Many things are considered necessities to the laborer in the United States which would be luxuries to the laborer of Europe. In Europe the laborer expends much less than in America, and in spite of this lives comparatively happy, because he does not know or feel the need of all that enters into the daily life of the American laborer. The wages here do not permit of extravagance, and comparison of the condition of the laborer here and in the United States can not be made without coming to the conclusion that the laborer in the United States lives much better than here. Everything in the line of necessities for living comes high in Europe; the only commodity that is really cheap here is the price of labor.

The Vreeland Currency Bill.

SPEECH

OF

HON. GILBERT N. HAUGEN,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 14, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. HAUGEN said:

Mr. SPEAKER: If I understand the situation correctly and what is desired, then this Congress, at this session, should provide for an emergency currency, in order to forestall a recurrence of a money stringency such as we had last October. The contention is that \$250,000,000 to \$300,000,000 additional currency is needed at certain times every year, or at the time of moving crops.

Personally, I favor an emergency currency; a currency available in times of emergency; a currency available to move our crops; an elastic currency; a currency that will expand and contract and that will adjust itself to existing conditions; a currency not in the interests of banks, nor for a few, but in the interest of and for the benefit of all the people, and that will meet all worthy and legitimate demands. In other words, a real emergency currency; a currency backed up by sound, unquestionable securities, guaranteed by the borrower, carefully scrutinized and accepted by some person or persons competent to pass on the paper offered as security. Not a money to accommodate the wild speculator or to finance wild-cat speculation; not cheap additional currency or a currency to be loaned at a low rate of interest, and so plentiful as to avoid money becoming tight under any circumstances or conditions. As long as we have speculation and money is loaned for speculative purposes, money will become tight under any system, regardless of the amount in circulation.

In my opinion the results desired can best be obtained under the taxing system, giving authority to somebody, possibly the Secretary of the Treasury, to issue an emergency currency, backed up by undoubted security, taxing it to such an extent as to make it self-retiring under normal conditions. Money is worth from 5 to 8 per cent under normal conditions, and, in my opinion, the tax should be 7 or 8 per cent. Authority should also be given to somebody, as is provided in this bill, to raise the rate if, in his judgment, he thinks it necessary to accomplish the results desired. All legislation along this line should be with one object in view, and that to provide an adequate additional currency to be used in times of stringency only. In

the brief time I have I want to call attention to one objection to this bill, and that is that the rate of interest fixed on the emergency currency is too low. If the interest is to be only 4 per cent, and if the currency is to be issued at the will of the Secretary of the Treasury, in view of the speculative tendencies that now exist, in order to accommodate and meet the demands that are sure to be made on the Secretary for this money at this cheap rate of interest, judging from the accommodations that have been extended in the past, I take it that accommodations will be extended freely hereafter and that, in the judgment of the Secretary, business conditions, at least in some localities, will warrant him issuing currency at any time. If so, this 4 per cent currency will be called for whenever and wherever it can be used at a profit; and, as a general thing, 4 per cent money can be loaned at a profit at all times in most parts of this country; and the danger is that with existing speculative tendencies this additional currency will be called for, issued, and used under normal conditions, and whenever a panic comes a part, if not all, of the money will already be in circulation and not available in times of emergency. As a result we will have an additional currency to be loaned at a low rate of interest and not an emergency currency.

The currency as provided for in this bill is on a par with a deposit at 4 per cent; and, as you know, many banks of this country are only too glad to accept money on deposit at 4 per cent, and some pay even a higher rate. Nobody can forecast the amount of currency that may be called for at this low rate of interest under normal conditions or what the judgment of the Secretary will be as to business conditions or the amount that will be available when the panic comes.

I fear that in times of a stringency we will find that much of this currency, if not all of it, has already been put into circulation and very little of it available as an emergency currency or in time of need.

But, Mr. Speaker, the bill has been improved in many respects, and while the rate of interest, in my judgment, should be higher, it has, however, been increased indirectly by requiring a reserve, which, in effect, is the same thing, only that it does not go far enough.

In conclusion let me say that while the bill in all its details does not meet my views, I believe it is a commendable measure. I fully realize the importance of immediate and remedial currency legislation; and with the varied views and interests, I of course appreciate that concessions will have to be made if any legislation is to be had at all; and, taking everything into consideration, I will most cheerfully vote for the bill.

The Colored Vote.

SPEECH

OF

HON. EDWARD L. TAYLOR, JR.,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. TAYLOR of Ohio said:

Mr. SPEAKER: In a speech in this House on the 13th of February last the gentleman from Illinois [Mr. RAINEY] amused us by going into a political trance and uttering prophecies. He promised the minority, hungry for power and office for so many years, that rescue was at hand for the Democratic party by reason of the fact of the defection from the Republican party of the colored vote. The gentleman from Illinois seems to have been, for the time being, in a condition truly telepathic. He vibrated with the forlorn hope of his party throughout the country as the wireless apparatus responds to the distant call of another station. Casting about for the voting strength that is to pick up the fallen, battered minority, set it upon the symbolic donkey that serves for the fitting emblem, Democracy has picked upon the negro, whom it has oppressed, abused, and disfranchised, to perform that office.

The Democratic party, like a man in his dotage, is searching among signs and omens for the promise of a future which the facts refuse. Battered and broken by the hard blows of successive defeats, barren of real issues, it turns its dim eyes toward the sky for signs and portents, and hanging breathlessly over the greasy cards of the fortune teller, it feels excitement thrill it as it listens to the clairvoyant's tale of a dark man coming to cross its path and restore its lost success.

Democracy is enjoying a second childhood. We smile when the child seeks for the pot of gold at the rainbow's end, but it is pathetic to see grandmother, with equal faith, join in the search. Playing with dolls is childhood's prerogative, but old age, clutching a rag baby to its breast, only inspires hope for a welcome release.

In twelve years Democracy has twice appealed for support on a promise to overthrow business, and once, on the assurance that it had become safe and sane, and nominated a judge. The country rejected the revolution and distrusted the sudden conversion to sanity. Now, approaching a fourth national campaign, the "party of uncertainty" is quivering in a quagmire of doubts and fears. Even the man who has made running for the Presidency a profitable livelihood—the perennial candidate of peerless rhetoric—is hanging from a cross of doubt and sweating anxiety under a crown of cruel suspicions. "An issue! An issue! The Commoner for an issue!" he cries. First he said the country must own and operate its railroads, but the country spoke up so sharply about it that a miracle was wrought. For almost ten days silence hung over Lincoln, Nebr. To the chagrin of many Members on that side of the House, this attack of lockjaw was a slight one. When he recovered his voice, however, this self-constituted Moses of the Democratic tribes wandering in the wilderness was chary of handing down any more law. The tribes had lost faith in his inspiration. He has since then adopted the cautious plan of indorsing the policy and acts of a great Republican President.

Every expedient is being tried, Mr. Speaker, every new trick and every old one, to make the rusty, creaking, and groaning Democratic machine fit for a flight this fall. Like certain people who have been experimenting with flying machines, the Democratic leaders dare reject nothing and dare adopt nothing. The plan proposed may be the suggestion of a crank or a scientist; the only sure test is the attempt to fly; the first sign of failure is when the machine and operator hit the ground, and, sore from disastrous and repeated bumps, they dread that drop this fall.

With defeat staring it in the face, without a real and virile issue except those embodied in the "Peerless One," Democracy is preparing for the conflict in expectation of winning with the votes of negroes in the North and without the votes of negroes in the South. And this delusion, Mr. Speaker, is the crowning climax of political clowning. The negro, disfranchised in the South by the Democratic party, is expected to swing Republican States of the North into the power of his oppressors. From the days of its birth this party has not only halted its boasted Democracy at the color line, but bragged about it.

The gentleman from Illinois [Mr. RAINEY], who gave us his trance reading, woke up long enough to express his real sentiments and those of his side when he said:

The Democratic party is the white man's party in this country, in the North as well as in the South.

And after this boast, in the CONGRESSIONAL RECORD, is written, "Applause on the Democratic side." The gentleman from Illinois added, after this applause had subsided:

We have been able to make it a white man's party in the past, and we do not care how long it remains a white man's party.

The methods by which the Democratic colleagues of the gentleman from Illinois [Mr. RAINEY] have made theirs "the white man's party" hold out a glowing future to the negroes of the North as a reward for voting for a Democratic national administration. Where the population is largely negro, the party of which the gentleman from Illinois [Mr. RAINEY] is so proud, has made not only the party white, but the law white. Citizens of the United States have been kept from the ballot box by methods peculiar to a party which has always quoted Thomas Jefferson on the equality of man—in the North—begged permission of labor to be its champion—in the North—and generally cried out about the woes of the masses and the rights of citizenship in the poorest and humblest—but always in the North.

In the district of the distinguished leader of the minority, the Eighth Mississippi, Yazoo County, the home of this gentleman, has a population of which 77 per cent are negroes. Hinds County has 75 per cent negro population and Madison County 77.8 per cent. These are three of fifty-five counties in the United States whose population was at the last census in 1900 at least 75 per cent negro. As the average throughout Mississippi, according to the same census, shows 58.5 per cent of the population to be negroes, the other two counties of the five composing this district are presumably of a similar complexion. The exponent of a majority rule on the stump and a minority rule in this House does not permit the race which

he hopes will materially aid in electing his presidential candidate to have a voice in his own Congressional campaigns. According to his modest autobiography in successive editions of the Congressional Directory he was elected by 1,433 votes to the Fifty-eighth Congress, by 4,934 votes to the Fifty-ninth Congress, and he modestly omits the election returns of his last campaign, contenting himself with the statement that he was "reelected to the Sixtieth Congress, receiving all the votes cast." Returns from this and other Mississippi districts, where they have been grudgingly made public, show that the votes cast cover a very select classification in this stronghold of a party that talks so much about the "people's rights."

The colleague of the distinguished minority leader from the Third Mississippi District [Mr. HUMPHREYS] was elected by 1,540 votes to the present Congress. His district has a population of 232,174. The gentleman from the Third Mississippi District also notes in his Congressional Directory biography that he was elected "without opposition." This "without opposition" expression is used generally by Members from this State in explanation of the small and scattered election returns which are their credentials of membership in this House. The election returns for the State of Mississippi show that there were cast in each district the following votes:

First.....	2,563
Second.....	2,567
Third.....	1,540
Fourth.....	2,536
Fifth.....	2,782
Sixth.....	4,250
Seventh.....	1,933
Eighth. No returns.	
Total.....	18,171

We are therefore safe in estimating that the entire vote for all Members of Congress from the State of Mississippi did not exceed 20,000. The smallest population of any of these districts is 158,643, in the Seventh District, and the largest 239,653, in the Second District. The explanation "without opposition," which is advanced by these gentlemen, does not altogether explain to the citizens of the North, where the qualified electors are permitted to exercise their suffrage, the small vote cast in the last Mississippi Congressional election. My distinguished colleague from the Thirty-first Ohio District [Mr. BURTON] has been accorded the honor of reelection without opposition from the Democratic party to the Fifty-ninth and Sixtieth Congresses. Nevertheless, with a population of 255,510 in his district, he received 20,826 votes. The pro forma opposition from the Socialistic and Prohibition parties secured 1,596 votes, about as many as is sufficient to elect a Democratic Member of Congress from the State of Mississippi.

It is not because his vote is so small as to be insignificant that the negro in the North, where the Republican party is dominant, is permitted to exercise his constitutional rights as a citizen. It is because that party respects the Constitution which has guaranteed those rights to the negro, and he is entitled to use them in any way he pleases along the lines of good citizenship. Ohio has a negro vote of more than 30,000, sufficient to turn the tide in many close-fought political battles in that State. There are several Ohio districts where the negro vote is large enough to be counted the balance of power between closely drawn party lines.

The negro is entitled to use his right of suffrage according to the dictates of his own conscience and cast his vote for or against any party or any candidate without let or hindrance. Fair treatment and an opportunity for education and advancement given to the negro result in an intelligent use of that most sacred right granted to every citizen of the United States. The fact that the great majority of negroes have at all times voted the Republican ticket is only another evidence of their good sense, judgment, and intelligence in recognizing in which direction their best interests lie.

The intelligent negro of the North does not worship false gods. He is thoroughly familiar with the unfortunate condition of the colored man in the South. He knows that at heart the leaders of the Democratic party do not wish his association in politics, but only hope to use him and to disgruntle him against the Republican party in order that they may, without benefit to him, be elevated into power. It does not need the declaration of the gentleman from Illinois [Mr. RAINEY] that the Democratic party is a "white man's party" to convince them that their interests and future welfare lie in the hands of the Republican party and its patriotic electors.

Who is this citizen whom Mr. RAINEY and his colleagues find so obnoxious who is not permitted to vote in the South? Can they not for a moment cease in hunting isolated cases where criminal negroes have committed grave outrages and look to

the broad development of the negro as a race? What has he done to earn his citizenship?

Education for the negro began with the emancipation proclamation. The illiteracy of the whole race, which may be admitted to have been total at emancipation, has been reduced to 44.5 per cent when the last census was taken. In the ten years from 1890 to 1900 it had been reduced from 57.1 per cent to 44.5 per cent, and in Ohio, where the first steps to educate the negro were taken, there was but 17.9 per cent of negro illiteracy when the last census was taken. Italy to-day has 38 per cent of illiteracy; Spain, 68 per cent, and Portugal, 79.2 per cent. These are white countries with centuries of civilization behind them. There are 40,000 negro students in higher institutions of learning, pursuing all branches from trade to classical and scientific courses. Forty thousand colored youth have graduated from secondary institutions of learning, and 4,000 from colleges. The race has developed 30,000 teachers, more than 16,000 clergymen, 4,000 musicians, more than 2,000 actors and showmen, more than 1,700 physicians and surgeons, about 1,000 lawyers, 300 journalists, 250 dentists, 236 artists and art teachers, 100 literary persons, 120 civil engineers and surveyors, 82 bankers and brokers, and 52 architects. It has about 200 institutions for higher education in the United States. In 1904 it owned property amounting to \$1,100,000,000. It operates 746,715 farms and owns 187,797 farms, or 25 per cent of the total. It rents 557,174 farms, or 74.6 per cent of the total. This is not a bad showing for a race which gentlemen of the minority have declared unfit to exercise its citizenship, and which they claim to be a purchasable quantity when it comes to exercise its suffrage.

In 1900 the farm property belonging to negroes was valued at \$200,000,000, almost \$300 for each negro family. In the State of Georgia in 1901 the negro owned 1,200,000 acres of land with an assessed valuation of \$15,269,181. The auditor of the State of Virginia, in his report for 1904, says that the colored people increased the value of their property in one year \$1,054,626, making the value in that year of their total property \$19,554,884. The average size of the negro's farm is 51.8 acres, and of the total acreage over 66 per cent was improved. More than one-fourth of all the farms in the South are operated by negroes.

It is an acknowledged fact that the real backbone of our country is agriculture. The negro has recognized this fact, and more than 2,000,000 are engaged in agricultural pursuits. Nearly 1,500,000 are engaged in domestic and personal service, 275,000 are engaged in manufacturing and mechanical pursuits, and 47,324 are engaged in professional pursuits. The negro has 20,000 churches, valued at many millions of dollars.

What is there in the progress of the negro that gives rise to unfavorable comparison with the progress of any people similarly situated? He has, from the time he was given the right to use his talents according to his own bent, endeavored to be, and has been, self-supporting and progressive. Those who were endowed with the best talents have progressed to the higher branches of business and professional life. Those who were not so well endowed have sought agricultural and mechanical pursuits, and their progress has been steady in the direction of independence and good citizenship. No class of men where the right of suffrage has been given to it, has cherished more effectually that privilege or used it more patriotically. Compare the negro with the Russian peasant, freed but a few years before, and his progress has been remarkable as compared to the down-trodden white serfs of the Russian Empire. With all, the negro has never demanded that which he was not entitled to. He has asked that he be given an opportunity to develop and become a good citizen. Where that opportunity has been given him he has taken advantage of it and is a good citizen. There are bad negroes by the same rule that there are bad white men. There are vicious negroes for the same reason that there are vicious white men, but the great majority of both whites and negroes are respectable and law-abiding. A creditable showing, truly, particularly if we take into consideration that the negro has had only a few score years of civil rights and the white man has always been free to develop his talents and advance his boasted civilization.

The gentleman from Illinois [Mr. RAINEY] in his speech on February 13 makes the following statement, referring to Senator FORAKER:

There is only one man in the Republican party who is spoken of as a candidate who really represents anything, and he represents money and negroes.

Further along he says:

You must take care of the negro vote and you can't do it when you turn down FORAKER. If you turn him down, if you do not nomi-

nate him—and he is the only man who is making a real fight for anything except the nomination—it will be necessary for you to buy every negro north of the Mason and Dixon line in order to get them to vote the Republican ticket.

And further:

The Republican party making a campaign without money and without negroes would present a pitiable spectacle in this country. [Applause on the Democratic side.]

Referring, for a moment, to that portion of the speech of the gentleman from Illinois [Mr. RAINEY] in which he not only casts reflections upon the splendid character and purposes of the senior Senator from Ohio [Mr. FORAKER], and in which he also characterizes every negro north of the Mason and Dixon line as being a purchasable quantity, and glories in the fact that he belongs to the national Democratic party, because it is a "white man's party" and always will be, let me say that I am equally proud of the fact that the Republican party is not a "white man's party," but is a party composed of American citizens regardless of nationality or color. It is a party that believes that the principles of the Constitution of the United States should be as potent south of the Mason and Dixon line as it is north of that imaginary line. It believes that every section of the Constitution should be inviolate and in no sense ignored. It stands for human rights and insists that the guaranty of civil and political rights given to every male citizen of this country 21 years of age shall apply to a negro as well as to a white man. It is the party of Abraham Lincoln, of Grant, of Garfield, and McKinley, and just as they stood for human rights and political liberty, so will it continue to stand, and I prophesy that at no far distant time those States which deprive certain of their citizens of those rights will be compelled to recognize the fundamental and organic law of our land as it was meant to be recognized by the patriots who drafted it.

Good Roads.

SPEECH

OF

HON. WILLIAM C. LOVERING,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. LOVERING said:

Mr. SPEAKER: The question of the improvement of the public roads of the country is rapidly becoming one of national importance. The urgent necessity for a radical change in our methods of highway construction, improvement, and maintenance is generally admitted, and in recent years public sentiment is strongly inclining toward the proposition that the National Government should give its cooperation and financial assistance in this matter with a view to the establishment of a complete system of properly constructed roads in all sections of the United States.

I have reached the conclusion that this is a subject in regard to which Congress must sooner or later legislate, and I believe that it is high time that the question of national aid for public road improvement should be taken up by this House for serious consideration. I am fully aware of the objections urged against the assumption by the Federal Government of another public function, but I can see no logical reason why the arguments in favor of national improvement of our waterways should not equally apply to the improvement of our highways. If appropriations for the former are justified because of the importance of our waterways to trade and commerce, it would seem clear that in view of the relatively greater importance of our highways to every productive and industrial interest of the country appropriations for the improvement of the latter are even more urgently desirable.

I followed with interest the recent discussion of this subject on this floor, which showed that while the Representatives may not be agreed upon a definite plan for Federal aid, there appears to be a preponderant sentiment favorable to the enactment of legislation of some kind for assisting in the work of public highway improvement. If, as seems to be the case, a majority of the Members of this House favors action by Congress for this purpose, the working out of a practicable method for national aid is the problem which must be satisfactorily solved before any further progress can be made.

Various propositions have been submitted in the numerous bills relating to this subject introduced at the present session. Without criticising these measures in detail, I may say that, in general, they make the appropriations provided for in aid

of public road improvement contingent upon appropriations of like amounts by the different States. I am inclined to believe that this feature of the bills is unwise, and that if Congress is to make appropriations for this purpose the expenditure of these appropriations should not be limited to such States as may appropriate equal amounts. In practical operation the provision that the respective States should receive an amount equal to that appropriated by them for road improvement would enable a few States to secure the greater part of the entire national appropriation.

Thus we were told by the gentleman from New York [Mr. PAYNE] that his State has voted the large amount of \$50,000,000 for the construction and maintenance of improved roads. Under the conditions proposed in the bills to which I have referred the State of New York would be entitled to receive \$50,000,000 out of the appropriations made by Congress, or practically all of the appropriations called for in these measures. It can therefore easily be seen that some other method of distributing the funds voted for this purpose must be devised.

In this connection I wish to refer briefly to the remarks of the gentleman from New York in opposition to the proposal for Federal aid. The gentleman told us that he was opposed to Federal aid for road improvement in any form, and that he would continue to oppose legislation for this purpose, no matter what the granges or the farmers in his district might favor. National aid for highway improvement, he told us, is paternalism. And he claimed that the people of his State did not want Federal aid, but were themselves issuing \$50,000,000 of bonds to build good roads.

I am not dismayed by the cry of "paternalism." Whenever a proposition for progressive legislation in the interest of the whole country is made on the floor of this House it is met with the same old epithet—"paternalism." Our rural free-delivery system was opposed as paternalism. Our law taxing oleomargarine was also said to be paternalistic. The enactment of laws prohibiting railways from granting rebates was said to be more paternalism. And it has grown to be the custom for honorable gentlemen who can say nothing else against a measure advocated in the public interest to crush it under that dreadful sounding word "paternalism."

Mr. Speaker, I am one of those who agree with President Eliot, of Harvard University, and with the honorable Secretary of State that the inevitable tendency of events is toward the assumption of additional functions by the National Government. I believe that the question as to the matters on which Congress should legislate, outside of constitutional limitations, is one to be decided wholly upon the merits of each question. And I believe that the day has gone by when any subject can be summarily tagged "paternalism" and thereby be scornfully dismissed.

I should like to ask the gentleman from New York if it is paternalism for the National Government to devote money raised by taxing the people of the whole country to the improvement of our navigable rivers, harbors, and so forth? If so, why does he continue to vote large appropriations for these purposes? If not, wherein lies the difference between the national improvement of public waterways and of public highways? The honorable gentleman may reply that our public road system is one that concerns only the localities in which these roads are situated. But, if that is true, why does his State of New York vote to expend \$50,000,000 for better roads? Why should the paternalistic legislature at Albany appropriate funds for Cayuga, Ontario, Wayne, and Yates counties? Why should not every township or farming community in the State of New York be left to construct, improve, or maintain its own roads?

The same questions might be asked in regard to river and harbor improvement. Certain of the older and wealthier States could undoubtedly attend to the maintenance of light-houses, the dredging of rivers and harbors, and other work now performed by the National Government within their borders. But I am sure that, taking the country as a whole, this work is better done under the present Federal system than if it were relegated to the States directly concerned.

The gentleman from New York says that his State does not ask for Federal aid for road improvement. I have looked over the daily list of petitions appearing in the CONGRESSIONAL RECORD and find that there are more petitions from the farmers and other citizens of that State in favor of national aid than from any other State in the country. Nor is the sentiment in favor of action by Congress adequately represented by these petitions. Every Member of this House knows that where one farmer takes the trouble to write to his Representative in favor of any desired legislation there are hundreds who are quite as strongly in favor who do not write. So that from the remarks of vari-

ous Representatives who have referred to the letters and petitions received by them in favor of legislation on this subject, I think it is plainly evident that the farmers of the country are practically unanimous in desiring action by Congress and that they want that action taken as promptly as possible.

Honorable gentlemen have raised the question of the power of Congress to make appropriations for the construction or improvement of the public highways. I have read the decisions of the Supreme Court of the United States bearing on this question, and am satisfied that under the power to regulate commerce between the States Congress can enact legislation for this purpose. The right to construct interstate public roads was exercised at the beginning of the nation's existence, and legislation providing for such roads was enacted, as recently stated on this floor by the gentleman from Alabama [Mr. UNDERWOOD], by the Third Congress, which included in its membership Representatives who had taken part in drafting the Constitution. If it is said that this is merely the right to construct interstate highways I would submit that under the decision of the Supreme Court in the case of *Miller v. The Mayor of New York*, in which it was held that the United States had power to preserve or improve navigable waters wholly within a State, provided those waters connected with other waters forming a channel for commerce among the States, Congress has power to make appropriations for any public roads which connect with, or lead into, any interstate highway.

Congress has in the past appropriated hundreds of millions of dollars, in the form of donations of public lands and other subsidies, to privately owned railway corporations. If it is constitutional to give away public funds to private corporations it surely should be constitutional to devote a part of these funds to a public purpose that will benefit the people of the country as a whole.

The problem of establishing a satisfactory public-road system throughout the whole country is one requiring earnest and intelligent study. I believe that the solution of this problem will be found in the creation of a National Highways Commission, under whose auspices a staff of trained road engineers would cooperate with the township, county, and State road authorities in the work of constructing improved roads, thus placing this work on a scientific basis. To enable this Commission to carry on its work on a proper scale liberal appropriations should be made by Congress, these appropriations to be expended in co-operation with the State officials having charge of the public roads.

The benefits which would result from the enactment of this legislation can not be overestimated. It is not merely that the appropriation of certain amounts for road improvement would aid in the construction of better roads in the sections of the country where they are most needed. Much more important is the fact that the National Highways Commission would be a central authoritative body, which would bring order out of the existing chaotic conditions, and substitute a scientific policy of road construction for the haphazard methods which now prevail to so large an extent.

The splendid public road system of France, acknowledged to be the best in the world, is mainly due to the fact that the construction and maintenance of the principal roads is under the supervision of the National Government, whose staff of expert engineers receive a special training in the College of Roads and Bridges.

The enactment by Congress of legislation creating a National Highways Commission, and making suitable appropriations for its work, will inaugurate a national policy of road construction and improvement that will ultimately result in giving the entire country a system of permanent public highways, constructed after the most scientific methods under the joint supervision of that Commission and the various township, county, and State authorities. The engineers and construction staff of the Commission, and the appropriations made by Congress will be available for aiding in the improvement of roads in every part of the country, and the roads so improved will be a constant inducement to each community to cooperate in making our road system what the wealth and intelligence of our people entitle us to have—the best in the world.

[From The National Grange.]
FRENCH V. AMERICAN ROADS.

A recent official report from Consul-General R. P. Skinner, of Marseille, France, gives some highly important information regarding the public roads of that country. As is generally known, France has the best and most complete road system in the world, and its splendid public highways fill with envy and admiration all foreigners, particularly those from the United States, where the roads in general are about the worst in any country professing to be civilized.

The superiority of the French road system is stated by Consul-General Skinner to be due to the fact that the construction and maintenance of the principal roads is carried on under the supervision of a corps of experts in road construction, who find in their profession

opportunities for advancement and distinction such as could not and good, not because of any superiority of road-making material, nor because the French people possess any special talent for road building, but because the initiative in matters pertaining to the public highways is taken by highly trained engineers and administrators, under the direction of the National Government.

All the principal French highways, or "national routes," of which there are 23,656 miles, are constructed and maintained by the National Government, which has expended on them over \$300,000,000. The superiority of these roads over those constructed or maintained by the local authorities is very marked, but even the local roads are kept in good condition, so that the standard French road is one upon which in a rolling country a draft horse hauling a load of 3,300 pounds is expected to travel about 20 miles per day. This fact alone will serve to indicate the difference between the roads in France and those of the United States, where the load hauled by one horse over the average level country road is only 1,400 pounds, and on roads with 5 per cent grades only 1,000 pounds.

The basis of the French highway system is the School of Bridges and Roads, one of the finest technical colleges in the world, where engineers are trained for positions in the public road administrative system. These engineers cooperate with the local authorities, and the result is that there is available for the work of road construction an effective body of competent administrators, whose influence extends throughout the whole country.

A beginning has been made in a small way in this country by the Bureau of Public Roads of the United States Department of Agriculture, to introduce the methods by which the French road system has been so satisfactorily developed. The organization of this Bureau, and funds at its disposal, are, however, wholly inadequate. What is needed is a National Highways Commission which shall have general powers to promote the construction and improvement of the public roads, and for which liberal appropriations should be made by Congress. The National Government's cooperation in this matter will greatly stimulate action by the various State, county, and township authorities, and will result in the establishment of a complete system of properly constructed roads, rivaling those of France, in all sections of the country.

Resolution Adopted by the Polish Citizens of Winona, Minn.

SPEECH

OF

HON. JAMES A. TAWNEY,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. TAWNEY said:

Mr. SPEAKER: In the district which I have the honor to represent in this House there are a great many Polish citizens. They have manifested a great deal of interest in the unjust treatment which the Poles of the Prussian Government have accorded to their nationality and to their friends and relatives whom they have left behind and who continue to reside under the Prussian Government.

I recently received a preamble and resolutions adopted by the Polish citizens of Winona, Minn., where I reside, at a mass meeting held May 3, 1908. This preamble and resolutions urge upon Congress favorable action upon the resolutions introduced at the session by the Hon. A. L. BATES, of Pennsylvania. So far this session I have had no opportunity to have these resolutions printed in the RECORD without unanimous consent, which consent could not be obtained. I now avail myself of the opportunity of printing the same, under the resolution adopted by the House giving Members permission to print matters of this kind, together with the letter to me of the Rev. J. Pacholski, who prepared the resolutions and transmitted them to me:

WINONA, May 4, 1908.

The Hon. JAMES A. TAWNEY,
House of Representatives, Washington, D. C.

HONORABLE SIR: You will find inclosed a copy of resolutions we have felt called upon to adopt against the now famous new Prussian laws, regarding the Poles in Prussia. Please kindly consider our humble request and help to pass Mr. BATES's resolution. Any favor you will bestow upon us in this matter will be thankfully received and gratefully remembered by the Poles of Winona.

Yours, very respectfully,

REV. J. PACHOLSKI.

Resolutions adopted by the Polish citizens of Winona, Minn., at a mass meeting held May 3, 1908.

Whereas it is a well-known historical fact that the Poles have always been a peaceful and liberty-loving nation, and that, keeping pace with the western civilization of Europe, they have been and are to-day contributing their share to the universal progress of the world, although they have lost their political freedom more than a century ago; and

Whereas one part of Poland, through the treacherous machinations of her jealous neighbors—Russia, Prussia, and Austria—has become a province of Prussia, yet, under the provisions and stipulations of the Congress of Vienna in 1815, has been assured by the oath of the King of Prussia forever the free use of the Polish language in private as well as in public life, and has been guaranteed equal rights with the rest of the subjects of the Prussian Kingdom; and

Whereas the Prussian Government, forgetful of the solemn oath of Frederick William III and of the reiterated promises of his successors for the last sixty years, but especially since the reign of Prince Bismarck, is unceasingly persecuting its Polish subjects and is causing its legislative body to pass exceptionally unjust laws against them, not-

withstanding their unquestionable willingness to discharge all their duties toward their sovereigns and their country; and

Whereas the persecution of the Poles by the Prussian Government reached its climax in the passage of new laws by the German Diet during its last session, aiming at a forcible expropriation of the Poles of their lands, which they and their forefathers held in undisturbed possession from times immemorial, and an utter prohibition of the use of the Polish language at public gatherings and in institutions of learning; and

Whereas the most profound and eminent men of all civilized nations, Germans not excepted, at the invitation of Henryk Sienkiewicz to pass their opinion on these outrageous laws, have unanimously condemned the Prussian Government for its unheard-of encroachments upon the rights of innocent, peaceful, and law-abiding citizens and for setting thereby a dangerous precedent, menacing the fundamental international law of private ownership; and

Whereas the Government of the United States has at all times proven itself to be a friend and protector of the unjustly oppressed, and may and will, we sincerely hope and believe, use its good offices to prevent the tortures which need must be the lot of the persecuted Poles in the Prussian provinces if the new laws be put into effect; and

Whereas we, the Polish citizens of Winona, Minn., having been at one time, almost without exception, subjects of the Prussian Government, and having at the present time living there our parents, brothers, and sisters, who will have to bear the humiliating and cruel effects of the new laws, feel more keenly than any other Polish colony in America the injustice of those laws; and

Whereas there is at present in Congress a resolution, introduced by the Hon. Mr. BATES, of Pennsylvania, expressing sympathy for the oppressed Poles, and pointing out to the German Government the perversity of its new laws: Therefore we, the Poles of the city of Winona, Minn., in mass meeting assembled, representing more than 4,000 citizens,

Resolved, That we hereby most cordially extend our unbounded sympathy to our relentlessly and unjustly persecuted brothers under the Prussian Government, and our admiration for their heroic perseverance in calmly and patiently bearing this persecution;

That we express our deepest indignation at the inhuman and unjust treatment of our brothers by the Prussian Government, and solemnly protest before the whole civilized world, and especially before the noble, liberty-loving nation of the United States, against the barbaric laws of Prussia of forcible expropriation and attempted extirpation of the Polish language;

That we earnestly request our Representative, the Hon. JAMES A. TAWNEY, to use his powerful influence in promoting the passage in Congress at its present session of the resolution now before Congress, offered by the Hon. Mr. BATES, of Pennsylvania;

That a copy of these resolutions be sent the Hon. JAMES A. TAWNEY, and

That the local daily papers be kindly asked by our committee to publish the same.

Duty on Wood Pulp and Print Paper.

REMARKS

OF

HON. GEORGE R. MALBY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. MALBY said:

Mr. SPEAKER: I shall take advantage of the leave to print which the House has granted to present a comparatively brief and very comprehensive article, which appeared in the May Protectionist, upon the subject of the duty on wood pulp and print paper.

The article presents the arguments of those advocating the immediate removal of all duty, and answers them frankly, clearly, and forcibly. I shall not attempt to add to the article, but simply print it.

THE PROTECTION OF PULP AND PAPER—SOMETHING FOR REPUBLICAN EDITORS TO CONSIDER—AN ARRAY OF FACTS WHICH COMPLETELY OVERWHELM THE FREE-TRADE ARGUMENT.

Most Republican newspapers are advocates of protection, and they would like to have the policy equitable and fair to all interests. Most Democratic newspapers are advocates of free trade, and they are ever ready to break through the tariff wall whenever and wherever they can. The more they can make it a thing of favoritism, the sooner they hope to see the people reject it.

Recently there has been a renewal of the appeal to the self-interest of the press for a united opposition to the duties on wood pulp and ordinary news paper. For some years it was engineered by Mr. John Norris, of the New York Times, and Mr. Seitz, of the New York World, but it is now worked by Mr. Herman Ridder, of the Staats-Zeitung, all free traders. They have formed or gained control of the American Newspaper Publishers' Association. The association embraces but a small proportion of American publishers, but doubtless the statesman who does not look into the subject gains an impression that it speaks for all.

The scheme is based upon the old policy of Cobden to "divide and conquer." It is an appeal to class interest, and its alleged arguments are a tissue of falsehoods. In proof of this we will quote from an editorial in the Staats-Zeitung of March 16, and will refute its errors by authentic facts.

1. "The tariff is the father of trusts."

Why, then, was free-trade Great Britain covered with trusts before they were formed in the United States? Professor Sumner, of Yale, a high authority on free trade, says "Trusts, department stores, railroad consolidations, bank unions, are cases of a general development in the mode of industrial organization," and President Schurman, of Cornell, says "Consolidation is the tendency of the age, and it is

for the public interest when publicly supervised and controlled." Richard Olney, the ablest member in President Cleveland's Cabinet, says: "Among the weapons which industrial competition has developed is what is popularly known as the 'trust,' and the trust has earned the right to be regarded as an economic evolution." He refers to it as a favorite theme of denunciation by "political demagogues," and Mr. Ridder is entitled to this designation by a leader of his party.

2. "It was only through the eager exertions of a clique of captains of industry that the prohibitory duty was put on paper."

The duty was 30 per cent under the free-trade Walker tariff of 1846, and is only 15 per cent now, which is the same as in the Wilson tariff. If there was a conspiracy of captains they were of Mr. Ridder's party. Pulp wood is admitted free. In 1907 nearly \$8,000,000 worth of pulp was imported from Europe and Canada. The imports of wood pulp in 1905 increased 103 per cent in quantity and 87 per cent in value over those of 1900. The imports of paper increased in the same time from three millions to five millions in value. All this shows anything but prohibitory duties.

3. "The paper monopoly was created by the tariff and has been maintained by it to the present day."

The 1905 census shows that the number of paper and wood pulp establishments then in the country was 761, a gain of 12 over 1890; that their capital was \$277,000,000, against \$90,000,000 in 1890; that their employees numbered 66,000, against 31,000 in 1890; that the cost of materials used was \$111,000,000, against \$44,000,000 in 1890, and that the value of their product was \$189,000,000, against \$79,000,000 in 1890. The quantity of news paper produced in 1900 was 569,212 tons, and in 1905 it was 912,822 tons, a gain of 57 per cent in five years. While it is true that several large companies own numerous mills, they compete sharply with each other, and there are many independent mills which also compete. The great and almost steady decline in the price of news paper for thirty-years is a strong proof that consolidation has economized the cost of production, and that there is competition.

4. "The price of paper is to-day higher than ever."

The price of news-print paper fell from \$200 a ton to about \$40 in thirty years before 1890. It has risen since owing to the increase of 30 per cent in wages and 100 per cent in wood (see census of 1905), but according to the index number of the Department of Commerce and Labor the advance in the cost of news print from 1890 to 1906 was only from 69.09 to 73.02, while the advance in all commodities was from 101.7 to 122.4. The quotations of the Paper Trade Journal show that the price fell from \$4.75 per 100 pounds in January, 1890, to \$2.50 in 1900, which was after the International Paper Company was formed, and declined to \$1.90 in 1906, but then rose to \$2 in 1907. The highest price in 1908 has been \$2.62. These figures show that even at the highest the price has not advanced equally with the prices of labor and material, and nowhere near those of commodities in general. Probably there is hardly another article in general use which has declined so much in price from 1878 to 1908 as news paper, while it has improved much in quality.

5. "The laborer has not been benefited by this duty."

Having already shown the great growth in the industry, it follows that many more people have been employed. The Journal of the International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, for March, 1908, says: "During the last fifteen years, we are glad to say, we have received an increase in the average wages of paper and pulp mill employees of 30 per cent, while the average hours have been shortened 8 per cent. In 1905 the wages paid were over \$32,000,000, which amounts to over \$10 per ton of paper made. Furthermore, there is a large amount of American labor employed in getting out pulp wood. This is estimated at \$6 per ton of paper, making the total labor employed in making a ton of news paper not less than \$15. It has been estimated that considering the labor that goes into the other raw materials, and the transportation, not less than two-thirds of all the money paid for a ton of news paper goes into the general wage fund of the country."

6. "The trust alone has derived advantage from the duty, as the dividends it has paid on its watered stock show."

None of the companies has paid dividends upon its common stock, and those on the preferred have averaged less than in other lines of manufacture. The market prices of the stocks and bonds show that the industry is not as profitable as many other industries.

7. "Prohibitive duty—robber tariff—legalized robbery, nothing else."

The average ad valorem duty on ground wood pulp is 12.26 per cent; on chemical pulp unbleached, 10.15; on chemical bleached, 9.88. These are among the lowest duties in the entire tariff. The statistical abstract of the United States gives the average on all dutiable articles in 1906 as 44.16 per cent, and on all imports (free and dutiable) as 24.22. Thus it is seen that the wood-pulp duties are less than one-quarter those of other dutiable products and less than one-half those which are reduced by a free list covering nearly one-half of all imports. Surely Mr. Ridder's case is the weakest yet made against any part of the Dingley tariff, and if we are to have protection at all on anything, paper and pulp can not fairly be excepted or discriminated against.

8. Consider the destruction which this monopoly has done in our forests and is still carrying on unpunished.

Undeniably there was some waste before the great companies were formed, but they early began to conserve their supply and to buy cheap lands for reforestation. The State forester of Maine reports that there is now as much timber being grown there as is being cut. This is true of Vermont and New York, and would be true of New Hampshire and the Northwestern States but for the less prudent cutting of the portable sawmill men. The pulp makers consume branches and also trees which have been killed by fire, and thus are great protectors of forests, and their rule is to cut no live trees smaller than 1 foot in diameter at the butt. The industry consumes only 1.6 per cent of the total timber consumption of the country. If pulp should now be admitted free of duty, either the price would be maintained and the Canadians and Norwegians would pocket the amount of the duty (which was the case when lumber was made free by the Wilson tariff), or else our pulp mills would be closed or the wages of their men cut by foreign competition. Then, if the duty on paper should be correspondingly reduced, as Mr. Ridder has persuaded President Roosevelt without hearing the other side to recommend, an industry which puts forth products worth \$200,000,000 a year would be so crippled that in some cases whole villages would be practically wiped out. Dispatches from Canada show that the President's recommendation is hailed with delight there, for the hope is that it will transfer a large part of our pulp and paper industry to that country. One thing is certain: Americans must prefer Americans and protection must be consistent, or piecemeal undermining will be followed by a grand collapse. Prosperity is in more danger from demagogism than it is from all other causes combined.

Supplementing this statement, and with the belief that the people of this country interested in the question of tariff on wood pulp and paper will also be interested in the views of the Canadian legislators, I append herewith the remarks of Hon. E. N. Lewis, M. P., in the Dominion parliament, at Ottawa, on March 11 last:

THE EXPORT OF PULP WOOD.

Mr. E. N. Lewis (West Huron) moved:
"That in the opinion of this house such an export duty should be placed on the export of pulp wood as will be sufficient to induce its manufacture into paper in Canada, and thus save to the labor of Canada the \$6,000,000 now lost."

He said: Mr. Speaker, my object in proposing this resolution is to bring to the notice of this house and of the government of Canada the question of the pulp-wood industry and of whether or not it is advisable for the government to take such steps as will encourage the manufacture of pulp wood into paper in this country, and thus save to the working people of Canada the many millions of dollars now lost to them.

President Roosevelt said recently in reference to the timber and pulp question:

"No other question of equal gravity is now before the nation."

Certainly for the United States this wood question has a dark look; but we in Canada have no desire for our cousins across the border to be without their daily paper. All we wish is that the product of our forests shall be manufactured in Canada and then shipped to them. With our help they must follow the views of a celebrated United States editor, of whom a brother journalist once said: "To him every cloud has a silver lining; if it has not, he's just the man to climb up and paint one on."

Earl Grey says:

"There are no more melancholy reflections than those suggested by the sight of a country once rich and supplied with all the majesty and panoply of power which has become a waste and stony desert through the reckless improvidence of its own people."

Sir Wilfrid Laurier not long ago said:

"We can calculate the number of years and the number is not very great when there will not be another tree of the original forest to be cut upon the limits of the Canadian lumberman."

We are told that the country to the south of us, once covered with a grand majestic forest, one of the main sources of wealth and power of that great nation, is now a dreary waste, a vast void, so to speak, and that such void will soon be duplicated in Canada.

Now, sir, I am an optimist, and I believe that no government of Canadians will be so lax as to allow such to occur here. I can see no dreary waste, no void for Canada.

Between optimist and pessimist the difference is droll.

"The optimist sees the doughnut, the pessimist sees the hole."

Manager Clouston, of the Bank of Montreal, says: "Canada is fast using up her timber resources." He calls a halt and urges action toward preserving the nation's wealth. The following from the pen of William Banks, Jr., the Globe envoy who made a special study of the pulp question on the spot, appeared in the Globe of July 11:

"In other words, Canada is furnishing to Wisconsin, New York, and other States of the Republic to the south, the raw material to be manufactured into goods which come into competition with the manufactures of this country in the markets of the world. What is Canada getting in return? Practically nothing. True, the land is left; there are also stumps of trees; a comparatively small amount is obtained for labor and transportation, and that is all; while around the American mills, whose hungry maws would have no food, or not enough to satisfy them, at any rate, were it not for the raw material furnished from the Canadian side, there are busy, thriving, and expanding communities. The Americans are taking pulp wood, while the sun shines, so to speak, and without being unkindly it would at least seem as though their attitude while they are so doing, is that of the man who smiles at his neighbor's uneasiness and occasionally puts his tongue in his cheek when the situation is made the subject of conversation."

I appear for the people as against the great corporations, both in Canada and across the border; but I regret to say that generally the people are handicapped, either by the lack of concerted action or the lack of funds from utilizing to the full the great power of the press.

The newspaper press is the great dominant and practically irresistible force in all great questions. The corporations realize this and hundreds of thousands of dollars are spent annually in promoting the corporation side of questions which affect them: railways, telephone companies, insurance companies, mining companies, fill to overflowing the advertising space of our prominent daily papers in the United States and Canada, and I ask, at whose expense?

It is naturally so, human nature is human nature, and papers must live, but again I ask, Mr. Speaker, Who pays for the full-page advertisements of those fine mining allurements "The Golden Dog" or the "Silver Fox," in which half the produce of the stock goes to the promoters and half to the newspapers? The development frequently goes minus and the shareholders ditto.

But, Mr. Speaker, I am glad to say that I have a subject now, a live subject and a vital one in which I feel sure the press will use its great influence solely on the side of the people, partly because it is the right side and partly because there is no other great question in which the press is so closely interested as the pulp-wood question.

For years we have grumbled because England made bad business arrangements for us with the United States. Now we have the opportunity to make our own bargain or laws in a vital issue affecting our national prosperity and future. Let us do so in a national manner, and in a way befitting a nation, not from a political or other point of view. Let us throw aside and reject all advice or pressure which may induce us to do or make a political deal. Joseph Clark, a well-known Canadian writer, said: "Canada has been mentioned in the dispatches, the United States high protectionist, as it is, has spoken. President Roosevelt in his message to Congress says: 'We are out of pulp wood, we supply the world with paper. I advise you, if possible, to make a bargain with Canada. Take off the United States duty on pulp wood, if Canada will agree not to impose an export duty.'"

And Mr. Clark further said: "There is one thing about these neighbors of ours, they always know what they want and why they want it." They barred out our pulp just as long as they had pulp of their own. Now they say: We are up against a paper famine, we already feel the pressure of it, the price of news paper has doubled. Don't do what we would do in your place. Do not force our paper mills to move to Canada; do not draw this vast industry to yourselves, feed your forests into our mills."

Statesmen at Washington have laughed until their sides ached when jurists of repute returned and told of the deals they had pulled off.

The United States Wall Street Journal says the International Paper Company, which controls over thirty mills, has in a little over a year acquired 1,255,000 acres more of timber limits, most of them in Canada. It is apparent that if the export of pulp wood from Canada were cut off the paper manufacturing of the United States would collapse.

You will notice, sir, that I am not forcing any opinion of my own on the House; I am simply stating facts and conclusions formed from those facts and giving opinions of gentlemen of experience and knowledge in the premises. Here are two statements, one from prominent political Quebec leaders, the other from a Congressman of the United States. Let me quote from the Gazette, March 6, 1908:

"The government congratulated themselves," Mr. Leblanc went on, "over their Crown land reports. It showed that 100,966 cords of pulp wood had been exported during the year. For this Canadians received \$6 per cord." The speaker asked his hearers to go to the directors of Canadian paper manufactories and find out that for every cord of pulp wood turned into paper in Canada Canadians received from \$48 to \$50, most of which meant wages for Canadian workmen."

The premier, Hon. Mr. Gouin, in reply, said:
"Hon. Mr. Leblanc had blamed the government for the exporting of the pulp wood, but the government was not to blame for that, as there was only one power that had the right to impose an export duty on pulp wood, and that was the federal administration. The premier thought it would be a good idea to have a commission to investigate this question and report whether a duty should be imposed."

Let me now quote what Mr. J. TIRRELL said in the Washington House of Representatives:

"If there are gentlemen on this floor who wish to see that industry wiped out, who wish to throw out of employment tens of thousands of American wage-earners and have them walking and moaning on the streets; if they wish to see the smoke and fires extinguished of the 108 mills now in the State of New York and the mills of the West, and the industry hampered so that it no longer becomes a factor in the commercial development of the country, then it is only necessary to wipe out the tariff on pulp and paper and give to Canada the power to pass prohibitive export laws and close all the mills of the United States!"

While, sir, pulp wood is a raw material of comparatively low value, it produces manufactured articles of high cost.

Millions upon millions of spruce logs, hundreds of thousands of cords of pulp wood, go yearly from Quebec, New Brunswick, and Nova Scotia to feed the pulp and paper mills of the Eastern, Middle, and Western States.

What does Canada get for this?

1. The government, not \$1 a cord.
2. The chopper, the loader, the river driver, the teamster, the peeler, not much more.

3. The railways a low rate on coarse freight. The whole result, \$6 or \$7 per cord left in Canada—I give a maximum figure; \$6 is absolute. Why, sir, they don't even allow us to carry the pulp wood in Canadian vessels. I have here a list of fourteen steamships carrying pulp wood last season from Quebec ports to Wisconsin ports, twelve of which are United States vessels and two Norwegian.

Now, I repeat again—\$6 or \$7 left in Canada for every cord of pulp wood leaving it. Watch, the value grows afterwards. Every cord of wood ground to pulp has a value of \$20. Every cord of wood made into fiber has a value of \$30 to \$32. Every cord of wood made into paper has a value of \$40 to \$45 and up. My resolution asks this government to take such action as will save to the labor men of Canada the \$6,000,000 lost annually. I firmly believe that \$20,000,000 would be nearer the mark. The United States shuts out our finished product, paper, but takes our crude product, pulp wood, makes it into paper, and undersells us in Europe with their surplus dump.

If the facts were properly placed before the farmer who has pulp wood for sale, he would see that he would be helped by an export duty more than anyone else. The sale would be just as great and more people would live in his neighborhood to use his other products and make his farm more valuable. If an export duty were to be put in force, sufficient mills could be removed to or built in Canada in eighteen months to supply the world.

The pulp and paper industry gives more healthy and steady day and night employment to a larger number of men and women at higher wages all the year round than any other industry in Canada.

We have no desire to prevent our American cousins having newspapers to read, but let them get our forests in the shape of the manufactured article. What happened when the Liberal government of Ontario restricted the export of saw logs? Sawmills started humming in all directions, factories followed; the United States sawmill men came over here, and we were glad to have them. We will welcome the paper manufacturers also. The leading pulp and paper journal of the United States asked a question of the trade as to the results of an export duty. One answer was:

"Would probably mean United States capital would cross the border and build mills; pay rolls would go to Canadian labor instead of United States."

Another answer was:
"It will simply build up the industry of Canada."

Now, let me give a few statistics on this subject. I would ask honorable members to bear in mind the difference between the wood pulp referred to in the first of these tables and wood for pulp.

The following figures show the value of wood pulp and wood sent to the United States for the year ending June 30, 1907:

Canadian wood pulp exported to United States, year ending	
June 30, 1907	\$3,230,272
Wood for pulp, 650,366 cords	2,792,751
Total	6,023,023

Now, according to United States Bulletin No. 80, pages 18 and 19, the value of paper per ton ranged in 1906 from \$41.61 for heavy wrapping to \$348.02 for fine Massachusetts. The tariff of 1887, which places a duty on Canadian pulp, contains this provision:

"If any country shall impose an export duty on pulp wood to the United States, the amount of such export duty shall be added as an additional duty to the duties herein imposed upon wood pulp imported from such country."

I say that is an insult to Canada, for that is aimed at us. I read the other day the remarks of a Congressman in the United States who prefaced one of his statements by saying, "If we allow Canada to do so." What right have they to "allow" Canada to do this or that? We are friendly to our neighbors and they to us, but why should we not

look after our own interest? My attention was drawn to this matter by a gentleman living in the United States and well acquainted with this business. He is a Canadian by birth and his feelings incline toward the flag under which he first lived. He told me that they were laughing at us over there.

Here is another object lesson: Japan imports 5,000,000 pounds of British paper and 8,500,000 of American paper—Canada is not mentioned. England imports \$28,369,075 worth of paper, principally from the United States. Where does she get her wood pulp? From Canada. Yet Canada is not mentioned. It has been stated in some of these documents from the United States that the paper and pulp mills in the United States number 1,200. Now, I have verified every statement I make here. I am not making a speech. I do not make speeches. I am putting in facts and trying to draw to them the attention of this House. Instead of 1,200 paper and pulp mills, there were in the United States, in 1905, the last year for which reliable figures are available, 761 pulp and paper mills. These had an average capital of \$364,579. There are 41 paper mills in Wisconsin alone. Where do they get their pulp wood? Why, where do these twelve American vessels and two Norwegian vessels of which I have spoken carry their pulp wood?

Now, what has Canada? Fifty-eight pulp mills, making 2,361 tons of paper in 1907, and 46 paper mills, making 966 tons per day. The retention of forests is needed to save the water supply, prevent droughts and freshets, and save water power for manufactures as well as for the pulp wood and timber.

As to forestry, the question is not "Can the trees be replaced as cut, and how," but "Who shall do it?" I think that is quite feasible. I have had correspondence with a gentleman in the State of Carolina. He is engaged in the forestry business and is a millionaire, and his opinion is that it is possible to make trees grow in the open field, but that this can be done much more easily where small trees are left after cutting down the large ones. We often read of statements made on the other side of the line as to the amount of pulp wood that is left and how many years it is going to last. I have this from a gentleman who has absolute knowledge in the matter, that very little spruce, if any, is left in New York, Pennsylvania, Massachusetts, Connecticut, Ohio, Michigan, Wisconsin, and Illinois; some in Maine and Wyoming. There is none left in Colorado and Dakota. Norway and Sweden are almost denuded. A mill in Herkimer, N. Y., took a ten-years' contract to furnish an English company with paper, and they are taking their pulp from Canada by rail.

Now, there is the question of retaliation which has been mentioned. I wish to state this to the government and to the House in general, that I have no fear of retaliation. I have questioned gentlemen who have knowledge of the matter and they say that there are other interests in the United States who would oppose retaliation, even if that were attempted; other interests who are opposed to the paper manufacturers are too strong to permit it. Now, here is a fact that may not be known to many in this House. In volume 1, page 736, of Storey on the Constitution of the United States, he gives these words from section 9, clause 5, of the Constitution:

"No tax or duty shall be laid on an article exported from any State."

Now, sir, with the permission of the House, I will proceed to read a few extracts taken from the pulp-wood number of the *Globe* of March 7. I have cut out only those that are pertinent to this question. Here is what Mr. Biggar says:

"A few years ago the United States believed, as we do now, that their supply of timber was inexhaustible. When theirs is done they have no place to turn but to Canada. We have the whip hand and control their supply."

Now, as to the question whether the farmer would be able to sell his pulp wood if an export duty was put on, I wish to say that his health, his comfort, and his interest would be greatly enhanced if such a duty were imposed; besides, he would be able to sell his pulp wood in other directions. Here is an example of the benefits following the manufacture of paper in Canada, which we find in the *Laurentide Paper Company* at Grand-Mere, Quebec:

"The town of Grand-Mere is a striking example of what the paper industry would do for Canada. Five thousand well-to-do, contented people live there."

"Before the paper mill came to it Grand-Mere was a small struggling village with a few score of inhabitants; now it is a bustling, growing town with over 5,000 inhabitants, and shows all the earmarks of prosperity."

"At Batiscan, one of the centers of the wood-pulp export business, there are some 300 people, yet at one time this village was a larger place than Grand-Mere. Batiscan is one of the chief shipping centers of the International Paper Company, and ships to the United States about as much pulp wood as is used by the Laurentide Paper Company. In one case all is exported and a struggling village of 300 barely holds its own. In the other case, it is manufactured and a town of 5,000 people is prospering and growing."

"The Laurentide Paper Company have about 1,200 men on their pay roll, and have built this thriving town simply 'on paper.' This company take their supplies from the St. Maurice River, which enter one end of their modern plant as logs and come out at the other end as pure white paper of the finest texture."

"They consume 100,000 cords of pulp wood every year, and when manufactured this means \$3,000,000. On the other hand, there are exported annually from Quebec 600,000 cords of pulp wood. This leaves in the country about \$3,000,000. Thus, there is as much money left in the country from 100,000 cords manufactured as from 600,000 cords exported."

"Or, to make another comparison: A cord of pulp wood exported as such yields to Canada and all Canadian interests for cutting, handling, stumpage, transportation, etc., \$6; the same cord converted into paper yields \$38. Thus, there are over six times as much in it for Canada by the conversion of her spruce wood into paper at home as is to be got by letting it be manufactured abroad."

"Further, the contention of the Laurentide Paper Company is that the manufacture of paper in Canada means the creation and assistance of many other industries. To the railroads there is a big gain. In one case their cars go in empty and carry out pulp wood. In the other case they carry in coal, marble, machinery, and mill supplies and all the merchandise necessary to feed and clothe a large population. It would assist our coal companies, as every ton of paper manufactured requires half a ton of coal. Thus, the Laurentide Paper Company alone consumes over 30,000 tons yearly. It would assist our banks by the circulation of money, would encourage skilled labor, and give a chance for our people to earn good wages. Around the mills in the United States large towns and cities have arisen, manned largely by people

from the Province of Quebec, who were unable to find profitable employment at home."

Let me here suggest that there is no better plan of repatriating our Canadians from Quebec who have gone to the States than by the establishment of paper mills at home. I say this advisedly, because I contended with the honorable member for South York (Mr. W. F. Maclean) that there is only one class of Canadians in this country.

These Canadians from the Province of Quebec could be brought back to Canada easier by this method than by immigration methods. I am sure the honorable member for Wolfe (Mr. Tobin) will confirm this from his experience. Here is another statement by this gentleman, Mr. Biggar:

"The subsequent progress of the pulp and paper industry is recorded in the *Pulp and Paper Handbook of Canada* in the various editions as follows:

PULP MILLS.

Year.	Number of mills.	Total capacity in tons per 24 hours.
1888.	34	154
1892.	37	312
1899.	59	1,245
1907.	58	2,361

"The total capacity of the mills producing chemical pulp by the sulphite and soda processes in 1899 was about 50 tons per day, and in 1907 about 550 tons per day, so that the increase in the last eight years has been almost wholly in mechanical or ground wood pulp."

PAPER MILLS.

Year.	Number of mills.	Total capacity in tons per 24 hours.
1888.	40	173
1892.	38	209
1899.	33	328
1907.	46	966

"The era of manufacturing pulp from wood in Canada began in the decade of 1880-1890. The yearly capacity of its pulp mills at the present time is about 700,000 tons of pulp and 290,000 tons of paper. Pulp first figures in the trade and navigation returns of Canada in 1890, when the total export was valued at \$168,180, of which \$460 went to Great Britain, \$147,098 to the United States, and \$20,662 to other countries. In 1897 the total export was \$741,959."

"If this be true—and certainly The Paper Mill can have no object in making matters appear worse than they are—the newspaper publishers of Canada, and the newspaper readers as well—for in this their interests are identical—may well ask themselves a few questions."

"There are in the United States seventy mills engaged in the manufacture of white paper, the daily output of which fluctuates between 4,000 and 5,000 tons—say, 4,500 daily. Should it come about that Canada will be called upon to supply the spruce for all this output, not less than 5,000 cords of wood would be required daily. On a basis of 4 cords to an acre, which, I believe, is considered a fair estimate, we would see in this country 1,800 acres of standing spruce skinned off every day in the year to keep the pulp and paper mills of the United States running. In every 365 days—the Sunday paper is the greatest gourmand of them all—511,000 acres of Canadian spruce land will have been left bare."

"Until within recent months the newspaper publishers of this continent were as indifferent to a prospective famine in their raw material as are the grist millers of the country. Nor is this to be greatly wondered at, for from the lips of engineers and explorers, and even from the pages of the Government reports, they for years heard of 'the boundless areas,' 'the inexhaustible supplies,' etc., of spruce wood and timber. Thus lulled to sleep, the publishers have given their attention to problems which they knew to be real and which were pressing them at closer range."

"But to-day the signs of a sudden awakening are visible in all quarters. The publishers of the large daily papers throughout the United States met in New York last October and made no effort to conceal the alarm with which they viewed the situation. They declared in no uncertain manner that they were face to face with a problem of the most vital nature, and passed resolutions calling upon the President and Congress to adopt measures which only a couple of years ago would have been considered rampantly radical."

"That the situation in Canada is equally serious no one for a moment suggests, but that it is possible to become so in a comparatively short time, unless prudence is displayed at this critical juncture, few will deny."

"Canadians were hardly prepared to read in The Paper Mill, the recognized organ of the paper and pulp makers of the United States, such an astounding admission as the following, taken from a January (1908) issue of that journal:

"The wood situation to-day is a very serious matter. There is not a mill in the United States manufacturing paper and pulp that is not to a very large extent depending on Canada for its wood, and there is no basis to work upon, for the reason that there is no established price for wood either in this country or in Canada, and owing to this fact there is no basis for the paper manufacturer to work upon to establish a price for the finished product."

"Now, when the mills in Wisconsin—planted in the midst of what was regarded as a perpetual supply—have had to import pulp wood to the extent of 70,000 cords during the past season, all the way from Quebec by rail, while some of the paper mills of Maine—the State of 'inexhaustible' spruce limits—are getting supplies of wood from New Brunswick and Quebec, the American famine in pulp wood can no longer be denied."

"The famine was inevitable, but, like most other famines, it was neither foreseen nor provided against by the average man concerned. In ten years after the introduction of the wood-pulp paper process the price of news print was brought down from an average of 9 cents a pound to 4 cents, and since then the improvements in machinery and the increased capacity of the mills have further reduced it, till it recently sold at 2 cents a pound. This cheapening has, in turn, made possible the enormous increase in the size and circulation of

the modern daily newspaper—one of the marvels of the age, and as fearful in its power for evil as grand in its possibilities for good to the world. The increased demand for wood to maintain other industries, added to this remarkable development of the paper industry, explains the wood famine which is now giving the statesmen of the United States such concern, and explains why each year the United States is becoming more dependent on Canada for the raw material for its paper mills.

"During the year ending June, 1907, the United States imported pulp wood from Canada to the amount of 650,366 cords, or enough to manufacture, say, 520,000 tons of news paper, while its imports of ground pulp from Canada were 149,827 tons, valued at \$3,230,272."

As the Globe has said in its special pulp-wood number, one of the greatest, perhaps the greatest of the problems confronting Canada at the present time is the preservation of her forests. While there have been good laws passed regulating our tariffs, restricting our fisheries, controlling our mines, and exploiting our agricultural areas, the forest has been largely neglected.

Sir Wilfrid Laurier, speaking before the Canadian Forestry Association, said:

"We can calculate the number of years—and the number is not very great—when there will not be another tree of the original forest to be cut upon the limits of the Canadian lumbermen. But trees have grown and trees ought to grow again."

"I should like to impress upon every Canadian farmer the necessity of covering with trees every rocky hill and the bank of every running stream. It is very easily done. He has only to scatter the seeds on the ground, fence it, and nature will do the rest."

It is evident that Sir Wilfrid Laurier at that time appreciated, and he must now more thoroughly appreciate the fact, that a wood famine in Canada is imminent unless proper precautions are taken.

Earl Grey, addressing the same convention, said:

"There are no more melancholy reflections than those suggested by the sight of a country once rich and equipped with all the majesty and panoply of power, which has become a waste and a stony desert through the reckless improvidence of its own people."

"It is the object of this convention to fix the attention of the people of the Dominion on the warning which these and other countries hold out to us as the practices we should carefully avoid if Canada is to realize the high destiny which awaits her, or which will be realized if this generation is gifted with sufficient foresight and self-control to husband the resources so abundantly lavished upon the Dominion by a bountiful Providence."

Mr. Gifford Pinchot, Chief of the Forest Service of the United States, is a renowned authority on forestry. He is worth millions of money, but owing to the great interest he takes in this subject gives his services to the Government of the United States for the small sum of \$5,000 a year. Writing in the New York Outlook, Mr. Pinchot says:

"The most prosperous nation of to-day is the United States. Our unexampled wealth and well-being are directly due to the superb natural resources of our country and to the use which has been made of them by our citizens, both in the present and in the past. We are prosperous because our forefathers bequeathed to us a land of marvelous resources still unexhausted."

"Shall we conserve those resources, and in our turn transmit them, still unexhausted, to our descendants. Till now we have allowed our forests to be depleted, our timber, lumber, and pulp wood to be exported, and to-day we have very little to show for our prodigal wastefulness."

"Bound up with the question of forest preservation are many national questions of vital importance. A survey of history shows that the decline of many of the great nations of the world can be traced to the destruction of their forests. Mesopotamia among ancient nations and Spain among modern being examples. Again it has been demonstrated that the planting of forests in a treeless country has increased and regulated the rainfall. Many of the floods from which countries suffer are due to the clearing of forests around the sources of rivers. When we consider the growing importance of water power as a generator of electricity we can readily see the importance of preserving our waterfalls and streams unimpaired. Particularly is this true of a large part of Ontario and Quebec, where there is no coal and where our manufacturers must depend upon water power."

"Assets so vast as these can not be left at the mercy of 'politics.' Let us have a forest commission, independently of party politics to protect our forests, and thereby save our fish, game, and natural scenery."

"What will happen when the forests fall? In the first place, the business of lumbering will disappear. It is now the fourth greatest industry in the United States. All forms of building industries will suffer with it, and the occupants of houses, offices, and stores must pay the added cost. Mining will become vastly more expensive; and with the rise in the cost of mining there must follow a corresponding rise in the price of coal, iron, and other minerals. The railways, which have as yet failed entirely to develop a satisfactory substitute for the wooden tie (and must, in the opinion of their best engineers, continue to fail) will be profoundly affected, and the cost of transportation will suffer a corresponding increase. Water power for lighting, manufacturing, and transportation, and the movement of freight and passengers by inland waterways, will be affected still more directly than the steam railways. The cultivation of the soil, with or without irrigation, will be hampered by the increased cost of agricultural tools, fencing, and the wood needed for other purposes about a farm. Irrigated agriculture will suffer most of all, for the destruction of the forests means the loss of the waters as surely as night follows the day. With the rise in the cost of producing food, the cost of food itself will rise. Commerce in general will necessarily be affected by the difficulties of the primary industries upon which it depends. In a word, when the forests fall, the daily life of the average citizen will inevitably feel the pinch on every side. And the forests have already begun to fail, as the direct result of the suicidal policy of forest destruction which the people of the United States have allowed themselves to pursue."

"They stripped the mountain on each side of the river for miles of its timber. The river, in consequence, was not pouring down its accustomed volume of fresh water regularly. The fish left for new waters; with the fish left the fishermen, and with the fishermen a large revenue."

"You can not have fish without water; you can not have water, pure, sweet, and in full volume without its natural reservoir—the forest. And it has been conclusively demonstrated that forest-clad slopes do more than most other natural conditions to attract the active as well as the passive moisture of the atmosphere."

Mr. E. W. Stewart, late superintendent of forestry for Canada, said: "No time should be lost in taking steps to reserve the whole timber area along the east slope of the Rocky Mountains, in order to preserve the forest there for the conservation of the water for the great rivers that are supplied from this source. If this area is permitted to be denuded of its timber the North and South Saskatchewan, the Athabasca, the Peace, the Liard, and the many smaller streams that receive their supply from this timbered area will be raging torrents for a short period in the spring and almost dry in the hot summer months. The water level in the soil will decrease, and the husbandman of the plains will begin to realize when it is too late why the summer droughts are increasing."

To a greater or less degree what is here predicted by Mr. Stewart has happened in the older portions of Ontario and Quebec.

Mr. MacLaren, who was interviewed by the Globe, takes the view that this is a national question, in which the future prosperity and well-being of Canada are bound up. He favors such a measure being taken as would result in preventing the depletion of our raw material for the benefit of foreign industries. He has no doubt that such a measure would quickly result in a great accession of industries to this country, and that with the splendid undeveloped water powers in Ontario and Quebec there would be no difficulties in the way of establishing such industries.

Mr. MacLaren was equally emphatic in regard to the necessity of a scientific policy of forest preservation. The firm are themselves pursuing such a policy on their own limits. As far as possible they are feeding their mills on the annual growth of the limits. The only remedy is for this government to institute a broad system for the practical training of men whose life duty will be the care of the forests. The forestation or reforestation of areas unfit for agriculture.

"The suppression of that class of 'settler' who is only a 'settler' until he gets all the wood cut off his location, and who then moves on to another well-timbered lot."

"Obviously the initiative in many of these matters rests with the Provinces, and some of them are attempting to deal with them on a broad scale. But the interests of all the provinces, and of the federal government, which likewise controls great stretches of public domain, and of all the forces that work for the country's progress, are so intertwined as to make a united and common basis of action an imperative necessity."

"The history of most nations indicates that very little can be expected in a forestry way from private individuals, even under pretty stringent state control, and it has been found more effective for the state or the community to undertake the work, particularly if it is done on a large scale."

B. E. Fernow, professor of forestry, writes as follows:

"To the editor of the Globe: In responding to your request for an expression of my opinion as to the forestry situation, I can not open the discussion better than by the statement that 'the much vaunted virgin timber wealth of Canada would not suffice to supply the annual consumption of the United States for more than twelve years.' 'The mills of the gods grind slowly, but still more slowly does a democracy learn the lessons of the world and mend the follies of its happy-go-lucky unconcern of the future.'

"B. E. FERNOW."

I wish to read a few more extracts on this subject as quoted in the Toronto Globe, March 7, 1908:

"Perhaps in the light of the late utterance of the President of the United States regarding the plight of the American paper manufacturers, Canadians will wake up to the realization that they have something worth keeping, not only in their pulp wood, but in other timber supplies. I should not have said 'worth keeping,' but worth taking care of and managing for continuity, i. e., applying forestry principles."

"Whether this new interest should take shape in the form of tariff legislation or had much better be fostered by regulating the use of Crown timber lands conservatively is a matter for consideration."

"The President promised to recommend to Congress the removal of the duty, and The Fourth Estate, a well-informed weekly publication of New York, in reporting the interview, says: 'He will give as his reasons the necessity for the preservation of the forests, rather than the relief of the publishers of cheap newspapers and magazines.' * * * One of his arguments will be the recent report of Gifford Pinchot, Chief Forester for the United States Government, who estimates that, at the present rate of consumption, the wood supply of the United States will have disappeared in twelve years."

"According to a special report of the United States Census Bureau the consumption of domestic spruce wood used by the United States pulp mills increased 47 per cent in quantity and 122 per cent in price in the five years from 1900 to 1905, while the consumption of Canadian spruce wood by the United States mills increased 102 per cent in quantity and 150 per cent in price in the same period. The average cost of wood used for mechanical and chemical pulp was more than doubled in the five years named for every variety of pulp wood except domestic poplar. Canadian poplar had increased 176 per cent. If these percentages could be applied to the conditions in 1907, the increase would be still greater."

"To illustrate the nature of the crisis toward which the United States is swiftly tending we may turn to the mills of New York State. This State has 108 mills, largely clustered in the northeastern counties, accessible to the great spruce forests of the Adirondack Mountains. Twenty years ago the mills of Watertown, the chief paper-making center, had supplies of pulp wood at their doors, and it was believed the timber would last forever."

"Now the source of home supply is eighty or a hundred miles away, and an increasing proportion of mills have to get their wood from down the St. Lawrence in Quebec or by rail from that province at a distance of 200 miles or more. The mills of this State have a yearly capacity of 987,000 cords of wood, and on the basis of a growth of ten cords an acre they would strip nearly 100,000 acres a year, and if the lumber cut off this region (estimated in the census at 245,000,000 feet a year) is added, the whole spruce areas of the Adirondacks would be wiped out in seven years were these mills confined to their own State for raw material."

"The average man, however, is more accustomed to estimating values in dollars and cents than in acres and cords, so that possibly such a calculation may be found more interesting. Less than twenty years ago the paper on which newspapers are printed cost the publishers eight cents per pound at the mill. That price fell steadily until the bottom was reached about seven years ago, when at least one large contract was made in Canada at 1.87 cents per pound. With that contract the 'dollar daily' had its birth. For about six years the price fluctuated between 1.87 and 2 cents, but about six months ago unmis-

takable signs began to appear that even 'two-cent' paper would not likely be secured again for a few years, if ever. The price has gone steadily up in this country to 2.25, and in the United States to 2.60, with a strong possibility that 3 cents will be the prevailing figure there within a year.

"It is not pretended that a pulp-wood scarcity alone has brought about this sudden and serious increase. Higher wages, low water, increased cost of chemicals and a tendency to concerted action on the part of the manufacturers may each have contributed somewhat; but after making all possible allowance for these contingencies the fact must be admitted that what is almost a pulp famine in the United States and the increasing difficulty with which pulp wood is secured adjacent to railways and good streams in Canada are the principal causes in bringing about this remarkable increase.

"Ontario and Quebec are blessed with abundant powers commercially adaptable. No country in the world has such abundance of water powers capable of development for commercial purposes as Canada. Whether utilized for electrical energy to be transmitted far and wide to the benefit of the industries everywhere springing up or whether used in their respective localities for the manufacture of lumber and pulp wood in the wooded regions where many of them exist, forest conservation is vital to their continuance. The cutting of timber on such a large scale throughout the Ottawa Valley has already affected the flow of the magnificent Ottawa River, and more than one project is under consideration with a view to preventing further mischief.

"An idea of the vastness of these water powers in the eastern section of the country may be gathered from the statement that within a radius of fifty miles of the city of Ottawa, according to the statements and calculations of experts, there are water powers capable of producing over 900,000 horsepower. Some of these, because of the rivers rising in that Province, are under the control of the Province of Quebec. It is of interest to note here that the authorities of that province have shown a very commendable desire to take any action needed, such as the creation of forest reserves at the headwaters.

"The pulp mill has appeared, and by the higher value of its product it makes for the greater prosperity of the Province. To quote the estimates of one authority, if 1,000 cubic feet of deals be cut, \$7 will have been paid in wages, and the product is worth \$15. The same amount made into pulp is worth \$31.50, and the amount paid in wages is \$12. The capital invested in the sawmill is \$5, where in the pulp mill it is \$41.

"In connection with this a strong agitation is now in progress in favor of a prohibitive export duty on pulp wood, for while a cord of pulp wood may be worth \$2.50 to \$7, made into low grades of paper it is worth \$45, and if into the higher grades \$50 to \$100. It is therefore estimated that if the present export of pulp wood were manufactured into paper at an average value of \$50 per cord \$30,000,000 would be added to the national wealth of Canada. Considerations such as these are inducing lumbermen, legislators, and local boards of trade to favor the imposition of some such duty. The Maritime Board of Trade at its last session in St. John passed a strong resolution in favor of this export duty. The past few years has witnessed the purchase of large tracts of timber lands by syndicates of citizens of the United States. If a federal export duty can be imposed sufficient to compel the paper mills to move into Canada without seriously disturbing any other established industries, immense benefits will accrue to our business interests.

"Canada has the largest forest area in the world and has also the greatest amount of water power in the world. When we consider the relation of forests to water power and of water power to electrical energy in a country largely deficient in coal, we can readily see that the conservation of these forests becomes one of the greatest problems of our national life. One phase of or problem is that of the pulp-wood industry. At present we export large quantities of pulp wood to the United States, where it is manufactured into paper. At a conservative estimate the same amount of wood would yield from twenty to twenty-five millions of dollars if manufactured into paper on this side.

"Thus, if Canada's pulp wood were all manufactured at home, industries would arise whose annual value would be millions of dollars, and at the same time the cutting of our great timber limits would be so regulated as to maintain present rate of reproduction and so conserve the value of our forests forever. Countries like Norway, Germany, and France have been able to restore their depleted forests, and thus derive from them a perpetual revenue.

"While the creation of a paper and pulp industry in Canada would mean much to Canada, yet it is only part of a greater scheme—that of national self-preservation.

"With our forests gone, our water powers are crippled, our agricultural lands spoiled by flood and drought, and our great national prosperity impaired.

"In Ontario's northland the water power possibilities are almost beyond belief. Some of them are being made use of more or less, many others are as yet not available, others are within easy reach of the Canadian Pacific and Canadian Northern railways, and the extension of the Temiskaming and Northern Ontario Railway, and the building of the National Transcontinental Railway will hasten for others the time when they will be harnessed for the use of man.

"Twelve of the largest rivers in Ontario flow toward James Bay, and nearly all of them pass through the great clay belt, where there are approximately 300,000,000 cords of pulp wood, from which in the future the Province must expect to reap no inconsiderable benefit. Of course this land can not all be held forever as pulp-wood land; its agricultural values are too great. But there is no doubt that some plan will be devised whereby areas of it will be so held; and that in the not distant future pulp and paper mills will flourish there, and will be fed for many long years from the raw material at hand.

"There are millions of horsepower undeveloped in our Province," said Mr. Welden, "and in almost every instance these water powers are surrounded with an almost inexhaustible supply of spruce. With judicious cutting and the adoption of reforestation methods, it would be quite possible for any large pulp and paper concern in this way to settle for themselves the perennial worries about wood supply."

"Asked as to what he thought of the effect of the proposed prohibitive legislation on the export of pulp wood from Quebec, Mr. Welden stated that he did not think this would prove to be quite so grave a situation as it was thought to be. 'It may,' he said, 'for a while have the effect of increasing the cost of paper to the consumer, but I am thoroughly convinced that it will only be a short while when the American mills will adopt the practice of manufacturing their pulp right on the ground and save the heavy transportation and other charges incident to the present method of shipping rossed pulp wood from Quebec.'

"In 1905 there was invested in Canadian paper-making establishments \$21,260,157, with 4,974 employees; a product valued at \$9,449,842, and wages of \$2,208,526. In wood-pulp establishments \$11,164,768 was invested, 2,456 people employed, \$1,023,720 paid in salaries and wages, and material to the value of \$3,793,131 was produced.

"In Germany a hundred years ago a real timber famine existed, for then wood was the only fuel, rivers the only means of transportation, and the wood along the rivers had been cut away, and the forest devastation, as with us, had wasted much. It was then that the modern forestry systems took their origin, having before that time been only indifferently and locally developed. It was then that the governments instituted such strong organizations to administer the timber lands, and by foregoing present revenue and making present expenditure prepared the results which they are now reaping.

"The State forests have now, through a hundred years of patient work, been brought into a condition which compares favorably with the results from agricultural soils; they produce annual revenues of millions of dollars, not by cashing capital, but by using interest—the amount of annual growth, which the same area can produce forever.

"PULP WOOD EXPORT DUTIES.

"As the existence of a protective tariff in the Dominion has unquestionably compelled many United States manufacturers to erect branch establishments in this country, it is a reasonable proposition that similar results would follow the imposition of an export duty on pulp wood. At the present moment the United States paper companies are consuming 4,000,000 cords of pulp wood yearly, about one-fifth being drawn from Canada free of import duty. This is of course due to the care taken to support the home industries and so enable them to compete on the most favorable terms in the paper markets of the world. While little United States paper enters Canada, considerable quantities are exported to Britain, South Africa, and Australia.

"The Northern States that are conveniently situated depend largely on Canadian spruce wood, and any restriction on its export or increase in its cost would certainly entail a reconsideration by the manufacturers of their position, at least as regards their foreign trade. Under the present Dingley tariff the import duties into the United States run from three-tenths of a cent on paper valued at 3 cents a pound to 15 per cent ad valorem on the paper valued at over 5 cents a pound. But the tariff also provides for heavy additional duty in the case of paper coming from a country that imposes export duties on pulp wood. It is doubtful, therefore, whether the United States paper companies could supply any part of their home demand from Canada, but it would be even better were the needs of other world markets met by factories established in Canada."

The following article is from the Montreal Herald of August 28, 1907:

"PULP WOOD AND THE STATES.

"The Maritime Provinces Board of Trade, in proposing that the export of pulp wood be prohibited, is but voicing a demand that, in one form or another, is yearly being advanced in more insistent terms. Put briefly, the argument is that the consumption of pulp wood is increasing enormously in the States and Canada; that the chief source of supply is Canada; that the States, by keeping a high duty on pulp and paper, and admitting pulp wood free, is draining this country of raw material while building up its own manufacturing industries; and that an export duty, or the prohibition of export, would force the Americans to come to Canada and make pulp or paper here.

"There can be no question that a change is coming over the temper of Canadians in regard to this subject. There has been a widespread disinclination to adopt what might be considered a narrow and liberal policy. There has been a doubt as to whether the destruction of the United States spruce supply was as complete as represented. There has been a fear of the effects of an export duty upon the settler, to whom the market of the States has certainly been a great advantage.

"In regard to all three of these matters of contention there has apparently been a steady change in public opinion. For one thing, the experience of Ontario in prohibiting the export of unsawn logs has been so satisfactory that it is not unnaturally taken as an illustration of what may be the results of federal legislation along similar lines."

"The result of this legislation is told in the great mills which contribute to the prosperity of almost every port on the Georgian Bay.

"Evidence has accumulated that the Americans have no great reserves of spruce, and men and papers interested in the paper trade now frankly confess that the States have to look to Canada for the bulk of their supplies of pulp wood. Canadian settlers with pulp wood to sell are probably not as numerous as they were, as the lands in the older settlements have now been largely cleared of spruce. But even were this not the case, if it is a fact that the demand from the States would continue in the shape of imports of the manufactured or partially manufactured product, the Canadian settler's market price would probably be maintained, or suffer only a temporary setback.

"The demand for prohibition is based on the argument that an export duty would be met, under the United States law, by the automatic imposition of a countervailing duty on pulp, while there is no such instrument at hand in case the export be prohibited. Of course, it is obvious that if the States must have our spruce in one form or another, no duty will long be maintained that will make it impossible or difficult to buy the Canadian product. So an export duty would sooner or later have the same effect as a prohibiting measure.

"The subject is a large one, and if it becomes a factor in practical politics, will call for the most exhaustive examination and most careful handling. The outstanding fact that will constitute the chief reason for parliamentary discussion is that a vast reservoir of natural wealth, peculiar to Canada, is being drained at an ever-increasing rate, into foreign channels, leaving behind it but a fraction of its potentialities for the country's benefit. To this fact is added the other one, that the legislation of the foreign country to which this wealth is flowing is deliberately devised so as to make it impracticable for Canada to enjoy a greater share of this potential value. In adopting such a policy the United States has made it impossible for it to consider as unfriendly any Canadian legislation on the subject, however radical. If a foreign country will not, without compulsion, permit us to sell to it our pulp and paper, we are quite justified, in pursuance of a policy of development of our national wealth, in saying to that country, if you will not buy our pulp or paper, we will not sell you our pulp wood."

The Toronto Globe of September 20, 1907:

"NEWSPAPERS AND PULP WOOD.

"Special dispatch to the Globe of yesterday contained the information that the American Newspaper Publishers' Association has requested President Roosevelt and Congress to investigate an alleged com-

bine on the part of the paper makers to limit the output of paper and to unduly enhance the price of news print.

"The present import duty on white paper for news print is \$6 a ton, and there is also a duty on wood pulp; the association at its recent New York meeting unanimously requested the repeal of these duties and appointed a large committee to prosecute the movement as vigorously as possible.

"The reason for this action is to be found in a serious scarcity of the paper on which newspapers are printed.

"It may be asked why the newspaper publishers do not recoup themselves for the increased cost of white paper by increasing the price of their journals. This is more easily said than done, but some publishers are doing so in the large cities of the United States. In a number of cases the 1-cent dailies have been put up to 2 cents, and many country weeklies have advanced their subscription prices. Some publishers are cutting down the size of their publications, others are reducing the headlines, and still others are using smaller type. All these remedies go but a little way to relieve the present distress, to say nothing of averting the impending danger. It is too late to do much in the way of conserving the supply of pulp wood in the United States, but there is still opportunity to do a great deal in the way of preventing a like situation from arising in Canada. What is urgently needed is a policy of conservation of spruce forests through judicious selection of the trees to be cut, prevention of destruction by fire, and allowing abundant opportunity for reproduction. Whatever the future may have in store in the shape of substitutes for wood pulp, there is nothing yet in sight to displace spruce wood, and in her abundant supply of that timber Canada has a source of wealth that is worthy of the most careful and intelligent treatment."

I have the statement of the manager of the Eddy works in Hull that, in his opinion, nothing will be found to take the place of spruce for making paper. Here is what Professor Fernow says:

"In the United States to-day the forestry question is regarded as a critical one, the authoritative assertion having recently been made that the exhaustion of that country's supply of timber is in sight. Is Canada to wait until that can be said of her supply before any adequate action is taken? True, something has been and is being done now, but in the opinion of the men best qualified to speak, these steps are not sufficient to guard Canada against experiencing the conditions that are now causing alarm in the United States. For the most part Canada's timber is being cut with prodigal vigor. A considerable quantity is manufactured in the country, but much more might easily be done here; while, in respect to pulp wood, rapidly increasing quantities are being exported to the United States to build up the pulp and paper-making industries of that nation. There is no duty on this raw material; the United States gets it free of duty, handicaps the Canadian pulp and paper industries by putting a duty on their output going into the Republic, and tries to undersell them in the British market with pulp and paper made from Canadian wood.

"The figures cited are, however, sufficiently reliable to make it certain that the United States has already crossed the verge of a timber-famine so severe that its blighting effects will be felt in every household in the land. The rise in the price of lumber which marks the opening of the present century is the beginning of a vastly greater and more rapid rise which is to come. We must necessarily begin to suffer from the scarcity of lumber long before our supplies are completely exhausted. It is well to remember that there is no foreign source from which we can draw cheap and abundant supplies of timber to meet a demand per capita so large as to be without parallel in the world, and that the suffering which will result from the progressive failure of our timber was but faintly foreshadowed by the recent temporary scarcity of coal.

"The chief wealth of the northern forest region of Quebec is in its spruce, however, where it forms three-fifths of the coniferous forest available for commerce. If, as claimed, it is reasonable to allow 25 cords of this wood suitable for the making of pulp to the acre these northern forests should furnish no less than 406,874,470 cords of pulp wood. Enormous quantities of white spruce of a very large size are found in the southern Abitibi, capable of supplying large numbers of saw logs and much pulp wood. Birch and poplar, as well as balsam, are also very abundant in many parts of the northern forests of Quebec.

"The greatest variety and the richest quality of timber are to be found in the central region of the province, and especially in the new forest reserves of Ottawa and the St. Maurice. This region is situated between the St. Lawrence and the forty-eighth degree of north latitude, and is larger than the combined areas of Nova Scotia and New Brunswick. White, red, and banksian pine, white and black spruce, cedar and balsam are the chief varieties of timber in Ontario. There are many fine water powers. On the Mississauga, Mettagami, and Abitibi rivers it has been roughly estimated that as much as 150,000 horsepower each could be developed. The Mississiga, the Onaping, the French, and the Montreal rivers all have great capabilities in the way of horsepower development. On the Vermilion, Spanish, Sturgeon, Rainy, and others rivers, while some powers have been developed, there are many others still undisturbed. For the most part these water powers are still vested in the Crown. The government has therefore a great inducement to offer pulp or paper manufacturers when it decides as occasion arises from time to time to lease pulp-wood areas, good water powers being a most important factor in the economic essentials of the industries mentioned.

"Quebec is no less fortunate in its possession of water powers, though it would appear that a very considerable number of these have passed from the control of the Crown. The tributaries to the St. Lawrence, as well as that great river itself, possess water powers, some of which are already in commercial use and others that will be as the pulp and paper industries particularly call for their being called into use.

"It is significant that in the Province of Quebec the utmost importance is attached to the hearing of the forestry question upon the water flow. Mention has been made elsewhere of the emphasis laid upon this by the provincial forester, Mr. W. C. J. Hall."

Here is an advertisement in the Toronto World of October 18, 1907, inserted by the provincial government:

"TENDERS FOR PULP WOOD CONCESSIONS.

"Tenders will be received by the undersigned up to and including the 15th of December next for the right to cut pulp wood on certain areas tributary to the Nepigon River, in the district of Thunder Bay and Rainy Lake, in the district of Rainy River, and make the same into paper. Tenderers should state the amount they are prepared to pay as bonus in addition to such dues as may from time to time be fixed for the right to operate a paper-making industry on the areas referred to. Separate tenders must be made for each area or territory, and the successful tenderers will be required to erect a mill or mills on each of the territories or in such other localities as may be approved by the government of Ontario.

"Parties tendering for the pulp-wood rights shall accompany their tenders with a marked check for 25 per cent of the amount tendered, payable to the treasurer of Ontario, and to be forfeited in the event of their failing to enter into agreements to carry out conditions, etc.

"With respect to the Rainy Lake pulp concession, tenderers will be required to make a tender for the right to cut pine, tamarack, and cedar on the territory offered. Parties making tender for these timbers to state the amount they are prepared to pay per 1,000 feet B. M. as bonus in addition to Crown dues of \$2 per 1,000 feet B. M. A marked check for \$5,000, payable to the treasurer of Ontario, must accompany the tender for pine timber, and to be forfeited in the event of their failing to enter into agreements to carry out conditions, etc.

"No timber shall be cut on either of the concessions of a less diameter than 9 inches 2 feet from the ground.

"The successful tenderers to enter into agreements with the government for the erection of the mills, expenditure of money, etc.

"For full particulars as to the conditions, etc., application should be made to the undersigned.

"Hon. F. COCHRANE,
"Minister of Lands, Forests, and Mines.

"TORONTO, October 16, 1907."

This is a very important measure, but it can be outwitted by a clever purchaser on the other side. He can send in a lot of stool pigeons to purchase the land. Even where the lumberman has to take off the timber in two years, the stool pigeons and pulp-wood settlers will take the land and pay the price, which will be put up by the corporation on the other side, and deplete that land of all the timber there is on it. By this means the Provinces can be outwitted and our forest wealth taken to the other side of the border.

Mr. LEWIS.

With reference to the help we get in this matter here is an item from the Toronto News:

FIGHTING THE PAPER TRUST—LOCAL TYPOGRAPHICAL UNION ENTERS RESOLUTION OF PROTEST.

"At a meeting of the joint conference board of the Allied Printing Trades, composed of delegates representing the International Typographical Union, International Printing Pressmen and Assistants' Union, International Stereotypers and Electrotypers' Union, International Photo-Engravers' Union, and International Brotherhood of Bookbinders, held at Indianapolis, Ind., December 17, 1907, a resolution favoring the abolition of the duty on white paper, wood pulp, and the various materials used in the manufacture thereof was unanimously adopted, and also at a recent meeting of the Detroit Typographical Union, No. 18, the same measure was presented and adopted by a unanimous vote:

"Whereas we, the workers employed in the various departments of newspaper and commercial printing offices throughout the United States, i. e., compositors, pressmen, stereotypers and electrotypers, photo-engravers, and bookbinders, to the number of more than 100,000, feel that any combination which produces an artificial scarcity of newsprint paper and which unduly stimulates the price of that product is an oppression that affects alike the employee as well as the employer; and

"Whereas the almost prohibitive and ruinous price of such paper has curtailed to an alarming extent the number of workers employed in the printing industry, and has further acted as a preventive to the printing trades artisans from securing higher compensation for their services, to which they are justly entitled: Therefore, be it

"Resolved, That this joint conference board in session at Indianapolis, Ind., December 17, 1907, submit a memorial to the President of the United States and the Congress, and appeal for the abolition of the duty on white paper, wood pulp, and the materials which are used in the manufacture thereof; and be it

"Resolved, That all local unions affiliated with our international organizations are requested to indorse these resolutions and forward copies to their Representatives and United States Senators."

I would ask honorable gentlemen to note the significant bearing of that item, namely, that we have behind us a majority of the unions who are opposed to the corporations that control the paper and pulp mills in the United States.

From the Toronto News of February 15, 1907, I take this paragraph: "Recently reference was made to the economically unwise action of this country in giving away its spruce pulp logs to be manufactured into paper in United States mills. Here is the lesson in a nutshell. Canada has the greatest supply of pulp wood in the world. Great Britain is the greatest consumer of paper, and yet Canada has only a share (how much is not thought worth while giving in these figures) in about 12 or 15 per cent of Great Britain's importations. On the other hand, the United States, which is an exporter of paper practically only because Canada supplies it with raw material, is up among the first three or four nations which send paper into Britain.

"Canada depletes her most valuable forests and sells the product in the shape of pulp wood for \$6 or \$7 per cord. The United States saves her forests and sells our product in the shape of paper for, say, \$30 per cord for good British gold. Are not Canadians what the man in the street would call 'dead easy' to let this go on when we could stop it in six months by prohibiting (as Ontario has done) the export of pulp wood from Crown lands?"

In one respect that item is wrong. If properly investigated, it will be found there are no pulp-wood forests in the United States.

"The Laurentide Paper Company have millions invested in their plant and limits, and it is to their own best interests to preserve their limits. Many of the American companies cut off their timber regardless of the future supply, and in this way waste immense quantities.

"Over 52,000 tons of roll news paper is made every year by this company, and as the Canadian consumption is only 27,000 tons yearly, it means that outside markets must be sought for much of the produce. The market of the United States is barred owing to the duty, yet Canada furnishes them with their raw material. When this raw material happens to be manufactured in Canada it is shut out of the United States. As we have to import much of our heavy machinery from the United States and pay duties, the Canadian manufacturer of paper is handicapped when he attempts to compete with American manufacturers in foreign markets. The Americans have also a big advantage in the cost of coal, in the supply of skilled labor, in lower traffic rates, in cost of machinery and mill supplies, and many other things. Prohibit the exportation of pulp wood from Canada and the American paper makers would be compelled to buy their ground and sulphite pulp from Canada at from \$20 to \$38. If not, then the American paper makers would have to move their entire plants over here, and would thus build up large thriving centers of industry around their plants.

"An argument is made by some that the farmer and settler would suffer if the exportation of pulp wood should be prohibited. The Lau-

rentide Paper Company are buying to-day a large portion of their wood from farmers. The policy of well-conducted paper mills, they say, is to buy all of the pulp wood they possibly can from farmers, in order to save their own limits from the demands made upon them by increasing productions. The paper mills of Canada to-day could use a very large proportion of the wood now being exported to the United States, and with new mills building in Canada the market for the pulp wood and the price would be maintained.

"From the present policy the company says Canada is getting practically nothing. The stumps are left as mementoes, a small amount is obtained for transportation, etc. On the other hand, thriving cities are growing up around American mills whose supplies come from Canada. The Americans are quite content to have things remain as they are, for the present arrangements give them the long end of the deal; in fact, the United States Congress dictates to Canada, and not only makes its own laws, but presumes to say what Canada shall or shall not do.

"Canada gives them all the advantages and gets absolutely nothing in return. Americans own in Quebec Province 12,000 square miles of pulp-wood areas, and this is being rapidly depleted by the hundreds of mills in the United States which are absolutely dependent on Canada for their supplies. It certainly does not seem the part of wisdom for us to continue a policy which has the effect of building up manufacturing centers in the United States when by changing that policy these centers can be developed in Canada. Our present policy of sending our wood to build up a foreign country was just furnishing it with weapons to fight Canada in the commercial world. How well the United States realize the strength of Canada's position on this question was probably never better shown than in the message of President Roosevelt when he practically said, 'It might be well for us to make some concessions to Canada if they will guarantee us free wood.'

"Mr. J. H. Biermans, the managing director, holds strong opinions on the questions connected with the pulp and paper trade that have aroused so much interest in the public mind. On the necessity of this country imposing regulations relative to the cutting of timber he was emphatic. About thirty years ago, he said, the Scandinavians were confronted with the same problem. They, too, had believed that their forests were inexhaustible. It required much persistent and long-continued agitation to awaken them to a realization of the fact that their magnificent forests were being rapidly denuded. To their credit, however, it must be said that when once this fact was borne in upon them they took prompt and effective measures to provide a remedy. Now for every tree they cut down two are planted in its place.

"Mr. Biermans is also a strong believer in the wisdom of keeping our raw material in Canada. He thinks it is foolish and unbusiness-like that we should allow our logs to go free into the United States, especially when the latter country does her best to shut out our pulp and paper by imposing heavy duties. Personally he thinks that prohibition of the export of logs is the best remedy. He considers that the future for the pulp and paper industries in Canada is a dark one unless such action is taken.

"Mr. Riordan is strongly in favor of an unconditional prohibition of the export of pulp wood, whether the United States removes the duty on pulp and paper or not. He believes that our natural resources make it possible for the pulp and paper industry to become Canada's greatest industry, and greater than that of any other country. The cultivation of this industry, he believes, means as much to Canada as the cultivation of the steel and wheat industries that the government has done so much to foster. The remedy might bring about for a time some dislocation of the Canadian pulp-wood business, but he thinks that the end to be gained would justify the government in taking steps to neutralize that dislocation.

"The six daily newspapers of Toronto consumed last year about 9,000 tons of paper, and the consumption has been growing by at least 10 per cent annually.

"To supply these six newspapers required the product of not less than 3,000 acres of spruce. The Toronto newspapers probably represent one-fourth the home consumption for Canada. This country is even to-day exporting five times as much news paper as is consumed at home, and the industry can scarcely be said to have reached more than the infant stage.

"Thus, for the present home consumption alone about 12,000 acres must surrender their product every year, and for the combined domestic and export business 72,000 acres are devastated annually. These figures will, beyond any doubt, increase enormously during the next few years, for more and more Canada is being looked to for the world's supply of pulp and paper.

"Two of the Toronto dailies just referred to have only recently raised their price to subscribers outside of Toronto from \$1 per year to \$1.50 per year. The pinch has been felt more forcibly in the United States, where hundreds of daily papers have raised their prices by from 50 to 100 per cent since the increase in the cost of white paper mentioned above became effective.

"It does not require much argument, therefore, to show that in finding a solution for the pulp-wood problem the newspaper publisher and reader are equally interested. For too long the question has suffered through indifference on the part of the public, who apparently regarded it as of interest only to the pulp and paper makers and the paper users of the country.

"The opposition to the imposition of an export duty on the raw material as a means of stopping the denudation of our forest lands is unpatriotic in its fullest sense. It apparently wishes not only the destruction of the beautiful and the useful, but also to balk the immense industries which may develop by keeping the manufacture of pulp in this country. The Sportsman says to the government: 'Stop the export of raw material, force the mill owner to manufacture in Canada, and attend to forest culture as you have to agriculture, and I will be satisfied.' Moreover, an export duty and strict supervision leaves a government in a good defensive position when it is called upon (as it will be) to face an angry electorate and to explain why the country is being robbed of two of its finest assets, which explanation will be demanded in the very near future.

"Let us examine the work of our cousins over the border. Up to a short time ago they supplied the world with lumber and finished paper from pulp wood. This brought them in millions of dollars. To-day both lumber and pulp wood are about exhausted. To-morrow they will have to spend millions annually for both lumber and pulp wood. Until lately sportsmen and tourists came to the United States from all parts of the world to hunt big game, to admire the scenic beauty found in her forest-clothed mountains, East and West, and to angle in her splendid streams and lakes. Those sportsmen brought in millions of dollars—\$5,000,000 to one State alone, we are told. That simple tool, the ax, has nearly destroyed these two sources of revenue. In justice to the American people, I must say that this destruction was largely the result of ignorance.

"Recently we discussed this question in all its bearings with prominent American sportsmen at the sportsmen's show held in New York.

"All were unanimous in condemning the wasteful methods of the lumbermen and the weakness of the Government in permitting it until too late. Let the Canadian people take this lesson to heart in time; this lesson that the American people are finding so bitter to learn and difficult to turn to account. To-day the American lumbermen and pulp-mill owners look to Canada as the dying Moslem looks to Mecca for salvation.

"Ottawa, Oct. 10.—The petition presented to the government yesterday by a delegation of paper and pulp makers, and which the premier has agreed to take under consideration, is as follows:

"Whereas it has been the policy of the Federal Government to encourage and promote manufacture within the bounds of the Dominion by duties sufficiently high to protect home manufacture, and by bounties to encourage the use of home raw material; and

"Whereas the Federal Government has expended large amounts to promote agriculture and to encourage immigration from the mother land and foreign countries; and

"Whereas we have within the bounds of Canada, as a natural product, spruce pulp wood capable of providing employment for a large number of our present people, and for many who may come to find homes here; and

"Whereas this wood is being raised in Canada and shipped as pulp wood to the United States to keep pulp and paper mills in that country running; and

"Whereas our present natural advantages should make pulp and paper our greatest industry; and

"Whereas the exporters are stripping the lands of wood, while those with permanent interests in the country are striving to conserve the forests; and

"Whereas the crop of pulp wood is of very slow growth, and the supply is already becoming inaccessible; and

"Whereas the free export of pulp wood to the United States, combined with the tariff against our pulp and paper, favors the development of the paper industry in the United States rather than in Canada;

"Therefore your petitioners humbly pray that the exportation of pulp wood be prohibited by the Federal Government.

"This is how the probable prohibition of pulp wood by the Canadian Government appeals to at least one American Congressman, T. LITTLEFIELD:

"Canada has the largest supply of pulp wood in the world. The country has vast timber resources, and there is already an agitation in the Canadas for an export duty on pulp wood. Why are the Canadians asking for this export duty? It is because they want the mills, the millions of capital that would be invested, and the vast sums that would be expended for labor. They want all the returns their forests will give them, and they are right. It is laudable on their part, and it is just as laudable for us. While we stand on the proposition America for the Americans, they shout for Canada for the Canadians. The Canadians have not the same constitutional limitations as embarrass us in this country. Perhaps I should not say embarrass, for I believe that there is not one limitation in the Constitution that is not necessary for our welfare and happiness.

"But while we are restricted from putting an export duty on any of our products the Canadians are under no such limitations. They already have export duty on some articles. One can see what an export duty on pulp wood would do to the pulp manufacturers of this country in the experience of lumber operators in the Province of Ontario."

I shall explain to the House in two words the difference between our constitution and that of the United States. The Federal Government of the United States which has to do with the question of export and import duties has only the powers which are expressly given to it by the Constitution of the United States, whereas the powers exercised by our provincial governments are only those expressly given to them by the British North America act. The Federal Government of the United States has no power to impose an export duty on any article.

I wish now to read an extract from Pulp and Paper magazine of February, 1908, which reads:

"Instead of trying to break our business down and force the new mills, which represent an investment of \$100,000,000, to move to Canada, why do the newspapers not use their columns to build up the business, advocate preservation of the forests, the building of storage reservoirs, for water-power purposes at the headwaters of all streams in the country where practicable, and thus preserve their own existence?"

"The thirty-first annual meeting of the American Paper and Pulp Association took place in New York on the 6th instant, the attendance being larger than ever before."

I have here an article relating to the Watertown Pulp and Wood Supply Company, which reads:

"The above is the name of a company with head offices in Watertown, N. Y., which was incorporated last year under the laws of the State of New York, for the purpose of buying pulp wood in Canada and shipping it to several paper manufacturing companies in the United States. This object is significant, inasmuch as the paper makers in the Republic recognize they can not much longer hunt for individual supplies of raw material either in their own country or in Canada, but find it expedient to join together and draw from one independent source of supply in Canada, over which they themselves will have control. The officers of the company are as follows: J. A. Otterson, president; J. M. Gamble, vice-president; C. H. Remington, treasurer; F. M. Hugo, secretary; W. C. Campbell; E. B. Sterling, general manager. They represent the following companies: The St. Regis Paper Company, the Remington-Martin Paper Company, the Norwood Paper Company, the Raymondville Paper Company, the Carthage Sulphite Company, the West End Paper Company, the Champion Paper Company, the Brownsville Paper Company, the Dexter Sulphite Company, the Carthage Tissue Mills, the Brownsville Board Company.

"The company has an office in Quebec City, managed by E. B. Sterling, who is authorized to buy pulp wood in Canada and ship it to the above companies.

"It was understood that it was the company's intention to build pulp mills in Quebec Province, but J. A. Otterson, of Carthage, N. Y., who is one of those largely interested, informs the Pulp and Paper Magazine that this is not the case. Evidently, while the Canadian government delays in bringing forward measures for restricting or prohibiting the export of pulp wood, the Americans think they may as well get all the wood they can in Canada and ship it to the United States for manufacture."

I have here an interesting paragraph entitled "Our forest wealth," taken from an American paper, reading:

"Seattle papers predict that the timber resources of the Dominion will soon be severely taxed by increased demands. The rate of con-

sumption shows a constant growth. Concrete, brick, stone, and steel are more largely used in all structural work than ever before. But notwithstanding the demand for all classes of structural timber, lumber and wood materials are increasing, too. Other parts of the world have been denuded of trees and are now restocking their forests. In Canada there is still a large virgin area, an apparently inexhaustible forest supply. But rapid settlement of Canada's prairies, the relatively small pine area left in the United States, and the needs of paper manufacturers are making rapid inroads on Dominion spruce and pine, the country's most valuable timber. Europe is looking to Canada now. The United States is buying there, too. The Seattle Post-Intelligencer says that it is the northern wilds that should be Canada's future wood lot. It is there Canada should introduce a practical forestry system that will insure for all time the perpetuation of those forest areas. Growth and reproduction should be continued there indefinitely by scientific forestry methods. If they are those uninhabited wilds will long be the source of Canada's greatest wealth."

A significant dispatch headed "Big timber land deal" appears in the Globe under date of St. John, N. B., October 5, 1907. It reads:

"For the fifth time during the last two years a lumber deal has been completed on the north shore of New Brunswick whereby American capitalists get possession of property valued at nearly half a million."

"To-day the International Paper Company purchased from Ernest Hutchinson, of Chatham, 45 square miles of granted timber lands and 300 square miles Crown lands held under lease from the government; also a large mill. The price is \$500,000."

Mr. W. B. Snowball, of the J. B. Snowball Company, has been a consistent advocate of an export duty on pulp wood and has voiced his opinions and arguments at many of the meetings of the provincial and Dominion forestry associations and elsewhere. He said:

"I am opposed to an export duty on pulp wood. My idea is that the exportation of pulp wood from Canada should be absolutely prohibited. If a duty is decided upon it should be high enough to be prohibitive. That is what we should have in this country."

"I believe that if the governments of the various provinces would follow the example of Ontario and forbid the exportation of pulp wood cut on the Crown lands it would go a long way toward inducing the establishment here of the pulp and paper manufacturing establishments from the United States."

I now come to two interesting extracts from the Montreal Herald, the government organ in Montreal. They are as follows:

"The strong movement to which the Herald directed attention some months ago as growing in force and intensity in favor of a change in the fiscal conditions that govern the exportation of pulp wood has found expression in articles that have appeared in other journals, as well as in the representations made this week to the prime minister, the minister of finance, and the minister of customs by an influential delegation representing the industry."

"HON. MR. TURGEON FAVORS EXPORT DUTY."

"It is," said the minister, "a hard question to deal with, and there are many grave difficulties in the way of a settlement." As minister of lands and forests, and speaking solely from the point of view of my interest, because of that position, in the forests of the province, I think it would be a great boon for the public domain if the federal government put an export duty on pulp wood. On several occasions people have come to this government and asked why we should not put a big tax on pulp wood cut for export. We have had to point out to them that, in the first place, we have no power to enact an export duty, and that, in the second place, the provincial tax on pulp wood cut for export applies only to Crown lands. A careful calculation made by some experts shows that for every cord of wood exported from the province there is left here a sum averaging \$6 per cord. That covers everything—labor, price to the seller, transportation charges, and everything else."

"MENACE TO PULP-WOOD AREAS."

"It is admitted by everybody who has gone into the question that the pulp-wood resources of Canada are vast, but competent authorities declare that it is a mistake to assume that they are inexhaustible. Vast as these areas are in Quebec, Ontario, and some of the other provinces of the Dominion, they are as vulnerable as the herds of buffaloes that once thundered in hundreds of thousands over the prairies, but are to be seen no more. They are as vulnerable as those of the Adirondacks and of northern New York, which gave way before the portable mills of the lumbermen, until the industry disappeared, and only charred dry stumps were left to tell the story of vandalism."

"AN EXPORT DUTY ON WOOD PULP."

"The deputation of manufacturers of paper and pulp which yesterday waited on the prime minister, the finance minister, and the minister of customs evidently presented strong evidence in support of their contention that an export duty should be placed on pulp wood by Canada, or that the exportation of the wood should be prohibited by federal legislation, as it is now in Ontario by provincial legislation."

"It appears to be clear that the United States paper manufacturers must have our pulp wood, and it is equally clear that they are coming to Canada in large numbers, securing timber limits of great magnitude, and stripping them of their pulp wood without doing more for the development of Canada's resources than is implied in the sums they spend for labor and freight. Further, the present condition of affairs encourages jobbers to place 'fake' settlers on Crown lands, get the available pulp wood swept clear and then move the so-called 'settlers' to new fields of labor, leaving behind them lands uncultivated and denuded of timber."

"Were the Canadian paper maker finding a ready market in the States, the situation, from a national standpoint, would not be so absurdly one-sided. As it is he is debarred by a high tariff from selling his finished product in the country which gives free admission to pulp wood, the raw product of the paper maker. The United States tariff being directly designed to encourage the importation of Canadian raw material and discourage that of Canadian manufactured goods, the question arises: How long are we going to rest content with this situation?"

"Ontario has shown by its action in prohibiting the export of saw logs that the process of manufacture of Ontario timber into the finished product could be transferred to that Province. Why should similar action by the Dominion not have a similar result? The two difficulties that appear most prominently in the way are the effect upon the bona fide settler, by diminishing his market, and the possibility of serious reprisals by the States. It is probable that the settler would not find much difference in the value of his timber, owing to the great demand for it, and to the fact that, before long, the States will have to get our paper if they do not get our pulp wood. As to the danger of reprisals, a self-respecting people must do what seems best with their own natural products. If they desire to manufacture them

into finished articles within their own borders, they can not hold their hand for fear of some other people objecting. In fact, it is probable that a firm stand by Canada on this very question would be the most certain means of getting from the United States favorable terms on the importation of pulp and paper. If we could send our paper free into the States, we would not have the same objection to our pulp wood being freely utilized by American paper mills. A fair field is all that Canadians desire. They do not possess it under the existing terms of the United States tariff."

Here is an extract from the Globe of August 31:

"At Sturgeon Falls is one of the great pulp and paper mills of the Province, located on the river that carries down to its doors the spruce which feeds its ponderous grinders and also supplies the power which makes the wheels revolve. The mill—it is probably no secret among financial men of the Province—has had difficulties in the past, partly due to the condition of the pulp and paper market and doubtless to other drawbacks incidental to putting a large industry on its feet. A substantial town with modern buildings and public conveniences has grown up about the mill and within earshot of the cataract which gave the place its name. The whole aspect of the business has changed with the market conditions of the past fifteen months, and the future of the mills at this point is assured. The output is sold before it is manufactured, and an export business has been worked up."

Here is another article from the World, dealing with Wisconsin's paper industry and its moral:

"WISCONSIN'S PAPER INDUSTRY AND ITS MORAL."

"How necessary it is to encourage the development of the paper-making industry in Canada is brought home to the Dominion and provincial governments by a recent article in the Milwaukee Sentinel. Quite naturally, the leading Wisconsin newspaper can not restrain its jubilation over the extraordinary progress made by that State in paper production, in which it declares its manufacturers will soon rival the world. Almost all kinds are made. 'Shiploads are sent to Japan and trainloads to all parts of the West. Several trainloads of paper steam out of the Fox River Valley every evening. It is a small mill which does not make a carload in one day. Some of the machines run a sheet of paper 120 inches wide, 500 feet long, every minute, or a mile of paper every ten minutes, which is rolled into great white rolls and shipped in that manner to the newspapers.'

"Only a few of the paper mills prepare their own pulp. Most of the pulp plants are separate enterprises, dependent for their lumber largely on Canadian forests. 'Thousands of carloads of wood pulp,' says the Sentinel, 'are cut in the northern forests each winter, and large rafts brought over the Lakes from Canada each season and loaded on the cars at Green Bay for distribution to the mills.' Paper making in Wisconsin flourishes chiefly in the valleys of the Fox and Wisconsin rivers, but large works have been placed in other water powers. New plants are being constantly erected, and all the mills are running night and day. But why should Ontario and the other forest areas of Canada content themselves with supplying wood for United States paper mills? Every one of the advantages enjoyed by Wisconsin is possessed by Ontario and bettered—clear water, hydraulic power, proximity to the forests. This province ought to reverberate day and night with the hum of paper factories, just as Wisconsin does. The provincial government should lose no further time in checking the export of pulp wood and in adopting a policy which will not only encourage, but compel the utilization of the raw wood in Ontario."

Mr. Speaker, in detaining you for so long a time with these cuttings, I feel obliged to say that I have taken every precaution to cut out only those parts that are relevant, and with the object of putting the case in regard to pulp wood as clearly as possible. I wish now to quote from a report of the Industrial and Labor Statistics of the State of Maine for 1906:

"The immense increase in the volume of this industry during the past two years is a matter of great surprise to us and no doubt will be to a lot who make the matter a study, but we can not question the correctness of our schedules."

"It is evident to all that this industry is developing the natural resources of Maine as perhaps no other industry has ever done. It is constantly adding wealth to our State, both to the operators and wage-earners, as well as to the merchants and other business men in the communities where the mills are situated. It is adding prosperity to many of our old settled towns and building up new towns in the wilderness. It is giving employment to thousands of our young men who otherwise might be obliged to seek a livelihood in distant parts of the country."

I submit that a great many of these young men mentioned here came from the Province of Quebec.

"It has no doubt been instrumental, to a large degree, in stemming the tide of emigration from Maine, which in the past has carried such a large percentage of the brain and brawn of our rural communities to other States, much to the detriment of our own."

"The farmer and the gardener, as well as the business man and the workman feel the influence of the industry in the new demand for produce, which adds much to their income, where formerly the most remunerative products of the soil, without a local market, were rendered almost valueless on account of their perishable nature."

"The most serious problem in this industry is the question of a wood supply for the pulp mills."

From the closest estimate the writer can make from a compilation of their returns, it appears that after deducting Canadian spruce and the edgings and other mill waste from the total amount used, the Maine forests will soon be depleted. Now, sir, here is a statement taken from a book prepared by the Toronto Globe:

"I do not think there is any doubt but that Canadian mills could and would buy all the wood that the Quebec farmers have for sale at as good a price as they are now getting if the Canadian mills had the protection that the prohibition of export would give them, and the new construction that this protection would bring about would soon make the market larger than ever. Our company are at the present time using from 90,000 to 100,000 cords per year, and we buy a considerable portion of it from farmers."

That is from an interview with the general manager of the Riordan Paper Mills Company. I will now quote from a Globe editorial of September 20, 1907:

"In a number of cases the 1-cent dailies have been put up to 2 cents, and many country weeklies have advanced their subscription prices. Some publishers are cutting down the size of their publications, others are reducing their head line and still others are using smaller type. All these remedies go but a little way to relieve the present distress, to say nothing of averting the impending danger. It is too late to do much in the way of conserving the supply of pulp wood in the United States, but there is still opportunity to do a great deal in the way of preventing a like situation from arising in Canada."

Now, sir, here is the opinion of Mr. Barber, president of the William Barber & Brothers' paper mill at Georgetown:

"I believe in putting an export duty on pulp wood, but it should not be larger than the duty now charged by the United States on our wood pulp. The export duty should be retained until the United States removes the duty on Canadian pulp, and then it should be taken off."

In regard to the retaliatory cry, Mr. Barber says:

"The retaliatory duty which will go into effect in the United States as soon as action is taken by Canada by the putting on of a duty need not alarm either the pulp wood or wood pulp exporters. I venture to predict that if the Canadian Parliament puts on an export duty immediately after the opening of the coming session, the United States Congress would within two months thereafter repeal the retaliatory duty and put Canadian pulp on the free list. A sign of the feeling in the United States was given at the meeting of the publishers of newspapers held last month for the purpose of formulating a demand for the free admission of Canadian paper and pulp. They will be supported in part by quite a large number of American paper makers who want Canadian pulp free of duty, but do not want the paper admitted on the same terms. My opinion is that there will be a compromise of the conflicting interests by admitting pulp wood free without any change in the present duty on paper. If the United States does not want our news paper, other nations do, and with our ample supplies of wood and splendid water powers we can manufacture so as to undersell them in any foreign market."

I freely believe, Mr. Speaker, that if the whole matter is properly explained, the farmers of Canada who have pulp wood to sell—not the manufacturers of the States—will join in the movement to keep Canadian crude products to be manufactured in Canada. At present they hold the dollar so close to their eye they can't see the many dollars beyond. I am reminded of the time the mechanics broke new inventions because they thought they would stop labor; now they realize better pay and shorter hours through same machines. Now, sir, in concluding the compilation of facts considering this great question, facts which have been added to and are being added to every day, I wish to say that my attention was first directed to it specifically by a conversation last fall with a gentleman who had been in the United States, who was fully conversant with the ins and outs of the whole business, and who said if the United States were in our position they would not wait a day before putting on an export duty. Politics steps to one side over there when the mighty dollar is in danger. I also want to say that I presented this resolution entirely of my own motion, that I consulted no one, advised with no one, and am fully prepared to plow my lonely furrow if facts, reason, or other considerations prevent anyone from seeing the case as I see it.

I also wish to say I consider it a question so great, so vital to the national and private weal, that it should be absolutely kept out of politics. I therefore ask the government to appoint a committee of the house, three or five, to take evidence in and out of session and investigate the whole matter and report at another session. In the light of the facts to be found by this committee I trust the government will take some action which will bring into force an export duty, not immediately, but within a reasonable time, giving everybody due notice, which will have the effect of bringing the mills to Canada, and thus having the product of our own country manufactured in our own country.

Preliminary Report of Select Committee on Pulp and Paper Investigation.

SPEECH

OF

HON. JAMES R. MANN,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 28, 1908.

Mr. MANN said:

Mr. SPEAKER: This morning when the House convened at 11 o'clock I asked unanimous consent of the House that the select committee appointed under House resolution 344 to conduct the so-called "pulp and paper investigation" might then have leave to present its report to the House, together with the views of the minority, and that the same might be read. The gentleman from Mississippi [Mr. WILLIAMS] temporarily objected. I had caused advance copies of the report to be printed, so that they might be distributed when the report was taken up in the House, and on making this request these advance copies were at once distributed among the membership of the House.

The reason for the objection by the gentleman from Mississippi [Mr. WILLIAMS] to the request thus made was that the gentleman from Tennessee [Mr. SIMS], the senior Democrat on the select committee, was for the moment absent from the Hall of the House. Subsequently, and after the distribution of the advance copies of the report in the House and while the gentleman from Tennessee [Mr. SIMS] was present, I renewed my former request. The gentleman from Nebraska [Mr. HITCHCOCK] objected to the request to have the report presented to the House from the floor in this public manner, and I thereupon deposited the report in the basket in the usual manner for nonprivileged reports. I now avail myself of the general leave to print, and for the information of the House and the country and for preservation of the report in the RECORD insert the

same, together with the views of the minority, as part of these remarks:

PRELIMINARY REPORT OF SELECT COMMITTEE ON PULP AND PAPER INVESTIGATION.

The select committee of the House appointed under House resolution No. 344, to inquire into the elements and conditions involved in the production and supply of wood pulp and print paper in so far as the same are or may be affected by any combination or conspiracy to control, regulate, monopolize, or restrain interstate or foreign commerce and trade in the manufacture, supply, distribution, or sale of wood pulp or paper of any kind, or any of the articles entering into the same, or any of the products of paper, and how far the same may be affected by the import duties upon wood pulp or paper of any kind, and how far the same may be affected by the rapid destruction of the forests of the United States and consequent increase in the price of wood which enters into the manufacture of wood pulp, and also to inquire whether the present prices of print and other paper are controlled in whole or in part by any combination of persons or corporations engaged in commerce among the several States or with foreign nations, and if so, to inquire into the organization, methods, and practices of such corporations or persons, and also to inquire into certain alleged facts and to obtain all possible information in regard to the same, beg leave to submit a partial and preliminary report and to say that since its appointment the committee has been diligent in making its investigation, and the members of the committee have devoted practically their entire time since appointment to the work of the committee, neglecting their other official duties for that purpose.

The committee listened with interest, attention, and care from April 25 to May 14 to the witnesses appearing in behalf of the contentions of the American Newspaper Publishers' Association, and followed with painstaking care the statements made and evidence presented by Mr. John Norris, who appeared as the special representative of that association. Every opportunity has been given to newspaper publishers to present evidence before the committee, though not all of the publishers who offered to appear or whom the committee would like to hear have yet been examined.

In addition to the testimony presented before the committee, your committee sent out, on May 6, 7,000 letters to various newspapers and other publications throughout the country, asking that a schedule inclosed to them be filled out and returned to the committee, giving certain information as to prices, etc., which schedules, as rapidly as returned, were, up to May 21, turned over to the Census Office for tabulation, and the results of which tabulation have been carefully examined by your committee and are printed in the hearings. Of the schedules which were thus sent out, 919 have been returned and tabulated.

Schedules asking for information were also sent, under the supervision of the Census Office, by your committee to the paper and pulp manufacturers of the United States, but sufficient time has not yet elapsed to have obtained very complete returns from such schedules.

CONTENTION OF PUBLISHERS.

It has been the contention of the newspaper publishing interests—

First. That the price of news-print paper was advanced in September, 1907, to \$50 per ton in New York and correspondingly elsewhere, a figure that was claimed to be \$12 per ton in advance of the price of two years previous, and that a still further advance was threatened of \$10 per ton more, thereby planning, as claimed, an advance of \$22 per ton.

Second. That the advance actually made and the planning of a further advance were both the result of a combination or conspiracy entered into by the news-print paper manufacturers or their selling agents.

Third. That such advance in price and such combination to make further advance were caused, or at least in part aided, by the tariff duties imposed on wood pulp and print paper, and hence that, in justice to the newspaper and other printing and publishing interests of the country, the duties on pulp and paper should be repealed.

Fourth. That the decree of the United States court dissolving the General Paper Company had been willfully violated by paper manufacturers in Michigan, Wisconsin, and Minnesota, parties to that decree, who had in violation of the decree acted in concert and agreed as to prices and to the imposition of conditions upon the manufacture, sale, and distribution of the paper manufactured.

The above may not completely state the contention of the newspaper publishers, but it gives a general and fair idea of their claims.

One of the inquiries submitted to your committee was to the effect of the destruction of the forests of the United States upon the production, supply, and price of wood pulp and print paper.

In the examination of the subject-matters your committee, in addition to the evidence presented to it by the newspaper interests and the pulp and paper manufacturing interests, have had the courteous, attentive, and valuable assistance of the Census Office, the Bureau of Statistics, the Bureau of Labor, the Division of Forestry, and the State and Treasury Departments. Every branch of the administrative service of the Government which has been called upon by your committee has rendered prompt and efficient aid in obtaining valuable information, both at home and from abroad, for the use of the committee and for the benefit of the industries interested.

Prior to the appointment of your committee the statement had been widely circulated that the advance in prices, together with the threatened advance, would entail upon the printing and publishing interests of the United States an additional cost of \$60,000,000 per annum. Subsequently it was explained by the same authority that the actual and threatened advance in news-print paper would be over \$24,000,000 per annum.

NEWS-PRINT PAPER.

Ordinary news-print paper is composed mostly of ground wood. The process of grinding wood consists of pressing it with hydraulic pressure against rapidly revolving grindstones, operated usually with water power. In fact, steam power would be too expensive to grind the wood at the present price of paper. When this wood is ground into pulp and made clean of extraneous matter by various processes, it has mixed with it 20 to 25 per cent of wood pulp or fiber produced by chemical processes, clay to fill the paper to an evenness, coloring matter, etc. The ground pulp is the cheaper, but there is not long fiber enough in it to hold it well together, and the chemical pulp, usually called "sulphite fiber," made from the same wood, is added to give the paper strength.

ESSENTIALS OF CHEAP PAPER.

There are two primary essentials to cheap paper. First, cheap power; second, cheap pulp wood. The cheap power can only be obtained by the development of water power. The use of wood in paper making, while old in various forms, is quite modern in the form of ground wood pulp, and the price of printing paper has been greatly reduced in recent years following the development of the ground wood pulp industry. Probably the lowest price for news-print paper was reached in 1897, though it has been difficult to ascertain the prices at different periods. Most of the news-print paper is sold to the publishers on time contracts and the paper supplied directly from the paper mills.

Usually contracts for news-print paper provide that the manufacturer or other seller shall deliver the paper to the publisher, who is the buyer, so that the contracts generally include both the price of the paper and the freight rate. Just how low the average price of news-print paper went in 1897, along with other things at that general period of depression, we have as yet been unable to ascertain, though it would appear that some paper was sold at about 1½ cents a pound.

The tabulation of the returned schedules of newspapers by the Census Office covers but few of the large metropolitan dailies, which are the heavy consumers. From these returns the average price at present, including in many cases freight charges, to 919 newspapers is \$2.86 per hundred pounds of paper; that of these, 361 using paper in rolls have an average price of \$2.54 per hundred pounds, and 558 an average price of \$3.07 for paper in sheets. From these same returns it appears that in 1890 108 of these publishers paid an average price of \$2.84; in 1894, 132 publishers paid an average price of \$2.46; in 1897, 206 paid an average price of \$2.16; in 1900, 364 paid an average price of \$2.10; in 1905, 636 paid an average price of \$2.43; in 1907, \$15 paid an average price of \$2.38 per hundred pounds. It seems probable that publishers paying high prices most readily responded to the inquiries of the committee.

It appears that the average price received by the International Paper Company for paper delivered was, in 1900, \$2.06; in 1901, \$2.12; in 1902, \$2.07; in 1903, \$2.14; in 1904, \$2.12; in 1905, \$2.07; in 1906, \$1.99; in 1907, \$2.05, and for the first three months of the current year, \$2.20 per hundred pounds.

The average selling price of the St. Regis Paper Company per hundred pounds of news-print paper f. o. b. mill for January, 1903, was \$1.75; January, 1904, \$1.75; January, 1905, \$1.74; January, 1906, \$1.47; January, 1907, \$1.75; January, 1908, \$2.13. The evidence shows that at this mill, while the selling price f. o. b. mill had increased from \$1.75 in January, 1903, to \$2.13 in January, 1908, the cost of production, excluding interest and depreciation, had increased from \$1.30 in January, 1903, to \$1.61 in January, 1908, and that in January, 1906, while the average selling price was \$1.47 the average production cost was \$1.54.

While there appears to have been complaint on the part of paper manufacturers that the selling price of paper for 1906 was too low to be fairly remunerative, yet we are inclined to think that it was not until the summer of 1907 that there was a general increase in print-paper prices. That a general increase was in fact put into effect on new contracts appears to be unquestioned. Some of the contracts then outstanding were five-year contracts, which had several years yet to run. This appears to have been quite generally true of the large metropolitan dailies, who are the principal consumers of news-print paper. In some of these contracts the prices of paper are based upon the cost of production at certain mills. Others are based upon the annual market price with a maximum price named, and others upon different terms. In one long-term contract still in force covering 90,000 tons of paper a year the price is \$1.88 per hundred pounds delivered to the publisher.

It has been impossible for your committee yet to ascertain what proportion of the print-paper consumption in the United States is under new contracts or at advanced prices. But it appears that the International Paper Company, the largest producer of news-print paper, determined in June, 1907, to advance its price of paper on new contracts to \$2.10 per hundred pounds f. o. b. mill, and at a meeting of its selling committee, held October 17, 1907, it was the unanimous sense of that committee that contracts with large customers for 1908 should be based upon \$2.50 per hundred pounds delivered. Other news-print paper makers generally advanced their prices, so far as your committee has ascertained, about the same time or shortly thereafter.

The advance in price made by the International Paper Company on new contracts was close to 50 cents per hundred pounds, or \$10 per ton. While this advance has applied up to the present time on probably less than one-half the news-print paper consumption, yet, if the advance which was made should be applied to the entire consumption of news-print paper in the United States, it would probably amount to an advance of about \$10,000,000 per annum.

This advance in the price of paper to the publisher on new contracts was in a degree coincident with the decline in the quantity of advertising which followed the recent panic.

COMBINATION IN RESTRAINT OF TRADE.

The evidence before the committee so far fails to prove any combination of print-paper manufacturers to advance prices or otherwise in restraint of trade, but considerable evidence was presented which might excite suspicion that such a combination had been made and was in existence. Evidence was presented in relation to a combination of manila and fiber manufacturers, and it seems to be admitted that that combination did exist, has since been dissolved with a fall in the price of its products, and is now under investigation through the Department of Justice in the United States court at New York.

Such of the paper manufacturers as have appeared before your committee during its hearings have strenuously and completely denied under oath the existence of any combination, agreement, or understanding of any nature whatever among the paper manufacturers or their selling agents to regulate, control, or advance the price of paper, the assignment of customers, or for any other purpose in restraint of trade.

INCREASED COST OF PRODUCTION.

The mill owners insist that there has been a decided increase in the cost of producing paper, caused—

First. By the increase in the cost of pulp wood and wood pulp.

Second. By increase in the wages of the employees.

Third. By reduction of the hours of labor per employee per day.

Fourth. By the increase in the cost of other articles which enter into the production of paper.

INCREASED COST OF WOOD PULP.

There seems to have been a decided increase in the cost of pulp wood. This is admitted by everyone. The average cost to the International

Paper Company of pulp wood in the rough per cord, delivered at the mill, from 1898 to 1908 is stated to us as follows:

1898	-----	\$5.33	1904	-----	\$7.49
1899	-----	5.28	1905	-----	7.79
1900	-----	6.07	1906	-----	8.00
1901	-----	6.43	1907	-----	8.54
1902	-----	6.83	1908 (first three months)	-----	10.14
1903	-----	6.77			

The average cost to the Northwest Paper Company, at Cloquet, Minn., for pulp wood per cord, in the rough, 8-foot lengths:

1902	-----	\$3.15	1905	-----	\$4.10
1903	-----	3.40	1906	-----	5.15
1904	-----	3.60	1907	-----	7.40

The average cost of rossed pulp wood per cord to the Remington group of mills, delivered at the mill, was—

1904	-----	\$11.00	1907	-----	\$13.30
1905	-----	11.12	1908 (first three months)	-----	14.00
1906	-----	11.50			

The average cost of rossed pulp wood per cord to the Frank Gilbert Paper Company, delivered at the mill, was—

1894	-----	\$6.25	1902	-----	\$9.00
1895	-----	8.12	1903	-----	10.50
1896	-----	8.12	1904	-----	11.00
1897	-----	8.12	1905	-----	11.21
1898	-----	8.50	1906	-----	11.61
1899	-----	8.75	1907	-----	13.30
1900	-----	8.30	1908 (first three months)	-----	13.80
1901	-----	8.50			

The evidence so far taken would seem to indicate that last summer there became a genuine scare among the mill owners as to the supply of pulp wood for 1908. For the first time the Wisconsin mills purchased pulp wood in Quebec, 1,400 miles distant. Owing to the shortage in the Western available supply of pulp wood, the Western mills purchased 50,000 cords of pulp wood in Quebec during 1907. It is possible this had much to do with the increase in the price of pulp wood and more or less to do with the increase in the price of paper.

COST OF GROUND PULP.

According to the books of the International Paper Company, the average cost to it of producing 1 ton of ground-wood pulp in 1907 was \$14.42, composed of the following items:

Pulp wood	-----	\$9.50
Wages	-----	2.55
Grindstones	-----	.11
Felts	-----	.13
Wires	-----	.04
Screen plates	-----	.05
Belting	-----	.07
Lubricants	-----	.04
Repair material	-----	.77
Repair labor	-----	.32
Fuel	-----	.03
Barn expense	-----	.02
Miscellaneous operating	-----	.07
Office expense	-----	.02
Water rents	-----	.40
Insurances and taxes	-----	.15
Administration expense	-----	.15

The average cost of the amount of ground pulp used in the production of 1 ton of news-print paper was—

1900	-----	\$9.54	1905	-----	\$11.08
1901	-----	10.00	1906	-----	11.49
1902	-----	9.41	1907	-----	12.22
1903	-----	10.24	1908 (January and February)	-----	12.77
1904	-----	11.56			

The cost of production of ground pulp by the Northwest Paper Company per ton, dry weight, was—

1902	-----	\$10.60	1905	-----	\$9.39
1903	-----	12.20	1906	-----	13.52
1904	-----	9.87	1907	-----	17.10

The cost of production of ground pulp to the St. Regis Paper Company, of the State of New York, per hundred pounds, dry weight, was—

1902	-----	\$0.55	1906	-----	\$0.68
1903	-----	.59	1907	-----	.74
1904	-----	.62	1908 (first two months)	-----	.77
1905	-----	.64			

During 1907 ground-wood pulp sold in the market as high as \$30 per ton.

The cost to the International Paper Company of sulphite fiber, per ton, was—

1901	-----	\$25.85
1907	-----	31.38

The cost of production of sulphite fiber to the St. Regis Paper Company, per hundred pounds, dry weight, was—

1902	-----	\$1.36	1906	-----	\$1.54
1903	-----	1.41	1907	-----	1.50
1904	-----	1.46	1908	-----	1.61
1905	-----	1.46			

The average cost to the International Paper Company of the materials used in the manufacture of 1 ton of paper in 1901 was \$21.49, as follows:

Ground pulp	-----	\$10.00	Fillers	-----	\$0.67
Sulphite fiber	-----	9.02	Alum	-----	.27
Sundry fibers	-----	.36	Bleaching	-----	.10
Waste paper	-----	.06	Coloring	-----	.10
Wrappers	-----	.76	Sizing	-----	.15

In 1907 the total cost of materials per ton of paper was \$23.27.

LABOR COST.

The average cost to the International Paper Company of labor in the production of 1 ton of paper from the prepared materials was—

1900	-----	\$3.80	1905	-----	\$3.83
1901	-----	4.00	1906	-----	3.80
1902	-----	4.11	1907	-----	4.19
1903	-----	4.15	1908, January	-----	4.29
1904	-----	3.94	1908, February	-----	4.38

The average cost to the International Paper Company of labor in the production of 1 ton of paper from the delivery of the pulp wood at the mill was—

1900	\$7.74	1903	\$7.86
1901	8.02	1906	7.63
1902	8.13	1907	8.52
1903	8.18	1908 (first three months)	8.81
1904	8.04		

In the Northwest Paper Company the average cost of labor in the pulp and paper manufacture in 1907 was 18 per cent higher than in 1904.

In the John Edwards Mill, of Wisconsin, the cost of labor in the manufacture of 1 ton of paper from the prepared materials was—

1899	\$3.26	1904	\$3.12
1900	3.00	1905	3.12
1901	3.22	1906	3.25
1902	3.28	1907	3.88
1903	3.32		

In the Northwest Paper Company the cost of labor in 1 ton of paper from the tree in the forest to the completed paper in rolls is stated at \$16.23 in 1907, divided as follows:

Labor in 1 ton of paper from tree to the paper mill, including preparation of the materials	\$10.61
Labor in the paper mill proper	5.62

There seems to have been a considerable increase in the average weekly wage of the employees in the paper and pulp mills. This increase has not been greater than seems to your committee to have been necessary, owing to the increased cost of living, and the wages now paid in the paper and pulp mills would not be generally considered high, as compared with other skilled labor, though this may be largely owing to the fact that the mills are generally located on streams apart from large centers of population.

HOURS OF LABOR.

Owing to the fact that the machinery is largely operated in the mills by water power, it is economical to run them night and day. Up to about 1900 or 1901, the employees worked on what is known as the two-four or two-shift system—that is, an employee would work one week eleven hours during the daytime for six days, or sixty-six hours, and the next week thirteen hours during the night for six nights, or seventy-eight hours.

There were and are, of course, some employees about the mill who work only during the day, but the employees connected with the making and preparation of pulp and the making of paper work at machines that run day and night. About 1901 the hours of labor in the eastern news-print paper mills of the United States were generally reduced, so that an employee alternately worked one week eleven hours per day, or sixty-six hours, and five nights per week of thirteen hours each, or sixty-five hours. Under this system the mills shut down Saturday night. This reduction of hours was accomplished without reduction in wages, and in fact it would appear that notwithstanding the reduction in hours there were some increases in wages.

In 1906 and 1907 the International Paper Company and a large number of other eastern news-print paper mills put into effect what is called "the three-four system," under which there are three shifts of men, each working eight hours per day for six days in the week. This shortening of hours was accomplished without reduction in the wages of the men per week, and in some cases the wages have been increased, so that they are now higher under the eight-hour system than they were under the longer hours.

The reduction in the hours of labor has not been adopted in the Wisconsin and other western mills, where the hours still alternate between sixty-six and seventy-eight hours per week, or an average of twelve hours per day.

In the opinion of your committee it would be very unfortunate to adopt any legislation which would result in a return in the eastern news-print mills to the former system of twelve hours' work per day, or which would operate to continue such system in the western mills. While the adoption of the three-four system instead of the two four does not advance the wages paid in the mill to the extent of one-half, yet it makes a very considerable and decided increase in the number of employees paid and the total amount of the wages paid out.

According to the advance figures from the Twenty-second Annual Report on Factory Inspection of the New York State department of labor, kindly furnished to the committee by Hon. L. W. Hatch, chief statistician, it appears there were 14,004 employees in 198 paper and pulp mills in New York State, exclusive of New York City, in 1907. Of these, 4,050, or 28.9 per cent, worked less than fifty-one hours per week, 6,302, or 45 per cent, worked more than sixty-three hours per week. In 1906, 3.9 per cent of the employees worked less than fifty-one hours per week, and the number in 1907 was 28.9 per cent. In 1906, 599 employees worked less than fifty-seven hours per week. In 1907 the number was 5,267.

SOME INCREASE IN THE PRICE OF PAPER JUSTIFIED.

It would appear that the increase in the value and cost of pulp wood, the increase in wages, the decrease in the hours of labor of many of the employees, and the increase in the cost of other materials used, justified some increase in the price of paper over the prices previously prevailing, notwithstanding some economies perfected in the production of pulp and paper. The International Paper Company is the largest producer of news-print paper in the United States, and produces from 30 to 40 per cent of the entire output.

The evidence shows that the net earnings of that company for the fiscal year ending June 30, 1901, were \$3,054,000; that the average net earnings of the company for the fiscal years from 1899 to 1905, inclusive, were \$2,316,000; that for the fiscal year ending June 30, 1906, the net earnings fell off to \$1,985,000, and for the fiscal year ending June 30, 1907, to \$1,623,000, and for the first six months of the calendar year 1907, to \$777,000; that about the middle of the calendar year 1907 the manufacturing department of the said company submitted reports, showing an estimated increased cost of production for the calendar year of 1908 of \$1,500,000 over that for the fiscal year ending June 30, 1907, based on the same quantity of paper. This estimate followed the introduction of the eight-hour system in its mills, and was coincident with the increase in reference to the supply and cost of pulp wood. The estimate was based upon an increase of \$300,000 in the cost of labor and \$1,200,000 in the cost of pulp wood.

The evidence shows that at the Hudson River mill, the best equipped of the International Company, the cost of production per ton of news-print paper in 1907, excluding depreciation, interest, and administration expenses, was \$27.50, and for the first three months of 1908,

\$30.34. At one of the mills of the International Company the same cost for 1907 was \$37.10.

At the St. Regis mill, one of the modern mills, the cost of production at the mill of news-print paper, excluding depreciation and interest, as shown by the books of the company, was—

	Per 100 pounds.		Per 100 pounds.
1902	\$1.34	1906	\$1.53
1903	1.39	1907	1.60
1904	1.42	1908 (January and February)	1.66
1905	1.55		

At the Northwest Paper Company the cost was—

	Per 100 pounds.		Per 100 pounds.
1903	\$1.58	1906	\$1.70
1904	1.50	1907	1.94
1905	1.52		

At the Dells Paper and Pulp Company, Eau Claire, Wis., the cost was—

	Per 100 pounds.		Per 100 pounds.
1902	\$1.45	1905	\$1.45
1903	1.49	1906	1.49
1904	1.48	1907	1.79

At the Dells Paper and Pulp Company the difference between the actual cost of production and the selling price per hundred pounds of news-print paper was—

1902	\$0.50	1905	\$0.44
1903	.51	1906	.23
1904	.53	1907	.15

This last represents the net profits excluding any charge for interest or depreciation.

The sworn evidence in behalf of the International Paper Company, based upon its books, shows that the average total cost to it of news-print paper delivered to the customer was \$40.09 per ton for the calendar year 1907, composed of the following items:

Cost of production, including materials, labor, taxes, insurance, and other mill expenses	\$32.38
Cost of administration	1.04
Interest on bonds	1.99
Expenses of delivery	4.68

Total 40.09

Under the estimate submitted by the manufacturing department of the increased cost of production for 1908, it was estimated that the cost in 1908 of paper delivered would be \$43.41. During the first three months of 1907 the International Paper Company delivered 111,718 tons of news-print paper, which were billed to consumers at \$40.09 per ton, or \$4,569,000. For the first three months of 1908 the same company delivered 90,791 tons, which were billed to the consumers at \$44.14 per ton, or \$4,008,000.

The evidence shows that the grand total of contracts for paper on the books of the International Paper Company May 1, 1908, called for 427,622 tons at an average price of \$44.53 delivered. The evidence shows that the average selling price of the International Paper Company of news-print paper at the mill, not including cost of delivery, on both domestic and foreign business, was as follows:

Fiscal year.	Domestic.	Foreign.	Fiscal year.	Domestic.	Foreign.
1900	\$35.54	\$38.02	1904	\$37.80	\$37.76
1901	36.28	38.78	1905	36.94	38.48
1902	35.80	36.82	1906	35.52	37.76
1903	37.70	36.48	1907	36.64	37.04

THREE-CENT PAPER.

One of the claims urged by the Publishers' Association was that it was the intention of the paper manufacturers to further increase the price of paper on a basis of 3 cents per pound, or \$60 per ton, delivered at New York, with prices corresponding elsewhere. Such a condition would add more than \$10,000,000 above the present cost of paper. The paper manufacturers strenuously denied there having ever been such an intention, and from the evidence submitted to the committee we find that such an advance was never contemplated.

CANADIAN COMPETITION.

The principal competition with the news-print paper and pulp mills of the United States comes from the Canadian mills. From Canada we import a large and rapidly increasing amount of pulp wood. We also import a considerable quantity of wood pulp and are now importing some quantity of news-print paper.

Consul-General Foster, at Ottawa, Ontario, reports that the average price of news-print paper at the Laurentide Paper Company mill, at Ottawa, per ton was—

1902	\$38.41	1905	\$37.46
1903	38.83	1906	36.41
1904	38.17	1907	36.16

While the average price of news-print paper at the Canadian mills may be now a trifle less than in the United States, it was until the last year apparently as high, or higher, at the Canadian mills than at the mills in the United States. It is claimed by the paper manufacturers that the low prices now prevailing at the Canadian mills are temporary in nature and the result of the depression in the news-print paper market in England and Canada.

EXPORTATION FROM CANADA.

Some of the provincial governments in Canada now discriminate against pulp wood for exportation. It is said that most of the forests in the Provinces of Quebec and Ontario suitable for pulp wood are public, or Crown, lands belonging to the provincial governments. The Province of Quebec makes a license or stumpage charge of 65 cents for each cord of pulp wood cut on its Crown lands, with a reduction or rebate of 25 cents for each cord manufactured into pulp within the Dominion of Canada.

This amounts to an export charge of 25 cents per cord, or nearly 40 per cent of the original license or stumpage charge. It is from the Province of Quebec that most of the pulp wood now imported into the United States is obtained. Wisconsin and other western paper

and pulp mills could much more cheaply obtain wood pulp from the Province of Ontario than from Quebec, but the Province of Ontario absolutely prohibits the exportation from Canada of any pulp wood cut on its public lands, though permitting such cutting for manufacture at home.

Canada has immense tracts of spruce forests, spruce being particularly well adapted for making paper. And while these forests have doubtless advanced more or less in value for the production of lumber, yet they ought, together with the spruce forests of the United States, furnish spruce pulp wood in sufficient quantities for paper making for a long time in the future, or perhaps indefinitely with proper conservation.

REMOVAL OF THE TARIFF.

The question as to the removal of the tariff on print paper and wood pulp is intimately connected with the conservation of the forest resources of the United States, as well as its effect upon the paper manufacturing industry and the newspaper publishing industry. Your committee has taken in its preliminary investigation about 2,000 printed pages of testimony, involving many tables of cost and price.

The committee has not yet completed its investigations and is not yet prepared to make a recommendation as to the permanent policy of the United States in regard to the duty on paper and pulp, except that the committee is firmly of the opinion that the tariff on news-print paper and on wood pulp should not be removed as to paper or pulp coming from any country or place which prohibits the exportation of pulp wood, or which levies any export duty on paper, pulp, or pulp wood, or makes any higher charge in any way upon wood pulp or pulp wood intended for exportation to the United States.

The evidence taken so far would seem to indicate that the temporary suspension or entire removal of the present tariff would not have any great immediate effect, and if the tariff is removed at any time it should be coupled with the right to free exportation of pulp wood from the Canadian forests. The removal of the tariff on print paper and wood pulp, if followed by an export duty on pulp wood coming from Canada, would probably result in a considerable increase in the price of print paper and the early destruction of the pulp wood forests in the United States.

A low or even moderate price for print paper in the future is dependent mainly upon the future supply and cost of pulp wood. About one-third of the pulp wood now consumed in the manufacture of paper by our mills is imported from Canada. If an export duty should be levied by Canada upon the exportation of pulp wood, or if the Province of Quebec should follow the example of the Province of Ontario and entirely prohibit the exportation of pulp wood cut on its Crown lands, the cost of pulp wood in the United States would be greatly enhanced and the price of paper would go up.

A mistaken policy now adopted and put into effect by the United States upon this subject might easily prove of inestimable damage and cause the practical destruction of the cheap daily newspaper.

It would seem that for the American publisher to be assured of low prices for his paper, it is essential to maintain paper mills in the United States. Any policy that would give the Canadian mills a preferential advantage over American mills in obtaining the raw material at a lower price must inevitably result in the dismantling of American paper machines and the ultimate dependence of American publishers on Canadian mills. Under such conditions Canada could levy export duties on print paper that would result in enhanced prices without the presence of competition from American paper manufacturers.

So far as the information yet presented to the committee discloses the facts, your committee is inclined to the opinion that if the American mills can obtain pulp wood from Canada on even terms with the Canadian mills, they can make ground wood pulp as cheaply as it can be imported from Canada free of any duty. What effect the removal of the tariff upon paper would have as to Norwegian and other European competition, your committee is at present unable to say, though it has been claimed before your committee that the wages paid in European countries are only one-third to one-half of the wages paid in the mills of the United States, and that under free trade competition the low wages in the European countries would be disastrous to the wage scale and the hour scale in the American paper mills.

Your committee proposes during the summer vacation to continue its investigations and expects to be able to present to the House at the next session of Congress definite recommendations, based upon complete information thoroughly considered, as to the various matters of inquiry submitted to the committee. In not presenting at this time definite conclusions and recommendations your committee is guided in part by the fact that no combination in restraint of trade has been proven by the evidence to exist among the paper manufacturers, and that the evidence does not show any intention on the part of the paper manufacturers to further increase the present price of news-print paper, but that on the other hand the evidence does show that the upward tendency in the price of paper, which was so marked during the year 1907, reached its limit some months ago, probably as the result of economic conditions, and that at present the tendency of the news-print paper market is downward. One contract with a large daily paper was recently concluded on the basis of \$2.20 per hundred, delivered in Chicago.

The scare of last year as to the future supply and price of pulp wood and as to the ability of the mills to furnish news-print paper enough to meet the demands of consumption has subsided, and when new contracts are made during the present year for pulp wood to be delivered in 1909 the price is likely to be lower than the prices now being paid for pulp wood on contracts made last year. The decreased consumption of paper consequent upon the general business conditions of the country means a lessened demand for pulp wood and, we believe, a consequent return to normal prices.

THE STEVENS BILL.

The so-called "Stevens bill" (H. R. 18608) provides for the repeal of the tariff law so far as it applies to wood pulp and printing paper, with the proviso that if any country or dependency shall impose an export duty on pulp wood there shall be imposed a duty on wood pulp and print paper when imported from such country or dependency to the amount in the case of wood pulp of the export duty and to the amount in the case of printing paper of one-tenth of 1 cent per pound for each dollar of export duty per cord of pulp wood and proportionately for fractions of a dollar of such export duty.

The Stevens bill does not purport to repeal or change the tariff laws as to any class of paper or paper products except printing paper, though all other kinds of paper are affected by the same natural conditions which have affected the supply and price of printing paper. We doubt whether anyone, after full consideration, would desire the enact-

ment of the Stevens bill into law in its present shape. The bill makes no provision against the present order of the Ontario government prohibiting the exportation of pulp wood. It contains no safeguard against a similar order by the government of Quebec.

If the Stevens bill should be enacted into law in its present shape and the Province of Quebec should by order provide that no pulp wood cut on Crown lands should be exported from Canada, it would cause an immediate rise in the price of paper; it would enhance greatly the price of pulp-wood timber in the United States; it would cause the destruction of American forests; it would cripple the paper-manufacturing industry in our country; it would in every way do much harm and prove of benefit in no way.

The spruce forests of Canada and the water-power development in the United States can profitably and economically be used together in the production of print paper at low prices. The necessary cooperation of these two great natural resources may be brought about by mutual agreement or treaty between our country and Canada, or perhaps by thoroughly considered and well-safeguarded legislation. It would be much better to secure such cooperation by mutual agreement with the Canadian government, if that can be done. Just what obstacles may be in the way of such an agreement, by reason of the fact that the ownership of the Crown lands is in the provincial governments or for other reasons, your committee has not fully considered.

As the present price of paper would not to any considerable degree be immediately affected by the repeal of the tariff, and as the passage of the Stevens bill in its present form might spell "ruin" to the paper industry and ruinously high prices for paper in the near future, your committee believe it the part of wisdom before making recommendations for positive legislation to await until its investigation has been completed and thoroughly digested.

All of which is respectfully submitted.

JAMES R. MANN.
JAMES M. MILLER.
WILLIAM H. STAFFORD.
HENRY T. BANNON.

VIEWS OF THE MINORITY.

The undersigned members of the Select Committee on Pulp and Paper Investigation, acting under House resolution No. 344, respectfully recommend the passage of H. R. 18608, introduced by Mr. STEVENS of Minnesota.

An acute situation, which might be termed trade hysteria, was precipitated in 1907 in news-print manufacture when a group of sixteen Wisconsin mills, known as the Wisconsin Wood Pulp Association, bought 50,000 cords of pulp wood in the Province of Quebec, Canada. This purchase entailed a transportation of that material a distance of 1,500 miles. It introduced a new and unlooked-for factor into what was more or less of a speculative operation. It demoralized the pulp-wood markets of the United States, as well as of Canada, where nearly 1,000,000 cords of pulp wood are bought for export to the United States. It started paper quotations upward until one paper-trade journal reported that the current prices for news-print paper on July 1, 1907, ranged from \$52 to \$62 per ton. (See Doctor North's letter to Mr. DALZELL, Hearings, p. 219.) This advance had been foretold by papers, salesmen, and others nearly a year prior to a so-called "paper famine."

The Wisconsin and other mills are rapidly exhausting their supply of available spruce, as is shown by their effort to buy and ship wood a distance of 1,500 miles. More than one-half of the spruce wood used in American mills for making news-print paper comes from Canada. At the time that the Wisconsin purchase of Quebec wood caused the trade flurry the officials of the International Paper Company (a corporation producing about one-third of the entire supply of news-print paper manufactured in the United States) computed that the increased cost of their labor by reason of shorter hours had added \$300,000 per annum, or 60 cents per ton, to their expenses and that their wood would cost \$1,200,000 additional, or \$2.40 upon each ton of paper produced, a total of \$3 per ton upon their entire output of about 500,000 tons for news, manila, and other varieties of paper. (Hearings, p. 1096.)

They also figured that of their news-print paper output only 55 per cent could be taxed with these burdens because the other 45 per cent of their news-print production had been tied up with low-priced contracts covering the year. Accordingly, they decided upon \$50 per ton delivered as their minimum upon all future sales, which substantially fixed that price for the entire market. This figure carried with it an average advance of about \$10 per ton in a period of two years. The action was too abrupt. It provoked trouble and resentment at a time when newspaper revenues were shrinking because of depressed business conditions. It brought to the attention of the country a situation that demands rectification.

Immediately following the panic of October, 1907, the newspaper publishers sought to offset their losses caused by diminished advertising revenues and by increased cost of paper. They reduced the number of pages of their papers, resulting in a diminution of consumption. The paper mills, which had been taxed to supply the market, soon found their stocks accumulating, with decreasing demand for their product. The market was soon glutted, and paper makers were confronted with the alternative of reducing their prices or closing their mills and discharging their labor.

They decided to maintain the high prices, and this action on their part threw many of their employees into idleness. They kept their prices so far above the normal level that Canadian mills were able to pay the duty of \$6 per ton and to undersell American mills in the American market, doing this while paying wages for labor that compared favorably with the wages paid by the American mills. (Hearings, pp. 691, 805, 995.) This maintenance of high prices under such conditions brought about the unlooked-for result of giving to Canadian labor some of that work of production which otherwise would have gone to American labor.

Many cases of hardship have been brought to the attention of the committee. For instance, the Philadelphia Inquirer, using 13,000 tons of news-print paper annually, at a price of \$38 per ton, was notified that it must agree within twenty days to pay an additional price of \$12 per ton, aggregating \$156,000 per annum, or take chances upon its supply of paper. (Hearings, p. 393.) Inquiries at that time showed that a supply elsewhere was not obtainable. The Baltimore American was notified that it must pay \$12 per ton advance upon a consumption of approximately 5,000 tons per annum, or a total advance of \$60,000 per annum, and it had no recourse but to pay. (Hearings, p. 242.)

Many papers published in small cities and towns yielding a meager income had found their entire profits to disappear with this advance. Inquiries made by them disclosed the fact that no other mill than the

one from which they had previously obtained their paper could supply them. They were thus forced to the alternative of contracting at the highest price or a suspension of publication. Their embarrassment was aggravated by the inability of newspaper publishers to pass along these burdens of higher price for paper to their customers.

These hardships and this inability to have their customers share the added cost of paper present a case of urgency that differentiates this request for tariff removal from other pending propositions of similar character. The price of a newspaper is like the price of a postage stamp. It is measurably fixed. It can not be raised or lowered to meet the constantly changing prices of raw material. In this respect it is unique.

Evidence of concert of action on the part of the paper makers in obtaining higher prices are furnished by reports from many newspapers located in every part of the country, though actual violation of the criminal statutes has not been shown. However, the paper makers failed to explain the uniformity of price or to entirely justify their advance in price. They admit that numerous meetings of manufacturers have been held, but they deny that prices were definitely fixed at those meetings. They claim that the increased prices were forced upon them by reduction in the hours of labor and by the increased cost of wood.

The total labor cost of the International Paper Company increased 66 cents per ton from 1906 to 1907. An audit of the accounts of the largest mill operated by it (Hearings, pp. 705-710) disclosed the fact that the labor cost of a ton of paper had not increased in that mill in 1907 over 1906, but had diminished \$1.13 per ton by reason of the introduction of improved machinery and of improved methods, and that this diminution in cost was possible and had been accomplished notwithstanding a reduction in the hours of labor of the entire mill force. The testimony also showed that the reduction in the hours of labor was not general throughout the entire country, though all mills raised their prices upon the allegation that "their labor cost had thereby been increased."

The claim that pulp wood had increased in price has more merit than the claim of increased labor cost, but the increase in wood cost did not justify the advances which the paper makers ultimately adopted. The high quotations for pulp wood are open to the suspicion that they are the results of the methods of the larger paper companies which engaged in a scramble for the ownership of timber lands and then bought their supplies in the open market upon the theory that they should conserve their forests and not cut from their own lands but buy from outsiders.

It was shown that the International Paper Company had acquired control of over 4,000,000 acres of spruce timber tracts in the United States and in Canada and that other large investments by American paper makers had been made in Canadian woodlands. (Hearings, p. 486.) As appears from Canadian reports relating to the export of over 1,836,772 cords of pulp wood, there was no increase in cost during the years 1905, 1906, 1907. The average prices certified by the paper makers upon their exportations in these years were:

1905	\$4.38
1906	4.31
1907	4.37

(Hearings, p. 483.)

These prices were certified by shippers who had no apparent incentive for undervaluation.

An extraordinary and unaccountable secrecy marked the relations of manufacturer and publisher; contracts with large consumers were made under obligations of confidence and secrecy. Requests by the select committee to publishers of metropolitan dailies for information which would illuminate the subject were almost uniformly disregarded. Mail and telegraphic invitations to them to appear and testify were accepted by few. The metropolitan dailies had the advantage of long-time contracts, which had been denied to others, and they viewed with a measure of indifference the burdens suddenly heaped upon a considerable number of smaller papers.

It is upon these publications issued outside of the big cities that the advance in paper prices has been made to fall heavily. Five newspapers in New York City, consuming about 550 tons of news-print paper per day, are practically exempt for the time being from additional cost on account of unexpired contracts.

When an industry is made the beneficiary of a protective tariff and consumers everywhere are taxed to support it, it assumes an obligation to provide for expansion as the needs of the country may require.

It is also under obligation to promote the interests of the labor employed in such protected industries. The testimony submitted to the committee indicates that these obligations were not regarded by the paper makers.

The bill which we recommend will check a destruction of our woodlands, which has been estimated to exceed 1,800 square miles per annum, solely for the purposes of pulp and paper manufacture. Mr. Pinchot, of the Forestry Bureau (Hearings, p. 1357), says that from the meager data at hand the available supply of pulp wood in the United States is as follows:

	Years.
New York (which is the principal paper-making State)	8½
Pennsylvania	9
Minnesota	9
Vermont	11
New Hampshire	25
Maine	28½

Every consideration of public policy suggests the conservation of our woodlands. When the trees are cut from the hills, the land loses its absorptive qualities and the rain passes off as if from a tin roof, causing floods and subsequent droughts, carrying rich soil into the rivers, and entailing baleful consequences upon our national resources.

We find that the existing duties have raised the price of wood pulp and print paper not only in itself, but by giving to the paper manufacturers a shelter behind which they could organize combinations which, if not technically susceptible of proof as "unlawful trusts," are, in our opinion, in reality such. It is true that the tariff of itself, perhaps, might not account for the full advance in price, but the tariff, plus the tariff-engendered combinations, do account for all of it.

We find that the revenues derived from import duties on pulp and printing paper are so small, and the benefits to be obtained from the abolition of those duties are so considerable, that we urge the placing of pulp and printing paper on the free list. We believe that relief from existing conditions can be fully and promptly secured only by the immediate consideration and passage of H. R. 18608, known as the "Stevens bill."

T. W. SIMS.
WILLIAM H. RYAN.

Battle-Ship Construction—At Least One Should be Built This Year at the New York Navy-Yard.

SPEECH

OF

HON. WILLIAM M. CALDER,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908,

On the bill (H. R. 20471) making appropriations for the naval service for the fiscal year ending June 30, 1909, and for other purposes.

Mr. CALDER said:

Mr. SPEAKER: I am in full sympathy with the theory that in times of peace we should prepare for war and want to place myself on the side of the men who are to-day advocating the authorization of four battle ships in the pending naval appropriation bill. I would go to any length to assist in bringing about a condition of affairs that would insure the permanent establishment of universal peace. I realize, however, that the millennium has not arrived, that international differences will arise, and that it is essential for a nation to have might on its side as well as justice.

The idea of maintaining a navy is based on the same principle as the establishment of a police force in a great city. I would not permit the charge to go unchallenged that New York City did not contain the most peaceable people in the world. But no intelligent man would attempt to argue that law and order could be maintained in that great city, with adequate protection to the life and property of its people, without the aid of its magnificent police force of nearly 10,000 men. The same principle applies to all large cities and equally so to the control of the seas. Does anyone question for a moment that the policing of the ocean by the navies of the great powers has not only protected the interests of those powers, but has safeguarded the smaller and weaker nations as well?

Personally I would vote for a navy equal in size to that of Great Britain, and if it were in my power would establish permanently in the Pacific Ocean the magnificent fleet now there as a guaranty of the peace and safety of our Western coast and our island possessions in the Orient.

As rapidly as possible I would also build another fleet to take its place on the Atlantic coast. The two-fleet policy—one for the Pacific, one for the Atlantic—will some day be realized. This nation is growing in population, wealth, and responsibilities. Its facilities for maintaining the national integrity, honor, and security must keep pace with the expansion along territorial and commercial lines. This means a bigger Navy.

President Roosevelt, who earned the title of the "Prince of Peace" by stopping the Russian-Japanese war, has taken the lead in the fight for four battle ships. He has proved that the "big stick" and a big Navy can be used to protect the weak and promote that friendliness and comity between nations which is so much desired. I believe, with President Roosevelt, that an American Navy second to none in the world is a guaranty of peace, not only here, but elsewhere, and not an incentive to war.

It is also proposed to amend the pending measure by inserting a provision providing that one of the battle ships authorized under this bill shall be built in a navy-yard of the United States under the direction of the Secretary of the Navy. From the expressions of opinion of a great majority of the Members of the House I am confident this amendment will prevail. An examination of the records of the Navy Department in the construction of the battle ship *Connecticut*, built at the Brooklyn Navy-Yard some three years ago, shows many surprising results. The construction of this vessel, with her sister ship the *Louisiana*, was authorized by Congress in 1902, and at that time the statement was made by the chairman of the House Naval Committee, on the authority of the then Chief Naval Constructor, Admiral Bowles, that it would cost not less than 25 per cent more to build a ship in the navy-yard than by contract.

What is the actual result? The official figures of the Navy Department to September 30, 1907, including the expense of alterations, chargeable to original construction, and also of armor and permanent ordnance, fittings, and so forth, are as follows: *Connecticut*, \$6,367,308.22; *Louisiana*, \$6,037,344.47; a difference of \$330,000, or only a little more than 5 per cent. The Secretary of the Navy, Mr. Metcalf, has informed me that in selecting the *Connecticut* for his flagship, Admiral Evans told him that she was a 25 per cent better ship than the *Louisiana*.

A long and hard battle was fought before the Brooklyn yard was given a chance to compete in modern battle-ship construction with private contractors. The popular notion had to be dispelled that navy-yards were refuges for broken-down political hacks and incompetents, saddled upon the Government like pensioners. Congress did not realize that the demoralizing conditions of fifteen and twenty years ago no longer exist in the navy-yards; that these establishments are filled with skilled mechanics and faithful laborers, and that the strictest rules of discipline and economy prevail. The phenomenal record achieved with the *Connecticut* furnishes a striking proof of the changed conditions. That vessel was built in a shorter time than any battle ship ever before laid down in this country, save the *Louisiana*, and the difference in time here was so small as to be unimportant. The record of the Brooklyn yard with the *Connecticut* gave to the Government a club with which to break up the ship trust, to force cheap bids for future battle ships, and to compel their construction within reasonable time limits.

The official record of the building of the other twenty-one best-known ships in the Navy shows that not one of them was completed in contract time. The *Nebraska*, built by Moran Brothers, of Seattle, and the *Georgia*, built by the Bath Iron Works, of Bath, Me., were over three years longer building than the *Connecticut*. The *New Jersey*, built by the Fore River Ship Building Company, on Fore River, Massachusetts, and the *Virginia*, built by the Newport News Company, at Newport News, Va., were over two years longer building than the *Connecticut*, although the *Connecticut* is larger than any of these ships by 15 feet in length, by 7½ inches in beam, by 9 inches in draft, the displacement being 1,000 tons greater, and the coal-carrying capacity being larger by 500 tons.

The record in building the *Connecticut* has served another very useful purpose. It opened the eyes of the Department to the real cost of ship construction and the margin of profit involved. The difference of \$300,000 or so in the excess cost of the *Connecticut* has already been saved to the Government many times over in cheaper contracts since forced from the contractors, due to the fear of further navy-yard competition. Does anyone believe that the proposals for the battle ships *South Carolina*, *Michigan*, *North Dakota*, and *Delaware* would not have been scaled down to the lowest figures but for the knowledge on the part of the bidders that the Government would no longer submit to extortionate charges for battle ships?

I am confident that the Government saved not less than \$2,500,000 in the bidding on these ships alone because of navy-yard competition.

The old charge that only a private builder can turn out an efficient, up-to-date vessel was exploded when the *Connecticut* was put into commission. We have the word of a great sea fighter, Admiral Evans, that the *Connecticut* is a better ship than her rival craft, the *Louisiana*. If statistical evidence to back up this opinion is needed, it is readily found at the Navy Department. Compare, if you will, the actual cost of repairs on these two ships since their completion. We have the facts at hand, fortunately, because the same report which gives the cost of such repairs to the *Connecticut* as \$94,314 shows that corresponding cost to the *Louisiana* to be \$110,500, a difference of about 17 per cent in favor of the Government craft. As a matter of fact, the comparison is more favorable than appears on its face, because the *Connecticut's* total includes the cost of repairs as a result of the grounding of this vessel, an accident which, of course, is in no sense chargeable to the quality of work on the ship itself.

The reasons given in the foregoing are sufficient, in my judgment, to warrant the House in agreeing to the proposition to give one of these ships to a navy-yard, but I want to call the attention of the Members to a condition of affairs which must be considered in determining the broad policy of national ship construction. We have at the Brooklyn Navy-yard a plant which, with the land and water front, is valued in the neighborhood of \$20,000,000. There is maintained there a force of approximately 3,500 workmen and upward of 50 master mechanics, with a supervisory force of officers about equal to the master mechanics.

This force was gathered together at the time of the building of the *Connecticut*, and to a large extent was continued in the building of the collier *Vestal*. I venture to say that nowhere in the country can there be found a finer body of highly trained mechanics, artisans, and laborers. Anyone who has had any experience at all with a large working plant realizes the desirability of maintaining the force intact, in order that there may be no loss of efficiency from a disruption of units. The adoption of a fixed policy of having at least one battle ship always

under construction at this yard will retain to the Government the benefits of the highly organized working force, will keep the ship trust in check in the matter of bids, will force the prompt completion of ships in the hands of private contractors, and result in innumerable other advantages all tending to improve the efficiency of the American Navy.

Now, it has been proposed as an alternative of four battle ships in this bill that we provide for only two, with an understanding that there shall be at least two more next year, and so on indefinitely. In other words, that this Congress pledge itself to the policy of voting for at least two battle ships of the largest size every year. This is a move in the right direction to which I give my heartiest indorsement.

The United States is the only great world power that has no definite naval building programme. England follows the rule of maintaining a navy equal to the combined fleets of the largest two nations. Germany is working on a policy that will give her a magnificent battle-ship fleet in 1912. Other nations have similar policies, so that there is no interruption to ship-building due to political changes and other incidents.

I violate no confidence in asserting that President Roosevelt favors such a policy for this country. We are wealthy enough to build a navy on a systematic basis, rather than on the hit-and-miss plan that has been followed in the past. National defense is as important as national income, and one should be insured with as much care and system as the other.

The policy of building two battle ships each year should go hand in hand with the policy of having at least one battle ship always under construction in a navy-yard. This programme would require an award to a Government yard only once every three years—one vessel out of six. This is a division of contracts to which even the greedy private builder can not reasonably object. The plan has every reason to commend it, including economy, public welfare, and justice. If the President shall direct the construction of one of these vessels at Brooklyn, we will guarantee to furnish a vessel superior in every way to the *Connecticut* and built even more quickly and cheaper.

Finally, I appeal to this House to uphold the President in his general recommendation that we build a navy that will be commensurate to the dignified position this nation now occupies as a leading world power. The Stars and Stripes are found in the Orient, in the West Indies, and in far-off Bering Sea. If that emblem is to be treated with respect, if it is to be regarded as the flag of a justice-loving people who will as quickly defend the weak and oppressed nations as they will resent national insult and dishonor, then we must have a navy large and powerful enough to compel both respect and fear.

The Currency Bill.

SPEECH

OF

HON. TIMOTHY T. ANSBERRY,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908,

On the bill (H. R. 21871) to amend the national banking laws.

Mr. ANSBERRY said:

Mr. SPEAKER: I desire to take advantage of the general leave to print, which I voted against, to have printed in the CONGRESSIONAL RECORD an able editorial from the columns of an independent Republican paper of great influence and large circulation in my State, the *Ohio State Journal*, of date May 28, 1908, which is as follows:

THREATENING THE PORK BARREL.

It is indeed amusing to behold the concern with which some Congressmen regard the alleged emergency bill. They seem to think that the country is not particularly interested in anything else but the Aldrich or Vreeland bill; but the fact is, the country does not care for either of them.

There is Representative BARTHOLOLT, of Missouri, threatening to head up the pork barrel, unless the Vreeland bill is passed. That may fetch 'em. "Give us emergency," shouts BARTHOLOLT, the missionary of peace, "or you shall not have a pound of pork from the barrel." This awful alternative staggers Congressmen and brings them to a sense of obligation that is due to themselves.

But isn't it strange that a high-minded legislator should say to a brother Member, "unless you violate your sense of duty and vote for my bill, the one you favor shall not pass?" That is the situation, if we are to believe the dispatches from Washington. We say, "if," because it is hard to believe that BARTHOLOLT, with his record for world peace, could bring himself to the adoption of so contemptible a course.

It might do for just ordinary, boodler politicians to carry measures by such means, but for gentlemen with an intelligent appreciation of duty to do so is hard to believe.

I also desire to have published in the CONGRESSIONAL RECORD a letter from a Republican banker and business man from one of the progressive and prosperous counties of my district. I also desire to say that I voted against this hybrid bill, made up as it is of equal parts of two admittedly bad bills, and it passes understanding how a good measure can be made out of two bad ones:

THE PAULDING NATIONAL BANK,
Paulding, Ohio, May 11, 1908.

Hon. T. T. ANSBERRY, Washington, D. C.

DEAR SIR: We have taken the liberty to wire you protesting against the passage of the Vreeland bill.

I can not understand why the dominant party in the House of Representatives should think that the people of this country want or need such makeshift legislation. It is utter ignorance of the first principles of financial stability. The currency question is too dangerous a thing to tamper with and one that ought to be handled without any regard to politics, and if the Members of Congress do not know what they are voting for, as the junior Senator from Iowa so frankly said, then it ought to be left with experts who do know what they are talking about or put in the hands of a commission until the Members of Congress take some lessons and learn what it all means.

I know but little about it myself, do not claim anything, and I can understand easily why so few do know so little, but I am willing to refer to such financial experts as Lyman J. Gage or Charles N. Fowler, who has made a life-long study of the question, and who I consider the greatest authority on the subject in America to-day. I am aware that you will have very little chance to be of service if the Republicans make this a party question in the House, providing of course that you take my view of the question, but I can not help but enter my protest of the passage of this worse than makeshift legislation.

Yours, truly,

C. H. ALLEN.

A Review of Bryanism.

REMARKS

OF

HON. HENRY C. LOUDENSLAGER,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules and agree to the following order, which I send to the desk and ask to have read.

The Clerk read as follows:

Ordered, That general leave to print be granted Members from the adoption of this order until five days after the adjournment of the present session of Congress.

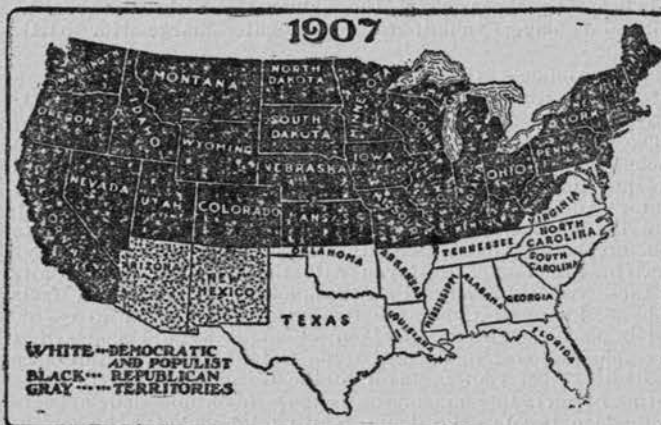
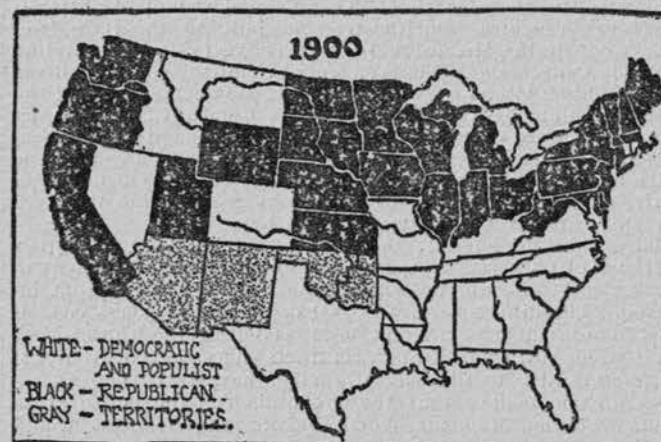
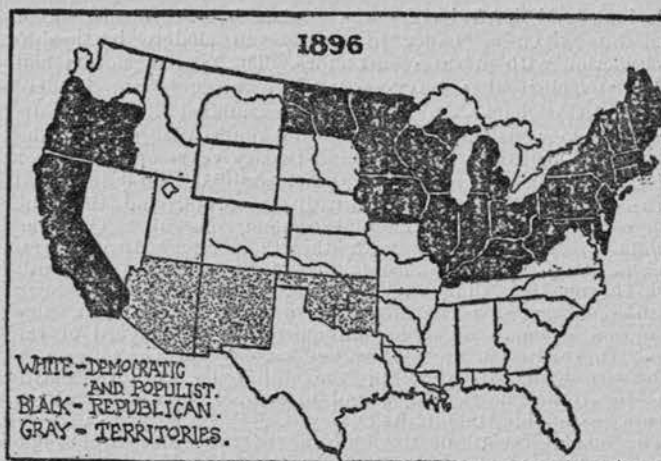
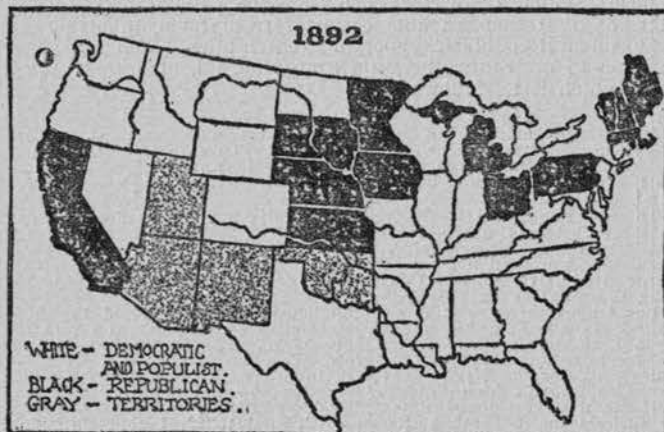
Mr. LOUDENSLAGER said:

Mr. SPEAKER: Under the leave to print granted by the House, I desire to place the following in the RECORD, believing that it will not only be of great benefit by way of information to the Members, but also to the readers of the CONGRESSIONAL RECORD. The subject-matter was printed in the New York World in February, 1908:

TWELVE YEARS OF BRYANISM.

For nearly twelve years, Mr. Bryan, you have been the leader—yes, the dictator—of the Democratic party of the United States. With but one exception its policies have been your policies, its principles your principles, its platforms your platforms.

After twelve years of such domination, during which time the party has gone down to three successive national defeats, piling disaster upon disaster and ruin upon ruin, your friends insist not only that you are the most available candidate for the Democratic Presidential nomination in 1908, but that you are the only available candidate, and you yourself have issued a statement expressing your readiness and willingness to accept the nomination. * * * For the purpose of demonstrating the error of your assumption more plainly than in words or figures, we print herewith maps of the United States showing the States carried by Democrats and Republicans in the years 1892, 1896, 1900, and 1907:



These maps speak for themselves.

The Democratic party went out of power in the nation March 4, 1897. Four years earlier it controlled 23 of the 44 States, the Republicans 17, and the Populists 4.

In Congress the party division was as follows: Senate—Democrats, 44; Republicans, 38; Independent, 1; Alliance, 2; vacancies, 3. House—Democrats, 220; Republicans, 128; Populists, 8.

What was the situation November 14, 1907, Mr. Bryan, after eleven years of your leadership, when you announced your receptive candidacy?

Of the 46 States the Democrats controlled 13 and the Republicans 33. In Congress the party division now is: Senate—Republicans, 61; Democrats, 31. House—Republicans, 223; Democrats, 168.

Whole States at the North are without Democratic representation in Congress, and from the Atlantic to the Pacific, north of the Ohio River, there are but 6 Democratic governors.

Such to-day is the condition of the historic Democratic party, Mr. Bryan, after twelve years of your leadership.

BRYAN THE CANDIDATE OF THE SILVER TRUST.

Your leadership of the Democratic party, Mr. Bryan, began with the national convention held in Chicago in 1896. It was an unfortunate year for a national campaign.

The American people were paying the penalty of thirty years' of trifling with their currency and their monetary standard of value. Industry was half paralyzed, commerce semiparalyzed. Crops had been poor, the price of farm products was low; the farms themselves were generally mortgaged. The National Government itself, with a demoralized Treasury, was borrowing money to pay its current expenses under the form of maintaining the gold reserve. Bond sales to favored syndicates had aroused the indignation of the people, without regard to party. Probably a million men in the cities were out of work. Soup

houses had been opened during the two preceding winters, and in every large center of population police stations had been filled nightly by homeless wanderers.

Armies of tramps moved sullenly along the highways. A Democratic Administration was in power which seemingly had no friends except its own appointees and beneficiaries. Discontent was almost universal. It was the hour of the agitator, and the Democratic national convention was his opportunity.

When a temporary organization of the convention was effected the elements of repudiation and political revolution found that while they had a majority of the delegates, they did not have the two-thirds majority necessary, in accordance with Democratic precedent, to nominate a candidate for President. This embarrassment was short lived.

The silver forces, by prearranged plan, had sent contesting delegations from many States, including Nebraska. Only a majority vote was necessary to adopt the report of a committee. The committee on credentials therefore unseated enough conservative delegates to insure a radical two-thirds majority for nominating purposes, and the issue was no longer in doubt.

You, Mr. Bryan, were at the head of the contesting delegates from Nebraska when they marched into the convention hall to take the seats of the sound-money delegates that had been evicted.

The money plank in the platform, which the convention adopted by a vote of 628 to 303, was as follows: * * *

"We demand the free and unlimited coinage of both silver and gold at the present legal ratio of 16 to 1 without waiting for the aid or consent of any other nation. We demand that the standard silver dollar shall be a full legal tender, equally with gold, for debts, public and private, and we favor such legislation as will prevent for the future the demonetization of any kind of legal-tender money by private contract. * * *

The great silver-mine owners of the world were in despair over the depreciation in price of their metal. Its use for money of redemption had been discontinued by the leading commercial nations. The India mints had been closed to its coinage. Congress had been forced to repeal the Sherman silver act, which had made the National Government a heavy purchaser of silver in the market.

The business of the mining operators was in a bad way and ruin stared many of them in the face unless the Government of the United States created an unlimited market for their product by throwing open its mints to the free and unlimited coinage of silver.

Never was a political propaganda more vehemently and desperately advocated, and never were the selfish interests behind it more adroitly concealed. If the obvious self-interest of the silver miners in the 16 to 1 crusade carried on by Democrats and Populists in 1896 had been as well understood as it should have been, the names of these men would be as closely associated in the public mind with the silver trust as Rockefeller's is with oil or Armour's is with beef.

The proposition which you advanced, Mr. Bryan, contemplated opening the mints of the United States to the free coinage on private account at the rate of less than 50-cents' worth of bullion to the dollar of whatever portion of this enormous stock of silver its owners or speculators might be moved to present. You asserted that free coinage and the fiat of Government would instantly raise every 50-cent token thus minted to parity with gold.

If so, the wealth of all owners and producers of silver would have been doubled.

Here is a list of some of the gentlemen who assisted in financing your theory that 50-cents' worth of silver bullion ought to be worth a dollar:

CONTRIBUTIONS TO MR. BRYAN'S CAMPAIGN FUND.

Marcus A. Daly, Montana, principal owner of Anaconda mine. This sum of \$159,000 represents Mr. Daly's own contribution and sums collected by him	\$159,000.00
David H. Moffat, First National Bank, Denver, Colo.	18,000.00
W. S. Stratton, Colorado, owner of Independence mine.	12,000.00
William A. Clark, of Montana	45,000.00
Dennis Shеды, Colorado National Bank, Denver, Colo.	7,500.00
Charles D. Lane, of California	15,000.00
D. M. Hyman, Denver, Colo.	7,500.00
Other Colorado mining interests	6,000.00
Utah mining interests	18,372.70
The treasurer of this fund was J. R. Walker, of Walker Bros., bankers, Salt Lake City. The chief individual contributors were as follows:	
J. E. Bamberger, president Daly-West Mining Company	250.00
W. W. Chisholme, mine owner	250.00
John Beck, mine owner	500.00
T. R. Jones, ore buyer	250.00
O. J. Salsbury, mine owner	500.00
Frank Knox, president National Bank of Republic	100.00
J. McGregor, mine owner	300.00
Centennial Eureka Mine	1,500.00
Daly-West Mining Company	500.00
W. S. McCormick, president Utah National Bank	300.00
First National Bank of Park City	500.00
Salt Lake Valley Loan and Trust Company	500.00
Daly Mining Company	1,000.00
Bullion-Beck Mine	1,000.00
F. Farnsworth, manager Bullion-Beck Mine	250.00
R. C. Chambers and others, owners Ontario Mine	2,000.00
Swansea Mining Company	200.00
Mammoth Mine	249.00
Mammoth Mine employees	120.00
Mammoth Mining Company	1,000.00
Eureka Hill Mining Company	242.00
Gemini Mining Company	122.00
Godiva Mining Company employees	34.00
Swansea Mining Company	69.00
John Beck, mine owner	300.00
Bullion-Beck Mine employees	537.00
Geyser Mine employees	116.00
Horn Silver Mine employees	307.00
John Beck	200.00
Total contributions of the silver-mine owners to your campaign fund	288,000.00

These contributions, as you doubtless know, Mr. Bryan, were all recorded in the books of the Democratic national committee, although in your eloquent appeals for publicity of political contributions you have never referred to the fact that the silver interests financed your Presidential campaign. * * *

You began your domination of the Democratic party in a period of great financial disturbance. You now purpose to be the Democratic candidate for President in another period of great financial disturbance, as the nominee of a political party whose reputation for financial sanity you have discredited all over the civilized world. Not only have you failed to recant as to your past financial heresies, but you have steadfastly adhered to your free-silver delusions. No longer ago than December 7, in a speech at Freeport, Ill., you declared that your financial policy in 1896 had been "vindicated."

THE DEVELOPMENT OF BRYANISM, DEMOCRACY, POPULISM, SOCIALISM.

No review of your leadership of the Democratic party would be just or adequate, Mr. Bryan, which did not uncover the sources of your political policies and principles.

Your first notable appearance in public life was in 1890, when you were elected to Congress from Nebraska in the popular uprising against the McKinley tariff. At that time, we believe, you were an ardent free trader, and you were also a believer in the free and unlimited coinage of silver at the ratio of 16 to 1, which was then more or less of an academic issue in spite of a growing agitation.

In 1892 you were a candidate for reelection. The Populist party had then reached formidable proportions in many Western States, including Nebraska. It was composed almost wholly of discontented Republicans. You and certain other Nebraska Democrats in that year arranged an illegitimate fusion with the Populists, by which the Democratic vote was to be cast for General Weaver, a Populist who was formerly a Republican. This succeeded so well that Mr. Cleveland received only 25,000 votes. You yourself voted the Weaver ticket, under "instructions," as you say, and were a warm admirer of the Republican-Greenback-Populist leader.

At the close of your second term you retired from Congress. It was said that you had lost faith in the Democratic party, believing that it, no less than the Republican party, was committed to privilege and plutocracy. It was reported, too, that you would devote yourself to the free-silver propaganda under the patronage of certain mine owners. Whether there was any truth in this gossip or not you achieved a journalistic coup soon after your retirement from Congress by which you became editor in chief of the Omaha World-Herald, and a conservative Democratic newspaper was transformed into an organ of aggressive Populism.

Dr. George L. Miller, who founded this newspaper and managed it for twenty-five years, said in 1903:

"It is perfectly well known that Bryan, always very poor and as a lawyer practically clientless, raised a large sum of money from the silver barons and used it to bring about the change in the World-Herald. Mr. Bryan thus became the editor, and from that hour he has been a Populist."

We find that the Populist national platform of the year 1892, when you voted the Weaver ticket, defined the following articles of faith: (1) Government ownership and operation of all railroads. (2) The free and unlimited coinage of silver at the ratio of 16 to 1. (3) Inflation of greenback circulation. (4) Government ownership and operation of all telegraph and telephone lines. (5) Restriction of immigration. (6) The initiative and referendum. (7) The election of United States Senators by direct vote of the people.

This platform also expressed the belief that the nation had been "brought to the verge of moral, political, and material ruin;" that legislatures, Congresses, and courts were corrupt; that the press was subsidized; that there were only two classes in the country, tramps and millionaires, and that both the old parties were keeping up a fictitious hostility in order to hoodwink the people for the profit of the money changers.

The political alliance which you helped to form that year in Nebraska has since been made permanent, the Populists supplying the platform in each campaign and the Democrats the votes.

An examination of the Democratic and Populistic platforms in Nebraska since 1892 shows how, from time to time, the issues of that year have been reaffirmed and amplified.

In 1897 the Democrats condemned United States judges who interfered with lawless strikers. In 1898 they demanded the abolition of banks of issue and the prohibition of private contracts for the payment of gold. In 1899 they indorsed everything contained in the Populistic platform of 1892 and the Democratic-Populistic platforms of 1896. In 1900 they reaffirmed all that had gone before, added a denunciation of Government by injunction, and favored municipal ownership and the referendum.

In 1902 they demanded the taxation of all railroad property, tangible and intangible, to its full value, and favored a reduction of 15 per cent in freight rates on various commodities and the abolition of the fellow-servant law. In 1903 they denounced asset currency, preferring fiat money. In 1904 they subscribed to a stump-speech sort of platform, telling what they would have done during the preceding ten years if they had been in power. In 1905 they wanted to make the giving and the acceptance of a free railroad pass a criminal offense and to establish direct primaries. They also made light of Republican prosecutions of the trusts. In 1906 they rejoiced that Mr. Bryan had become the "first citizen of the world," and deplored the fact that corporate influence was paramount in government.

In 1907 they made a new assault on the Federal courts under pretense of defending State rights. As you drafted that plank, Mr. Bryan, you will doubtless thank us for reproducing it:

"Believing with Jefferson in 'the support of the State governments in all their rights and the most competent administrations for our domestic concerns as the surest bulwark against anti-Republican tendencies,' and in 'the preservation of the Federal Government in its whole constitutional vigor as the sheet anchor of our peace at home and safety abroad,' we are opposed to the centralization implied in the suggestions now frequently made that the powers of the General Government should be extended by judicial construction. While we favor the exercise by the General Government of all its constitutional authority for the prevention of monopoly and the regulation of interstate commerce, we insist that Federal remedies shall be added to and not substituted for State remedies."

Stripped of its verblage, this means neither more nor less than that when a State legislature has passed a railroad-rate law the Federal courts must not suspend the act by writs of injunction preparatory to determining whether or not the statute is in conflict with the Constitution of the United States. Thus your new State rights, Mr. Bryan, is really your old "government by injunction" issue under an alias.

The Populistic, the Silver Republican, and the Middle-of-the-Road Populistic conventions in Nebraska for the last fifteen years have uniformly adopted platforms which did not vary much from those of their Democratic allies except that in two or three instances they called for an irredeemable paper currency. In all of these platforms it is to be

understood that the issues raised in 1892 by the Populists and in 1896 by the Democrats were affirmed either by specific reference or as a whole.

In your own State, Mr. Bryan, you are no less well known as a maker of platforms than as an orator. It is to be presumed that you were not only consulted about all these various party pronouncements, but that practically all of them were the work of your own brain. To call the long roll, therefore, we find that you, Mr. Bryan, as the foremost Populist in America, have supported and voted for candidates who represented the following political principles:

Free silver, 16 to 1, without the concurrence of other nations.
Government loans to farmers.
Government ownership and operation of railroads.
Greenback inflation (irredeemable).
Government ownership and operation of telegraph and telephone lines.

Election of United States Senators by popular vote.
Initiative and referendum.
Election of United States judges by direct vote and for short terms.
A promise to pack the Supreme Court of the United States.
No government "by injunction."
Opposition to private contracts providing for the payment of gold.
Government ownership of interstate railroads and State ownership of State railroads.

Municipal ownership of all public utilities in cities.
Crippling the United States courts and contracting their jurisdiction over questions arising under the Constitution.

We can well believe, Mr. Bryan, that you were well satisfied with that Populist platform of 1892, when you voted the Weaver ticket; for with the exception of anti-imperialism every important issue which you have since foisted, or tried to foist, upon the Democratic party was taken from that platform.

A man of your ability and address, Mr. Bryan, can not forever assail constitutions, courts, law, wealth, property, credit, national honor, and private faith without building up a following which will have to be reckoned with some time. He can not forever inflame social discontent without creating class hatreds and sowing the seeds of a class war.

Socialism is more active and eager now than ever before, and, as most people know, the line dividing socialism and anarchy, though in theory they are far apart, is not always definite. Socialism, listening expectantly for your footsteps, has heard them in rapture more than once. Whether you know it or not, that is the direction in which you are leading.

THE DISCREDITED PROPHET.

If you, Mr. Bryan, and the Chicago Convention had been right, your overthrow at the polls in November, 1896, should have been followed by continued depression and disaster. You foretold them both.

As a matter of fact, the votes by which you were condemned had hardly been counted when there were signs of business revival, and in an incredibly short space of time the change for the better had become so pronounced that complaint practically ceased, agitation was abandoned, and the sporadic orator of calamity was greeted with derision.

Never before in the history of the world was there so sudden and so complete a restoration of confidence and a revival of industry and commerce. Never before was there so convincing a demonstration of the truth, long known, that the surest way to destroy prosperity is to debase the currency, and the most certain way to restore it under such circumstances is to take a firm stand in favor of the best money known to men.

In measuring the prosperity with which this country has been blessed since the menace of cheap silver was removed, figures rather than words are necessary. Referring to those furnished by the Chief of the Bureau of Statistics at Washington, we find these instructive comparisons as showing the crucifixion of mankind upon "a cross of gold":

A marvelous comparison.

	1890.	1905.
Population.....number.....	62,622,250	83,143,000
Total wealth.....dollars.....	65,087,001,000	110,000,000,000
Public debts.....dollars.....	1,549,206,126	989,866,772
Gold in circulation.....do.....	374,258,923	651,063,589
Money in circulation.....do.....	1,429,251,270	2,887,882,658
National banks.....number.....	3,553	5,668
Bank clearings.....dollars.....	58,845,279,505	140,501,841,957
Savings-bank deposits.....do.....	1,524,844,506	3,093,077,857
Total bank deposits.....do.....	3,046,500,171	9,673,385,303
Savings-bank depositors.....number.....	4,781,605	7,686,229
Imports.....dollars.....	789,310,409	1,117,513,071
Exports.....do.....	857,828,684	1,518,561,066
Value of manufactures.....do.....	9,372,437,283	14,802,147,087
Production gold.....do.....	32,845,000	86,337,700
Silver.....do.....	70,486,000	76,203,100
Coal.....tons.....	140,866,931	314,562,881
Petroleum.....gallons.....	1,024,552,224	4,916,663,682
Pig iron.....tons.....	9,202,703	22,962,380
Steel.....do.....	4,227,071	13,859,887
Tin plates.....pounds.....	2,236,743	1,025,920,000
Copper.....tons.....	115,966	362,740
Wool.....pounds.....	276,000,000	295,488,438
Wheat.....bushels.....	399,262,000	602,979,489
Corn.....do.....	1,489,970,000	2,707,983,540
Cotton.....bales.....	7,311,322	13,565,951
Cane sugar.....tons.....	136,503	350,000
Railroad mileage.....do.....	166,654	212,349
Freight, 1 mile.....tons.....	79,192,985,125	173,613,762,130
Passengers.....number.....	520,439,082	719,654,951
Rates, ton, mile.....cents.....	93	79
Passenger cars.....number.....	21,664	31,084
Freight cars.....do.....	1,099,205	1,728,903
Failures.....do.....	10,907	11,520
Liabilities.....dollars.....	189,856,964	102,676,172
Post-offices.....number.....	62,401	68,131
Post-office receipts.....dollars.....	60,882,097	152,826,585
Newspapers.....number.....	16,984	23,146
Patents.....do.....	26,292	30,399
Immigrants.....do.....	455,302	1,026,499

It may be that some statesman or economist or dreamer has had visions of such activity and progress as these figures set forth most eloquently, but it is certain that in real life they have never been equaled at any other time or in any other place.

They are worthy of painstaking study, not only because they set forth the greatness and the glory of a free people, but because they crush absolutely all the sophistry, all the error, all the misrepresentation, and all the downright calumny on which you and the other honest "Sons of Thunder" made their memorable campaign in 1896.

There is now \$900,000,000 in gold in the United States Treasury. The value of the farm products for the year 1907 is estimated by the Secretary of Agriculture to be over \$7,400,000,000. Yet you presume to say that events have "vindicated the Democratic position"—that is, your position.

BRYANISM MADE THE SOLE TEST OF DEMOCRACY.

For years you and your friends have insisted, Mr. Bryan, that Democrats who refused to support you on principle in 1896 should be treated as traitors to the party. You have implored your followers to "make treason odious," and, judging from your attitude alone, a foreign observer of American affairs, like De Toqueville, Bryce, or Von Holst, would be justified in assuming that the Gold Democrats of 1896 were inhabitants of a conquered province.

For the only Democratic President elected since the civil war you have reserved your choicest vituperation. Hardly four years ago you said to him in a speech at Urbana, Ohio: "The Democrats in 1892 played a confidence game on the people and put a bunco steerer at the head of the party." In a signed statement issued June 22, 1902, you said that Mr. Cleveland secured his nomination in 1892 by a secret bargain with financiers; that he spent the largest campaign fund the party had ever had; that he filled his Cabinet with corporation agents; that he placed railroad lawyers on the bench of the United States Supreme Court, and that, having debauched his party, he stabbed it to death to prevent its return to the paths of virtue.

When an Indiana Democratic convention indorsed you for President but failed to reaffirm your 16-to-1 theory, you publicly rebuked the delegates and insinuated that they had made a compromise with the enemy.

You have repeatedly refused invitations from Democratic clubs, in which refusals you ridiculed the idea of harmony in the party and questioned the honesty of those who urged it.

When the Iowa Democrats neglected to indorse the free coinage of silver and timidly ventured to suggest that "the money of the nation be guarded with zealous care," you told them that their financial plank savored of Wall street and that it was framed to deceive the people.

You ordered the Democratic national committeeman from Illinois to resign, and when he refused you commanded the State convention to repudiate him. When the convention declined to obey your instructions you intimated that there was no true Democratic party in the State.

In May, 1903, you made an attack upon the Democratic press of the United States, saying that it was as monopolistic as any of the Republican newspapers. October 10, 1907, in a speech at Richmond, Va., you charged that the great metropolitan newspapers, which are all but unanimously opposed to you, were controlled by the trusts and their columns open to the highest bidder.

When the Democratic national convention of 1904 met in St. Louis, Judge Parker's nomination for President was assured, despite the fact that the Nebraska Achilles was sulking in his tent. Your objection to Judge Parker was based on the solitary fact that some of his most ardent supporters had not been Bryanites, although the poor Judge had voted for you both in 1896 and in 1900. Your influence on the convention destroyed in advance all prospects of a Democratic victory and gave Mr. Roosevelt a walkover.

BRYAN ON GOVERNMENT OWNERSHIP OF RAILROADS.

Most people believe, Mr. Bryan, that your first proclamation of government ownership of railways was made at New York City August 30, 1906, on your return from Europe. Such is not the case. The plan of reorganization to "rid the Democratic party of plutocracy," which you promised on the adjournment of the Kansas City convention in 1904, was given to a waiting world on July 21, 1904. You stated the case of government ownership of railroads as follows:

"I have heretofore refused to take a position on the question of government ownership of railroads, first, because I had not until recently studied the subject; and, secondly, because the question had not been reached. Recent events have convinced me that the time is now ripe for the presentation of this question. Consolidation after consolidation has taken place until a few men now control the railroad traffic of the country and defy both the legislative and executive power of the nation. I invite the Democrats, therefore, to consider a plan for the government ownership and operation of the railroads. The plan usually suggested is for the purchase of those roads by the Federal Government. This plan, it seems to me, is more objectionable than a plan which involves the ownership and operation of these roads by the several States. To put the railroads in the hands of the Federal Government would mean an enormous centralization of power. It would give to the Federal Government a largely increased influence over the citizen and the citizen's affairs, and such centralization is not at all necessary. The several States can own and operate the railroads within their borders just as effectively as it can be done by the Federal Government, and if it is done by the States the objection based upon the fear of centralization is entirely answered. A board composed of representatives from the various States could deal with interstate traffic just as freight and passenger boards now deal with the joint traffic of the various lines. If the Federal Government had the railroads to build there would be constant rivalry between different sections to secure a fair share of the new building and improvement, but where this is left to the State the people in each State can decide what railroads they desire to build or to buy. While the Democratic party in the nation is advocating the government ownership of railroads the Democratic party in the cities should, upon the same theory, espouse the cause of municipal ownership of municipal franchises."

Later, in April, 1905, at a dinner given by the Iroquois Club, of Chicago, on the birthday of Thomas Jefferson, the greatest of American individualists, you repeated and elaborated this highly ornamental scheme of triple State socialism.

August 29, 1906, you returned to New York in triumph from a trip around the world, to be greeted by Democrats from nearly every State in the Union as their candidate for President. In the course of an interview at London, where you had distinguished yourself at the Peace Congress, you said you were more radical than ever.

To prove your own words, you undertook in your speech at Madison Square Garden, August 30, to sound the keynote of a government ownership campaign:

"I have already reached the conclusion that railroads partake so much of the nature of a monopoly that they must ultimately become public property and be managed by public officials in the interest of the whole community, in accordance with the well-defined theory that public ownership is necessary where competition is impossible. I do not know whether a majority of the members of the party to which I have the honor to belong believe in the Government ownership of railroads, but my theory is that no man can call a mass convention to decide what he himself shall think. I have reached the conclusion that there will be no permanent relief on the railroad question from discrimination between individuals and between places and from extortionate rates until the railroads are the property of the Government and operated by the Government in the interest of the people. And I believe that there is a growing belief in all parties that this solution, be it far or near, is the ultimate solution. But to me, my friends, the danger of centralization is a danger that can not be brushed aside. The greatest danger of a republic is the centralization of power at the capital remote from the people, and because I believe that the ownership of all the railroads by the Federal Government would so centralize power as virtually to obliterate State lines, instead of favoring the Federal ownership of all railroads, I favor the federal ownership of trunk lines only and the state ownership of all the rest of the railroads."

Fortunately for Republican institutions, Southern Democrats had not wholly forgotten the historic principles of their party. While most of them had favored Mr. Roosevelt's policy of government regulation, few of them were in sympathy with your policy of government ownership.

Impressed by vehement protests against the marriage of Democracy to State socialism, you began at Louisville, September 12, 1906, your masterful retreat:

"I advocate strict regulation and shall rejoice if experience proves that that regulation can be made effective. * * * Yet I would not be honest with you if I did not frankly admit that observation has convinced me that government ownership can be undertaken on the plan indicated with less danger to the country than is involved in private ownership as we have had it or as we are likely to have it. * * * You say that all these abuses can be corrected without interference with private ownership. I shall be glad if experience proves that they can be, but I no longer hope for it."

The retreat ended at Lincoln, July 19, 1907, when you asked for an armistice in these words:

"Government ownership is not an immediate issue. A large majority of the people still hope for effective regulation, and while they so hope they will not consider ownership. While many Democrats believe"—and Mr. Bryan is one of the number—"that public ownership offers the ultimate solution of the problem, still those who believe that the public will finally in self-defense be driven to ownership recognize that regulation must be tried under the most favorable circumstances before the masses will be ready to try a more radical remedy."

"Regulation can not be sufficiently tried within the next year. There is no desire anywhere to make government ownership an issue in 1908."

At present there may be no desire anywhere to make government ownership an issue in 1908, but if you are the Democratic candidate for President the Republicans will force the issue upon the country. There can be no escape from it.

Do you think the Democratic party can convince voters that it honestly favors regulation of railroads if it nominates a candidate who believes in government ownership and who has proclaimed in advance his belief that regulation will prove a failure? Do you think that the American people could safely trust you to carry out a policy of regulation with which you have no sympathy and for whose effectiveness to remedy abuses you have no hope?

MR. BRYAN AND THE COURTS.

Let us see, Mr. Bryan, whether your campaign against the Federal courts had a more rational inspiration than your campaign for a 50-cent dollar.

You and your associates gave your followers to understand that the United States courts were prejudiced in behalf of the rich and powerful—were, in fact, controlled by trusts and corporations—and were deaf to the welfare of the people as a whole. Not only have you appealed to mob passion against Federal courts of justice and threatened to pack the Supreme Court, but you have persistently advocated short terms and popular elections for United States judges in order to make them creatures of popular clamor. We have, therefore, thought proper to indicate here as briefly as possible important cases arising since 1898 in which proceedings have been begun or judgment has been entered against the very interests which you charged were privileged.

The list is instructive in many ways, but in none is it more so than in its complete refutation of the slanders of socialistic demagogism.

In 1898 the Supreme Court of the United States reversed the circuit court, southern district of New York, and the circuit court of appeals, and enjoined the Joint Traffic Association from violating the antitrust law. Thirty-one railroad companies engaged in transportation between Chicago and the Atlantic coast had formed themselves into an association to control competitive traffic and fix rates. By the action of the court it was dissolved.

In 1899 the Supreme Court sustained the circuit court of appeals, sixth circuit, in the matter of an injunction restraining the operations of the cast-iron pipe trust, which attempted to increase the price of cast-iron pipe by controlling and parceling out the manufacture and sale thereof throughout the several States and Territories to the several companies forming the combination. This is known as the Addystone Pipe case, and it stands as a precedent in all similar proceedings against trusts.

In 1900 the Supreme Court decided that the inheritance-tax law of 1898 was constitutional. Under this act a legacy to a husband or wife was exempt. Legacies to others paid a tax, which increased as the degree of kinship was more remote, until property passing to strangers in blood paid 5 per cent. To this initial rate a progressive rate according to the value of the legacy was applied. Property valued at \$10,000 or under was exempt. Exceeding \$10,000, but not exceeding \$25,000 the rate was fixed by kinship. The rate increased with the amount, until property exceeding \$1,000,000 was required to pay the rate fixed by kinship multiplied by three. This law was afterwards repealed by Congress, but the court has established the principle of a graduated inheritance tax for all time.

In 1900 the Supreme Court sustained the constitutionality of the antitrust law of Texas, one of the most drastic yet adopted by any of the States. State prosecutions of trusts in Texas have been frequent and determined.

In 1901 the Supreme Court, in the insular cases, held that the President and his Cabinet officers could not constitutionally govern and make rules and regulations for the Philippines and Porto Rico in time of peace, that power belonging to Congress. These decisions checked a tendency on the part of the Executive to establish military government in our dependencies.

In 1904 the Supreme Court, having the cases against the beef trust before it, decided: (1) Traffic in live stock transported from State to State is interstate commerce, and persons engaged in buying and selling such live stock are engaged in interstate commerce; (2) the combination between dealers to suppress all competition in the purchase of live stock is an unlawful restraint of trade; (3) the combination between dealers to fix and maintain a uniform price in the sale of meat throughout the country is an unlawful restraint of trade; (4) the combination of dealers to obtain preferential railroad rates is an unlawful restraint of trade, and (5) all combinations suppressing competition fall under the prohibition of the Sherman antitrust act. On the general principles outlined in this great judgment the numerous prosecutions of the beef trust and other combines are now proceeding, although we admit, alas, too slowly.

In 1904 the Supreme Court affirmed the decree of the circuit court, Minnesota, enjoining the Northern Securities Company from purchasing, acquiring, receiving, holding, voting, or in any manner acting as the owner of any of the shares of stock of the Northern Pacific and Great Northern Railway Companies, and restraining the Northern Securities Company from exercising any control over the corporate acts of said companies. It was held that the Securities Company was formed for the purpose of acquiring a majority of the stock of the two companies in order to effect practically a consolidation by controlling rates and restricting and destroying competition in violation of the Sherman antitrust law.

In 1905 the Supreme Court affirmed a decree of the circuit court, northern Illinois, enjoining various great packers in Chicago, commonly known as the "beef trust," from carrying out an unlawful conspiracy entered into between themselves and certain railway companies to suppress competition and to create a monopoly in the purchase of live stock and the sale of dressed meats. This injunction is perpetual. On an indictment of these packers for continued violation of law the individuals were dismissed on the ground that they had been granted immunity by giving information to the Department of Commerce and Labor, but the indictments against the corporations were sustained.

In 1906 the Supreme Court affirmed various judgments of United States courts in Wisconsin and Minnesota against the General Paper Company, which had been proceeded against as a trust. After more than two years of litigation the combination was, by the decision of the Supreme Court, finally dissolved.

In 1906 the Supreme Court decided the celebrated Chicago street railway franchise case in favor of the city and against the traction trust. By bribery and trickery the street railway companies had attempted in 1865 to secure from the legislature a franchise extension of more than one hundred years, but the law was carelessly drawn, and although it had been sustained below, the Supreme Court held it to be invalid, thus depriving the corporations of so-called "rights" in the streets which had been capitalized at more than \$100,000,000.

The notable decisions of the Supreme Court of the United States mentioned above having established the constitutionality of the laws most frequently invoked against combinations and mergers in restraint of trade, a great number of prosecutions have been begun in the inferior United States courts, nearly all of which are still pending. Of those wherein indictments have been found or judgment reached, some of the most important are these:

In 1899 a bill was filed in the circuit court, southern Ohio, to annul a contract and dissolve a combination of producers and shippers of coal in Ohio and West Virginia, formed for the purpose of selling coal at not less than a given price, to be fixed by a committee. The trust was enjoined, and the combination was dissolved.

In 1902 the circuit court, northern California, perpetually enjoined the Federal Salt Company (the salt trust) from suppressing competition west of the Rocky Mountains.

In 1903 the salt trust was indicted in the same court, pleaded guilty, and was sentenced to pay a fine of \$1,000.

In 1905 the Chicago, Burlington and Quincy Railroad Company was convicted in Missouri, under the Elkins Act, of charging less than established freight rates, and was fined \$15,000. Similar prosecutions in Kentucky resulted also in convictions and fines.

In 1905, in Missouri, Thomas & Taggart were convicted of conspiracy to obtain rebates. Thomas was sentenced to jail for six months and fined \$9,000, and Taggart was sentenced to jail for three months and fined \$4,000.

In 1905 Well and others were convicted in Illinois of receiving rebates and were fined \$25,000 each.

In 1905 the Chicago, Burlington and Quincy Railroad Company and various of its officers were convicted in Illinois of granting rebates. The corporation was fined \$40,000 and the officers \$10,000 each.

In 1906 proceedings were begun in the southern district of New York against the tobacco trust. These resulted in several convictions, fines of \$10,000 and \$8,000 being inflicted upon two of the defendants.

In 1906 bills to restrain the National Association of Retail Druggists were filed in Indiana, and indictments against thirty-one corporations and twenty-five individuals engaged in a combination to control the manufacture and sale of fertilizers were found by the grand jury in the middle district of Tennessee.

In 1906 Swift & Co., Armour & Co., Nelson Morris Company, and the Cudahy Company, of Chicago, were convicted in Missouri of receiving rebates and were fined \$15,000 each.

In 1906 the American Sugar Refining Company and others were convicted in New York of receiving rebates, and fines aggregating \$88,000 were inflicted.

In 1906 the New York Central and Hudson River Railway Company and others were convicted in New York of granting rebates, and fines aggregating \$114,000 were assessed.

In 1906 the Ann Arbor Railroad Company was convicted in Michigan of granting rebates and was fined \$15,000.

In 1907 John M. Faithorn, of the Chicago and Alton Railway Company, was convicted in Illinois of granting rebates and was fined \$25,000.

In 1907 the Standard Oil Company, of Indiana, was convicted in Illinois on 1,462 counts of receiving rebates and was sentenced to pay a fine of \$29,240,000.

The National Government now has suits against the Standard Oil Company pending in five States—Missouri, New York, Louisiana, Tennessee, and Illinois. The total number of counts in all the indict-

ments is 6,326. The suit in Missouri is for the dissolution of the trust.

In 1907 the Chicago, St. Paul, Minneapolis and Omaha Railroad Company was convicted on fifty counts in the United States court at St. Paul of rebating.

People who are inclined to accept your dissertations on "government by injunction," Mr. Bryan, as something particularly dangerous to the poor, will not overlook the fact that in most of the proceedings against trusts, combinations, and rebaters the Government's first move has been made by injunction. They will not overlook the fact that the injunction is employed fully as often for the protection of the public as for the protection of private property.

The cases here cited destroy your assertions and arguments as to the Federal courts as effectively as the record of the country's material prosperity has confounded your free-silver prophecies of calamity.

Alcoholic Liquor Traffic.

REMARKS

OF

HON. JOSEPH G. CANNON.

Mr. CANNON, by leave of the House, inserts in the RECORD the following report of an interview between the Speaker of the House and a committee of the General Conference of the Methodist Episcopal Church, in session at Baltimore, Md., composed as follows:

Governor J. Frank Hanly, of Indiana, chairman; Governor E. W. Hoch, Kansas; Samuel Dickle, Dr. A. B. Leonard, Dr. D. D. Thompson, John T. Holland, Dr. Levi Gilbert, Hon. J. E. Andrus, Dr. R. T. Miller, J. A. Patten, Summerfield Baldwin, Homer Eaton, C. L. Meade, L. C. Murdock, George D. Selby, W. S. Boyard, E. A. White, Rev. N. Luccock, T. J. B. Robinson, Samuel Van Pelt, H. W. Bennett, Charles A. Pollock, Christian Golder, and A. W. Adkinson.

INTERVIEW.

SPEAKER'S ROOM,

HOUSE OF REPRESENTATIVES,

Washington, D. C., May 8, 1908—3.30 p. m.

Hon. J. FRANK HANLY, Governor of Indiana. Mr. Speaker, let me present to you the members of the committee appointed yesterday by the Methodist Conference. These are the gentlemen.

The SPEAKER. I am glad to meet you, gentlemen.

Governor HANLY. This committee, Mr. Speaker, represents the Methodist Episcopal Conference, rather the Methodist Episcopal Church, assembled in general conference in the city of Baltimore. It bears to you a resolution passed yesterday by the conference with a unanimity and intensity of conviction that represents the conscience, the thought, and the best resolve of that great body and of the constituency it represents; a body composed of almost a thousand representatives, having for its constituency more than 3,000,000 communicants, representing directly about 10,000,000 of people, and voicing the sentiment and the thought of millions of other Christian men and women in the country.

The resolution relates to pending legislation in reference to the interstate shipment of intoxicating liquors into dry territory in the several States. We present it to you in the performance of our mission, with the request from the conference that you, for us and the conference, lay it before the House of Representatives. We do this that the House may know our conviction on this great question. Without further words, we thank you for your kindly courtesy and beg to leave with you this resolution. [Submits resolution.]

The SPEAKER. I shall be glad to see the resolution. [Reads aloud]:

Memorial of the General Conference of the Methodist Episcopal Church.

Whereas a majority of the States of the Union, in the exercise of police powers acknowledged and inherent in them, have excluded by legislative enactment the traffic in intoxicating liquors from large areas of their territory; and

Whereas seven other States have by like enactment or by constitutional provision wholly inhibited such traffic; and

Whereas the territory from which such traffic has been excluded constitutes in the aggregate more than 70 per cent of the whole territorial area of the United States and contains a population of more than 38,000,000 people; and

Whereas the effectiveness of such inhibition by the several States, both legislative and constitutional, is seriously impaired for lack of Federal legislation prohibiting interstate shipments of intoxicants into such territory; and

Whereas such legislation has been for many years annually presented to the National Congress and urged upon its consid-

eration through the petitions of millions of American citizens; and

Whereas no effective action has ever been taken thereon by the Congress; and

Whereas there is now pending before the Judiciary Committee of the House of Representatives an effective and satisfactory measure, known as "the Littlefield interstate liquor shipment bill," and has been so pending from the day of the organization of the present House of Representatives; and

Whereas such committee has failed to act upon such measure upon the ground of doubt as to the constitutionality thereof; and

Whereas able jurists and profound constitutional lawyers differ upon the question of such constitutionality; and

Whereas certainty as to the constitutionality of such measure in this age of multiplying, varying, and conflicting precedents by divided courts, is impossible prior to its interpretation by the Supreme Court of the United States; and

Whereas failure of the Federal Government to act in this behalf daily nullifies the enactments of the several States as aforesaid in a matter of grave import affecting the peace, happiness, and welfare of society throughout every State which has sought to limit the evils of such traffic by excluding it from a part or all of its boundaries: Now, therefore, be it

Resolved by the representatives of the Methodist Episcopal Church now in this goodly city, the cradle of Methodism in America, in general conference assembled, That it is our conviction that all doubts as to the constitutionality of such measure should be resolved in behalf of the people and of the public welfare; that said committee should report the same to the House of Representatives with favorable recommendation; that the House should thereupon enact the same and send it to the Senate for its consideration and action before the adjournment of the present session of Congress, and that in this we voice the awakened conscience of a Christian people and the high resolve of millions of Christian freemen, who intend that the results achieved by them in the control and inhibition of the traffic in intoxicating liquors by State government shall be preserved without further impairment by Congressional enactment: Be it also further

Resolved, That a committee be appointed by the board of bishops, consisting of one member from each general conference district and ten members at large, and that such committee be, and the same is hereby, directed to repair to Washington and to respectfully present a copy of this resolution to the Hon. JOSEPH G. CANNON, Speaker of the National House of Representatives, with the request that he cause the same to be submitted to that body for its consideration.

Respectfully submitted.

J. FRANK HANLY.

P. A. BAKER.

C. A. POLLOCK.

WILLIAM H. ANDERSON.

W. H. BERRY.

D. D. THOMPSON.

The above action was unanimously taken by the general conference of the Methodist Episcopal Church on May 7, 1908.

EARL CRANSTON, President.

J. B. HINGELEY, Secretary.

BALTIMORE, Md., May 7, 1908.

Gentlemen, I have received what I have read. As a Member of the House of Representatives, under the rules of the House, the memorial or petition will be referred to the proper committee, complying with the rules of the House. Of course that gives the jurisdiction under the rules for the consideration of the memorial by the committee. Of course it goes without saying that the great constituency that you desire to reach will be reached through the press touching this memorial.

May I add one additional word? "Of doubtful constitutionality, you say." Therefore you desire the legislation should be enacted. Perhaps the most exhaustive and able report that has been made upon this subject was made by the Senate Committee on the Judiciary upon what is known as the substitute bill for all the bills pending by Senator KNOX. The whole matter of constitutionality seems to have been most exhaustively discussed by that committee and by the report, if I may be permitted to call it to your attention. "Mr. Alvord," says Senator KNOX in his report, "Mr. Alvord, attorney for the antisaloon interests, said:

"So I think that naturally this committee will be inclined to give us relief, if it has the power, and thinks it has—I do not ask it to do anything that is unconstitutional. I am not asking it to take a gamble on what the Federal courts will say. I should say this, however: If the committee were equally di-

vided on the question, some thinking it constitutional and others thinking it unconstitutional, the necessities of the situation are such that perhaps they ought to take some little chances on it. But I do not believe, as the chairman of the House Judiciary Committee said this morning, that just to please somebody you ought to shove up propositions to the Supreme Court which you believe in your conscience and under your oath to be unconstitutional."

So said the representative of the antisaloon interests before the Senate committee. You seem to be perhaps in as much doubt touching the matter. I do not know how many of you may have examined this matter from the constitutional standpoint. I do not know how many of you have read the Littlefield bill. I wish you would hold up your hands, those of you who have. [After a pause.] One, two, three, four, five, six, seven, eight, nine, ten—ten. How many are there present on this committee?

Governor HANLY. Twenty-five present.

The SPEAKER. Twenty-five. Now, then, the Senate Judiciary Committee by a very decided majority—I believe all but three—reported against all the bills pending and reported a substitute which Senator Knox and that committee believed to be constitutional. In substance that substitute, under the power that Congress has to regulate commerce among the States, proposes the enactment of a bill which prohibits a common carrier engaged in interstate commerce from being the agent of the vender or purchaser of liquor; also prohibits under that same principle the sending of liquors c. o. d., under which I apprehend most of the abuses that are in your minds are worked out. Senator Knox indorses that legislation. He believes that it is as far as the Federal Government has power to go in the premises.

I think no lawyer can read this report, if he be a pure lawyer, and come, perhaps, to a different conclusion from what the Senator came to. Clear as the noonday sun, he speaks of the power of Congress in the premises; that Congress can not even prohibit the sale or manufacture of liquor in any State; the State has plenary police power touching such matters; and he well says that it will be time enough, even if we had the authority to enact the legislation, some of it mentioned in the Littlefield bill, when the States exercise their police power. I do not know—perhaps with the exception of Kansas, and I am not sure about that—I do not know that any State has prohibited the manufacture.

Judge CHARLES A. POLLOCK. Yes, sir; North Dakota.

Governor HANLY. So has Maine, except for medicinal purposes.

A VOICE. Kansas has one.

The SPEAKER. That is one of the three. Now, as Senator Knox discusses the question, has any State in the Union prohibited the use of spirituous, malt, or vinous liquors to its citizens?

A VOICE. Do you mean as a beverage?

The SPEAKER. Yes; their use as a beverage. In other words, is there a penalty for you in the State where you may reside if you desire to use malt or vinous or spirituous liquors?

A VOICE. No, sir; I do not think so.

The SPEAKER. Yet Senator Knox makes it perfectly clear that in the exercise of the police powers you could do just that very thing if you thought it politic to do it.

Now, this is a measure to prevent the shipment of liquors from one State to another, Congress having the power, as it is claimed, in the regulation of commerce among the States, to do so. In certain things good lawyers believe that Congress has the power; in certain things, not the power.

Now, from a practical standpoint, is there any State in the Union, including Indiana, Governor [addressing Governor Hanly], that has prohibited the shipment of spirituous liquors, to illustrate, from Indianapolis to Danville, Ind.?

Governor HANLY. May I answer you?

The SPEAKER. Certainly; because I asked it.

Governor HANLY. Certainly not; because it is not necessary; because the same law obtains throughout that jurisdiction, and the shipment from Indianapolis to Danville would not change the application of the legal principle to intoxicating liquor. The law would inhibit its unlawful use the same as in any other case within the jurisdiction of the State.

The SPEAKER. I am speaking of the jurisdiction of the State. Have you any doubt about the police powers under the State of Indiana, that you can prohibit the shipment of liquors from one point in the State to another?

Governor HANLY. No, sir; I have not.

The SPEAKER. Have you done so?

Governor HANLY. No, sir; but that is beside this question.

The SPEAKER. I beg your pardon. In the language of Senator Knox, for whose opinion I have great respect, what good would it do to prohibit the shipment from Cincinnati or Dayton to Indianapolis, when the liquor manufactured under the law in Indiana can be shipped from the distillery or from any point in Indiana to another point? Might it not be well said from the practical standpoint to the various States, if Senator Knox be correct and the Senate Judiciary Committee in its view that Congress has not the power to enforce the police powers of a State be correct—if they are correct, which is a contested matter of grave doubt—I suggest with all becoming modesty to the various States, had we not better remove the beam from our own eyes before we seek to remove the mote from the eye of the neighbor?

Judge POLLOCK. There are some of us, Mr. Speaker, who have removed the mote entirely.

The SPEAKER. Ah, has any State prohibited the manufacture?

Judge POLLOCK. Yes, sir; in North Dakota we have, and in Kansas.

The SPEAKER. One step further. Has any State prohibited its citizens from consuming?

Judge POLLOCK. No, sir.

The SPEAKER. And yet there is full police power to do it, according to Senator Knox's opinion.

Rev. Dr. A. B. LEONARD, of New York City. But, Mr. Speaker, what has that to do—will you explain—with the proposition that is before you in that paper?

The SPEAKER. The Congress of the United States has the power to regulate commerce among the States, but it has not the power to legitimate or prevent the manufacture or use of liquor in any State. Now, then, I commend the report to you. I have a copy or two. I sent for it this morning. I commend it to you. I wish my secretary would get two or three of those.

Now, one further question, one further matter: This great committee, from the great conference, is entitled to the most courteous treatment and hearing by any individual, and much more so by anyone clothed with the power to affect legislation. It were better to legislate where we can than legislate where we can not.

Governor HANLY. Is the minority report there?

The SPEAKER. Oh, yes. I think they are both there. You have the same that I have.

Governor HANLY. Your secretary just handed it to me. I ask for information. As I understand, there was a minority report and both sides of the question are presented, and I wanted to know if they are in this document.

The SPEAKER. Absolutely, as I understand it. I glanced at it and I read it somewhat carefully. Three members of the Judiciary Committee of the Senate united in dissenting from the majority.

Governor HANLY. They are lawyers, are they not?

The SPEAKER. I think they are lawyers; but the Judiciary Committee of the Senate consists of ten, if I recall aright—possibly twelve.

But I merely refer to these matters, gentlemen. One word in conclusion: As citizens, as members of that great church, as members of this great conference, you have your duties to perform. If there be differences, it is best to ascertain first what they are; if remedies are needed, to ascertain what is practical, and, while you are entitled to the highest respect, to have your suggestions and resolutions considered in the last analysis, when you come to the legislative body responsible to the people who chose them, responsible to their oath of office, they must, after listening to all that is submitted—and will, if they have true manhood—do the right, as God gives them to see the right.

Governor HANLY. May I add a word, Mr. Speaker?

The SPEAKER. Certainly.

Governor HANLY. It is our understanding that this report by the Senate Judiciary Committee is a divided report.

The SPEAKER. A decided majority stood with Senator Knox. I said I believed three, now holding different views, and it is either seven or more holding the views that Senator Knox holds.

Governor HANLY (continuing). That, notwithstanding the distinguished ability of Senator Knox and the clearness with which he has presented his views, three lawyers, probably of equal ability, have found themselves unable to agree with his conclusions.

In answer to the suggestion that the State of Indiana has not inhibited the shipment of intoxicating liquors from one point in the State to another point in the State, permit me to say, sir, that the State of Indiana has enacted legislation that will enable it to put its hand upon intoxicating liquors shipped

into any dry territory, no matter from what point in the State it was shipped. I beg also to suggest with the utmost deference that those questions are somewhat beside the matter presented in this resolution. If it were true that the States were failing to avail themselves of all the police power invested in them in their treatment of this crime, it would still be no defense for the failure of the Congress of the United States or the Federal Government to the extent of its constitutional ability to protect the territory of the several States that have sought as best they know to inhibit this traffic within their own borders.

We quite agree with you, sir, that when you have heard us, when you have heard others who are interested, when you have examined these questions, that under your oath of office and your duty to the people you will do what seems to you to be right and proper; but, representing this great church and the Christian people of this nation, we wanted you to know our conviction on this question. We wanted the House to know, for, in the last analysis, the people make Congress. They make Presidents. They are responsible for the government in this country.

We would be glad to take back, if we may, your compliments to the great conference, to assure them of the courteous hearing we have received, and to leave this word with you, that we have for you, sir, and this great body the profound respect and consideration to which your exalted positions entitle you. We come not as enemies, but as friends, asking to be heard and asking that our petition be considered.

The SPEAKER. One word further, by way of suggestion rather than reply. Under the Wilson law Congress has already enacted legislation touching the transportation of intoxicating liquors. You are familiar with it. It is not necessary for me to refer to it further. The only power—and I put it to you, Governor, as a lawyer—that the Congress has is to regulate commerce from one State to another.

Governor HANLY. I frankly concede that.

The SPEAKER. Yes. And Congress has no power whatever to undertake to exercise police powers of the States, in the State of Indiana or in any other State.

Governor HANLY. If Congress tried it, sir, we should resent it quickly.

The SPEAKER. Absolutely so. Now, under existing law—and I want to put this, because we must be practical as we go along—under existing law any man may have intoxicating liquors, bought in one State and shipped to another, protected from the point of departure to the point of receipt.

Governor HANLY. And there, if it is in the original package, he can sell it in the original package.

The SPEAKER. I do not think he could sell it in the original package, although I would not say he could not when you say he can, in the original package. But it is out of the power of the United States to make a penalty for somebody who buys liquor in Cincinnati and ships it to Indianapolis or into dry territory for the sale of it by retail or wholesale. It is in the power of Indiana or any other State to prohibit it.

Now, I think we understand each other when I say that in a "dry" territory I believe that, utilizing the express companies, there have been abuses that are in fraud of the State laws. I will suppose that a hundred bottles of liquor, or bottles of beer, or cases of beer, are shipped from Kentucky or Ohio to a "dry" county or township in the State of Indiana. It is protected under law from the time it departs until it is received. But it is alleged by many, and I believe it to be true, that a fraud has been committed upon the law in many instances by somebody suggesting a consignment to ten or twenty or a hundred individuals at the "dry" point in Indiana or the other States, and as nobody comes, there are charges. It has even been alleged that the agent of the common carrier, perhaps sympathizing, seemingly being protected under the interstate-commerce law, puts it to "Sam" or "Tom" or "Jim." "Why, here it is—\$1 cost, 25 cents expressage," and writes his name down, and he takes it.

That is not a sale, free from the penalties, under the State law. That is in fraud of the law of Indiana, absolutely. It is in fraud of the law of the United States, and when the Federal court should have the proof that such transaction was going on, without having paid the license to the United States, which is in the shape of tax for retailing or wholesaling liquors—either one—there would be a conviction in the Federal court and, at the same time, upon that fact appearing, a conviction in the State courts.

Now, then, let us take the Knox bill. The Knox bill, which I believe to be a constitutional measure, if enacted, it seems to me would be an effective measure to cure the evil that I have just referred to; would prohibit the common carrier, would pro-

hibit the express company, which is a common carrier, from being the agent of the seller across the boundary in the other State, or the agent of the buyer. That would cut up that fraud on the law that you practically find so hard to make the proof on when you come to make the prosecution. But nevertheless the transaction is illegal.

Further, Governor Hanly, on behalf of the Congress of the United States, as well as myself personally, you may present my compliments, and I believe those of the House, to that great body, the Methodist Conference. We have confidence in its wisdom and in the wisdom of the great organization that makes that great body. I have been familiar with that organization for sixty-five years, and entertain the greatest respect for it; and in all those years that great organization on the average has been a level-headed organization, zealous for the right, and practical, and I have no doubt it will continue so to be.

Judge POLLOCK. Mr. Speaker, may I say just one word?

The SPEAKER. Yes, sir.

Judge POLLOCK. Coming from a prohibition State, and for twelve years occupying the position of a judge upon the bench, I feel very deeply upon this question, and I want just to quote three lines from the decision of the Supreme Court of the United States, which, it seems to me, would be as authoritative upon this question as the opinion of Senator Knox, for whose legal ability I have the most profound respect, and for whose political sagacity I have an equal amount. It is this: "It is incumbent upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits, which have not been mingled with the common mass of property therein, in its judgment the end to be secured justifies and requires such action." And the decision wound up with what seemed to me to be the most important feature of the whole decision, in which they said: "The Federal Government ought to engage in a frank and candid cooperation for the general good." That is all we ask.

The SPEAKER. I do not know the case you quote from.

Judge POLLOCK. This is the *Mugler, Kans.*, case, which was decided over twenty years ago.

The SPEAKER. I say I do not know the case to which you have referred, nor what the facts were, nor what qualifying language was used. I do not know it from the extract as read, but the extract as read does not disagree with the power of Congress to deal with the matter. It is purely to regulate commerce among the States; and if the Congress in the faintest degree undertook to enforce the police powers of the States, the States would thunder; and if the courts attempted to usurp legislative powers, the Congress would thunder.

Doctor LEONARD. May I say a word?

The SPEAKER. Yes.

Doctor LEONARD. I am not a lawyer, but I think I represent a vast multitude of lay people concerning this question. The matter we have in mind is this: Has the Congress of the United States exhausted all its resources for the protection of dry territory against the importation of intoxicating liquors? It is not a question in our minds as to whether the States have exhausted their ability in the management or control or suppression of the liquor traffic, but the question in the public mind is this: Has the Congress of the United States exercised all the power it possesses for the protection of dry territory against the importation of intoxicating liquors? There is a profound conviction throughout this country, among its best people, that the Congress has not exhausted its ability. If it has, those people will be satisfied if they can know that it has; but the feeling is to-day that Congress is not protecting the dry territory up to the limit of its ability.

The SPEAKER. I am aware of the sentiment. There is sentiment and sentiment in great movements that affect eighty millions. There are wise people and unwise people. All of them can not control at the same time.

Governor HANLY. We will take it by turns, Mr. Speaker. [Laughter.]

The SPEAKER. Yes; take it by turns. Yes; and it is quite one thing to be vested with responsibility and power, and it is quite another thing to sit down and say, "That is wrong," and "That is right," and "Why does not he do this, and that, and the other." I say this respectfully—

Governor HANLY. Some of us can appreciate that.

The SPEAKER (continuing). Because, after thirty-odd years' service in public life, I have been quite as frequently condemned and criticised by a good portion of my constituency as I have been commended. I will say that old adage is to my mind as true now as it was when first pronounced, that "God helps those who help themselves." It is not for me to say further, or criticise States that have not exercised all their police

powers. I do not know that I could add any detail further that I desire to say.

Governor EDWARD W. HOCH, of Kansas. Will you permit one word further, Mr. Speaker?

The SPEAKER. Certainly.

Governor HOCH. I want, first, to revoice the gratitude of Governor Hanly for your courtesy in giving us this hour, and in this I am sure I voice the sentiment of the whole committee and of the great conference assembled at Baltimore. The State I have the honor to represent here, Mr. Speaker, prohibited the manufacture and sale of intoxicating liquor by constitutional amendment in 1880, except for three purposes. As governor of the State for the past three years, I have been up against a practical proposition of enforcing the law. I am not here, Mr. Speaker, and I think this committee is not here, primarily, in the interest of temperance—in the interest of prohibition. We are here primarily—I am, at least—in the interest of law and order and good government. It seems unreasonable to me that the nation, through that coordinate branch of Government known as the Supreme Court, should concede and reaffirm the right of the State to do a thing, and then that the two other coordinate branches of Government, the legislative and the administrative, should pursue a policy that practically paralyzes and prevents the State from doing that thing which the coordinate branch known as the Supreme Court has conceded it to be the right of the State to do. That is an anomaly in government. I do not believe—and I beg your pardon—that that is good law. I do not believe that a government divided can stand, and that is a divided government, it seems to me as a layman. And I believe I voice the sentiment of the great mass of Christian people in this country when I say that interstate commerce in any reasonable interpretation is commerce in legitimate things, and not commerce in contraband articles, and that if there is to be a decision upon that question the people upon the side of the geographical line which has declared it to be contraband should at least have as much to say in the National Government as to the interpretation as to what is interstate commerce as those upon the geographical line which have not made that distinction. And I come back and say, Mr. Speaker, speaking for my people and saying to you, that the great obstacle to the enforcement of law in my State has been the attitude of the National Government toward a law, through its legislative and judicial and administrative departments, in a State where the judicial department has conceded us the right to do this thing. Now, I am not a lawyer—

The SPEAKER: I presume you are not—

Governor HOCH (continuing). But the common people often get better conceptions of law than the most eminent lawyers, and it is frequently the case that the great lawyers split hairs about unimportant things and forget the great vital principles of the law. I beg pardon for speaking with some vehemence, because, as I say, I have been practically up against this proposition, and it grieves me, Mr. Speaker, as an American citizen, proud of my country—it grieves me that this great nation shall concede to us the right to prohibit this traffic through its judiciary department and then in other ways practically make it impossible for us to do that thing. That is just plain common sense, Mr. Speaker.

The SPEAKER. Mr. Governor, you need not have told me that you are not a lawyer. Having heard your speech, even though I had never seen you, I could prove that you were not a lawyer. The great common sense and heart and conscience of the people in the last analysis control all; but if I were governor of the State of Kansas and had an appointive judiciary, I would not put you on the bench until you had read law. [Laughter.]

Now, I want to say, not by way of reply so much as by way of suggestion, that you seem not to get the distinction. The Supreme Court of the United States has never said, the Constitution of the United States has never said, the laws of the United States have never said, and none of them have had power to say, what the State of Kansas shall do. You have prohibited the manufacture of liquor; you have prohibited the sale; you have not prohibited the personal use. You have the power to do it, and that which you speak of as contraband, from the legal standpoint, perchance, is not contraband. But, after all, this great conference is not going to resolve itself into a court, composed of laymen, of lawyers, or both, to construe the Constitution. You are there for the purpose of speaking for a great constituency that touches the hearts and consciences of men, the religion of men. There is a maxim attributed to Crockett: "Be sure you are right; then go ahead."

Governor HANLY. We are going to take that advice.

Governor HOCH. We have had that for twenty-five years.

The SPEAKER. Right; take that advice. I, along with every

other Member of Congress, cocitizens, think it would be immensely better to take the practical that Senator Knox suggests than to take the impractical, perchance, that the minority of the Senate committee suggests.

Mr. L. C. MURDOCK, of Kingston, Pa. Mr. Speaker, may I ask a question?

The SPEAKER. Yes.

Mr. MURDOCK. This committee does not come as a judge upon the Congress of the United States and their action. We stand between Congress at the present time in this capacity and the people whom we represent, and there is a feeling that comes to us that is general—I doubt not it has come to you—that Congress is not doing what it can do, and in view of the aroused consciences of men in regard to the curse of this traffic in intoxicating liquors, is not doing what it ought to do; and we shall go throughout this nation to our different places, and if you can answer this question that has been asked by Doctor Leonard and tell us that Congress is doing what it can to regulate this traffic in accordance with the desires and enlightened conscience of the moral people of this nation, we can possibly allay the dissatisfaction. If you feel in your heart that that is what Congress is not doing, our petition then, sent by this general conference, we desire to have you consider most carefully. We did not come to suggest law to you, but to request that Congress exert its influence and its power to help out in this problem as fully as the citizenship of this nation demands that it should do. If you could answer the question and say that Congress is exhausting its resources, it would help us very much as we go back to our constituencies, and possibly help Congress.

The SPEAKER. Many men of many minds. There are some people devoting, for the time being, exclusive attention to a single idea to such an extent that sometimes they become enthusiastic. [Laughter.] I do not, sir, believe that you are one of them.

Mr. MURDOCK. No, sir; I do not.

The SPEAKER. Now, then, answering your question, and measuring my words, I have no doubt that the Congress of the United States is proceeding along the lines, under the oath which the membership thereof have taken, to consider, and after considering, to register its will along legal, correct, righteous lines.

Mr. MURDOCK. That is what we want.

Governor HANLY. Thank you, Mr. Speaker.

Refunding Stamp Taxes.

SPEECH

OF

HON. BENJAMIN G. HUMPHREYS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 21129) to provide for refunding stamp taxes paid under the act of June 13, 1898, upon foreign bills of exchange drawn between July 1, 1898, and June 30, 1901, against the value of products or merchandise actually exported to foreign countries, and authorizing rebate of duties on anthracite coal imported into the United States from October 6, 1902, to January 15, 1903, and for other purposes.

Mr. HUMPHREYS of Mississippi said:

Mr. SPEAKER: As the gentleman from Illinois objects to any amendment which would provide for a return of the illegal cotton taxes which were collected just after the war, it is hardly necessary for me to say anything further. A number of bills are now pending in this House, all having in view the refunding of these taxes, though there is quite a range in the variety of methods proposed. It is very generally conceded that the law under which these taxes were collected was in violation of the Constitution, and this money was therefore taken from the people without due process of law. The bill which we are now considering proposes to refund stamp taxes "which were illegally assessed and collected," and if that be true, the bill ought to pass. Under the ordinary rules of procedure it would certainly be in order to amend this bill by providing for the refund of the cotton tax, which was also "illegally assessed and collected." I regret that the special rule under which we are now proceeding forbids any amendment except by unanimous consent.

The people of Mississippi, under the acts of Congress of 1866 and 1867, after the war was ended, paid in round numbers

into the United States Treasury \$8,000,000 taxes, which had been "illegally assessed and collected" on their cotton, and no reason can now be assigned for the refunding of the stamp taxes as proposed in this bill that will not apply with equal force for the refund of the cotton tax. Both were "illegally assessed and collected," and both should be returned to the citizen who was held up by the Federal taxgatherer and required by him to stand and deliver. My friend here suggests that I am kicking against the pricks. Better that, Mr. Speaker, than no kick at all. The committee to which these bills have been referred refuses to report them out, and so our only chance to get a vote on them is to offer them as amendments to such bills as are fortunate enough to get before the House. I had not intended to say anything at all on this bill—in fact, I never heard of the bill until it was called up just now—but it occurred to me while it was being read that it was along lines so thoroughly identical with the bills which propose to refund the old cotton tax that I could not resist the temptation at least to make the request that it might be amended so as to give the stepchild, as we over here are sometimes called, a bite at the apple. I hope the justness of our claim may induce the gentleman in charge of the bill to relax somewhat the rigor of the rules and temper his judgment.

Tariff Reform in the Interests of the People.

SPEECH

OF

HON. LINCOLN DIXON,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908.

Mr. DIXON said:

Mr. SPEAKER: To all demands of the people for relief from the present tariff laws the political party in control of Congress turns a deaf ear. The demand for this relief comes from all sections of the country and from members of all political parties. I desire to call attention to some of the iniquities of the Dingley Act and the evil consequences flowing therefrom.

The tariff is a tax on the exchange of goods. Whether for revenue or for protection, it is always a tax levied by our Government on imported goods. Our Government Treasury is benefited when it receives the revenue, but when the goods are excluded by reason of the tariff the Government not only loses the revenue, but the special interests thus protected from competition reap the benefit.

The tariff as arranged by the Dingley Act protects the wrong man. It is in operation and effect a process by law of transferring the money from one class of people to the pockets of another. It has built up monopolies, multiplied trusts, and plundered the people.

The tariff is a tax or duty levied upon articles imported into this country. Articles thus imported are taxed according to the tariff schedules, and this tax is first paid by the importer, but the price of the articles is increased by the duty thus collected and the consumer ultimately pays the duty. It is a tax, and whether levied for the purpose of revenue for the support of the Government or for the sake of protection to favored manufacturers, it is always a tax paid by the people.

To the extent that a tariff is for revenue, the tax is levied upon the imported article and is ultimately paid by the consumer, but the money paid in the first instance by the importer goes into the National Treasury. To the extent that the tariff is protection, the tax is always paid upon the article by the consumer and goes into the pocket of the protected producer. One system is legitimate taxation; the other is taxation for special interest.

The people have a right to complain when the tariff schedules are arranged to help the business and profit of favored individuals and corporations. The favors thus shown are at the expense of all the people.

A tax is not a source of wealth or a means of development. The effect of a protective tariff is to unfairly distribute the reward of labor, prevent its natural diffusion, and concentrate it in the hands of a few people. It is a tax levied by the Government on all the people for the benefit of a favored few. The tariff necessarily increases the cost of an imported article to the consumer, and the schedules of the Dingley bill are so high that in most cases the price to the consumer is necessarily higher than the homemade article, with the natural result that such

articles are excluded from our markets. By such schedules the foreign articles are excluded and the home manufacturer has an absolute monopoly of the home market. Foreign competition being thus impossible, the home manufacturers pool their interests and agree on a price just below the price at which the foreigner must sell his goods after paying the tariff tax and thus levy their exactions upon the people.

The Government receives no revenue, the consumer pays the enhanced price of the home articles, and the manufacturers get the benefit of the enhanced price. The consumer can not get the goods lower than the price agreed upon by the manufacturers.

The origin of the name in a measure throws light upon its operations. In the very southernmost point of Spain which juts down into the Strait of Gibraltar is located a town called Tarifa, named for a Berber chief who crossed over from Africa to reconnoiter the country prior to its conquest by the Moors. After the Moorish conquest a castle was located upon this point which commanded the strait, and vessels passing out or into the Mediterranean were stopped and forced to pay duties upon their cargoes. From this place the name passed into the English language. It means to-day what it did then, a taking away. Every vessel leaving Tarifa was poorer for its experience at Tarifa.

The people must support the Government, and the money for said support must come from the people. No good citizen can object to contributing for that purpose when the money goes into the National Treasury and is used with economy. Every taxpayer can compute his contribution toward the support of his State and municipal governments, but no such knowledge can be gathered as to how much he contributes to the National Treasury.

Whatever be the kind of government, be it a republic, a monarchy, or a complete despotism, there must be some way to raise revenues to carry on the government. It is the highest patriotism to contribute toward this purpose. It is not only a duty, but a pleasure.

The main support of the Government is from the internal revenues and the duty placed on imported goods. This has always been the chief source of revenue for the Government and always will be. The Government will never provide for direct taxation, for the reason that it would be unjust and inequitable. The Constitution provides that such taxation should be levied upon the different States in proportion to their population instead of in proportion to the value of the property therein. In other words, the poorer States would pay a sum out of proportion to the sum they should rightly pay.

The men who framed the Constitution did not see the great growth and development of the country; that a part of our people would be rich and a part poor; that some sections of our country would have concentrated within their limits great wealth while other sections would be poor. If Congress should resort to direct taxation, it would compel the populace in the poor States to raise as much as those in the wealthy States; it would tax the rich and poor alike, without regard to their ability to pay.

The Government, deriving more than one-half of its revenue by means of the tariff, is bound to give, in a measure, protection upon the articles thus selected, and to this extent this advantage will ever be given the American manufacturers. The tariff as originally adopted was for the purpose of encouraging infant industries. It was never intended to make the people forever contribute toward their support. It was at first but 10 per cent, and this was deemed sufficient. The tariff was not originally established nor justified in order to shield the American manufacturer from the world's entire competition in trade and to deprive the American consumer forever of the benefits of the world's markets, but to encourage the American manufacturer to embark in a competition with the world in trade and production and to give him the advantage of a moderate tariff that he could equip himself to compete with the world.

The idea of partitioning off the American people as forever excluded from the benefits of the world's markets and doomed to be victims by legal compulsion of trust prices and trust trade only is a modern curse that looks to the Republican party for perpetuation and fellowship.

Senator TILLMAN, a few years ago, said in the Senate:

If there be any industry in this country which by reason of foreign competition can not live and give diversified labor and employment to our people, and which by a small tariff can be protected to the extent that it can get on its feet, I say it would be the part of wisdom to give it.

The only trouble is that when you have started your infant by giving him milk and then bread, and raising him up to be a man, you continue to protect him until he begins to feel the effects of protection, and then he forms a combination or trust and marches abroad in the open light of day a robber, to take from every household in the land tribute levied through the forms of law by Congress under the system of protection.

There is where I draw the line. I say you ought not to allow a single trust or combination to come in here and get a duty on anything, because you levy unjust tribute on the American people when you do it.

Henry Clay, the great apostle of protection, said in 1833:

The theory of protection supposes that after a certain time the protected manufacturer will have acquired such strength as will enable him subsequently unaided to stand against foreign competition. No one in the commencement of protection ever supposed that it was to be perpetual.

In the effort of the trust barons and their Republican allies to fix the policy of a perpetually high tariff upon the country, they seek to deprive the Democratic party of all credit for its efforts in behalf of a moderate revenue tariff in the past history and development of this country, and they constantly shriek their epithet of free trade at the Democratic party upon its every effort to give salutary regulation. They presume to warn the country that no phase of protection ever found favor with a Democrat or failed of favor with a Republican.

When that great leader to whom the Republican party has ever looked for so much of its inspiration and patriotism, Daniel Webster, was arraigned in the Hayne debate for his attitude toward protection, he replied:

In 1816 I had not acquiesced in the tariff then supported by South Carolina, and I say now, as an original question, the authority of Congress to exercise the revenue power with direct reference to the protection of manufactures is a questionable authority, far more questionable, in my judgment, than the power of internal improvements. With a majority of the Republicans of Massachusetts, I voted against the tariff of 1824, but, notwithstanding our dissent, the great States of New York, Pennsylvania, Ohio, and Kentucky went for the bill in an almost unbroken column, and it passed. The duty of the Government at the present moment would seem to be to maintain the position it has assumed, and for one I shall feel it an indispensable obligation to hold it steady, as far as in my power, to that degree of protection which it has undertaken to bestow.

In view of the fact that the great apostle of protection, Henry Clay, never wished that it "should be perpetual," so as to pen up the American people in trust-fixed schedules, helpless victims of trade conspiracies; in view of the fact that a great Republican leader, Daniel Webster, declared that he would hold the protectionist doctrine to that degree of protection then undertaken, and in view of the fact that the Democratic party secured to the American manufacturer a reasonable and moderate advantage over foreign competitors, the Republicans should cease their continued talk of free trade as the synonym of our policy of tariff for revenue.

The Republican party, through its present misguided leadership, now wants the people to ratify its distortions of the protective system from its former purposes and scope to the present trust-fixed schedules, whereby trade conspirators, controlling the output of American manufacturers, may force the sale of their wares upon 85,000,000 American citizens, free from competition of either home or foreign rivals, and, of course, at their own prices. So glaring a hold up of American citizens by syndicated capital through the act of the law would hardly have been attempted but for the fact that party methods and party machinery have been found adequate to screen from popular reach and redress the gravest wickedness and wrong.

Organized capital twice changed the contract for the payment of the public debt due to it, to terms more favorable, and suppressed a Congressional resolution to investigate how it was accomplished; it demonetized by stealth a current coin of the Constitution and the Republic to the enhancement in value of the vast volume of indebtedness due to it; it usurped from Congress and arrogated to itself the function of "coining money and regulating the value thereof," and it is doubtful if Congress shall ever again reclaim from the banks its own sole and exclusive function; it has placed upon the United States Statutes a trust-fixed tariff schedule by means of which, after bringing under its control the output of all important and formidable American manufacturers, it levies exaction at its will without the menace of competition in the world's greatest market, that of the United States. Under the wolfish and hypocritical pretense of wishing to reach the world's markets where competition must ever limit its sales and profits, it pockets its greatest gains from the people of the United States, of whose markets it holds a licensed monopoly. What wonder, then, it is that Senator Hoar from his place in the Senate uttered this solemn warning:

Now, if the accumulations of large estates in single hands under primogeniture were the fortress and bulwark of monarchy and aristocracy, and the division among all the children were sure to bring with it republican liberty, is it not equally true that the accumulation of vast fortunes in individual hands or the subjecting of great masses of wealth and great industries to individual control by means of corporate power will have a corresponding effect to destroy or overthrow or at least to impair and limit republican liberty.

What impairment of or limitation upon republican liberty could be more obvious to the perception or more galling to the sensibilities or more hurtful to the people of the United States

than their subjection to the markets where foreign competition could not enter and where home competition is abolished by capital, trusts, and combinations?

The two great systems of law which have preceded our own, the civil and the common law, protected the people over whom they prevailed from trickery in their markets, and engrossing, forestalling, or monopolizing the market were crimes punishable by law. And can it be possible that the people of the United States will see with tame submission their markets and the great staple productions and manufactures of this busy land used for the plundering of the many and the enrichment of the few and the banishment of all competition, home and foreign, from the domain of trade?

In obtaining foreign trade the United States capitalist must always meet the world's competition as well as legislative barriers beyond this jurisdiction and could expect but a reasonable profit. His chief aim and richest harvest is the market of the United States—the widest and largest of the world, and the only one over which he could obtain dominion by law. It is this market that is the object of his chief concern; that is the bird he holds in his hand, and his frantic efforts over the bird in foreign bushes, however natural and justifiable, serves mostly to lull the home bird to a forgetfulness of its captivity and enables the United States capitalist to cloak his oppression of his own people under the spurious guise of patriotism of seeking foreign trade.

The domestic commerce and interstate commerce of the United States is twenty times as great in volume and value as our foreign trade has ever been at its very best. Our home market is twenty times as valuable to the manufacturers of the United States as our foreign trade is at its topmost figure. Competition and legislative barriers must ever be met by the American manufacturer, and though it is creditable and profitable to seek dominion and a market there, his American commerce and interstate traffic at home will likely ever remain in great excess of the foreign trade; and if he can only remain the master by law of the American market, freed from the peril of competition and at liberty to fix his own price for his wares, he may swell his fortunes as he chooses, levy his exactions upon the people as he wills, and transmit to successors and children as valuable prerogatives as primogeniture itself ever bestowed.

The Dingley Act is, in the main, private legislation, secured by private interests and for the sole benefit of favored interests. While upon some schedules it raises revenues, it has, in the main, fixed the rate so as to exclude competition and restrict importation. The Dingley Act has resulted in practically preventing foreign competition, and the protected beneficiaries have excluded domestic competition. Surrounded by a tariff wall that no foreign competitor could scale, they have pooled their interests, limited their production, fixed a schedule of artificial prices, and compelled the consumers to pay the prices and in this way transferred from the farmer, the laborer, and all other people the money to fill their own coffers. The amount of these exactions is measured only by the greed of the special interests. The Dingley Act, by reason of its high schedules, prevents the importation of many goods that would come into competition with our homemade goods and give the consumer lower prices, and also the manufacturer at home reasonable profit.

But our home manufacturers raise their price to the highest point possible to keep out foreign competition, and this increased price does not go into the National Treasury, but to the favored manufacturer. The people pay the increased price, the Government gets no revenue, and the protected interests add to their treasury.

It is frequently claimed that the tariff does not increase prices, but Congress has itself by legislative enactment contradicted such a proposition. In 1872, after the great Chicago fire, Congress passed a bill exempting from duty all building materials, except lumber, for a period of one year. The object of the bill and the anticipated result was that it gave to the people of Chicago a cheaper market in which to buy the material to rebuild that city. It was a great help to the people of that city, and this bill was a legal confession that the tariff increases the price to the consumers. The farmers and the working classes are the greatest buyers, and the tariff exactions fall heaviest on them. It increases the price of everything they buy, since there is a tax on nearly everything they use or wear. Who pays the tax on the blacksmith's hammer? The farmer when he has his wagon and farming tools repaired. Who pays the tax on the horseshoe nails? The farmer when he gets his horses shod. Who pays the tax on lumber? Every man who builds a home, a barn, or fence, as also the renter who must pay a rate proportionate to the cost of the home he rents. Who pays the tax on paper and wood pulp? The readers of the papers and books, and this is a tax on education and intelligence.

The Dingley tariff taxes the poor at a heavier rate than the rich, and exacts a higher rate on the cheaper goods purchased by the poor than on the finer and costlier goods purchased by the wealthy. Mahogany, ebony, rosewood, and satinwood are exempt from duty. Pine lumber, the material used in the construction of the poor man's home, is taxed at \$2 per thousand feet, and if planed on one side and tongued and grooved an additional \$1 per thousand feet. If he uses clapboards with which to cover it, he is taxed \$1.50 per thousand; while if he uses shingles, he is taxed 30 cents per thousand. The laths are taxed 25 cents per thousand. Plows, harrows, harvesters, reapers, and agricultural implements are taxed at 20 per cent ad valorem. A perusal of the Dingley Act will convince any unprejudiced person that the burden of taxation falls heaviest upon the consumers of the necessities of life.

Our domestic commerce is more than twenty times as great as our foreign commerce. The foreign commerce of the world is very small when compared with the domestic commerce of our land. No statistician has been able to estimate it, and it is said to be greater than all of the domestic and foreign commerce of the rest of the world.

The United Kingdom has but 20,000 miles of railroads, and the United States has 222,635 miles of railroads, nearly twelve times as many. The area of the United States is as great as that of Great Britain, Ireland, France, Germany, Spain, Portugal, Switzerland, Sweden, Denmark, Belgium, and Italy. It would be impossible to find a parallel to the prosperity and progress of the United States. Every day the sun shines upon the American people we see an addition of nine and one-half millions of dollars to the accumulations of wealth in the Republic.

During 1906 the sale of manufactured products to foreigners amounted to \$459,812,656, of which 85 per cent, according to the estimate of experienced exporters, were sold at cheaper price than that paid by the people of this country for the same articles.

The average price of these goods abroad is 20 per cent cheaper than the selling price in our own market. Many articles are sold 100 per cent cheaper abroad, while on a few the difference is 200 per cent. The American farmer, who has been taught to believe that the tariff was made for his benefit, buys the agricultural implements made at home at a price higher from 10 to 50 per cent than the same goods are sold by the same companies abroad. For instance, the carpenter at home pays from 25 to 50 per cent more for his tools than the same tools can be bought for abroad, though made by the same American manufacturer.

The export price list published by our American manufacturers contains the proof of the fact that they discriminate against their own people. Here are a few articles, with domestic and foreign prices:

Articles.	Domestic price.	Foreign price.
Cultivators.....	\$11.00	\$8.40
Plows.....	14.00	12.60
Axes, per dozen.....	8.25	7.20
Kettles.....	1.40	.85
Wire nails, per hundredweight.....	2.25	1.35
Table knives, per gross.....	15.00	12.00
Horseshoe nails, per hundredweight.....	3.00	2.00
Barbed wire, per hundredweight.....	3.00	2.00
Rivets, per hundredweight.....	10.00	5.55
Typewriters.....	100.00	60.00
Sewing machines:		
Fine.....	27.50	20.75
Medium.....	22.00	17.50
Cheap.....	18.00	12.00

These extracts are taken from a publication called "Protection's Home Market," published several years ago, and while the prices are not exactly the present ones, the difference between the prices, domestic and foreign, remains practically the same.

In my own State, I regret to confess, the examination of the foreign and domestic price list of some of our manufacturers show that they have sold their products cheaper in Europe than in Indiana. Saws manufactured in Indiana sold abroad at a difference of 33 per cent in price. Hardware manufactured in Indiana sold abroad at a difference of 25 per cent. Scoops, shovels, and spades made in Indiana sold abroad at a difference in price of 33 per cent.

Scythes and oilstones are sold abroad 50 per cent cheaper than at home; crosscut saws, 53 per cent cheaper; harness snaps, 42 per cent; levels and plumbs, 36 per cent; zinc washboards, 60 per cent; corn shellers, 20 per cent; butchers' tools, 15 to 40 per cent; horseshoes, 21 per cent; carpenter tools, 20 to 45 per cent; varnish, 5 per cent; stoves, 33 per cent; safes, 17 per cent; plows, 11 to 25 per cent; cylinder and machine oil, 40 per cent; tack hammers and screw-drivers, 50 per cent; dry

paint, 25 to 33 per cent; clocks, 33 per cent; kerosene oil, 35 per cent; gasoline, 13 per cent; shot, 100 per cent; watches, 25 per cent.

The fact is no longer denied by Republicans that the American manufacturers sell their products cheaper abroad than at home. While the Republican leaders for years denied this fact, it is so well known now that denial is impossible.

The exports of agricultural implements are as follows:

Exports of agricultural implements.

[Statistical Abstract—1905.]

Articles.	1896.	1897.	1898.	1899.
Agricultural implements:				
Mowers and reapers, and parts of.....	\$3,212,423	\$3,127,415	\$5,500,665	\$9,053,830
Plows and cultivators, and parts of.....	746,604	590,779	927,250	1,545,410
All other, and parts of.....	1,217,748	1,522,492	1,181,817	1,832,957
Total.....	5,176,775	5,240,686	7,609,732	12,432,197

Articles.	1900.	1901.	1902.	1903.
Agricultural implements:				
Mowers and reapers, and parts of.....	\$11,243,763	\$9,943,680	\$8,818,370	\$10,326,641
Plows and cultivators, and parts of.....	2,178,098	1,888,373	2,791,092	3,169,961
All other, and parts of.....	2,677,288	4,481,881	4,677,278	7,510,020
Total.....	16,099,149	16,313,434	16,286,740	21,006,622

Articles.	1904.	1905.	1906.
Agricultural implements:			
Mowers and reapers and parts of.....	\$11,568,062	\$10,559,891	\$12,150,101
Plows and cultivators and parts of.....	3,537,810	2,892,060	4,128,331
All other and parts of.....	7,643,763	7,269,790	8,275,995
Total.....	22,749,635	20,721,741	24,554,427

* The manufacturers of agricultural implements have attained the position of being able to supply our home market and sell abroad over twenty-four and one-half million dollars' worth of goods. As these sales are made in competition with the world, it is proof that either no protection, by means of a tariff, is required at home or the sales abroad are made at lower prices. The sales abroad are nearly one-fourth in value of the total manufactured. The total value of agricultural implements manufactured in 1905 was \$112,007,528, and the amount exported was \$20,721,741, leaving for home consumption a little over \$90,000,000. If these implements had been sold to the American farmers at the same price the farmers of Russia and of Europe paid for them, there would be left in the pockets of the American farmers of this country the neat sum of at least \$18,000,000. This is a yearly contribution, and is paid by the farmers. The tariff excludes competition and importation. There has not been a dollar received by the Government from the tariff on agricultural implements in the last eight years. The trust controls the entire market and has lessened the number of factories. In 1890 there were 910 factories; in 1905, but 648. The capital invested has gradually increased, as has the value of the finished product.

Our manufacturers not only supply our home market, but sell abroad the immense quantities which I have mentioned. They compete with foreign manufacturers in all their sales. If they compete abroad, why do they demand protection from these same competitors in our own markets? They are given protection by tariff duties of from 20 to 50 per cent. We furnished the United Kingdom with 78 per cent of her imported agricultural implements and competed with her most successfully on her own hearthstone, yet it is claimed that we can not compete with her on our own hearthstone. Is it just or right that our people should pay for goods manufactured here more than the same goods are sold for everywhere else?

The sale of goods abroad so much cheaper than at home has resulted in our business men having agents abroad who buy our goods at the low price, then reship them to this country and undersell the merchant of the same goods in this country. This is especially true of American watches. The American watch trust not only practically controls the price to retailers, but forces the retailers to sell to their customers at certain prices. A watch the retailer sells at \$75, and can not sell at less than \$60, can be bought in England, shipped back to New York and pay all the shipper's expenses, and be sold for \$42.30, and this applies to all other classes of watches. What possible

excuse can the watch trust give for this robbery of the American people?

American thrift, enterprise, industry, and ability lead the world, and in this we rejoice. Our manufactured goods are sent to every country under the sun; our agricultural implements are found everywhere; the products of our steel manufacturers are found wherever there is a railroad and wherever a carpenter or mason can be found. Our wire fencing, nails, shovels, and spades are distributed over the world. An American traveler finds our goods at every point he visits. Our engines are found upon every railroad, and our steel bridges are found spanning the rivers of all lands. We rejoice in the fact. Yet we are humiliated that these things are all sold abroad from 30 to 50 per cent cheaper than our own people can buy them in the city where they are manufactured. Abroad they compete with the world; at home they have no competition. The farmer remembers the former rivalry between the different harvester machine companies, but to-day most of these companies are together as stockholders in the International Harvester Company, and a note given in payment of nearly any machine will be sent to the treasurer of the International Harvester Company, and when collected goes into the treasury of the trust.

On December 19, 1907, at the beginning of the present session, I introduced the following bill, H. R. 10473:

A bill to amend section 1 of "An act to provide revenues for the Government and to encourage the industries of the United States."

Be it enacted, etc., That section 1 of "An act to provide revenues for the Government and to encourage the industries of the United States," approved July 24, 1907, be amended by appending at the end thereof the following proviso: *Provided, That whenever it shall be made to appear to the Secretary of the Treasury that the manufacturer, maker, or producer of any article, manufacture, compound, or product made in the United States the like of which, when imported, is made dutiable by any of the provisions of this section bargains, sells, transfers, or disposes of, or agrees to bargain, sell, transfer, or dispose of any such article, manufacture, compound, or product upon condition that the same shall be exported, or for export, at a sum or value less than that for which the same or a like article, manufacture, compound, or product is or was bargained, sold, or disposed of without any such condition, the Secretary of the Treasury shall forthwith, upon proof of such sale, order and direct that all such articles, when imported as prescribed in this section, shall be admitted free, and thereafter no duty shall be assessed or collected on any such article, manufacture, compound, or product.*

This bill has, ever since its introduction, slept quietly in the pigeonhole of the Committee on Ways and Means. The passage of this bill would destroy at once many of the trusts and be of inestimable value to the American people.

All the surplus of our farm products is exported; wheat, corn and beef are exported. The tariff upon them is of no value to our farmers. The tariff on wheat was for the purpose of deception, to make the farmers think that it was a benefit to them. We raise more wheat than we can use, and the surplus must be sold abroad, and the price there is not only fixed by competition, but establishes the home price. Wheat and corn have ever had a higher value under low tariff than under high tariff. From 1850 to 1860 the average tariff rate was 24 per cent, and during this time the average price of corn was 70½ cents, and of wheat, \$1.66 per bushel; from 1896 to 1907 the average tariff rate was 44 per cent, while the price of corn was 48 cents, and the price of wheat averaged 48½ cents per bushel.

The foreigner uses the agricultural implements made in America to cultivate his crops, purchased at cheaper prices, and sells his products in the same market as the American farmer. The farmer in foreign lands plows his fields with an American plow, bought from 30 per cent to 40 per cent cheaper than our farmers can buy it; he uses an American harrow to pulverize and prepare the soil for seeding. This harrow is bought cheaper than our farmers can buy it, though our farmer may live in the county where the implements are made; cuts his wheat with an American machine bought 25 per cent to 35 per cent cheaper than it can be bought in this country; thrashes his wheat with an American machine run by power furnished by an American engine, bought cheaper than our farmers can buy it; hauls his wheat to the railroad in an American wagon purchased cheaper than it can be bought by our farmers; the chains, snaps, and harness on his horses are American make, and purchased cheaper than our people can purchase them.

The wheat is thrown into bins or elevators, and the scoops used in handling it are American make, sold cheaper abroad than at home; the cars carrying the wheat to Liverpool can run over American rails sold from \$8 to \$12 a ton cheaper than our railroads have to pay, and this wheat is placed for sale in competition with American wheat, and controls the price of every bushel of wheat raised in the United States, and this is the protection furnished the American farmer by the Dingley bill and the Republican party.

The tariff is a hardship on the farmer; he sells his products in competition, but all he buys is in a protected market. The

tariff compels the farmer to pay higher transportation for his products. The increased cost of railroad construction by reason of the tariff on lumber, steel, and iron is estimated at \$4,000 per mile. The Republicans say that this is paid by the railroads. While in a sense this is true, yet in the end it comes from the pockets of the people in increased freight rates. It increases the cost of nearly every article that he needs and must have. The surplus of the farms is sold in foreign lands. When the farm products reach Liverpool the schedules of the Dingley bill do not render any aid.

The farmer buys his supplies in a highly protected market and sells his products in a free market. He pays into the coffers of the trusts and protected producers for all his farm tools, his clothes, his hat and shoes, his tableware, stoves, for his harness and chains. He is taxed for everything he needs, from the swaddling clothes put upon his baby to the coffin in which he is finally laid, and his children are taxed for the little monument they erect at his grave.

The farmer has in the past been assured that protection is extended to the products of his labor against the competition of similar products imported from abroad for sales in our markets. This proposition assumes that our farmers are ignorant and easily deceived. Do the home markets invite the great staples of agriculture from abroad? What farmer in this country ever saw in our markets for sale corn, wheat, or oats from a foreign country? Our farmers sell abroad and feed the world. Every claim of protection for the home market is a sham and a fraud. Under the hypocritical pretense of protection for what the farmer sells, he has been for years and is now compelled to pay taxes on the necessities of life.

They used to tell us that the low tariff caused panics and led many to believe that the panic of 1893 was caused by the Wilson bill that went into effect in August, 1894, a wonderful back-action effect of that measure. But to-day that claim is abandoned, since with a high protective tariff and in the midst of the most wonderful prosperity we have a panic. The old argument with which they deceived the people has been proved to be false. The papers are filled with accounts of failures and bankruptcy. Labor is unemployed and a million of men are hunting for work. Soup houses have been established in our cities and the demand for help to sustain life is without a parallel in our nation's history.

While we have in the last few years been prosperous, this was not caused by our tariff laws. Under the low tariff law of 1846 the census reports show greater per cent of gains in value of all farm products than in the last ten years.

In the production of corn, the great basic product of agriculture in the Middle West from 1850 to 1860, under a Democratic tariff, there was an increase of 41.7 per cent in the United States. From 1880 to 1890, under a Republican tariff, there was an increase of 21 per cent. Under Democratic tariff, railroad mileage from 1850 to 1860 increased from 10,982 miles to 30,626, an increase of nearly 300 per cent. From 1890 to 1900 the increase was from 166,703 miles to 194,262, or an increase of about 16½ per cent.

The value of farm animals increased between 1850 and 1860 to 1900 from \$3,067,343,580 to \$7,980,493,060, an increase of over 101 per cent. From 1880 to 1890 the increase was from \$12,180,501,538 to \$16,082,267,689, a little over 30 per cent. From 1890 to 1900 the increase was but a little over 20 per cent.

The value of farm animals increased between 1850 and 1860 over 100 per cent. Between 1880 and 1890 the increase was but 55 per cent; between 1890 and 1900 there was a decrease in value of \$190,642,894.

Our exports increased from 1850 to 1860, 163 per cent. From 1880 to 1890 there was an increase of 2½ per cent. From 1890 to 1900 there was an increase of a little over 60 per cent; from 1900 to 1907 about 34 per cent.

In wealth we increased from 1850 to 1860, 125 per cent; from 1880 to 1890 the increase was 46 per cent; from 1890 to 1900 the increase was 37 per cent. The capital employed in manufacturing industries increased 89.4 per cent from 1850 to 1860; from 1890 to 1900 the increase was 50.7 per cent. From 1850 to 1860, under low tariff, rural wealth increased over 100 per cent; from 1890 to 1900, under high tariff, rural wealth increased but a little over 20 per cent. On the other hand, urban wealth doubled in every decade except from 1880 to 1890; and from 1890 to 1900, when the increase was only 50 per cent. The average per capita wealth of the farmer remained the same from 1860 to 1900, yet that of the urbanite increased over sixfold. Of the \$78,000,000,000 increase of national wealth from 1860 to 1900 but a little over one-fifth went to the farmers, who represent one-half of the population; yet of the \$9,000,000,000 increase of wealth during the low tariff decade from 1850 to 1860 over 44 per cent went to the farmers.

We are told in every campaign of the great increase in our national wealth under protection. This country is so situated and has such immense resources that its development and increase of wealth would be wonderful under any kind of tariff laws. We have fertile soil, inexhaustible mines of hidden wealth, and the most intelligent people on the globe. Prosperity is not produced by law. Many years ago men believed in the divine right of kings and their power to make people happy and prosperous. Our people have discarded such beliefs. Prosperity comes through natural processes. It is not handed out by the President or by Congress. It comes by industry, fertility of the soil, and the intelligence of our people combined. Our country, with its broad and fertile plains, vast mines of mineral wealth, and enormous resources, will be prosperous and progressive.

For the year ended June 30, 1907, the domestic export of farm products were of the value of \$1,055,000,000, being the first year in the history of the world that a country exported agricultural commodities of home production to a value in excess of a billion dollars. Farm products furnish 63½ per cent of the total exports of our country. Since 1890 the farmers have not failed to secure the balance of trade in our favor; during that time the aggregate of the balance is \$6,500,000,000, while the trade in all the other commodities has resulted in an adverse balance of \$456,000,000. The farmers have furnished the wealth to offset the balance of trade in other commodities, and to them is to be given the credit for this great work of adding to the country's wealth, capital, credit, and welfare.

Four-fifths of the world's production of corn is grown in the United States, and the value of the 1907 crop was \$1,350,000,000. Eight years' crop would pay for building every mile of railroad in the country. The hay crop for 1907 was 61,420,000 tons, and its value was \$660,000,000; the cotton crop was worth \$650,000,000; the wheat crop was worth \$500,000,000; oats were worth \$360,000,000; rye, \$23,000,000; potatoes, \$190,000,000; barley, \$115,000,000; tobacco, \$67,000,000; rice, \$19,000,000; buckwheat, \$10,000,000. The total value of the products of the farms in this country in 1907 was \$7,412,000,000. It was 10 per cent greater than in 1906, 17 per cent over 1905, 20 per cent over 1904, 25 per cent over 1903. The value of eggs and poultry produced on the farms in 1907 was over \$600,000,000. In 1907 we exported cotton to the value of \$481,277,797.

We exported in 1907 domestic merchandise to the value of \$1,853,718,034. The products of the farm constitute the larger part of the immense sum and have changed this nation from a debtor to a creditor nation. We have fed and clothed the people of other countries, and the farmer is the source of the national wealth and prosperity. The domestic exports of farm products for the year ending June 30, 1907, were valued at \$1,055,000,000. The value of the grain exported was \$184,000,000, of animals and meat products \$255,000,000. Live animals exported were valued at \$41,000,000 and dairy products \$6,600,000.

Our farm property in 1850 represented one-half of our total wealth, in 1870 it represented but one-third, and to-day it is not equal to one-fifth.

We have immense wealth; the last showing was in the census report of 1904 and amounted to \$107,104,211,917, yet 70 per cent of it was owned by 200,000 people, and the other 30 per cent is owned by the remaining 85,517,230 people of the country. It is said that when the directors of the United States steel trust meet one-twelfth of the total wealth of the country is represented around the directors' table. Five thousand men in this country actually own one-sixth of our entire national wealth, leaving the balance to be divided among the remaining 85,512,239 people. What is the income of our people? Waldron's Handbook of Currency and Wealth estimates the incomes as follows:

One in twenty of the families is able to secure an income of \$3,000 a year and over.

Two-thirds of the families get less than \$900 per year.

More than one-half get less than \$600 per year.

While more than 4,000,000 families, comprising one-third of the nation, must get along on an income of less than \$400 per year.

The tariff has contributed more than all other things combined to produce this unequal distribution of wealth, stimulating, supporting, and producing trusts. These advantages are given by law. The law gave the right and the opportunity to organize the American Steel Corporation with a capital of more than a billion dollars. It gave the same opportunity to the Standard Oil Company, the cotton-seed oil trust, to the International Harvester Company, and to the hundreds of others.

The census of 1900 shows that of the 16,000,000 families in the United States less than 5,000,000 owned their own homes free from incumbrances, and that 11,000,000 families either do not own their homes or have them mortgaged. While the total wealth of our people is immense, it is concentrated in the hands

of a few. The mortgaged indebtedness in the United States increased from \$6,019,679,985 to \$8,394,728,733 from 1890 to 1900, an increase of 39 per cent. In Indiana during the year 1905 the mortgage indebtedness increased \$123,549,506. Of this vast increase the mortgages upon farms represented \$55,875,864, while the mortgages upon city and town property increased \$67,673,636. The increase of mortgage indebtedness is not an indication of general prosperity.

Who are the beneficiaries of the Dingley bill, the beneficiaries of the taxes on the product of wages and labor? Occupation, as compiled by Edward Atkinson, is shown by the census of 1900:

Employed in lawful occupations:	
Males.....	23,754,205
Females.....	5,319,192
Total.....	29,074,117
Agriculture:	
Subject to foreign competition.....	200,000
Free from foreign competition.....	10,181,765
Professional service, free from foreign competition.....	1,258,735
Domestic and personal service, free from foreign competition.....	5,580,687
Trade and transportation, free from foreign competition.....	4,766,964
Manufactures, mechanic arts, and mining:	
Subject to foreign competition.....	400,000
Subject in part to foreign competition.....	400,000
Free from foreign competition.....	6,285,992

By this classification 1,000,000 persons only are engaged in those occupations where their labor can be considered in any possible way as subject to foreign competition. It is this class only, if any, whose wages can be affected by the tariff. The railroad industry is not affected by such a law, and it employs 1,521,355 men and paid \$900,801,653 in wages last year. This industry pays higher wages and more wages than the highly protected industries engaged in manufacturing cotton, silk, and woolen goods, iron and steel, and in making pottery and glass.

How does the tariff increase the wages of persons engaged in agriculture? The law taxes the articles they consume and thereby lessens their earnings. The protected industries do not sustain 4 per cent of our people.

The argument that protection means high wages can not be maintained. The duties are not imposed for the purpose of equalizing wages between foreign and domestic labor. The wages paid here is because the work in the factories, by reason of machinery, is so much more effective, the amount performed is so large, and our workmen do so much more in a day. Mr. Hill, a statistician of the State Department, testified before the Tariff Commission that by reports of the American consuls in Great Britain the 5,250,000 workmen in America produced double what 5,150,000 in Great Britain performed.

Mr. Maurice Low, a thoroughgoing protectionist, says:

We have the authority of all competent observers in America that one of the reasons to explain the secret of American prosperity is the great productive power of the American workman, his output being so much larger than those of his foreign competitor that the cost of the American product is less than that of any other workman; and it has also been demonstrated that wages and labor cost bear not the relation that is ordinarily supposed; that is, it is not true that low wages are an indication of low labor cost, but rather the reverse, the low-priced workman being usually an unintelligent and unskilled worker and unable to compete with the high-priced worker of greater intelligence and skill.

In 1878 William M. Evarts, then Secretary of State, through American consuls in different parts of the world, collected the facts as to the amount of production and cost of labor in continental countries, and summarized those reports in the following language:

The average American workman performs from once and a half to twice as much work in a given time as the average European workman.

Andrew Carnegie said a few years ago:

It is not the lowest, but the highest, paid laborer, with scientific management and machinery, which gives cheapest products. Some of the important staple articles made in Britain, Germany, and America are produced cheapest in the last, with labor paid double.

Mr. Blaine, upon information from American consuls when he was Secretary of State in 1881, said:

Undoubtedly the inequalities of wages of English and American operatives are more than equalized by the greater efficiency of the latter and their longer hours of labor.

Senator BEVERIDGE, of Indiana, speaking of the wages of the operatives in Russian factories, says:

But low as these wages appear, yet, in comparison with the same American labor, these common working men and women of Russia may truthfully be said to be overpaid. Their wages are less than the wages of American workmen, their working ability is still smaller. One can not believe, either, that the Russian working man or woman for a long time will be as efficient as the American workman or woman.

The wages in the protected industries are not the highest paid in the country to the laborers, and the tariff does not establish high prices for labor. The highest wages are paid to our masons and carpenters, plumbers, plasterers, painters, and similar occupations, and in these trades the tariff has no effect.

The actual price of labor is the amount of the necessities of life you can buy with those wages. The amount of the wages left after the purchase of the necessary supplies is the only measure of a man's prosperity. If the wages are increased but the cost of the necessary supplies every laborer must buy have increased more rapidly, then the laborer is poor, even though his wages be larger. The tariff taxation being assessed on what we wear and must have is as heavy on the man worth \$100 as on the millionaire. Every article of clothing worn by a man or any member of his family from his hat to his boots costs from 50 per cent to 150 per cent more by reason of the tariff. The trust robs us every day by its excessive prices. It taxes all the glass, cutlery, and pottery in the home and makes you pay tribute upon every article of wool, cotton, and furniture you use.

The increase in prices since 1897 amounts to 55 per cent; while wages have increased 19.5 per cent.

The high protectionist claims that his policy protects our laborer from competition with foreign labor; that a tariff-for-revenue policy would reduce the wages of our workmen or force them out of employment.

This claim is made to deceive labor. The important thing for the laborer is to secure the highest return for his labor. He does not work for the sole sake of employment but for clothes, food, and for the needs and comforts of his home. Wages are not measured in dollars, but in the purchasing power of the wage. As the wages have increased the prices of the articles necessary for the laborer have increased at a higher rate.

It is labor that supports the Government. We forbid the foreign goods, but bid the foreign laborer welcome. The foreign laborer competes with our laborer in every field of industry and much more in the protected industries themselves. The manufacturers are protected, but the laborers are left unprotected. The laborer buys the necessities of life and the comforts of his home in a highly protected market. But he is left himself to compete in the open and free market. Protection claims to increase wages, but it is a false cry that has so often been repeated that many people now think it is true.

The law of competition is a natural power. It was given to man to curb his avarice and it is dangerous to interfere with its operations. Our manufacturers say they can not compete with the manufacturers of foreign countries who employ cheap labor. Protect us against cheap labor; we can compete with our home manufacturers since they have to pay the same price for labor.

This sounds well. The Government responds to the cry and forbids the foreigner to place his wares in competition with our home-manufactured articles unless he pays a high tariff for the privilege. While we thus protect our home manufacturer, we compel the consumer to buy of the home manufacturer.

The home manufacturer, after receiving this protection, should at least feel under obligation to deal fairly with our people. But how have they conducted themselves after this treatment? Safe from foreign competition by reason of a tariff wall so high as to exclude foreign goods, they at once enter into the free-trade market to secure their labor. This is their treatment of American labor. Not content with this, they form themselves into trusts, so as to exclude domestic competition. Nearly all the protected interests are controlled by trusts. Manufacturers of watches, rope and cordage, nails, screws, paper, envelopes, iron, steel, wall paper, buggies, barbed wire, plated ware, glass, lumber, wood and iron, oilcloth, carpets, and silver plate have all gone into trusts.

There is hardly a protected industry that has not resorted to the trust to destroy competition. The Government by the tariff prevents foreign competition; the interests by their trusts prevent home competition.

During the last fiscal year the value of the dutiable merchandise imported into this country from abroad as shown by the report of the Secretary of the Treasury was \$1,434,421,425. There was collected upon this merchandise at the custom-houses \$333,230,126, being an average of a little over 43 per cent.

This is the total amount of the revenue derived from the tariff during the last year. This represents the amount the Government received by reason of the tariff. How much do the home manufacturers receive from the tariff?

The census of 1905 showed \$14,902,147,687 as the value of the products of manufacture in this country, and taking the amount exported therefrom, there remained and were consumed in this country at least \$14,000,000,000 worth of manufactured goods. Now, all these manufactured articles are increased in cost to the consumer by the amount of the tariff levied on them;

this duty is an average of 43 per cent and this goes, not into the Treasury of the Government, but into the pockets of the manufacturers.

So in 1907 the figures show the result of tariff taxation and the distribution of its proceeds as follows:

Revenue received by the Government.....	\$333, 230, 126
Bounty received by manufacturers.....	6, 020, 000, 000

This shows that, under the beneficent effect of the Dingley bill, for every dollar paid into the Treasury of the Government \$18 at least goes into the pockets of the manufacturers, and all this comes directly from the pocket of the consumers. If this money was paid by direct taxation of the consumer for the benefit of the special interests protected by the Dingley bill, the system would not be sustained over one election. This vast sum is paid in an indirect manner by our increased price on everything the people consume. It takes tribute from nearly everything we eat and wear; on every tool and implement used by the mechanic, mason, and carpenter; on every article used in the construction of a house or barn; fence, either of wood or wire; on the farm implements, and on the books and newspapers. There are nearly 4,000 articles on the tariff list, and on the articles used by the poor the tariff is much higher than on articles used by the wealthy. Articles of necessity are unfairly taxed over articles of luxury.

Of the \$300,251,878 of revenue collected by the Government under the tariff in 1906, six commodities and classes of commodities yielded 58.79 per cent of the whole. I have taken the following items from the report of the Bureau of Statistics for 1906:

Of the total amount of duties collected on imports, the duties on—

Sugar and molasses were.....	\$52, 594, 752
Wool, manufactures of, were.....	37, 968, 695
Iron and steel, manufactures of, were.....	9, 437, 918
Cotton, manufactures of, were.....	33, 349, 342
Tobacco, manufactures of, were.....	23, 927, 701
Fibers, thread, twine, and yarns, were.....	19, 242, 164
Total.....	176, 520, 522

The duties collected on these commodities amounted to \$176,520,522, and constituted 58.79 per cent of the total amount of duties. This is evidence conclusive to prove the reckless perversion of the taxing power exercised in the construction of the present tariff. Why does it take all the other dutiable articles to make up the 41.21 per cent of the revenue received by the Government when these six commodities produce so much. The reason is plain. The duty on the other 4,000 articles is so high, so extremely protective, that very few foreign goods are imported, so the Government receives very little revenue, but the same excessive duties are added to the price of the domestic article and all of it goes into the pocket of the manufacturer. On these numerous articles the tariff is practically prohibitive and the manufacturer can make his price whatever he pleases, and such is the injustice of this tariff, made to drain the pockets of the people for the benefit of the privileged few.

The Dingley tariff, as a protective measure—in many cases by restricting, in other cases by excluding foreign competition—makes it possible for the trusts to exact higher prices for their products. Since the enactment of the Dingley Act there has been a wonderful development and extension of the principle of combination, so as to create large corporations practically controlling certain lines of industry.

At first protection advanced as one of its arguments that domestic competition could be safely relied upon to reduce the price of commodities and prevent an increase above a reasonable profit. The farmers are all producing products in which there is competition. In the industrial world to-day great combinations and trusts, taking into their possession competing concerns, have eliminated competition.

The tariff is responsible for the trusts, and to-day nourishes and protects them. The world never before has seen such highly thriving combinations as we have to-day. The home-market monopoly was created by reason of the outrageous high schedules of the Dingley Act. The protective tariff, by excluding foreign competition, restricts the same to the country protected. Protected countries are overrun by trusts; free-trade countries have but few, if any. The financial success of a trust depends upon the amount of the tariff schedule on the article controlled by the trust. Trusts have multiplied by the hundred and began to be organized upon the passage of the Dingley Act. We practically had no trusts under the lower tariffs. To-day there are nearly 500 trusts of industrial combinations, with a capital of \$10,000,000,000.

The Industrial Commission, a Republican protectionist body, sent a representative to Europe to discover trusts, and in Eng-

land he discovered thirty-five trusts, with a capital of \$460,000,000, or less than one-third of our one steel trust. In England the trusts have had no effect in increasing prices.

Mr. Wilhelm Berdrow, a German economist, says:

As far as England is concerned, it must be admitted that the trust system has as yet found but tardy acceptance in that country. This is doubtless due, in some degree, to the thorough appreciation of free trade, for it is well known that the largest trusts are powerless unless their interests are secured by a protective tariff excluding from the whole market the product of foreign countries.

Mr. Thomas Scanlon, of Liverpool, writing of trusts in England, said:

It can not be said that we suffer in any appreciable degree from these combinations of producers to keep up prices.

All the authorities agree that instead of the price-controlling trusts, like we have, they have combinations that can produce these articles more economically on a large than on a small scale, and they do not attempt to control the price. They attempted to organize a trust similar to ours in the soap industry, but it endured less than a month. The people there will not tolerate such combinations. The protective tariffs of Austria and Germany have resulted in fostering trusts.

Census Bulletin No. 22, issued in 1900, showed the existence of 183 industrial combinations with a capital of \$3,607,539,200, and nearly all of them were formed immediately upon the passage of the Dingley Act. In 1904 Mr. John Moody published a list of 318 industrial trusts, with a capital of \$7,246,342,533.

There were ten trusts formed during the period of the operation of the Wilson bill. Most of these were patent combinations, and the total capital of all was but little over \$100,000,000. The rapidity of the growth of these trusts under high protective tariff is a sufficient proof of the dependence of the trusts upon the tariff.

With the formation of trusts came the era of high prices. Trusts are formed to create a monopoly, to reduce expenses of production, and to increase profits. As soon as a trust is organized prices begin to rise on some articles 25 per cent, on others 75 per cent, and in many 100 per cent. The price of wire nails jumped from \$1.40 per keg in July, 1898, to \$2.45 in July, 1899, and to \$3.30 in January, 1900. The price of barbed wire, by action of the trust, was increased from \$1.80 per 100 pounds in July, 1898, to \$4.13 in June, 1900. The American Steel and Wire Company controlled the industry. Tin plate was increased in price from \$2.88 to \$4.84 within the space of one year. Steel beams jumped from \$1.20 to \$2.40, an increase of 100 per cent. Window glass was increased from \$1.75 to \$4.80.

The protected trusts have increased prices from 50 per cent to 250 per cent.

The tariff exactions in this country are estimated at \$6,020,000,000. It is equal to the gross earnings of all the railroads. The railroad rebates and overcharges and the insurance stealings are not in the same class as the tariff exactions. The largest and most successful trust in the world is the steel trust; its exaction, by reason of the tariff, is from fifty to one hundred millions a year. The Administration claims great credit for suits against trusts, but in what instance have the people been benefited or the price of an article reduced? The only remedy is through the reduction of the tariff.

The tariff was adopted with the idea that there would be domestic competition. John Sherman said in 1899:

The primary object of a protective tariff is to secure the fullest competition by individuals and corporations in domestic production. If such individuals or corporations combine to advance the price of the domestic product and to prevent the free result of open and fair competition, I would without hesitation reduce the duties of foreign goods competing with them in order to break down the combination.

The mere fact that savings banks have large deposits does not establish the claim that our laborers receive large wages and are saving money. The statistics show that in other countries the deposits are larger than in ours.

The following figures are given out by the Bureau of Statistics and show money deposited in the savings banks of the countries named:

	Per Inhabitant.
Australia	\$43.47
Denmark	96.41
Germany	39.41
Prussia	43.10
New Zealand	49.61
Switzerland	62.26
Average in above countries	53.96
Average in United States	37.38
Average in Canada	99.50

Our country makes the poorest showing of any of them. The daily wages of skilled labor in the protected industries is less than in the unprotected industries, although a stock argument for protectionists is that they pay their employees large wages.

The twelve leading industries and wages paid in each are as follows:

	Annual wages.	Weekly wages.	Daily wages.
Boots and shoes	\$414.00	\$7.92	\$1.32
Blacksmiths	496.00	9.54	1.59
Carpenters	573.00	11.22	1.87
Clothing for men	415.00	7.98	1.33
Clothing for women	389.00	7.50	1.25
Iron and steel	653.00	19.44	1.74
Lumber	370.00	7.14	1.46
Masons, brick and stone	546.00	10.50	1.75
Nails, iron and steel	456.00	8.76	1.46
Woolen goods	359.00	6.90	1.15

Of these industries nine are protected by the Dingley law and three are unprotected. The average daily wages are as follows:

Average daily wages, (9) protected industries	\$1.30
Average daily wages, (3) unprotected industries	1.74
Average weekly wages, (9) protected industries	7.10
Average weekly wages, (3) unprotected industries	10.44
Average yearly wages, (9) protected industries	405.00
Average yearly wages, (3) unprotected industries	542.00

These figures are taken along with several other tables cited by me from a recent publication of great merit on Industrial Questions, published by M. A. Donahue & Co., of Chicago.

The claim for protection, that it is only for the purpose of equalizing wages here and abroad, is palpably false, when you remember that on most goods the tariff is three to four times the entire cost of the labor. No one would raise a voice of protest against a tariff levied on the basis of equalizing wages at home and abroad. The claim of protection is false.

The following leading industries of our country with the tariff on finished product and the per cent of labor cost show completely the false cry of the manufacturers:

	Per cent labor cost.	Per cent tariff tax.
Clothing for men	19	83
Clothing for women	20	83
Furniture	27	35
Hats, woolen	25	85
Hosiery, knit goods	25	90
Iron and steel	15	32
Nails	14	38
Woolen blankets	20	84
Sugar and molasses	30	84
Woolen cloth	20	97
Woolen dress goods	20	108

It is readily perceived how greatly reduced the prices of so many necessities would become by such a revision and no possible injury to labor, but a saving of millions to the people and an equal loss to the trusts and manufacturers.

From 1850 to 1860, under a low tariff, there was not a child under 16 years of age employed in any of the factories of this country. Since, we have had the high protective tariff that has resulted in the gigantic trusts that have raised the cost of living so high that parents can not make enough to support their families, and the little children must be employed to assist. This is a national disgrace.

The manufacturers say that they need protection in order to pay their employees higher wages. If this is true, a tariff rate equal to the entire labor cost in the finished product would certainly be sufficient, since in this case the amount of wages would not be considered in competing with foreign goods, and our people would have this great advantage, since foreign manufacturers must pay some wages at least. A tariff based on an advantage covering the entire labor cost would be a great revision downward.

There are many articles of daily use in American families where the duty is over 100 per cent, and in these cases it is clear that the total price is much larger than the single item of expense—that of labor. Among others are:

	Per cent.
Many dyes, drugs, and medicines	123 to 139
Cotton:	
Cotton duck	103
Dress facings and skirt bindings	201
Marble, sawed and dressed	197.43
Yarns	138
Blankets:	
Valued not more than 40 cents per pound	104
Valued not more than 50 cents per pound	106
Valued not more than 70 cents per pound	125
Flannels for underwear	107 to 130
Ready-made clothing	100
Shawls, knitted or woolen	100

The Dingley bill has made millions of dollars for the Standard Oil Company. Protection for the benefit of infant industries

is a sham, while protection to shelter and strengthen the trusts is a reality. No one doubts but that the Standard Oil Company is strong enough to stand alone, and everyone must acknowledge that its exactions upon the people are enormous, and that while the law taxes the people for its benefit it respects neither the people nor the law.

But a very small revenue is received from the importation of oil, less than \$40,000 in six years, and the rates charged were 5.4 cents per gallon on crude and 2.34 cents on refined oils. The mere fact that some oil was imported under such high tariff charges indicates to what extent this great monopoly is shielded from competition by reason of the Dingley tariff.

It is said this trust, the second greatest in the world, is not the creature of the tariff, since oil is on the free list. The Dingley bill, it is true, places forty-two kinds of oil on the free list, but it provides that if there be imported into the United States crude petroleum or its products, produced in any country which imposes a duty on petroleum products exported from the United States, then there shall be levied in such case a duty equal to the duty imposed by the country importing. Russia is the only country that is able to ship petroleum in any quantity into this country, and she levies a duty of from 100 per cent to 200 per cent. The Standard Oil Company contrived to insert this proviso in the Dingley bill, which gives the oil trust much more than it could have received openly. This trust is protected at home by a tax of about 150 per cent. But this company, like so many others similarly protected, sells its products to the American consumers at one price and to its foreign consumers at a greatly reduced price.

In 1903 the average price of American oil in the United States was 10.9 cents per gallon; the export price for the same oil was 5.9 cents per gallon, the American paying 84 per cent more for the same oil than if sold for foreign consumption. The product of the Standard Oil Company is, after the payment of all transportation charges and expenses, sold to the people of Europe 22 per cent cheaper than in this country; the average price for this country was 9.2 cents per gallon, a difference of 4.9 cents from the price for which this oil was sold in Europe, being more than the export price. The price of oils abroad is from 30 per cent to 50 per cent cheaper than in America, yet the Standard Oil Company is able to sell its products in competition with the world. Our own people simply pay what this great monopoly sees fit to demand, and are absolutely at its mercy. If our people were able to buy at the same price that the oil is sold to exporters, millions of dollars would remain in the pockets of our citizens. No one believes that a profit is not made in the export trade, and the immense profit, at the greatly enhanced price paid by American consumers, can be readily seen. Aside from millions in contribution to the campaign funds of the Republican party, what excuse can be given for allowing this monopoly to take annually from the hard earnings of laborers millions upon millions of dollars? All the efforts to revise the schedule of the Dingley bill permitting this outrage are futile. "We must wait till after election." And what is there in the history and conduct of the Republican party to induce anyone to believe that this great monopoly will be touched. The United States Commissioner of Corporations, speaking of this Standard Oil Company, says:

American consumers might, for the sake of maintaining a large foreign trade and thereby benefiting American industry, be willing temporarily to pay prices a little higher than are charged for the same product abroad. That American consumers, however, should be compelled to pay prices so high that, when an immense quantity of oil is sold by the Standard in foreign countries on the basis of little or no profit, the total profit on domestic and foreign business combined should be 50 or 60 per cent on its capital, is an obvious injustice.

The prices charged by the Standard Oil Company in the United States are, on the average, altogether excessive, and they have greatly increased during recent years. These facts, however, do not tell the full story with regard to the Standard's domestic price policy. The prices in large parts of the country are much more extortionate than the average prices for the country as a whole.

The prices charged by the Standard Oil Company for petroleum products in the United States differ widely in different places according to the degree of competition or monopoly. This is true of all classes of petroleum products, but is most conspicuous and most easily demonstrated with respect to illuminating oil and gasoline. After deducting freight rates, which often constitute a large element in gross prices, extraordinary differences in prices appear, (1) as among different States or sections of the country, and (2) as among towns in the same general vicinity—for example, within the borders of a single State. These differences in price are to some extent due to differences in the cost of producing the oil and gasoline sold in different sections and in part to differences in the cost of marketing. In many cases, however, they are due solely to differences in the degree of competition, and in other cases a large part of the difference in price is due to difference in the degree of competition.

The methods of marketing oil products lend themselves to this practice of price discrimination. Illuminating oil and gasoline—and the same is in less measure true of other petroleum products—are not to any large extent sold at central markets or through jobbing concerns independent of the refiner. The Standard Oil Company sells most of its illuminating oil and gasoline in the United States directly to retail

dealers at their own towns. They are largely delivered to retail dealers at their own stores by means of tank wagons. Consequently the prices of oil and gasoline are in general purely local prices. The retail dealer is ordinarily not familiar with prices charged in other towns or in central markets, but even if he were he could not take advantage of lower prices prevailing elsewhere to buy oil there and bring it into his own town. The cost of transporting oil in barrels, particularly in less than carload lots, is higher than in tank cars. Moreover, tank-wagon delivery is so much more convenient than barrel delivery that the retail dealer is ordinarily unwilling to buy barrel oil even at a lower price.

The Standard Oil Company has established the system of tank-wagon delivery in the larger town in all parts of the United States and in a large proportion of the smaller towns in the more populous sections. The business of its competitors is largely confined to a limited area and to a limited number of towns within that area. In towns and sections where there is no competition the Standard can charge monopoly prices, and by reason of the high prices thus obtained it can afford to reduce prices in competitive areas and towns to a point which leaves no profit for the independent concern.

Independent concerns are compelled to confine their business to a limited area and usually to a limited number of places in such area; first, by reason of the fact, already stated, that delivery in barrels is either more expensive or less satisfactory than delivery by tank wagon; and second, because the limited volume of their business does not permit them to establish tank-wagon delivery in many places, since, in order to reduce the cost of tank-wagon delivery to a reasonable amount per gallon, it is necessary that a concern should secure a considerable volume of business in each town it enters. Only a concern with enormous capital could afford to establish a marketing system in competition with that of the Standard throughout the entire country and thereby force the Standard, if it desired to cut prices, to sacrifice profit on its entire business.

It is clear from these considerations that the Standard has an enormous advantage over any of its competitors in the marketing of oil. By a vigilant policy of aggressive attacks on competitors competition is kept strictly localized and scattered, and thus easily controlled. The Standard can make huge profits on its total business while reducing the profits of its competitors to a small amount, or even forcing them to sell at a loss.

The attention of the House was recently called to this statement of the Commissioner of Corporations in a speech delivered by Mr. KÜSTERMANN, of Wisconsin.

The profits of the Standard Oil Company are known to be enormous. The report of the Commissioner of Corporations shows that for the years 1897 to 1906 the estimated profits were about \$546,000,000, or \$54,600,000 per year. This was equal to 55.9 per cent on the average amount of stock outstanding.

The protected interests have grown so strong and powerful that they control absolutely the Republican party. They are willing to divide their profit in the way of financing the Republican campaign so long as they can write the tariff schedules of the tariff laws. The people will never receive just treatment as long as that partnership continues.

The newspapers of the country have been demanding the repeal of the tariff tax on wood pulp and print paper, that they may escape the exactions of the paper trust. This demand is not limited to Democratic publishers, but includes the Republicans as well. I have received petitions from the Republican publishers of my district asking for this relief. Early in the session I responded to this personal appeal by introducing a bill to place wood pulp and print paper on the free list; but that bill, with many others on the same subject, was pigeonholed by the Republican majority of the Ways and Means Committee. I submit herewith a copy of this bill which I introduced.

A bill to put wood pulp, printing paper, and all materials used in the manufacture of the same, and also linotype, typesetting, and composing machines on the free list.

Be it enacted, etc., That no import tax duty shall be collected upon wood pulp, print paper, or any paper suitable for the printing of newspapers or books, or upon any materials used in the manufacture and composition of the same.

SEC. 2. That no import duty shall be collected upon linotype, typesetting, or composing machines.

SEC. 3. That this act shall be in effect from and after the date of its passage.

SEC. 4. That all laws and parts of laws in conflict herewith are hereby repealed.

The President in one of his messages recommended legislation along this line, but his efforts have been in vain, and the paper trust still continues to extort annually \$60,000,000 from the printing and publishing interests of the country.

The Indianapolis News, a paper that has for years advocated tariff reform, but has also regularly advocated the election of the Republican State and national tickets, in an editorial of its issue of January 9, 1908, on this subject said:

OPPRESSIVE DUTIES.

It seems to be agreed that there is absolutely no chance of getting Congress to pass a law repealing the heavy duties on wood pulp and white paper, which are so burdensome to publishers and so nourishing to the "infant" paper trust. It has been decided by the Republican leaders that the sacred tariff shall not be touched at this session; that even wickedly high and destructive duties shall continue to be levied. Thus a simple act of justice is not to be done, because to do it might be to open up a discussion of the whole tariff question. And as the last thing that our friends want is discussion, they are going to stand pat on these paper and pulp duties and on all other duties. In the News of Monday was printed a statement in which the facts were given concerning this situation. The President refused to recommend the repeal of these duties in connection with any plan of tariff reform, but he did suggest that the duties on all forest products, as well as the duty

on wood pulp, be removed, and this in the interest of forest preservation. "The repeal of the duty on wood pulp" he said, "should, if possible, be accompanied by an agreement with Canada that there shall be no export duty on pulp wood." Nothing was said about the paper duties.

But even this conservative and timid plea has failed to move Congress. The welfare of American publishers and the preservation of American forests do not interest men whose chief concern seems to be to protect as greedily a trust as we have in this land of trusts. The paper trust, it was shown, earns gross profits of \$23,000,000 a year on a book capitalization of \$40,000,000. The capitalization of the trust amounts to \$43,000 for each ton of daily output, and is believed to be \$35,000,000 in excess of the accepted basis of investment in the paper trade for mills of modern construction. It owns vast timber tracts in Canada, as well as in this country. In one of the four land offices of the Province of Quebec the International Paper Company has registered timber limits for 2,597 square miles. A large proportion of the timber lands in Quebec is owned by American paper mills. Some of our domestic concerns have acquired the finest forests and waterfalls in Canada, and are able to make paper profitably at \$20 a ton. At the time of the consolidation the trust came into possession of 1,600 square miles of timber in the United States. And as a result of it all "the newspapers," according to the statement in the News of Monday, "are bearing the burden of this gigantic speculation in woodlands, because they are taxed to pay the interest-carrying charges on these purchases of timber that can not be marketed for twenty or more years."

The price of paper has been rapidly and enormously advanced in the last few years. As usual, the trust is selling more cheaply abroad than at home, competing successfully with the mills of Germany, Great Britain, Canada, and Norway. Many would-be purchasers are unable to obtain any quotations at all, and do not know where to turn for their paper. Not only that, but we have practically exhausted our timber supply. To-day we are consuming three times as much wood as our forests are bearing. The destruction of our woodlands is going forward at the rate of 50,000 square miles a year, which is one-twentieth of the entire timber area of the United States. And now the demand for pulp wood is in excess of the ability of the country to meet it. An area as large as the State of Rhode Island is stripped of its spruce every year to supply the pulp mills. In the year 1906, 3,000,000 cords of domestic pulp wood were used in addition to 738,872 cords of Canadian wood. Here is a summary of the consequences—not to the publishers—but to the country from thus putting a premium on forest waste:

Every material interest is threatened. Rivers have been dried up at the source, so that sawmills dependent on water power have been driven out of business, and other manufacturing interests have suffered. Farms have been given up in regions thus deprived of moisture because there was no longer enough water for stock or home use, and disastrous floods in springtime are followed by droughts in summer. The wholesale destruction of forests threatens the country with the calamities experienced from the same causes in Europe and Asia. Our lumbering methods, if continued, will entail baleful scenic, climatic, and economic results, injuring health, property, and occupations of all citizens, and impairing industrial development by making intermittent the flow of the rivers, which are most important to agriculture and manufacture.

Finally, to complete the starvation—which we have deliberately invited—the Canadian government is threatening to put an export duty on pulp wood or else to forbid its exportation altogether. Now, it is a fine business to "bust trusts" when the busting process accomplishes nothing. It is a great thing to fine the corporations themselves, the people, of course, having to pay the fine in increased prices imposed to cover it. It is very brave to talk about national incorporation laws and Federal licenses for interstate corporations. Nor is it difficult to pass rate bills, which are found to be so defective as to need amendment, as admitted by their friends, within a few months. But when it comes to going after a trust in good earnest, as in this case, the trust busters have no stomach for the enterprise. Here are three great objects to be attained, all of which have at least a very great theoretical interest for the President—namely, to give "a square deal" to a great industry, to shackle the greedy paper trust, and to save American forests. Concerning all these subjects the President has spoken and written volumes. But he and his party are permitting the wholesale devastation of our forests and putting a premium on it, are consenting that a great industry be oppressed and despoiled, and are standing stolidly in the interest of an oppressive and insolent trust which makes millions of dollars each year out of a protection that it does not need, and to which it is not entitled. But the duties on wood pulp and white paper must be maintained. We commend this case to the consideration of those able editors and publishers who have for years been fighting for protection. They now know how it is themselves. May they learn the lesson and draw the proper moral.

I desire now to call attention to section 4 of the Dingley bill that is a substantial confession of the exorbitance of its rates and the propriety of the law itself. I refer to section 4, which authorized the President to negotiate treaties of reciprocity with any and all nations of the world, by the consent and advice of the Senate, for a reduction of 20 per cent of any duty in the bill. The usual answer of the apologist of the Republican programme that the provision related only to non-competitive articles, to articles not produced in the United States, is false and misleading, for its authority to the President in connection with the Senate, reciprocal treaties for a reduction of 20 per cent of the rates specified in the bill extended to all articles competitive as well as noncompetitive, and the fact and the record stand indisputable that the Dingley Act contained a provision for relief from its apprehended hardships and injustice.

"The revision of the tariff must not be considered before an election." Its consideration would expose its wrongs and injustice and the faithless stewardship of the Republican party. It would expose the protection given the trusts by that party. It is much easier to make promises in party platforms and to deceive the people and if again given power and responsibility to forget the pledges upon which such power was granted as has always been the practice of the Republican party.

As a matter in harmony with the Republican methods to wreck the fundamental principles of our Government, to supplant a Government of the people, for the people, and by the people with a government of the privileged classes, for the favored magnates, and by the political brigands, there should be borne in mind the uncandid and deceitful course of the Republican party in implanting in the public laws the policies of which it is now boasting, and the consequent violence to the cardinal doctrines of instructions from the people and obedience to their will in the enactment of the nation's laws.

Since the close of the civil war there has not been a single great measure of the Republican party put into law by a candid and open advocacy of its merits and a plea for popular indorsement and authorization therefor before the people at election. The adjustment of the war debt on terms dictated by the public creditors and bondholders was finally made directly contrary to the terms which the Republican party promised should be made when before the people at the election for their votes.

The campaign promises, on the part of the Republican party, to revise the tariff were always repudiated by the leaders when they reached their seats of power and a directly contrary policy prevailed. The campaign method of the Republican party in foisting the gold standard upon the people by an assurance to the people during the campaign of their purpose to promote and establish bimetalism, whose wisdom and justice they did not assail but freely admitted, is yet fresh in every voter's mind.

What singular lack of conscientious indorsement of their now accepted doctrine! What lack of political courage and fairness does such a course of party conduct reveal! But what is more, what danger does such party method and such sharp practices, such glaring deceit bring to a free government based on the people's will and subject to their instruction?

Among all the apologists for vicious systems of government not one has ever yet been found who could justify the taxing of all the people for the benefit of the few. The theory that the prosperity that results to favored classes from such special laws finds its way back to and is generally shared by the masses; that the prosperity of the classes means the prosperity of the masses may be consonant with the principles and the practices of an aristocracy, but it finds no logical place in a democracy.

Agreeable to the principles of our democratic Government, and in accordance with the historic tenets of my party's faith, I believe the people themselves are not only the seat of political power, but also the source of economic wealth. I believe that true government and real prosperity comes from the masses and not from the classes, and that the people next November will select a Congress pledged to tariff reform, and that it will be a Democratic Congress that will revise the tariff in the interests of the people instead of in the interest of the trusts.

The Currency Bill.

SPEECH

OF

HON. PHILIP P. CAMPBELL,
OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. CAMPBELL said:

Mr. SPEAKER: The senseless filibuster, with useless roll calls, under which the House has done business for two months has prevented consideration of many worthy measures. I secured a favorable report from the committee to which it was referred on House bill 20111, a bill to prohibit the running of bucket shops and stock and grain gambling in Washington and the District of Columbia. I want to take this opportunity to call attention to some of the evils at which this bill strikes—and there are few, if any, greater evils affecting our commercial, financial, and business life. There are hopeful signs that we may yet rid the country of the harm that comes to it from gambling in the price of other people's property, largely with other people's money. It is in this way and, in my judgment, only in this way that we can protect ourselves from what is now commonly known as "gamblers' panics."

Gambling in stocks and commodities has been the subject of regulation and prohibitive legislation in Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Mississippi, Michigan, Massachusetts, Missouri, North Carolina, New Hampshire, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, and Wisconsin.

The constitutions of California and Louisiana prohibit dealing in stocks on margins and for future delivery. There was recently passed by the New York legislature a bill very similar in its provisions to the bill I am seeking to pass.

The intent and purpose of the law in all cases is to prohibit the gambling that is done in the price of stocks, securities, and commodities.

Gambling in stocks and food commodities is a subject of discussion in many of the countries of the world. Within the past decade the subject has been under consideration in some form or other by the Argentine Republic, Austria, Belgium, Bulgaria, Denmark, France, Germany, Greece, Hungary, Italy, the Netherlands, Norway, Portugal, Roumania, Russia, Servia, Spain, Sweden, and Switzerland.

The Canadian government has passed an effective law upon the subject. Throughout the European countries a popular protest has arisen against gambling on the prices of commodities that compose the necessities of life.

It is thought wise to prohibit this species of gambling that is widely indulged in and most injurious in its consequences. Men who can ill afford to lose gamble and lose their money in bucket shops and stock exchanges, betting on the differences in prices of stock and commodities. Thousands have thought they could win in stock and commodity gambling and have gone to their ruin. They have started in the bucket shop on a small scale, settling the differences between prices, and ended in ruin, the penitentiary, or the grave of a suicide.

It is estimated that within the last twenty-five years \$2,500,000,000 have been lost in this species of gambling by those who could not afford to lose.

Embezzlement, imprisonment, ruin, suicide, and panic have been the results. Some of the principal victims were recently mentioned in a New York paper. I call attention to them here. Their experience should not be lost to others and to the country:

"1884. The Marine National Bank of New York City was looted by two of its directors, who, in their Wall street speculations on margins, lost \$2,000,000. The Second National Bank, through the Wall street speculations of John C. Eno, its president, lost \$4,000,000.

"1891. John T. Hill, president of the Ninth National Bank of New York City, speculated away \$400,000.

"1894. Frederick Baker, a depositor, and Samuel C. Seely, bookkeeper in the National Shoe and Leather Bank of New York City, lost \$354,000.

"1895. Frank C. Marvin, lawyer, Brooklyn, \$75,000.

"1898. John S. Hopkins, cashier of the People's Bank of Philadelphia, lost the bank's funds in speculation and killed himself, \$700,000.

"The Chemical National Bank, of New York City, lost through 'mistakes of judgment' on the part of the cashier \$393,000.

"Ex-Mayor F. H. Twitchell, of Bath, Me., \$60,000.

"1899. George M. Valentine, cashier of the Middlesex County Bank and treasurer of the Perth Amboy (N. J.) Savings Institution, confessed to losing in speculation \$125,000.

"1900. Cornelius J. Alvord, jr., note teller of the First National Bank of New York City, lost in stock speculation \$690,000.

"William Schreiber, clerk in the Elizabeth Banking Company, Elizabeth, N. J., squandered in Wall street \$106,000.

"A confidential clerk of a wholesale house in Walker street, New York City, lost in Wall street \$200,000.

"1903. Frank V. La Bountie, confidential clerk for law firm of Wilson & Smith, of Chicago, \$500,000.

"William S. Allen, treasurer Preachers' Aid Society, Boston, \$70,000.

"United States Playing Card Company, of Cincinnati, robbed by a trusted woman employee of \$100,000.

"Enoch L. Cowart, cashier of the Navesink (N. J.) Bank, \$40,000.

"John A. Scott, cashier of the New York office of the London Assurance Company, \$25,000.

"William B. Given, president of the Lancaster County (Pa.) Railway and Light Company, \$100,000.

"Thomas W. Dewey, cashier of the Farmers and Merchants' Bank of Newbern, N. C., \$125,000.

"James M. Watson, jr., clerk for auditor of the District of Columbia, \$100,000.

"Trusted clerk at the Hotel Beresford, in New York City, \$50,000.

"1904. Arnold Beathlen, cashier of a bank at West Liberty, Pa., \$85,000.

"John F. Goggin, treasurer of the Nashua Trust Company, of Nashua, N. H., arrested, charged with defalcation of \$100,000.

"George A. Rose, cashier of the Produce Exchange Banking Company of Cleveland, \$170,000.

"Wallace H. Ham, Boston agent of the American Surety Company of New York City, \$286,000.

"Ex-Mayor S. F. Smith, of Davenport, Iowa, \$150,000.

"F. H. Cutting, bank president, of Ota, Iowa, \$112,000.

"1905. Ex-Tax Collector E. J. Smith, of San Francisco, \$60,000.

"Paul O. Stensland, Chicago banker, who was captured abroad, \$1,500,000.

"Cashier of the Cornwall (N. Y.) Bank, \$45,000.

"W. W. Karr, accountant of the Smithsonian Institution, Washington, D. C., \$50,000.

"Mayor William H. Belcher, Paterson, N. J., \$150,000.

"Frank G. Bigelow, head of the First National Bank of Milwaukee, \$1,450,000.

"F. H. Palmer, cashier of the State Bank, Peconic, Long Island, \$40,000.

"Denver (Colo.) Savings Bank, looted by speculating officials of \$1,700,000.

"Newton C. Dougherty, superintendent of schools, Peoria, Ill., \$250,000.

"T. Lee Clarke, cashier of the Enterprise (Pa.) Bank, \$1,200,000.

"F. R. Green, cashier Fredonia National Bank, \$300,000.

"1906. Joseph A. Turney, note teller in the National Bank of North America, of New York City, took from the institution and lost in Wall street \$34,000.

"County Treasurer F. E. Smith, of Akron, Ohio, \$282,000.

"Gordon Dubose, president of the First National Bank, Ensley, Ala., \$40,000.

"Frank K. Hipple, president of the Real Estate Trust Company of Philadelphia, \$7,000,000.

"C. S. Hixon, bookkeeper, Union Trust Company of Pittsburgh, \$125,000.

"1907. Charles T. Barney, president of the Knickerbocker Trust Company, who killed himself when the financial crash came. It is estimated by his close friends that the total amount lost by him in speculation was almost \$10,000,000.

"F. Augustus Heinze, whose losses in the market fluctuations, according to a statement made by him to a friend, were \$9,000,000.

"Charles W. Morse, whilom 'ice king,' 'steamboat king,' and 'bank chainer,' whose losses in market fluctuations are figured at \$20,000,000.

"Chester Rumyan, bank clerk, New York City, \$86,000.

"George H. Brouwer, known as the 'soul of honor,' confidential man for James H. Oliphant & Co., stockbrokers, of New York City, \$90,000.

"Clerk for the tax collector of New Orleans, \$100,000.

"William F. Walker, treasurer of the New Britain (Conn.) Savings Bank, \$600,000.

"Miss Flora Steipel, cashier in a Philadelphia department store, \$25,000.

"Oliver M. Dennett and William O. Douglass stole \$1,300,000 in securities from the Trust Company of America and pawned them for \$140,000."

Mr. Speaker, these enormous losses were the result of gambling in stocks and commodities—not in the legitimate purchase of railroad or industrial stocks, or grain, or cotton, or produce of any character. It was not investment; it was gambling in options, futures, and the differences in prices of the products of the farm and stocks and securities of the transportation and industrial companies of the country.

It is safe to add to the injury that falls to the lot of the unfortunate individual who thus "speculates" and loses, and his family, the injury that comes to the whole country. Gambling in the price of other people's property, with other people's money, has more than once led the country into financial panics that have had a most harmful effect upon the otherwise prosperous business of the country. Thousands of industrious men, through no fault of theirs, have been thrown out of employment because other men gambled with the property they produced or worked with.

Mr. Speaker, I sincerely regret that the provisions of my bill can not be made to apply to the whole country; they can only apply in the District of Columbia.

The police power of the State has been extended far for the protection of the community against practices by some that are injurious to others. The States have placed restrictions of one kind and another upon games of chance, and many States have made gambling a penal offense. In these restrictions, States have sought to protect the rights of the whole community from wrongs that are incident to the practices of a few individuals.

The rights of one man end where wrongs to another man begin. The peace and prosperity of the community are, and ought to be, of the first concern to government. Every man and every community has a right to protection in his business, in his prospects and in his happiness from wrongful or fraudulent practices by others. The prosperity and happiness of the whole people are largely dependent upon the security of legitimate business from injury by a business that is harmful or unlawful. What is now commonly known as overspeculation, stock manipulation, and gambling have been and are common enemies of legitimate enterprise.

The Wall street panic of 1901 shows the result of fraudulent stock manipulation and gambling, and the whole country narrowly escaped disastrous results from this fraudulent manipulation and gambling. It was all done by a few individuals.

The incipient panic of 1903 was started by Wall street gamblers, and the financial panic of last October was started in Wall street and was the collapse after a debauch in wild and excessive gambling, largely in the prices of stocks that were owned by an innocent public—stocks that were not bought and sold in good faith on the exchanges. Money was borrowed in large amounts for which there was no ample security. This money had been attracted from country banks in almost every State in the Union by offers by Wall street banks of attractive rates of interest on daily-balance deposits. The interest offered was a higher rate than could be paid by manufacturers, jobbers and merchants, or grain or cattle dealers who were doing a legitimate business for a fair profit.

I have no hesitation in saying that the panic was brought on by gambling with other people's money in the differences in prices of other people's property.

But I am asked if I would stop investment and speculation on the stock exchanges, which promote large enterprises and float the stocks and bonds of the great industrial and transportation concerns of the country. Not at all. I would help rather than hinder the investment and proper speculation in real stocks and real bonds and real grain and real cotton and real products of every sort that are sold in good faith and delivered in good faith, where the owner through his agent wants to sell and the buyer through his agent wants to invest.

I would protect honest investors and speculators in all these stocks, securities, and commodities from the gambling and the fraudulent manipulation in the prices of the stocks, bonds, grain, cotton, and other property of the country.

These gamblers never buy nor sell in good faith. I assert, without fear of contradiction by anyone, that over 90 per cent of the transactions on all the stock exchanges in Wall street or elsewhere in the country is a gamble on the differences in prices.

I assert here that in less than 10 per cent of the transactions on these exchanges that purport to be sales and purchases there is no real delivery in good faith by a seller to a buyer who wants to invest and become the owner of the property and secure the dividends or interest that it may earn. Actual delivery of the specific property is not made or intended to be made, and the alleged buyers do not want the stock they pretend to purchase as an investment.

Nothing is clearer than this. The transactions themselves clearly show it. Other things being equal, the stocks or bonds of a railroad company that had for a long time been paying a 5 per cent dividend would be more attractive as an investment than those of a company that was paying only 4 per cent dividend, and yet it often happens that the prices on the stock exchanges of the stocks of a company paying a 4 per cent dividend are far above those of a company paying 5 per cent or a 6 per cent dividend.

The betting on the differences in the prices accomplishes the same results upon the stock that pays the lower rate as could be accomplished upon the differences in prices of the stock that pays the higher rate, and that is the beginning and the end of the transaction.

The man, therefore, who defends the stock exchanges as now operated in and around Wall street and elsewhere in the country as places that only offer real investors an opportunity to buy has deceived himself, or is endeavoring to deceive the public. No man will find it easy to reconcile what is actually done on the exchanges with the claim that these exchanges are only intended as agencies to bring the sellers and buyers of the stocks, bonds, and commodities of the country together.

Why, Mr. Speaker, to the actual investor and to the man who speculates on his best judgment, the dividends paid by a concern would largely control him in the price he would pay for its stocks or bonds, and yet it is actually true that on the stock exchanges in Wall street and elsewhere in the country

the prices of stocks and bonds are not controlled by this standard of value.

On the 3d day of April, 1907, the Associated Press gave out this bit of news:

NEW YORK, April 3, 1907.

A market in which good news is good only until it gets out is not a very robust bull market. Just before the announcement of the increase in the Atchison dividend was made the stock sold at 94½. A few minutes later the price dropped to 94, and within half an hour it was fully a point down from the high morning and more than two points from the highest level touched in the rise on Tuesday.

But that is not all. The income of the railroads of the country gradually increased from \$875 to \$1,180 in a single year, and yet by a shrewd manipulation of railroad stocks, within this period the prices of railroad stocks were forced down or up to suit the demands of a gambling enterprise. What is actually done on the exchange denies that they are conducted solely for real investors or speculators where property is sold and delivered in good faith.

The influence of these gambling prices upon the business of the country can not be anything but bad.

There are 35 banks, 29 trust companies, 9 safe deposit companies, the general offices of 52 railroads, 46 fire and 18 life insurance companies, 6 express companies, 21 telegraph, 18 steamship, 42 coal, iron, steel, and copper companies, and more than 200 other large industrial and transportation corporations in the financial district that surrounds the stock exchanges in New York. Every one of these enterprises is keenly sensitive to and affected by the manipulations that go on on the exchanges.

Overspeculation, or speculations beyond the means or security of the speculators, fraudulent manipulation of railroad and industrial stocks, and the creation of corners in commodities are felt in all these enterprises, and through them in the whole country.

Within ten years we have had too many instances of what by common consent is called "gamblers' panics" in Wall street.

These panics have occurred when labor has been employed and industries have been active and commodities have been moving as never before in the history of the country.

A recent editorial in the New York World is so full of valuable information on this subject that I shall take the liberty of quoting from it. I take it that a New York paper would be fair with Wall street, the stock exchanges, and the banks of its city. It says:

"Nowhere on the earth does another such gambling institution exist as finds shelter in the New York Stock Exchange—an unincorporated, irresponsible institution. According to the statistics carefully compiled by James Creelman in Pearson's Magazine, there were sold in 1906 on the stock exchange 286,418,601 shares of stock of the par value of \$25,000,000,000, besides 665,000 thousand-dollar bonds; on the Consolidated Exchange 136,000,760 shares of stock, besides 21,569,178 shares of mining stock and 183,884,000 bushels of wheat. This does not include curb sales.

"These gambling transactions amount to over \$30,000,000,000—four times the value of the products of all the farms of the United States, half the value of all the land and buildings, one-third the census valuation of all the wealth of every kind in the country.

"Last year there were sold on the stock exchange 43,399,710 shares of Reading, fifteen times the total amount of Reading stock in existence. Of the Union Pacific, Harriman's road, there were sold 36,751,600 shares, twenty times as much as existed.

"Ninety-nine and one-half per cent of these transactions, according to Thomas W. Lawson, are nothing except bets that the price goes up or down. They are as much gambling as betting on a horse race or on the card that comes out of the faro box, or on the odd or even fall of the dice."

Mr. Speaker, this is gambling on a colossal scale. Carried on as it is, it takes the money of the country out of legitimate channels of trade, where interest rates are largely controlled by the sober business judgment of business men who do a fair business for a fair profit. They can not compete in the payment of interest rates with reckless gamblers, and banks that wince under the criticism that they are not conservative and careful with the money of their depositors take their chances with the gamblers too often, to the injury of the depositors and the country.

The panic of 1907, I say again, was brought on by the New York banks that cater to the stock gamblers, absorbing a large portion of the money of the country to be used by men engaged in reckless gambling, and willing to pay any rate of interest that is necessary to obtain the money.

In no other country than the United States are incorporated banks permitted to be a part of the machinery of stock gambling. In no other country are the methods of stock gamblers such as to require the constant use for that sole purpose of hundreds of millions of dollars of other people's money. In no other country is the National Treasury called upon to turn over the public revenues to banks that have gone to the brink of ruin by loaning their depositors' money to men who gamble with it. The Treasury responds to appeals of the banks for help to save the whole country from panic. In London, Paris, Berlin, Frankfurt, and Amsterdam gamblers in stock must use their own money and their own credit as if they were playing at Monte Carlo instead of on a stock exchange.

This difference in stock gambling accounts for the great fluctuations in the rates of interest in New York as compared with the stability of European financial centers. In New York call money may be 3 per cent one day and 50 per cent the next day, something unknown in Europe.

By bidding up the rate of interest higher than legitimate business can pay, stock gamblers are able to draw from productive industry its means for supplying pay rolls, for carrying on manufacturing, for distributing goods, and for moving the crops.

In Great Britain an increase of 1 per cent in the discount rate of the Bank of England is regarded as a serious fluctuation. For the Bank of France to alter its rate one-half of 1 per cent is a matter of international finance. For the Bank of Germany to charge a third of last week's highest rate in Wall street is done only after serious consultation with the Government, with capitalists, and with business interests.

Without banking facilities and credit productive industry would be limited to the use of real money as the method of exchange. Business would become largely barter, because 95 per cent of the business of the country is done with checks. All the gold and silver in the world would not suffice to sustain a cash basis. The total amount of money in the United States, including gold, silver, legal-tender greenbacks, and national-bank notes, is only \$3,000,000,000, while the exchanges of the New York Clearing House alone amounted in 1906 to \$103,754,100,091, or thirty times the amount of all the money in the United States.

Of this money the United States Treasury holds a little over a third to cover its gold and silver certificates, as a reserve against its legal-tender notes, for the redemption account of national-bank notes and as a cash balance. Another third is held by the banks and trust companies as a reserve on their deposits. That leaves less than \$1,000,000,000 for circulation.

The deposits of banks and trust companies other than private and national banks amount to \$8,000,000,000. The deposits of the 6,625 national banks of the United States, as reported on December 3, amount, in round figures, to \$5,000,000,000. All the money in the United States would not pay one-quarter of these deposits on demand.

To protect the depositors and to prevent the undue inflation of credit, the national banking law provides that banks "must retain a reserve of lawful money." Three cities—New York, Chicago, and St. Louis—are made central-reserve cities, where banks must keep on hand in cash 25 per cent of their deposits. Banks in twenty-eight other reserve cities must also keep 25 per cent reserve, but only one-half of this need be in cash in their vaults, the other half being allowed to be deposited in New York, Chicago, or St. Louis banks. In all other cities and towns the banks must maintain a reserve of 15 per cent, of which they need keep on hand only two-fifths, being allowed to deposit the other three-fifths in reserve banks.

This system drains the reserve money of the United States to Wall street. A commercial bank, charging merchants and manufacturers 6 per cent interest, can not afford to pay interest on deposits in competition with the Wall street banks, which can frequently get 20 to 50 per cent on the stock exchange for the use of their deposits. Thus these reserve moneys gravitate to the banks which can afford to pay high interest on them. This process of drawing the surplus savings of the country to Wall street was facilitated by the three great insurance companies—the Equitable, Mutual, and New York Life—which collected annually \$200,000,000 from their policyholders. This money they either invested in Wall street securities or deposited in Wall street banks, making their disbursements by New York drafts and keeping the cash here.

Wall street thus became a great funnel into which the savings of the people, instead of being available to the local manufacturer or the local storekeeper, were driven by higher rates of interest to the stock exchange.

The system of reserves directly invited this. If a national bank in Altoona or Columbus or Topeka deposited its money in

a Wall street bank, it not only received interest, but it was allowed to credit what the New York bank owed it to its legal reserve like real cash. But the debt of any country bank to a New York bank could not be credited to its legal reserve. A New York credit was legally cash and a country credit was not.

When the recent panic became acute in November the clearing-house banks reported deposits of over \$1,000,000,000. Of these deposits one-half were due to other banks. Of the loans, which slightly exceeded the deposits, over half were on stock exchange collateral. That is, the money collected from millions of depositors throughout the country by their local banks was used as the basis of Wall street credit and was the real money in the stock exchange game.

There are two general classes of loans. One is commercial paper—that is, discounts on bills of lading, on cotton, wheat, warehouse receipts, goods in manufacture, and the notes which retailers give their wholesalers and wholesalers give to their manufacturers. The other kind of loan is what Europe calls a finance bill and Wall street calls a collateral loan. It is a loan not on separable property, but on a piece of paper which represents an interest in indivisible property.

A share of railroad stock differs from a warehouse receipt for eggs, butter, cotton, or wheat, in that no holder of it can demand so many rails and ties or locomotives and cars. No holder of United States Steel stock can demand so many tons of steel rails or iron pigs; no holder of Standard Oil stock can demand so many barrels of kerosene. Neither can the holder of any corporate bond demand anything except payment of principal and interest when due, and bonds run for such long periods that their payment is an asset too slow to be realized on in an emergency.

This distinction is recognized in every other country. The Bank of France last November declined to make any advances on American finance bills, while expressing its willingness to loan all the money that their value would warrant on cotton, wheat, corn, and other tangible goods in shipment. The Bank of England months ago not only refused to discount American finance bills itself, but notified its customers that they must not do so. The Bank of Germany was forced several years ago to adopt the same policy.

In these countries the discounting of finance bills is left to private bankers, who use their own resources without involving general banking facilities, which are restricted to the use of commerce, manufacture, and other business.

Instead of the New York national banks following this wise policy of the great European banks by looking after their commercial customers rather than seeking for the higher rates of interest which stock gamblers pay, they have adopted the contrary policy. In ten years, from 1896 to 1906, the New York bank loans on stock-exchange collateral increased from \$162,361,654 to \$442,210,765. The gain in commercial loans was only two-fifths as much, \$151,795,029 to \$250,340,272.

During the panic weeks bank loans on collateral were actually increased. Banks had the alternative of carrying their stock-gambling customers or of such a stock-exchange crash as would imperil their own solvency. Therefore some of the banks stopped commercial discounts and cut down the credit of solvent merchants in order to use all their resources to protect their brokers' collateral. It will be recalled that interest rates ran up to 200 per cent one afternoon, and that only the \$25,000,000 which Mr. Morgan dumped at once into the stock exchange prevented the immediate failure of gamblers who had bet that stocks would go up.

In the first three weeks of the panic the New York clearing-house banks increased their total loans over \$100,000,000, yet at the same time they actually reduced their commercial loans.

THE MACHINERY OF GAMBLING.

The system of stock gambling in Wall street is different from that in any European country. Here every day the broker goes through the farce of legitimate purchase and sale. After one broker has bought and another sold, each makes a memorandum and the transaction is sent out through the ticker everywhere. Then each broker tabulates his transactions and sends to the stock-exchange clearing house a copy, with a check for the difference between his price and the closing price. The clearing house sends out notices to the brokers telling them who is to deliver, what shares of stocks, and to whom.

The next morning every broker who is to receive stocks sends to his bank and gets certified checks for the sums he is to pay. Part of the money he had already arranged for through the system of time and call loans on stock-exchange collateral. For the rest his bank allows him to overdraw his balance, commonly overcertifying therefor. Then before 2.15 p. m. every broker who is to deliver stocks sends around the certificates and receives these certified checks. After 2.15 p. m. and before the

banks close every broker in turn deposits the certified checks and the stocks which he has received in his bank to make good the overdraft the bank certified for him in the morning.

Without the banks' assistance this whole system would be destroyed and the stock gamblers in New York would have to gamble as do the stock gamblers in London, Paris, and Frankfurt, where this form of actual delivery in speculative transactions is not gone through with. Instead, there are fortnightly settlements, where the losers pay and the winners collect their winnings. Such a thing as a London stockbroker having the Bank of England or a Paris broker the Bank of France certify his check in advance and thus furnish the funds for him to gamble with is unheard of. The European stockbrokers gamble as do the London race-track bookmakers, who have their regular settlement day at Tattersalls.

On the London Stock Exchange settlements are made twice a month. On the Paris Bourse settlements are made once or twice a month. On the Frankfurt Bourse there are semimonthly settlements. On the Berlin Bourse there are settlements at times fixed by the Government regulation. If the parties desire to continue the gamble, a charge is made for an extension, but either party can quit the game and cash in at any time, just as in any other gambling house.

On the Continent these matters are regulated by the government, so that general industry will no more be interfered with by stock gambling than by gambling at cards or dice. The Prussian Government forbids the short selling of industrial stocks on the Berlin Bourse. Transactions on margins are forbidden except in certain cases between registered parties. Unless a man registers his name as a stock gambler he can refuse to pay his losses. Transactions in futures on agricultural products are prohibited. In Paris bourse agents are not allowed to operate on their own account. There is a tax on every order to buy or sell and on every completed transaction. The French system is analogous to the taxing, licensing, and regulation of ordinary gambling houses by the French Government.

The forms which the New York Stock Exchange go through to evade the New York gambling law are in vogue nowhere else.

The French and German Governments treat stock gambling somewhat as race-track gambling is now treated in New York State, where it is permitted in race-track inclosures and forbidden elsewhere. But these continental governments go further. They even decide in what stocks and bonds they will allow gambling.

During the Japanese-Russian war the French Government instructed the Parisian brokers that no one might sell or offer for sale Russian bonds without giving their serial number. This prevented short selling. In Germany similar measures have been taken.

As a result of this separation of stock gambling from the banking business of the country the great drop in Russian bonds, hundreds of millions of dollars of which are owned in France, caused hardly a ripple on the surface of French trade and manufacture. The great fall in the market prices of South African gold and diamond mine stocks at the time of the Boer war did not shut off discounts and banking facilities to English manufacturers, forwarders, and merchants.

What other countries have done in segregating and restricting stock gambling the United States also must do, remembering always that Wall street also performs a legitimate function in providing capital for great enterprises and in affording a market for the actual sale of securities.

The overcertification of checks is already a crime under the national banking law. Section 176 specifically prohibits the certification of any check "unless the person or company drawing the check has on deposit at the time such check is certified the amount of money equal to the amount certified in such check."

This of course prohibits certifying a check before 2.15 p. m. on the strength of deposits after 2.15 p. m. Its violation, however, is difficult to prove, and its evasion is easy by a broker putting in dummy notes at the time of certification.

It should be made both illegal and unprofitable to use bank deposits—other people's money—by loaning them to gamblers without the consent of the owner of the money.

It looks now that it would be wise to require every bank to keep its legal reserve in the form of legal-tender money in its own vaults, instead of as bank credits in Wall street. This would retain in the banks of the manufacturing and agricultural sections of the country the real money necessary for wages and for moving the crops.

Why not prohibit the payment of interest on demand deposits. A demand deposit is the correlative to a call loan, which is a Wall street gambling device. Commercial banks can not afford to pay interest on demand deposits. The stock-

exchange banks can and do. By prohibiting any bank from paying interest except on time deposits the Wall street banks will be made unable to divert accounts which properly belong to commercial banks.

But it is imperative to consider whether this gambling can not be entirely stopped. Certainly the State of New York can greatly restrict it by its power of taxation, which is the power to prohibit.

It is said a tax of one-half of 1 per cent on all the transactions appearing on the clearing-house sheets of the respective exchanges in New York would be a trifling imposition on legitimate purchases and sales, and yet would raise on the basis of last year's transactions an amount more than sufficient to pay all the expenses of the city of New York and of the State government and of rebuilding the Erie Canal.

This shows how large a per cent of the business done on the exchange is on a bet on the difference in prices, which is gambling. If it is important to stop betting on cards, roulette, and horse racing—and it is—how much more important is it that Governor Hughes should rid legitimate business of the contaminating evil of Wall street gambling.

The glamour of great fortunes suddenly made on the stock exchange and the grain pit makes the center of the financial district in New York and Chicago places of fascination. The fortunes lost there in a like time ought to make them places to fear. But aside from those who are drawn in by offers of sudden wealth and often lose, to their ruin, is the great public that is so often seriously injured by the wild speculation, the reckless gambling, and the fraudulent manipulations of prices that are perpetuated there, and it is in behalf of this public that I protest against abuses that involve the security and safety of real business and the peace and prosperity of the whole country.

Not legitimate speculation in the stocks and bonds, the meats, grain, and cotton of the country, but gambling in and fraudulent manipulation of the prices of these stocks and commodities throw the financial districts and the country into a condition of panic.

The Strength of Bryanism.

SPEECH

OF

HON. G. M. HITCHCOCK,
OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. HITCHCOCK said:

Mr. SPEAKER: Under the general leave to print given by this House several partisan attacks have been made upon Bryan and Bryanism. The evident purpose is to use them during the campaign under Congressional franks and it becomes proper to meet the issue.

That Mr. Bryan will be nominated for the Presidency by the Democratic convention is a foregone conclusion. This fact alone is conclusive evidence of his great popular strength. He is the candidate of the rank and file, chosen by popular acclamation in advance of the convention.

Other candidates in both parties are aided by the power of patronage, the support of great newspapers, and the influence of corporate wealth. These are against Bryan. There are no artificial means to promote his popularity. It is spontaneous and widespread. Democrats everywhere demand his nomination, except in the very few States where party bosses and corruption have throttled the popular voice. In the great national convention, however, these influences will be impotent and insignificant.

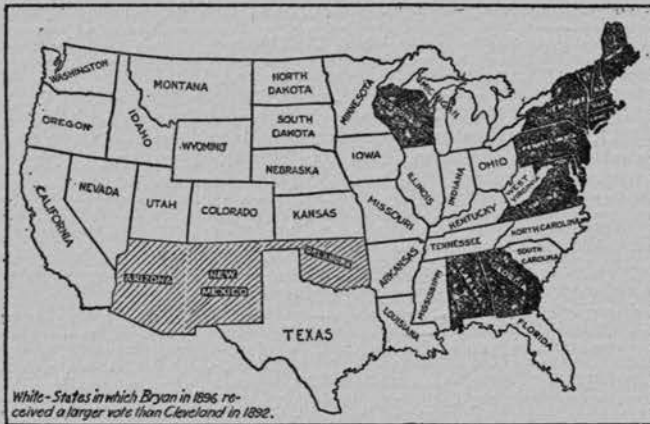
So I say Mr. Bryan is to receive his nomination direct from the Democratic millions, and this is the first proof of his strength as a candidate.

Now, let us look at other evidence.

Let us compare the popular strength of Bryan when he ran against McKinley in 1896 with the popular strength of Cleveland when he ran against Harrison four years earlier. Cleveland had the prestige that belongs to a man who has occupied the Presidential chair, and had back of him a loyal and united party. Bryan was new in national politics and suffered from the defection of many prominent Democrats who, like Cleveland, refused to accept the new leader. Nevertheless, Bryan, deserted by great leaders, great newspapers, and great business interests, polled more votes than any Democratic candidate ever

received before or since. He received practically a million votes more than Grover Cleveland had polled four years before.

The following map, published in the Omaha World-Herald last March, illustrates how overwhelming was Mr. Bryan's popular vote in 1896 compared with Cleveland's four years earlier:



Arizona, New Mexico, and Oklahoma were Territories, and are not counted or considered.

Thus we have another proof of Mr. Bryan's great popular strength by comparing it with the acknowledged strength of Grover Cleveland in 1892.

Moreover, in examining Mr. Bryan's vote it should be remembered that he received many votes outside his own party, and this is high proof of a candidate's strength. Generally the party is relied upon to carry the candidate. Mr. Bryan can always depend on a great following outside of his party. This enabled him to carry Republican States like Colorado, Nebraska, Idaho, Montana, and Washington. It also gave him in such debatable States as Ohio, Indiana, and Illinois more votes than any Democratic candidate has polled before or since.

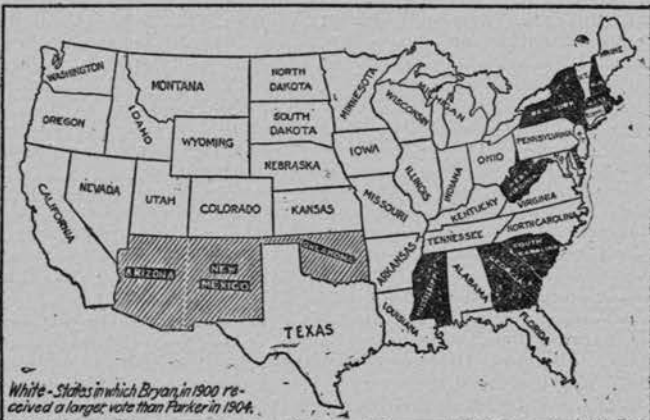
These remarkable results were obtained, although the Democratic campaign treasury was empty, while the Republican treasury held millions.

We have compared Bryan's popular vote of 1896 with the previous vote for Cleveland four years earlier, and noted Bryan's great strength.

Now, let us compare Bryan's vote of 1900 with the Democratic vote four years later, when Judge Parker ran. I have already in a speech in this House testified to Judge Parker's high character. He is a great lawyer, an eminent judge, and a citizen of the highest character and reputation. He received something over 5,000,000 votes. This was nearly a million and a half less than Bryan had received.

This does not reflect on Judge Parker personally, because his character, like Bryan's and Roosevelt's, is beyond all question. It simply proves that the ideas for which Bryan stands are the doctrines which the voters favor. It is not so much a proof of Parker's weakness as it is of Bryan's strength.

In order to exhibit this strength of Bryan I reproduce here another map taken from the Omaha World-Herald. It shows in white the States in which Bryan in 1900 polled more votes than Parker did four years later.



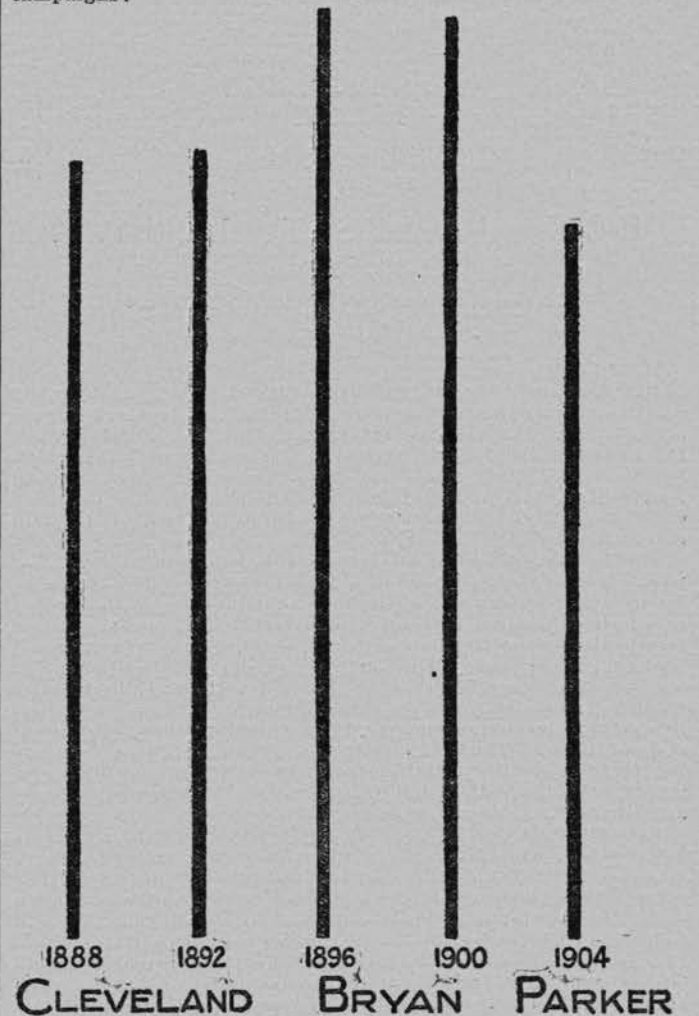
Arizona, New Mexico, and Oklahoma were Territories, and were not counted nor considered.

Bryan, in 1900, polled more votes in Illinois, Ohio, and Indiana than any other Democratic candidate before or since. Does that show strength or weakness?

In Ohio Bryan's vote exceeded Parker's 130,000, yet Bryan was running against Ohio's favorite son, McKinley.

Bryan polled a larger per cent of the New York vote than Judge Parker did four years later.

In order further to illustrate the great popular strength of Bryan, as compared with other Democratic candidates for President within recent years, I invite attention to this diagram, drawn in due proportion and illustrating the relative popular vote for Democratic candidates in the last five Presidential campaigns:



The figures upon which the above diagram is based are as follows:

Cleveland's vote:
 1888..... 5,536,242
 1892..... 5,552,351

Bryan's vote:
 1896..... 6,509,052
 1900..... 6,360,016

Parker's vote:
 1904..... 5,079,041

Bryanism is the strength of the Democratic party as these figures show. The party is more united on Bryan than ever before, as the overwhelming vote of the convention will show. This proves his strength within the party.

Outside the party his following is greater than ever. Not only has he those who were with him in 1896 and 1900, but he has a great following recruited by Roosevelt during the last few years. Hundreds of thousands of voters have been converted to Bryanism in the school of Roosevelt.

The President has maintained a Democratic kindergarten within the Republican lines, and hundreds of thousands of

Roosevelt Republicans are ready to graduate into the school of Bryan Democracy. They joined predatory wealth in fighting Bryan before, but they have entered upon a struggle against its domination this time. They constitute the great army of Bryan recruits in this campaign. To them also should be added the smaller but closely allied followers of La Follette. They can find no place within the Republican camp this year. Their leader has been ostracized and repudiated by the Republican organization. He has fought most desperately and brilliantly the currency bill, which was the leading Republican party measure, and they will in this campaign naturally join the great army of Bryan men recruited from Republican ranks.

It thus appears that within the party Bryan is far stronger than ever before, while outside the party he is assured a support far greater than any Democratic candidate has ever heretofore received.

The Merchant Marine.

SPEECH

OF

HON. JAMES T. LLOYD,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. LLOYD said:

Mr. SPEAKER: For sixty years while the Democratic party was responsible for the legislation of the country and for the administration of its laws, two-thirds of all the carrying trade to and from the United States was transported in American vessels under the protection of the American flag. During nearly fifty years of Republican rule the ocean traffic in American bottoms has decreased to less than 10 per cent of the total carriage.

This is one of the direct fruits of Republican policy. That party seems anxious now to extricate itself and declares in favor of the restoration of the merchant marine, but no proper scheme is presented to secure it. Every reasonable suggestion is rejected by the Republican party, because to accept it would be to, in some sense, abandon the teachings of the party. It may be safely asserted that never again will the United States have the ascendancy at sea unless there is a complete change in party policy or another party is called to direct the great ship of State. The Republican party can not avoid censure for this deplorable condition for when it came into power, wherever ships sailed and commerce was carried, the Stars and Stripes gladdened the seas and contested for supremacy.

In 1860 the value of the tonnage for the foreign trade was \$400,000,000, while 70 per cent of it was carried in American vessels. In 1907 the tonnage value for ocean transit from our ports was \$1,660,000,000, of which only 8½ per cent was carried under our own flag. Why is it that this unfortunate condition exists? A careful investigation will show that this situation is brought about because American ships are from 30 to 50 per cent more expensive to the owner than foreign-made ships, and that under our system they can not be built in competition with the ships of other countries because the materials entering into the construction are so much more costly here.

Mr. James C. Wallace, president of the American Ship Building Company, said, in his hearings before the Merchant Marine Commission of Congress on the 28th of June, 1904, that—

Recently one of our largest steel mills sold abroad 100,000 tons of steel plate. They delivered it, I understand, at Belfast, at \$24 a ton. That would practically mean, with ocean rates as they are, \$22 a ton at tide water. They are charging us to-day at Pittsburgh \$32 a ton. A differential of \$10 in a ship carrying 5,000 tons is \$50,000. That is the shipbuilder's profit.

And again, in reply to questions:

Representative GROSVENOR. I want to know who bought the steel you speak of.

Mr. WALLACE. The Harland & Wolff Company, Belfast.

Representative GROSVENOR. From whom did they buy it?

Mr. WALLACE. The United States Steel Corporation.

Representative GROSVENOR. Do you know where it was shipped from?

Mr. WALLACE. I do not. I presume from the Carnegie Steel Company. I do not know that, though, for a fact, as they have so many mills.

Representative GROSVENOR. And their present price to you is \$32?

Mr. WALLACE. Thirty-two dollars a ton, Pittsburgh.

Representative GROSVENOR. And that was laid down at Belfast at \$22?

Mr. WALLACE. Twenty-four dollars.

Senator GALLINGER, of New Hampshire, in writing the report of the Commission and in commenting on the conditions presented by Mr. Wallace, said:

Whatever may be said for the occasional sale abroad of surplus manufactures below the domestic price, this, manifestly, is a case for which the familiar defense is quite impossible. American shipbuilding is terribly depressed; it is essentially an unprotected industry in the foreign trade, and when American steel mills, long and amply protected, sell material to foreign shipyards at eight or ten dollars below the price asked from American yards, these steel mills simply heap an unjust and intolerable burden upon an interest now well-nigh prostrate.

A sense of fair play, or even cool business prudence, should make it manifest to the steel companies that they ought to do their utmost to encourage the struggling American shipyards.

Mr. George W. Dickie, superintendent of the Union Iron Works, the largest shipbuilding plant of the Pacific coast, stated to the same Commission in San Francisco that—

He was in a Scottish shipyard in 1900, when they were building a vessel almost exactly like one he was building in his yards, and he saw there materials unloaded from a ship from New York furnished by Carnegie & Co. at about \$13 a ton less than he was paying for the same material from the same mills.

Senator GALLINGER, again speaking for the Commission, says, in reference to Mr. Dickie's statement:

A large number of others testified to the same effect. It can be seen at once what an immense profit is given to the steel trust by the operation of law alone. A tariff which enables manufacturers to reap a bonus of from \$10 to \$15 a ton in addition to the legitimate profits is indefensible from any standpoint of honesty and fair dealing, and one of the first steps in the interest of shipbuilding in the United States ought to be to put at least all materials which enter into the construction of ships on the free list, no matter whether intended for the foreign or domestic trade.

Mr. Edward S. Cramp, of the Cramp Building Company, said, in similar hearings in May, 1904, that—

Foreign shipbuilders were then paying only about \$25 per ton for materials that cost the American shipbuilder \$40 per ton, a handicap against him of \$15 per ton.

This extraordinary difference in the cost of ships is brought about largely, in fact almost wholly, by the high tariff on the materials which enter into the construction of the ships. No excuse in morals or in fact can exist for so great protection to our manufacturers that they can reap a bonus of \$10 or \$15 per ton in addition to their legitimate profits.

The first step that should be taken to secure a merchant marine is to so change the law that only a reasonable profit can be obtained by our manufacturers and that the additional bonus which is now paid above such profits may inure to the benefit of our shipbuilders and place them, in this respect, on an equality with other countries.

If the party in power really desires to secure merchant vessels on the high seas, the American registry law might be so changed that the shipowner would be permitted to buy wherever he can buy the cheapest ship and then have the same protection of our flag as if he had bought the vessel in an American shipyard. To-day no man can fly the American flag on a ship not built in the United States. This change in the law would not seriously affect the shipbuilding industry in this country, if limited to ocean-going vessels, for they have scarcely any trade of this kind under the existing law. The benefit which would result would be in securing vessels for our trade, flying our flag, and this without serious injury to any American interests.

Another helpful policy would be to return to the system of discriminating duties which was enforced under Democratic rule, and which is now advocated by so many and so generally favored. This was the policy of the fathers of the Republic, under which our shipping interests were so marvelously developed in our early history. The Republican party will not inaugurate the system of discriminating duties in favor of goods carried in our vessels, because it would then reduce the protection that is now given to the American manufacturers. That party will not permit any change of law that would admit to American registry the ship built in foreign yards, although that ship may be built from materials purchased in the United States at least one-third cheaper than those materials could have been purchased by shipbuilders in this country.

The reason for this extraordinary position, absurd as it may appear, is the absolute devotion of the Republican party to the protected interests and their determination to in no way affect those interests. Nearly everything that goes into the construction of an American ship has upon it a protected duty, so that our shipbuilders have but little, if any, opportunity to buy elsewhere, but they must take their materials from the American manufacturer at the price he fixes for them. It is a surprising thing that the American people have so long upheld the policy which is so disastrous in its effects upon this important industry. A policy which protects the man who sells to the shipbuilder here and then permits him to sell 30 or 40 per cent

cheaper to the man with whom the shipbuilder must compete is certainly a ridiculous policy and ought to receive the condemnation of every American citizen who loves his flag and is interested in its supremacy, not only at home, but on the high seas as well.

One of the most curious provisions that is found in the Dingley tariff is one to the effect that if an American shipbuilder builds for foreign account or ownership and uses foreign materials in its construction, that such materials shall be admitted at the usual rate of duty, but that the amount of such duty shall afterwards be paid back by the Government. What excuse can be given by the person who wishes American ships to be restored to the seas for maintaining a law which gives the foreign shipowner so great an advantage over the American owner whose ships are constructed in the same yards? If the ship for foreign trade is to be exempt from American protection laws, why should not the American shipowner be likewise protected? But, so cautious was the Republican party about interfering with the steel trust and other great manufacturers who furnish the materials for the construction of the ships, that they made this rebate provision, which fully protects the American manufacturer and injures only the American who purchases the ship for American use. Such a system results beneficially to the trusts and in class legislation, for which there can be no reasonable excuse.

I submit herewith the following table, taken from the statistical abstract of 1907, which shows the exports carried by sea from the United States during different years, viz:

	In American vessels.	In foreign vessels.	Total.	Per cent in American vessels.
1850.....	\$99,615,041	\$52,283,679	\$151,998,720	65.4
1860.....	279,082,902	121,039,394	400,122,296	70.0
1870.....	199,732,324	329,786,978	529,519,302	37.7
1880.....	109,029,309	730,770,521	839,799,730	13.1
1890.....	77,502,138	747,376,644	824,878,782	9.4
1900.....	90,779,252	1,133,220,689	1,223,999,941	7.1
1906.....	153,859,076	1,396,270,084	1,550,129,160	9.9
1907.....	141,789,310	1,520,598,231	1,662,378,541	8.5

On House Bill 22256.

SPEECH

OF

HON. THETUS W. SIMS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

On the bill (H. R. 22256) to make it unlawful for certain public officials to own capital stock or bonds in any public-service corporations doing business in the District of Columbia.

Mr. SIMS said:

Mr. SPEAKER: On the 29th day of May, 1908, I introduced the following bill (H. R. 22256):

A bill (H. R. 22256) to make it unlawful for certain public officials to own capital stock or bonds in any and all public-service corporations doing business in the District of Columbia.

Be it enacted, etc., That on and after the 4th day of March, 1909, it shall be unlawful for any Senator of the United States or Representative in Congress of the United States, or clerk or private secretary of any Senator or Representative, or the clerks to committees of the Senate and House of Representatives, or any officer of the Senate or House of Representatives, or any Commissioner of the District of Columbia, or other officer of the District of Columbia, whose salary or compensation is paid in whole or in part from the revenues of the District of Columbia or in whole or in part from the Treasury of the United States, or any clerk in any of the Departments of the Government of the United States not in the classified service, or any member of any commission created by the laws of the United States, receiving compensation in whole or in part from the Treasury of the United States, or the Secretary to the President of the United States; or assistant secretaries in any of the Departments of the Government of the United States, to own or control any of the capital stock or bonds of any of the public-service corporations doing business in the District of Columbia, including the various street-car or traction companies now operating their respective systems or parts of systems in the District of Columbia or that may be hereafter authorized to so operate their systems or parts of systems in the District of Columbia, also electric light and power companies, gas companies, telephone companies, and any and all other public-service corporations now authorized or that may hereafter be authorized to do business in the District of Columbia: *Provided*, That this provision shall not apply to persons owning or holding such stocks or bonds as guardian, administrator, trustee, or in any other fiduciary capacity.

SEC. 2. That all persons to whom this act applies, who violate any of the provisions of this act, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$5,000, and shall be imprisoned not more than two years.

SEC. 3. That prosecutions for violation of any of the provisions of this act shall be on information or indictment in the name of the

United States, in the supreme court of the District of Columbia, by the Attorney-General of the United States or any of his assistants.

SEC. 4. That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

The bill was hurriedly drawn and may need amendment before same is reported to the House by the District Committee, should that committee make a favorable report.

In introducing this bill it has not been my purpose to call attention to any individual who may at this time own any of the capital stock or bonds of any of the corporations mentioned therein or to cause any embarrassment to anyone whomsoever. I have purposely made the limitation of time as to when the law shall become effective March 4, 1909, so as not to apply to any official whose term of office will expire by that time. I desire to say that I do not know of a single individual to whom the terms of this bill will apply that has ever used or attempted to use his influence to affect legislation applying to any of the corporations mentioned in this bill, and the object of this bill is not to be the basis of a dragnet investigation by the committee of charges of this kind.

But it is not necessary that officials in a position to wield great influence in legislation of this kind take an active, open part in either promoting or preventing it in order to make their influence felt. The knowledge that such persons have direct personal interest in this character of legislation will of itself have a greater influence than the open opposition or open espousal of others who may not be so situated. This bill, by its provisions, covers many classes of officials who are in a position to thus influence legislation, who may not own or control stocks or bonds of local public-service corporations. But the prohibition should cover all classes of persons who come within the reason of the proposed act.

Mr. Speaker, it is my contention that gentlemen in high position wield great influence in matters of this kind without any sort of active open exertion and, in fact, in spite of an open announcement upon their part that they decline to discuss such matters or to take any part in considering matters of legislation thus affecting their private interests.

Suppose that a Senator from my State should own stock in one of these public-service corporations, which fact was known to me. He might say to me in the most earnest and emphatic manner that I must not for a moment consider his private personal interests in determining my action in matters of legislation affecting his interests. In spite of such a declaration and in spite of any attempt that I might make to act in an entirely disinterested manner, I could not feel as free to act as if no such a condition confronted me.

I have never heard that it was ever proven that any Senator or Representative was influenced in the slightest degree in his vote or action in any matter of legislation affecting the railroads of the country by reason of having a free pass. Notwithstanding this fact we passed a law making it a crime to either give or accept a free pass. I am not one of those who believe in making every mere impropriety a crime. I think in general that all matters of propriety in Members of Congress may be left with safety to their constituents.

But the situation in the District of Columbia is not even similar to any other locality or city. We have no State government, no city government acting independently of the National Government as in the States, where those who make and execute the laws are responsible to the local electorate. It matters not how much property a man may own in the District of Columbia or what his educational attainments may be, he has no vote or voice in any local governmental matters. He must pay taxes, with no power to say how or for what purposes these taxes shall be used. All he can do is to petition Congress. He must take what Congress gives him, let it be good or bad. These conditions must be met and dealt with by the local corporations as well as by private individuals. Inasmuch as the property owners in the District are subject to all the restrictions and conditions, taxes and burdens that Congress may impose without appeal or recourse, is it any wonder that these local corporations should look with favor upon stock or bond ownership by Members of Congress or any other official or person who may have influence in Congress?

With them it is a matter of self-defense, or at least may be so considered. While the public-service corporations of the District have been highly favored, so far as legislation is concerned, they no doubt stand in constant dread of possible adverse legislation. Members of Congress are often elected upon issues of a strictly local character, and when they take their seats begin at once to experiment on the people of the District by introducing bills along the line of local sentiment. The District of Columbia seems to be regarded as the national legislative experiment station, on which all sorts of fads and fancies are to be tried out on a people who can not help themselves.

Such things keep the people who own corporate property in this District in a constant state of dread and apprehension and force them to seek protection in the only practical way left open to them, and that is by making it to the financial interest of those who have great weight and influence in securing or preventing legislation not to be indifferent and careless when such interests are threatened.

Whether well founded or not, there is a widespread belief among the poorer classes in this District that favoritism is shown in making street and park improvements. They firmly believe that in sections of the city where high officials own property expenditures for city improvements are much more lavish than in other parts of the city. I think that we should, so far as possible, remove all temptation to use our influence for private gain. That we should, so far as possible, remove all reasonable grounds on which to base charges that we are interested in legislation concerning the public-service corporations. Faith in the honesty and integrity of public officials is the keystone in the arch of our republican form of government.

I think we should not hesitate to pass any bill that will tend to strengthen public confidence in official purity and honesty of purpose, and to this end let others own and operate these public-service corporations in this District. I thus call the attention of the Members of this House and the country to the object and purpose of this bill, with no thought of causing embarrassment to any individual official, but with the hope—and for that purpose only—that this matter may receive cool and dispassionate consideration before the next session of Congress, and if in the judgment of the House this bill ought not to pass I shall be contented with having done what I felt to be a public duty.

Bureau of Immigration and Naturalization.

SPEECH

OF

HON. ADOLPH J. SABATH,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

On the bill (H. R. 21052) to amend sections 11 and 13 of an act entitled "An act to establish a bureau of immigration and naturalization of aliens throughout the United States."

Mr. SABATH said:

Mr. SPEAKER: This bill as it originally passed the House was bad enough, but now it comes to us from the Senate in much worse form. It is a bill in the interest of a few court clerks of large cities, and an indirect step against thousands upon thousands of honest, industrious, and law-abiding people who have left their native country seeking a country of freedom and liberty, believing that the principles of democracy of equal rights to all were still alive in this Republic of ours. Last session you passed a law making it nearly impossible for thousands upon thousands of these honest and well-meaning foreigners to become citizens of this country by providing that no one can become citizens who are not able to read and speak the English language and by increasing the fees for naturalization papers from 50 cents to \$5. One-half of this \$5, however, was to be turned over to the immigration fund of the Government. This bill, however, provides that it is in the discretion of the Secretary of Commerce and Labor to permit clerks issuing these papers to have additional help, and gives him the power to allow them the entire amount by them collected over \$6,000 a year. This legislation would appear to be specially in interest of the clerks in large cities. And after this bill had been passed by this House repealing the clause which provided for turning over to the immigration fund one-half of the fees, it being done for the sole interest of these overworked and underpaid chief clerks (who make only \$10,000 to \$50,000 a year), the Senate amends it by increasing the naturalization fees from \$5 to \$10, or 100 per cent, inserting the clause that I, after a hard struggle, defeated in the House when the bill came up the first time.

Mr. Speaker, I hope that this House will not concur in all of the amendments, as I believe that the Government should not stoop so low as to try to make money out of a sacred matter like this. I understand that the motion of the gentleman from New York was to concur in Senate amendments numbered 1, 2, 3, 4, and 6, and disagree to Senate amendment No. 5. The

fifth amendment is the amendment that increases the fees of the clerks. As the vote "aye" is against the increasing of the fees, I vote "aye."

This question has been thoroughly thrashed over, and I am vain enough to believe that I have convinced the Committee on Immigration and Naturalization that it would be wrong to increase the already high fees. I have here with me the hearings and my statement before that committee, and I ask leave to insert in the RECORD certain portions from said hearings had on May 2:

NATURALIZATION.

THE COMMITTEE ON IMMIGRATION AND NATURALIZATION,
Saturday, May 2, 1908.

The committee this day met, Hon. BENJAMIN F. HOWELL in the chair.

Present: Representatives HAYES, MOORE of TEXAS, BURNETT, SABATH, FRENCH, BENNET of New York, WOOD, and O'CONNELL.

STATEMENT OF HON. ADOLPH J. SABATH, A MEMBER OF CONGRESS FROM THE STATE OF ILLINOIS.

Mr. SABATH. I have some gentlemen here from Chicago who are desirous to see our friend, the President, and I must ask to be excused, and ask that the consideration of bill H. R. 21052, which increases the fees of clerks for naturalization papers from \$5 to \$10, be deferred for a few more days.

Mr. HAYES. You do not want to fight this bill in the committee? You can fight it on the floor of the House.

Mr. SABATH. This is the place to fight it. I will not consume more than ten minutes, at most fifteen minutes.

Mr. HAYES. Did you not say about all you wanted to say the other day?

Mr. SABATH. No, sir; I want to express my views and my opinions, and also give such reasons as will convince you all, Mr. Chairman, not to report this bill.

I think it is an unfair, unjust, and unreasonable bill and calls for unjust, unfair, and unreasonable fees. We should not legislate for the purpose of trying to enrich the clerks of the respective courts at the expense of poor people who desire to become citizens of the United States, nor do we want to place ourselves in the position to say to the world that our Government desires to make profit out of naturalization.

Mr. HAYES. What do you say about this: That the clerks of the courts will not do the work for the fees?

Mr. SABATH. Where?

Mr. HAYES. They will not do it at any place.

The CHAIRMAN. The clerks of the courts in my district absolutely refuse to do it.

Mr. SABATH. Very likely the men who are making application are Democrats and the clerks are Republicans.

Mr. HAYES. Perhaps you are not familiar with the great amount of work required?

Mr. SABATH. I am, and would be pleased to do the work for one-half of what the clerks are receiving. They are receiving \$1 for the affidavit, \$2 for the certificate, and \$2 for the final certificate. I was under the impression that we in Chicago had about as keen a lot of gentlemen looking after the money as anywhere, and they never claimed that the fees are not high enough.

Mr. HAYES. We do not care anything about the clerks; that is not the point. We must look out for the men who are applying for citizenship and who are sometimes compelled to wait three or four days before they can get hearing on account of the crowded condition of the United States courts since the State courts will not take jurisdiction.

Mr. SABATH. Do not the courts instruct the clerks to do this work?

Mr. HAYES. No, sir; because the clerks can not get their money.

Mr. SABATH. There is a provision for \$5 fees.

Mr. HAYES. Only half of it goes to the clerk; the other half goes to the Bureau of Naturalization. They only get 50 cents for the first declaration and \$1 for the petition and the order.

Mr. SABATH. Is not that sufficient for making out the petition?

Mr. HAYES. No, sir; there is no use in discussing it.

Mr. SABATH. I am not here for the purpose of interfering with the people obtaining naturalization; I am here for the purpose of trying to make it easier for them. In our city the clerks do not receive any more than in yours, and there is no objection.

Mr. HAYES. But you must remember that the proceedings are now very much longer.

Mr. SABATH. And the charge is \$5 now, being ten times as much as formerly. Under the old law all these clerks were permitted to charge was 50 cents for the first and 50 cents for the second papers, or the final papers.

Mr. HAYES. But that is spread over a period of five years. If the thing had not been tried, if it had not been in operation for awhile, your contention might have some force; but it had been tried, and we know the consequence. We know that the clerks will not do the work, and we can not force them by a law of Congress, because we have no jurisdiction. On account of the congestion of the United States court we are going to make it possible for a man to get naturalized, or we are going to let him pay enough so that there will not be so much loss of time. Instead of being more expensive we are trying to make it less expensive.

Mr. SABATH. By increasing it 100 per cent?

Mr. HAYES. The way it is now he can not get naturalized at all, or if he gets the naturalization he has to go three or four times.

Mr. SABATH. Why do you not elect decent and respectable clerks down your way?

Mr. HAYES. We have not anything to do with that.

Mr. SABATH. Our clerks in Chicago will not refuse to do any work they are supposed to do even if the fees are not increased, which I am satisfied is not needed.

These clerks are getting a salary all the way from \$2,000 to \$7,000 a year and fees. They all have assistants. The clerks are paid by the respective counties and by the States themselves; these naturalization fees they are receiving are extra.

Mr. HAYES. You are entirely mistaken. In my State the clerk is paid \$8,000 a year, and he has to employ his own deputies, all of them, and when you put this additional work upon him he can not afford to

do it, because he has only \$2,500 or \$3,000 left after paying his expenses.

The CHAIRMAN. Two of these counties in my district will not have anything to do with the work. They would be glad to do it if they could make any money.

Mr. SABATH. I never read or ever heard where clerks of courts have lost any money on the work they were doing; at least I never heard where anyone ever resigned because he was losing money in his position; if they have, I am ignorant of such a fact.

Mr. HAYES. They are as keen after the money as anybody.

Mr. BURNETT. The applicant does not have to pay it all at one time.

Mr. HAYES. No; it is scattered over five years.

Mr. SABATH. It may be only two years.

Mr. BENNET. Yes; it may be only two years.

Mr. SABATH. If he has been here three years, he can declare his intention and wait two years.

Mr. HAYES. But it is scattered over quite a period of time. He pays \$2 under the proposal in this bill when he declares his intention, and \$1 of that goes to the clerk and \$1 to the Government.

Mr. SABATH. I have stated all I wish to state, and I am obliged to leave at this time. I am not going for the purpose of killing time or break the quorum, but there are several gentlemen here from Chicago that I am obliged to meet.

Mr. BENNET. I thought we set Saturday to suit your convenience?

Mr. SABATH. Yes; but, as I have stated, there are some friends of mine here who want to see our friend the President, and some others who want to see the Assistant Secretary of War, and as it would be impossible to see them this afternoon and they are obliged to leave to-day, so I am compelled to ask for this continuance, as I am obliged to leave.

Mr. Chairman, I am opposed to this bill, notwithstanding what Mr. HAYES says. I can not see it that way. I do not know why the clerks should object to issuing the certificate. We have no trouble and we do it in Chicago. How long does it take to make out such an application? Not more than ten minutes, and they get \$1.

Mr. HAYES. There is lots of work connected with it.

Mr. BENNET. The chief of the division says that the files of his office are filled with complaints on account of the delay in the work.

Mr. SABATH. That does not apply to Chicago, I know.

Mr. BENNET. The business there is increasing every month.

Mr. SABATH. It does not apply to Chicago. We are issuing the naturalization papers all the time.

Mr. BENNET. A former attorney-general of our State of New York was down here yesterday on some law business, and he told me that he had been trying to get his brother-in-law, who had been a British subject, naturalized for the last four months.

Mr. SABATH. That applies also at times to Chicago. Our clerks happen to be Republicans, and the moment they find out the man who is making the application is a Democrat they refuse to issue the certificate and cause delay.

Mr. BURNETT. Does that happen in the State courts?

Mr. SABATH. I mean the State courts, the county courts.

Mr. BENNET. That does not apply in New York.

Mr. SABATH. It does not apply in Chicago. We started an investigation and they were refused to issue the papers. It is not up to the courts to approve or disapprove and not for the clerks. They will say, "You can not be made a citizen anyway," and in that way they do drive them away if they do not like their appearance.

Mr. SABATH. I am only stating the real facts. I am not against the clerks making money, but the tendency has been to increase salaries and fees day after day, from month to month, and from year to year. Formerly the fees of the clerks were just about one-half as large as they are now, and they were able to get along. I admit that everything is higher under the present Administration. I recognize the fact that you Republicans will not do anything about the revision of the tariff, thereby permitting the trusts to charge the people double prices for everything. I know the people need more money to live on, but the right kind of people do not get the money.

Mr. HAYES. The officeholder is the poorest paid man in this country. Everybody else has been increased, but he has not.

Mr. SABATH. If you will look over the bills which are passed here and all through every State you will see that the salaries have been increased. The sundry civil appropriation bill, which is now before us, carries one hundred and five millions, where twenty years ago it amounted to twenty-two millions only, and this increase applies to all Departments.

Mr. HAYES. Very little of that is for salaries.

Mr. SABATH. It is five times as much as it was then. What else is it for?

Mr. HAYES. The salaries paid have not been increased since I have been here.

Mr. SABATH. Not of the minor officeholders or to laboring men, but it has been increased to men in higher positions, and of all of the officers.

Mr. BENNET. How did you vote the other day on the \$300,000 amendment?

Mr. SABATH. I voted against it, because I have not seen anybody resign because he was not getting enough money.

Mr. BENNET. I do not mean the customs bill; I mean the \$300,000 to enforce the provision of law in regard to railroad rebates.

Mr. SABATH. I voted for it. That was for the purpose of giving the Department a larger sum of money to investigate the thieving railroad companies. I am willing to spend not only \$300,000, but a million dollars to bring these railroad companies to terms. They have been holding up the public long enough, and the Government should bring them to terms.

Now, Mr. Chairman, you have no quorum, and I have these gentlemen here, and they are here for the purpose of trying to secure the passage of the Bates resolution. * * * They have come all the way from Chicago and represent about 3,000,000 of their people in this country, and I can not and will not disappoint them in their desire to see the President, and for that reason I ask postponement of action on this bill, there being no quorum present. Furthermore, you can easily wait a few days with this bill.

Mr. Chairman, I am now obliged to go, and hope you will adjourn and give me opportunity to be heard at some other time, but it would not surprise me if this committee would not do so. The only thing that would surprise me would be if you should report my bill, No. 147, which I expect to take up at the meeting next Tuesday. Gentlemen,

you should not be in such haste. We have already reported out more bills than any other committee.

Mr. HAYES. We did not report any that we did not think was right. Mr. SABATH. I myself have not agreed with all of them you did report, and I shall fight them on the floor of the House. And again I am obliged to call your attention to the fact that there is no quorum.

Mr. Speaker, I am of the opinion that, instead of obstructing and imposing harder conditions on these people who are trying to become citizens of the United States, we should encourage and assist them to become American citizens and accord them the kind of treatment we ourselves would expect if we were in their place.

And I am convinced that it would instill in their hearts still greater love for this their adopted country.

The adoption or passage of any law that has or would have a tendency to impose additional hardships and tasks on these people I am sure would be resented by not only those of our citizens whose parents were born abroad, but by all foreign-born citizens, and also by that still greater mass of liberal and fair-minded native-born Americans.

The Currency Bill.

SPEECH

OF

HON. JOHN S. WILLIAMS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908.

Mr. WILLIAMS said:

Mr. SPEAKER: Under leave to print, passed by Republicans desiring further time to explain, I insert the following two editorials from the New York Evening Post of May 26. The Post is not a Democratic paper:

BRYAN GETS TAFT'S REPLY—BOTH LEADING CANDIDATES ARE FOR PUBLICITY BILL—SECRETARY RESPONDS TO BRYAN'S TELEGRAM ASKING HIM TO JOIN IN REQUEST TO CONGRESS—MAKES PUBLIC LETTER TO SENATOR BURROWS—REPUBLICAN HOUSE LEADERS "PUT IN A HOLE."

WASHINGTON, May 26.

W. J. Bryan has sent the following telegram to Secretary Taft: "I beg to suggest that, as leading candidates in our respective parties, we join in asking Congress to pass a bill requiring publication of campaign contributions prior to election. If you think best, we can ask other candidates to unite with us in the request."

"W. J. BRYAN."

Mr. Taft came to the White House an hour before the time set for the Cabinet meeting this morning and was closeted with the President. Secretary Taft, upon his return to the War Department, gave out for publication his answer, as follows:

"Hon. WILLIAM J. BRYAN, Lincoln, Nebr.:

"Your telegram received. On April 30 last I sent the following telegram to Senator BURROWS, the chairman of the Committee on Privileges and Elections of the Senate:

"MY DEAR MR. BURROWS: I sincerely believe that it would greatly tend to the absence of corruption in politics if the expenditures for nomination and election of all candidates and all contributions received and expenditures made by political committees could be made public, both in respect to State and national politics. For that reason I am strongly in favor of the passage of the bill which is now pending in the Senate and the House bringing about this result so far as national politics are concerned. I mark this letter personal because I am anxious to avoid assuming an attitude in the campaign which is quite possible I shall never have the right to assume, but so far as my personal influence is concerned, I am anxious to give it for the passage of the bill."

"Very sincerely, yours,

WILLIAM H. TAFT."

"Since writing the above, in answer to inquiry, I have said publicly that I hoped such a bill would pass."

"W. H. TAFT."

The two telegrams of Bryan and Taft confront squarely the Republicans in Congress with the whole question of campaign contributions. Mr. Bryan is not modest, but he is truthful in describing himself and Taft as "leading candidates in our respective parties." It is a question of simple honesty and political morality which is presented to Mr. CANNON and his associates. Hitherto this winter they have evaded, clumsily but successfully, all such issues.

If the friends in Congress of the various candidates, other than Taft, have made up their minds that the Secretary of War will be nominated at Chicago, then, to help him in his campaign for election, they must pass such a publicity bill as he desires.

REPUBLICAN BOTCHING.

From a Republican view point, things have been botched and mismanaged here this winter just about as badly as they could be. The failure to pass a legitimate campaign publicity bill on the lines of the one drawn by Representative McCALL, of Massachusetts, in the light of to-day's happenings, is conceded to be the crowning blunder of the session.

It remains to be seen whether Mr. CANNON and his "organization," lagging, as usual, far in the rear of enlightened and aroused public sentiment, will take any action. If they do not, no doubt is entertained by some of the soundest and ablest minds in the Republican party that the effect will be marked at the November election.

PUTS HOUSE LEADERS IN THE HOLE.

Bryan's telegram has neatly put the Republican majority in the House in a deep hole. No cheaper, more bare-faced trick, no stupider piece of political dishonesty has come to light, in the whole winter's record of insincerities, than the action of the House Republicans with regard to a publicity bill. What they have done has been of a piece with their other veiled political activities.

Speaker CANNON and the other Republicans, who will be charged with the management of and collections of funds in the approaching campaign, do not want to enact a law providing for publicity of campaign expenses. They want to "fry the fat" out of protected manufacturers and other interests just as they have done in the past.

There is a strong sentiment among honest Republicans in the House and throughout the country for a campaign publicity bill. The Democrats would have voted solidly for the McCall bill, which had the approval of a House committee. Enough Republicans would have voted with the Democrats to pass the measure had they been allowed. The Crumpacker bill, with its provisions for reducing representation in the South, was brought before the House with the avowed intention of defeating any campaign publicity legislation. It was so stupid and so apparent a piece of trickery that it fooled nobody. There is no sentiment among the House Republicans to reduce the representation from the South. Those who voted for the bill knew that it would never come out of the Senate committee; or, if it did come out, would be defeated.

Neither Representative NORRIS, of Nebraska, who reported the McCall bill, nor its author was allowed to speak while the Crumpacker bill was under consideration. Mr. NORRIS was promised an opportunity to voice his objections to the Crumpacker bill, but when the time came leave to speak from the floor was not given to any Republican who was not willing to swallow the plan decided upon by the "House organization."

MOTIVES OF REPUBLICANS UNDERSTOOD.

The whole country understands the motives lying behind the bringing out of the Crumpacker bill, and this has made the trick a futile move. Realizing that this bill as it passed the House has absolutely no chance of passage, the Democrats have been seeking a way to bring squarely before the country the question of campaign contributions. Mr. Bryan's telegram and Mr. Taft's reply have done this.

It was reasoned here to-day, in advance of Mr. Taft's reply, that the Secretary of War could not do less than declare himself on the side of the best sentiment throughout the country. If the Republican lawmakers do not back up the stand of the man who apparently is to be their candidate, they "lose a political trick" to put it on no higher grounds. Even if the Republicans now take unwilling action, Bryan will have the popular advantage that comes from his move in forcing the legislation.

A CURRENCY BILL CLUB—PUBLIC BUILDINGS BILL HELD UP TO SECURE VOTES—COURSE TAKEN BY REPUBLICAN LEADERS TO FORCE EMERGENCY CURRENCY BILL THROUGH HOUSE SAVORS OF BRIBERY AND INTIMIDATION—HOUSE CONFEREES ENCOURAGED BY PROSPECT OF AGREEMENT.

WASHINGTON, May 26, 1908.

Apparently all sense of decency has been lost by those who are engaged in the effort to force upon an unwilling, reluctant, and divided Congress a measure which is still known, for want of a better term, as an "emergency currency" bill. It should be borne in mind by the financial and banking communities, as well as by investors and every other property holder, that the frantic desperation and strivings of those behind the present effort to revive the pending currency bills, is dictated by the most selfish political motives, rather than by any desire to improve our antiquated currency system. Anything more monstrous in its political immorality than the open threat to withhold action on the public buildings bill until an agreement has been reached on financial legislation has not been seen in Washington in many a day.

The threat is in substance a bribe to every Member of Congress who has an item for his district in this bill. Take, for example, the Indiana delegation. Every member of it but two has an item in this bill carrying an appropriation of \$75,000 for a building in his district. Is not this threat equivalent to saying to each of these Indiana Members: "It will be worth \$75,000 a piece to you in your district to help us get an agreement on currency legislation? If you do not aid us, you lose that much help in your campaign for reelection."

No doubt is entertained that Speaker CANNON carefully scrutinized and approved the following notification by Chairman BARTHOLOTT to Republican Members that he proposed to hold up the "pork bill" until a currency agreement was reached:

PUBLIC BUILDINGS BILL REPORT HELD UP.

"I served notice on the Speaker to-day that I would not call up the conference report on the public buildings bill until a satisfactory currency bill has been passed. The conferees on this bill have reached a final agreement, and their report has been adopted by the Senate. I told the Speaker that my constituents, especially Republicans, are urging on me with much vigor the absolute necessity of enacting, at this session, the emergency currency measure, and that I agreed with them, and I believe, with a majority of the thinking people of the country, that such legislation is necessary to restore confidence and guard against recurrence of panic conditions. The Speaker's reply was that no one could force him to present the conference report.

"The situation is this: The country is looking to the Republican party to pass an emergency currency bill. Congress has been in session six months, and has failed to agree on a currency measure. If we adjourn without doing anything more than creating a currency commission, it will be up to the Republican party to make embarrassing excuses if panic conditions recur this fall. Furthermore, a Presidential campaign approaches.

"I have the report of the conference on the public buildings bill in my pocket. I am going to keep it there until a satisfactory currency bill has been passed. The House and Senate conferees on currency are at the threshold of a tentative compromise. There is no reason why they should not agree, and why we should not enact their agreement into law. I for one am willing to stay here all summer, if it is necessary, to 'starve out' any recalcitrant group or faction."

ONLY POLITICAL REASONS GIVEN.

Washington doubled up with laughter at the suggestion that Mr. Bartholdt had "served notice on the Speaker." It will be noticed that Mr. Bartholdt, in his exceedingly frank and unashamed statement, makes no pretense of any other than political reasons for action on the currency bill. A good many people are asking if the Republican party

would not have to make what Mr. Bartholdt calls "embarrassing excuses" in the event a currency bill is "jammed through" by threats and without consideration or debate.

In their last desperate sortie to get an emergency currency law on the books Speaker CANNON and his associates have stripped the mask from their motive. The present conferences and effort at compromise will repay the closest scrutiny from all persons whose interests are affected by the rise and fall of material prosperity in this country.

MORE CONFERENCES TO-DAY.

Conferences last night between Senator ALDRICH and Representative VREELAND were followed this morning by other conferences. In turn, these were succeeded by a meeting of the Republican House conferees in the rooms of Speaker CANNON. After nearly two hours of discussion Representatives VREELAND, WEEKS, and BURTON went to the rooms of the Committee on Finance, where in a few minutes they were joined by Senators ALDRICH, HALE, and ALLISON.

Rumors of what is likely to be done were flying thick and fast through the corridors all day. The familiar query, "Is it hot enough for you?" pales into insignificance beside "When are we going to adjourn?" An answer to this question involves consideration of what action is to be taken on the currency question. As everybody wants to go away to-morrow or on Thursday, the currency issue looms larger than at any other time this session. While it has grown in importance in the Congressional mind, there has been a corresponding confusion as to what is to be done. Probably not more than two dozen Members of the House have a clear appreciation of the nature of the negotiations which are being conducted by the Senate and House leaders.

The Government Ownership of Railroads.

SPEECH

OF

HON. BURTON L. FRENCH,

OF IDAHO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. FRENCH said:

Mr. SPEAKER: When the great leader of the Democratic party set foot upon the American Continent, after completing his tour of the world nearly two years ago, he added the weight of his approval to the doctrine of the Government ownership of railroads in his notable address delivered in New York City. The idea has probably reached the point of more than mere theoretical discussion, for, as the leader of a great party which has made presidents, has shaped policies, and has written important pages of history, William Jennings Bryan, by virtue of his leadership and force of character, is doing much toward molding the sentiment of the American people. In view of the dignity that has been given to the question of Government ownership of our railways and the very serious manner in which it has been taken by many of our citizens, some of whom believe in it for economic reasons and others because they believe it will prove measurably satisfactory in comparison with what they assert is the helplessness of our present system, I desire to present a few ideas upon the subject which I have gathered from a somewhat careful examination of the question.

The proposition of government ownership may have place in a government monarchical in form. It certainly is not in harmony with a government whose administrative officers change with successive waves of popular sentiment. It certainly is not in harmony with a government whose conservatism is due to inaction resulting from the distribution of power rather than to the definite policy of a hereditary chief executive. The proposition concedes too much to the inertia of government and takes away too much from the virility of private enterprise. I have that confidence in the ultimate good judgment of the American people which impels me to believe that it will never waver from a fairly definite course, no matter how seductive may be the arguments brought forward in behalf of so portentous a change in our economic policies.

No proposition could be advanced, no scheme put into execution, that would mean a longer step toward that centralization which is foreign to the fundamental idea and doctrine of a democratic Government, such as the United States claims and aims to be. I know it is proclaimed quite frequently that this is not a democratic Republic in the real true meaning of the word "democratic;" that the people have far less voice in decreeing the policies of the Government than is popularly supposed to be the case; that the germ of federalism which, under the inspiration of ultraconservative spirits, found its way into the fundamental structure of our Government has thoroughly inoculated all our policies; that as a matter of fact England, although a monarchy, has a more democratic

form of government, because its legislative body is more directly responsive to the popular will and the ministries bend to the behests of the people, while ours are simply the creatures of the President.

I shall not stop to discuss the merits of these assertions, because such discussion would lead me too far afield; but I do not hesitate to say that the nationalization of railways would do more to bring about the kind of government which conservative leaders wanted to create—a strong, central government; a monarchy in fact, even though not in form—than anything else that could possibly be done along economic lines. A mere passing glance at surrounding conditions ought to convince anyone that this is not an exaggerated statement.

In spite of all civil-service regulations, the pressure exerted by the employees of the Government in the time of popular elections is no insignificant factor. Everybody knows that the army of postmasters, postal railway clerks, internal-revenue and customs employees constitutes an important agency in determining the fate of an election. It is no less a factor—perhaps even a greater one—in deciding the result of nominating conventions. The total number of Government employees—all subject to a greater or less degree to whatever pressure the Government at Washington chooses to exert upon them—may be stated approximately as 150,000. This figure may be 10,000 or 15,000 out of the way in either direction, but it will serve my purpose as an illustration. Let us suppose a man in the White House who would not hesitate to command this army of employees to do his bidding, and imagine, if you can, the effect this would have on a national election. But add to this the men employed by the railroads—in 1906 they numbered 1,521,355—and you are confronted with a condition truly appalling.

For some time past the nationalization of the telegraph has been advocated. The telegraph has been declared to be a logical adjunct of the postal service, being no more and no less than a means of correspondence carried on by electricity. The proposition has been combated on the ground that such a procedure would add too much to the already large number of postal employees. Now, if there is one thing more certain than another, it is that when you nationalize the railways you must also take over the telegraph. The total number of employees of the telegraph companies in the United States is about 30,000, not including railroad telegraph operators. So this would go to swell the host of Government employees under the government-ownership idea to somewhere near 1,800,000, for the number of railway employees in 1906 would need to be added an annual increase of about 100,000. You are not done, however. Should the Government take over the railroads, it would need also to take over the express companies; it would need to do that service, just as the German Government is doing it, and it would need to have the men to handle the work. There are no statistics readily available showing the number of employees of express companies in the United States, but I think I am keeping within bounds if I place the number at 100,000. Hence we would have the staggering total of nearly 2,000,000 employees directly under control of the Government. Taking the usual ratio of dependence we would have a grand total of 10,000,000 of people—more than 10 per cent of the present population of the United States—directly depending upon the disbursements of the Government. Can anyone imagine a more powerful lever in the determination of any issue involved in an election?

For myself, I can not believe that the people of the United States are ready to take upon their shoulders the political burden which such a change would impose upon them. It would give an entirely new complexion to all governmental endeavor. It is hardly possible to conceive of any legislative product that would not be affected by it to some extent, in some degree. While the form of democratic government might be preserved, the substance would vanish, for the power to ordain would be lodged, far more securely than it now is, right here in Washington. Think of the tremendous power put into the hands of an Administration by the dependency of 2,000,000 of men. You can not whistle this down the wind; you can not dismiss it with a smile or a wave of the hand. Not a theory, but a condition, would confront us then, and it would be a condition which would become more aggravated as time passed on. For, as the country would grow and railways increase, this army of employees would also grow.

Again, if the Government were to acquire possession of the railroads and employ this vast host of men, it would need to provide a pension list, not only for those who might be maimed—or the dependents of those killed—in the line of duty, but for the superannuated. Our people have long held out against a civil pension list, but it is coming just as surely as event succeeds event. And if there is one thing that would bring it about in

all branches of the Government service, it would be the nationalization of the railways. Public opinion would compel the pensioning of men injured for life in a wreck, or by shifting cars, or in any other manner connected with their work; it would gradually compel the pensioning of those who on account of the disabilities incident to old age or by reason of the hardships incurred in the service could no longer serve the State, and if the railroad man were pensioned, then why not the postal clerk injured in a wreck, or the telegraph lineman injured while building a telegraph line? If pension for age be granted to one, why not to all the others?

Mr. Speaker, it is folly for anyone advocating the nationalization of the railroads of the United States to point to anything that any European country has done in that line. There is more railroad mileage in the United States by 40,000 miles than there is in all the countries in Europe put together. It is too much like comparing a giant with a pigmy. If our Government were to acquire the railroads it would be compelled to increase this mileage, not only by building into territory not yet provided with railroad service, but it would have to double track the many lines now only single. It would have to increase the railroad personnel, because public opinion would not be satisfied with an inadequate service such as is now found only too frequently. If it be objected that in Australia the problem of government ownership of railways has been undertaken fearlessly, I answer that the experiment of state socialism in that British colony has not been productive of such results as to warrant the people of the United States in imitating it. Listen to what Prof. Hugo Richard Meyer has to say about this:

Australia's lesson for the United States is the visible helplessness of the politician, the absolute inability of the politician to safeguard and to foster the long-run interests of the country in a community of which every class and every section has become demoralized and debauched through an extension of the functions of the government carried so far that every class and every section of the community has come to regard the state, not as the common judge between man and man, but as the great source from which flow material blessings. Australia's lesson is that the politician in charge of the state never will be permitted to become a business man; that politics can never be made business, but that a great deal of "business" can be imported into politics, and that in a community in which the politicians are absolutely clean handed.

I propose to show later on just what government ownership of railways has done for Australia. It will serve as an example which we shall do well not to follow.

At this point I shall invite your attention to some statistics from the Interstate Commerce Commission's "Statistics of Railways in the United States" for 1906, to show what sort of financial burden the people of this country would have to assume in the event of the nationalization of railways:

Mileage on June 30, 1906.....	224, 363
Total number of employees, including general officers and clerks.....	1, 521, 355
Compensation paid employees (including amount estimated for Southern Pacific).....	\$928, 331, 770
Stock, common and preferred.....	6, 803, 760, 093
Funded debt.....	7, 766, 661, 385
Total.....	14, 570, 421, 478

In this connection it is also proper to show the amount of taxes paid by the railroad companies to the States and municipalities during the fiscal year 1906, and to call attention to the fact that the States would lose this large sum if the Government owned the railways:

Alabama.....	\$862, 635
Arkansas.....	909, 916
California.....	1, 962, 675
Colorado.....	1, 421, 536
Connecticut.....	1, 241, 680
Delaware.....	103, 763
Florida.....	583, 738
Georgia.....	973, 759
Idaho.....	379, 488
Illinois.....	5, 364, 330
Indiana.....	3, 225, 391
Iowa.....	2, 146, 279
Kansas.....	2, 710, 285
Kentucky.....	1, 096, 530
Louisiana.....	883, 220
Ohio.....	4, 686, 549
Oregon.....	357, 731
Pennsylvania.....	6, 982, 973
Rhode Island.....	235, 013
South Carolina.....	528, 359
South Dakota.....	338, 003
Tennessee.....	920, 766
Texas.....	1, 417, 765
Utah.....	549, 395
Vermont.....	170, 230
Maine.....	513, 324
Maryland.....	842, 232
Massachusetts.....	3, 505, 312
Michigan.....	4, 584, 723
Minnesota.....	3, 074, 306

Mississippi	\$702, 073
Missouri	1, 642, 000
Montana	784, 725
Nebraska	1, 389, 174
Nevada	312, 033
New Hampshire	411, 104
New Jersey	2, 323, 282
New York	5, 540, 836
North Carolina	685, 914
North Dakota	991, 307
Virginia	1, 276, 957
Washington	1, 164, 352
West Virginia	622, 736
Wisconsin	2, 707, 201
Wyoming	205, 445
Arizona	232, 563
District of Columbia	42, 473
Indian Territory	34, 638
New Mexico	369, 565
Oklahoma	591, 292
Total	74, 602, 171

Yes; but some say these taxes would be saved, they would be saved in freight and passenger rates, and therefore the people could afford to pay that much more taxes. Some one says it is simply a question of taking money out of one pocket and putting it into the other. With this I do not agree at all. I do not agree that we could save the \$74,602,171 in freight and passenger rates in the first place; and if we could save this amount, or any amount, it would not be so simple a proposition as taking money out of one pocket and putting it into the other. If the problem of taxation could be so nicely adjusted that everybody would pay taxes in proportion to his ability—no more and no less—then we might concede that if the railroads were relieved of the burden of taxation that is now theirs, the burden would be borne by all alike. But such is not the case. Taxes are not so nicely adjusted. Citizens of one State when compared with citizens of another State are not taxed equitably. Citizens of one county when compared with the citizens of another county within the same State are not taxed exactly alike. Aye, you can go further, citizens within the same county, neighbors living side by side, by reason of the frailties of human laws and human enforcement of laws, are called upon to bear unequal burdens. Hence I say that if the people saved in freight and passenger rates the entire amount of the railroad taxes, which I do not concede at all, the burden of paying the railroad tax would fall unequally upon our citizens.

Now, let me make an illustration that is based upon exact conditions. In 1907, in Lincoln County, Idaho, the railroads paid \$6,060.50 out of \$98,314.38. In other words, the railroads paid nearly two-thirds of all the taxes for all the purposes for which taxes were collected. Can you imagine under Government ownership of railroads such a condition of affairs as would enable the people of one county to save in freight and passenger rates two-thirds of their county taxes in a single year—\$63,060.50? If you can, I can not; all that I can see is a county groaning under a weight of taxes three times as heavy as they are to-day upon every individual and concern except railroads. Aye, maybe the burden would be too great; maybe roads could not be constructed, bridges could not be built, schools could not be maintained. Maybe, indeed, the county would find itself unable to bear the burden of county government, under the new order of things, should the Government own the railroads. This is an illustration that is based upon actual conditions as they are in a county in my own State. Similar conditions exist elsewhere, and such illustrations as this furnish conclusive evidence that in the readjustment of matters under Government ownership the burden would fall on the very ones, possibly, least able to bear the tax.

Now let us look at the income of our railways for 1906:

Gross earnings from operation	\$2, 325, 765, 167
Less operating expenses	1, 536, 877, 271
Income from operation	788, 887, 896
Income from other sources	256, 639, 591
Total income	1, 045, 527, 487
Total deductions from income	660, 341, 159
Net income	385, 186, 328
Total dividends	272, 851, 567
Surplus from operation	112, 334, 761

A little while ago I pointed out the present railroad valuation. This enormous sum—\$14,570,421,478—is held by the people of this country as an investment. If the Government take over all the railroads, it must reimburse holders of these stocks and bonds, and in order to do so it would have to refund the total of railway obligations by bond issue of its own; in other words, it would need to pay for the roads with its bonds. It would thus have to create a debt four times as large as was the national debt at the close of the civil war. If these bonds, issued to the amount above named, would bear interest at 3 per cent—and it will hardly be contended that they could be

floated at a lower rate—the annual interest charge would be \$437,112,644. Compared with this our present debt of \$900,000,000, with its annual interest charge of something over \$23,000,000, sinks into insignificance. The interest alone on the proposed debt would equal almost one-half the total of our present national indebtedness.

There is not the least doubt in the world that the cost of operating the railroads would be greatly increased if they were owned by the Government, and thus the net income item in the table which I have presented would be greatly reduced. A few years ago I had occasion to take up with the secretary of the Smithsonian Institution the publication of a valuable scientific book written by Prof. John M. Aldrich, of the University of Idaho, which book the Institution had approved for publication because of its great merit. There were two ways by which the Institution could publish the work—one by private contract and the other by having it published upon the Government press. The publication of the work was awarded to private contract, and I was advised that it would have cost over \$7,000 to have brought out a like edition of the work on the Government press, while it cost but \$3,800 to do the same work by private contract. During recent years, whenever the Navy Department has been authorized in the construction of battle ships to build them either in the Government navy-yards or by private contract, the latter course has been adopted in every instance. Why? Simply because the ships can be constructed cheaper by private contract than when the Government does the work.

The very ship that Admiral Evans selected as his flagship—the *Connecticut*—in the memorable voyage of the American fleet around Cape Horn and to our Pacific coast is a sister ship to the *Louisiana*. They are alike in very minute detail, yet it cost the Government over \$300,000 more to build the *Connecticut* than it did to build the *Louisiana*. The *Connecticut* was built in the Government navy-yard, while the *Louisiana* was built by private contract. The Government, as a rule, pays more for the same service than does the private employer, while at the same time employing more persons to do a similar amount of work. It is safe to say that the number would be vastly increased in a very short time in every department of the railway service. More than this, regardless of the earning capacity of a dollar, the Government could with greatest difficulty reduce wages temporarily if it were found they were too high, or, on the other hand, increase them if they were found too low. We certainly could not give over to one man or to a few men the power to fix wages, and the inertia of a legislative body in a matter of this kind is impossible to comprehend. Added to this is the great problem that would present itself of trying to adjust wages in the various sections of the country upon the basis of local demand within each section. To-day the Post-Office Department is face to face with that problem and finds itself embarrassed in its endeavor to procure help in many Western sections of our country, because, under a clumsy general law, it can not pay wages commensurate with the demands of other occupations.

In a very able article on "Government ownership of railroads" in the January, 1902, number of *Annals of the American Academy of Political and Social Science*, Hon. Martin A. Knapp, president of the Interstate Commerce Commission, discussing both sides of the question, says:

Given the same efficiency of management, the same energy and economy of administration, the same basis of wages and salaries as obtained under private ownership, and a considerably smaller charge than is now paid per unit of service would be sufficient for financial solvency. But this assumes a state of things not likely to exist if the railroads were operated as a Government function. Any expectation to the country is not warranted by knowledge of what has generally characterized the various branches of Government service. Public ownership would doubtless mean higher wages and shorter hours of employment, adding materially to the cost of maintenance and operation. Upon this point it is often remarked that enormous salaries are paid to railway presidents and other officials, and that outlays of this sort would be stopped because no similar scale of compensation would be paid to Government officials performing like duties. This argument, however, is rather specious and is used mainly by those who have made no calculation to see how small a figure it cuts in dollars and cents. Without having made the computation, I venture to say that if all railway salaries above \$5,000 a year were discontinued the saving would not be appreciable in the price of a railway ticket or the cost of moving a hundred pounds of freight.

On the same subject Mr. Simon Sterne, in a paper entitled "The Relation of the Railroads to the State," read before the Wharton School of the University of Pennsylvania, in November, 1895, had this to say:

The practical result to which I desire to call your attention and to which my experience and study have lead me, is that we are diverted from any true and useful purpose in listening to the suggestions of ultimate ownership of the railways by the State; that the example of other countries which commenced to acquire, or, in the early history of their development, acquired such ownership, is of no avail to us because we are called upon to deal with a thing too vast for government control, and particularly too vast for the control of a Government like that of the United States, with no permanent bureaucracy, and with the whole scheme of government antagonistic to the ownership

or direct exploitation of any such enterprise. * * * We must never forget, in dealing with the railway interests, that its prosperity is necessary not only because it is by far the largest bag in which the past earnings and savings of our whole community are invested, but because we require its further development.

And Hugh Richard Meyer, already referred to, says:

No government that has undertaken to make railway rates, either by assuming government ownership or by exercising a thoroughgoing control over the rates made by railway companies, has been able to make railway rates in such a way as to conserve and promote the public welfare, if the test be the making of two blades of grass to grow where one has been growing. Restraint of competition and of trade, with failure to develop the resources of soil and of climate, everywhere has been the result of rate making by public authority.

Thus far, Mr. Speaker, I have endeavored in the main to present the purely political aspects of the question of Government ownership of railroads in this country. I shall now address myself to the economic phases of the subject. Not but that even here some matters of political import will be found giving cause for grave consideration, for the tentacles of Government ownership of railways are all embracing. One of the most delicate functions of railroad management is the extension of lines. These extensions must be determined by a great variety of conditions. No hard-and-fast rule can be laid down for this feature of railway administration. General, as well as local, conditions enter as factors. The activities of competing systems, as well as those of the company contemplating an extension, have to be taken into consideration. The traffic likely to be derived from the section to be affected by a mooted extension and its relation to the cost of building and operating the new line are important items to be considered. Because of all these facts the extension of railroad lines in the United States has proceeded upon generally sane principles. It is true there have been exceptions to this rule. There have been instances of needless duplication of lines, nearly or actually parallel, and necessarily somebody has been the sufferer thereby, but on the whole the work has been undertaken with due regard to true economic considerations.

It may well be doubted if Government ownership would correct the mistakes that have been made in this respect. Indeed, it is morally certain that the Government, as owner of railways, would be forced to commit other errors far more grave. On the one hand, there would be the danger of too great conservatism with the consequent failure to supply growing sections of the country with needed facilities. On the other hand, there would be the still greater danger of construction determined by political and sectional demands based upon necessities largely imaginary or at best artificial. We can not be at all sure that the development of our railway systems by the Government would be guided by needful wisdom and be fairly balanced as between the demands of localities and justice to the taxpaying public. Far more reasonable is the presumption that political pressure would play its baneful part in this case as it has done in so many others. Anyone at all familiar with the amount of logrolling that has characterized appropriations, for instance for rivers and harbors, prior to the present patriotic spirit which governs the Committee on Rivers and Harbors, will have no difficulty in seeing in his mind's eye what would happen if demands were coming in from various sections of the country for new railroads. Just as in the days gone by appropriations were made for the "improvement" of creeks that were so dry in summer that it was said "money had to be paid for sprinklers to lay the dust," just so might we expect the construction of railroads to suit the towering ambition of some conscienceless politician who might need to make "solid" a doubtful district.

Of even greater importance is the question of railway rates. Here enters the problem of the adjustment of conflicting interests of rival producing centers. The difficulty is made clear by the experience of those countries in which the State is the owner of the railroads. In these countries, as I shall show, the invariable result has been to transfer from the domain of business to the domain of politics the question of trade rivalry and jealousy. Under government ownership these sectional conflicts have become so fierce that the railways had to be partially paralyzed in order to prevent them from developing new producing regions, new markets, and new distributing points. I quote from H. R. Meyer's extremely instructive work, *Government Regulation of Railroad Rates*:

Under government ownership of railways in Prussia, the most enlightened and the most independent bureaucratic Government the world has known—such has been the paralysis of the railways under Government-made rates that the grain, timber, and beet-sugar producers of eastern Germany, as well as the iron and steel manufacturers of the Ruhr district, have had to resuscitate river and canal transportation, which, under the régime of private ownership of the railways had promised in Germany to go the way of the stagecoach as it has done in the United States. The present-day Germany, with its agriculture, its manufactures, and its trade, rests upon the waterways, not upon the railways, which the régime of Government-made railway rates has reduced to the subordinate position of feeders to the river and canal boats.

In Russia there is the same paralysis of the railways through trade jealousies, with the resulting recourse to transportation by river. For example, upon the opening of the Siberian Railway, in 1896, the landed interests of western Russia protested that they must not be exposed to competition from the wheat raised upon the cheap lands of Siberia. They succeeded in compelling the Government to place prohibitive charges upon the carriage of Siberian wheat, so that it has been impossible adequately to develop the enormous Siberian wheat resources. Wheat is exported from Siberia only in years of serious crop failures in the countries which ordinarily supply western Europe.

In Australia under government ownership trade jealousy forces each colony to refuse to cooperate with its neighbors in the promotion of trade and industry. The most important colonies—Victoria and New South Wales—still maintain separate gauges; they raise materially the rates of freight sent from one colony to the other, and New South Wales refuses to connect its railway lines in southwestern New South Wales with the Victorian lines, lest trade be diverted from Sydney to Melbourne. Australia still stands where the United States stood before the civil war, when the legislature of New York ordered that the State-aided Erie railroad begin at a point 25 miles from New York, lest Jersey City be benefited by the building of the road, and the State of Pennsylvania refused the Baltimore and Ohio permission to build to Pittsburg, lest the trade of that city be diverted in part from Philadelphia to Baltimore.

We need not flatter ourselves, Mr. Speaker, that we shall escape like troubles if we embark upon the uncertain sea of government ownership of railroads. On the contrary, we shall experience them in far greater measure, because our territory is so very much vaster than that of any of the countries referred to and our railroad interests so much more extensive. Again, let me emphasize the fact that the railroad mileage of this country to-day is between 230,000 and 240,000 miles; that this is seven times larger than the mileage of either Germany or Russia, eight times larger than that of France, nine and a half times as large as that of Austria-Hungary, nearly eleven times as large as that of Great Britain—which country, by the way, has had the good sense to steer entirely clear of the ignis fatuus of Government ownership of railroads—and twenty-three times as large as that of Italy, where Government ownership has just begun.

In our day the best railroad men in the nation continually study the problem of freight rates on different products from and to different sections of the country. What would be the outcome if the Government were to become the owner of railroads in the United States and the dictator of all matters relating to the operation of them? Were this to be realized, perhaps some future director of railways of the United States—or whatever his official title might be—would say, as did Von Miquel, Prussian minister of finance for ten years:

The system of government ownership of the railways will break down unless it shall prove possible to find refuge from the jealousies and conflicts of local and sectional interests behind the stone wall of hard and fast railway rates which admits of no exercise of discretion.

If ever we have such a hard and fast system of rates, fixed as we now fix the price of a postage stamp, we shall have shackled effectively our entire transportation system and put our magnificent commerce into a strait-jacket through the same agencies that have brought about such a state of affairs in Germany. These agencies are aptly described in a paragraph which I shall insert here and which is taken from an article in the *Railway Age* of July 17, 1903:

The direction of affairs was taken (in 1879) out of the hands of the captains of finance and industry, who did not know all the factors entering into the problems they were trying to solve, but had the distinctive insight that often served them as well as actual knowledge. The direction of affairs was put into the hands of men who had no better actual knowledge and lacked the intuitive insight of the man of action in the field of trade, industry, and finance. The direction of affairs was put into the hands of men whose inborn qualities of mind had made them turn not to trade, industry, and finance, but to the law to diplomacy, to the civil service, to teaching in universities, and politics. These men, who were not subject to any control from the forces which they were trying to regulate, because they stood outside of the field of activity in which those forces play, substituted in place of the instinctive knowledge and the compromises of the man of affairs in trade, industry, and finance certain theories of natural equalities and natural rights taken from an imaginary body of natural law and a speculative science of ethics. For the compromises of the world of trade effected under the free play of the forces of trade they substituted the compromises of the world of politics, a world in which there is not a free play of the forces of trade and industry, but in which some of those forces are handicapped and others are favored. The result was not surprising. For local discriminations which had been the outcome of the free play of the forces of trade and industry Germany got local discriminations which are the outcome of the mechanical enforcement of wooden theories of railway rates, forced upon the trade and industry of 56,000,000 people by a body of men who may be described as having been, in turn, immature, overconfident, and complacently ignorant.

Before leaving finally the question of railway rates as regards both passenger and freight traffic, I want to point out the fallacy of the oft-repeated assertion that with government ownership rates would be cheaper than they now are. I have already shown that the expense for operating the railroads would be far greater than under private ownership. I have already shown the tremendous item of interest expense on the bonded indebtedness that would need to be met. With no conceivable way of increasing the productiveness of the railroads—

for business during most of the past ten years has been congested on the American lines—and with greatly increased operating expenses, there can be no possible way by which the freight and passenger rates could be reduced. Not only is this the conclusion to which we must come by viewing the situation from within, but it is the conclusion we must reach by instituting a comparison between the rates of our own country and rates of those countries where the railroad business is handled by the government. Rates in our country are often unreasonable. Rates in our country are often higher than they should be, and in making comparisons I shall endeavor to use figures which approximate the average. Commodities are said to be high or cheap in proportion to their relation to wages or the earning capacity of a man.

The same is true of passenger and freight rates. If the earning capacity of a man in one country is \$2 per day, he can better afford to pay 3 cents per mile for traveling than can the man in a country where he can earn \$1 per day afford to pay 2 cents per mile for the traveling he may need to do. Rates in any country, I repeat, are high or are low when compared with the rates in other countries, only as they are high or are low when compared also with the earning capacity of a man in those countries. In the United States the rates for passenger traffic are higher in the West than they are in the East. In the West rates are as high as 4 or 5 cents per mile in some instances, while in the East and in "through traffic" rates are so low that the average passenger rate for the United States is 2.03 cents per mile. In Germany the rates, for the most part, are divided into four classes. The cheapest passenger transportation is one-half cent per mile, the next is 1 cent, followed by classes where 2 cents and 3 cents are charged and better accommodations afforded. The great bulk of travel comes in the 1-cent class and the last figures I had on the subject showed the average rate per mile as 1.03 cents. This figure can not be far wrong. We now have the approximate average for the United States as 2.03 cents and the approximate average for Germany as 1.03 cents. Now, let us look at the earning capacity in these two great countries. I present some figures on average wages which will prove of interest:

Wages per day.

	Locomotive engineer.	Fireman.	Conductor.
United States.....	\$4.18	\$3.47	\$4.72
Germany.....	.95	.56	1.83

Wages per hour.

	Carpenters.	Bricklayers.	Plumbers.
United States.....	\$0.3819	\$0.5013	\$0.4984
Germany.....	.1301	.1328	.1148

Common laborers.

	Per hour.
United States.....	\$0.1675
Germany.....	.0797

In the Government navy-yard and torpedo factory at Friedrichsort, Germany, wages for all mechanics range from about 81 cents to about \$1.35 per day; monthly wages for higher classes of workmen from about \$22.06 to about \$35.32. This is about one-third of the wages paid by the Government of the United States for similar services. It must be taken into consideration, of course, that in many instances the German Government provides free housing; that medical attendance is free; that there are certain other economic perquisites; and, more important than all, a pension either when the employee is disabled by accident or disqualified by advancing age, or for his widow if he dies. It must be borne in mind, however, that a very considerable proportion of the necessities of life is essentially higher in Germany than in the United States. Aside from the incidentals which I have mentioned, the figures show that the earning capacity of a man in the United States is from two to more than five times as great as the earning capacity of a man in Germany. In other words, measured by that standard, the German railway rates do not compare favorably with the rates within our own country, where the Government does not own but seeks to regulate and control the railway business.

This same comparison will apply with much the same result to other countries of Europe. When the comparison is made with the German railroads on freight rates instead of passenger rates the German road is put to a still greater disadvantage, because the freight rates per ton-mile are in excess of the freight rates per ton-mile in our own country, and this notwithstanding the great difference in wages. The conclusion,

then, that I come to in my analysis is that under Government ownership our rates for passenger and freight traffic would not be reduced, but would be materially increased.

In the final consideration of all things affecting the State, Mr. Speaker, who is the greatest sufferer? The taxpayer, of course. What government ownership of railroads has done for him is shown in Australia where state socialism has had large sway for more than half a century. In this respect that country may be regarded as a pattern, with bright lights in some places and dark spots in others. In examining conditions in that antipodean land, we should bear in mind that its public officials are generally credited with being the very reverse of grafters. Now, what do we find there? First, that the State railroads have been a heavy burden to the taxpayer. In 1898 the annual sums by which the railroads in Victoria had failed to earn the interest which the government had been obliged to pay on the money borrowed for the purpose of building railroads had aggregated \$49,000,000, a sum equivalent to 25 per cent of the cost of building the roads.

In New South Wales the deficit had aggregated \$44,500,000, equivalent to 23 per cent of the cost of construction. In recent years the people of Victoria have had to raise by taxation from three millions and a half to four millions and a half annually, to pay the interest not earned by the State's various business ventures; the taxpayers of New South Wales had to pay about \$2,500,000 a year and those of South Australia have had to pay \$5 for every man, woman, and child. (Railway Age, vol. 36, p. 280.) Now, the people of these States of Australia were thus burdened, because not only had the investments made by the government been misdirected and proved unprofitable, but because the railroads had been mismanaged; in other words, the men having them in hand did not understand their business. If similar mistakes had been made in private enterprises the losses would have been borne jointly by borrower and lender, but when the State errs in a business venture the taxpayer pays the bill. Thus, in the crisis of 1892, the business corporations of Australia having, two years before, borrowed something like \$575,000,000 in Great Britain, many of them went into receivers' hands and emerged five years later with \$150,000,000 adjusted off, and the interest rate reduced from 5 to 6 per cent to 3½ per cent. On the other hand the colonies, which had borrowed for various enterprises \$1,075,000,000 at a fraction over 4 per cent, could not take advantage of the bankruptcy courts, and thus there was no relief for the taxpayer.

The Australian people had another burden to bear besides that of the taxpayer: they were mulcted as producers. In 1880 it cost as much to ship wheat a distance of 400 miles in New South Wales as it cost to ship wheat from Chicago to Liverpool. And in a time of great agricultural and business depression—from 1892 to 1900—when the farmers had poor crops and low prices, the state railways actually maintained rates on all agricultural products and raised the rates on all other freight from 5 to 10 per cent. Surely the American people must consider this question well and we must be certain before attempting government ownership that we can do better than our Australian brothers.

Mr. Speaker, I can not forbear to quote the words of an Australian statesman, because they foreshadow what would be our experience if our Government were to acquire the ownership of railways. Sir Henry Wrixon, formerly attorney-general of Victoria, said in a spirit of sorrow:

The many functions undertaken by the Australian government, and the large measure of assistance that they render to districts out of the general revenue, enfeeble the position of the representative and impair the public spirit of the constituencies. Each locality naturally seeks to get as much as it can, and for this purpose wants rather an agent to look after its interests than a statesman to take care of those of the country at large. The representative is harassed by a divided duty. This I take to be the greatest impediment to statesmanship in our ranks, and the more socialistic government becomes the greater is the danger that Burke's prophetic fear may be realized and "national representation degrade into a confused and scuffling bustle of local agencies."

Mr. Speaker, from 1867 to 1880, we in the United States passed through an experience similar to the Australian experience of 1890 to 1900. It was just after the close of our great war, when we had borrowed huge sums in Europe. It embraces the crash of 1873 and the financial and industrial regeneration from 1876 to 1880. The history of those years is the wonder of the world. Had Government ownership of railroads existed in this country at that time we probably would have been in the same condition as Australia, and would have continued to suffer from the consequences even to this day.

The question of state ownership of railroads—only one phase, but an important one, of state socialism—is so widely ramified in its bearing upon the numerous economic and political activities of the nation that it can not be exhausted, nor

perhaps even adequately presented in the limited amount of time at my disposal. But I can not forbear to point out another result sure to grow out of such ownership, than which nothing more deplorable could befall our people. I refer to the withdrawal of private effort from the field of public endeavor. It is this activity of the private individual that has made our nation the marvel of the nineteenth century; it is this activity that will set the United States still further forward in every branch of human enterprise, if it be not fettered or impeded by undue interference on the part of the State.

It is difficult to even conjecture where the elimination of these private agencies from our commercial and industrial life would lead us. Opportunity furnished inducement to action. Opportunity caused the pioneers to make the wilderness blossom as the rose. Opportunity gave the stimulus to invention, and this in its turn impelled to ever new exertion the industrial forces of the country by supplying them with new weapons with which to attack old problems and new ones as well. What but opportunity was it that led men like Huntington and his contemporaries to span a continent from ocean to ocean with iron strands of commerce? What but opportunity is it that has caused the United States to undertake the building of the Panama Canal? There is no field of our national economic life in which opportunity has not been one of the great determining factors. My judgment is that government ownership of railroads, followed as it would be by the nationalizing of the business of the telegraph and express companies, would do much to stifle American genius and discourage American thrift.

What will be the consequences if by State ownership we force these nonofficial energies to withdraw from the scene of action where they have achieved such surpassing and far-reaching results? Are we warranted in believing that our experience would differ greatly from that of Australia? Is it not reasonable to assume that in proportion to the large volume of the interests affected the consequences would be even more disastrous? We need no State ownership to cope with the problem of public transportation in its relation to the economic life of our people. We have proved ourselves perfectly able so far to deal with it, and the good sense of our people may be relied upon to eradicate any evil threatening the general weal that has until now escaped the searching processes of rational remedial legislation. There can be no doubt that the railway has far outgrown the fondest dream of its first inventor. The giant locomotive of to-day weighs more than the puny engine of the days gone by, combined with the entire load of freight it drew. From the common roadbed that was used by other vehicles the road for the railway now is separate and apart—a firm roadbed and a track of steel.

Our country to-day is covered by a vast network upon which gigantic locomotives like vast shuttles, says Emerson, move backward and forward weaving the great mesh of American commerce. And with this changed condition there must come a corresponding change in the manner in which the railroad is viewed by the State. In early days competition was the great determining factor in the regulation of rates of freight and passenger traffic. So long as competition can have full sway it is a fair arbiter. But as conditions change, so year by year railroad systems assume greater and still greater magnitude, competition becomes eliminated, and something else must step in to take the place of competition. If then I bar Government ownership of our railway system, what, you ask, do I propose? Why, Government regulation. I believe in business matters due recognition and encouragement should be given to private effort. I also believe that with industries that have grown so great that they have lost largely their private nature and have become at least quasi public in character and where competition in the control of those industries has been largely eliminated, then I believe that the power of the Government should take the place of competition to the end that justice may be done the great masses of our people who need the service of that industry.

The railroad systems of our country occupy that position to-day. They occupy valuable assets that only the State can give. They have power to order condemned the private property that may lie across their way. They seize upon the most natural roadway and acquire the advantage of the best passage over mountain systems and navigable streams. In return for these and other concessions which the people make our people should insist that the railways grant to them good service at fair rates; and, in the absence of competition, this can be done by appropriate legislation, supported by intelligent and vigorous administration of the law. The laws which we have enacted may not embrace all that is good. Our laws may be imperfect, but if

they are, experience will teach us their defects, and patriotic statesmanship will find the remedy.

Let us not try the false delusion of Government ownership. Let us not run after strange gods. Longfellow's lines are as true to-day as when they were written—

Sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity, with all its fears,
With all the hopes of future years,
Is hanging, breathless, on thy fate!

We have accomplished much. We have other worlds to conquer in the universe of action. God forbid that we do aught on which the generations that may come after us would have the right to pronounce a curse.

Asiatic Exclusion.

SPEECH

OF

HON. EVERIS A. HAYES,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908.

On the bill (H. R. 21871) to amend the national banking laws.

Mr. HAYES said:

Mr. SPEAKER: Extraordinary efforts have been made to pass the bill under consideration on account of the need, existing largely, I think, in the minds of some Members of the House, of providing for the issuing of emergency currency in times of panic or threatened panic. It is highly proper that this very important subject should be considered and such provisions enacted into the law as in the opinion of Congress might help to save the country from the dire results of such a panic as visited us last fall. As important as this matter of emergency currency is, in my opinion it is not more important than several other measures pending before Congress. The first session of the Sixtieth Congress is rapidly drawing to a close, but it should not end until full consideration has been given to several most important questions.

The first of these questions and the one of which I wish now to speak is that of Asiatic exclusion. It is of the greatest importance to the people of the West, as it is to the whole country, that adequate measures should at once be taken to stop the influx of Japanese and other Asiatic immigrants constantly coming to the Pacific coast.

Early in the session I introduced a bill (H. R. 246) which embraces with a single exception all the recommendations of the Commissioner-General of Immigration on the subject of exclusion, yet thus far I have not been able to induce the Committee on Foreign Affairs to report it. The bill is as follows: A bill (H. R. 246) to regulate the coming into and the residence within the United States of Chinese, Japanese, Koreans, Tartars, Malays, Afghans, East Indians, Lascars, Hindoos, and other persons of the Mongolian or Asiatic race, and persons of Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Hindoo, or other Mongolian extraction, and for other purposes.

Be it enacted, etc., That all laws now in force prohibiting or regulating the coming of Chinese persons and persons of Chinese descent into the territory of the United States be, and the same are hereby, made to apply to Japanese, Koreans, Tartars, Malays, Afghans, East Indians, Lascars, Hindoos, and all other persons of the Mongolian or Asiatic race, and all persons of Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, Hindoo, or other Mongolian extraction, with the same force and effect as to Chinese persons and persons of Chinese descent; and that whenever in such laws mention is made of the officers, territory, or government of China, or of the officers of the United States in China, such mention shall be deemed in the case of Japanese, Korean, Tartar, Malay, Afghan, East Indian, Lascar, or Hindoo persons, or other persons of the Mongolian or Asiatic race, to be mention of the officers, territory, or government of Japan or Korea, or other country, as the case may be.

SEC. 2. That it shall be the duty of all Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, and Hindoo persons, and all other persons of the Mongolian or Asiatic race, other than those engaged as teachers, students, merchants, bankers, professional men, or visitors traveling for curiosity or pleasure in the United States, to apply to such officers of the United States as may be designated in their respective districts for that purpose by the Commissioner-General of Immigration and Naturalization, with the approval of the Secretary of the Department of Commerce and Labor, within one year after the taking effect of this act, for a certificate of residence; and any Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or Hindoo person, or other person of the Mongolian or Asiatic race, unless he is a teacher, student, merchant, banker, professional man, or a visitor traveling for curiosity or pleasure, who, after the expiration of said one year, shall be found within the United States without such certificate of residence shall be deemed to be unlawfully within the United States and shall be taken into custody upon the warrant of the Secretary of Commerce and Labor, and unless it shall be satis-

factorily established that the failure of such person to procure a certificate of residence as herein required during the said period of one year, as herein provided, by reason of accident, sickness, or other unavoidable cause, shall be deported upon the warrant of the Secretary of Commerce and Labor to the country of which he is a citizen or subject, at the expense of the United States.

Should it appear that said Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or Hindoo person, or other person of the Mongolian or Asiatic race, had procured a certificate and such certificate has been lost or destroyed, he may be granted a duplicate thereof, and upon receipt of such duplicate he may be discharged: *Provided*, That no Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or Hindoo person, or other person of the Mongolian or Asiatic race, who has been convicted in any court of the States or Territories or of the United States or of the District of Columbia of a felony, shall be permitted to register under the provisions of this act.

Certificates of residence issued under the provisions of this act shall be so prepared, under regulations of the Secretary of Commerce and Labor, as to prevent counterfeiting, and shall contain such descriptions of the persons to whom issued as will readily identify the holders thereof, including photographs of such holders, both full face and profile, upon a portion of which photographs shall be superimposed the seal of the Department of Commerce and Labor.

SEC. 3. That no certificate of residence other than a duplicate of one satisfactorily proved to have been lost or destroyed shall be issued under the provisions of this act after the expiration of one year from the date of the taking effect of this act.

SEC. 4. That nothing in this act or in any other law of the United States shall be construed to hinder, prevent, or restrict teachers, students, merchants, bankers, members of the learned professions, and travelers for curiosity or pleasure, under the requirements now enforced or that may hereafter be enacted, from entering the United States subject to such regulations as to the method of entry as are or may be lawfully provided. It shall be unlawful for any Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or Hindoo person, or any other person of the Mongolian or Asiatic race, who shall hereafter enter the United States under the authorization herein granted, to work for gain as a laborer, and any person violating the provisions of this section shall be deported in the manner provided in section 2 of this act.

SEC. 5. That the term "student," wherever used in this act and in other acts or laws pertaining to Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, Hindoo, or Mongolian immigration shall be held to mean a person coming to the United States for the exclusive purpose of pursuing any branch of liberal education, religious, scientific, mechanical, literary, or artistic, for information, or to become fitted for some profession or occupation, and not as a means of livelihood in the United States, and for whose support and maintenance in the United States and his transportation therefrom, provision has been made satisfactory to the Commissioner-General of Immigration and Naturalization.

SEC. 6. That every Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or Hindoo person, or other person of Mongolian or Asiatic race, or of Chinese, Japanese, Korean, Tartar, Malayan, Afghan, East Indian, Lascar, or other Mongolian extraction, who shall seek permission to land in the United States upon the ground that he is entitled to land because he is a teacher, a student, a merchant, a banker, or a member of one of the learned professions, and that he intends to pursue such avocation if allowed to enter the United States, or that he is a traveler for curiosity or pleasure, shall produce a certificate showing the permission of the government of which he is a subject or domiciled resident, which certificate shall be in the English language, and shall show such permission, and that the officer by whom such permission is granted has been duly designated by the government which he represents for that purpose, which certificate shall be duly viséed by the diplomatic or consular officer of the United States at the port or place from which the person named in such certificate is about to depart, to which certificate shall be attached a statement from an official of the United States designated by the Commissioner-General of Immigration and Naturalization for that purpose in the manner provided in the next succeeding section of this act, which statement shall give in detail the information prescribed in section 6 of the act of July 5, 1884, entitled "An act to amend an act entitled 'An act to execute certain treaty stipulations relating to Chinese,' approved May 6, 1882."

To the last-mentioned statement shall be attached an affidavit by said officer of the Department of Commerce and Labor of the United States to the effect that he has made a careful and thorough examination, and believes, after such examination, that the particulars stated in said statement are true in every respect.

The aforementioned certificate of such foreign government official, the statement of the United States official, and the affidavit of such official shall be upon a single sheet of paper, and there shall be fixed permanently to such paper a photographic likeness of the person who is the holder of such certificate, and the seal of the officer before whom oath is made to the affidavit shall be impressed partly over the edge of said photographic likeness: *Provided*, That in those foreign countries, other than the country of their nativity, in which Chinese, Japanese, Koreans, Tartars, Malays, Afghans, East Indians, Lascars, Hindoos, or other Mongolians or Asiatics of the exempt classes reside, the certificate of permission prescribed in this section may be granted by any consular officer of the country of which the applicant is a subject located in such foreign country, or in the absence of any such consular officer, by any consular officer of the United States: *And provided further*, That in any foreign country to which no official of the Department of Commerce and Labor has been sent, as herein provided, the examination and statement required by this act to be issued by such official may be issued by any diplomatic or consular officer of the United States residing in such country.

The certificate and attached statement required by this section shall be *prima facie* evidence, subject to identification of the person therein referred to and to his admissibility under the various acts regulating immigration into the United States, of the right of the holder thereof to enter the United States. But this certificate and statement shall be subject to examination of the immigration officers within the United States and to cancellation by such officers if found to have been fraudulently or improperly issued, and all questions arising under the provisions of this act shall be subject to appeal and review under such regulations as the Secretary of Commerce and Labor shall prescribe.

SEC. 7. That the Commissioner-General of Immigration and Naturalization, with the approval of the Secretary of Commerce and Labor, is hereby authorized and directed to appoint the necessary officers of the Immigration Service to be attached to the consulates at such ports of

embarkation in foreign countries as he may designate to carry out the provisions of this act, to fix their compensation, to adopt regulations for their government, and prescribe rules in reference to the examination of applicants for admission to the United States, and the issuance and delivery of certificates thereto as herein provided.

SEC. 8. That the Commissioner-General of Immigration and Naturalization, with the approval of the Secretary of Commerce and Labor, be, and he is hereby, authorized and empowered to make and from time to time to change, alter, or amend such rules and regulations, not in conflict with the provisions of this act, as he may deem necessary, proper, and convenient to carry into effect the provisions of this act.

SEC. 9. That this act shall take effect ninety days after its passage.

Mr. Speaker, until comparatively recent times, large movements of population were always preceded by conquering armies or galleys filled with fighting men. The invaders entered into forcible possession of the land of the despoiled people, either driving out the latter completely, or bringing them under subjection to the conquerors. Thus the barbarians came to possess Rome, the Angles and Saxons England, and the Norsemen Normandy. Thus, too, the Moors overran Spain and Portugal, the Tartars southern Russia in the thirteenth and fourteenth centuries, and the Turks southeastern Europe in the fifteenth century. In these modern days, however, when steam has so multiplied the means of travel, and war has so largely been displaced by the arts of peace, great movements of population from one part of the world to another always begin with the humble and inoffensive immigrant, who comes to the alien land to labor on public works, to till the soil, or to work in shop, mill, or factory.

He is followed by more of his fellows, and finally by mechanics, merchants, professional men, and ministers of religion, all in a gradual but never-ending stream, until the immigrants come to outnumber the native occupiers of the country. Thus within the last sixty years the Irish have come to possess Boston and the Germans Milwaukee, and thus in the last thirty years the Japanese have taken Hawaii. In all these conquests, ancient and modern, great changes are wrought in the character and habits of the people and in their religion and institutions. This is no less true of the peaceful conquest of Boston and Milwaukee than of the warlike conquest of England by the Saxons and Angles; no less true of the capture of Hawaii by the Japs, than of the taking of Russia by the Tartars, or of southeastern Europe by the Turks.

It will probably be generally admitted that where the invaders and the invaded, the alien and the native, have been of the same general racial stock the effects of these changes of population have been generally good; they have strengthened the nations where they have occurred and have added to the development and progress of the world. On the other hand, when the two peoples thus brought into contact are racially wholly different, nearly all students of the subject agree that the effects upon the people directly affected and upon the world are wholly bad. There certainly can be no question that wherever Orientals have exerted any large influence upon European or Caucasian civilization the effect has always been wholly blighting and deplorable. In the thirteenth century southern Russia was well in the van of European civilization, and its people had made much progress in the art of republican government, several of its large cities—Novgorod among them—being important members of the Hanseatic League. The Tartar invasions came and in less than two centuries left Russia what that great Empire has since remained, the most backward of all the European nations except Turkey.

Southeastern Europe for centuries had led the world in learning and civilization when, in the fifteenth century, the Turkish invasion came. Since then the darkness of ignorance, superstition, and barbarism has enveloped the country about the Bosphorus, and oriental servility, deceit, licentiousness, cruelty, and political corruption have not only ruled Turkey, they have blighted every surrounding state touched and contaminated by it. It was not the manner of the coming into Europe of the Tartar or the Turk, but the orientalism they brought with them that has wrought such deplorable results. As certainly as the incursions of Asiatics have stopped the progress and civilization of Europe, so certainly will their presence in sufficiently large numbers prevent the growth of American institutions and ideals in Hawaii and destroy them in the Pacific coast States of the Union.

With these lessons of mediæval and recent history before them, what wonder that the people of the Pacific coast States view with the greatest apprehension the coming to them of any considerable number of Asiatics. In the early eighties the constantly increasing number of Chinese arriving on the Pacific coast caused such a hue and cry from all classes of the people there that the country was forced to notice the great danger that menaced the West from incursions of these Asiatic hordes, and the Chinese-exclusion acts were the result. But for these exclusion laws there is no doubt that a very large percentage,

if not a majority, of the population of the Pacific coast States would to-day be oriental. In the last few years the number of Japanese immigrants to the country west of the Rocky Mountains has been rapidly increasing, the number last year exceeding 40,000, and, as in the case of the Chinese twenty-five years ago, recently a large majority of the people of the Pacific coast have become alarmed and are demanding that something be done to save them from the danger of oriental contamination and ultimate submergence.

The State Department has for nearly two years been negotiating with Japan with the purpose of putting a stop by international agreement to the coming to this country of Japanese laborers, as yet apparently with little success. Before this matter has been settled a new Asiatic menace is already appearing on the Pacific slope in the shape of quite large numbers of Hindoo immigrants. All who know the character and habits of these people agree that they are not a desirable element to add to our population, aside from the fact that they belong to a totally alien race.

As the above brief outline of the history of the exclusion movement would indicate, it is not to the Chinese or the Japanese or the Hindoos as a nation or a race that the people of the Pacific coast object. The problem to them is not the Chinese or the Japanese or the Hindoo problem. It is the problem of oriental immigration; how to prevent the Asiatic hordes from gradually overwhelming them, at first taking the work from the American laborer, but finally coming to monopolize first one line of business and then another, and buying land and homes and eventually possessing the country. Already in some parts of California this process is well advanced. In several places the Japanese not only do nearly all the work, but they own or lease a majority of the farms and homes.

THE INDUSTRIAL ASPECT OF THE SUBJECT.

In discussing this subject appeals to selfish and commercial considerations are too much resorted to, and yet these considerations are important and should not be ignored. On the one hand the laboring man claims that when he comes in competition with Asiatic labor, which is the cheapest in the world, he finds his wages reduced, the opportunities for employment diminished and finally, if the competition becomes fierce enough, he is driven from the field entirely. All this is true. Accustomed in his native country to sleeping on a board in very small quarters, and to a meager diet, chiefly of crushed barley or rice, the Asiatic can live so cheaply that no white laborer can hope to compete with him in the cost of living, and most right-thinking men agree that it is not best that the white laborer should be forced or expected to compete with him in this regard. Besides, the Asiatic has usually no family to support and no children to educate. As a result of these conditions, whenever Asiatic laborers invade any field, they soon come to monopolize the farm and other common labor, and the white man is driven out entirely. This is the case in the fruit orchards of Vacaville, Cal., largely in the raisin vineyards of Fresno, and wholly so in the berry fields and apple orchards of Santa Cruz County and the seed farms of Santa Clara County. It is rapidly becoming true in the fruit orchards of the latter county, as well as other places in California. So disastrous to the white labor of California has this Asiatic competition become that within the past year soup houses have been opened in San Francisco, Los Angeles, Oakland, and other cities of California to feed the unemployed white laborer, and many of this class have left the country within the last few years and no new white farm or common laborers have been going there.

On the other hand, it is claimed by some employers of labor that oriental labor is absolutely necessary to the development, even to the existence, of our industries on the Pacific coast, and that only with this labor can they resist the despotic and unreasonable demands of the labor unions. None of this is true. Farm and common labor has never been excessively high on the Pacific coast, and as yet the Asiatic laborer there has not entered the mechanical trades to any extent. It is in these occupations that the high wages are paid, and of course as he is not fitted by having learned these trades to engage much in them, his presence has in no way affected the labor union situation. That he may come to affect the situation in the future is freely admitted.

If it were true that our Pacific coast industries can not be developed without oriental labor, it were better that they never should be developed than that our white laborers should be degraded or driven out by contact with Orientals. It is the stock argument of the selfish who wish to add to their profits by bringing in cheap labor that unless they can get it they can not keep on with their business. The American slave buyer of the last century satisfied his conscience and answered the ob-

jections of the opponents of the traffic in human flesh by the same kind of arguments. He loudly proclaimed that without the slave trade he could not procure his house servants and cultivate his cotton fields. We still have the race problem which his selfishness imported, the ultimate solution of which no man can see. And we shall import into the Pacific coast another and a worse race problem than the South has to solve unless the result is prevented by wise and patriotic legislation.

But it is not true that oriental labor is necessary for the development of the Pacific coast. Of course if the Oriental is allowed to go there freely, the white laborer, knowing that he can not compete with him, will not go there. It would be foolish to expect him to do so. But if you keep out the Oriental, there is no possible reason why white labor should not be as cheap and as plenty there as in any other place in the United States. The natural conditions for working out or in doors the year through are as nearly ideal on the Pacific coast as anywhere in the world. Keep out the Oriental and let the employer make the conditions of employment as favorable as in other parts of the country, and there will be no trouble about getting all the white labor that is needed. The writer, himself a large employer of labor in California, has never employed any oriental labor, and knows from his own experience that this is true.

THE PROBLEM FROM A RACIAL AND ETHNOLOGICAL STANDPOINT.

There is the very highest authority for asserting that "God hath made of one blood all the nations of the earth," and the same high authority tells us that it is a good and pleasant thing for brethren to dwell together in unity. The time may come in the development of the race when all men will look upon representatives of another race as brothers, and be able to live with them in peace and harmony. But that time is not yet. History presents not a single example of two peoples racially wholly different living together in peace unless they amalgamated or one became subject to the other. All thinking Americans who have studied the subject are agreed that amalgamation of the white and Asiatic races on the Pacific is unthinkable. What strength or grace of body or mind not already possessed by our people could these 'totally dissimilar races bring to us? The answer must be, "None." They are certainly much inferior to us physically, and there is the very highest authority for claiming that such assimilation would bring only evil. Herbert Spencer, the greatest biologist, living or dead, in his famous letter to Baron Kaneko Kentara, used these words:

To your remaining question respecting the intermarriage of foreigners and Japanese, which you say is "now very much agitated among our scholars and politicians," and which you say is "one of the most difficult problems," my reply is that, as rationally answered, there is no difficulty at all. *It should be positively forbidden.* It is not at root a question of social philosophy. It is at root a question of biology. There is abundant proof, alike furnished by the intermarriage of human races and by the interbreeding of animals, that when the varieties mingled diverge beyond a certain slight degree the result is inevitably a bad one in the long run. I have myself been in the habit of looking at the evidence bearing on this matter for many years past, and my conviction is based on numerous facts derived from numerous sources. This conviction I have within the last half hour verified, for I happened to be staying in the country with a gentleman who is well known and has had much experience respecting the interbreeding of cattle, and he has just, on inquiry, fully confirmed my belief that when, say, of the different varieties of sheep, there is an interbreeding of those which are widely unlike the result, especially in the second generation, is a bad one; there arises an incalculable mixture of traits and what may be called a "chaotic constitution." And the same thing happens among human beings: the Eurasians in India, the half-breed in America show this. The physiological basis of this experience appears to be that any one variety of creature in course of many generations acquires a certain constitutional adaptation to its peculiar form of life, and every other variety similarly acquires its own special adaption. The consequence is that if you mix the constitutions of too widely divergent varieties which have severally become adapted to widely divergent modes of life, you get a constitution which is adapted to the mode of life of neither—a constitution which will not work properly because it is not fitted for any set of conditions whatever. *By all means therefore peremptorily interdict marriages of Japanese with foreigners.*

I have for the reasons indicated entirely approved of the regulations which have been established in America for restraining Chinese immigration, and had I the power I would restrict them to the smallest possible amount, my reasons for this decision being that one of two things must happen. If the Chinese are allowed to settle extensively in America they must either, if they remain nonmixed, form a subjective race standing in the position, if not of slaves, yet of a class approaching slaves; or, if they mix, they must form a bad hybrid. In either case, supposing the immigration to be large, immense social mischief must arise and eventually social disorganization. The same thing would happen if there should be any considerable mixture of European or American races with the Japanese.

I also quote from another high authority—Pouchet. He says:

If we have endeavored to prove that the hybrids of distant races do not possess all the necessary conditions of animal life and of propagation, it would be easy to find numerous proofs in order to show that generally the intellectual conditions of hybrids are not much more satisfactory than their physical condition.

Doctor Tschudi says, in speaking of the Zambos (hybrids from the aborigines and negroes at Lima):

As men they are greatly inferior to the purer races, and as members of society they are the worst class of citizens. They alone furnish four-fifths of the criminals in the prisons of Lima.

Mr. E. G. Squier has made the same observation about the Sambos of Nicaragua. In his part of the country the union of Spaniards with these same Americans seem to have only produced degenerate men, who show no capacity whatsoever for perfection.

According to these scientific lights, then, there are already too many human mongrels in the world. Why should the United States consent to add to the stock by permitting a possible mixture of totally different races in the States on the Pacific slope?

And what shall we say of the possibility of the Asiatic on the Pacific coast, living in subjection to the Caucasian? The nature of some of the Asiatics—for example, the Japanese—renders this an impossibility. But if it were possible our experience with the race problem of the South ought to make every American shudder at the thought. If the negro population of the South numbered only 150,000 to-day, in the light of our experience what thinking American would welcome the coming from Africa of hundreds of thousands—of millions—of fresh immigrants until we have the race problem of the South of this day? Could history but turn back two hundred years what American would not make this part of it different from what it is? Why, then, should we not thrust aside every commercial consideration and insist that upon the people of the Pacific coast shall not be placed the burden of another race problem for them and their children to grapple with and try to solve? This can only be done by keeping the Asiatic laborers, whether Chinese, Japanese, Korean, or Hindoo, from coming to our shores. It is not necessary to give serious attention to the other classes of Asiatics. The laborer, being the base of the commercial structure, brings all the other elements with him. Exclude him and no large immigration is possible. Ten years ago, before the "Japanese question" became acute, this exclusion could have been accomplished much more easily than it can be to-day; to-day much more easily than ten years from to-day. "Now is the accepted time of the Lord; to-day is the day of salvation."

METHOD OF EXCLUSION.

Whether or not we shall exclude Asiatic immigrants from this country is in no sense an international question, but a purely domestic matter. Every nation in the world claims and exercises the right to determine what aliens shall be permitted to enter its borders and under what conditions they shall be allowed to come. We exercise this right whenever we reject and send back to the country whence they came the immigrants from Europe as Japan exercised it when a few months ago she deported some 300 Chinese laborers who had come into Japan to work for a contractor. To permit any foreign power, by agreement with such power or otherwise, to determine for us which of her subjects shall be allowed to enter our borders is opposed to the practice of every nation not too weak to assert its rights and is repugnant to every sense of national propriety and dignity. Besides, our experience in trying to exclude Japanese laborers by agreement with Japan ought by this time to have convinced us that any attempt to exclude oriental laborers by international treaty or agreement will prove wholly ineffectual. Two years ago our Government began negotiations with Japan to secure such exclusion. In February, 1907, it was understood that assurances had been given by Japan that she would issue no more passports to laborers to come to the mainland of the United States, and the President, being authorized under our immigration laws to do so, issued his Executive order that no Japanese laborers should be allowed to come from our island possessions to the mainland.

Notwithstanding this assurance of Japan, in 1907 more than 30,000 Japanese, practically all laborers, came directly from Japan to this country and all with passports. In addition, more than 10,000 more came over the borders from Mexico and Canada, many of them coming from Hawaii to those countries and thence to the United States, thus evading the President's Executive order above referred to. The largest number of Japanese coming to this country in any one year prior to 1907 was less than 20,000. It would seem, therefore, that the only effect of these international negotiations, the assurances of Japan and the President's Executive order, has been to more than double the immigration from Japan to this country.

Last fall much publicity was given to the fact that Japan had formulated new and rigorous regulations which were to prevent the immigration of her laborers to this country. The people of the Pacific coast, knowing the Oriental character, entertained suspicions that these new regulations were solely intended to prevent exclusion legislation at the present session of the United States Congress. That these suspicions were well

founded is proved by the fact that in spite of these regulations, in the month of January, 1908, 1,419 Japanese landed in this country with passports direct from Japan, and in the month of February, 1908, 1,232 Japanese with passports came. The figures for March and April, 1908, are 1,202 and 938, respectively. This takes no account of those Japanese who have come over the borders from Mexico and Canada, from which countries the incursions continue as they did last year.

While there has been a large falling off in the immigration from Japan thus far this year as compared with 1907, the proportionate falling off is not as great as in the immigration from European countries. All of which goes to show that if we desire to exclude oriental coolies—Chinese, Japanese, Korean, or Hindoo—the only effectual, dignified, and proper manner of doing it is by an exclusion statute which shall be enforced by our own officers instead of turning the constitutional lawmaking power of Congress over to the Japanese or any other government and trusting them to legislate for us upon this all-important subject of oriental immigration and relying upon their officers to execute laws or regulations the vigorous enforcement of which is manifestly not for the interest of these oriental countries.

The people of California have a deep-seated and abiding conviction that nothing short of an exclusion statute along the lines of the Chinese exclusion act will stop or even much check the tide of oriental immigration that has set in from Asia to our Pacific coast. In the absence of this statute they believe that this immigration will go on without much reference to business conditions in this country, and in comparatively few years the Pacific coast States, like Hawaii, will become little more than an oriental colony.

Naval Appropriation Bill.

SPEECH

OF

HON. WILLIAM E. HUMPHREY,

OF WASHINGTON,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

On the bill (H. R. 20471) making appropriations for the naval service for the fiscal year ending June 30, 1909, and for other purposes.

Mr. HUMPHREY of Washington said:

Mr. SPEAKER: When the naval bill was under consideration I contended that the submarine boats that were intended for the Pacific Ocean should be built on that ocean. Since then I have given the matter further investigation. I am satisfied that if these vessels are not built on the Pacific they will never be taken there.

It is not a question of whether these vessels can be built more cheaply on the Atlantic Ocean than on the Pacific. The question is, Shall any of these vessels be used on the Pacific? Upon this question I shall insert in the RECORD a letter written by Mr. F. W. Hibbs, of Seattle, Wash., to the Secretary of the Navy. As I have heretofore stated to the House, Mr. Hibbs built the battle ship *Nebraska*, and is one of the foremost naval authorities on construction in the United States:

WASHINGTON, D. C., May 26, 1908.

The honorable the SECRETARY OF THE NAVY,
Navy Department, Washington, D. C.

SIR: On behalf of the Moran Company, shipbuilders of Seattle, Wash., I have the honor to request your careful consideration of the following representations, in connection with the award of available contracts for submarine torpedo boats.

The appropriation of the Sixtieth Congress for increase of the Navy, includes an item of eight submarine torpedo boats (total cost not to exceed \$3,500,000) and gives to the Secretary of the Navy entire authority as regards the expenditure thereof.

From the Secretary's report for 1907 and from the attitude of the Department as expressed in other public records, it has appeared to the Moran Company that contracts for six or seven of these vessels would very probably be made without delay; and it is their desire to bring to your attention considerations which, in their opinion, would strongly justify the award of that number of these contracts for construction upon the Pacific coast.

At the present time, out of a total of eighteen submarines, but two have been built upon the Pacific coast and stationed there. Not only is this a striking disparity, irrespective of the needs of the case, but the Pacific coast is also inadequately protected otherwise. The comparatively few harbors on that coast, increasing the importance of the protection of each from both invasion and blockade; the incompleteness and insufficiency of the land defenses, the time and cost involved in their development, and the peculiar difficulties in the way of the use of mines, are all conditions which demand immediate attention and which can best be met by the submarine torpedo boat as being at once expeditious, effective, and economical.

So far as Puget Sound is concerned, it is questionable whether it would ever be practicable to provide adequate defenses in any other

way. The soundings are deep, the rise and fall of the tide is great, the entrance is very wide, by-passages are numerous, fogs are frequent, and its waters wash a foreign shore; yet there are five important American cities, a navy-yard, dry docks, shipyards, and terminals from five transcontinental railroads, for the protection of which, to rely upon the land defenses now existing, or to expect to provide adequate defenses of that character within reasonable limits, would be hopeless.

It is not necessary to call attention to the urgent demand which has come from the people of the Pacific coast for immediate steps to improve these conditions by maintaining in their important seaports submarine torpedo boats in sufficient force to equal at least that already provided for the protection of the Atlantic coast; they are needed for the general defense of the country and are needed at once.

Practical considerations, however, tend to the belief that unless more of these vessels are built upon the Pacific coast they will never get there; the expense and risk of transporting them by sea will always constitute an obstacle except in case of emergency—and then it will be too late.

In a report of the Secretary of the Navy to the President of the Senate, in reply to an inquiry as to the cost of submarines for service on Puget Sound and at Grays Harbor, it was stated that these vessels could be most expeditiously constructed by having them built or assembled on Puget Sound.

The alternative of building them "knocked down" in the East, transporting them by rail, and finally assembling them in one of the Pacific coast yards involves so much extra cost and delay that it can not be brought into comparison with any other method; the extra cost alone would be double that due to constructing them on the Pacific coast.

To bring them around by sea under their own power in charge of a convoy, besides presenting many difficulties as to details, is seriously to be questioned on account of the great amount of wear and tear to their machinery, equipment, and apparatus, with the possibility of the injury and destruction of the same, and on account of the extreme and imprudent risk to both vessels and crews on so long a voyage.

It is admitted to be the only practicable method of transportation, one that would cost less and that would be attended with much less risk, to seal them up and tow them "dead;" and it is this method of transportation that has been considered in the following comparison.

FIRST, AS TO THE COST.

The increased cost of building these boats on the Pacific coast is estimated at about 12½ per cent for the average case, depending upon the number to be built at one time.

Other items, having to do with the special character of these vessels, their construction and tests (requiring expert supervision throughout) are concerned in the increased cost, over and above that due to labor and materials only.

The cost of towing from the Atlantic to the Pacific is necessarily an item of their initial cost, for the submarine is not a cruiser and will remain upon the Pacific; in other words, what has to be considered is the cost of the vessel delivered in the same condition and in the same place as if built there.

This item of transportation carefully estimated, and the principal figures of which have been authoritatively obtained, is as follows:

1. Preparation for the voyage, \$2,500.
- Machinery, fittings, and equipment "placed in ordinary."
- Loose equipment boxed.
- Docking and painting.
- Propellers and rudders removed.
- Fenders provided around stern frame, torpedo port, and elsewhere.
- Jury rudder fitted.
- Two jury signal masts with balls or shapes.
- Tanks and all piping cleared.
- Storage battery emptied.
- Preventer towing arrangement provided.
- Torpedoes and attachments removed.
- Vessel placed in best trim for towing.
2. Towing, \$25,000.
- The tug or vessel towing to have a steam-towing machine, electric plant, and wrecking pump.
3. Crew, wages, and subsistence, \$4,200.
- Experts and stand-by men only; tug's crew not included.
4. Miscellaneous small repairs and preservation en route, \$1,000.
- Not including damages that would be covered by insurance.
5. Port charges, pilotage, and incidentals, \$1,000.
6. Docking and painting after arrival, \$500.
- After such a voyage it would be necessary to dock the vessel for examination for possible injuries and to paint the hull all over outside for preservation. There would not be a corresponding item in the case of the boat built upon the Pacific coast.
7. Removal of special fittings, overhauling machinery, shipping rudders and propellers, installing equipment and torpedoes, \$1,500.
8. Refilling and testing cells of storage battery, \$2,000.
9. Returning crew to east coast, \$800.
10. Returning tug to east coast, \$12,500.
- It is not probable that business could be found for the tug on the way back to carry this item for either a mercantile or naval vessel.
- It may also be said in regard to the towing vessel that, although in a single case a Government vessel might be available at a suitable time bound for the Pacific on her regular duty, yet in the typical or average case considered here such a coincidence could not be properly assumed.
11. Insurance or valuation of risk, \$18,000.
- It is probable that no marine insurance company would care to assume the risk of these vessels on so long a tow; it is also probable that no Eastern contractor would undertake to deliver them on the Pacific coast; at the same time the risk exists, and has a value which should form an item of cost, as there is no corresponding item against the vessel built on the Pacific coast.
- The insurance on the tug has been included in the charges for her services, as the ordinary policy would not cover such a voyage.
- The total of these estimates is \$69,000, which is so far in excess of the increased cost of the boat built upon the Pacific coast that there is no comparison between the two; in fact the question of insurance or valuation of risk could be omitted altogether and still leave no ground for doubt.

SECOND, AS TO RISK.

An approximation to the value of the commercial risk has been made in the foregoing estimate, such as a contractor, for instance, would have to cover in case he was delivering a boat on the Pacific coast. As a matter of fact, however, the Government will not insure the boat, nor is its value to the Government represented by its cost, for it could not be replaced within a year; and while there may be no question that

it would be possible if necessary to get it around, it is not worth even assuming the risk of doing so, setting aside the question of cost, when it is possible to build the boat close to the locality in which it is to be stationed.

THIRD, AS TO DELAY.

Here again, in the case of a mercantile vessel, would be an item of loss upon which a definite value would have to be placed in completing the comparison, and while it is impossible to account for it in this way in this case, it is an important consideration.

Practically there is no reason why the Pacific coast yards should not complete these vessels in about the same time as the Eastern yards, and although there is no similar case to be mentioned in point, it would probably delay delivery about three months to make the voyage to the Pacific. Speed would not necessarily be the governing feature; the time waiting for a tug—which might amount to several months—the special preparation, the loss of time on the way, and the overhauling afterwards would all contribute to the delay and, in addition, there would be the probability of having to wait for a favorable time of the year or for favorable weather here and there in order to minimize the risk from other causes.

FOURTH, AS TO FACILITIES FOR REPAIRS.

In the case of vessels such as these, which would seldom be called upon for service far distant from their base, there is a distinct advantage in having them built in proximity thereto, on account of the facility with which repairs can be made or injured parts duplicated if necessary; and above all on account of the familiarity with the work, and the tools and patterns used in the original construction.

The loss of at least a month and possibly of two months or even more, as frequently happens, to secure duplicate parts from the East might be of the utmost importance, and is particularly liable to occur with such vessels, which, though themselves standardized, call for special methods of work, a special class of workmanship, and special tools and materials.

Very respectfully,

FRANK W. HIBBS.

Immigration Laws of the United States.

SPEECH

OF

HON. W. S. HAMMOND,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. HAMMOND said:

Mr. SPEAKER: During the present session of Congress there has been some discussion of the immigration laws of the United States and of the character of the immigrants coming here. It is undoubtedly true that some of these immigrants have failed to appreciate the virtues of our free institutions and our republican form of government, and sometimes we are led to doubt the wisdom of opening our doors to the people of other lands because a few of them seem unwilling to obey our laws and cultivate the spirit of true Americanism; but, on the other hand, great numbers of them come here to make America their home and to take up the duties and responsibilities of American citizens with the purpose of discharging those duties and responsibilities as good citizens should discharge them. Many of the illustrious men of our country, who have done much to help us solve our great social and civic problems, were immigrants or the sons of immigrants.

The governor of the State of Minnesota is the son of Swedish immigrants, who settled in the great Northwest and made a home there, and under the leave to print I desire to place in the RECORD the words spoken by this self-made man at the dedication of the Minnesota monument on Shiloh battlefield, with the hope that his patriotic address, as well as his pure life and splendid character, may serve as an inspiration to those who come from over the seas to live in our midst and to help make stronger and better our American citizenship:

ADDRESS OF GOVERNOR JOHN A. JOHNSON, DEDICATING THE MINNESOTA MONUMENT ON SHILOH BATTLEFIELD, FRIDAY, APRIL 10, 1908.

Representing the people of the Commonwealth of Minnesota, we are assembled on one of the historic battlefields of the civil war to pay our tribute of respect and affection to the memory of the sons of Minnesota who here yielded up their lives that this might continue to be a united nation. Their sacrifice was not for personal gain, but was in response to duty, and a contribution to the civilization of the age, and for the purpose of perpetuating the institution of human liberty.

I appreciate that nothing which I can say will add to or detract from the glory of their achievement, which in itself is an enduring monument to the patriotism and the heroism of the American soldier. Their sacrifice, however, was not different from that which has been made throughout all of the ages by those lovers of liberty who believed in a government which might give to all the people the right to life, liberty, and property. The love of liberty was not born in this country of ours; it was cradled along the Danube and about the shores of the Baltic, even when Rome had reached the limit of her imperial grandeur. Increasing in intensity with the passing of the centuries, it found its highest expression in the older countries in the great English charter of civil rights, which forever guaranteed to the people of that land immunity from the despotism of those who claimed to rule by virtue of Divine right. From the beginning of civilization man has ever struggled against the despotic power of the strong, and has never hesitated to mix his blood with the soil of his land when by this

offering he might leave to his posterity and those dear to him a legacy of freedom; and while the immediate result has not always been the triumph of the right, none of the great battles of history could have been fought unless there had been upon one side or the other those who were willing to sacrifice their own lives for the common good and for the permanent establishment of those principles of liberty which men have ever cherished.

One hundred and thirty-two years ago the great contest of humanity was transferred from the Old World to the New, and here, because of the isolation of this country, because of the high character of the men who espoused the cause of liberty, and because of the signal victory achieved by them in that struggle, an opportunity was afforded to crystallize into written law the aspirations of the patriots of all the ages. The men who built the foundations of this Government were those who had submitted to the supreme test of patriotism, for those who inspired the Constitution of the United States were the same who had pledged their lives, their properties, and their sacred honor to the cause of independence.

THE AMERICAN SCHEME OF GOVERNMENT.

The scheme of government devised by our forefathers was adopted after most mature deliberation and after the fullest investigation, and only when they were satisfied that in the distribution of the powers of government the rights of the people would be respected. It was founded upon the theory that the right exists in the people to make, alter, and modify their form of government, and to this end the several States in Constitutional Convention agreed upon and adopted a Constitution which was the foundation upon which this Nation rests. But, as Washington said, "The Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The further heritage of the power and right of a people to establish a government presupposes the duty of every individual to obey the established government."

The original sovereign States, which, through their representatives in 1787, united to form a Federal Government for certain specified purposes, were careful to have those powers which were delegated to it expressed in the Constitution then agreed upon.

While the primary object of a written constitution is to define governmental powers and to limit governmental departments, the overwhelming necessity for such an instrument is to prevent insidious encroachments upon the rights of the individual citizen, both from those in office and from those who by reason of their wealth and power have an influence far greater than that possessed by the average citizen. And so the Constitution of the United States was regarded by its framers as an instrument of the most sacred import, an alteration of which could only be made by the people themselves, in whom all ultimate power is vested, and then only after the fullest discussion and widest publicity.

Under the beneficent Government so established the Nation has prospered and the people are happy. One great cloud came upon the Nation in the form of an awful civil war, in which two sections of the country were in conflict with each other. The heroes who rest here gave their lives that this Nation might be maintained as it came from our forefathers. On another battlefield of that war Abraham Lincoln said: "It is for us, the living, rather, to be dedicated to the unfinished work they have thus far so nobly carried on. It is rather for us to be here dedicated to the great task remaining before us; that from these honored dead we take increased devotion for that cause for which they here gave the last full measure of devotion; that we highly resolve that these dead shall not have died in vain; that the Nation shall, under God, have a new birth of freedom, and that the Government of the people, by the people, for the people shall not perish from the earth."

DEMOCRACY V. BUREAUCRACY.

Shall we not to-day consecrate ourselves for the further perpetuation of the principles of American liberty and a constitutional form of government purchased at the cost of the blood of patriots? In this hour when there seems to be a disposition to depart from the established forms, when there seems to be a desire upon the part of those in authority to abide in a central bureaucracy rather than in a representative democracy, it becomes you and me to protest against any departure whatsoever from the Government which came to us from the Constitutional Convention of 1787 and those amendments which have been made to it by the specific will of the people.

Our concern is not of the past, nor wholly with the present, but much with the future. If the destiny of the Republic is in the hands of the American of to-day, then it becomes him to be guided and governed only by patriotic impulse and the desire to do that which will most largely contribute to the permanency of republican institutions. Advancing our civilization so that we will not, by recognizing the false claims of selfish interests and forgetting the American maxim that our object should be to attain the greatest good for the greatest number, incur the penalty which other peoples have paid, rather let us hold ever in mind that those who framed our Government believed in the equality of the people and that the chief aim of government is to maintain that equality.

Under our system of government the Nation has reached a material development hitherto unknown. The people have prospered beyond the dreams of those who lived a century ago. But with the development of the country and changes in economic conditions, and particularly with the growth of great private corporations, performing many of the functions of government, has come the necessity for the exercise of strict government control and a rigid enforcement of all the laws enacted to restrain the rich and powerful from encroaching upon the natural and legal rights of the poor and weak.

The marvelous foresight of the fathers of this country in framing the Constitution of the United States is shown by the fact that in spite of all the changes which have occurred in industrial and economic conditions, in spite of the unexpected expansion of the country, the Constitution has been found sufficiently flexible to meet every emergency which has arisen. Let us remember this, for the danger of to-day is that the American people may be lulled into a false security, and, yielding to the demands of selfish interests, permit the breaking down of constitutional provisions, under which the American people have attained this wonderful degree of material prosperity and have yet maintained the individual liberty of the citizen.

The constitution of the ancient Republic of Rome, which for five hundred years had recognized the voice of the people as supreme, was expanded by executive interpretation and contracted by executive administration until Rome had so completely outgrown its democratic conditions as to become only a tragedy and a tradition. Let us implore the aid of Him on high to preserve us from the errors which ruined Rome, by the avoidance of which America may travel on to that destiny and realize that fulfillment which will be the inspiration of right-thinking men of all the ages yet to come.

Our Government is divided into three separate and distinct coordinate branches—the legislative, the executive, and the judicial. Danger will surely come to this Republic when any of these departments of government attempt in the slightest degree to usurp the functions of the other. And while now and then it may be that a court of the land, in construing the Constitution, may nullify a section of it, I have the faith to feel that the people of the country will rise above the fallibility of judicial tribunals and assert and preserve their own rights. Our duty is not to unjustly criticize the executive, the legislature, or the judiciary. Our duty is to recognize the majesty of the law when enacted by the legislature, to abide by and with the honest executive administration of the laws when so enacted, and to respect, even though wrong, the opinions of the courts of the land, because when respect for these institutions are gone, then the very framework of our Government is bound to crumble and decay. But thus having given our acquiescence to the voice of authority, if in the opinion of the people the action taken is one which should not be exercised by that particular department, it is our inalienable right to so further limit its powers as to prevent the recurrence of the error.

A DANGEROUS DOCTRINE.

Very recently there has come from the highest judicial tribunal in the land a decision of vital interest and concern to the American people, because it has established a principle, as stated by one member of the court, which "would work a radical change in our governmental system and would inaugurate a new era in the American judicial system and in the relations of the national and State governments. It would enable the subordinate Federal courts to supervise and control the official action of the States, as though they were dependencies or provinces. It would place the States of the Union in a condition of inferiority never dreamed of when the Constitution was adopted or when the eleventh amendment was made a part of the supreme law of the land." If this is the result of this decision, it is, to my mind, one of the unhappy incidents in the history of our Republic, because the very theory of our Government is based upon the right of the States to control absolutely their own domestic affairs.

If, then, our whole system of government is changed, have we not only retarded the progress of the Republic, but have we not gone back a century toward a centralized form of government which is not to the advantage of the people? What this Government needs is not more power. What it needs to-day is to so distribute the privileges under the Government that all citizens will have equal opportunity. America has been called the land of opportunity. But American opportunity should not mean a granting of special privileges to any class, but should afford all alike the means for culture, education, prosperity, and contentment.

SAFEGUARD HOME RULE.

For nearly a century and a half America has presented to the world the spectacle of a happy, prosperous, and intelligent people, maintaining a pure democracy founded upon their supreme will. The hall-mark of a democracy is that the powers of government are close to the people. Throughout the world, wherever democracy is advancing, its progress is marked by a greater measure of self-government to each community. Will the American people turn to the setting rather than the rising sun? Shall we now, because some laws are found irksome by a class and interfere with their selfish aims, commence to deprive our sovereign States of that measure of home rule which until now they have seen fit to reserve to themselves? I can not believe it. Upon the contrary, I believe that the limitations upon State and Federal governments, the nice balancing of the powers of each, and of the different departments in each, which have been so efficacious in the past, will be maintained in their full vigor in the future.

Therefore, discharging all of our responsibilities as citizens of a country, refusing to surrender our rights of citizenship in any degree, let us so live that the heroism exemplified on this and other American battlefields may not be simply a tradition, and the national wisdom of our forefathers a mere legend, but that through us and those to come America will reach her full destiny in the permanent establishment of a perfect Union, which shall be not for to-day nor for to-morrow, but forever, and be so established that it will be for all of the people, and that their Government shall not perish.

Legislation for the Relief of the Tobacco Growers of the Country.

SPEECH

OF

HON. WILLIAM PRESTON KIMBALL,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. KIMBALL said:

Mr. SPEAKER: I voted against the resolution offered the other day by the gentleman from New York [Mr. PAYNE] giving Members general leave to print in the RECORD for five days after adjournment. I do not believe the CONGRESSIONAL RECORD should be used for any such purpose, and I am sure that it was not the original intention that it should be so used. But the resolution having been adopted and the leave given, I see no reason why I should not, like the other Members, avail myself of the privilege.

The tobacco growers of Kentucky are greatly interested in the removal of the internal-revenue tax of 6 cents per pound on manufactured tobacco, and in being allowed to stem and twist tobacco grown by them and of selling it to the consumer direct without being required to pay any revenue tax. I desire

to append some correspondence on that subject, which, of course, I have obtained permission to publish:

LEXINGTON, KY., September 25, 1907.

HON. WILLIAM LOEB,
Secretary to the President, Oyster Bay, N. Y.

DEAR SIR: I inclose you a letter to the President, and a brief in the form of a letter from Hon. W. C. McChord, in relation to the modification of the internal-revenue laws in regard to the tax upon manufactured tobacco, together with a request to the President to call the attention of Congress to it in his next annual message.

You will confer a great favor on the tobacco growers of Kentucky if you will call the President's attention to the same.

Very respectfully,

W. P. KIMBALL,
Congressman Seventh District of Kentucky.

REPLY OF SECRETARY LOEB.

THE WHITE HOUSE,
Washington, D. C., September 26, 1907.

MY DEAR MR. KIMBALL: Your letter of the 25th instant and inclosures in relation to the modification of the internal-revenue laws in regard to the tax upon manufactured tobacco have been received, and the President will go over the matter with the Secretary of the Treasury.

Very truly, yours,

WM. LOEB, JR.,
Secretary to the President.

HON. W. P. KIMBALL, M. C.,
Lexington, Ky.

LETTER TO THE PRESIDENT.

LEXINGTON, KY., September 25, 1907.

TO THE PRESIDENT:

On behalf of the tobacco growers of Kentucky, and especially those of the Seventh Congressional District, I beg leave to submit for your consideration a letter written me by Hon. W. C. McChord, of Springfield, Ky., an eminent lawyer, one of the framers of the present constitution of Kentucky and a grower of white burley tobacco, who has taken a leading part in the fight against the American Tobacco Company for better prices. The letter was written at my request in order to serve as a brief in support of the contention of the tobacco growers that the internal-revenue laws should be so amended as to permit the grower to stem and twist his tobacco (without mixing any foreign substance therewith and without the use of any machinery whatever) without being required to pay the manufacturers' tax of 6 cents per pound upon the same. And in this view of the matter I respectfully request your perusal of it.

It was the intent of the white burley growers of Kentucky to send a delegation to Washington and request an audience with Your Excellency, and request you to recommend this modification of the law in your next annual message. But realizing how heavily the pressure of the public business weighs upon you, and your numerous engagements, it was decided that this matter should be presented to your consideration in the form I have adopted.

The relief they seek will be of great value to them, and will not, in my opinion, greatly impair the public revenue. Permit me to urge upon you the request of the tobacco growers of Kentucky to take cognizance of their troubles and to respectfully ask your good offices with Congress in their behalf.

Very respectfully,

W. P. KIMBALL.

Letter of Hon. W. C. McChord, of Springfield, Ky.

SPRINGFIELD, KY., September 17, 1907.

HON. W. P. KIMBALL,
Member of Congress, Lexington, Ky.

DEAR MR. KIMBALL: Your esteemed letter of the 11th instant, requesting me to give you my opinion of the merits of House bill No. 14972, entitled "An act for the relief of tobacco growers," and now pending before the Senate of the United States, was received by me several days ago, but other engagements prevented me from giving you a prompt reply.

A bill, as I understand it, in substantially the same form, passed the House in April, 1904, by practically a unanimous vote, and again passed the House in the same way March 6, 1906, and these two bills have since that time been quietly sleeping in the Ways and Means Committee in the Senate. What that means you lawmakers are familiar with.

I assume that Congress recognizes that the growers of tobacco need relief from oppression of some kind. The first question, then, is, What is the oppression these loyal citizens of the United States are laboring under and from which they need relief? And what has brought about the conditions which public policy demands that Congress or the courts shall relieve them from? An answer to these questions as my premises will, I think, enable me to make my conclusions understood more readily.

It is a well-known fact among those familiar with tobacco that in order to handle tobacco in small quantities or sell it to the consumer in its raw or unmanufactured condition it is necessary to stem and twist it. When Mr. Yerkes, Commissioner of Internal Revenue, was asked what would be the loss in revenue to the Government if the pending bill should be passed, his answer was that it would be comparatively small, because he knew it was impracticable to sell loose or unstemmed and untwisted tobacco except to manufacturers in large quantities, and that the benefits to the tobacco growers by the passage of the pending bill would in effect amount to nothing.

Prior to the enactment of the laws now governing the sale of unmanufactured tobacco, and the construction given them by the revenue officers, growers of tobacco were allowed to stem and twist the tobacco grown by them, without being deemed by the law as manufacturers and without being liable to tax of 6 cents per pound on the tobacco that might be stemmed and twisted by them. In other words, they were allowed to prepare the tobacco grown by them for market, so that it could be purchased by the consumer or others who desired to do so, as they did and now do with their wheat, corn, hay, or hogs, or any other commodity raised by them on their farms. Then the price of tobacco was regulated by supply and demand and as fixed by legitimate competition. The price under these conditions was from 15 to 30 cents per pound. Before the passage of the laws now in force there was a large demand throughout the United States, particularly in Southern

States, for this twisted or unmanufactured tobacco, which was purchased by the consumer in competition with the manufacturers.

Under the present law, which was enacted, I think, in 1896 or 1898, the growers are prohibited from stemming or twisting the tobacco grown by them unless they pay a tax of 6 per cent per pound to the Government as manufacturers. Because of complicated provisions of the law governing the manufacture of tobacco, and for other reasons, it is impracticable for growers to comply with it. The effect of the law is to deprive the growers of the right to sell the product of their labor to anyone other than those engaged in the manufacture of tobacco as a business. Thus the law drove out of the market the consumers, the purchasers of a large amount of unmanufactured tobacco, and left the manufacturers as the only purchasers. With the consumer, the strongest competitor of the manufacturer in the purchase of the raw material, thus driven out of the market by law, there was at the time of the enactment of the law strong competition in the purchase of raw tobacco among the then many different manufacturers. Under these conditions the growers of tobacco could live, and did not need or call for the relief which Congress is now graciously proffering to extend to them.

In 1899 the present managers of the American Tobacco Company saw the effect of the law, which, as I have shown you, destroyed the principal competitor with the manufacturers in the purchase of the raw tobacco, and conceived the idea that with a consolidation of a majority of the manufacturers under one management all competition in the purchase of such tobacco could be entirely eliminated, thus placing in the consolidated concern the power to fix the price of unmanufactured tobacco at whatever price it saw proper, so that the greatest amount of salaries and dividends could be made for the promoters of the scheme. The result was the tobacco trust, the history of which concern is a part of the history of this country, and with which we are all familiar. I need not refer to it here. Suffice it to say that this concern has, with the aid of the laws enacted by the Congress of the United States, fixed the price of tobacco in the hands of the growers at enough above the cost of production to induce the growers to raise just enough tobacco to subserve its demands.

If Congress will so amend the law as to allow the growers of tobacco to stem and twist the tobacco grown by them, so that it may be sold to the consumer, without paying tax as a manufacturer, so that a market can be opened for the sale of tobacco in its raw condition independent of the manufacturer, the trust will be deprived of its power to oppress the people, as legitimate supply and demand will regulate and control the price of tobacco, which is all the people would or ought to demand.

But recurring to the question propounded in your letter as to my opinion of the merits of the pending bill before Congress as a measure that will secure "relief of tobacco growers," as set out in the caption of the bill, I unhesitatingly say it will be absolutely worthless toward accomplishing the relief proposed, for the reason, as I have stated, tobacco can not be handled or sold to anyone other than the manufacturers in large quantities, unless it be stemmed and twisted. It has been contended by the trust, with its accustomed solicitude for the welfare of the Government, that if the growers should be allowed to stem, twist, and sell their tobacco without paying the manufacturer's tax of 6 cents per pound, the Government would lose a large amount of revenue.

It is urged by the growers with much plausibility that this assertion is not correct, for the reason that the growers would prefer not to stem or twist their tobacco, but would prefer to sell it in the hand if they could get a fair price for it; and if the growers had the right to stem or twist it the trust would increase the price for the tobacco, in the leaf to a fair and remunerative price to the growers, and therefore they would not undertake the labor of stemming and twisting it. The result would be that the quantity of tobacco that would be sold in the twist would be small and the amount of loss to the Government would be inconsiderable.

But suppose one-half the revenue on tobacco would be lost to the Government under a system that would allow the people to realize a fairer profit for their labor and the investment in the tobacco-raising business. We assert as an economic proposition that the Government has no right to maintain any system which renders its citizens slaves to the tobacco trust for the sake of collecting a few million dollars in taxes on tobacco.

If the Government will repeal the laws which enable the trust to maintain its monopoly, as I have indicated, the people will take care of their own affairs and deprive the tobacco trust of its power. But the power of the trust, fostered by unjust laws of Congress, places the tobacco growers in a precarious position, which they are endeavoring to overcome by united cooperation and through organization, which have had beneficial effects on the price of tobacco. But whether the unequal contest will be the means of securing permanent success is a question for the future to determine.

The pending suits to annul the charter of the trust may appear to be laudable efforts on the part of the Government to restore legitimate competition and trade in tobacco, yet the tobacco people look upon such proceedings without hope of any beneficial results, and they humbly petition those who are vested with authority to urge and secure the repeal of the laws, which are in restraint of trade, as I have indicated, and leave the market of the world open to tobacco growers and allow them to sell to the purchasers who will pay the best price for the product of their hard toil, whether it be the consumer, speculator, or manufacturer, when the price of tobacco will be regulated by supply and demand.

Very respectfully,

W. C. McCHORD.

I also append a bill introduced by me at this session of Congress, which if enacted into a law would destroy the tobacco trust and place the traffic in that article upon a legitimate basis:

A bill (H. R. 16504) regulating the transportation by interstate-commerce carriers of manufactured tobacco, cigars, and snuff.

Be it enacted etc., That from and after the passage of this act it shall be unlawful for any carrier of interstate-commerce to transport or accept for transportation the product or output, or any part thereof, of any manufactory of tobacco, cigars, or snuff which is owned, controlled, or operated by any person, firm, corporation, or association of persons who have formed themselves into or are in any way interested in any trust, combination, or agreement between themselves, or with any person or persons to restrain the trade in, or create a monopoly of, or fix the buying and selling price of the raw material used in the manufacture of tobacco, cigars, and snuff, or the manufactured article of the same, or who since the passage of this act in the conduct of

said business have violated any of the provisions of an act of Congress approved February 4, 1887, entitled "An act to protect trade and commerce against unlawful restraint and monopoly," or any other law of the United States enacted for the same purpose.

Sec. 2. That it shall be unlawful for any carrier of interstate commerce to accept for transportation any of the product or output of any manufactory of tobacco, cigars, or snuff until the president, secretary, or general manager of the corporation or association of persons operating the same, or, if operated by an individual, the individual himself, shall have filed with said carrier, and with the United States district attorney for the district wherein said manufactory is located, an affidavit to the effect that the owners, controllers, or operators of said manufactory have not, since the passage of this act, violated any of the provisions of an act of Congress of February 4, 1887, entitled "An act to protect trade and commerce against unlawful restraint and monopoly," or any other law of the United States enacted for a similar purpose, and that the owners, controllers, and operators of said manufactory have not formed themselves into, and are not in any way interested in, any trust, combination, or agreement between themselves or any other person or persons to restrain the trade in, or to create a monopoly of, or to fix the buying and selling price of the raw material used in the manufacture of tobacco, cigars, and snuff, or the manufactured article of the same.

Sec. 3. That it shall be the duty of the Department of Justice to prescribe the form of the affidavit required to be filed with the carrier and the district attorney by section 2 of this act. After the first affidavit has been filed, a like affidavit shall be filed on or before July 1 and on or before December 31 of each year with the carrier to which said manufactory offers its product or output for transportation and the district attorney of the district wherein said factory is located, setting forth that since the filing of the last affidavit the owners, controllers, or operators of said manufactory have not been guilty of any of the acts denounced by section 1 of this act.

Sec. 4. That any officer or agent or employee of a carrier of interstate commerce who is a party to any violation of this act, and any person who is required by the provisions of this act to file the affidavit hereinbefore described, and who shall fail to do so, and whoever knowingly shall make any false statement in any affidavit required to be filed by this act shall be punished for such offense by a fine of not less than \$2,000 and not more than \$10,000, or be imprisoned for not less than one year, or by both said fine and imprisonment, at the discretion of the court.

Vreeland Currency Bill.

SPEECH

OF

HON. GEORGE K. FAVROT,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1903.

Mr. FAVROT said:

Mr. SPEAKER: It seems to me that the event more menacing to our continued existence as a government of the people, by the people, and for the people, bigger with potential disaster than any which has ever threatened our national life, was our acquisition of the Philippine Islands. While their seizure may be defended as an incident of a war, their retention is without justification and without reason. They are of no use, of no advantage to us, either in peace or in war. After ten years of possession, ten years of exploitation, our commerce with them is insignificant. The value of our exports to these islands barely balances the expenditure made necessary by their government. Our exports to them in 1907 were \$5,664,254, while the cost of our Philippine military establishment alone was \$5,200,000. And so far from developing, from increasing, that commerce has actually declined. It is estimated that the Philippines have cost us to date about \$400,000,000. What return have we or can we expect for this vast expenditure? What great works of public improvement, of internal development, could be accomplished with this amount. And, besides, these islands have cost us about 5,000 lives, the lives of 5,000 young and vigorous men. And, Mr. Speaker, leaving aside all sentimental considerations, these young men in their capacity for production of wealth, in their ability to assist in the development and the betterment of our country, would, in the short span of their lives, be worth to this nation tenfold more than will the Philippines if we hold them until the sun grows cold.

I have heard it argued that we should retain them because of their strategic importance. Of what strategic value to us are these islands? They are certainly not needed for the defense of our coasts, and on the Asiatic mainland we have no territory to defend, no interests to protect. I can imagine no war in which this country can rightfully engage in which these islands can serve as a naval base. The possession by a foreign power of these islands 7,000 miles away would not menace us. With them Japan would be no closer to us than she is now, and every first-class power possesses territory nearer to our coasts than are the Philippines. In the event of war the only rôle which they could and would play would be that of American territory which it would be necessary to protect. As they are of no advantage to us as a naval base, as they are

of no advantage to us commercially, of what use, of what benefit are they to us? Why this fearful expense? Why do we pour out in floods the people's money for the maintenance of their government when appropriations for praiseworthy projects—projects which would make for the benefit and prosperity of our entire country, projects which are needful for her proper development—are denied on the plea of economy? Why do we cut loose from our moorings, violate our Constitution and the spirit of our Government and of our institutions in order to keep them and to govern them?

It will of course be said that the advocacy of the disposal of the Philippine Islands is unpatriotic. Is it unpatriotic to advocate ridding ourselves of an incubus? Is it unpatriotic to advocate ridding ourselves of territory which can be of no use to us either in peace or in war, and which we can not govern without violating the fundamental principles of our Government and the genius of our institutions? It can not be charged that Napoleon was unmindful of the welfare and the glory of France. Yet amid his dreams of conquest, of glory, and of splendid empire, realizing, as a statesman should, that Louisiana contributed nothing to the welfare or the glory of France, was a drain upon her resources, and was difficult of defense; that France would be best unhampered and untrammelled by these distant possessions, leaving his mighty genius free for the solution of the great problems which beset him and for the development and consummation of his splendid plans for the reconstruction and regeneration of France, of Europe, and of society, acting as a patriot should, he rid himself of the incubus. And Louisiana was a vast and virgin territory, a territory possessing every soil and every clime, fit for settlement and colonization by the European races; a territory of boundless resources, capable of limitless development, where might live and thrive a white population more numerous than that of France; a territory which bid fair to become and has become an empire larger, wealthier, and greater than that which crumbled at his fall. And his was an imperial despotism, which could rule distant colonies without strain and without jar.

Mr. Speaker, there can be no reason, no excuse, for our retention of the Philippines but an overpowering, unreasoning lust for land—that fatal passion which has brought about the downfall of every empire known to history. Does history teach us nothing? Must its warning go unheeded? Time was when the world was ruled from the seven hills of Rome; but with the growth of the Empire, the rugged republican virtues which had made her mistress of the world declined. To republican zeal succeeded imperial lassitude. The very splendor of her empire served but to conceal, to gild, her internal corruption and decay, and soon this mighty fabric crumbled. And what has been the fate of all other colonial nations? Following close upon the discovery of new worlds, Portugal, tempted by dreams of gold and by the alluring prospect of a trade of fabulous value, embarked upon a career of colonial expansion, and soon her possessions fronted every sea. But what to-day is Portugal? Holland, tempted by the rich trade of the East, had, too, her day of colonial grandeur, but what now is Holland? Spain, fresh from her successful struggle with the Moor, burning with zeal, with ardor, and with youthful vigor, tempted by the gold of the Aztecs and the Incas, entered upon her policy of colonial conquest. Yet, notwithstanding the vast treasure wrung from her possessions, what is Spain to-day? It has been but a short time in the life of nations since the Spanish power overshadowed the world, since a great part of Europe; almost all of this hemisphere; of North, South, and Central America; of the Indies, both East and West, acknowledged the sovereignty of the Spanish King.

Yet where to-day is that Empire on which the sun never sets; an Empire vaster than that of Rome; an Empire more extensive than any known to history? Neglecting her home affairs, her internal development, her brains, and her energies devoted to conquest and the exploitation of distant colonies, her decay was rapid and is now complete.

What madness drives us headlong on this road to ruin? The colonial nations of Europe did not acquire territory solely for love of possession; did not embark upon the fatal policy of colonial expansion simply to extend their domain; to expand their boundaries. In every instance they were driven to it by love of gold; by dreams of fabulous riches. England's colonial policy may be cited as a success. But the British Empire is still young. It was a few years before the birth of this Republic that Wolfe died victorious upon the Heights of Abraham, and Canada was added to the British domain. It was at the same time that Clive, upon the ruins of the old Mogul Empire, laid the foundation of English supremacy in the East; and the undreamed-of riches, the hoarded accumulation of centuries of oriental civilization, and the monopoly of the trade

in the costly products of the East, of more value still, led her to the gradual absorption of all India.

And England's colonial policy, her predatory policy of territorial seizure, revolves around and is because of her possession of India. Before the building of the Suez Canal she seized the Cape of Good Hope for a place of rest and refuge on the way to India. And it was only when lured by deposits of diamonds and of gold, the richest known to man, that she advanced into the interior, even in her advance ruthlessly destroying the liberties of a free and a Christian people. And Gibraltar, Malta, Egypt, with its command of the Suez Canal, Aden and Ceylon simply guard the road to India. Australia and Canada are not exceptions to this rule. The possession of Australia by another power would have threatened India, and no attempt was made to settle or develop this great island continent—it was used solely as a penal settlement—until the discovery of gold. And Canada is, too, a station on the other road to India. With Canada, with Hongkong and Singapore, her command of the road to India from the east is almost as complete as her control of that from the west. And with the exception of India and of the stations just large enough in area to hold a fortress her colonial possessions are settled and inhabited by her own sons. They permit her to divert the overflow of her congested population to a new world and still keep them under the British flag.

They open to her sons opportunities which they do not and can not have at home; they give them the opportunity to grow and to thrive in and with a new land without expatriation, and to all intents and purposes these colonies are as self-governing, as independent, and as free as we are. The tie which binds them to the Empire is simply and purely one of sentiment. They are tied with a silken thread. Their government presents no difficulties, vexes her with no problems, because they govern themselves. Their possession, their control, entails no drain upon her resources; no inroads upon her treasury, for they are self-supporting and capable of self-defense.

Of course India, tropical in its climate, unfit for the habitation of men of our race, already fully populated with an oriental people, as are the Philippines, is an exception to the rule. But her rule of India has not been a success. There she sits upon a volcano. But even if it were a success, our institutions would not admit of such government. Our republican principles, our high ideals, would not permit such despotism, such cruel oppression of a people. No people of European race, no matter what their form of government, no matter what their experience, have ever succeeded in the government of the Orient. We of the West, we of the Caucasian race, can not fathom the mysteries of the oriental mind. The difference between us is not superficial, not the mere result of environment, but is radical and fundamental. Our ways are not their ways; our standards are not their standards; our morals are not their morals; our right is not their right; our thoughts, our mental processes, can never be theirs nor theirs ours.

And, Mr. Speaker, if we hold these people until all record, all knowledge of the events of this age and of this century shall have been lost in the dim vistas of the past, until the date of our acquisition of these islands shall have become prehistoric, the gulf that separates the East from the West will be still unbridged. Are we to succeed where all others have failed? Are we to achieve the impossible, to surmount the barrier which the Almighty in His infinite wisdom has from the beginning placed between us? Great as is our confidence, great as is our conceit, we can not hope it. Every colonial power has been led into its error by some reason, impelled by some great temptation. But we have embarked upon a policy which has caused the downfall of every empire known to history. And tempted by what? These islands offer no hope of trade, of riches, of treasure, to lure us to our ruin. Their possession gives us no such present advantage as should blind us to the future. Situated in the Tropics, they are unsuited for the habitation of the white man. There the white man can not live and thrive. Fully populated, they offer no opportunity to our sons; and if they did, we have no congestion, no overflow of population. With millions of unoccupied and untillable acres, with boundless resources, the utilization of which has hardly begun, with countless opportunities yet unseized, this country needs the brain and the brawn of all her sons. Our best thought, our best effort will hardly suffice for the solution of those problems which loom large before us, which grow more threatening day by day, which menace the very life of this Republic. Our very prosperity, our very wealth, has brought with it grave problems, difficult of solution. We must soon determine whether the great wealth yearly produced by this country shall flow into the pockets of the people, the earners, the producers, or whether it shall flow into the already swollen coffers of a few financial despots.

That question must be determined soon and determined rightly, or the sacrifices and the struggles of our fathers to create and upbuild a government of the people, by the people, and for the people will have been in vain.

More than seventy years ago De Tocqueville wrote, in effect, that when this country became thickly settled and had produced great wealth, and if because of it unequal distribution there had grown up two classes—one of the very rich and the other of the very poor—that inevitably each would seek to control this Government in its own interest. All signs indicate that his prophecy will soon be proven true. And it will require our most unselfish patriotism and our wisest statesmanship to steer the ship of state safely between the rock of plutocracy upon the one hand and that of mobocracy upon the other. We have no time, no thought, no effort to waste upon the solution of the problem of the government of an alien people 7,000 miles away.

The acquisition of territory upon this continent, our continental expansion, may be cited as a parallel. There is no analogy. The territory acquired during Democratic administration was contiguous territory, forming with our original domain a compact whole. It was virgin territory which could be settled by our own sons; by men of our own race and of our own blood, who were trained to self-government and to reverence our institutions; who were imbued with our ideals. And it was intended that this territory should form American States, coequal with the other States of this Union, their inhabitants possessing every right and every privilege of American citizens. No part of that territory was acquired without reason. In every instance such acquisition was essential to our growth, our development, our national expansion.

Early in our history the hardy sons of this Republic crossed the Alleghenies and settled that fertile section now called the "Middle West." And the only practicable outlet for the growing commerce of that region—its natural highway to the sea and to market—was the Mississippi River. And the safety of that commerce and the development of this section of our country imperatively required control of the port at that river's mouth. And in order to acquire that port it became necessary to take with it all Louisiana.

And the acquisition of the Floridas was not without reason. After the acquisition of Louisiana Spain still held West Florida, fronting upon the Mississippi between the river Iberville and the thirty-first degree of latitude—a barrier between the American possessions to the north and to the south—and there commanding the Mississippi and menacing that unrestricted control of its navigation so much desired. So important was our possession of this territory that, about 1810, Jefferson wrote to Madison, then President, that as soon as war with England became inevitable to seize it; that if he did not the English would, and thereby separate our Western country. And soon after Madison, taking advantage of a successful revolt of its inhabitants and asserting a well-founded claim that this was originally part of Louisiana, took possession; and in a few years the peninsula of Florida, commanding the water route between the Mississippi and our Atlantic seaboard—then by far the cheapest and most practicable route for the commerce between our East and our West—was acquired by treaty.

Texas, first achieving her independence, inhabited and governed by men of our own race, by native sons of our land, by men of the highest type of American manhood, voluntarily sought admission to our Union, and the acquisition of California and of the other territory acquired from Mexico as an incident of the war resulting from our defense of Texas's right to join us, removed the barrier between us and the Pacific.

It will be seen that there was good and sufficient reason for every acquisition of territory under Democratic administration. But what reason can we have for holding the Philippines?

But our colonial policy has accomplished one thing. It has served to expose the inconsistency, the hypocrisy of the Republican party. By means of its system of preferential tariffs it has upbuilt and fostered a despotism of dollars. It has created that most intolerant and intolerable of all aristocracies—an aristocracy of money, an aristocracy more wantonly and ruthlessly indifferent to the interests of the country and to the well-being of the great masses of our people than was that aristocracy the oppressions of which brought about that mighty revolution during which France was drenched in blood. And this they have done and are doing under the specious plea that they desire to protect the American laboring man from the competition of the pauper labor of Europe. Yet the result under Republican administration of the retention of the Philippines will be to place the American cane-sugar grower, the American beet-sugar grower, and the American tobacco grower—agriculturists of that class who are the bone and the

sinew of this Republic—in direct competition with the 30-cents-a-day, half-savage pauper labor of Asia.

And in your government of these colonies you recognize that a people untrained, not yet arrived at a certain stage of civilization, are unfit for self-government. You recognize that an inferior can not govern a superior race. You debar the masses of the people of these islands from all share in the government of their own land, deeming them unfit. And yet the Filipino is far more advanced, has been far longer in contact with our Western civilization, is far further removed from savagery than is the negro. Yet you secure as best you can to the handful of white men in these islands, to the handful of traders and adventurers, temporary sojourners in a strange land, for the protection of their paltry interests, those blessings of honest and of stable government which you would not permit the people of a section of your own country, men of your own race and your own blood, to secure for themselves for the protection of their homes, their firesides, their very civilization. You give to these distant islands that protection, that security, those safeguards against misgovernment and anarchy, against the misrule of the ignorant, the irresponsible, and the corrupt which you forbid, and would now if you could forbid, sovereign States of this Union to give to themselves.

Mr. Speaker, the blackest pages of American history are those which record the infamies of reconstruction. Great as was the damage done to the South by the war, great as was the desolation wrought by fire and by sword during the four years of that, the bitterest struggle known to man, it was insignificant when compared with the damage and the desolation suffered during the era of negro carpetbag government. Never before in the world's history were a conquered people placed under the domination of an inferior race and kept there by men of their own race. The attempt was to place the negro, not upon an equality with the white man, but above the white man. And not because the Republican party loved the negro, but because it wanted his vote. For this they crushed the South under a government of semibarbaric ignorance and brazen corruption. For this, actuated solely by lust for power, they impoverished and desolated the South, regardless of the fact that the poverty or prosperity of one section of our country affects the prosperity of the whole; heedless of every tie of race, of every tie of blood and of kindred; unmindful of our common origin, our common history, our common traditions—unmindful of the joint struggles of the North and the South—their common successes in the achievement of American independence and the upbuilding of this Republic, they desolated a land that should have been respected by every American because of the deeds and the services to this nation of her illustrious sons. Why, this Union was in greater part the conception of Southern intellect. The declaration of its independence was the work of a Southern statesman. The armies which achieved that independence were led by a Southern soldier. They desolated a land which should have been hallowed as the home of Patrick Henry, whose voice was the first raised for freedom; as the home of Washington and of Jefferson, of Madison and Monroe, of Jackson and of Taylor, aye, even of him who did more than all others—more than Hamilton himself—to form this Government in accordance with their Hamiltonian plan—John Marshall—and of the greatest exponent of their cherished policy of protection—Henry Clay.

Great, Mr. Speaker, was the South's share in the glory of that flag. Why, sir, there is not a star upon its blue field that has not been made brighter by Southern heroism upon countless fields; there is not a red mark upon it that has not been made deeper, richer, and redder by Southern blood; there is not a white line upon it that has not been made whiter, purer, and holier by Southern honor and Southern integrity in high official place.

But since the overthrow of these radical republican governments, the progress, the development, of the South has been unparalleled in history. No longer does she lie crushed and prostrate, bound Prometheus-like, with the vultures of reconstruction tearing at her vitals; but she stands erect, every nerve and every fiber throbbing and quivering with life and with energy, facing the future confident of her destiny. Nowhere has Nature been more bounteous with all her gifts, more prodigal of her blessings. With her boundless resources, with every advantage of soil and of climate, with her vast deposits of mineral wealth, with her fields and her forests, she has no fear of the future. But for the full fruition of her hopes, to achieve her destiny, she must have peace and good government. She must be let alone. Let her alone, and the time is not far distant when south of the Potomac will be produced the greater part of this nation's wealth. Let her alone, and soon she will be able, from the storehouse of her products, to feed and clothe the teeming millions of the world and still from her surplus

minister to their luxuries. Let her alone, and soon she can build a temple grander than that of Solomon; inlay its walls with woods more precious than the cedars of Lebanon; drape them with fabrics finer than the Tyrian ever saw, and lay upon its altar every food and every drink known to the hungry of the earth. But she must be let alone; she must be permitted unhampered, unimpeded, to work out her own destiny.

All should realize that men living far removed from contact with the great body of the negro race, with no knowledge of conditions, are less competent to solve our great problem than are we, who were born amidst it; who have it with us during every waking hour; we to whom its solution is of vital moment. All must realize that the South can, the South must, and the South will solve her own problems, and solve them in her own way. Would it not seem that this startling contrast between the Republican policy toward the South and its policy toward these islands—in its treatment of the negro and its treatment of the Filipino—is due to the knowledge that the negro would always be an asset, a faithful follower of the Republican party, while the Filipino probably would not.

It will be said that we can not get rid of these islands. That is, indeed, a compliment to our colonial policy—a startling commentary upon the wisdom of our acquisition of these islands—that we have spent \$400,000,000 and sacrificed thousands of American lives to secure and to keep what nobody else would have! But is it true that we can not rid ourselves of them? Is there any basis in fact for that statement? Are we to believe that Spain, which parted with them with such reluctance, would not have them back?

Are we to believe that Japan, which covets them, and, best of all, can understand and govern them; Japan, ambitious to extend her Asiatic domain, whose population is so congested that she feels the need of expansion, and whose sons can settle and develop them, would not have them? Are we to believe that France and Germany, which hunger for possessions in the East, would not have them? Have we ever shown a willingness to dispose of them? Until we do, let us not say we can not get rid of them. If nobody will have them; if they are so bound to us that they can not be separated, why, let me ask, do we expend immense sums for fortifications, the purpose of which are to prevent somebody from taking them. We can and should rid ourselves of them. Rid ourselves of these islands which are a burden to us, which we can not govern, and the possession of which is fraught with danger to our institutions.

The Call of the People for Good Roads.

SPEECH

OF

HON. WILLIAM SULZER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. SULZER said:

Mr. SPEAKER: In the closing hours of this session of Congress I rise for the purpose of saying a few final words in favor of good roads. The proposition for good road building is a live question, and will continue to be a matter of much concern to all the people of the country until it is settled and settled right. I take a deep and an abiding interest in the matter and have given it considerable study. In the last Congress I introduced a bill for Government aid to good road building, and I reintroduced the same bill in this Congress. I have appealed again and again for action, but all in vain. It is in the pigeonholes of the Committee on Agriculture, and I can not get it reported. I believe my bill will go far to solve the problem of good road building, and I send it to the Clerk's desk and ask to have it read in my time, so that it may be printed in the RECORD as a part of my remarks.

The Clerk read as follows:

A bill (H. R. 16627) to promote the construction of good roads and the efficiency of the postal service in the States and Territories of the United States.

Be it enacted, etc., That upon the application of the proper authorities representing any State or Territory of the United States, the Secretary of the Treasury shall loan to such State or Territory for the construction or improvement of post-roads within such State or Territory and outside the limits of any city or incorporated village the actual cost of such construction or improvement: *Provided*, That the construction or improvement of said post-roads shall be under the general supervision of the Post-Office Department and according to specifications approved by it, and the Postmaster-General is hereby authorized and directed to make all needful rules and regulations relating

thereto: *Provided further*, That one twenty-fifth part of all money received from the United States Government under the provisions of this act shall be each year returned to the Treasury of the United States by the State or Territory receiving the same until the whole amount received by such State or Territory shall have been returned.

SEC. 2. That no interest shall be charged upon money loaned under the provisions of this act when returned to the Treasury is promptly made as provided for by this act, but a 5 per cent per annum interest charge shall be added to all deferred payments. And the Secretary of the Treasury is hereby authorized and directed to make all necessary arrangements with the States and Territories with respect to said loan.

SEC. 3. That the President is directed to cause to be laid before Congress, as soon as convenience will permit after the commencement of each session, a statement of all proceedings under this act.

SEC. 4. That this act shall take effect immediately.

Mr. SULZER. Mr. Speaker, the bill speaks for itself, and is a simple, comprehensive, and constitutional measure for Government aid in good-road building. It is the first proposition of its kind that has ever been introduced in Congress, and if it became a law it would promote the general welfare, not take one dollar in its last analysis out of the Federal Treasury, and yet it would aid the State that can not now afford to appropriate the money. They money loaned the States would all be returned to the Government, and in twenty-five years we would have the best roads in the world. We loan money to the national banks, then why not to the States to build good roads that will directly or indirectly benefit all the people? To-day there is deposited by the Government the sum of \$200,000,000 of the people's money in the national banks, not drawing a dollar's interest, and benefiting no one except the stockholders of the national banks. If some of this money were loaned the States to build good roads, as contemplated in my bill, it would give employment to thousands and thousands of honest workmen now idle, promote prosperity, and ere long secure for all the people splendid national highways.

Good roads, sir, are the arteries of the industrial life of a great and powerful people. In a Government such as ours all sorts and conditions of men and women are more or less absolutely dependent upon the best and speediest means of communication and transportation. If you say good roads will only help the farmers, I deny it. The farmers who produce the necessities of life are less dependent than the millions and millions of people who live in our cities and towns. The most superficial investigation of this subject will clearly prove that good roads are just as important to the consumers, if not more so, than they are to the producers of the country.

The burdens of life fall hardest on the farmer. The least the Government can do for him is to help him get decent highways. I am with the farmers in this fight for good roads. I am with the rural districts of our land in their struggle for better transportation facilities, and in Congress or out of Congress I shall do all in my power to hasten the consummation they desire—the ability to go and come along decent roads without exhausting the time and the effort and the utility of man and beast. I know farm life. My boyhood days were spent on a farm doing farm work. I know the farmer's joys and sorrows—his trials and his troubles, and I know that we owe much to the farmers and producers of our country—much that we can never repay. Whatever will aid them will benefit the people in every community.

Mr. Speaker, the National Good Roads Congress will hold two conventions this year, one in Chicago on June 15, and the other in Denver on July 6, and they give evidence of being largely attended and doing much good. I now send to the Clerk's desk and ask to have read in my time the call for these conventions, largely signed by governors of our States, mayors of our cities, and distinguished and representative men in all walks of life from all parts of our country.

The Clerk read as follows:

CALL FOR THE FIRST NATIONAL GOOD-ROADS CONGRESS, CHICAGO, JUNE 15, 1908; DENVER, JULY 6, 1908.

Recognizing a well-nigh universal sentiment in favor of better public highways and believing that a general discussion of this great problem from every point of view will prove timely and effective, the undersigned join in urging all interested to attend the meetings of the National Good Roads Congress at Chicago, June 15, 1908, and Denver, July 6, 1908, that the results of its deliberations may be presented for the consideration of the coming national conventions, all legislative bodies, and the public generally.

Mr. SULZER. Mr. Speaker, this call has been signed by over 500 prominent citizens of Chicago and other cities, and the governors of Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming; and the mayors of the following ninety American cities: Akron, Ohio; Albuquerque, N. Mex.; Auburn, Me.; Aurora, Ill.; Atchison, Kans.; Beaver Falls, Pa.; Baltimore, Md.; Baton Rouge, La.; Belleville, Ill.; Boise, Idaho;

Bowling Green, Ky.; Cairo, Ill.; Cambridge, Ohio; Chillicothe, Ohio; Cincinnati, Ohio; Cleveland, Ohio; Colorado Springs, Colo.; Columbus, Ga.; Columbus, Ohio; Concord, N. H.; Cripple Creek, Colo.; Danville, Pa.; Dayton, Ohio; Duluth, Minn.; Easton, Pa.; East St. Louis, Ill.; East Liverpool, Ohio; Elkhart, Ind.; Fort Scott, Kans.; Gloversville, N. Y.; Grand Rapids, Mich.; Hackensack, N. J.; Hamilton, Ohio; Harrisburg, Pa.; Hartford, Conn.; Hot Springs, Ark.; Hudson, N. Y.; Indianapolis, Ind.; Jacksonville, Fla.; Joliet, Ill.; Jamestown, N. Y.; Kansas City, Kans.; Laramie, Wyo.; Lexington, Ky.; Lincoln, Nebr.; Little Rock, Ark.; Louisville, Ky.; Memphis, Tenn.; Milwaukee, Wis.; Mobile, Ala.; Moline, Ill.; New Orleans, La.; New York, N. Y.; Ogden, Utah; Oklahoma, Okla.; Omaha, Nebr.; Paris, Tex.; Pasadena, Cal.; Paterson, N. J.; Peru, Ind.; Pittsburg, Kans.; Pittsburg, Pa.; Port Jervis, N. Y.; Portland, Me.; Richmond, Va.; Rochester, N. Y.; San Francisco, Cal.; Savannah, Ga.; Scranton, Pa.; Selma, Ala.; Shenandoah, Pa.; Sherman, Tex.; Shreveport, La.; South Bend, Ind.; Springfield, Ill.; St. Louis, Mo.; St. Paul, Minn.; Toledo, Ohio; Troy, N. Y.; Vicksburg, Miss.; Watertown, N. Y.; Watertown, Wis.; Waukegan, Ill.; Wilkinsburg, Pa.; Wilmington, Del.; Yonkers, N. Y.; Denison and Fort Worth, Tex.; Mankato, Minn.; Emporia and Leavenworth, Kans.; Kalamazoo, Mich.; Kewanee, Ill.; Macon, Ga.; Portsmouth, Va.; Hammond, Ind.; Hazelton, Pa.; Watertown, Worcester, and Springfield, Mass.

Mr. Speaker, that call speaks for itself and needs no further comment from me. However, I now send to the Clerk's desk and ask to have read as a part of my remarks the constitution and by-laws of the National Good Roads Congress.

The Clerk read as follows:

CONSTITUTION AND BY-LAWS OF THE NATIONAL GOOD ROADS CONGRESS.

ARTICLE 1. The name of this organization shall be The National Good Roads Congress.

ART. 2. Its object shall be to associate all interested in a national movement for good roads.

ART. 3. Its management shall be vested in a board of nine directors, who are to be elected annually on April 12, at the offices of the congress in Chicago.

ART. 4. As provided in its certificate of incorporation, issued by the secretary of state of Illinois under date of May 23, 1908, the following persons are the directors to control and manage the congress for the first year of its corporate existence, viz: Arthur C. Jackson, president; H. H. Gross, secretary; Martin Dodge, treasurer; Frank G. Soule, F. C. Donald, J. C. Bartholf, N. J. Bachelder, George A. Pearre, William Sulzer.

ART. 5. Its location shall be in the city of Chicago, but such other offices may be maintained for promoting the objects of the congress as the board of directors may determine.

ART. 6. A membership fee of \$2 shall be paid annually in advance, to the order of the National Good Roads Congress, by all who become members of the congress, other than as honorary and life members. Upon acceptance of honorary membership in the congress the President and Vice-President of the United States shall be honorary presidents; the Secretary of Agriculture and the governors of all the States and Territories, honorary vice-presidents; Members of Congress, presidents of educational institutions, mayors of cities, and editors of all regular publications, honorary members. Upon becoming members of the congress the director of public roads, State highway commissioners, and presidents of good roads organizations shall be vice-presidents; and the secretaries of all good roads organizations assistant secretaries of the congress. Individuals, firms, companies, corporations, or organizations, acceptable to the board of directors, may become life members upon payment of \$100; contributing members upon the annual payment of \$10 or more; sustaining members, upon the annual payment of \$100 or more. All classes of members may vote upon all questions at all meetings of the congress. Fifteen members shall constitute a quorum at any meeting. Special meetings may be called by the president at any time and place.

ART. 7. All Federal, State, county, town, and city officials, and officers of all good roads, agricultural, automobile, transportation, industrial, commercial, educational, religious, or other organizations, who are members of the congress, shall constitute the national advisory board; and all such members in each State or Territory, a State or Territorial board; and in like manner county, town, and city boards may be formed.

ART. 8. The board of directors shall aggressively promote the objects of the congress by every means in its power. The president shall preside at all meetings of the congress and board of directors, sign all certificates of membership, and all warrants for the disbursement of the funds of the congress, name all committees not otherwise provided for, and be ex-officio chairman of the same. The secretary and assistants shall make and keep on file at the offices of the congress an accurate record of all members, meetings, and transactions of the congress and board of directors. The treasurer shall be the custodian of the funds of the congress. He shall issue receipts for all money received and make disbursements only for accounts properly vouchered and by warrants signed by the president. He shall give bond for the faithful discharge of his duties in such amount as the board of directors may determine. Vacancies in the board of directors shall be filled by the board until the next ensuing annual meeting. A meeting of the board may be called at any time by the president. The president, secretary, and treasurer shall each submit written reports to the congress at its annual meeting, covering the transactions of their respective offices.

ART. 9. These by-laws may be amended at any annual meeting of the congress or at any adjourned session thereof by a three-fourths vote.

Mr. SULZER. Mr. Speaker, the best thought of the land favors the project of good road building. I have not the time to read much of the favorable data in my possession, but I want to read an extract from the address of President Roosevelt at

the National Good Roads Association Convention at St. Louis. He said:

Merely from the standpoint of historical analogy we should have a right to ask that this people which has tamed a continent, which has built up a country with a continent for its base, which boasts itself with truth as the mightiest Republic that the world has ever seen, which we firmly believe will in the century now opening rise to a position of headship and leadership such as no other nation has ever yet attained—merely from historical analogy, I say, we should have a right to demand that such a nation build good roads. Much more have we a right to demand it from the practical standpoint. The difference between the semibarbarism of the middle ages and the civilization which succeeded it was the difference between poor and good means of communication. And we, to whom space is less of an obstacle than ever before in the history of any nation; we who have spanned a continent, who have thrust our border westward in the course of a century and a quarter until it has gone from the Atlantic over the Alleghenies, down into the valley of the Mississippi, across the great plains over the Rockies to where the Golden Gate lets through the long-heaving waters of the Pacific, and finally to Alaska and the arctic regions; to the islands of the Orient, the tropic isles of the sea; we, who take so little account of mere space, must see to it that the best means of nullifying the existence of space are at our command. A few years ago it was a matter, I am tempted to say, of national humiliation that there should be so little attention paid to our roads; that there should be the willingness not merely to refrain from making good roads, but to let the roads that were in existence become worse, and I can not too heartily congratulate our people upon the existence of a body such as this. In our American life it would be hard to overestimate the amount of good that has been accomplished by associations of individuals who have gathered together to work for a common object which was to be of benefit to the community as a whole. And among all the excellent objects for which men and women combine to work to-day there are few, indeed, who have a better right to command the energies of those engaged in the movement and the hearty sympathy and support of those outside than this movement in which you are engaged.

And now, sir, let me read a brief sentence or two from the eloquent address of Hon. William J. Bryan on the same occasion. Said Colonel Bryan:

I have become exceedingly interested in this subject. * * * The expenditure of money for the permanent improvement of the common roads can be defended, first, as a matter of justice to the people who live in the country; second, as a matter of advantage to the people who do not live in the country; and third, on the ground that the welfare of the nation demands that the comforts of country life shall, as far as possible, keep pace with the comforts of city life.

It is a well-known fact, or a fact easily ascertained, that the people in the country, while paying their full share of the Federal taxes, receive, as a rule, only the general benefits of government; while the people in the cities have, in addition to the protection of the Government, the advantages arising from the expenditure of public moneys in their midst. The farmer not only pays his share of the taxes, but more than his share; yet very little of what he pays gets back to him. * * * The farmer has nothing that escapes taxation. The improvement of the country roads can be justified also on the ground that the farmer, the first and most important producer of wealth, ought to be in position to hold his crop and market it at the most favorable opportunity, whereas at present he is virtually under compulsion to sell it as soon as it is matured, because the roads may become impassable at any time during the fall, winter, or spring. The farmer has a right to insist upon roads that will enable him to go to town, church, schoolhouse, and to the homes of his neighbors, as occasion may require; and with extension of the rural delivery he has an additional need for good roads in order that he may be kept in communication with the outside world.

And in this connection I want to read a most interesting editorial from the Chicago Tribune of May 23, 1908. It is as follows:

WORKING FOR GOOD ROADS.

There are other improvements demanded in the United States besides reclamation, forestation, and other methods for conserving natural resources. Prominent men have been discussing these subjects in recent days with many surprising and alarming statements. But the advocates of better highways continue to insist that the greatest need of the country to-day is good roads.

The first national good-roads congress is to meet in Chicago June 15 and in Denver July 6. This division of the time is due to the presence of the two nominating conventions of the leading political parties. The call for the meeting has been signed by thirty-two governors, fifty mayors, and many officials of granges, good-roads associations, farmers' leagues, and labor organizations, as well as by prominent citizens from different parts of the country.

The arguments for better highways are well known. The interest in the movement grows steadily as population increases. It is not a special idea for the benefit of any particular class. Its practical bearing is illustrated by data gathered by the Illinois highway commission as to the effect of road and weather conditions upon highway traffic.

Observations were made at seventy-two well-distributed points in the State. The actual number of vehicles passing on given days was recorded. It was found that travel over hard roads was fairly uniform, while that upon earth roads was subject to widest variations. For example, on an earth road leading into Springfield sixty-five vehicles were counted each day during four days of March. Over the same road in June and July the daily average was 389. On corresponding days a hard road leading into Peoria showed 166 vehicles in March and 153 for June and July.

Observations taken at Champaign, Decatur, Sullivan, Effingham, Elgin, and Centralia showed the same conditions. Where the earth road was watched the figures varied widely between early spring and mid-summer. Where there was a hard road the travel was much more regular and uniform, the summer months showing no marked increase over the spring, and in some instances not reaching the record for the earlier parts of the year.

The investigations in Illinois repeated elsewhere would show the same results. Good roads help the rural mail carrier, help the farmer, help the railroads in handling produce, help the markets, help the city merchants, help the individual citizen who must have country supplies. No more important subject appeals for popular favor and support than this. In an age of internal improvement the need of better highways should be urged in the strongest possible way.

And that gallant military hero, Gen. Nelson A. Miles, speaking on the subject of good roads and national greatness, at the National Good Roads Association Convention, said:

I know of no one element of civilization in our country that has been more neglected than the improvement of our roads, yet this is the element that marks the line between barbarism and civilization in any country. The founders of our Government strongly advocated the necessity of opening up and improving the means of internal communication. The immortal Washington retired from the pomp and circumstance of glorious war to occupy the honorable position of a sovereign citizen, and while conducting the affairs of his plantation was president of a transportation company. The author of the Declaration of Independence, the founder of one of our great universities and the eminent statesman who gave to us this vast empire west of the Mississippi, was right when he said in a letter addressed to Humboldt:

"It is more remunerative, splendid, and noble for the people to spend money on canals and roads that will build and promote social intercourse and commercial facilities than to expend it on armies and navies." He was right again when he said, in a letter to James Ross: "I experience great satisfaction in seeing my country proceed to facilitate intercommunication of several parts by opening rivers, canals, and roads. How much more rational is this disposition of public money than that of waging war."

How true are the words of immortal Jefferson regarding the disposition of public money. We appropriate millions and millions of dollars every year for war—not a dollar for peace. We spend millions and millions of dollars annually for the improvement of our rivers, and not a dollar for the improvement of our roads. We have neglected this important work too long. It is all to our shame. Let us begin; let us follow in the footsteps of the builders of the Republic, and commence now to do something to improve our national roadways.

Mr. Speaker, these testimonials speak volumes in favor of good road building and are in harmony with the policies of the fathers of the Republic, who wisely recognized the importance of this question. Washington and Jefferson advocated good roads and projected the construction of a great highway from the Capital to the Mississippi Valley. The farseeing statesmen of the early days of our national existence championed and passed measures to better the means of transportation. They knew that of all human agencies the one which has done most for humanity and civilization has been the building of good roads—the abridgment of distance in the facility of communication. They realized the necessity of good roads—how important they were to the country, to its growth and its development, and to mankind, morally, physically, intellectually, and industrially, removing national and provincial antipathies and binding together all the branches of the great human family.

The farsighted wisdom of Julius Caesar built from the imperial exchequer the magnificent roads that led in all directions to eternal Rome. The great Napoleon—Caesar like—built the roads of France that center in Paris from the general funds of the Government, and these French roads have done more than any other single agency to encourage the thrift and increase the industry and insure the contentment of the people of France. Caesar and Napoleon were the great road builders of ancient and modern times, and their foresight and their judgment demonstrated the beneficent results that follow, as the night the day, the construction of good governmental highways.

Sir, the people of the country know the importance of good road building. They are familiar with the truths of history. They know the past. They realize that often the difference between good roads and bad roads is the difference between profit and loss. Good roads have a money value far beyond our ordinary conception. Bad roads constitute our greatest drawback to internal development and material progress. Good roads mean prosperous farmers; bad roads mean abandoned farms, sparsely settled country districts, and congested populated cities, where the poor are destined to become poorer. Good roads mean more cultivated farms and cheaper food products for the toilers in the towns; bad roads mean poor transportation, lack of communication, high prices for the necessities of life, the loss of untold millions, and idle workmen seeking employment. Good roads will help those who cultivate the soil and feed the multitude, and whatever aids the producers of our country will increase our wealth and our greatness and benefit all the people of the land. We can not destroy our farms without general decay and final deterioration. They are to-day the heart of our national life and the chief source of our material greatness. Tear down every edifice in our towns and labor will rebuild them, but abandon the farms and our cities will crumble away and disappear forever.

Mr. Speaker, let me say again, in closing, that I am now, always have been, and always will be a friend of good road building. It means progress and prosperity, a benefit to the people who live in the cities, an advantage to the people who live in the country, and it will help every section of our vast domain. Good roads, like good streets, make habitation along them more desirable; they enhance the value of farm lands, facilitate transportation, and add untold wealth to the producers and consumers of the country; they are the milestones marking the advance of civilization; they economize

time and labor and money; they save wear and tear and worry and waste; they beautify the country, bring it in touch with the city, and aid the social and religious and educational and industrial progress of the people; they make better homes and happier hearthside; they are the avenues of trade, the highways of commerce, the mail routes of information, and the agencies of speedy communication; they mean the economical transportation of marketable products—the maximum burden at the minimum cost; they are the ligaments that bind the country together in thrift and industry and intelligence and patriotism; they promote social intercourse, prevent intellectual stagnation, and increase the happiness and the prosperity of our producing masses; they contribute to the glory of the country, give employment to our idle workmen, distribute the necessities of life—the products of the fields and the forests and the factories—encourage energy and husbandry, inculcate love for our scenic wonders, and make mankind better and greater and grander—and finally they have made the glory of the nations of the past, and will add to our greater glory and make us all that we hope to be, the most beneficent power that ever blessed progressive humanity.

International Trade and Our Merchant Marine—The Question of Maritime Supremacy and Trade Primacy Is Not a Partisan Question, but Our Opponents Seem So to Regard It.

SPEECH

OF

HON. J. SLOAT FASSETT,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. FASSETT said:

Mr. SPEAKER: However gentlemen may differ in other respects, there is no room for an honest difference of opinion among patriotic Americans as to the desirability of restoring our merchant marine to its former position of importance upon the high seas. Its languishing and dying condition has been a matter of regret and humiliation for fifty years, and yet Congress has taken no effective steps to enable American mariners to meet their deep-sea rivals successfully in the contest for carrying our own goods into the markets of the world. Ninety per cent of the markets of the world are to-day accessible only by water. The great international contests of modern times are not concerned with armored navies and 13-inch guns, but they have to do with trade, with commerce, with the interchange of products of industry, and the weapons used are skill and thrift, labor, tariffs, and subventions and subsidies. The universal cry from every civilized nation is trade and ever more trade, markets and ever more markets, as the power to produce overtakes by leaps and bounds, with the application of steam and electricity, the power to consume and the rivalry for access to the markets and the possession of the markets of the world intensifies. It not only intensifies in energy and aggressiveness, but it intensifies in necessity and utility. Adequate markets for the consumption of our surplus products are indispensable, for they have to do with the welfare of our laboring people, our manufacturers, and our merchants. They touch the prosperity of the farm and of the workshop, as well as of the countinghouse.

The situation is such that we can not any longer afford to ignore it. The body of our merchant marine lies prostrate and bleeding before us. The situation is too serious to be ignored in the interest of a mere academic attitude of mind. It is a question of national protection, of national security, and of the universal welfare of all classes and of all interests among all our people and not of a construction of the Constitution.

It is of twofold significance. First, we should have the carrying capacity, giving us access to the markets of the world for the purpose of commercial profit; second, we should have a navy and a body of seamen in constant readiness to assist our armored ships in case of conflict for the purpose of national security.

The growth of this country during recent years in almost every direction, and in almost every department, has been stupendous and amazing; it has reached proportions so ample as to be practically beyond comprehension; expressed in terms of dollars and of tons the figures actually bewilder us. In a comparatively few years we have quadrupled the number of farms, increased the quantity of their output and their value

more than sevenfold. The output of our manufacturing establishments alone exceeds annually the value of all the exports of all the exporting nations of the world, ourselves included, by more than one thousand millions of dollars.

Our production of minerals equals the output of our factories; our railroads have increased so tremendously that if put in one single line they would reach to the moon; our telegraph wires have increased by hundreds of thousands of miles; our telephone wires have reached an equal distance; our interstate commerce reaches proportions far in excess of all the exports and imports of all the exporting and importing nations in the world, ourselves included. For the past seven years we have grown richer at the rate of \$8,000,000 each day, holidays and Sundays included.

The great prosperity which has blessed this country has been for no single class, but has reached to the poorest paid toiler in the most crowded cities of the land. Our people constitute \$6,000,000 of the best housed, best fed, best clothed people in the entire world, whose children have the amplest opportunity and the broadest outlook of any of the children in the whole round circle of this earth. We live on a higher plane of physical comfort; we pay the highest wages in the world, and the output in any line of human endeavor is higher in this country for individual workmen than anywhere else in the world. Almost all of our multiform enterprises are protected by a system of tariff laws so adjusted as to overcome the natural disadvantages against which otherwise we would be compelled to struggle, such as the lower plane of living and the lower wages of labor prevailing in other countries of the world. We protect the farmer and the artisan; we protect the mechanic and the manufacturer; we protect the output of the North, the East, the South, and the West, and under the stimulus of this protection the creative energies of the American people have surprised and bewildered the world.

But there is one industry—one calling, not less noble than scores of others thus carefully protected—which seems to have been systematically neglected, if not wholly despised, and that is the carrying of our own goods to the markets of our neighbors. Ninety per cent of the people of this world who are possible customers of ours must be reached by means of the deep sea. We furnish 14 per cent of the export trade of the world—we carry less than 1 per cent of it. We pay \$210,000,000 each year for freight and passenger service on the deep seas, of which ships bearing the American flag receive less than 10 per cent. In 1810 we carried 90 per cent of our foreign trade; in 1860, with 1,200,000 tonnage of registered vessels, we carried 65 per cent of our foreign trade; in this year of grace we have only nine sea-going steam-propelled vessels carrying our goods on the Atlantic, with a tonnage less than 90,000, and on the Pacific only seven steam-propelled vessels, with less than 50,000 tons.

One of the great problems confronting the manufacturers of the United States is how to extend profitably our trade in the yet undeveloped markets of the world.

No missionary is so efficient in the real development of trade as a proper means of transportation and communication.

What would we think of the sagacity of John Wanamaker if he hired Siegel & Cooper to deliver his goods for him? But that is just precisely what we are doing in the great markets of the world. Not a single ship carrying the American flag sails to South American seaports south of the Caribbean Sea, and only four small steamers there. We are the best customers of South America. We buy 30 per cent of what Brazil sells, and we sell Brazil less than 13 per cent of what she buys. We sell China 10 per cent of what she buys. We sell Africa less than 11 per cent of what she buys. We sell all South America less than 5 per cent of what she buys. Our best customers by sea are England and Germany and Japan, but England and Germany and Japan carry the goods. The markets where we must go for future growth, the so-called "undeveloped markets," are the markets whither we are sending no American vessels. The reasons for this condition of affairs are not far to seek. If two ships of equal capacity and equal intelligence in direction and administration leave a port, that ship will obtain the business which can render the same service for the least money, and the ship can render equal service for the least money which costs the least to build and the least to maintain and operate, and if two ships cost the same to build and the same to maintain and operate, then that ship can carry trade the cheapest which receives the most artificial assistance in the way of government subsidy or government retainer. The ships of the United States have to meet a handicap at each one of these three necessary steps. It costs more to build ships in the United States because it costs more to pay every man who labors on any part of the vessels of the

United States, and it costs more to pay every man because our system of tariff has lifted up the whole plane of living and the entire wage scale to a point it has not reached in any other country in the world. We are committed to the policy of protection. Our entire industrial, commercial, and social system are tuned up to it, and the American people will never consent to abandon it.

It costs from 25 per cent to 40 per cent more to build an American ship and equip it than in any other country. If it costs \$400,000 to build a ship in America, it would cost \$300,000 to build the same ship in England. It would cost 5 per cent, or \$20,000, to borrow the money in America and 3 per cent, or \$9,000, to borrow the money in England, and there you have a handicap of \$11,000 a year, which must be overcome before the American boat can meet the English boat on even terms. It will cost each boat 5 per cent for depreciation. It will cost each boat 6 per cent for insurance; but for the ordinary repairs it will cost the English ship 2½ per cent, while it will cost the American ship 3½ per cent, and there is a handicap of \$4,000 more before the American ship can meet the English ship on equal terms.

It will cost 25 per cent more to feed the crew of an American ship than to feed the crew of an English ship. It costs from 25 per cent to 50 per cent more to pay the crew of an American ship than it does the crew of an English ship, and these two additional handicaps must be met and overcome before the two ships can compete on an equality of terms. If by greater ingenuity or the application of better machinery, or by the willingness of the American sailors to live on a lower plane than their brothers who work on the land, it would be possible to equalize these differences, there still remains the handicap of subsidies. All of our opponents and all of our commercial rivals subsidize; little Japan subsidizes over \$4,000,000 a year, and she is driving us off the Pacific. Germany subsidizes by giving over \$5,000,000 a year in cash and by giving rebates and favorable differentials on freights carried on government railroads to be exported on German ships. She subsidizes sufficiently to give the German vessels an advantage over their competitors. The Hamburg-American and the North German Lloyd lines have themselves, in the last eighteen years, increased more than two millions of tonnage in registered deep-sea vessels. One line of boats alone, the German-Hamburg-American, has paid in ten years \$51,000,000 in dividends, an average rate of over 7 per cent—126 per cent of their invested capital. This is a significant contrast to our own dwindling merchant fleet. France subsidizes \$9,000,000 a year.

England subsidizes not less than \$7,000,000 a year, and always she subsidizes when necessary to meet the competition of her rivals. Recently she presented to the Cunard Company two of the most superb steamships in the world—750 feet long, costing \$6,500,000 each. These boats were bestowed upon the Cunard people upon terms which substantially amounted to a gift; the Cunard Company has only to make an income over operating expenses. This is competition that no individual or corporation can successfully meet and overcome. The *Lusitania* and the *Mauretania*, 40,000 tons each, able to carry each 10,000 soldiers, fully equipped and armed, are living off our commerce. If either of them could be lifted on end, it would tower 250 feet higher than the Washington Monument—living off our commerce in times of peace, to utterly destroy us in times of war, together with our commerce! These two boats alone can carry as many men and munitions of war as all of our Atlantic merchant vessels combined.

The most prejudiced mind must admit that this is an unnatural and an unhealthy condition of things, and the intelligent observer realizes at a glance that it is an entirely unnecessary condition of things; it is not necessary for us, who have succeeded in every single direction to which we have turned our attention, to be whipped by all the world, including the newest comers into the family of nations, on the high seas; our people have proven time and again their masterfulness and their natural superiority at sea.

This condition of things has come from our indifference and from our squeamishness, but as that great Secretary of State, Thomas F. Bayard, so well said, "When foreign nations do not hesitate to pour wealth into the laps of our trade rivals, the time has come for us to cease to be squeamish."

Even as I speak we may get the news that Japan has purchased the Pacific Mail and taken five of our steamers off of the Pacific. The great prizes of the future in trade are to come from deep-sea trade. We may feel indifferent, because just now, in spite of the tremendous activities of all our great enterprises everywhere, our capacity to consume has outstripped our capacity to produce, but this can not long endure. In the new South during the last ten years there has been an increase of 680 per

cent in manufactures and in eighteen years an increase in the manufacture of textiles of 1,000 per cent, and even at that we are only manufacturing less than 5,000,000 of the 13,000,000 bales of cotton we produce annually.

In Pittsburgh and its environments is originated in iron and steel and their allied products a greater tonnage than originate in similar lines in all Germany or England. It has been found in the last five years almost impossible to get enough either raw material or finished products to feed the hungry maw of the expanding and extending American people. Nevertheless, the producing capacity is overtaking the consuming capacity, and when it is overtaken, what then? Either we must shut our factories and turn out our employees or we must open up markets and dispose of our goods elsewhere on the face of the earth. We must imperatively then get our share of the undeveloped markets of the world.

It will then become a question of commercial life and health and of national safety, and no longer a theme for academic discussion. Under such circumstances as these we should no longer be content to trust to our trade rivals, who are running neck and neck with us, to obtain these very same undeveloped markets of the world, to carry our goods. We could not afford to take the risk; we could not afford to handicap ourselves in the slightest degree. People of our ingenuity, of our shrewdness, of our ability should concentrate and bend the necessary effort to open up and hold these outlying markets for the relief of our home manufacturers. Our rivals are subsidizing against us to the extent of \$30,000,000 per year. To equalize and overcome that rivalry and deadly stimulus it has never yet been estimated we would require over \$9,000,000 or \$10,000,000 per year. But even though it required \$50,000,000 per year to overcome and meet these subsidies against us we could well afford to do it.

You will remember there are two great American questions put to every proposition:

First. Is it right?

Second. Will it pay?

Both questions being answered in the affirmative, there usually is no further hesitation, and we embark upon the enterprise. Let me call your attention to the figures in the case. It will pay to subsidize even to the extent of \$50,000,000 per year, provided that by so doing we can secure all we now pay to our rivals for carrying our own goods. We now pay a total of say \$210,000,000 a year for ocean freight and passengers. Of this, not to exceed 10 per cent is paid to American bottoms. Ten per cent is equal to \$21,000,000, so that our rivals receive \$189,000,000 of our own good money to build up and sustain their heavily subsidized merchant navies, rivaling us in times of peace and threatening us in times of war. Now, then, if a reversal of our present policy by an outlay of \$50,000,000 would result in a reversal of present conditions, giving us the 90 per cent of the traffic and leaving the 10 per cent to our rivals, we should bring into American possession a clean advance over what we now receive of \$68,000,000, or \$118,000,000 per year over and above the \$50,000,000 subsidy, and the energizing influence of this money would flow into American instead of rival channels.

But there is another aspect besides the commercial aspect which should give serious concern to all patriotic citizens, and that is this—even though it may be, and doubtless is true, that American capitalists can now and do own and maintain and conduct at a profit ships under foreign flags, and thus are even now securing a part of their earning power to the advantage of this country—we are confronted with the startling consideration that ships thus owned and controlled are manned by foreign crews, are operated under foreign flags, under the direction of foreign officers, and afford, therefore, no recruiting reserve for the American Navy in times of war.

We have expended \$300,000,000 upon our Navy; we have a splendid Navy, superbly officered and superbly manned, magnificently equipped—a Navy that can meet any other navy on equal terms; a Navy that would give an account of itself under any circumstances—but we were unable to send that Navy to the Pacific without hiring from our rivals ships for colliers and incidental services. When we had the Spanish war we were unable to get American ships to do the work, and this was right at home. When we wanted to send our Navy to the Pacific, we had to get four ships from Norway and twenty-four from England—the lowest American bid for carrying coal was \$8 per ton, and the foreign bid was \$5.85.

If, by any mischance or freak of fate, war were to be declared this moment between us and any other naval power, these twenty-eight ships which we have hired would become contraband of war and would be under obligations to incur either the risk of capture or make for the nearest neutral port. Our fleet, crippled for the want of coal, could go no farther than the steaming radius of the battle ships.

If such should come—which God forbid—and we were faced with the necessities of war, and if our Navy and our Army should undertake to meet ideal conditions and strike the swiftest possible blow with the greatest possible force, at the greatest possible distance from home, we should find ourselves utterly unable to meet conditions. We could not embark a single Army division of 20,000 men, fully armed and fully equipped and prepared at any point, either on the Atlantic or Pacific coast. We could not supply the auxiliary transports and hospital ships and other necessary ships for the Navy alone, to say nothing of supplying ships to carry and provide for troops. We should be reduced, in spite of our glorious Navy, to the ridiculous and dangerous, if not the fatal, absurdity of operating our fleet within sight of shore and waiting to receive the attack of the enemy at the enemy's own pleasure and in the enemy's own good way.

If we were to undertake to build for the nation's ownership an adequate supply of the right kind of ships and auxiliaries for the complete auxiliary Navy, and a complete fleet to move not less than two Army divisions at any given moment, the initial cost to the Government would be not less than \$200,000,000, but the outlay of \$200,000,000 would mean an annual fixed charge of 3 per cent for interest; 5 per cent for maintenance—for iron ships only last twenty years—6 per cent for insurance; 3½ per cent for repairs; not less than 6 per cent for salaries and labor; 6 per cent for food, and 6 per cent for fuel, or a grand total expenditure of \$71,000,000 in the way of fixed charges. If this were done, and the American people would meet such an outlay to maintain our national honor, we would have the difficulties and friction contingent upon finding the men and officers, and of controlling and disciplining them, and there would be the increased expense for mere operation, for so large a body of ships and men could not be kept in absolute stagnation in times of peace. They would have to be constantly occupied to keep them in proper condition for immediate response in times of peril.

To build and maintain and man all the extra ships needed to make the Navy useful to its best degree, and the Army valuable at the most essential point, would thus be the most expensive possible way to meet an end so desirable and so essential. Whereas, by a patriotic, intelligent and farsighted policy of proper distribution of subsidies, which is pursued by every one of our trade and naval rivals, we could build up, as once before we had, a peerless merchant marine which would carry our flag into every sea and our ships into every port, and be developing our foreign trade in times of peace and training men and officers for our protection in times of war.

But, it may be objected, we can not dip into the Treasury for individual or private purposes. I reply, this would be dipping our hands into the National Treasury for the highest possible public interest; for our safety in times of war and for our welfare in times of peace. We can meet the world in competition on equal terms. But for years there has ceased to be natural competition on the open seas. We have handicapped ourselves by the high cost of production resulting from our high protective tariff, and our rivals have handicapped us further by their unstinted subsidies to their merchant navies.

If mere cheapness be our cry, then why not open our coastwise trade? Norwegian vessels can do the work, German vessels can do the work, Japanese vessels can do the work, 40 per cent cheaper than our coastwise vessels do now. They would do it with cheaper built ships, built by cheaper paid men, living on cheaper food, but they would do it and we would see our coastwise trade, which now employs over 6,000,000 tons, collapse more suddenly and more completely than our foreign trade has done. And, also, we should see collapse every American shipyard, save those only which we subsidized in the way of vastly profitable contracts in building battle ships. By thus protecting our coastwise trade we are to that very extent encouraging individuals and corporations contrary to the teachings of the strict constructionists.

The Democratic opposition so solidly made to giving subsidies either in the way of return for carrying the mails or as a reward for carrying tonnage seem to be based, if one can judge from the arguments which have been presented in this Chamber upon the other side, upon the idea that it is improper to make direct appropriations for such a purpose; that in so doing in some way we give an improper advantage to some individual or corporation. Gentlemen forget that it is impossible to benefit everybody without giving a benefit to somebody. We have been for many years in the habit of appropriating for the general welfare by means of gifts and subsidies and encouragements and protection to special interests. Even the most broadly conceived measure for the most universal benefits must work out

its results by application to certain special localities and to certain special interests and to certain individual enterprises.

We gave cheerfully for years a subsidy to the Southern Railway Company of nearly \$165,000 annually to benefit all the people by special acceleration and improvement of the mail facilities through the few States traversed by the Southern Railway Company. For every 7 cents the United States pays out for transporting through the mails newspapers and second-class periodicals it receives in return but 1 cent, and for every million dollars it receives from this source it pays out seven millions. This is in the interest of the distribution of intelligence. Whether one is inclined to quarrel with it or not to quarrel with it, it is a subsidy, and it is a subsidy of a special interest, the first beneficiary being the individuals who own the newspapers and the second-class periodicals. Ultimately there is undoubtedly a benefit wide enough to justify the continued expenditure.

We have not hesitated to provide millions for the irrigation of arid lands. The general benefit of this is indisputable, but the same principle is involved. Only recently this House appropriated from the Public Treasury \$250,000 for the benefit of sufferers from a cyclone that swept through a part of the Southern States. The Democratic Representatives from those same States oppose a ship subsidy, and oppose it on the ground that it appropriates public money to individuals, but they do not hesitate to appropriate this quarter of a million dollars to the people whose homes and buildings were burned down and who were made penniless by a catastrophe beyond their control. It was a meritorious outlay, no doubt, but it could not be defended on any grounds which would not equally include a subsidy to American shipping.

We have not hesitated to give billions of dollars' worth of bonds and lands to railroads to secure better trade facilities between the States inside continental lines; we have not hesitated to give billions of dollars' worth of land to individual citizens, in order that they might build homes, rear families, and make expanding home markets for manufacturers to sell goods to and the railroads to carry freights to and from.

We have not hesitated to spend \$300,000,000 for a Panama Canal. Since 1888 we have appropriated nearly \$300,000,000 to improve our rivers and harbors. We have not hesitated to appropriate for 40 and 50 foot channels in some favorite harbors, and we have not a single American ship to go through the Panama Canal for foreign trade when built, nor a single ship of any kind requiring 40 or 50 foot channels in any harbor.

We have done everything, everywhere, for every kind of trade and every kind of industry and every kind of manufacturing except shipbuilding enterprises for the high seas. We have generously built up a navy of fighting ships of sufficient strength to protect us upon the high seas, and we have absolutely almost nothing on the high seas to protect, and will soon lose what we have. We have sixteen battle ships, going now to Pacific waters, and with them are attending convoys, and our deep-sea-going steamships in all the world on both oceans are just sixteen, of which only seven are on the Pacific.

What are the remedies? The remedies proposed are:

First, Free ships, by which is meant that we shall have the privilege of buying ships in the markets of the world and registering them under the American flag. That would bring us at once to an even keel with our competitors, so far as the first cost is concerned. The objection would be that it would be just so much business taken away from our own shipyards. It must be remembered that already we allow the importation of all materials to be used in the construction of a ship, free of duty, with one limitation, which seems to be a serious objection, that the ship forfeits its right to engage in a coastwise trade at any time for more than two months.

The next remedy suggested is differential duties, or rebate on duties on all goods imported in American bottoms. There are two objections to this:

First, That fully half of the goods we import are on the free list and could not receive any differential duty.

Second, We have many treaties with our different trade rivals, absolutely guaranteeing that their goods shall be received on equal terms with our own, and to violate these treaties might lead to war.

The next proposition is just the converse—that we should pay a bounty on outgoing goods in American bottoms. The objection to this is that we have the same number of treaties which guarantees that no such differentiation shall take place.

The third remedy is that of giving direct subsidies based on service, either in the way of carrying mails or freights, or making certain speed. This method is pursued by all of our rivals. In addition to direct subsidies some of them give encouragement in the way of retainers or rebates. England, for instance, pays

an annual retainer to over 32,000 seamen and pays a handsome bonus for mail contracts.

In addition to direct subsidies, Germany pays in the way of rebates on the state railroads on freight charges on goods to be exported in German bottoms.

Japan subsidizes in more ways than one, and the significant proposition is that *they all subsidize enough*.

The objection raised against direct subsidies is purely academic, and whatever force it has applies only to subsidies made with a view to commercial expansion. It must fall to the ground when brought to bear on the proposition of national defense. We pay \$146,000,000 a year in pensions on account of wars that have been and for the encouragement to volunteers in wars that may be.

We expend \$125,000,000 every year to take care of our Navy; we expend \$90,000,000 a year to take care of our Army; we expend \$25,000,000 a year for fortifications, and \$10,000,000 or \$15,000,000 a year to maintain light-houses and other similar services.

We begrudge nothing for the national defenses in this way which appeals to us directly, but in order to make valuable the outlay which we have already incurred, and in order to utilize in time of peril the defenses we have already provided, we must have a merchant navy. We have neglected altogether too long; we have not only neglected, but it almost seems that we have been inspired to assist our rivals. We pay \$700,000 per year to American vessels for carrying the mails to Europe; last year we paid almost as much to foreign vessels, and this year we will be paying \$600,000 to foreign steamboats for carrying our mails. When we turn to the other side of the account and see if our few struggling steamships have received encouragement from their trade rivals, we discover a situation in decided contrast to our own generous courtesy.

If two ships are leaving New York at the same time we send our mail by the fastest ship, whether American, English, or German. In return we get not one dollar in payment for bringing home the foreign mail. A letter over there may wait a week unless the individual correspondent puts the name of the ship by which it is to travel on the envelope. They simply will not send outgoing mail by American steamers, even if, as sometimes happens, they make the quickest time. It has been known that our ships in a year received \$10,000 for bringing home foreign mail, but usually it is less than \$2,000. We seem rather to enjoy being imposed upon and discriminated against by our rivals, and patiently turn one cheek and then the other to their stinging slaps. We submit to being handicapped and destroyed at sea as pleasantly as though it were a huge joke, but when that strenuous time shall come, when our gifted manufacturers have filled up the home markets to overflowing, and we shall consume less than we produce, then there will be attention given to the demands of a situation that will be intolerable, and then we will hasten to undo the wrong of the last five decades and will adopt a policy equally enlightened with that of our opponents, and we shall wonder what insanity possessed us that we deliberately manacled ourselves in the great race for commercial supremacy.

I would be glad to have every ship we sail built in American yards, by American labor, receiving American wages, but if to bring the reluctant into line it is necessary to permit the purchase of cheap ships, built abroad by cheap labor, the vast interests beyond that would make me reasonably content to have the ships bought where they could be bought the cheapest, because of the grave consequences which would ensue if suddenly there should be war between any two first-class nations. Do our merchants forget what happened when England conducted a little war down in Africa? Do they remember how freight rates went up and their goods were shut out from foreign markets? What would happen to the 9,000,000 bales of cotton and the millions of bushels of wheat and corn if Germany and England, or England and Japan, or Japan and the United States should go to war to-morrow? They would be burning corn in Iowa, wheat in Nebraska, and cotton in New Orleans, and what would become of the hundreds of millions of dollars' worth of manufactured articles we now sell abroad? We would have the goods, but no means to get them to market.

While we have been going swiftly down hill in the amount of tonnage engaged in foreign trade, our trade rivals have been growing at a tremendous rate, and largely at our own expense. In a few years the merchant marine of Japan has grown to over 2,000,000 of tons; England, to over 16,000,000 of tons; Germany has increased to over 2,000,000 tons in ten years, and France has grown with great rapidity. We alone have lost ground and have to-day less than 90,000 tons in the Atlantic,

and 50,000 tons in the Pacific, and even this is in a languishing condition.

It is not that we are not able to do work cheaply where once we get a fair foothold, for our railway rates all through this great country and the rates for the transportation of freight on the Great Lakes are the cheapest in the known world. We have recently enacted, very properly, the so-called Hepburn bill, which takes away from the transportation companies the right to fix rates at their own pleasure, even to meet an emergency. Our trade rivals are not handicapped by any such rules or restrictions, and English merchants and Japanese merchants and German merchants by fixing rates at sea practically control them on land, and a new element of danger thus confronts Americans interested in deep-sea transportation.

One of the most interesting and serious problems confronting us to-day, serious in its far-reaching importance to every national interest, is the problem of reviving our merchant marine, and reestablishing our ancient supremacy on the seas. The great prizes of the future are to be won from the waters, not from the lands. We have no alternative but that of subsidy. There is nothing else just as good. Our political well-being and our social integrity and health are all wrapped up in developing a merchant navy large enough to carry all of our goods to all the open and opening markets of the world in times of peace, and strong enough, in cooperation with our Army and Navy, to protect our coasts, as well as our commerce, in times of war. This can be done, as matters are at present, only by putting up our subsidies, or putting down our wages and reducing our scale of living, but the scale of living will not go backward; that is too dear a price to pay. Our trade rivals subsidize and flourish. We are living on a high plane, and our commerce is perishing. We can not and will not reduce the comforts in the lives and homes of our American working people, either at sea or on land, so we must come squarely to the line and give aid, and give it quickly, and give it abundantly in the form of adequate subsidies for services rendered and to be rendered. We must give it not because it will be of advantage to individuals here and there, but in spite of that fact; not because it will increase the revenues of corporations engaged in deep-sea commerce, but in spite of that fact. We must give it in this way, because it is necessary for the well-being of all our citizens; because it enables us in times of peace to obtain security in times of war; we must do it to insure the best interests of our future; we must do it because it will pay to do it and because it is right to do it. We must subsidize because it is the only way; because we must be prepared to meet the call of our manifest destiny; because we can not shirk the burden put upon us by circumstances, and we must do it quickly—before our ships are all gone, and before our sailors have all disappeared. It is not a question of pride; it is not a question of pleasure; between failure and success, we must choose success; between humiliation and victory, we must choose victory. We must choose to meet our rivals as gloriously on the seas as we have ever met them on the land. To maintain our merchant victories by land we must arrange for merchant victories at sea.

The Negroes of Ohio Will Abide by the Action of the Republican National Convention and Will Support the Republican Party in November.

SPEECH

OF

HON. HENRY T. BANNON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. BANNON said:

Mr. SPEAKER: During the course of some remarks made in this House on March 14, I took issue with the gentleman from Illinois [Mr. RAINEY] upon his prediction that the negroes in Ohio would vote the Democratic ticket in November, and that Ohio would go Democratic, and upon that occasion I said:

The gentleman from Illinois [Mr. RAINEY] in a speech in this House the other day, said the negroes in Ohio would vote the Democratic ticket next November and that Ohio would go Democratic. He fails to give the Ohio negro credit for any intelligence. Ohio negroes know what Democratic hard times are just as well as the white people do. They don't want a Democratic Administration any more than we do. They are no better prepared for it than we are, and they would suffer from it just as much, if not more, than we would. The gentleman from Illinois also asked what would become of the Republican party without the negro vote. I ask him what would become of the Democratic

party if the negro were allowed everywhere in America to exercise his constitutional right to vote? I will tell you what would become of the Democratic party. The Socialists, Populists, or Prohibitionists would cast more votes than it would.

Those remarks prompted Walter S. Thomas, of Columbus, Ohio, to write a letter to the gentleman from Illinois in which he ventured the assertion that Ohio would go Democratic in November, because the negro voters of that State would not support either Taft or Roosevelt. The letter head of the Thomas letter discloses the fact that he is the chairman of the Ohio Afro-American League. The gentleman from Illinois thereupon presented this letter to the House and it was read in the House and made part of the RECORD on April 11. I had expected that such a deliverance might be followed by others and that Thomas would put his typewriter to working and send us other letters from other members of his league. But such has not been the case. After patiently waiting for six weeks not a single additional letter has appeared, so I assume that Thomas is the only Ohio negro who has definitely made up his mind not to support the Republican party. If there are others we certainly would have heard from them. Now, I don't think much of negroes who write Democratic letters to Democratic Congressmen. It is too much like giving aid and comfort to the enemy. It is too much like carrying ammunition into a hostile camp. I do not believe Thomas represents the rank and file of his race in Ohio. I have received some letters from them myself. To show you that Thomas has not faithfully represented the attitude of his people, I will now read a letter I received from William H. Buckner, who is the secretary of the Grand Lodge of Ohio Masons:

COLUMBUS, OHIO, March 30, 1908.

HON. HARRY BANNON, M. C.,
Washington, D. C.

MY DEAR SIR: As a lifelong citizen of Ohio, and a voter of the Republican party since 1864, I wish to thank you for your truthful and manly reply to Representative RAINEY (Democrat) of Illinois, when he said that 95 of every 100 colored voters of Ohio would vote the Democratic ticket next November, should Secretary William H. Taft be the Chicago nominee of the Republican party. Such an assertion as that is an insult to the majority of colored voters of this State, and we are happy to know that we have a Representative in Congress who is manly enough to refute such twaddle as the above assertion.

We understand that a certain defunct colored politician of this city, who claims to be president of a mythical organization, called the Afro-American League of Ohio, has written a letter of thanks to Mr. RAINEY for his wild and unsupported statement, in which he reiterates what the honorable gentleman from Illinois has said on this subject, and claims that the so-called league represents the larger portion of colored voters of Ohio. First of all, this league only exists on paper, and does not represent the very smallest portion of our people. The worthy gentleman who announces himself as president is too well known in Ohio for me to add any more testimony as to his ability and well-known fame as a "hot-air artist."

Unfortunately, we have a few colored men in Ohio who would "sell their birthright for a mess of pottage," of which coterie this gentleman stands in the front rank.

You can depend upon it that the larger portion of the colored voters of Ohio will do, act, and vote as they have always done, and that is for the success of the grand old Republican party.

Again thanking you, I am, sir,
Very respectfully,

WM. H. BUCKNER.

Also, I have a letter from H. B. Alexander. He is a representative Ohio negro and is the secretary of Robert H. Jeffrey, who is the vice-president of one of the most extensive manufacturing plants in Ohio and was, until recently, mayor of the city of Columbus. Mr. Alexander says:

COLUMBUS, OHIO, U. S. A., March 30, 1908.

HON. HENRY T. BANNON,
Member National House of Representatives, Washington, D. C.

DEAR SIR: I beg to thank you most respectfully for your prompt refutation of the assertions and insinuations made by Mr. RAINEY on the floor of the House as given in the newspaper reports of recent date, which assertions and insinuations were to the effect that 95 per cent of the colored voters in Ohio would not support the Republican ticket at the coming national election in the event of the nomination of Mr. Wm. H. Taft.

The statement made by Mr. RAINEY was evidently based upon false information, undoubtedly furnished him by some disgruntled colored Republican.

I want to say for myself as a colored citizen, voter and taxpayer of Franklin County, Ohio—and I am confident that I voice the sentiments of hundreds of my personal acquaintances in this community—that I intend to support the Republican ticket at the coming election, irrespective of who leads it, whether he be Taft, Roosevelt, FORAKER, FAIRBANKS, CANNON, KNOX, or in fact any man that the national convention sees fit to nominate.

Whatever may be the factional differences during the preliminary campaign prior to the nomination, or whatever may be the objection to this or to that candidate, the success of the Republican party and the perpetuity of Republican principles regarding the negro, is the paramount issue with every thinking colored voter, not only in Ohio but in every State in the Union where the right of franchise is granted and exercised by him; his progress, his happiness, in fact, his life depends upon it. Recent proposed legislation in the House, and more recent occurrences in the streets of Washington, prove to us what we may expect under a national Democratic administration.

I will admit, however, that there are a few colored Republicans here and there, who have fallen from political grace, who will prob-

ably be able to raise their heads from the mire long enough to say "Hurrah for Bryan."

Again thanking you for your defense of the intelligence of the Ohio colored voters and thanking you in advance for any stand you may take in the future looking to the protection of the rights of, and justice to, my race, I am,

Most respectfully, yours,

H. B. ALEXANDER.

J. J. Lee, formerly a member of the city council of the city of Columbus and a man of good character and excellent reputation, writes—

COLUMBUS, OHIO, March 28, 1908.

HON. HENRY T. BANNON,
House of Representatives, Washington, D. C.

DEAR SIR: I have read in the public press with great satisfaction extracts from a speech delivered by you in the House of Representatives on the 14th of this month. I was particularly pleased with what you said concerning the attitude and purpose of the colored man of Ohio with reference to voting the Republican ticket next November.

I desire, as a colored man, to express heartily and emphatically my approval of what you said in that particular. The colored Republican of Ohio is as loyal to his party as the white Republican of Ohio. He supports and has supported that party from principle and conviction because he knows and believes that Republican success and Republican administration, State and national, means prosperity and progress for him.

There is, of course, always a discussion of candidates before the nomination and there may be a difference of opinion as to the proper choice, but when the ticket is selected and election time comes the colored voter of Ohio will be found next fall as always, supporting solidly and unitedly the party that has demonstrated itself to be his friend.

There are in Ohio a few cheap politicians who are seeking for their own self-interest to create a contrary impression. A few of these men have organized themselves into what they call the Ohio Afro-American League. The character of this organization can not be more clearly demonstrated than by the personal record of its chairman. If the people of the country and of Ohio knew Walter S. Thomas as well as the citizens of Columbus do, no attention would be paid to anything he might say or do. He is thoroughly discredited, has an itching palm and does not control his own vote, for he lacks even sufficient political integrity to "stay bought."

I have taken the liberty to write you thus freely and frankly, although a stranger to you, because it arouses my indignation to see the attempt that is being made to misrepresent the attitude of my race on the eve of a great national contest.

Very truly, yours,

J. J. LEE.

Here is a letter from C. H. Hughes, commander of the George Steele Post, G. A. R., of Columbus, Ohio. Hughes, I might add, was the messenger of Hon. George K. Nash while the latter was governor of Ohio.

COLUMBUS, OHIO, March, 1908.

HON. HENRY T. BANNON, M. C.,
Washington, D. C.

HONORED SIR: Pardon me for taking the liberty of thus addressing you, which I am sure you will when I say that I am particularly interested in the stand you took with reference to the colored vote of Ohio on the national issues of the present campaign. When you say that the colored vote of Ohio will be loyal to the Republican ticket this fall you state what will certainly be the true situation. This I know from personal observation by coming in contact with representative colored men and being a colored man myself. I know that we have some colored men in Ohio who would try and make you believe that the colored vote in Ohio can not be relied upon this fall, but such is not the case. The colored man knows just as well to-day as he did forty years ago that his political friend is the Republican party, and as voters we are not going to take any backward steps. In the primary skirmish we all have our individual choice, but after the smoke clears away we are ready to fall in line against our common enemy, the national Democratic party. I hope you will pardon me for taking up your valuable time with these lines, but it is only done to show my appreciation for your valuable services.

Respectfully, yours,

C. H. HUGHES.

Isaac N. Stroud, a prominent colored citizen of Ohio, has this to say:

COLUMBUS, OHIO, March 31, 1908.

HON. HENRY T. BANNON,
House of Representatives, Washington, D. C.

DEAR SIR: On behalf of many colored Republicans of Ohio, and myself, I take this method to thank you for the able and truthful manner in which you refuted the false charges and statement made by Representative RAINEY, a Democrat from Illinois, in relation to the attitude of the colored voters of this State toward Secretary William H. Taft in the coming Presidential election.

The gentleman from Illinois has said that if Mr. Taft is the Republican nominee that 95 per cent of the colored vote will be cast for the Democratic ticket. * * * He certainly is not posted as to the intelligence and good sense of the bulk of our people. We would inform the misguided gentleman that the negro of Ohio is always loyal to the party that discourages the disfranchisement of his race and is always against the Jim Crow law and other indignities, and that is the grand old Republican party.

We have in our city a political jackal who don't seem to realize that his days of usefulness are long since passed in this community. I am sorry to say that he is a colored man. This "beat" is now posing as the president of a so-called Afro-American League, and we are told has written a letter to his Democratic friend and brother (RAINEY) in which he indorses all the wild statements made by him.

The Afro-American League is a myth, and is only a device manufactured by this worthy to obtain money without working for it. We would thank the Democratic party or the Devil if they would take this "windbag" into their camp and keep him there.

You can rely upon it that the bulk of the colored voters will loyally support Secretary Taft for President, and why shouldn't they? Again thanking you, I am, sir,

Very respectfully,

ISAAC N. STROUD.

George Johnson, a representative Ohio negro, also writes me this letter:

COLUMBUS, OHIO, March 30, 1908.
HON. HENRY T. BANNON,
House of Representatives, Washington, D. C.

DEAR SIR: I have read in the public press with great satisfaction extracts from a speech delivered by you in the House of Representatives on the 14th of this month. I was particularly pleased with what you said concerning the attitude and purpose of the colored man of Ohio with reference to voting the Republican ticket next November. I desire, as a colored man, to express heartily and emphatically my approval of what you said in that particular. The colored Republican of Ohio is as loyal to his party as the white Republican of Ohio. He supports and has supported that party from principle and conviction because he knows and believes that Republican success and Republican administration, State and national, means prosperity and progress for him.

We know why these differences of opinions is being discussed. This great disturbance is caused probably by the Brownsville affair of which has been settled by the President of the United States, whether it was a mistake of the President or not we are not discussing that matter at this time. We have no distaste against the author, Hon. J. B. FORAKER, which is not the question at this time with the colored men of Columbus.

When the convention convenes we are here ready to abide by the decision of the delegates. We have a few cheap politicians in Columbus that has taken this plan for a gain for themselves, not for the interest of the people—in order to try to make a living without work. This has been the theme of these few politicians for some years.

The influence of these men is worthless in the city of Columbus where they are better known. Now they pretend to be the leaders of the Afro-American League, which the better class of the negro race in the city of Columbus do not recognize as good citizens.

Walter Thomas is the leader in this particular. He has held up every man in Columbus for his own benefit so far as he could, now he wants to get as much as he can from the Democrats that live out of his own State.

I have taken the liberty to write you thus freely and frankly, although a stranger to you, because it arouses by indignation to see the attempt that is being made to misrepresent the attitude of my race on the eve of a great national contest.

Respectfully, yours,

GEORGE JOHNSON.

Edward T. Wells, a deputy clerk in the office of the clerk of courts of Franklin County, Ohio, has this to say:

COLUMBUS, OHIO, March 22, 1908.

HON. HENRY T. BANNON,
House of Representatives, Washington, D. C.

DEAR SIR: I desire to stamp my approval upon the sentiment expressed by you in your address delivered in the House of Representatives on the 14th day of this month, respecting the intelligent and loyal support the colored vote has always given to the principles of the Republican party, and I want to assure you that you are entirely right when you say, "that in our action at the polls this fall, there will be no exceptions to the rule."

The respectable and respected colored voter of Ohio appreciates very much what you have said in that particular, and are just as enthusiastic in condemning the false-hearted practices which are being indulged in by a few self-constituted leaders; wholly irresponsible and representing nothing, not even their own votes, who are for personal benefit endeavoring to falsify the situation.

Respectfully, yours,

EDWARD T. WELLS.

F. D. Taylor, who is a prominent minister in the African Methodist Church, also does not agree with Thomas, for he says:

COLUMBUS, OHIO, March 30, 1908.

HON. HENRY T. BANNON,
House of Representatives, Washington, D. C.

DEAR SIR: I have heard to my regret that it has been said by some enemy of the race that the colored voters anticipate supporting the Democratic ticket in the next national campaign this fall.

I say, from personal knowledge, it is untrue. I am in a position where I come in touch with my people every day, and can vouch for the true state of affairs. I can say that—not only the Republicans of Ohio, who have vowed to stand by the good old party, but the Republicans of the United States, where they are allowed to vote.

You can rest assured, Mr. BANNON, that the colored voters are with you and yours and our friends for the good old party that has done so much for us and also for this country every since it has been in power. I was with you when you ran for Representative, and I did all I could with my friends at Portsmouth and Ironton for your election, as I was pastor of the A. M. E. Church at Ironton at that time.

I remember when you made that grand speech at Memorial hall, and said "If you were elected that you would do all you could for the boys." We stood by you then and saw that you got elected, and we will stand by you and the party forever.

I am, sincerely, yours,

F. D. TAYLOR.

N. T. Gant, a resident of Columbus and a representative negro, evidently believes Thomas does not represent the true sentiment of the Ohio negroes, for he says:

COLUMBUS, OHIO, March 30, 1908.

HON. H. T. BANNON, Washington, D. C.

DEAR SIR: I write to express my appreciation of the statement you made in your speech on the 14th inst. in answer to Representative RAINEY, of Illinois, that "ninety-five per cent of the negroes of Ohio would bolt the ticket in the event of Secretary Taft's nomination." This information does not emanate from representative colored Republicans or the rank and file of the voters, but from designing politicians whose sole aim is to subvert a selfish purpose.

As a member of the race, I feel very keenly the injustice of such gross misrepresentation on the part of the gentleman who made the statement, as well as the people, who no doubt misinformed him. I have tried to find out as far as possible the true sentiment in this matter and feel assured the negro voters of this State will do their

full duty on the 8th of November and stand by the nominee of the Chicago Convention.

Again thanking you for your timely remarks and protest against an injustice to the race, I am,

Respectfully, yours,

N. T. GANT.

These letters all come from men who understand political affairs, not in Washington, but among the people; not where the talking is done, but where the voting is done. Their judgment of actual conditions is better than that of the gentleman from Illinois.

I can not conceive how any Republican, and especially how any negro, can indorse the speech of the gentleman from Illinois. In the course of his remarks he said:

The Democratic party is the white man's party in this country—in the North as well as in the South. [Applause on the Democratic side.] We have been able to make it a white man's party in the past, and we do not care how long it remains a white man's party.

Here we have a Northern Democrat in Congress proclaiming to the country that his party is the white man's party—not only in the South, but in the North. He serves notice on the negro voters of the North that the Democrats do not want their votes. Well, they wouldn't get them anyhow. The Ohio negroes have always remained true to the Republican party in every national and State election in Ohio, and they will be loyal this year. Differences may exist concerning the affair at Brownsville. In that matter the negroes have had the benefit of the active support of one of the most aggressive, courageous Republicans in this country. They have had the benefit of one of the greatest legal minds that America has produced. He has fought a brave fight and he is still in the midst of it. During his struggle for many months every Democrat on the Senate Committee on Military Affairs and every Democrat in the United States Senate has bitterly opposed him. In that contest the only Members of Congress on the side of the discharged battalion are Republicans. Every Democrat is actively against the reinstatement of the colored troops. The only champion the negroes of this country have ever had are Republicans, and because on one issue out of the many some Republicans may not have agreed affords no reason why the negroes of Ohio should refuse to support their party. There are a great many negroes in my district and in my home city. I personally know nearly all of them. They are an intelligent, progressive, industrious people. I think I know how they feel about this matter. They believe in the principles of the Republican party. They will abide by the action of the Republican national convention, and they will support the Republican party in November.

The Faith of the Fathers.

SPEECH

OF

HON. BENJAMIN G. HUMPHREYS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. HUMPHREYS of Mississippi said:

Mr. SPEAKER: Under the general leave which was granted a few days ago, I print the following address which was delivered by me before the Alumni Association of the University of Mississippi June 4, 1907:

"MR. PRESIDENT AND FELLOW-MEMBERS OF THE ALUMNI ASSOCIATION: It has occurred to me that no more appropriate subject could be selected for an address upon this happy occasion than the "Faith of the Fathers." In the long list of the immortals whose patriotism, whose farsighted statesmanship, whose sacrifices, brought forth this Republic or guided its destiny through the shifting scenes of its formative period there stands preeminent the name of the great Mississippian. For this reason alone I could with perfect propriety present for your attention and contemplation the principles of civic liberty to which his life was dedicated and to which he bore unwavering fidelity alike upon the battlefield, in the Senate, in the white house of the Confederacy, in the shameful shackles at Fortress Monroe, and in the purple twilight of a ripe old age beneath the spreading live oaks of Beauvoir.

"Here, too, in the halls of our alma mater the orator, the scholar, the statesman, and, above all, the patriot Lamar taught the law class how the Constitution was made and all the eventful story of its life. Here, also, in the first days of its history taught the erudite, the versatile Albert Taylor Bledsoe, whose book, *Is Davis a Traitor*, has not and never can be answered.

So, Mr. President, inspired by the thoughts suggested by these great names—

"The choice and master spirits of the age,

"I have deemed it appropriate to call to your attention some of the principles which they labored so earnestly to perpetuate.

"It was natural, it was inevitable, after the Constitution had been ordained and established that two schools of radically different interpretation should appear. It could not be doubted that the restless spirit of Hamilton, with his lack of faith in the stability of all popular governments, and the watchful genius of Jefferson, the apostle of Democracy, would endeavor on the one hand to limit and restrict, and on the other to amplify and extend the power and scope of the Federal authority.

"It has been given to few people in their struggles for independence to be blessed with the leadership of a Washington, and so it came in natural sequence when the more perfect Union had been formed that all eyes turned to him to direct the course of the young Republic through the stumbling days of its swaddling clothes. Washington was reputed a Federalist and through the magic of that great name the Federalists held the reins of government for the first twelve years of our national life. Jefferson always referred to the election which brought him to the Presidency as the revolution of 1800. From that date the executive and the legislative departments were in control of the disciples of Jefferson, but the Supreme Court was presided over and dominated by a Federalist—I mean dominated by the persuasive force of his matchless logic—and so it came to pass that although the Federalist party had perished utterly never to appear again upon the stage of active politics, the Supreme Court under the dominance of Marshall, was slowly, but certainly, shaping the Government to the mold of Federalist opinions. The strict constructionists were lashed into fury when Marshall held that Congress had power—implied from powers specifically delegated—to charter a national bank, and they believed that the Constitution had been stretched to the point of rupture by this latitudinarian construction. What a far call it is from the doctrine announced in that great case to the popular theory of Federal power to-day. Jefferson and his followers were shocked at what he termed the usurpation of the judiciary, and he announced that the continued prevalence of the doctrine of consolidation would call for reformation or revolution. Those of us who to-day insist upon the limitation to Federal power set down by the great Federalist Marshall, against whom Jefferson complained most bitterly, are smiled at as strict constructionists and reminded that the thoughts of men have broadened with the process of the suns.

"Mr. President, the men who build this Republic were no novices. They were architects trained in the school of relentless necessity. Scions of a race that had known oppression and had destroyed it; learned in all the lore that had sifted through the ages in which men had fought against the foes of liberty, inspired by the spirit of Langton and Fitz-Walter who wrought so well for all posterity upon that glorious day at Runnymede, they brought to their task a knowledge of state building and the science of freedom surpassed only by their patriotism. When they fashioned the Constitution they were mindful of the world-wide, world-old story of man's love of power and proneness to abuse it, and so they laid the foundation of the Republic, not in confidence, but in jealousy, believing that confidence is everywhere the parent of despotism. With this thought then uppermost in their minds they provided separate depositories for that power which must be exercised in all organized governments, delegating to the Federal Government such powers only as were necessary and proper to the discharge of the purely Federal function, and reserving to the several States the regulation of that mass of legislation of purely local concern which we usually designate the 'police power.' Fearful, however, lest in that liability to err which is common to all flesh they had left some obscure peg upon which by some refinement of sophistry constructions might be hung to amplify the Federal power, they deliberately and immediately, in a spirit of abundant caution and to make assurance doubly sure, provided in unequivocal English that 'the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people.' Such, then, were the conditions under which the dual Government was framed, such was the corner stone upon which the whole fabric was builded, and for more than a hundred years the Constitution, in spite of sinful, senseless amendment, has endured. From a federation of 3,000,000 souls we have come to be a nation of eighty millions, and in all the vicissitudes of change which marked that evolution the wisdom of the fathers has been made more manifest.

"Mr. President, are we losing faith in the capacity of the States to perform the functions reserved to them by the fathers?

"Inspection laws, quarantine laws, health laws of every description," says Marshall, "form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government. No direct general power over these subjects is granted to Congress, and consequently they remain subject to State legislation."

"So spoke the great Federalist nearly a century ago, yet to-day the leaders of both parties are stumbling over each other in their precipitate rush to the Central Government to unload upon it every right which the fathers reserved to the States and which the States have refused or neglected to exercise.

"The most popular man is he who marches under the banner bearing the perilous motto, 'On to Washington.' National quarantine laws to preserve the public health, national pure-food laws to protect the public stomach, national insurance laws to punish the public felons, and national divorce laws to promote the public morals, all in the exercise of the police power so jealously reserved to the States; all to be turned over to the Federal Government because the States have failed to exercise the powers so clearly theirs under the Constitution. If there are evils springing from the marvelous development of our times, if there are agencies among the industrial activities of our people which have outgrown the power of the States to cope with, and it is desirable to surrender still further power to the Federal Government, the method by amendment is clearly pointed out by the Constitution. Yet in a speech delivered a year ago, the Chief Executive of this great nation announced the startling doctrine 'that we need' (not by the orderly method pointed out by the Constitution but) 'through executive action, through legislation, and through judicial interpretation and construction of law, to increase the power of the Federal Government.'

"Following the bad lead of his chief, the Hon. Elihu Root, our most capable and distinguished Secretary of State, in an address delivered before the Pennsylvania Society in New York last winter, announced a doctrine even more revolutionary than the preaching of the President. Said he:

"It is useless for the advocates of States rights to inveigh against the supremacy of the constitutional laws of the United States or against the extension of national authority in the fields of necessary control where the States themselves fail in the performance of their duties. The instinct for self-government among the people of the United States is too strong to permit them long to respect anyone's right to exercise power which he fails to exercise."

"And so it shall come to pass that instead of a Government of limited and enumerated powers, instead of a Government under a Constitution which 'We, the people of the United States, have ordained and established,' we are to see ushered in this new evangel, this doctrine of a government by instinct.

"The government control which they deem just and necessary," continues the Secretary, "they will have. It may be that such control would better be exercised in particular instances by the government of the States, but the people will have the control they need either from the States or from the National Government, and if the States fail to furnish it in due measure sooner or later constructions of the Constitution will be found to vest the power where it will be exercised, in the National Government."

"No reply of mine to the suggestions of these two eminent statesmen can be half so fitting as to quote the immortal words of Washington's Farewell Address:

"It is important that, likewise, the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism."

"If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed."

"Mr. President, I do not know just what the Secretary meant when he says constructions will be found, but I do know that

no more subtle method could be pursued to change the form of our Government, and when that comes, as come of course it will, some sad, though let us hope, far distant day, it will be by the Supreme Court finding constructions to uphold the constitutionality of first one and then another popular measure which the legislative department of the Government has been clamored into writing upon the statute books.

"There is much room for comfort, however, in the thought that the Supreme Court has not always found constructions to placate popular clamor.

"There was never a time when it was more earnestly desired that constructions should be found to amplify the Federal power than when the greatest of all our jurists sat in judgment at the trial of Aaron Burr. By killing Hamilton, Burr had aroused the fiery hatred of the Federalists to a pitch unknown save when whetted by religious fanaticism. Accused, on the other hand, by Jefferson of treason against his country, there was hurled at his devoted head the untimely maledictions of the Republicans. From all the corners of the earth there arose one universal cry, 'Crucify him, crucify him!' But when that battle of the giants ended, a battle indeed of brilliant intellects and splendid wits, the great Chief Justice, the chief sinner among the broad constructionists, nevertheless, meting out justice by due process of law, found no construction to uphold the theory of 'constructive presence,' and Burr was peremptorily discharged. When the great Taney, a worthy successor to the illustrious Marshall, was called upon to render the opinion in the case of Dred Scott, who had demanded his freedom under the terms of the Missouri compromise, the peace of the Nation was at stake, yet despite the execration of a maddened world no construction was found to extend the Federal power beyond the limits set by the Constitution.

"Mr. President, I understand fully that the war is over. I appreciate the full import of the great epochal fact that it was General Lee and not General Grant who surrendered at Appomattox, but while the Constitution received a frightful shock during those sad years of blood, let us also remember that it was not destroyed. While the clash of resounding arms was still fresh in the minds of men and the echo of the last rebel yell had scarcely faded from the valley; while Jefferson Davis, a vicarious sufferer, lay shackled in Fortress Monroe awaiting his trial on a charge of treason, and while the frantic Nation, mad with rage, was rending the overburdened air with imprecations against the accursed doctrine of States rights, the Supreme Court, in December, 1865, declared:

"The National Government possesses no powers but such as have been delegated to it. The States have all but such as they have surrendered."

"Are we losing that spirit of jealousy which demanded that the right of local self-government should be nominated in the bond when the Convention met to form the more perfect union? Are we so dazzled by the prospect of national greatness that we are ready to surrender the sovereignty of the State and embrace the doctrine of a centralized government? If not, then let the wide world know it. Once the Federal power is admitted it never recedes. No knight ever wore more worthily the motto 'Nulla vestigia retrorsum' than does the United States Marshall. If Congress has power to establish quarantine, it has power to forbid quarantine. If Congress can prescribe the age limit of factory hands, it can prescribe the number of hours that shall constitute a day's labor on the farm. If the Federal Government can pass a uniform divorce law, it can also regulate the institution of marriage. If Federal power can force Japanese into the white schools of California, it can admit negroes into the University of Mississippi. The day the States surrender the police power to the Federal Government or yield the point that it is exclusive with the States, that day the spirit that prevailed at Yorktown has perished.

"Mr. President, this new doctrine which I have referred to is not the idle prating of some shallow demagogue. These are the deliberate words of two of the foremost men of all the world. Theodore Roosevelt and Elihu Root stand second to none in high-purposed endeavor, in patriotism, in civic righteousness; wherefore their pregnant words are all the more portentous. It matters not how fascinating the personality of the hero who is to destroy the common enemy, the day we yield to his blandishments and let down the constitutional barriers that keep the Federal authority out, and arm the National Government with police power—be the purpose ever so high—that day will mark the decline of State institutions and the government at Jackson will thenceforth sink into innocuous desuetude.

"Seldom in the history of the world has a statesman brought to bear a higher patriotic purpose than Cicero turned against Catiline for conspiring to overthrow the Republic; but when he had those conspirators executed without that due process of law which the Roman constitution guaranteed, he struck a blow

at Roman liberty more death dealing than Catiline had ever power to inflict. It is not a question of high purpose. We have it on good authority that there is a country much spoken of in Holy Writ that is actually paved with good intentions. Brutus was high purposed. Set honor in one eye and death in the other, and we have his word for it that he would look on both indifferently.

"This was the noblest Roman of them all.
All the conspirators, save only he,
Did that they did in envy of great Caesar;
He, only, in a generous honest thought
Of common good to all, made one of them.
His life was gentle; and the elements
So mix'd in him that Nature might stand up
And say to all the world, 'This was a man.'"

"And yet the most pathetic fact of that great drama is Brutus's utter ignorance of his real environment. When he descended the rostrum amid the shouts and plaudits of the people and left Antony to speak in Caesar's funeral 'by his leave,' he was firm, aye serenely firm, in the conviction that—

"Many ages hence
So oft as this our lofty scene is acted over,
So often shall the knot of us be called
The men that gave our country liberty."

"Yet had he had ears to hear, there was at that big moment ringing about his head the very funeral dirge of Roman liberty:

"Live Brutus, live, live.
Bring him with triumph home unto his house.
Give him a statue with his ancestors.
Let him be Caesar!"

"The cry was not 'Live liberty,' not 'Live the Republic,' not 'Live freedom.' Alas the very spirit of liberty was dead. He had stricken the tyrant with his bloody sword, but he could not breathe into the nostrils of that Roman mob the spirit of civil liberty which had been permitted to die from sheer neglect, and so they turn from one tyrant to another—

"Caesar is dead; let Brutus be our Caesar."

"God grant, Mr. President, that we may not neglect the faith of the fathers; that the Constitution may still be our creed; that the spirit of jealousy that inspired the fathers when they wrote it may long continue the breath to our nostrils; that love of the Constitution may yet abide with us; that the Federal Government may grow in its power to do good under the Constitution, but mindful always that 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.'"

Waterways Commission.

SPEECH

OF

HON. CLARENCE C. GILHAMS,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. GILHAMS said:

Mr. SPEAKER: I desire in this way, through the columns of the CONGRESSIONAL RECORD, to reach all the Members of the House on the subject of canals, as well as many more that may be able to obtain it through further distribution.

Waterways has now become a national and very general subject of investigation and discussion.

Everywhere throughout the nation we are looking forward to a completely developed system of internal waterways, the great purpose of which is to assist in the more satisfactory distribution of products, and at the same time greatly reduce the cost of transportation and assist in freight-rate regulation. The early development of our rivers and canals has been greatly retarded through the construction of railways, they having a decided advantage in the way of going anywhere they desired, along with the advance of the pioneer. Water will not run up hill, but railways could, and for that reason, as well as for speed, they have for many years retarded the early construction and systematic development of our internal waterways. But to-day the whole country has united in an earnest and somewhat organized effort to bring about as rapidly as possible a complete system of inland waterways, which will not only do away with the terrible congestion of traffic, but bring about economy of distribution and the best conservation of our natural resources. Railway corporations should look with favor upon the construction of waterways, for it has been accepted as an axiom in France and Germany that canals increase the traffic

of all railroads, and especially those that parallel the canals, and also increase the profits of railways by virtue of the fact that the canals carry the lowest grades of freight and leave nothing but the lighter grade for the railways to carry.

In a statement made by George E. Bartol, president of the Philadelphia Bourse, he says:

The improvements of the river Main were completed in 1886. There was an independent railway on each bank of the river, and they had opposed the improvements, but the railway traffic increased 38 per cent in 1887 and 58 per cent in 1888, and the railroads joined with the river interests in requesting a further deepening of the waterways. Within ten years the traffic of the river had increased more than tenfold—from 150,000 tons to 1,700,000 tons.

The traffic of the railroads in the same time increased about 100 per cent—from 930,000 tons to 1,639,229 tons—because factories had been established along the river and in Frankfort, as they were able to get their raw material at a low figure.

It had proven a favorable place for establishing factories, and much of the products of the factories went out by rail. The railroads found that water competition increased their business by creating new business, and that the railroads earned a great deal more money than they ever did before.

The above quotation is given as a concrete illustration of just how it works; that can not be gotten away from, and I am told this is not a single case, but the same is true all over Germany and throughout France. I can see no reason why we would not have the same results here in our own country to-day if our waterways were developed.

Manufacturers always want to locate and know where they can get all raw materials out of which their products are made for the least possible expense, and how they can best ship their products; as a rule the manufactured product will want to be shipped by the railways, while the heavy low-grade raw material will come in by water.

The greatest factor in the rapid construction of railways has been the fact that they will run uphill and anywhere, but it has become a well-known fact among railroad men that freight can be moved on an average more rapidly by water on canals or rivers.

Mr. James J. Hill, in an interview, stated the average movement of a freight car per day to be about 25 miles. On a ship canal from Lake Michigan to Lake Erie by way of Fort Wayne the lowest estimate on movement of boats is from 4 to 5 miles per hour. One can readily see from these estimates that freight would move on an average 100 miles per day on the Michigan, Erie and Fort Wayne Canal, if constructed.

The cost of construction of railways to-day is something to be seriously considered from two standpoints that seem to me to be of paramount importance. First, from the standpoint of economy of construction as to cost; second, as to the saving and economizing of our national resources. This to-day is becoming the most serious and dangerous question that confronts the American people.

I desire to include as a part of my remarks a portion of an address of Mr. P. A. Randall, of Fort Wayne, before the Committee on Railways and Canals in behalf of the Michigan and Erie Canal on House concurrent resolution No. 18:

If there is anything Congress should do it is to help this country to a better transportation system. Unless it can be done pretty soon we will have a complete paralysis of all the commercial business in this country.

I believe that statistics show that railroad transportation has been increasing at the rate of 100 per cent every ten years for the last fifty years. Statistics also show that the means of doing this transportation business has kept pace with the growth of the business until the last decade. For the last decade, however, it is shown that the business has increased 126 per cent, while the means of doing the business has increased a little less than 22 per cent. Is there any reason for you gentlemen to believe that within the next ten years it will show any greater increase than it has in the last ten years? Is there any reason to believe that the means of doing that business will increase as much as it has during the last ten years?

Now, I think I know something about this question. I have been in business where I have had to have shipping done, and I know how we have handled that by reason of the insufficient means of doing business. You know it by hearsay, if you do not know it by actual experience.

You know that there has been great suffering all over this country. You know that in the Northwest people have been frozen to death because they could not get coal, and they have burned fences from around their property to keep themselves from freezing. The grain and the fruit have rotted on the roadside because farmers did not get cars and locomotives to make the shippings.

The National Association of Rivers and Harbors has asked for \$150,000,000 for the purpose of supplying this deficiency. The losses have been \$50,000,000 worth per year.

I want to speak of this favorite location in which we are at Fort Wayne with railroads and terminals. This is a division point where we have been unable to get cars and have to wait for weeks and months to get cars to ship a carload of lumber.

Mr. James J. Hill says—and I believe that he ought to be pretty good authority—that it will require seven and one-half billions of dollars to put the railroads in condition to do the business of this country for the next five years. He did not hazard to guess on what it would be for five years longer.

The capitalization and bonded indebtedness of all these roads of the country is now \$15,000,000,000. Will you tell me where you are going to get seven and one-half billions of dollars to put into railroad con-

struction and railroad building for the next five years? It can not be done. You are not going to get so much money for locomotives and railroad construction and terminals in the next five or ten years as you did in the last ten years. I want to ask you gentlemen if we are going to be hampered by this sort of thing in this country?

I understand that Congress is going to appropriate 70 per cent of the revenues of the Government for the purposes of past wars and wars to come. *The wars of the future are not going to be fought by gunboats and battle ships and by shrapnel. The wars to come are going to be commercial wars, and we have got to be prepared to enter into that conflict.*

"Why," some of us say, "we are a great nation." We have got our heads swelled and we are blustering about to show what a "bully boy" we are. We are trying to show what a goody-goody kind of people we are. We are building the Panama Canal; and I state here that if we build this canal which is in the proposition before you 21 feet deep it would be worth one hundred times more to this country than would the Panama Canal.

Gentlemen, we must have some relief. How are we going to get it? We have immense and magnificent streams. We have the finest opportunities of making canals of any country in the world.

Mr. HARDY. How do they compare with those of France? Mr. RANDALL. They are much better. France has spent, since 1814, \$750,000,000 for canals; and I understand that this Government, since its birth, has spent less than \$500,000,000 for canals and harbor improvement.

Mr. HARDY. Do you know what proportion of the trade of France is carried on by the waterways or canals?

Mr. RANDALL. No, sir; I do not, but I do know that you can load a barge in any part of France and take it to any other part of France. Mr. HARDY. It can be taken clear across France.

Mr. RANDALL. Yes, sir; in any direction. I know that we have let all of our canals and rivers go without any improvements whatsoever.

Gentlemen, there is another feature about which I want to speak, and I think it is insurmountable on the part of the railroads. I believe that the railroads have gone to their limit in the matter of handling heavy, bulky freight. I believe that the great difficulty with the railroads to-day is the want of terminals. The railroads can build the tracks, can get the locomotives, and can probably get cars, but how in heaven's name are they going to get terminals on which to handle their cars? In the town in which I live we have railroad yards. A few years ago they said it would be sufficient for fifty years to come, and yet I have been six weeks in getting a car out of that yard. I never get a car in less than six weeks' time.

Mr. BURTON. Was that a car for loading or was it a car that you were receiving?

Mr. RANDALL. I mean that the freight remained in the yard for six weeks. Why? The railroad cars stand as a heavy dead weight upon the tracks. You have to move a whole train of cars to get out two or three that you may want. That is the situation. I was told that a gentleman had shipped from Grand Rapids, Mich., a carload of freight. He had hoped to find it, and finally he went to Grand Rapids, 115 miles away, and walked the whole distance. He finally came to Fort Wayne and found it in the yards there.

Last summer I got 5 carloads of goods from Petoskey, Mich., a distance of 360 miles away. I wanted the material to put into some houses that I was building. I started to work after I had ordered the lumber. I found that I could not get the lumber, and I went to a local dealer and bought the lumber, and I had the house built and the family living in it before I received that order of lumber. It took four weeks to get the cars with which to ship it, and I was four weeks in getting it. That is 360 miles on a direct line from Grand Rapids to Fort Wayne.

The CHAIRMAN. Are the railroads laboring to cure that state of affairs?

Mr. RANDALL. The railroads are doing the best they can. The trouble is with the terminals. I read an article in the paper last fall which gave an idea of the time it takes to load a vessel. A vessel was loaded at Superior, Wis., with 10,000 tons of cargo in ninety minutes. That was two hours and twenty minutes from the time it came into the harbor until it steamed out on its return trip with its 10,000 tons of freight, and the harbor master told me that they would unload that in Toledo in six hours. Do you know the size of that cargo? That cargo would have filled 400 cars, and those cars would have made, with 40 cars to the train, 10 trains, and these 10 trains with the locomotives would have made a string of trains solidly together a distance of 5 miles in length.

Now, if you had undertaken to load that same cargo into those cars and allowing ten minutes to a car, it would have taken four thousand minutes to have loaded that cargo into cars. That is six hundred minutes, counting ten hours to a working day. It would have taken seven days to have loaded that cargo into railroad cars. It would have taken the same time to have unloaded it. Now, that is the situation.

The railroad men themselves are thoroughly frightened at the question of terminals. We have marveled why the Pennsylvania Railroad went under the river to get into the city of New York with its tunnels, and yet I saw a statement in the paper the other day by a writer who was speaking of this question, and he said that the cost of that tunnel work under the river was only about one-tenth of what it would have cost on the surface in New York City.

There are in the city of Chicago 800 miles of main tracks, and there are 1,400 miles of auxiliary tracks. The appraised value of the real estate on the main line is \$144,000 per mile. The main and the auxiliary tracks in Chicago have cost at the present price over \$600,000,000, and yet if they had to duplicate that trackage to-day it would cost ten times that.

In talking the other day to a gentleman who is high in railway circles about the possibility of the railroads getting the money to handle the traffic of the country, he said: "The question that is now troubling the railroads more than any other is the question of terminals." He referred to the right of way and tracks in Chicago, and then said to me that "the Chicago and Milwaukee Railroad Company have had a jury sitting for six months trying to figure out an additional right of way through the city." He also told me that the Chicago and Northwestern road had recently made purchases in Chicago, not in the business district, but on the north of the river, and the prices they had paid figured the right of way at over \$6,000,000 a mile, and he said that if the railroads entering Chicago had to duplicate the right of way, which they will some time have to do, it would cost them at least ten times what their present property is worth.

The CHAIRMAN. The property that the Northwestern is acquiring is for a new passenger station?

Mr. RANDALL. Yes, sir. There is 80 feet square that they paid \$50,000 for and 2,800 square feet that they paid \$365,000 for. That may be too high a price to put upon the right of way for terminals, but I talked with a gentleman some time ago who told me that he was a member of a syndicate that was thinking about building a line of road from New York to Chicago, and he said after a year's investigation they found that the right of way in New York alone for their terminals would cost \$150,000 a mile for the entire road, and that without putting any money into the construction of the road at all.

Mr. BURTON. Do you mean \$150,000 for the length of the road from New York to Chicago?

Mr. RANDALL. Yes, sir; from New York to Chicago, the length of the road.

The CHAIRMAN. I remember seeing a statement that it would cost more to acquire the terminals in New York than to build the road from New York to Chicago.

Mr. RANDALL. This gentleman told me it figured \$150,000 a mile for the entire road, and he told me that he was a member of that syndicate and that the syndicate was dropped. He told me further that the only thing this country could do was to go to the waterways; that he believed the question of terminals was such that the railways were out of date.

I do not want to enlarge upon those matters. I simply want to say that it seems to me it is a condition that confronts us; it is not a theory. The railroads have shown in the last three years of prosperity that they could not do the business of the country, and each year of prosperity will put them still further "out of the running." What, then, are we to do? We have, as I said before, the finest opportunities of any country in the world to make waterways by the improvement of our rivers and by the making of canals, and are we now going to say we will not do it? I do not believe that Congress can do a thing that will please the people better and that will do more good for the country than to make appropriations for the survey of every stream that people ask to have surveyed in order to put them in the position where they will know what they ought to do when the time comes to do it. It looks to me as though we ought to make haste in the matter. It looks to me as though a calamity is confronting us, and I say this as a man who has had a great deal to do with transportation and knows of the difficulties that we are laboring under.

I have brought in a part of the foregoing speech for the purpose of showing the enormous cost for the construction of railroads at this day and age, so that we can get a clearer vision of the necessity of an early beginning in the development of a system of waterways in America, and more especially in the United States.

Common coal cars cost from \$1,000 to \$1,100 per car, or about \$50 to \$55 per ton for carrying capacity, while barges can be constructed for the carrying of coal, or all heavy or bulky commodities, at a cost from \$8 to \$12 per ton, and in many cases barges are built for coal shipment at \$2 per ton.

With such a wide difference in the cost of tonnage-carrying capacity and a system of waterways open to all for competition in the carrying trade, it is no difficult task to see a great economical saving to the general public.

The people of the United States are to-day face to face with the greatest business problem that has ever presented itself for consideration and final solution. Upon a wise and economical solution, which means the greatest conservation of our natural resources, and by the acquisition by the Government through the development of our waterways vast rights in water power, which will be converted into electrical power, which may become a source of the greatest revenue for the further exploiting and development of our national affairs.

This power, if at once secured by the Government by an early beginning of our canal development, would be of such enormous quantity (and saved to the people instead of falling into the hands of private corporations to be exploited) that the revenues from this source alone would supply all necessities for running our governmental affairs and completely canalizing our whole country.

I am particularly interested in the construction of a ship canal from Lake Michigan to Lake Erie by way of Fort Wayne, thus connecting Chicago with Toledo and shortening the route by 400 miles, or 800 miles in a round trip. The distance from Chicago to Toledo would be about one-third what it is to-day.

In order to give you the comparative distance that the saving of this 400 miles makes I will quote from the language of Frank B. Taylor, of Fort Wayne, Ind., in a recent address before the Committee on Railways and Canals:

This extra 400 miles is 43 miles farther than from Chicago to Cleveland by rail; nearly as far as from Baltimore to Boston and lacks only 42 miles of being as far as from New York to Buffalo by the New York Central Railroad. This much distance would be saved every trip. Not until a shorter route is made available will east-and-west long-haul rates come down to bed-rock value, which they ought to reach and which the people are entitled to have. To much stress can not be laid upon the fact that even after the Erie Canal is completed every ship and barge that sails from Chicago to New York by way of the Straits of Mackinac will have to travel about 400 miles farther than it would if a deep waterway were built from Chicago to Toledo across northern Indiana and Ohio. And further, in going back to Chicago every returning ship will have to repeat the same 400 miles detour through the northern straits. In short, every boat plying between Chicago or any point west of Chicago and Toledo or any point east of Toledo will have to travel 800 miles farther than necessary in every round trip until the proposed Michigan and Erie Canal is built. This is 37 miles farther than from Fort Wayne to New York

by the Pennsylvania Railroad, or exactly as far as from Chicago to Baltimore. This distance of 800 miles would be saved on every round trip. Indeed, every ship that travels the northern route to-day has to make this long detour, and every ship in the past has had to do it. The value of the coal alone that has been consumed in traveling this extra 400 miles is probably more than enough to build the canal, to say nothing of the insurance premiums and losses paid and the value of the lives and property lost in wrecks that would have been avoided.

Between Chicago and New York the saving of distance by the proposed canal amounts to two-sevenths or a little more than one-quarter of the whole distance; between Chicago and Buffalo it is nearly one-half; between Chicago and Cleveland or Detroit more than one-half, and between Chicago and Toledo nearly two-thirds. Can there be any doubt of the value of this canal, if its construction is feasible and within bearable limits of expense?

This great shortening of distance means the saving of time, the very material economizing in the saving of fuel, the lowering of insurance on both vessels and cargoes, and necessarily the lowering of freight rates.

It is stated by experts that the modern canal of 15 feet depth has a carrying capacity of fifteen double-tracked railways of equal length of the canal.

If you will stop to figure the expense of construction of railroads to enable us to obtain sufficient transportation facilities as compared with canals of the above dimensions, it will be found at \$75,000 per mile of railway building that it would cost thirty times \$75,000, or \$2,250,000, for each mile of railway tracks and their equipment, or about \$500,000,000 to parallel this canal and furnish the same amount of transportation facilities, and it would then depend wholly for its revenue on its freightage, while the canal would derive large dividends from water and electrical power, which has been already estimated at many millions of dollars annually.

In a speech at Moline, Ill., last October by Mr. H. H. Harrison, of Stillwater, Minn., in speaking of the new Hennepin Canal to Chicago, he said:

It should not stop there, but should continue on eastward, through Fort Wayne, and then follow the Maumee River to Lake Erie, and then by a little effort by this Government we would have a deep waterway to the Atlantic Ocean. Europe is the country that demands the most of our products and merchandise, and this is the short route to Europe from the very center of our continent.

And right here I want to quote from the speech of Mr. P. A. Randall, made before the Railways and Canal Committee:

I want to say just a word in reference to this canal. This is not a local affair, as the chairman seems to think. It is not to be built simply to accommodate northern Indiana, southern Michigan, and a part of Ohio. This canal, if built, will be of national importance. Mind you, the Canadians are warm rivals on this subject of canals. They have a 34-foot waterway from the ocean to Montreal, and ocean vessels are constantly coming there. When the Georgian Bay is made 21 feet deep, as it will be within the next two or three years, a vessel going from Chicago will not pass down through Lake Huron and down Lake Erie to go to New York, even if the Erie Canal is made a 21-foot canal, because it will be as near to Montreal from Chicago through this Georgian Bay canal as it will be to Buffalo, and when they are at Buffalo they are 436 miles yet from tide water at New York.

Not only that, but when they are at Montreal they are 340 miles nearer Liverpool than New York is. In other words, with a ship canal from Buffalo to New York through the Erie Canal and with the Georgian Bay canal made, vessels starting from Chicago will be 770 miles nearer to Liverpool by going by the way of Montreal than they will by the way of Buffalo, swinging around this circle and up through Lake Erie. The only way you can cut off that distance, the only way you can equalize the distance between New York and Chicago with that from Montreal to Chicago, is to make the 400 miles cut-off we are proposing by this canal.

Railway transportation companies have argued for some time, when not able to furnish cars, that if cars were not delayed an unreasonable length of time before loading or unloading, they would be able to furnish cars more readily, and in order to get relief from this seemingly unnecessary delay demurrage laws have been passed by many States, but have not been found to give satisfactory relief. In support of this statement I desire to quote from the speech of Mr. C. S. Bash before the Committee on Railways and Canals, which is as follows:

Before going into this question I want to say to you why this question of demurrage and reciprocal demurrage has been taken up, and why they have appointed the strongest committee they could get to ask people to take an interest in this, with a view of getting relief. The grain dealers, the hay dealers, all manner of merchandising dealers in the United States, have been suffering, and suffering greatly, for the past three years. We have jumped to this manner of getting relief and then to that; we have tried this expedient and that, and yet we have not found relief, and all we get from the railroad companies when we go to them is: "We simply can not give you the accommodations, gentlemen; you must look elsewhere for relief." They have admitted, plainly and pointedly, every time we have gone to them that they have not the equipment to give us relief, nor the motive power, nor the terminals, so that now the question comes plainly to you to solve it right here. The only thing to do is to give us deep waterway canals that we may get this relief, and, in my humble opinion, it is the only way in which this can be had.

In order to give the railroads more equipment and to make them better able to take care of their traffic, they have been, for the past three or five years, exacting all kinds of arbitrary, unjust, discriminatory tactics, which has driven the business men of this country fairly to desperation. The consequence is they have besieged every legislature asking them to pass laws for reciprocal demurrage, making railroad companies pay back at the same rate for failure to carry these goods as they charge the public for failure to load them in time when cars were

furnished. What has been the result? The railroad companies have laid down. In our little State of Indiana they say, "For God's sake stop; we have had enough; we can not afford to pay you at the same rate for these delays on our part, so we want to quit that kind of a game." They have fallen out among themselves and within the last few days they have abolished their demurrage agents at Fort Wayne—the Nickel Plate Company and others—saying they would not have anything more to do with the damnable thing; that it is an outrage. They take a shipper, a man who is gathering the goods up to ship, and then mulch him with damages for failure to load and unload promptly. Perhaps a shipper has stock in storage for days and weeks, a month, to go from Fort Wayne to Chicago, a straight line. We have had goods lie in the yards six, eight, ten, and fourteen days. These statements are not myths, they are truths, but the railroad companies are powerless to give relief. They are doing their utmost, there is no question about it.

Let us look just a moment at what they have done, and understand we do not come here as an enemy of the railroads, but to help them. Only a few days ago in Chicago one of the greatest freight agents there stated to Mr. Harris, "We are with you in this campaign. Do everything you can to get that canal from Lake Michigan to Lake Erie."

Now, while the railroad companies are totally unable to give relief in the way of cars and better transportation facilities, yet they cut the freight rates $4\frac{1}{2}$ cents per hundred pounds on all grains and through products from Chicago eastward, from the rate that is made from any point through Indiana, Michigan, or Illinois, where it goes direct.

They give this advantage in Chicago in order to take the freight from the waterways or lakes, and they give a further discount of 2 cents per hundred on all commodities where it goes for export.

Ninety-five per cent of our commerce is internal, and why should we give up all these privileges to foster and help a little export trade and then have the internal rates (where not on water ports) raised on all our internal commerce?

The difference in railway freight from points near Chicago to New York, in the report of Engineer Symons on Oswego and Hudson Canal, page 69, on a bushel of wheat is about 5 cents per bushel.

There is so much can be said in behalf of the great benefits to be derived from the construction of this canal and canals generally, but it is impossible to do it without going to too great length, but for further information as to the benefits to be obtained I desire to call your attention to the report of the Committee on Railways and Canals (H. R. 1760), first session of the Sixtieth Congress, on House concurrent resolution No. 18, as follows:

The Committee on Railways and Canals, to whom was referred the resolution (H. C. Res. No. 18) to authorize a survey for a ship canal from Lake Erie to Lake Michigan by the way of Fort Wayne, reports the same back with amendments and recommends that the resolution as amended do pass.

The first amendment is to authorize the Secretary of War to make an examination and survey of other proposed routes for a ship canal connecting Lake Erie and Lake Michigan.

H. R. 17417 and H. R. 4065, introduced by Representative FORNES, provide for surveys for a canal from the most available westerly point of Lake Erie to Lake Michigan, at or near Benton Harbor, and while the committee is of the opinion that a route via Fort Wayne will probably be preferable on account of the lower summit level, and the additional opportunity for water supply, yet it believed the Congress ought to be fully advised as to the most feasible and practicable route connecting those two lakes.

It is also proposed to have a report made upon the possibility of conserving the flood waters of this section, and also the possibility of developing water power and the benefits to be derived therefrom to the public generally.

One hundred thousand dollars, or so much thereof as may be necessary, is appropriated for the purpose of meeting the expenses incident to this survey.

A canal from Chicago to Toledo either by way of Fort Wayne or across the State of Michigan would open a waterway which is certain to control freight rates between Chicago and Buffalo. It would occupy a territory that is populated by one-fourth of the people of the United States, and would be a connecting link by shortening the waterway from Chicago to Toledo 400 miles, thereby making the distance by water from Chicago to New York City the same as that by rail. This proposed canal parallels the great trunk lines from Chicago eastward to Toledo, thence by water to Buffalo, making it a perfect regulator of traffic rates.

By means of this connection it would make it possible for the building or construction of a canal system through the States of Ohio and Indiana, leading from the Ohio River to Indianapolis, Fort Wayne, Chicago, and Toledo, thereby completing a system of waterways upon whose banks will be given a new impetus for the erection of large factories and a great diversity of enterprises, making it possible to get the raw materials along this waterway for the purpose of manufacture at the lowest possible cost. It will mean a complete revival of new business enterprises all over the States of Ohio, Indiana, and southern Michigan, and a vast amount of accumulating tonnage for transportation.

The stone quarries of southern Indiana will be greatly benefited by this cheapening of transportation to the large cities that will be located on these canal ways. Coal will be shipped from southern Indiana and from Virginia, West Virginia, and Ohio which to-day either goes by rail or by some round-about water course. When this system of waterways is opened it will be freighting large quantities of cement, lumber, timber, iron, fertilizers, grain, provisions, coke, iron ore, and building material of every description.

The marvelous productive resources of Ohio, Indiana, Illinois, southern Michigan, Wisconsin, and the States of the Middle West will be wonderfully enhanced through its construction. All kinds of heavy

freight and bulky material will be shipped by these water routes, consisting of bridge material, I. B. steel building material, stone, telephone poles, brick, lime, hay, and many other articles. In fact, this canal will be constructed in a line in which the transportation from east to west is the largest and will continue to be the largest of any location in the United States, which means hundreds of millions of tons of transportation.

The traffic that will be built up along the lines of this system of canals will be so great that it will more than pay for the construction of the canal, and in addition will carry the millions of tons of commerce between the East and West that will constantly increase with the development of business enterprises and increased population. This will be one of the great means through which the country may be able to so reduce its transportation rates that it would be possible for American products to meet the competition of foreign products in foreign countries.

To-day 26,000,000 people, more than one-fourth the population of our country, would be directly benefited by the construction of this canal. Fifty years from now this same area, consisting of 753,000 square miles, at the present rate of increase, will contain 100,000,000 people.

The construction of this canal will secure to the Government 40,000 horsepower, estimated by Lyman E. Cooley to be worth, developed into electrical power, \$16,000,000. These figures are based upon the constant water supply at the lowest point of the year. This power could be doubled in the same area by the construction of reservoirs at but little cost. The construction of this canal will make it possible to transport commodities in vessels whose average tonnage will cost \$8 per ton capacity, while to-day upon the open lakes transportation is carried in vessels costing from \$60 to \$75 per ton capacity. Hence it is readily seen that barge traffic on canals will be taken for less money than on the open lakes. This system of canals will enable coal to be distributed all over the States of Ohio and Indiana at the lowest possible transportation figure, thus directly benefiting the consumer of this large area millions of dollars.

This canal will be called upon for the transportation of most of the corn grown in this country, as the territory contiguous comprises practically all of the corn territory of the United States. This same territory produces a greater amount of cattle, hogs, and horses than any other region of equal size in the world, the surplus of which must be transported eastward to markets, which adds millions of tons of traffic. By this canal the coal fields of Illinois, Indiana, Ohio, Virginia, West Virginia, and Pennsylvania are placed in direct communication by water with the principal cities of these several States, thus saving millions of dollars in transportation to the consumers.

It is estimated that the cost of construction would be \$100,000,000. Basing the feasibility of its construction upon a basis of 3 per cent interest it would be found that the interest would be \$3,000,000 annually. The value of electrical power alone, as estimated by Lyman E. Cooley, would more than five times pay the interest. Its construction means the greatest possible conservation of the natural resources of our country and would be a prominent and everlasting source of revenue to the Government as well as a regulator of railroad traffic, and materially assist in the more rapid advancement of our national wealth and increased prosperity.

It would increase the length of the season of transportation by water between Chicago and Buffalo a period of six weeks each year, thereby adding one-fifth in time to the period of transportation as now exists, which in itself would mean hundreds of thousands of dollars to the annual traffic.

The saving in the consumption of fuel has been estimated by able engineers to be in the ratio of 10 to 1 between Chicago and Toledo, as compared by the present rate through the straits of Mackinaw. The saving of 400 miles in distance from Chicago to Toledo is equal to the distance from Chicago to Cleveland by rail, nearly as far as Baltimore to Boston, and only lacks 42 miles of being as far as it is from New York to Buffalo by rail. The distance from Chicago to Toledo would be practically one-third of this distance to-day, and the distance saved in the round trip from Chicago to Toledo would be equal to the distance from Chicago to Baltimore. It can be stated that it is an economizer of time, an economizer of 800 miles in distance in every round trip from Chicago to Toledo and all points east; an economizer of fuel consumed; on losses of vessels, in the saving of its cargo, and the low rates of insurance, all meaning a vast cheapening of transportation.

This canal can be constructed and put in operation for less money than the terminals can be secured for the construction of a new railroad connecting Chicago with Toledo and Buffalo. Hence it is self-evident that the wonderfully increased cost of railroad construction is bound to retard its building and hamper transportation and show the growing necessity of the early development of our waterways. The wonderfully increased cost of terminals for railroads must of necessity retard the construction of railroads for more efficient transportation, and if built this enormously added value makes cheapened transportation an absolute impossibility, and the sooner our waterways are developed the earlier will we be ready to compete in the world's competition for outside markets. Delay in their development means the loss of millions upon millions of added value to our national wealth.

In the last decade our business has increased 126 per cent, while the means of transporting this business has increased a little less than 22 per cent. With these conditions of enormous expense of terminals in railroad construction, which means practically prohibition, our only resource for a cheapened transportation is the early development of our waterways.

The lake cargo tonnage shipped from the port of Chicago during 1907 was 2,845,716 tons.

The cargo tonnage received on the lake for that year was 8,564,754 tons, making a total of 11,410,470 tons traffic for the city of Chicago by water.

Net tons of flour over trunk-line movement from Chicago eastward for 1907	594,292
Provisions, 1907	1,176,266
Grain, 1907	2,853,209

Total tonnage for 1907	4,263,767
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The total combined shipments of tonnage eastward from Chicago by both rail and water for 1907 was 16,034,237.

This does not include coal shipments or live-stock shipments, which amount to hundreds of thousands of tons, all of which traffic will be

more than doubled in another decade, thus showing the wonderful increased necessity of the early construction of this canal.

Total shipment of coal by the ports for 1907 for the city of Milwaukee by water..... 3,330,102
For Chicago..... 432,492

Total..... 3,762,594

nearly 4,000,000 tons of coal, a great portion of which would come through the Michigan and Erie Canal and Miami and Erie Canal of Ohio, if this canal were constructed. The difference in the freight rates on coal from Fort Wayne, South Bend, Elkhart, and all northern Indiana would be about \$1.70 per ton that would be saved to the consumers of this fuel. On this basis, taking the shipment of coal to Milwaukee, and comparing her population with the population of northern Indiana, it would mean that the people of northern Indiana would consume three times as much coal as was used in Milwaukee, about 10,000,000 tons, and the saving to the people, as consumers, by reduction of freight of \$1.70 per ton, an amount equal to \$17,000,000, which would amount to more than five times the payment of the interest on the construction of the canal.

To ship coal by rail from the mines to Buffalo costs \$1.50 per ton. It is shipped from there by water to Chicago, Milwaukee, Duluth, and other lake ports for 30 cents per ton. The same coal shipped from Buffalo to Fort Wayne, or any other region inland within reasonable distance from Fort Wayne, costs \$1.80 per ton, or a total cost from the mines to Fort Wayne and vicinity of \$3.50 per ton, making the cost to the consumers of this large inland area more than \$1.50 per ton extra, which means in the end an expenditure of millions of dollars that would be saved by the construction of these waterways.

This canal would directly affect the States of Minnesota, South Dakota, North Dakota, Nebraska, Iowa, Illinois, Indiana, Ohio, Kansas, and Missouri. These are corn and wheat States, principally corn, and a better perfected mode of transportation means millions of dollars to the producers every year as well as millions of dollars savings to the consumers. These States constitute the principal corn-producing area of the world. They produce more than 50 per cent of the world's production of corn, and the State of Indiana alone, through which the principal part of this canal passes, produced last year more corn than was produced in the Argentine Republic, Indiana producing 168,000,000 bushels and Argentina 67,000,000 bushels. If by the construction of a series of canals in Indiana and Ohio the freight on corn alone was reduced 1 cent per bushel, it would be a saving of \$2,000,000, nearly enough to pay the annual interest on the cost of construction of the canal, and as this corn area, which would be directly affected, has a production of nearly 2,500,000,000 bushels, it would mean an annual saving to this territory to both producer and consumer of \$25,000,000.

The raising of this great amount of grain, and the live stock that will naturally follow, will make it absolutely a future center of commerce and of the culture and wealth of the United States. The area that will be directly affected by the canal contains 220,000,000 of the 414,000,000 acres of cultivated land in the United States; in other words, over one-half the land cultivated lies in this territory. Of the \$18,500,000,000 of improvements upon the land in the United States, these States own \$9,500,000,000 of it, almost three-fifths of the whole. These great central States produce more than one-half the annual products of our country, and all is bound to be greatly affected by the question of transportation in the near future. These central States produce 49,000,000 of the 61,000,000 tons of hay produced in the entire United States; four-fifths of our entire tonnage is produced in these twelve central States.

You can readily see what it means on the question of transportation of hay, which is a bulk product and must be handled by the cheapest method of transportation. These same States produce 441,000,000 of the 668,000,000 bushels of wheat grown in this country, and when you take this into consideration, the immense tonnage to be removed through this area, that far the largest portion of wheat in this area is shipped from the farms, and that it is all moved by railroads, and must be moved, you can readily see the importance of waterway transportation. If it should change the cost of the shipment of wheat from Chicago to the seaports 1 cent per bushel, it would mean a saving to these States of over \$4,000,000 annually, or one and one-half times the interest on the investment in the construction of the canal.

The construction of the Miami and Erie Canal, arising from land grants, commenced in 1825 and completed in 1845, plainly shows the effects of a canal upon the surrounding and immediate territory, for the reason that this canal passes through fifteen counties of the State of Ohio, and to-day owns 45 per cent of the manufacturing interests of the whole State. It means that canals build up and diversify industries and add tonnage for transportation along the lines of their construction.

In summing up and recapitulating, the amount estimated to be saved to the general public in the immediate vicinity of this canal, if constructed, would be as follows:

Upon the saving of freight on the shipment of corn, annually.....	\$25,000,000
Upon the saving of freight to the consumer of coal in the vicinity of northern Indiana, northwestern Ohio, and southern Michigan.....	17,000,000
Upon the acquiring of vested rights on by-products through water power secured by the construction of this canal, as figured by Lyman E. Cooley.....	16,000,000
Upon the saving of freight upon the production of corn in Indiana alone of 1 cent per bushel.....	2,000,000
Total.....	60,000,000

Besides, the annual income from the sale of water power obtained through this construction would more than pay the interest on the construction.

The progress made by the Canadians in developing their waterways has been a marked factor in the development of Canada, particularly in their grain export trade, and if the northern section of the United States is to hold its own in the export trade and in the domestic trade as well it will be necessary to take such steps through the building of waterways in the United States as will enable freight to be carried at as low a rate as can be secured from Canadian waterways. If such a work as the Chicago and Erie Canal were completed, it would be of vast help in developing territory in northern Indiana, Ohio, and southern Michigan, and enlarge the markets for their products in the Eastern States as well as bring them in closer touch with the importing countries of Europe.

This report sets out quite clearly many of the benefits that will be derived by the building of this canal; and besides the

economy in shipment, I believe if we construct a system of canals wherever feasible, it would be the greatest leveler of values between common carriers that could be devised. It means to put every watered-stock railroad on its intrinsic value. They can water it as many times as they please; they may have watered it as many times as they could, but we will squeeze the water out of it and place every railroad corporation on its real intrinsic value as to freight earnings. It will save the trouble of a great warfare on railroads in trying to establish true and just freight competition.

We all know, if we pause to think, that the producers and passengers pay the bills, for in the last analysis the producer pays all. He pays the iron bill, the real estate bill, the coal bill, and as long as you permit it to exist he pays for the water in the stock. Is it business economy to continue to pay much more for transportation privileges than proper business care can prevent? Is it wise to continue an enormous building of railways for transportation purposes when they can only last for a comparatively few years until they must be renewed at an enormously increased expense and vast waste or cost of natural resources, or to pay much less for a more effective and permanent method which is open for general competition? It is for the people to decide, and when their decision is made manifest it will be answered.

In response to the appeal of the President for the conservation of our national resources I can conceive of no one place that so much can be done for the betterment of our condition as a nation and at the same time add in a most substantial way millions of dollars to the account of our internal revenues as the development of our canals. And above all these great benefits, the fact that the valuable by-products of water power and electrical power are developed and saved to the nation are a never-ending source of revenue, for the sole relief of the whole body politic is in itself enough to induce the Congress to lose no time in the early acquisition of all available canal projects that the people's most valuable inheritance may be saved. Next to the wealth of our land, the development of our waterways will prove the greatest and most economical agency in the world's evolution.

Will we sit idly and permit these great blessings to slip away from the people, or will we act at once and secure to the nation its rightful inheritance, and thereby add to the nation's wealth?

The Regulation of Laundries.

SPEECH

OF

HON. J. HAMPTON MOORE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

On the bill (H. R. 22239) to regulate the conduct of the laundry business in the District of Columbia.

Mr. MOORE of Pennsylvania said:

Mr. SPEAKER: Availing myself of leave to print, I submit a few remarks pertaining to H. R. 22239, for the regulation of laundries in the District of Columbia. This bill, introduced by me a few days ago, has been widely commented upon by the newspaper press in various sections of the country. The purpose of the bill is to place upon the Commissioners of the District of Columbia responsibility for the inspection of public laundries employing five or more hands and using machinery for the cleansing of clothes. It does not apply to individual washerwomen or hand worker who do laundering, except as they are already obliged to pay a license fee of \$10 per annum. The bill proposes that there shall be an inspection of all public laundries under the direction of the Commissioners of the District at least three times a year. It imposes a license fee of \$50 per annum upon all public laundries using machinery and employing more than five hands, and forbids the issuance of a license to any concern which uses deleterious acids or destructive machinery in cleansing garments intrusted to it by the public. Any attempt to conduct a public laundry without a license is made punishable by a fine not exceeding \$100.

In view of the reform which this bill proposes I do not see any good reason why it should not pass. Apart from the good-natured railery that follows any movement so directly affecting domestic economy as does this, there is a strong feeling abroad—and if I mistake not it enters into most households—that some check should be put upon the methods employed by some of the unscrupulously rapid and destructive agencies now employed in public laundries. To most men who are accus-

tomed to neatness in their attire the loss of a collar button is proverbially provoking. For this, perhaps, the laundryman is not to blame; but what may be said of that harrowing circumstance which finds the man possessed of a collar button bereft of the buttonhole in his shirt? If men, called upon to perform their daily avocations, and desiring to possess themselves of the smile of optimism, are to put forth the best there is in them, either in business or debate, pray how may it be done with the collar band of a newly laundered shirt sawing remorselessly upon a blistered neck or with the consciousness that the yoke of a collar has slipped the button and is making a disgraceful exhibition of its owner? The humorous side of the situation presents a rich and varied field of inquiry and of recollection. But the purpose of the bill has no other significance than that it is desired to compel those who take the property of the public into their laundries to treat it decently and return it in good order. Why should not this be done? Laying aside the aggravation which comes to men and women alike as the result of their nerve-racking laundry experiences, why should not the proprietors of these establishments give the same careful attention to their work as is required in other lines?

Why should they be permitted to wantonly destroy property that is placed in their keeping? We protect the customer of the grocer against the sale of adulterated food products; we require restaurants, employment agencies, and other establishments where public service is extended to comply with certain standards and abide by certain rules of decency; we hold in check a hundred businesses and occupations that might run riot and that doubtless would permit the unscrupulous to take advantage of the unwary if regulations were not in force. If, therefore, a housewife who has difficulty enough in keeping expenses within the income of the husband finds it necessary to send table linen, bedding, or wearing apparel to a public laundry, why should it be put instantly, as it were, into the "jaws of death" and so macerated as to be unfit for further use? We talk of the increased cost of living. We have been raising the salaries of Government employees—not sufficiently, to be sure, to satisfy the demand, but we have been raising them, nevertheless—because it is a known fact that men can not live and support families to-day upon the wage of a quarter of a century ago. We expect our Government officials to present a proper appearance in the matter of their wearing apparel; we require certain things of them; we would not permit them to remain at their desks unkempt and greasy; and by the same token we have obliged them to follow the general trend toward the laundry. They must patronize the laundry. They must send their shirts, collars, cuffs, and other wearing apparel. For all these things they pay good prices.

These enter into the necessities which have involved an increase in the cost of living. The average Government clerk can not afford to buy a new outfit to-day and have it destroyed by acids or by reckless laundry machinery to-morrow. The laundryman does not have to use acids and destructive machinery. It is said some of them use lime for bleaching. Here, at once, is a process of disintegration. Is this a fair method of treating the customer, who is ignorant of the treatment to which his property is subjected, and who accepts it back from the laundryman believing it has been washed in the regular way? Tell the launderer—and I am referring only to those who indulge in unfair practices—tell the unfair launderer that he can not use certain methods, that he must comply with the regulations which require good service or he can not be licensed to do business. Is there anything in this proposition which an honest laundryman need fear? Is there any reason why all laundrymen should not give the service for which they are paid? Is there any reason why those who are greedy for business should besmirch the fair laundryman and yet charge the public for a destructive service?

I am aware that we make many laws that confuse the people, and I fear sometimes we make too many laws for the smooth and ready conduct of business. We ought not to discourage enterprise, nor put unnecessary obstacles in the way of men who are willing to invest capital and give employment to labor. On the other hand, we should encourage all such men and protect them from the shirk and the grafter. But in justice to the responsible business man who is doing a correct business, we should not hesitate to hold in check those who are doing an irregular business.

I present this brief statement at this time in order that the situation may be fairly understood when the bill which I have presented to regulate the laundries of the District comes before the next session of Congress. The great mass of people in the District, I am thoroughly convinced, most heartily approve the suggestions contained in the bill; and when Congress comes to fairly consider it, I hope it will give full credence to the underlying basis of good faith which inspires it.

Federal Usurpations of Power by the Republican Party and Its Prototypes.

SPEECH

OF

HON. JOHN S. WILLIAMS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. WILLIAMS said:

Mr. SPEAKER: Under the general leave to print granted by the House, I desire to insert the following, being in the main an address recently delivered by me to the American Academy of Social and Political Science at Philadelphia on the subject of "Federal usurpations of power:"

"As far as I can read, or have ever read, all governments, whether free or not, which have existed and fallen have fallen by the growth of the weight of political machinery. There has come a time in their histories when government and its machinery was the first consideration and man and his individuality the second. It is well always to keep in mind the fact that while government is necessary and ought to be made good, it is yet after all a necessary evil, growing out of the vices of human nature. It is a means to an end, which end is an equal opportunity for the happiness and freedom and development of the individual man and woman, and is never an end in itself.

"This idea was carried further in the formation of our Federal Government than in that of any other government, according to my mind. In a certain sense, indeed, the Federal Government is not the government of "these United States" at all, but is a piece of central political machinery organized to hold together in union the several governments of the several United States and to protect them by union from mutual aggression and from aggression by foreign powers.

"Federal usurpation of power is not of recent growth. It was a necessary concomitant of the rule of the old Federalists, the prototypes of the present Republican party. Hamilton and the men of his way of thinking, delegates to the Constitutional Convention, strained every nerve to procure a stronger, or, as they would have said, a more stable government than that which was, as a matter of fact, reported to the people for adoption in the original Constitution. Though defeated in the Convention in many of their essential purposes it was but natural that when the Constitution was submitted to the peoples of the respective States they should have become strenuous advocates for its ratification, because, though giving birth to a government not as strong nor as centralized as they desired, it still inaugurated one very much more to their liking than the old confederation. They soon found that the objections to its adoption were not based on its being too weak a bond of union, but were precisely the contrary. They therefore necessarily based their advocacy upon a plea to the people that it did not interfere with the real rights and sovereignty within their spheres of the States; that the States still would have such rights as were not delegated expressly or by proper implication, and in their advocacy they emphasized how little authority and power, comparatively, the new Federal Government would have. Notwithstanding this plea, the discontent with the Constitution as it came from the hands of its framers was so great, upon the ground that it did not sufficiently safeguard the inalienable and natural rights of the individual and the reserved rights of the States, that it was adopted only upon the understanding that the first ten amendments, further safeguarding these individual and State rights, would be added to it. They were immediately added after the adoption of the original instrument.

"If you will dispassionately take up our fundamental law and study it, without the first ten amendments, you will see that it would have launched into existence the least democratic of all governments now existing amongst English-speaking peoples. As originally framed there was no express guaranty of freedom of the press, freedom of speech, freedom of assembly, trial by jury, or habeas corpus. In fact, most of the muniments that had been secured by war and legislation to the race before it crossed the Atlantic were unprotected, whether these muniments had been embodied in the habeas corpus act, in the bill of rights, or in some other instrument.

"George Washington was not really a member of any political party. He had the unfounded idea that government with free institutions could be carried on without parties, and deplored their existence as factional. At the beginning of his Administration this idea was his guide. Later on, after Jefferson had

retired from the Cabinet and Hamilton became unrestrained adviser, the Administration did take on a somewhat Federalistic hue.

"When John Adams came in, with the real Federalists in supreme power and full control, then the note of Federal usurpation of power began to assert itself.

"The alien and sedition laws were an illustration on the legislative and executive side of the Government. When Adams was retired he left the bench in control of Federalist judges, the greatest, most ingenious, as well, perhaps, as the most sincere of them all, being John Marshall. The Dartmouth College case, which is, in my opinion, the Iliad of all our woes, in so far as our inability properly to control corporations is concerned and in so far as judicial construction has brought about Federal usurpation, naturally followed. The decision giving the right to the Federal Government to establish and maintain a national bank, for which no authority could be found in the organic instrument, except by fiction of law, was another result of a Federal judge attempting to construe into the instrument something offered in the Convention to be inserted and the granting of which had expressly been refused.

"Every governmental abuse is based upon some plea or pretext and the usurpation of power by government is generally based upon 'necessity,' the tyrant's plea. This real or fancied necessity generally grows out of war. This has been especially true with regard to legislative and executive usurpations by our Federal Government. Real or fancied war necessities are and ever will remain the chief pretexts for Federal usurpation. Amidst the universal plaudits which he has received and deserved, there are few people left ungracious enough to give sufficient emphasis to the part which Abraham Lincoln and his Cabinet had in changing the spirit, if not the form, of the American Government. The doctrine of 'war powers' came into being, and after war had passed and peace had come the usurpations following from the exercise of the so-called 'war powers' furnished precedence for their continuance and for other usurpations like them. As has always been said *inter arma leges silent*; there are undoubtedly certain powers which have been recognized to belong to all governments with forces operating during war in the field and in the enemy's country beyond those which are conceded to the same governments at peace and at home.

"During the war between the States the Executive first asserted and Congress afterwards attempted to confer upon the Executive the right to suspend habeas corpus, not only in the territory which was within the boundaries of the Confederacy, but in the States which had remained in the Union. Things went so far that the writ of habeas corpus was suspended on the order of a lieutenant-general, acting under general authority conferred by proclamation of the President.

"The Secretary of War and the Secretary of State, on bare orders, based upon no affidavit even, much less indictment, arrested and confined citizens of the loyal States and spirited them off to prison. Federal marshals and police did the same thing. All this, too, prior to the act of March 3, 1863, whereby Congress attempted to confer the power and the right to suspend the writ of habeas corpus, a power vested by the Constitution, according to all judicial construction, in Congress alone. Under a proclamation of the President, amongst the classes to be thus treated were described those who 'magnified the resources of the enemy' and those 'inflaming party spirit among ourselves.' It seems almost incredible now that men could have been taken out of their beds at night and carried away to prison, without even affidavits, by ignorant marshals, who determined for themselves the questions whether or not those seized and imprisoned were guilty of disloyalty, especially when disloyalty was defined in such vague terms as 'magnifying the resources of the enemy,' 'underrating our own,' or 'inflaming party spirit amongst ourselves.'

"Fortunately for the future of our republican institutions, in December, 1866, in the case of *ex-parte Milligan* (4 Wallace) the Supreme Court pronounced these proclamations of the President unconstitutional and the act of Congress so, except in so far as it was in its provisions 'confined to the locality of actual war' and not elsewhere, and to places 'where courts are not open.'

"There are those who believe that the branch of the Government most guilty in the field of Federal usurpation is the judiciary. This is not true. Upon the whole, the courts have been a bulwark of protection for the natural rights of the individual and for the reserved rights of the States. Judicial usurpations which have been successfully accomplished have not been a tithe of those which have been unsuccessfully attempted by the Federal Legislature or the Federal Executive. The Ku Klux act, which would have carried the Federal authority into every

man's home within the States in the enforcement of ordinary criminal law; the civil rights act, which usurped to the General Government nearly all of the police powers of a State and the control of the social affairs of the citizen, are illustrations of attempted Federal usurpations set aside by the courts.

"During the period immediately after the war between the States Congress fought most viciously against the courts, frequently attempting by acts of Congress, and sometimes successfully, to prevent appeals to the Supreme Court of the United States. A book might be written, and a very interesting one, too, upon usurpations flowing out of the civil war and out of the supposed necessities of a reconstruction of the Southern States.

"Some of the usurpations that owe their real existence to the civil war still remain to plague us; for example, the legal-tender case. The Constitution deprived the States of a power which was inherent in their sovereignty, but which had been found to be greatly abused—to emit letters of credit and issue paper currency. Hamilton himself contended that not only was this power not granted to the Federal Government, but that in spirit it was actually prohibited to it. Nobody ever did, or does now, doubt the right of the Government to issue a note as evidence of indebtedness when it has not the money wherewith to pay. But nobody up to the civil war had ever, for one moment, dreamed that the Government had a right to levy a forced loan upon the people by making its notes a legal tender for the payment of debt. This legacy, however, is not justly attributable to the judiciary, but to the President and the Senate. You are familiar with the manner in which this result was arrived at. After a first decision by the court declaring the legal-tender act unconstitutional, the addition of a new judge to the number on the bench and the appointment of another new judge to fill a vacancy, meantime caused by death on the old bench, accomplished a reversal.

"It requires no imagination, but a plain survey of the field only, to realize what an immense capitalistic and centralizing influence the judicial construction into the Constitution of this power which was never granted—the power to make of Government notes a legal tender to take the place of gold and silver—has vested in the Federal Government.

"John Marshall, in the case of *McCullough* against Maryland, had early in the history of the country upheld the power of the Federal Government to charter a national bank of issue, although a proposition in the Constitutional Convention to confer such power had been expressly offered and expressly voted down. The opinion in the case upheld the bank as a 'fiscal agency' of the Government, and as such it was declared that it could not be taxed by a State, because such a power of taxation would carry with it to one sovereignty the power to destroy the fiscal agencies of another. And yet, long afterwards, when the law to establish the present national banking system, in order to strengthen the credit of the Government and to increase the price of its bonds, carried a provision to tax State bank issues 10 per cent, it being admitted that this tax was levied not for the purpose of revenue, but for the purpose of stamping State bank issues out of existence, the court cavalierly flung aside its former doctrine that one sovereignty could not tax out of existence the fiscal agencies or chartered instrumentalities of another, and held, in substance, by sustaining the constitutionality of the 10 per cent tax, that it could. The power to 'issue "money" directly to the people' in the shape of legal-tender Treasury notes, and the power to confine the function of bank-note issuance to national banks and to monopolize its regulation have together given to the Federal Government that power and influence over *finance and business* which make other usurpations, whenever all three branches of the Federal Government are desirous of making them, irresistible by the States or by the people thereof.

"The early assertion by Congress of the power to levy import duties not simply as taxes for raising revenue, but for the admitted purpose of hothousing into prosperity at the common expense such industries as, in the opinion of Congress, it is for the common interest and the general welfare to hothouse, has given a whip handle, if not a mastery, over the *manufacturing* interests of the country to the Federal Government. The control of finance and of manufactures thus usurped, together with the immense powers actually vested by the Constitution itself in the Federal Government, under the treaty-making clause and under the interstate-commerce clause, constitute our Government of to-day a Government stronger than any that Hamilton and his compeers ever dared attempt to inaugurate in the Constitutional Convention—stronger than Marshall even ever dreamed of construing or wanted to construe into existence.

"This is true even when you consider alone the *real* power of Congress under the interstate-commerce clause when exercised *honestly* and genuinely for the sole constitutional purpose of the

regulation of interstate commerce. When you consider the cases where this power has been abused as a means to accomplish ends not contemplated by it, this conclusion is stronger.

"What has been actually accomplished, however, by legislation regulating, or pretending to regulate, interstate commerce is nothing compared to what is proposed. A brilliant young Senator from Indiana proposes to control child labor within the States, through the interstate-commerce clause, by denying to products manufactured within a State interstate transportation when produced by child labor, though employed in accordance with the laws of the State of their manufacture. If Congress have power to do this, it has also power to say that no products shall be carried in interstate commerce if produced where labor is employed for longer than eight hours a day. If it have the right to do either, it has an equal right to say that no man or woman shall travel upon an interstate passenger ticket who has been divorced according to State divorce laws which do not meet with the approbation of Congress.

"Early in the history of the country the story is told that the House of Representatives sent to the Senate a bill to regulate and work certain copper mines, and Mr. Jefferson, in his playful but philosophical manner, said that their method of deriving from the Constitution their power was about this: Congress has a right to provide for the common defense; ships are necessary for the common defense; copper is necessary to finish ships; mines are necessary to be worked in order to get copper, and, therefore, Congress has a right to work copper mines within the States; and added that anybody who had ever followed the reasoning in 'the house that Jack built' could readily understand and would be convinced by the argument.

"By parity of Indiana Senatorial reasoning Congress might enact a force bill under the interstate-commerce clause, basing it upon the right of Congress to say what should or should not enter into interstate commerce as freight or as passengers. It might, therefore, say that any man elected to Congress unless elected in accordance with a certain law passed by Congress, should not be permitted to travel in interstate commerce, and therefore should not be permitted to leave his State and come to Washington to take his seat as a Representative. I know, of course, that the *reductio ad absurdum* is not the safest of arguments, but it sometimes makes things ridiculously clear.

"Add to all this power over finance, banking, commerce, manufactures, the immense spread of the activities of the Department of Agriculture. It is furnishing seed to the farmers, it has established a stock farm in one of the States for the purpose of breeding "a standard national horse," and the right is about being asserted of entering into a State, with or without its consent, to construct roads not only between the States, but *within the States*. With their construction will come the assertion of the right to control, if not to police them.

"The undoubted right of Congress to so regulate interstate commerce as to stop the spread of disease by it, from State to State, amongst men, animals, or plants, is as yet being driven only to its utmost, but will finally be driven beyond its utmost, legitimate application. That the operations of the great Department of Agriculture are beneficent there can be no doubt. The few millions appropriated each year for that Department accomplish more good than ten times as many millions appropriated for some other purposes.

"But it does not follow that, because a given work is wise and beneficent the Federal Government has the right, or even by amendment to the Constitution should have the right, to do it, nor does it follow that because the Federal Government does beneficently carry it on, that it could not have been carried on quite as beneficently by the States, if the Federal Government had stayed out of the business. In connection with agriculture, for example, I for one believe that if the Federal Government had never undertaken to do anything at all with it the general condition of agriculture in the country would yet have been quite as good as it is, perhaps better, because then the States would have established magnificent agricultural departments, with experimental stations, training schools, and all that; would have vied with one another, from New York to California, in doing the work, each actuated by the motive of excelling others in the prosperity to be brought about by improving the basic art—agriculture. Those taught to lean upon others for support forget how to lean upon their own backbones.

"The Department wants the Federal Government to go further yet and to inaugurate and maintain in the States technical, agricultural, and manual training schools, with what measure of Federal control it has not thus far seen fit to indicate.

"Take, as the next illustration, the gradual assumption of power to the Federal Government in connection with works of irrigation. That Congress has a right to irrigate the public

lands so as to make them valuable and so that the proceeds of their sale may inure to the interest of all the people there can be no doubt. Growing out of this right Congress has taken hold of the work of irrigation everywhere, on private lands as well as on public domain. It has added to that the kindred subject of drainage, because, undoubtedly, if Congress have power to put water on lands outside of the public domain, it has an equal power to take water off of lands outside of the public domain. The departmental work does not seem to have received even a momentary check from the decision of the Supreme Court in the great case of Kansas against Colorado, in 206 U. S., where the court says, after examining in detail all the enumerated grants of power to Congress, that 'no one of them, by implication, refers to reclamation of arid lands.'

"In some cases where Congress has usurped power and where the courts have subsequently set aside the acts of Congress as unconstitutional the wrongs perpetrated under the acts have been perpetuated. Retaining in the Federal Treasury the money received under the 'captured and abandoned property act' is an instance in point. After the general amnesty proclamation of the President, it became evident that the money lying in the Treasury from the sale of 'captured and abandoned property' would have to be restored to the Southern people who had owned it. A rider on an appropriation bill of July 12, 1870, undertook to annul, and Congress, by refusing to appropriate the money out of the Treasury, practically has annulled the subsequent decision of the court to this effect. Millions of dollars are now lying in the Treasury accumulated there under this act of Congress, which the court subsequently held to be a special fund to be repaid to the owners of the property. There is no way of getting it out, however, because, as the court properly says, it requires an act of Congress to appropriate money once covered into the Treasury out of it again. Here is a case where Federal legislation has been adjudged invalid and unconstitutional, and yet where the people injured by the usurpation have suffered the effect of it until they died and where their heirs or assignees are suffering yet. The money in the Treasury derived from the cotton tax, and still kept there, is another instance almost in point.

"I have referred to the war between the States as a source of much Federal usurpation. The Spanish-American war might be referred to in the same connection. The Constitution of the United States provides for the separation of the judicial, executive, and legislative functions. In the Panama Zone the Executive alone has been and is exercising not only executive, but legislative functions. When a resolution was introduced into Congress, and passed by it, asking 'under what authority of law' the President was doing this, the answer came that it was under the authority of certain acts of Congress, their dates being recited, and under authority of a treaty with the so-called 'Republic of Panama,' as if either an act of Congress or a treaty could confer upon the Executive the right to exercise judicial or legislative powers, in the teeth of an express constitutional prohibition of their consolidation.

"Our experiment with schemes of crown colonialism in the Philippines now, and for a while in Porto Rico, was so stupendously alien to the spirit of all our institutions as to be at once horrible and amusing. Department law clerks sent out as pro-consuls are learning in the Philippines and in Cuba to-day lessons which will return to vex the Republic at home. You need not expect that what is learned there will be forgotten here. In Rome the Emperor was first a field officer in Gaul or Asia or in other conquered territory. Then there came the exercise of powers as Emperor in Rome itself. Marius and Sulla as well as Julius Cæsar were virtually emperors long before Augustus Cæsar had founded what we now call the 'Roman Empire.'

"Peace is important to all peoples. I sometimes think that two-thirds of the energies of all the statesmanship in the world might be profitably employed in the maintenance of peace throughout the world. But if important to other peoples, it is doubly so to us with our peculiar dual government, the balance of which is so nicely adjusted and so vital and which is always shaken by the sequelæ of war. We never know beforehand what these sequelæ are going to be. You hear much of 'the horrors of war.' The greatest of all these horrors is the murder of free institutions, and especially of local self-government, the only possible field for development of individual manhood.

"The spirit of absolutism necessary to crown colonialism will be found to be contagious. Accustomed to it in all its spirit in our daily administration of colonial affairs, the public will gradually become accustomed to the insidious introduction of its features at home. No free government can successfully control alien and unassimilable peoples, except by the violation of the fundamental principles of free government itself. Our

forefathers recognized this when they placed the Indian tribes on the footing of foreigners, to be dealt with by treaty.

"The mailed fist, well exercised to its task, is dangerous, ultimately, to liberty of citizens much more than it is even to subject peoples. The system will some day drag down England herself by the exhaustion of her sons and her revenues in maintaining her hold upon India. The inauguration by us of the system in the Philippine Islands, unless once we have the good sense to put the people of the archipelago upon their own feet, teach them to stand alone, and leave them standing afterwards, will have the same effect for us in the long run. It is even now furnishing the excuse of great armaments, naval and military, and the Philippines constitute to-day the one point of unnecessary and unnatural contact out of which great wars may, if not must, ensue.

"These Federal usurpations are going on not only through the Executive and the legislative, but, insidiously, gradually, unmarked, by bureaucratic operation, through the administrative rulings of the Government. Charles I lost his head and James II his throne because of executive and administrative suspensions of acts of parliament. The American people have become so accustomed to the suspension of laws by mere nonenforcement by the Executive, or some obscure bureaucrat under the Executive, that you perhaps could not excite real alarm in the minds of five men by a full recital of them all. The Executive sits in judgment every day on the wisdom of statutes.

"Mr. Shaw while Secretary of the Treasury took money already covered into the Treasury, and under the guise of depositing it virtually loaned it to such banks as he chose without interest. This notwithstanding Article I, section 9, clause 7, of the Constitution, which says: 'No money shall be drawn from the Treasury but in consequence of appropriations made by law.'

"The same Secretary of the Treasury quietly construed the disjunctive 'or' in a law passed by Congress to have the meaning of the conjunctive 'and,' so that when Congress had by law said that those receiving deposits of public money—not deposits of money already covered into the Treasury, remember—but deposits of money collected from internal revenues and not yet covered into the Treasury—should deposit as security United States bonds 'and' other bonds, that it meant 'or' other bonds. Upon this he quietly issued a ukase to the effect that he would receive such securities as 'complied with the savings-bank laws of New York and Massachusetts,' and would dispense with the deposit of United States bonds altogether, in his discretion. The discussions in Congress at the time that the law under whose alleged authority he acted was passed show the reasons for the original act. People forget now that there was a time when United States bonds were not at par. It was wise, therefore, upon the part of Congress to provide originally that the Secretary of the Treasury might require other security as *additional* to that of national bonds in order that the security might always be equal in par value to the money loaned. I need not dwell upon the total torturing of the original meaning by the Secretary's decision. Secretary Cortelyou ruled later on that, under the provisions of a law permitting the issuance of Treasury certificates 'when necessary to meet public expenditures,' he was enabled to issue these certificates to get money in order to help the banks by free loans in a panic.

"An administrative board of the United States, engaged in the business apparently of seeing to it that due 'protection' is rendered to 'American industries,' and finding that there was no tariff on frog legs, which were being imported into our territory to the detriment of the great American industry of bull-frog raising, gravely ruled that they were taxable under the clause which put an import duty upon dressed poultry.

"What has been accomplished in the way of Federal usurpation by the National Legislature and Executive and either set aside by judicial authority or left to stand and stay to plague us yet does not constitute a title of what we are to expect if some recent utterances by great and popular men are to be taken at their face value.

"The President in his Harrisburg speech, delivered in the month of October, 1906, says: 'In some cases this governmental action must be exercised by the States. In others it has become increasingly evident that no sufficient State action is possible, and that we need through *Executive action*, through *legislation*, and through *judicial interpretation and construction*, to increase the power of the Federal Government. If we fail thus to increase it we show our impotency.'

"Mark the language. 'We need'—that is the old familiar 'tyrant's plea—necessity.' To do what? To 'increase' the 'power of the Federal Government.' The very verb 'increase' is the President's word and is a confession that the Federal Government does not now possess the powers desired to be an-

nexed—a confession, therefore, of deliberately contemplated usurpation. And to increase power how? Not by amending the Constitution, even though we had to amend the amendatory clause in order to make the work of amendment easier, but 'by Executive action,' and 'by legislation,' both of them necessarily, if there be an 'increase' of power, violative of the constitutional limitations upon 'Executive action,' and upon Federal legislation. It can not be too often repeated that this is true, or else the word 'increase' would not have needed to be used. And third, and more insidiously still, by express executive injunction there should be and must be 'increase' by 'judicial interpretation and construction.' By the Soul of all Insidious Revolution! Mark the quoted words well in your memories!

"Secretary Root, in his New York speech in December, 1906, evidently following up a deliberately laid scheme and purposely supplementing the President's speech in Harrisburg in October of that year, uses this language: 'Sooner or later constructions will be found to vest power where it will be exercised, in the National Government.' Secretary Root is a lawyer. He knows what the verb 'vest' means. His language is to 'vest power.' 'Vest' means to give—to deposit a new power, not to apply an existing one to new conditions. His ground and excuse and reason for 'vesting' it is that it must be 'placed' where it will be 'exercised.' The necessary inference is that it is *now* vested or placed in the States and that they ought to be *divested* of it, *because* they do not 'exercise' it. His method of 'vesting' power again is, like the President's method of 'increasing' it, not by amendment to the Constitution, whereby the people themselves can redistribute the powers, which are theirs, and which they originally distributed between our dual sovereignties, but by 'constructions' which are to be 'found.' 'Found' by whom? By the very men who are to exercise the powers construed into being by being 'found.'

"An American citizen does not take an oath of allegiance to any government. His oath of allegiance is to the Constitution. Every officer who serves the Federal Government, from the President down, whether he be Cabinet officer, judge, Senator, or Representative, takes this oath. It is now proposed that the Executive officers of the Federal Government shall 'vest' power in themselves 'by construction,' to be 'found,' and that they shall 'increase' their power 'through Executive action.' Think of it! And yet in all this broad land no hint or suggestion of impeachment!

"This method of amending the Constitution does not require a two-thirds majority in each House nor three-fourths of the States in confirmation of it. It is easy. It requires nothing but momentary forgetfulness of an oath registered in the chance of God. It is not dangerous. It may, perhaps, even be applauded, if the thing sought to be done be popular with the populace.

"What is more, the President proposes to 'make good'—a phrase he is fond of. I have not time to refer to all the circumstantial evidence in support of this statement, but run over in your minds recent history—Root's part in it in the Philippines; the acts of our proconsular agents; the present condition of things in the Canal Zone, and the frequent chidings by the President of the Federal judges where they do not decide to suit him, showing a purpose of bending and warping the personnel of the Supreme and other Federal courts to an incorporation of his policies, where unconstitutional, by 'judicial construction,' as a part of the authority of the Federal Government. No lawyer not entertaining an opinion favorable to these policies can go upon the bench unless he succeeds in fooling the President or unless the President fools himself as to his legal opinions. Daniel Webster was right when he said that 'the judicial power can not stand for a long time against the Executive power.' The present President has already during his tenure of office appointed one-third of the Supreme Court and over one-half of the subordinate Federal judges.

"Judges on the district and circuit bench, although they hold their offices 'during good behavior,' feel ambition like other men and would like to fill vacancies upon the Supreme Bench, as they arise. They can pursue no course better calculated to bring about that result than to let it be known by their decisions as subordinate judges that they share the President's opinions, and among others, perhaps chiefly, his opinion of the rightfulness of 'increasing' Federal power 'by construction.'

"The difficulty of amending the Constitution is the excuse at heart for most Federal usurpations, this with and even more than, the alleged 'inaction of the States.' It was well that at the beginning the practice of amendment should have been made extremely difficult. The thing was to put the Government upon its feet and 'teach it to march,' as the French say; to stop experiments with the framework until the people had become

accustomed to it. We have reached the point now where there are many amendments that ought to be made to the organic law; first, because they are highly beneficial in themselves; secondly, because we want to do away with this excuse and pretext of usurping power 'in order to do good.' It has been said that the Federal Constitution can not be amended except as the result of some great cataclysm, or foreign or civil war. It is true that it is very difficult, indeed, to amend it—so difficult as to be, under ordinary circumstances, almost impossible. If you have a system which is too difficult of legitimate change, you therefore invite illegitimate change—or usurpation.

"Changes by amendment. The first clause in the Constitution that ought to be amended is the amendatory clause itself. Amending the Constitution ought to be difficult, but not so difficult as it is now. It would seem that to require a majority of 10 per cent over one-half in each House, voting for two successive Congresses to submit an amendment, would be a requirement sufficiently difficult in the initiative. This would require at present 51 Senators and 215 Congressmen, and as that vote would be required in two successive Congresses, the scheme would give the people time to think between the two Congresses and an opportunity to pass upon the proposed amendments tentatively when they came to elect the Members of first Congress after the one proposing the amendment. If to this were added that the proposed amendment should not become a part of the fundamental law unless it shall be ratified both by a majority of the people and by a majority of the States, the practice of amendment would not be rendered so easy as to lead to many propositions of amendment, and still would be made easy enough to encourage a hope upon the part of those who wish to preserve our institutions, that they need not be destroyed because of the very organic difficulty of changing them.

"It is not, however—note ye well—in this way that either President or Secretary proposes to go about the introduction of reforms or a redistribution of governmental powers. It is not proposed that it shall be done deliberately by amendment upon the initiative of the National Legislature and by the confirmation of the people in the States, but that powers are to be 'vested' in the Federal Government, and that Federal powers are to be 'increased' 'by constructions,' which are 'to be found;' and by 'Executive action' and 'by legislation' and by a judicial reading into the instrument of that which is confessed, by the very language used, not to have been written into it.

"There has been a recrudescence of Federalism here lately alarming in its proportions. We begin to hear a great deal once more about 'inherent powers,' about 'powers ordinarily exercised by sovereign nations,' and therefore, as it is claimed, to be exercised by the Federal Government and about affairs of 'national concernment.' This latter phrase would include murder, theft, divorce—almost everything pertaining to morals or health. The President talks about court decisions which have left 'vacancies,' 'blanks' between Federal and State powers, and wants these vacancies and blanks filled, occupied 'by Executive action,' 'by legislative action,' and 'by judicial construction.' How absurd! No decision of any court could possibly have ever left a blank or a vacancy between the powers to be exercised by the Federal Government and the powers to be exercised by the States. The moment the court decides that a given power is *not* one of those granted to the Federal Government, either expressly or by proper and honest implication, that moment the court has decided *e converso* that it is a power reserved to the States or to the people by virtue of the tenth amendment.

"Much has been written about what is meant by the phrase 'or to the people' in this amendment. In my mind it is clear; the powers not delegated are reserved either to the States or 'to the people' for redistribution, as they may choose, by amendment of the Constitution. Both State and Federal governments are their servants, not their masters. The people of the United States, acting within their respective States, have reserved the right of further distribution of governmental powers. Again, individuals have also certain natural and inalienable rights, to which reference is likewise made in the phrase. These are by nature 'reserved to the people,' as individuals, as rights not to be touched either by State or by Federal Government—by any governmental or political agency whatsoever. That man does not understand the nature of American institutions who thinks that arbitrary and unlimited power is vested anywhere under our system, even in a majority of the people themselves, acting through any government or of themselves. There are things which under our system a majority can not do, whether they are right in their opinion to be done or not; thus high was the sacredness of individuality held by our forefathers!

"I was talking a moment ago about the influence of the Executive over the judiciary—quoted Daniel Webster to the effect that the judiciary 'could not long stand against the influence of the Executive'—and yet the spirit of the time is such that it has been gravely proposed in a bill introduced in the House to make this influence still greater. That bill, introduced on January 4, 1907, provides that the President may, 'whenever in his judgment the public welfare will be promoted by the retirement of a judge,' retire him and appoint somebody else, 'with the advice and consent of the Senate,' who shall take his place in the exercise of judicial functions. This would give to the President and to the Senate of the United States absolute control over the judiciary.

"Our executive department has carried the Root doctrine into its dealings with Congress. Where Congress will not enact legislation that the Executive wants and loses patience about, some administrative department construes it to exist. This was the case in the graded-age-pension ukase, issued by the Commissioner of Pensions. A bill has been pending in Congress to accomplish the precise result; Congress would not pass it; the Executive, through the Commissioner of Pensions, amid popular applause, construed it into existence.

"When, later, it was proposed upon a general appropriation bill to insert a clause enacting into law the graded-pension system thus promulgated, the point of order was raised that the motion could not under the rule be entertained by the House when a 'general appropriation bill' was under consideration, because it was 'contrary to existing law.' In other words, that the amendment containing the very language of the ruling of the Commissioner of Pensions was confessedly a change of existing law. This point of order was sustained. Sustaining it was an admission of the fact that the Executive order had promulgated a new law—that a branch of the executive had legislated. If, on the contrary, the point of order had not been sustained, then the very fact of the adoption of the amendment would have been a confession of the fact that Congress needed to act in order to make lawful that which by Executive order had been promulgated.

"Again, a treaty with Santo Domingo was pending before the Senate of the United States which the Senate for a long time refused to confirm. The Executive, being determined to have its own way, Senate or no Senate, did, as a historical fact, for two years before the ratification of the treaty by the Senate, execute the terms of the treaty.

"Yet, again, the President at one time having a nomination of a certain South Carolina negro named Crum pending in the Senate, and the session having come to an end without action on it, and thereupon an extraordinary session having been called to begin at 12 o'clock on the very day upon which the former session expired, Secretary Root and the President between them construed into existence what they called 'a constructive recess'—that is, that between the beginning of 12 o'clock and the end of the same 12 o'clock on the same day there had been 'a constructive recess,' and that this being the case, the President had a right to reappoint this proposed appointee during this so-called 'recess.' He did reappoint him thus contrary to law, and the Senate was subsequently coerced or persuaded to confirm him.

"The logical inconsistency of public opinion in America was never better shown than with regard to this incident. The President's construction into existence of a 'constructive recess' for the purpose of saving his right of appointment aroused no indignation, although it was the act of one man. He had, however, set a precedent which soon found imitators. If there had been a recess, then Members of Congress were entitled to mileage for the recess or, rather, the new session following it. They therefore very logically, according to the precedent set by the Executive (although of course very wrongfully, but no more wrongfully than the President) voted themselves mileage for the 'recess.'

"A storm of disapprobation from the throats of the people and the columns of the newspapers swelled to heaven. The Senate voted the extra mileage out, and President, people, and all 'congratulated the country.' The man who imagined the iniquitous thing and acted upon it secured the result that he aimed at and was little, if at all, criticised. The very Senate that voted extra mileage out of the law upon the ground that there had been no constructive recess finally confirmed the appointee whom the President had hurled back at them upon the opposite theory that there had been a constructive recess.

"Franklin Pierce in a recent book, that ought to be taught in every school and college where civil government is taught, a book entitled 'Federal Usurpations,' from which I have drawn much for this speech, says: 'Social evolution progresses actually with the importance of the citizen over the State and de-

creases in the proportion of the importance of the State over the people.' All these propositions of adding to the powers of government by 'Executive action' and 'legislative action' and 'judicial construction' and 'constructions to be found' leave that great truth out of sight. I know of no people who have too little government. We do not want an America like Sparta, where the State was all and man was nothing. We want no Rome, even, where responsibility was so entirely devolved upon government that when government itself grew weak there was no initiative left among the people even to resist invasion—a herd of helpless sheep they were.

"Our weight of political machinery is increasing all the time. Not many years ago there were about 200 special agents—in other words, detectives and spies—in the employ of the Government. There are over 3,000 now, taking the places of ordinary Government officials, going up and down the land hunting up, by detective methods, violations of Federal statutes. A detective is like an expert in the medical profession. He generally finds what he is seeking. God never made a throat or a nose to suit a throat and nose expert; he never made a pair of eyes to suit an eye specialist. The Department of Justice uses a great many of these detectives. When you begin to inquire under what authority of law, it is difficult to procure an answer. That Department seems to borrow them from the Treasury Department. In other words, they are detailed from the Treasury Department to do work for the Department of Justice. The law appropriating for them in the Treasury Department appropriates for them for certain express purposes—chiefly for ferreting out and procuring punishment of counterfeiters and violators of the internal-revenue and customs laws. They are being used for a hundred other purposes—peonage is the immediate fad; public-land stealing was the fad a few months back. In so far as special agents are being used for the purpose of investigating trusts and bringing them to book, there is express authority of law independently.

"Judge George Gray well says in a recent speech that in Rome when a Dictator was appointed, his instructions were 'to take care that the State receive no harm.' This was a pretty broad authority. Mr. Bryce, the author of 'The American Commonwealth,' a book which has done much harm, seems to think from what he says that by a sort of construction or implication our Presidents, in times of acute peril may, or must, act on a like instruction. The present President does not seem to think that it is necessary to wait for a time of acute peril, but that the instruction is good 'for any old time.'

"When the New York constitutional convention adopted the Constitution of the United States, it adopted it with the proviso that there should be no extension of power 'by legal fiction.' This was to prevent usurpation of Federal power by construction. How far the power of legal fiction may carry a system of laws may be realized when it is remembered that from the twelve tables of ancient Rome there grew up by construction and legal fiction the *corpus juris civilis*, and that from a lot of old customs there grew up by court precedents the great body of our 'common law,' or *lex non scripta*. The only restraints that we have upon Executive usurpation is judicial constraint and impeachment, and the only restraint on judicial usurpation is the power of impeachment by the House of Representatives before the Senate acting as a grand court of impeachment. It requires two-thirds of the Senators to convict, and the sole penalty is deprivation of office.

"The process is surely difficult enough at best and the penalty light enough. The Swayne impeachment case, however, shows to what extent we have gone in limiting that power. Federal judges are chosen, to use the words of the Constitution, 'during good behavior.' It would seem that their independence is sufficiently protected by this tenure and by the difficulty of obtaining a verdict of two-thirds of the Senate. But if we are to learn any lessons from the Swayne case at all, the phrase 'during good behavior' has been construed to mean 'during life,' except when the judge has violated the express provisions of some penal statute. The power of impeachment was given to protect the people from 'high crimes' against themselves perpetrated by their servants. They are necessarily indefinable and intended to be so. What higher crime can there be than treason? What greater treason than treason to the Constitution, our sole sovereign, to whom alone we swear allegiance? What greater treason to it than the terrible attempt by a judge to destroy the integrity of the organic law by construction, with deliberate intent to make law, or to increase Federal power? Yet our President and his chief Secretary encourage this very form of treason—insidious and horrible, and there neither is nor can be any penal statute against it.

"Do not misunderstand me. There is a difference between these latest-day propositions and the application of an undoubt-

edly granted power to a new condition; which is all right. If the Federal Government has been granted, expressly or by fair and honest implication, power over a given subject-matter, no change of phase in that subject-matter can balk the application of the power. The power over interstate commerce, for example, could not be limited because human invention had brought into existence steam railways as instrumentalities of commerce.

"But it remains true that in construing the organic law the guide of the judge lies in the old maxim, '*Ita lex scripta*.' Nor is it necessary to enter into the formerly mooted question as to whether this construction should be narrow or broad, strict or liberal. What we want is an *honest and sincere* construction of the real words and the real intent and the real purpose, 'naught extenuating nor aught setting down in malice.' Otherwise construers of law become makers of law and judges and administrators become legislators!

"I am one of those who believe that infinite damage was done by the study and popularity of the Hon. James Bryce's book, 'The American Commonwealth.' It is almost impossible for an Englishman to understand our system, based upon the underlying theory of a written constitution. The constitution in Great Britain is avowedly a thing of construction, of evolution, of growth by judicial construction, of growth by changing opinion. Parliament has unlimited power, subject to certain fundamental natural rights of the individual, which, broadly stated, are 'the inherent rights of a freeborn Englishman.' Mr. Bryce, therefore, in dwelling with apparent pleasure upon the fact that the Constitution of the United States might be amended by judicial construction (*changed*, now mark you, not developed) was acting very naturally for one of his nationality, environment, and training. He could not appreciate the horror in the mind of a real American—really in love with the institutions of his own country—of the very thing which he dwells upon with a tolerant, if not a favorable, eye.

"I shall not say much more, however, about judicial usurpation, because there has not been as much of usurpation by that branch of the Government, either attempted or consummated, as by the other two. Upon the whole, our judiciary has rather preserved the Constitution from popular passion and impulse, from party spirit and sectional hate, and in proportion as Congress and the Executive grow wilder, it sets aside from year to year a larger and larger proportion of their acts. During the entire period before the civil war it had set aside only two or three general acts. Just how many multiples of that number have been declared unconstitutional since I can not now say, but we have grown accustomed to the Supreme Court's checking up Congress and the President every now and then, and the prayer of every good American is that it may do so 'more and more unto the perfect day.'

"Yet even the judiciary has made some apparently queer decisions lately. In *Mankichi's* case, which came up from Hawaii, there had been no indictment nor any unanimous verdict of twelve men—in our constitutional sense a jury verdict—against the prisoner, and yet the Supreme Court affirmed the case upon the ground that the laws of Hawaii, when annexed to the United States, had not required an indictment and had made provision for a jury that did not find a verdict by unanimity, but by majority. Upon what principle the court arrogated to itself the right to say just which fundamental constitutional principles should go with the Constitution to Hawaii simultaneously with annexation, and which of those fundamental notions should remain behind—to go later or not at all—presents a curious study.

"The gradual growth of injunctions in Federal courts constitutes the chief thing to complain of in connection with that branch of our Government. Originally the equitable right of injunction was issued only when the law remedy was inadequate because of damages immediate and irreparable, and it did not apply to crimes. In *Lennon's* case (166 U. S.), however, men were actually enjoined from refusing to haul cars of a railroad and from leaving the employ of the railroad, while under the charge of a receiver appointed by a Federal court, on the ground that their quitting the employment 'crippled the railroad's operation,' and I believe, if I remember correctly, also upon the ground that it interfered with interstate commerce. This injunction was issued in spite of the thirteenth amendment, which forbids 'involuntary servitude except from crime.'

"If everything that can be construed to be an interference with interstate commerce is to be taken as a just ground for an injunction, then a man who shoots another riding on an interstate ticket from Philadelphia to New Orleans would, as far as I can see, subject himself to Federal judge-made penalties, instead of being simply tried by a jury for murder, according to the laws of the State of the place where he committed the murder. Even when United States penal statutes exist, where a man

can be arrested upon affidavit and rendered harmless, the Federal courts still issue injunctions.

"The assertion of the power to inflict penalties for indirect contempt—constructive contempts, contempts committed out of the view of the court—punishments which carry deprivation of liberty and deprivation of property without a jury trial is another abuse.

"These things encourage a spirit of anarchy.

"Every man, if possible, ought to have a trial by jury.

"Injunctions are issued on *ex parte* hearing, on mere affidavits without notice even to the defendant, and on reference of questions of fact to one referee. Upon such evidence as that, and such findings of fact as that, before any real trial, the enforcement of State laws, passed deliberately by State legislatures and approved solemnly by State executives, are enjoined. The plea generally is that the State law is 'confiscatory.' Of course, when upon a hearing properly had, after due notice to both sides, and a proper investigation of the facts, State legislation is found to be really confiscatory, it must be set aside by permanent injunction, as conflicting with the Constitution of the United States. But that is not the question here; the question is whether the temporary restraining order issued *ex parte* upon mere affidavits and so-called ascertainment of fact by a master in chancery, very little acquainted with the subject-matter and very little able to judge of it, should prevail to annul a State statute.

"Let us notice a tendency to usurp Federal power under the treaty clause. Calhoun says that treaties are the supreme law of the land 'provided such regulations' (in treaties) 'are not inconsistent with the Constitution.' I quote Calhoun, because he went further than almost anybody in maintaining the 'plenary power of the Federal Government to regulate our intercourse with foreign powers.'

"If the treaty attempt to treat concerning some subject-matter the regulation of which is not delegated to any branch whatsoever of the Federal Government, then that treaty is 'inconsistent with the Constitution,' as being inconsistent with the purpose for which the Federal Government was formed. If it attempt to treat of some subject-matter the regulation of which is delegated to any branch of the Federal Government, I care not which branch, I admit the 'plenary power of the Federal Government' thereby exercised. That the treaty can give an alien equal rights with the citizen, even within a State, concerning a subject-matter that the Federal Government would otherwise not control I do not doubt, but that it can give him superior privileges to a citizen I deny. If by treaty with Japan, for example, California can be forced to admit Japanese, or by treaty with China it can be forced to admit Chinese, to the same schools with white children, then by treaty with Haiti or Santo Domingo negroes from those islands could be admitted to the same schools with white children in Mississippi, let us say, where native-born negroes, citizens of the United States, can not attend white schools.

"The President in a Massachusetts speech is quoted as saying: 'States rights ought to be preserved when they mean the people's rights, but not when they mean the people's wrongs.'

"In God's name, who is to say what are the people's rights and what are the people's wrongs? If I undertook to answer the question, I should say: 'The people themselves.' And then, if I were asked further how they were to say it, or have said it, how they were to draw the line, or have drawn it, how they were to prescribe the people's rights and prescribe the people's wrongs, I would say in the fundamental organic law, the Constitution of the United States and in the constitutions of the several States, which are the *prescribing voice of the people themselves*, saying both to the Federal Government as contradistinguished from the State governments: 'Within these boundaries thou must travel,' and saying to the State governments, the *residuum* of governmental authority: 'Thus far and thus far only in the United States shall any governmental authority over man ever go.'

"We are running mad. The latest proposition is to have a law for Federal registration of automobiles, on the ground that automobiles do sometimes cross State lines.

"It is proposed by the President to charter and by Mr. Bryan to license corporations chartered by the States before they can enter into interstate business.

"The President's latest astounding proposition is to leave a branch of the executive government to distinguish between 'good trusts' and 'bad trusts,' marking out one for a license to do business and another for extirpation. What a campaign-contribution breeder that would be! How the combinations and trusts—the present substantive law being cunningly retained in the plan—would run over one another in contributing to the campaign funds of whichever party happened to be

in power, in order to bias the executive department of that party in finding them 'good' and not 'bad!'

"I have referred once before to administrative or bureaucratic usurpations of Federal power as being most dangerous of all, because most insidious and least seen by the average citizen. I wish that some of you, who have time to do it, would study the case, referred to by Franklin Pierce, of Juy Toy, a Chinaman (reported in 198 U. S.), who was born in the United States, went to China on a visit, and came back; was sentenced to deportation as an alien by the Immigration Commission, and whose sentence was affirmed by the Secretary of the Treasury. In some way the poor devil managed to communicate with a lawyer and to avail himself of habeas corpus proceedings.

"The referee found Toy's statement that he was born in America to be true. The case finally got to the Supreme Court. That court decided that the question of fact as to whether he was or was not a native-born citizen of the United States had been decided by an administrative tribunal authorized to try it and that that finding was final and conclusive; in other words, that it made no difference whether, as a matter of fact, Toy was a natural-born citizen or an alien, he was banished, and that was all there was to it!

"It is not alone in connection with this case that the courts have held that they could not take cognizance of the conclusions reached by executive and administrative tribunals and that no appeal to any court would lie, but in other matters as well.

"For example, the power at present reposed in the Post-Office Department when issuing fraud orders, although it has not as yet been as seriously abused as it may be, is a power out of which the destruction of the entire principle of the freedom of the press may flow, especially when dealing through it with dangerous and unpopular classes. The Department may tomorrow, if it choose, cut off the New York Times or the North American Review or Collier's Weekly from the right to be transmitted through the mails, under a fraud order. If it chose to do so, there would be no appeal to any court. It could furthermore, if it chose, refuse by a fraud order to permit any mail to be delivered to either of them or to me or to you. It could do this upon the report of detectives in the Department, and perhaps the first we would know of it would be from missing our mail. Moreover, upon complaint and inquiry as to the exact point in which we had offended, the Department might furthermore return the answer that it was not 'practicable to make reply' to our inquiry.

"Franklin Pierce, at any rate, quotes a case in the book to which I have referred, where certain printed matter was excluded from the mail on the ground of 'obscenity.' The Department was written to to specify in what respect and how and where there was anything obscene in the printed matter, and it is quoted to have replied that it was 'not practicable' to answer the inquiry.

"It is not to the purpose to reply that the Department *would* not do what I have supposed. That it *might* is a sufficient danger to human liberty.

"In the case of South Carolina against the United States (199 U. S.) the Supreme Court says of our Constitution—which, I repeat, is the only sovereign in America—except the people themselves acting in a prescribed way while exercising the power to amend and change it—the Supreme Court says of that Constitution, that it 'speaks not only in the same way, but with the same meaning and intent with which it spoke, when it came from the hands of its framers and was voted on and adopted by the people.'

"That phrase ought to be memorized by every schoolboy who is studying 'civil government' in every public school. Whatever the British constitution may be—unwritten, not exactly definable—the American Constitution is an instrument of written, prescribed, fixed sentences, phrases, and words, that do not dance about kaleidoscopically upon the printed page, and bear different meanings to-day and to-morrow, but mean just what they meant when they were uttered, although to-day, of course, they may be applied to very many conditions and instrumentalities that did not exist then. 'Whenever an end aimed at is constitutional then all proper means to that end are also constitutional.'

"The great Federalist judge himself, John Marshall, uttered those words. The converse to that is not true, to wit, that whenever a certain *means* is constitutional, therefore the *legislative end* aimed at is constitutional. Congress has a right, for example, to regulate interstate commerce; but if the end aimed at be not in verity the regulation of interstate commerce, but be the regulation of child labor, or manufacturing, or education, or the suppression of ordinary crimes within a State, and the inter-

state-commerce clause of the Constitution be resorted to merely as a means to the accomplishment of one of these latter ends—which end is in itself unconstitutional—then the thing sought to be done is exactly the opposite of that which John Marshall said could be constitutionally done.

"One of the features most precious in our dual system of government consists in the very fact that there are so many State governments, in so many different climates, with so many different sorts of population, so many different systems of agriculture, such diversities of pursuits and occupation, of heredity and environment, that they enable our laws through the instrumentalities of the State legislatures to be adapted to the needs of the communities. Thus the States become great experimental fields. South Carolina can experiment with a dispensary law. If damage ensue, it is limited to South Carolina.

"The people of the balance of the States can watch it without harm and learn lessons; find out if it is to be imitated or if it is to be avoided. If Oklahoma wants to make an experiment of governmental guaranty of bank deposits, the balance of the Union can watch the experiment with interest and with profit; without loss no matter how it turns out. If Oregon wishes to try the experiment of *initiative* and *referendum*, the same observation is applicable. All of us can watch the experiment of woman's suffrage in Colorado and some day imitate it or else learn to avoid it. And so with infinite diversity of surroundings and influence, with emulation existing between localities, the Federal Government does not need to experiment. In other lands experiments, if harmful, are not national hurts.

"The very maxim, '*E pluribus unum*,' is a Federal maxim. We must preserve not only the 'one,' but we must preserve, with equal care and jealousy, the integrity of the 'many' governments which constitute our system—an 'indissoluble union of indestructible States'—a 'Republic of lesser republics.'

"May God grant that Jefferson prove right and Macaulay prove wrong, and that this constitutional, democratic, representative, Federal Republic of ours prove not a failure, as it assuredly must prove, if individual self-government based on the 'self-denying ordinance of a majority'—the Constitution—denying absolutism to themselves even, and if local self-government or home rule based on the reserved rights of the States be lost sight of by us or by our children.

"Remember these words of George Washington:

"This Government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support.

"The basis of our political system is the right of the people to make and to alter their constitutions of government. But the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

Spell "Nation" with a capital N, and spell "State" with a capital S, but, above all, spell "Individual" with a capital I, just twice as large. Be jealous of all government and of all increase of the weight of governmental machinery.

Labor and Its Demands Ignored by a Republican Congress.

SPEECH

OF

HON. MADISON R. SMITH,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. SMITH of Missouri said:

Mr. SPEAKER: I had not expected to have anything further to say relative to labor legislation, as I have spoken on this subject and its related questions as often as three times during this session, and I would not say anything further now, were it not for the rank deception that has been practiced upon the working people of the country during this session by the majority party. Congress, as it is now run—and you will not forget that it is run by the Republican party—is, in many respects, a great, big humbug; as Thomas Carlyle would say, a "huge simulacrum." Its real self is a hidden secret and only known in fact to those who have been initiated into its Egyptian mysteries by several years' service. Still, an adolescent can find out something, especially if he knows anything at all about that great, unfathomable well—human nature. The tentacles of this monster of power are rooted in the committees, and there watered and tended with the greatest of care and partisan art. As the

committees are now constituted, they are a growth, and while Speaker CANNON is blamed by the unthinking public for all the shortcomings and wickedness of these committees, the blame ought not all be heaped upon him, for he is but a truculent, yet pliant, figurehead of the great privileges and protected interests of the nation. True, he is, in some respects, quite able. He is alert, wise, calculating, daring, and domineering, and when he makes up his mind to have a thing done, he goes straight to it without wavering and with the accuracy of gravity.

He is, however, aided by all the enginery of the old, battle-scarred, begrimed, golden-crested god of gold—Mammon. Out on the walls of Babylon are his sentinels, and when the battle is scented from afar, his minions by the tens of thousands fly with the news over the country to Washington by wire, telephone, and by letter, and all they lay at the feet of their hoary-headed potentate, the Speaker; sometimes abjectly and sometimes arrogantly, circumstances determining their attitude. A council of the inner circle may be called, or it may not. Here, and by the help of this unmeasured and immeasurable power, the committees are made. Not a man goes on a committee whose credentials have not been examined, with the best information obtainable, by experts, and, after being weighed in the golden balances and found trustworthy to the cause of Mammon—that is, the sacredness of property and vested rights—he is placed on the committee, and this method is pursued until a beastly majority is secured for the premeditated purpose. But if he is found untrustworthy to the cause, he is set aside and labeled for other use and finally will be placed where he will be as harmless as a dove.

COMMITTEES WONDERFULLY MADE.

These committees are wonderfully made. They are the finished product of the politician's art, seeking to protect the business of his friends who have always helped him to be elected to Congress and who are under contract to continue to help. The inspiring idea of reciprocity pervades the whole selfish work. Yes; these committees are "fearfully and wonderfully made." They are the highest product in the field of political machinations for the good of the dear, infatuated dollar. In these committees are the roots of this great and mighty legislative organization, in high-sounding phrase named "the American Congress," hooded and garbed by a membership of nearly 400 honorable and able men, who come principally from the legal profession, but in part from all the walks of life. Yet the majority of them are puppets, no less volens, of this able, potent, militant, selfish, cowardly, unpatriotic, and yet arrogant organization. In its toils they are irrevocably, but severally, bound, like Prometheus to the rocks.

The American Congress is the highest legislative body in the world and, as Mammon bossed and run to-day, has but two purposes in view—to conduct the Government in the interest of the Republican party and its rich contributors and to forever perpetuate itself in power. The materialistic spirit of the cohesion of plunder has the majority party completely within its grasp. Militarism is rampant, and, if the party remains in power, to what length it will go in that direction no one can tell, and it would beggar prophecy to try to tell. The reason of this is that its leaders are wholly under the influence of monopoly and its allies, who are now and have been for years engaged in exploiting the resources of the country for more property for use in high carnival at the feet of the Belshazzars of extravagance and profligacy.

One billion dollars and more are appropriated at this session of Congress to meet the reckless expenditures of the Government, and not one dollar or an hour's time has been honestly used to alleviate in the least the hard condition of the working people of this country. Nothing is appropriated to improve the great waterways of the country, the work on which would give employment to thousands now out of employment. No money for roads and water highways, but \$200,000,000 for the Army and Navy. Two hundred millions to fight the Japs and keep in industrial subjection the working class. It is not pretended by the most harebrained war fanatic that any other nation is preparing to invade our country or is scheming to put us in some awkward military position, where we would be compelled to fight or sacrifice our national valor and honor. Oh, such a crass hypocrisy or inane self-devotion! Which or both? Either is unpatriotic enough to make the angels weep and ought to be condemned by the country with an avalanche of votes.

MONEY AND THE MILITARY SPIRIT.

The sword has betimes been drawn in the cause of liberty, but more often as the defender of the dollar. Mammon and Mars are coexistent; to abolish the one abolishes the other; to set up one for worship sets up the other for worship. Their bloody business has ever been to set the world by the ears, father against son and brother against brother, and to organize a cruel,

selfish, and wealth-ridden society. To them the brotherhood of man is but a roseate dream and the love principle, which the Man of Gallilee blazoned on every page of the New Scriptures, a silly joke. Such a Utopia they quickly drown in the blast of the war trumpet, the clang of the saber, and the roar of the navy guns.

May I not ask what has become of the church, with its billions of capital and millions of adherents, and the programme announced for it two thousand years ago on the shores of Lake Tiberias in these then and yet revolutionary words:

The spirit of the Lord is upon me, because He hath anointed me to preach the gospel to the poor, He hath sent me to heal the brokenhearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised, to preach the acceptable year of the Lord.

I quote the above as the programme of social freedom and as a word of warning to those who are covering the waters of the sea for discipleship and yet overlook the application of the truth in these words from the Master. They are revolutionary, but true nevertheless. And has not the church emblazoned this programme on its banners with a good deal of pride and sometimes parade, and it never tires of talking of "love, the greatest thing in the world." May I not inquire, in view of this noble claim, how it can be silent when the greatest Christian nation of all the world is spending money like water and burdening the people with debt to arm and equip itself for war on land and sea for the shedding of blood—your brother's blood? What becomes of that revolutionary spiritual principle and claim, "the brotherhood of man and the fatherhood of God," which we hear every Sunday preached with so much unction? It would seem that the church would rise up en masse and proclaim at least its dissatisfaction at such a course of fostering and promoting of the military spirit by these immense appropriations of money, and they are rapidly increasing from year to year. There has been appropriated \$1,000,000,000 or more since Mr. Roosevelt became President.

THE DICK MILITIA BILL.

On the night of May 26, between the hours of 10 and 11 o'clock, the Senate Dick bill, under the Republican party whip and spur, was rushed through and passed with but twenty minutes on a side for discussion, and that notwithstanding it appropriated \$2,000,000 to arm and equip a standing army in our very midst of over 100,000 soldiers. The bill provides that—

On and after January 21, 1910, the organization, armament, and discipline of the organized militia of the several States and Territories and the District of Columbia shall be the same as that which is now or may hereafter be prescribed for the Regular Army of the United States, subject in time of peace to such general exceptions as may be authorized by the Secretary of War: *Provided*, That in peace and war each organized division of militia may have one inspector of small-arms practice, with the rank of lieutenant-colonel; each organized brigade of militia one inspector of small-arms practice, with the rank of major; each regiment of infantry or cavalry of organized militia one assistant inspector of small-arms practice with the rank of captain, and each separate or unassigned battalion of infantry or engineers or squadron of cavalry of organized militia one assistant inspector of small-arms practice with the rank of first lieutenant.

This army is under the direction of the President, and, of course, can be used in conjunction with the Regular Army anywhere, within or without the United States, and, more to the point, can be used particularly for the purpose of enabling the President to execute the laws of the country, and to that end he may issue orders through the governors of the respective States and Territories to such officers of the militia as he may think proper. So, after January, 1910, a standing army shall be organized among the people of 100,000 or more men, and the whole nation of able-bodied male citizens between 18 and 45 years of age are created as a reserve militia, and \$2,000,000 shall be appropriated annually to maintain this standing army of 100,000 for the purpose of keeping peace.

If the working people of this country fail to realize the object of this law and of the army it is intended to raise they are more stupid than I take them to be, and if they do not hold the Republican party responsible for such legislation, then I shall lose faith in their opposition to the use of soldiery against them during industrial disturbances and conflicts, as well as in their contention that the Army is being enlarged and kept active against them in times of strikes and labor wars. I do not hesitate to state, Mr. Speaker, as my deliberate opinion that much of this agitation for the enlargement of the Regular Army and militia is for the purpose of being ready to forcibly suppress labor outbreaks and strikes, which are sure to come in the near future, growing out of the clash between the capitalistic employer and his employees.

The recent Federal court decisions which have been so disastrous to all propaganda in behalf of bettering the conditions of the working classes and so embarrassing to them in their practical efforts for shorter hours, better wages, and safer appli-

ances, and for conditions with which and under which to work, have made the capitalistic classes generally more arrogant, confident, and determined.

CAMPAIGN AGAINST LABOR.

The campaign against organized labor is to be waged relentlessly to a finish. Trades unions, as an active and militant agency for raising of wages and forcing of better conditions, are to be met by the National Association of Manufacturers at every point and resisted by every means and method at their command. Those selfish exploiters well understand that the working classes are awakening to their real condition, that they are rapidly becoming, as the sociologist would say, class conscious, and are coming to appreciate the fact that they have been exploited of the real value of their labor through all the ages. And the employers further know that this great body of working men and women, huge and awful in the sight of God and man, is questioning things and looking into them, and presents a countenance of restless determination that will change affairs mightily unless checked.

The employers want to postpone the day of judgment, and nothing will be left undone to postpone it that brains, money, political power, and dissimulation can do. The courts, which the ruling and property classes have made, have been interpreting the law, made by the same class, from their thrones of power and have been declaring the law under the Constitution on the rights of capital and labor, and in every case labor has lost and capital has won. I am not belaboring the courts or censuring the judges, but am simply stating the facts.

Mr. Speaker, I say here, in the presence of this House, and I want it to be sounded from one end of this nation to the other, that labor is not getting its due, if equality and justice should be the rule. I mean real justice, that kind of justice that should be apportioned between brother and brother. And, as the laws seem not to be constructed on that basis, it would be well for the country to see to it that they shall be, as early as possible, made and bottomed on that basis.

Do not charge me with speaking against the courts, for I have heretofore on the floor of this House said that they may give labor, or the working people, all that they can upon precedent and the law technically administered. However, I believe, if I were a judge sitting as a chancellor, I would mold my opinions by conditions and facts in harmony with the rights of man and not so much for the protection of the sacred rights of property. For if property, which is soulless, is sacred, how much more sacred is the welfare of your brother, who has a soul with possibilities for eternity? And every lawyer knows that it is the boast of equity judges that equity is universal enough and sufficiently particular to do complete justice and equity according to the facts, however complicated and novel they may be, and equity acts in personam and not in rem, and hence the rights of the man should be paramount to the rights of another man's property.

THE WORK OF THE COURTS.

In order to specifically call the attention of this House to what has been done by the courts of recent date, I refer to the following opinions:

The Buck Stove and Range Company v. American Federation of Labor (35 Wash. Law. Rep., 797).

Dietrich Loewe v. Lawler et al., United States Supreme Court (148 Fed. Rep., 924).

Howard, administratrix, v. Illinois Central Railway, United States Supreme Court, January 6, 1908.

Adair v. United States, United States Supreme Court, January 27, 1908.

Hitchman Coal and Coke Company v. John Mitchell et al., known as the "Dayton case."

These opinions seem to have been a culmination of what the courts had been intimating for some time by dicta in restraint of labor unions when conducting boycotts and strikes. I shall not undertake an analysis of these opinions, but will call attention particularly to what is known as the "Hatters' case," wherein the court held that a boycott, organized and directed by the American Federation of Labor, to prevent interstate trade in hats by the Danbury Hat Company, was within the provisions of the Sherman antitrust law, on the ground that such a boycott operated as a restraint upon interstate commerce. This decision, in effect, held that a trades union is a trust, or an illegal combination of labor unions, amounting to a conspiracy under the Sherman antitrust statute. A trust is usually defined as being a combination of corporations organized for the purpose of getting control of the production and distribution of manufactured products of some kind, the ultimate object of which is to control the profits arising out of an unrestricted and monopolistic trade in the product to be controlled. How it can be maintained that the voluntary associa-

tion of working men and women, affiliated into unions for their mutual benefit and assistance, can be placed on the same footing with a trust organized for the purpose of securing profits without competition to me is not clear. In fact, I do not believe that both rest upon the same principle.

The power and right to labor is not a commodity and never has been so recognized by economists. How, then, can the right and power to labor be made the subject of trust legislation and be brought within the terms of the Sherman antitrust law, which is leveled against the interference with and restriction of interstate trade and commerce? How can there be a trust in something which does not exist, or which has not been produced? The power to produce belongs to the workingman and is inseparable from him and has no existence out of him. It is the very opposite to commodity, which has an independent existence and which has already been produced and in esse, and hence the subject of control by a person or an organization of persons under the law. To thus control the power to work, which belongs to living free, and independent human beings, in the same way in which you would control a commodity or a material product, would be to reduce the laborer to the common level of an article of commerce, which is inanimate, without life, feeling, hope, aspiration, and a soul, while the laborer is God-created, possessed of feelings, love, hope, pain, sorrow, and a soul of infinite possibilities, here and hereafter. In the very essence of things, labor unions can not be regarded as trusts, or unlawful combinations. Further, I have no time to discuss this great subject of value and importance.

DEATH OF THE WILSON BILL.

The Wilson bill, introduced by Representative WILSON of Pennsylvania, a very able and conservative friend of labor, of this body, notwithstanding the almost universal clamor of organized and unorganized labor for the enactment of this bill into a law, could obtain nothing more than a partial hearing, permitted for the very manifest purpose of delaying it and finally killing it. Bills have been introduced by various Members, one of them by myself, for the purpose of avoiding the recent opinions of the Federal court, which hold that where two or more persons agree and confederate together to do a certain thing or to perform a common purpose, however worthy it might be, yet if it in anyway interferes with the public welfare or injures indirectly any person or corporation in his or its property rights, it was unlawful, and that, too, notwithstanding the same thing or work could be done by any single person, acting alone and for himself, with perfect impunity. The English Parliament several years ago enacted a law for the purpose of preventing a combination of two or more persons acting together to do a certain lawful thing, although it might injure third persons, from being adjudged guilty of an unlawful conspiracy and from being punished or sued for damages. This country has no information that, since the passage of that law, the working people there have destroyed any property or disrupted the kingdom because permitted to exercise the right of free speech and the rights of freemen generally—that of protecting themselves against industrial tyranny and robbery.

May I not refer without censure to the many anti-injunction bills which have been introduced into this House by Republicans and Democrats alike, and after that the Majority party has had not less than two caucuses to secure a favorable report on an anti-injunction bill to regulate the issuance of injunctions against labor unions during industrial conflicts. As usual, the party was controlled by its masters, and refused, after much discussion and bitter debate, to report a bill favorably to restrict the unlimited powers of courts of equity in dealing with strikes and boycotts. And, further, this patriotic caucus refused to report a bill to prohibit the punishing by imprisonment of persons arrested for contempt charged with violating some oppressive court order. These un-American usurpations of the courts must be permitted to go unmolested in order to protect property and its divine rights, which the worker does not possess. The manufacturing interests throughout the country, and in fact corporations in general, upon receiving information, which they always get promptly, that a caucus had been called to consider this kind of legislation, flooded the Republican Members of Congress with telegrams and letters containing veiled threats against the party, provided it dared to pass an anti-injunction law or a law authorizing jury trials in cases of contempt or a law that interfered with the integrity of the Sherman antitrust law.

LABOR PRACTICALLY OUTLAWED.

The decisions of the courts to which I have referred are well known to the laboring people of this country, and so is the proposed legislation; and it is further well known that the working classes everywhere feel that they have been practically outlawed

and that our far-famed free American Government offers them but little or no protection in their rights as a class, and they are a class in society and under the law, and none but a pharisaical hypocrite will gainsay it. The only liberty which they have a right to enjoy is the liberty to work with dangerous machinery and in unsafe places and, if injured, to assume the risk therefor and go without damages, or the liberty to throw up their jobs and starve, or the liberty to work in sweat shops and loathsome tenement houses, or the liberty to work hours of inhuman length without rest or recreation, a kind of inane, academic liberty, as empty and worthless as a madman's dream.

In all seriousness, and in the name of labor and its God-given rights, I propound the question to the other side of this House, What party is to blame for labor's not securing the legislation for which it has been begging Congress for so long? Labor certainly can not deny but that Democrats, in the committees and in this House, have at all times placed themselves on record as favoring the legislation for which they have petitioned. I ask further, Why should labor charge that Democrats are insincere, as labor heretofore has seemed inclined to do, in view of their action at this session of Congress and their course held so long and consistently?

The Republican party has always shielded itself when cajoling labor in sounding phrases by preaching the beauties of high tariff and its consequences—high wages and a perpetual job. The recent industrial depression explodes this threadbare contention, for there are millions of men and women to-day out of employment, and those who have employment are the victims of reduced wages. What the Republican party wants to-day and has always wanted is free labor from every quarter of the globe and a high protective tariff on all articles manufactured by labor, and so far it has gotten what it wanted. How long, my labor friends, will you continue to vote the Republican ticket under these conditions and thus foster a political machine such as I have mentioned, of most perfect organization, the evolution of years of political effort, the object of which is to protect the rich and the monopolies of the country, to your injury and to my injury as consumers? Unless you break this machine into a thousand pieces at the ballot box, there is no hope for you. If you ever expect this legislation for which you have been so long clamoring, you must overthrow this juggernaut of power. Do you think you could make conditions any worse by trying the Democratic party and testing its sincerity, which you seem to have doubted for so many years? Methinks I hear your answer from a million throats from all over the country with a shout, "No!" The everlasting "No" that shall ring around the world.

There is no other party than the party of Jefferson and Jackson of sufficient strength and organization and with a well-defined policy to which you can go with the hope of aid and to your best interests. You can either continue to suffer—and if you do it willingly and willfully you ought not to complain—and strikes and boycotts for your rights ought to be abandoned and you should serve your masters without murmuring, or will you make a trial of those who have done what they could to help you, and bruted to the world that they love the divine rights of men more than the legal rights of property? What will you do? Will you continue to trust the hollow tariff argument—high tariff, high wages, and jobs perennial? I am not pleading for the Democratic party, but for your cause that has so long been disregarded.

SOME OF LABOR'S DEMANDS.

The American Federationist, published in Washington and ably edited by Samuel Gompers, said as part of its preface to resolutions on certain labor legislation that "Congressmen have been deluged and swamped with the mass of resolutions and personal letters which have poured in from their constituents demanding that the present session of Congress heed the demands of labor and enact the measures which it specifies." And the following is a copy of the letter accompanying the resolutions and the resolutions, which were sent to every Member of the Sixtieth Congress:

—, April —, 1903.

Hon. —, —,
Capitol, Washington, D. C.

DEAR SIR: At a largely attended meeting of your constituents, held at —, on April —, the inclosed resolutions were adopted and ordered sent to you, so that you may be properly and reliably advised as to the sentiments that prevail among a large proportion of people in this Congressional district on some very important economic and political questions, which, if not settled quickly and to the complete satisfaction of the participants in this meeting, further steps will be taken to make these questions the paramount political issue of 1903, and, for that matter, in all future political campaigns, until the evils herein complained of are adequately remedied. Our people hope for and count upon your support by voice and vote to enact at the present session of this Congress the legislation set forth in the inclosed resolutions.

Please advise the undersigned as to your position on the inclosed subject-matter at your earliest possible convenience. In addition to replying to the above, will you please present it, with the inclosed resolutions, to Congress as a petition, and oblige,

Yours, very truly,

April —, 1908.

Whereas we, the working people and their sympathizers of ————, in meeting assembled to consider the situation in which the toilers of our country find themselves by reason of recent court decisions and the failure of Congress to afford the necessary relief and for the purpose of taking such action to secure adequate Congressional legislation for the protection, restoration, and defense of the natural and inherent rights of our people; and

Whereas the recent decisions of the United States Supreme Court, especially the decision in what has become commonly known as the "Hatters' case," whereby the Sherman antitrust law was so construed as to deny and to injuriously affect the rights of the workers, and indeed all of our people, whether acting in their collective or individual capacity; and

Whereas the Supreme Court in this decision ignored the intent of Congress, which, while the Sherman antitrust act was under discussion, clearly showed by unanimous vote of the Senate that it was not intended to include the workers under the provisions of this act, and only omitted the direct statement because Congress and all public officials at that time were thoroughly convinced that the Sherman antitrust act would never be so construed as to apply to labor; and

Whereas the Supreme Court in its sweeping decision in the Hatters' case so construed the Sherman antitrust law as to make it apply to labor not only in one, but in many of the most important and fundamental respects, penalizing the right of bestowing or withholding patronage and thereby practically establishing a vested right in such patronage, providing threefold damages and fine and imprisonment as punishment; penalizing by fine and imprisonment the right of peaceful agreement with employers as to wages, hours, and other conditions of employment, stigmatizing this most laudable effort toward industrial peace and progress as "conspiracy;" and

Whereas the law as construed under this decision is so foreign to its original purpose that labor and all our people may well doubt if it can not be applied in directions not yet fully realized so as to check and penalize the exercise of almost all natural and fundamental rights of voluntary association and uplifting effort which all supposed was guaranteed to us by the Constitution of our country; and

Whereas not only the Hatters' decision calls for immediate Congressional action, but other recent Supreme Court decisions as well, notably those declaring the employers' liability law unconstitutional and that clause of the Erdman Act relating to discharge on account of membership in a labor union. In addition, the action of the courts by the abuse of injunctions, in denying the exercise of free press and free speech and other natural and inherent rights, have caused us to view with alarm, unrest, and dissatisfaction the existing state of affairs unless Congress shall promptly enact specific legislation which shall clearly so amend the Sherman antitrust act that its original intent shall be preserved and that it shall not apply, as it never was intended to apply, to labor, and such other legislation as set forth in these resolutions for the further restoration, definition, and protection of the rights and activities of the wage-workers and all our people in the exercise of their individual and organized activities for the uplift and progress of the people and the preservation of the original just and equitable intent of our free institutions; therefore be it

Resolved, That though protesting against the construction of the law by the decisions of the Supreme Court applying laws to the workers never intended by Congress for that purpose, we yet accept and obey them, thereby demonstrating incontestably our patriotism, our law-abiding purpose, and our faith in the institutions of our country, yet we must and do insist that Congress exercise its power and perform its plain duty, granting the relief and remedy from the injustice of which we complain; and be it further

Resolved, That we express our firm conviction that it lies within the power of the present Congress to enact such laws that the rights and liberties of the toilers shall be restored and safeguarded, and we solemnly aver that under no circumstances will the workers surrender their right to and their faith in their voluntary organizations, which have done so much to protect them from tyranny and rapacity and which have raised the American standard of life of the workers, their wives, and their little ones, and instilled the highest ideals of American manhood, character, intelligence, and independence among the toilers of our country; the organizations of labor which have proven themselves not only the great means whereby the material, moral, social, and political standard has been advanced, but have also shown themselves the greatest conservators of the public good and of the public peace; that we shall stand by our unions of labor and carry on our normal activities, whether as individuals or through our associated effort; and be it further

Resolved, That the working people and their friends in meeting assembled insist that the Congress of the United States cease its indifference or hostility and enact the legislation in these resolutions set forth, so that we may exercise our fullest, normal, natural, and industrial rights, and to attain them we will exercise our industrial and political power; and be it further

Resolved, That we call upon the Congress now in session to enact before adjournment the amendment to the Sherman antitrust law, known as the "Wilson bill" (H. R. 20584); and be it further

Resolved, That we call upon the present session of the present Congress to enact the Pearre bill (H. R. 94), to so define the injunction power and restrain its abuse that neither directly nor indirectly shall there be held to be any property or property right in the labor or labor power of any person; and be it further

Resolved, That we call upon Congress at this session to enact an adequate, just, and clearly defined general employers' liability law; and be it further

Resolved, That we call upon this session of Congress to enact labor's eight-hour bill for the extension of the present eight-hour law to all Government employees and to all employees engaged upon work done for the Government, whether by contractors or subcontractors; and be it further

Resolved, That we hereby declare our determination to hold each and every Representative and Senator strictly accountable upon his record upon these measures during the present session of the present Congress; and be it further

Resolved, That we stand unqualifiedly committed to the measures and the Congressional relief set forth in these preambles and resolutions and the grievances set forth in the protest to Congress published

in the CONGRESSIONAL RECORD, and the plan of campaign outlined in the "Address to Workers," prepared and presented by the great labor conference, held at Washington, D. C., under the auspices of the American Federation of Labor. And we pledge ourselves individually and collectively to the exercise of our fullest political and industrial activities now, and in the future, to the end that we may aid in the election of such candidates for President of the United States, Representatives or Senators in Congress, and such other executive, legislative, or judicial candidates for office as will safeguard and protect the common interests of the wage-workers, as well as the people of our common country; and be it finally

Resolved, That the toilers and their friends, fully aroused, will not be lulled into a fancied or false security by promises however plausible, protestations however masked by friendship, and that we call upon all our fellow-workers, our friends, sympathizers, and enlightened public citizens generally, without regard to party affiliations, to stand by our friends and elect them, oppose the indifferent and hostile to our cause and defeat them.

In this movement for our common protection we are moved by a high sense of duty and a profoundly conscientious purpose to serve not only the workers of our time, but all the people of our great country for their industrial, political, social, and moral progress and uplift.

RESOLUTIONS HAVE BEEN IGNORED.

These resolutions have been ignored and the workingmen of the country have been again spurned away, downhearted and empty, to meditate upon the vicissitudes and beauties of Republican rule.

I shall finish, gentlemen, with remarks by Mr. Gompers, when he was addressing the Judiciary Committee of the House on the Wilson bill to amend the Sherman antitrust law:

In conclusion, let me say that, in my judgment, speaking not only as president of the American Federation of Labor and as a representative of workmen, but as an American citizen, I believe firmly that there is no question before this Congress, possibly nothing equal in importance, to this question which can arise in a very long time. It ought to be deferred until some other time; it ought not to be postponed until a hereafter. The workmen of the country feel that they have been outraged, that their interests have been invaded. I could not interpret to you in words the feeling or reflect their sentiments or views, even if I should attempt to do so, and no matter what time I might take in so doing.

The men of labor of this country feel outraged, I repeat; they feel that they have been robbed; they feel that they have been shorn of the only protection that they have—their organization, the right to combine, the right to associate, the right to help each other, the right to help bear each other's responsibilities and burdens, the right to protect themselves from greed from the rapacious. For in truth we must bear this in mind. We have not any hesitancy in saying that the large majority of employers are fairly inclined, but it is equally to their protection as it is to the protection of the men who labor that we organize and have all the fullest rights of our normal activities as workmen and citizens in order that we may compel the man who is always nibbling at the wages of workmen, that we can protect the fair-minded employers from the nibbling, wage-cutting policy and niggardliness of the unfair and antagonistic employer.

In the interest of men of labor, the women of labor, of American manhood and womanhood and citizenship, I make this appeal to you gentlemen of the Judiciary Committee, that we can not wait much longer for relief; and if I judge the temper of the American workman accurately, and I think I do, they are going to hold to a strict accountability the men or parties whoever and whichever they may be who fail to fairly respond to this urgent appeal.

I believe that there will be an appeal by the laboring classes through the ballot box for justice at the fall elections, and the places that know you now on that side of the Chamber will know you no longer after next November. God grant it in behalf of our beloved country and humanity. [Applause on the Democratic side.]

Waterway Legislation Affecting Illinois; and Other Matters.

SPEECH

OF

HON. HENRY T. RAINEY,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. RAINEY said:

Mr. SPEAKER: Under the general leave to print recently granted I desire to submit the following remarks: I think speeches ought to be made on the floor of the House of Representatives, not inserted in the RECORD. I have had the reputation, I think, in this House of delivering my speeches in the House when in session. I voted against the resolution granting general leave to print, which carried the other day. In my judgment, the Congress of the United States ought to remain in session long enough to enable Members desiring to make speeches to deliver them in the House of Representatives. I am making this explanation in order that it may be perfectly clear that the remarks I now propose to submit were not delivered on the floor of the House, although I would have been very glad of the opportunity to have so delivered the following speech if it had been possible to do so.

THE LAKES TO THE GULF DEEP WATERWAY.

I have given much of my time in Congress to the development of this great project. Fortunately, I was elected to Congress when the subject was under consideration. I have made speeches in the greater portion of the large cities of the country, and I think my fellow-Members will testify that at every opportunity during my five years of service in the House I have spoken on the floor of the House and have appeared before the committees of the House, presenting this question to the very best of my ability.

At the invitation of Representative LORIMER, the leader of this movement in Congress and in the State of Illinois, I accompanied him two years ago last November in a little gasoline launch all the way from Lake Michigan out through the Illinois and Michigan Canal, down through the Illinois and Mississippi rivers to the Gulf of Mexico. In our journey we were joined by other Members of Congress whose districts reached the rivers, and who accompanied us sometimes for a considerable portion of the way. Representative LORIMER and myself made the entire 1,700-mile trip, occupying thirty days of time.

On the trip we organized the Lakes to the Gulf Deep Waterway Association, now the most important waterway association in the United States, and I think I may say that with the organization of this association commenced the real Lakes to the Gulf deep waterway movement in this country. During the fall following the organization of this association it held its first convention in the city of St. Louis—the largest river improvement convention ever held in the United States up to that time. Last fall the second meeting of the association was held, this time at Memphis. The President of the United States and eighteen governors of States were in attendance. Representative LORIMER and myself on that occasion retraced a part of our original trip over the rivers, and we went by water from St. Louis to Memphis, this time not in a gasoline launch, but in a great river steamboat—one of the boats which escorted the Government steamer and the Mississippi River steamers which carried the President of the United States and the eighteen governors of States down the Mississippi River from St. Louis to Memphis. The trip this time was not made by one solitary gasoline launch occupied by two people, but by a procession of great Ohio, Illinois, Missouri, and Mississippi River steamboats, 4 miles in length, stretching around the bends of the Mississippi River.

I made, so far as I am able to ascertain, the first Lakes to the Gulf "deep-waterway" speech ever made in Congress. It was my first speech after I became a Member of this body. I have made speeches on this subject at each of the great conventions, so far, held by the Lakes to the Gulf Deep Waterway Association, and my speeches made on those two occasions have been printed and are a part of the records of those two great conventions. I have also made speeches on this subject at the meetings of the Upper Mississippi River Improvement Association, which speeches are preserved as a part of the records of that association, and they have been printed.

On the trip made by Representative LORIMER and myself from Lake Michigan to the Gulf of Mexico, I made forty "deep-waterway" speeches. The trip was undertaken when the weather was cold and bad. It was not a pleasure trip by any means, but it accomplished the desired result.

Last March I made a trip to the Isthmus of Panama alone, avoiding all junketing parties and Congressional parties, and walked across the Isthmus of Panama. I made this trip in order to become fully advised as to the situation there.

The building of the deep waterway from the Lakes to the Gulf and the building of the Panama Canal are closely connected. When the Panama Canal is completed it will be another outlet for the Mississippi River, and the Mississippi River will have then its connection, not only with the Gulf of Mexico and the Atlantic Ocean, but directly with the Pacific Ocean. I undertake to say that there are not many men who have made the trip by daylight all the way over the 1,700 miles of canals and rivers from the Lakes to the Gulf, and who have also walked across the Isthmus of Panama along the route of the proposed canal.

I am aware of the fact that I have not as yet accomplished much, but my bitterest enemies ought at least to give me credit for doing the very best I could. I propose to keep up the fight for a deep waterway and to assist in the project until it becomes an accomplished fact.

The State of Illinois this year will vote upon the proposition to amend the constitution of that State so as to permit it to issue \$20,000,000 worth of bonds in aid of this project.

The Chicago sanitary district at a session of the legislature of the State of Illinois last summer appeared, by its representatives, asking permission and advocating a bill for the purpose of building a waterway through the water-power producing

section of the State of Illinois. The sanitary district proposed to do this in return for the revenues to be derived therefrom. This would have created only an extension of a few miles to the canal already constructed by the sanitary district; but the district would have absorbed all the revenue that could at any time in the future be developed by building this waterway. I appeared before the legislature and spoke for two days against the Chicago sanitary district proposition. If the proposition had carried, I do not think there would have been a deep waterway in the State of Illinois within the lifetime of any person now in being. The newspaper press gave me credit for defeating the proposition. A resolution was then adopted by the general assembly of Illinois, submitting to the voters of the State an amendment to the constitution permitting the State of Illinois to construct this extension of the Chicago ship canal and to issue bonds to the amount of \$20,000,000 to be paid out of the revenues derived from the sale of water power. The revenue derived from this source will, soon after the completion of the canal through the water-power section of Illinois, yield at least three or four million dollars per annum. It will not be long at this rate until the State of Illinois could, if it elected so to do, pay the entire expense of building a 14-foot waterway, with the miter sills of the locks 20 feet deep, all the way from the southern terminus of the Chicago ship canal through the State of Illinois to the Mississippi River at Grafton.

I have called attention to a part of the services I have rendered in this great enterprise, referring only to matters that can readily be verified. I think, under the circumstances, I have aided a little in accomplishing something in this direction. I have, at least, up to the present time, done the best I could.

Under the circumstances surrounding my connection with this matter, I was very much surprised on yesterday to have my attention called to an article sent out in plate form and printed in a number of papers in my Congressional district on the 27th and 28th of the present month. A portion of the article in question reads as follows:

DEEP WATERWAY.

I am not prepared to state what Mr. RAINEY has accomplished as a Member of Congress, other than the passage of a few private pension bills, which are allotted and apportioned to the Members in equal numbers. He has introduced many such bills, but has selected only a few for passage. I understand that he poses as a deep-waterway champion and claims some credit for the agitation of that subject. What has he done to aid that project? He has not secured a favorable report nor the passage of any bill on that line. He took an outing down the river. He also looked in upon the Panama Canal, and he is entitled to about as much credit for the one as for the other. Let me tell you the history of deep-waterway legislation in Congress. I do not intend that some one else shall rob me of my laurels or deprive me of my glory.

I introduced in the Fifty-sixth Congress a bill to remove the locks and dams in the Illinois River, because they increased the overflow of the valley land. I also introduced a bill providing for a survey of all that portion of the Illinois River and adjacent lands which was affected by the existence of the dams, and providing for an appropriation for that purpose, with a view not only of the removal of the dams, but securing data upon which to base legislation for a deep channel. These bills were considered in committee with the Lorimer bill, which provided for a survey of the entire course of the Illinois River. After numerous hearings the bills were favorably reported, providing an item in the general rivers and harbors bill for an appropriation of \$225,000 for the preliminary survey, and that report was subsequently adopted and became a law. It took three years to complete that survey, and the report of the chief engineer was presented to Congress during Mr. RAINEY's term, and I understand that he assumes the credit for what was done.

The fact is that all the legislation that has been enacted on the subject was reported out of committee in the Fifty-sixth Congress, and my bills were incorporated in the general river and harbors bill, as a result of which the survey was made and a report of the Chief Engineer of the War Department, recommending that a deep waterway was practical, at a cost of \$30,000,000, and the further results that the dams in the river, which have so increased and aggravated the overflow of the bottom lands, have been lowered 2 feet. Will Mr. RAINEY inform the public what he has accomplished in this direction? It is an easy matter to confuse the facts and give him credit for the fruits of legislation which of necessity were not reaped until three years after the legislation was enacted, but I apprehend that, when the public and those interested in deep-waterway legislation and the removal and lowering of the locks and dams shall be fully advised of the facts, as I intend they shall be, credit will be given where credit is due, and that the public will no longer be deceived by unjust claims and pretensions.

The above extract from the article in question is absolutely false in all its statements of facts. I undertake to say that it has seldom happened that a man has ventured to print an article which contains so many easily detected falsehoods. I have never claimed any credit for originating the deep-waterway project; I have only done the best I could to the extent of my ability to aid in the project. The project did not originate with any man now living. I have given to the subject a large amount of study, and I really think I know something about it.

The first official mention of this subject is contained in Document No. 250 of the Tenth Congress. This document was a report submitted by Robert Fulton in 1808 to Albert Gallatin, Secretary of the Treasury. It is a report as to waterways and canals, made April 4, 1808, in response to a Senate resolution dated the 2d day of March, 1807, in commenting upon the

original expensive "Red Sea and Mediterranean Canal," which was in use two thousand years ago and was filled up by the drifting sands of the desert and forgotten for hundreds of years.

Robert Fulton, in his report, says:

This canal (the old Red Sea and Mediterranean Canal) can not compare in importance with a series of canals connecting the waters of the Delaware, Susquehanna, Potomac, and Hudson with the Ohio, Mississippi, and the Great Western Lakes, and perhaps the South Sea.

I have carefully searched the records, and this is the first mention of the Lakes to the Gulf deep waterway.

In 1819 Maj. Stephen H. Long made a report dated at Washington, March 4, 1819, addressed to George Graham, esq., Acting Secretary of War. On the 28th day of December, 1819, it was read in the House of Representatives at the first session of the Sixteenth Congress and ordered to lie on the table; it is known as Executive Document No. 17 of that session. At that time Henry Clay was Speaker of the House of Representatives, and J. C. Calhoun was Secretary of War. This report contains some interesting matter on the subject of a deep waterway connecting the Great Lakes with the Illinois and Mississippi rivers.

At present the question as to whether or not the Des Plaines was ever considered to be navigable is an interesting question in the State of Illinois, and it will come up soon in a suit instituted by the State of Illinois to remove some dams at the mouth of the Des Plaines River. I call the attention of the law officers of Illinois to the extract from this report, which I propose now to put in the Record, which ought to be of valuable assistance in the attempt to establish the navigability of the Des Plaines River during the early history of the State of Illinois. Referring to that small section of the State lying between the Des Plaines River and Lake Michigan, this interesting report makes the following statement:

In the flat prairie above mentioned is a small lake, about 5 miles in length and from 6 to 30 or 40 yards in width, communicating both with the river Des Plaines and the Chicago River by means of a kind of canal, which has been made partly by the current of the water and partly by the French and Indians for the purpose of getting their boats across in that direction in time of high water. The distance from the river Des Plaines to Chicago River by this water course is about 9 miles, through the greater part of which there is more or less water, so that portage is seldom more than 3 miles in the driest season, but in a wet season boats pass and repass with facility between the two rivers.

Attached to the report of Maj. Stephen H. Long and made a part of the same document is a supplemental report signed by R. Graham and Joseph Phillips, from which it appears that the question of a Lakes to the Gulf deep waterway in 1819 had assumed definite shape. I insert from this supplemental report the following extracts:

A canal uniting the waters of the Illinois with those of Lake Michigan may be considered the first in importance of any in this quarter of the country and at the same time the construction of it would be attended with very little expense compared with the magnitude of the object. The water course, which is already open between the river Des Plaines and Chicago River, needs but little more excavation to render it sufficiently capacious for all purposes of a canal.

To render the Des Plaines and the Illinois navigable for small boats and flats requiring but a small draft of water nothing more is necessary than the construction of sluices in a few places where there are riffles of a sufficient width to admit the boats to pass through them.

To conclude, the route by the Chicago, as followed by the French since the discovery of Illinois, presents at one season of the year an uninterrupted water communication for boats of 6 or 8 tons burden between the Mississippi and the Michigan Lake; at another season, a portage of 2 miles; at another, a portage of 7 miles from the bend of the Plein to the arm of the lake, over which there is a well-beaten wagon road, and boats and their loads are hauled by oxen and vehicles kept for that purpose by the French settlers at Chicago.

It is interesting in this connection to know that J. C. Calhoun, who was then Secretary of War and whose name also appears signed to this document, afterwards presided in the city of Memphis, in the year 1846, at the first Great Lakes to the Gulf deep-waterway convention, which was held in 1846 and was attended by over 500 delegates. Between 1820 and 1830 occurred the legislation on this subject, both in the Congress and in the legislature of the State of Illinois, which I referred to at considerable length in speeches before the Illinois legislature last summer and which have now been printed and are a part of the debates of that session.

Under the circumstances above I think it can be said that no one now living has had much to do with originating the Lakes to the Gulf deep-waterway idea.

THE ABSOLUTE FALSITY OF THE STATEMENTS CONTAINED IN THE ATTACK ON ME.

I might mention at the outset that the foregoing article was prepared by William Elza Williams, a former Member of Congress. He served here in the Fifty-sixth Congress only.

A part of the deep-waterway project contemplates the removal of certain locks and dams in the Illinois River. Calling attention to the above statement of Mr. Williams, which I now here again quote:

I do not intend that some one else shall rob me of my laurels or deprive me of my glory. I introduced in the Fifty-sixth Congress a bill to remove the locks and dams in the Illinois River because they increased the overflow of the valley land. I also introduced a bill providing for the survey of all that portion of the Illinois River, etc.

I desire now to put in the Record the facts about the matter in order to show the absolute falsity of the above claims. Mr. Williams introduced no such bills. In order that the question may not resolve itself into a question of veracity between Mr. Williams and myself, I on yesterday addressed to the superintendent of documents of the House of Representatives the following letter:

COMMITTEE ON LABOR,
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D. C., May 29, 1908.

SUPERINTENDENT OF DOCUMENTS,
Washington, D. C.

SIR: Please examine the records and files in your office and advise me whether any resolution was offered in the Fifty-sixth Congress by any Member of Congress for the removal of the locks and dams at Kampsville and La Grange in the Illinois River.

Please also advise me whether any bill was introduced in the Fifty-sixth Congress providing for a survey of any portion of the Illinois River with a view to removing the dams and securing data upon which to base legislation for a deep channel.

Did Hon. William Elza Williams, a Member of Congress from Illinois, introduce any resolution or bill having for its object any of the matters mentioned above?

Yours, truly,

HENRY T. RAINY.

In response to the above letter of inquiry I received to-day the following letter:

HOUSE OF REPRESENTATIVES UNITED STATES,
DOCUMENT ROOM,
Washington, May 30, 1908.

HON. H. T. RAINY,
House of Representatives, City.

DEAR SIR: I have carefully examined the records of this office on House bill No. 9998, introduced by Hon. W. E. Williams in the Fifty-sixth Congress, and find that nothing was done with it. This bill is a duplicate of House bill No. 9967, Fifty-sixth Congress, also introduced by Mr. Williams. No action was taken on either bill, and these were the only bills introduced by him on this subject.

I inclose copies of bills herewith.

Respectfully,

JOEL GRAYSON,
Special Clerk House Document Room.

The following is a copy of the bill (H. R. 9998) referred to in the above letter:

A bill (H. R. 9998) for the appointment of a commission to investigate the overflow and sanitary effects caused by the Kampsville Dam, on the Illinois River.

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint a commission of three competent engineers, one of whom shall be a sanitary engineer, to make a thorough investigation of the overflow and sanitary effects caused or produced by the Kampsville Dam, on the Illinois River, to the bottom lands in the vicinity of and above said dam, and make a detailed report of such investigation to this House at as early a date as practicable, with all the information obtainable relative to the district affected by such overflow, the extent of the area affected thereby, the effect of such overflow upon the farming interests and health of the people residing in said district, together with a report as to the likelihood or probability of such overflow continuing or increasing to the detriment of the people and property of said district.

SEC. 2. That the sum of \$5,000 is hereby appropriated for the expenses of said investigation, including the personal service of said commission.

I do not reproduce the bill No. 9967, which I have in my possession, for the reason that it is an exact duplicate of the above bill. Both of these bills were referred to the Committee on Interstate and Foreign Commerce. Nothing was done under either of them. The above communication discloses absolutely the falsity of the above statement of Mr. Williams. Mr. Williams continues by saying that "after numerous hearings the bills were favorably reported providing an item in the general rivers and harbors bill for an appropriation of \$225,000 for the preliminary survey, and that report was subsequently adopted and became a law." He then goes on to say that it took three years to complete the survey to which he has referred.

As a matter of fact the deep-waterways survey which was reported was not authorized by anything contained in any river and harbor act or in any legislation passed by the Fifty-sixth Congress. The report of the survey in question is known as Document No. 263 of the first session of the Fifty-ninth Congress. Bearing in mind that Mr. Williams's term in Congress commenced March 4, 1899, and ended March 3, 1901, I here print the letter of the Secretary of War transmitting the above report and a part of the letter of the Chief of Engineers, both of which are printed on the first page of the report above referred to, and all of which show that the survey was author-

ized not by the Fifty-sixth Congress, but by the Fifty-seventh Congress:

LETTER OF THE SECRETARY OF WAR.

WAR DEPARTMENT,
Washington, December 18, 1905.

SIR: I have the honor to transmit herewith a letter from the Chief of Engineers, United States Army, dated December 12, 1905, together with copies of reports of the Mississippi River Commission and a board of engineers dated February 28 and August 26, 1905, respectively, of a survey, with plans and estimates of cost, for a navigable waterway 14 feet deep from Lockport, Ill., by way of Des Plaines and Illinois rivers, to the mouth of said Illinois River, and thence by way of the Mississippi River to St. Louis, Mo., and for a navigable waterway of 7 and 8 feet depth, respectively, from the head of navigation of Illinois River at La Salle, Ill., through said river to Ottawa, Ill., made in compliance with the provisions of the river and harbor act of June 13, 1902.

Very respectfully,

WM. H. TAFT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

LETTER OF THE CHIEF OF ENGINEERS.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, December 12, 1905.

SIR: The river and harbor act approved June 13, 1902, contained an item as follows:

"The sum of \$200,000, or so much thereof as may be necessary, is hereby appropriated for making such surveys, examinations, and investigations as may be required to determine the feasibility of, and to prepare and report plans and estimates of cost of, a navigable waterway 14 feet in depth from Lockport, Ill., by way of the Des Plaines and Illinois rivers, to the mouth of said Illinois River, and from the mouth of the Illinois River, by way of the Mississippi River, to St. Louis, Mo.: *Provided*, That \$25,000 of said sum, or so much thereof as may be necessary, may be expended by the Mississippi River Commission in making surveys, examinations, and investigations herein required from the mouth of the Illinois River to St. Louis: *Provided further*, That the Secretary of War shall appoint a board of three engineers to make the surveys, examinations, and investigations hereinbefore required from Lockport, Ill., through the Des Plaines River and Illinois River, to the mouth of said Illinois River, and that all such surveys, examinations, and investigations shall be made to determine the feasibility of, and to prepare and report plans and estimates of cost of, a navigable waterway 14 feet in depth from Lockport, Ill., to St. Louis, Mo. The said Mississippi River Commission shall make said report covering such proposed improvement from the mouth of the Illinois River to St. Louis, and the said board of engineers shall make such report from Lockport, Ill., to the mouth of the Illinois River: *And provided further*, That the said board of engineers shall also make such surveys, examinations, and investigations as may be required to determine the feasibility of, and to prepare a report and plans and estimates of cost of, a navigable waterway 7 feet in depth and of a navigable waterway 8 feet in depth from the head of navigation of the Illinois River at La Salle, Ill., through said Illinois River to Ottawa, Ill., and said board of engineers shall make such report of said navigable waterways of 7 and 8 feet, respectively, of said Illinois River from La Salle to Ottawa, Ill."

The above extracts are sufficient to show that the claims of Mr. Williams in this particular are also false. I undertake to say that the above bill (H. R. 9998), introduced by Mr. Williams, can not, by the most violent stretch of imagination, be construed as being a bill under which a deep-waterway survey could be authorized. There was, however, a resolution introduced in the Fifty-sixth Congress by Representative LORIMER providing for a deep-waterway survey. It was introduced on March 19, 1900, by him and referred to the Committee on Rivers and Harbors. It is a real deep-waterway resolution, and I herewith print the same for the purpose of showing that under no circumstances could H. R. 9998 be consolidated with it so as to form a basis for any deep-waterway survey:

Joint resolution (H. J. Res. 208) to provide for survey of the Illinois River.

Resolved, etc., That the board of three engineers appointed by the Secretary of War, in pursuance of a paragraph in "An act making appropriation for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved March 3, 1899, to make a survey and estimates of cost of the improvement of the upper Illinois River and the lower Des Plaines River in Illinois, with a view to the extension of navigation from the Illinois River to Lake Michigan at or near the city of Chicago, is hereby authorized and required to report the estimates of cost for a channel 10 feet deep and for a channel 12 feet deep and for a channel 14 feet deep through said proposed route, and that the said estimates cover and include a proper connection at Lockport with the sanitary and ship canal which has been constructed by the sanitary district of Chicago. The said board of engineers is also further authorized and required to make a survey and estimate of cost for the improvement of the lower Illinois River from the end of said proposed route to the mouth of said river, for channels 10, 12, and 14 feet deep, respectively, and to report the estimates of cost thereof. Said surveys and estimates of cost shall be made in pursuance of the provisions contained in the act aforesaid, and the expense for making said reports required by this joint resolution shall be paid out of the appropriation of \$30,000 contained in the paragraph of the act aforesaid.

As a result of the Lorimer bill the following clause was incorporated in the river and harbor act of that year:

Upper Illinois River and Des Plaines River:

That the board of three engineers appointed by the Secretary of War, in pursuance of a paragraph in the river and harbor act approved March 3, 1899, to make a survey and estimates of cost of the improve-

ment of the upper Illinois River and the lower Des Plaines River, in Illinois, with a view to the extension of navigation from the Illinois River to Lake Michigan, at or near the city of Chicago, is hereby authorized to report the estimates of cost for a channel 10 feet deep, and for a channel 12 feet deep, and for a channel 14 feet deep through said proposed route, and that said estimates cover and include a proper connection at Lockport with the sanitary and ship canal which has been constructed by the sanitary district of Chicago. The said board of engineers is also further authorized to make a survey and estimate of cost for the improvement of the lower Illinois River, from the end of said proposed route to the mouth of said river, for channels, 10, 12, and 14 feet deep, respectively, and to report the estimates of costs thereof: *And provided further*, That surveys and estimates of cost shall be made in pursuance of the provisions contained in the act aforesaid, and especially in accordance with section 22 of said act: *And provided further*, That said surveys shall be commenced and the expenses of said surveys and reports shall be paid as follows: Any unexpended balance of the appropriation of \$30,000 not required for the completion of said survey already contained in said act shall be first applied and used, and no further expense shall be incurred for such estimates and surveys without the further direction of Congress, and the Secretary of War shall ascertain and report to Congress what amount of money shall be required to complete said surveys and estimates of costs. (U. S. Stat. L., vol. 31, p. 580, act of June 6, 1900.)

Credit for introducing the original deep-waterway bill in the House of Representatives belongs, however, to the Hon. W. H. Hinrichsen, a Member of the Fifty-fifth Congress, who introduced the following bill in the Fifty-fifth Congress, which was referred to the Committee on Interstate and Foreign Commerce:

Joint resolution (H. J. Res. 236) providing for a survey and estimates for a waterway from the controlling works of the Chicago Drainage Canal, near Lockport, Ill., to the mouth of the Illinois River.

Resolved, etc., That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made and to submit the same, with plans and an estimate of the cost, for a waterway beginning at the controlling works of the Chicago Drainage Canal, near Lockport, in the State of Illinois, and running along the beds of the Des Plaines and Illinois rivers to the point where the latter flows into the Mississippi River, said waterway to provide for a minimum depth of water of 14 feet and a width of channel of not less than 300 feet through the earth sections and not less than 200 feet through the lock sections of said waterway.

The above bill, however, died on the Calendar, and nothing was done with it.

The original bill to remove the locks and dams in the Illinois River was also introduced in the Fifty-fifth Congress by the Hon. W. H. Hinrichsen, Representative from Illinois. The bill reads as follows:

A bill (H. R. 7265) authorizing the State of Illinois to remove certain dams from the Illinois River.

Be it enacted, etc., That the State of Illinois be authorized to remove from the Illinois River the two dams across said river located at the towns of La Grange and Kampsville, in the State of Illinois: *Provided*, That such removal shall be made without expense to the Government of the United States.

The above bill was referred to the Committee on Interstate and Foreign Commerce. Mr. Hinrichsen, with all his great ability and energy, although he was a member of that committee, was unable to get the bill reported, and the records of the committee shows that he worked hard in that matter.

The Hon. William Elza Williams succeeded Mr. Hinrichsen in this body, and although he had before him both of Mr. Hinrichsen's bills introduced on these subjects, he never took the trouble to reintroduce them.

The river and harbor act which was passed during Mr. Williams's term of service, and which contained the clause with reference to a survey, which I have inserted above, was considered at some length in the House of Representatives on May 17, 1900. The discussion with reference to the bill commences on page 5648 of the RECORD of the first session of the Fifty-sixth Congress. A large number of Members of Congress took part in the discussion, but the name of Mr. Williams does not appear in the RECORD.

He was not sufficiently interested in the subject to make even an inquiry about the bill. There was no roll call on the bill, but Mr. Williams was present in the House of Representatives on that day. His presence is evidenced by the fact that on that day he made some remarks, not on the subject of a deep waterway from the Lakes to the Gulf, but on the subject of Territorial government in far-off Alaska. His remarks on this subject commenced on page 5658 of the above volume. I think I have called attention to enough to show that the claims of Mr. Williams in this particular are absolutely without foundation.

THE LOWERING OF THE ILLINOIS RIVER DAMS.

In the extract which I have first inserted above, in disparaging my career in Congress Mr. Williams challenges me to show what I have accomplished in this direction. After showing that he did not accomplish anything and that he did not do what he claims he did in this particular, I accept his challenge most cheerfully, and will proceed to do so.

On the 19th day of November, 1903, I introduced the following joint resolution to remove from the Illinois River the Government dams at Kampsville and La Grange. The resolution

was referred to the Committee on Interstate and Foreign Commerce:

[H. J. Res. 43. Fifty-eighth Congress, first session. In the House of Representatives, November 19, 1903. Mr. RAINEY introduced the following joint resolution; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.]

Joint resolution to remove from the Illinois River the Government dams at Kampsville and La Grange.

Whereas a large amount of water is now admitted into the Illinois River from Lake Michigan through the Chicago drainage channel, rendering it possible to navigate said river without resorting to the slack-water system of navigation heretofore used in said river; and

Whereas the Government dams located at Kampsville and La Grange, Ill., in said river, now cause, on account of the increased volume of water in said river, great damage to many thousand acres of fertile land in the Illinois River Valley; and

Whereas said dams no longer serve a practical or useful purpose in said river: Therefore

Resolved, etc., That the Secretary of War is hereby instructed to proceed immediately to remove said dams from said river, and for this purpose the sum of \$25,000, or so much thereof as may be necessary, is hereby appropriated.

On the same day, and in order to obtain the necessary information upon which to base intelligent action, I introduced the following resolution:

House resolution 26.

Resolved, That the Secretary of War be requested to furnish the Congress with the following information:

First. How much water is now being admitted into the Illinois River per minute through the Chicago Drainage Channel?

Second. How much water will be admitted into the Illinois River when the Chicago River is widened and certain other channels now in process of construction from Lake Michigan are completed?

Third. How much has the water level in the Illinois River been raised by the introduction of water through the Chicago Drainage Channel? How much will it be raised when the full amount of water required by the Illinois drainage act is admitted into the Illinois River?

Fourth. Has the time not arrived when the slack-water system of navigation in the Illinois River ought to be abandoned, and the Government dams at Kampsville and La Grange removed?

Fifth. What will it cost to remove said dams?

Sixth. What will it cost per annum to maintain a 7-foot channel in the Illinois River from La Salle, Ill., to the Mississippi River when 300,000 cubic feet of water per minute is introduced into said river from Lake Michigan, if the dams in said river are removed?

After a number of hearings my resolution was reported out of the committee as House joint resolution 85, which I herewith print, as follows:

[H. J. Res. 85. Fifty-eighth Congress, second session. Report No. 1577. In the House of Representatives, January 22, 1904. Mr. RAINEY introduced the following joint resolution; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed. March 11, 1904, reported with amendments, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.]

Joint resolution to lower the height of the Government dams in the Illinois River at Kampsville and Lagrange two feet.

Resolved, etc., That the Secretary of War is hereby authorized, in his discretion, with the concurrence of the Chief of Engineers, to permit the sanitary district of Chicago, at the expense of said corporation, to lower the height of the Government dams in the Illinois River at Kampsville and Lagrange, Ill., in accordance with such plans as he may prescribe and subject to such stipulations and conditions as, in his judgment, may be necessary to protect the interests of the United States.

The above resolution, as reported, was accompanied by the following report:

[House of Representatives, Report No. 1577, Fifty-eighth Congress, second session.]

LOWERING CERTAIN GOVERNMENT DAMS IN THE ILLINOIS RIVER.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, submitted the following report to accompany H. J. Res. 85:

The Committee on Interstate and Foreign Commerce, to whom was referred House joint resolution 85, recommend that said resolution be amended as follows:

Strike out all after the enacting clause and insert the following: "That the Secretary of War is hereby authorized, in his discretion, to permit the sanitary district of Chicago, at the expense of said corporation, to lower the height of the Government dams in the Illinois River at Kampsville and Lagrange, Ill., in accordance with such plans as he may prescribe, and subject to such stipulations and conditions as in his judgment may be necessary to protect the interests of the United States."

Strike out the preamble.
Amend the title so as to read as follows:
"To authorize the lowering of the height of the Government dams in the Illinois River, at Kampsville and Lagrange."
And that said resolution as thus amended do pass. We attach hereto correspondence relating to the subject-matter of the resolution.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, February 13, 1904.

SIR: I have the honor to return herewith a letter, dated the 25th ultimo, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. J. Res. 85, Fifty-eighth Congress, second session, "Joint resolution to lower the height of the Government dams in the Illinois River, at Kampsville and Lagrange, 2 feet."

The two dams mentioned in the bill were constructed by the United States to improve navigation on the Illinois River, and have made that river navigable at extreme low water. About the year 1900 the sanitary district of Chicago built what is known as the "Drainage Canal" across and through the divide between the Lake Michigan watershed and the Mississippi Valley watershed, and since the completion of this

work a large volume of water has been admitted into the Illinois River, adding at times to the navigable depth of the river. By admitting this water from Lake Michigan it is roughly estimated that the low-water level of the river at the Lagrange dam has been raised about 3 feet, and at the Kampsville dam about 2½ feet.

This raising of the water level, it is claimed, has caused the overflow of quite a large area of low lands, and, as a consequence, damage suits involving very large amounts have been entered against the sanitary district of Chicago. The object of the bill is to authorize the lowering of the dams so as to decrease the water level of the river, thus diminishing the amount of overflow and relieving the sanitary district of Chicago from the losses and expenses incident to the suits.

It is believed that these dams may be lowered to the extent proposed in the bill without serious injury to the interests of existing navigation, provided the work is done in accordance with proper plans and under suitable restrictions. As the conditions which call for this work, however, are due to the acts of the sanitary district of Chicago, and as the result of the said work would be entirely for the benefit of that corporation, I am of the opinion that the cost thereof should not be borne by the United States and that conditions should be introduced leaving it in the power of the War Department to insist upon suitable plans and suitable guaranties against any liabilities for operating the dams in their altered condition.

The sanitary district of Chicago has already applied to the Department for permission to lower these dams at its own expense, and, in my judgment, the only legislation necessary and desirable is such as will confer upon the Secretary of War authority to grant the permission requested. I accordingly recommend that the bill be amended so as to effect this object.

A copy of the bill amended as proposed is herewith and, as thus amended, I make no objection to its favorable consideration by Congress.

Very respectfully, your obedient servant,
A. MACKENZIE,
Brig. Gen., Chief of Engineers, United States Army.

HON. WILLIAM H. TAFT,
Secretary of War.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, February 18, 1904.

MY DEAR SIR: In reply to your letter of the 15th instant in regard to the Government dams in the Illinois River, I have the honor to inform you that the matter has recently been before this office in two forms—one an application from the sanitary district of Chicago for permission to lower the crests of the dams at its own expense; the other a resolution, introduced by Hon. Mr. RAINEY, appropriating \$10,000 for this work and directing the Secretary of War to carry it out.

As the work of building the dams was ordered by Congress it is my opinion that so material a change in the completed dams should receive Congressional sanction, particularly as a resolution to that effect has been introduced. For this reason it was considered best to recommend to the Secretary of War action by amendment to the resolution rather than by approval of the sanitary district's application.

My report on the resolution was sent to the Secretary of War on the 13th instant.

Very respectfully, your obedient servant,
A. MACKENZIE,
Brig. Gen., Chief of Engineers, U. S. Army.

HON. JAMES R. MANN,
House of Representatives.

CHICAGO, March 9, 1904.

DEAR FRIEND: There is now pending before the Interstate and Foreign Commerce Committee, of which you are a member, a resolution asking for the lowering of the two Government dams in the Illinois River, as recommended by the Government engineers.

The passage of this resolution would be a great relief to the sanitary district.

I have looked this proposition over very thoroughly and can fully recommend the measure and would like to have you give it your support.

Yours, very truly,
JOSEPH C. BRADEN,
Chairman Engineering Committee,
Sanitary District of Chicago.

HON. JAMES R. MANN, Washington, D. C.

On the 5th day of April, 1904, I succeeded in getting the resolution up at the second session of the Fifty-eighth Congress. The following is a copy of the record, to wit:

LOWERING THE HEIGHT OF GOVERNMENT DAMS IN THE ILLINOIS RIVER.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 85.

(The Clerk here read House joint resolution 85.)

THE SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. RAINEY. Mr. Speaker, at the request of the gentleman from Ohio [Mr. BURTON] I desire to propose an additional amendment to the bill.

THE SPEAKER. The gentleman from Illinois offers the following amendment to the amendment of the committee, which the Clerk will report: Mr. RAINEY. I offer to amend by inserting in line 5, page 2, after the word "discretion," the words "with the concurrence of the Chief of Engineers."

The clerk read as follows:
"Line 5, page 2, after the word 'discretion,' insert 'with the concurrence of the Chief of Engineers.'"

The amendment to the amendment of the committee was agreed to.

The amendment of the committee as amended was agreed to.

The joint resolution as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

THE SPEAKER. Without objection, the amendment to the preamble will be agreed to.

There was no objection.

The question was taken, and the joint resolution was passed.

On motion of Mr. RAINEY, a motion to reconsider the vote by which the bill was passed was laid on the table.

The title of the bill was amended so as to read: "Joint resolution to authorize the lowering of the height of the Government dams in the Illinois River at Kampsville and Lagrange."

The above resolution passed the Senate and was approved April 21, 1904, is now a law, and the following is a copy of it: Public resolution No. 26.—Joint resolution to authorize the lowering of the height of the Government dams in the Illinois River at Kampsville and Lagrange.

Resolved, etc., That the Secretary of War is hereby authorized, in his discretion, with the concurrence of the Chief of Engineers, to permit the sanitary district of Chicago, at the expense of said corporation, to lower the height of the Government dams in the Illinois River at Kampsville and Lagrange, Ill., in accordance with such plans as he may prescribe and subject to such stipulations and conditions as, in his judgment, may be necessary to protect the interests of the United States.

Approved, April 21, 1904.

Under the above law obtained by me the Government dams have been lowered 2 feet, and under the above law they may be taken out entirely if authorized by the Secretary of War. Legislation on that matter is now complete, and it is only necessary to get the authority of the Secretary of War to entirely remove both Government dams. I submit that I have met the challenge of the gentleman to show what I have done about the matter of lowering the dams since I have been in Congress. The above record proves itself and demonstrates that the author of the article I am answering is guilty of a falsehood.

DREDGING HAMBURG BAY.

I quote again from the article I am discussing. In an attempt to disparage my service in Congress Mr. Williams proceeds to say:

I secured the incorporation of an item in the rivers and harbors bill providing an appropriation of \$15,000 for the dredging of Hamburg Bay, etc.

This statement is absolutely false. No such appropriation ever appeared in any rivers and harbors bill. Upon this question yesterday I addressed to the Chief of Engineers of the War Department the following letter:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., May 29, 1908.

CHIEF OF ENGINEERS,
War Department, Washington, D. C.:

SIR: Please advise me whether there was any legislation in the Fifty-sixth Congress providing for an appropriation of \$15,000 for the dredging of any portion of Hamburg Bay, Illinois.

Please advise me whether any dredging has been done in Hamburg Bay by virtue of any legislation adopted by the Fifty-sixth Congress.

Please advise me whether any law has carried an item of \$15,000 or any sum for the dredging of Hamburg Bay from the beginning of the Fifty-sixth Congress to date.

Very truly, yours,

HENRY T. RAINEX.

To the above letter I received the following answer, which ought of itself to be conclusive as to the matter.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, May 29, 1908.

Hon. HENRY T. RAINEX,
United States House of Representatives.

DEAR SIR: Replying to your inquiry of this date, I have to advise you that a somewhat hasty search of the records of this office discloses no specific sum of money ever appropriated for Hamburg Bay, Calhoun County, Ill., but that locality was referred to by name and made a possible participant in the distribution of the general appropriations for the Mississippi River in 1886, 1888, and 1902.

Very respectfully,

SAMUEL S. LEACH,
Acting Chief of Engineers.

The item referred to in the above letter as being in the rivers and harbors bill of 1902 is as follows:

Hamburg Bay is hereby included and is made a part of the general project for the improvement of the Mississippi River. (U. S. Stat. L., vol. 32, pt. 1, p. 386 (act of June 13, 1902).)

The above item, which is the last item carried in the rivers and harbors bill for Hamburg Bay—except an appropriation, afterwards obtained by me, providing for a survey of the bay—was obtained during the service of Congressman T. J. Selby, who succeeded Mr. Williams in Congress. Mr. Selby introduced a bill for the purpose of improving Hamburg Bay.

On the 26th day of March, 1900, Mr. Williams did introduce a bill for the purpose of making an appropriation for dredging Hamburg Bay, which was referred to the Committee on Rivers and Harbors and was never heard from again.

In order to find out what became of this bill, I addressed the following letter to the superintendent of the document room of the House of Representatives, and received a reply as to the fate of the above bill, and as to the fate of another bill introduced by Mr. Williams:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., May 30, 1908.

SUPERINTENDENT OF DOCUMENTS,
House of Representatives, Washington, D. C.

SIR: Please examine the records and files of your office and advise me whether any favorable report was ever made on any resolution or bill introduced by Hon. William Elza Williams in the Fifty-sixth Congress for the dredging of Hamburg Bay, Illinois.

Please advise me what disposition was made of bills for public buildings introduced in the Fifty-sixth Congress.

What was done in the Fifty-sixth Congress with any bill introduced in that Congress for a public building at Jacksonville, Ill.?

Yours, truly,

HENRY T. RAINEX.

The following is the reply to the above letter:

HOUSE OF REPRESENTATIVES, UNITED STATES,
DOCUMENT ROOM,
Washington, May 30, 1908.

Hon. H. T. RAINEX,
House of Representatives, City.

DEAR SIR: I have carefully examined the records of this office on House bill No. 9997, Fifty-sixth Congress, introduced by Hon. W. E. Williams, and find that nothing was done with it. This bill is a duplicate of House bill No. 9968, and no other bills were introduced by Mr. Williams on this subject than these. No action was taken on either bill. I inclose copies of bills herewith.

Respectfully,

JOEL GRAYSON,
Special Clerk, House Document Room.

The following bill was attached to the above letter:

A bill (H. R. 9997) making appropriation for dredging Hamburg Bay. *Be it enacted, etc.,* That the sum of \$50,000 be, and the same is hereby, appropriated for the purpose of dredging Hamburg Bay, a tributary of the Mississippi River, in Calhoun County, Ill.

I regret that Hamburg Bay remains unimproved. The provision in the law of 1902 has so far been disregarded by the Engineers, and that legislation has now been abandoned and revoked by Congress. I, however, introduced as a preliminary for the improvement of Hamburg Bay the following resolutions:

House resolution 456.

Resolved, That the Secretary of War be directed to make a survey of Hamburg Bay, in Calhoun County, Ill., or so much thereof and of so much of the adjacent territory thereto as may be necessary in order to ascertain the best method of preventing the formation of the bar at the mouth of said Hamburg Bay, which bar is now caused by the deposit brought into said bay by Fox Creek, a small stream in Calhoun County, Ill., flowing into the mouth of said bay. And the Secretary of War is requested in said survey to ascertain and to report upon the propriety of diverting the flow of said stream through an artificial channel so that the same shall flow into the Mississippi River and not into Hamburg Bay as now. And the Secretary of War is requested to suggest and report as to the best method of improving and developing said bay, so far as the removal of said bar is concerned, and he is requested to report as to the cost of said improvements to said bay with all convenient speed.

House resolution 25.

Resolved, That the Secretary of War be requested to furnish the Congress with an estimate of the expenses that will be incurred if Fox Creek, a small stream which flows into Hamburg Bay, in Calhoun County, Ill., is diverted so that it will flow directly through an artificial channel into the Mississippi River; and also an estimate of the expense of dredging the bar formed by said Fox Creek at the entrance to Hamburg Bay, a tributary of the Mississippi River in Calhoun County, Ill.; and also that he be requested to report as to the desirability of said above improvements and as to the best manner of providing against the formation of a bar at the entrance to said Hamburg Bay, and the expense of the same, and the expense per annum of keeping said bay open for navigation.

As a result of the above bills, the rivers and harbors bill of March 3, 1905, contained a provision providing for a survey of Hamburg Bay, inserted in the bill at my solicitation. Since that time a careful survey has been made. The report is now printed and is known as Document No. 577 of the first session of the Fifty-ninth Congress.

While the report shows that the cost would be very great in order to make this proposed improvement, I still hope to be able to get a provision in the next bill for changing the course of Fox Creek and getting the bar removed from the mouth of the bay. If my project is carried out, great benefits will result not only to that section of Calhoun County, but to all land embraced within the limits of the great Sny levee district in Illinois, which district drains into Hamburg Bay. I therefore submit that I have proven by the records the absolute falsity also of the above claim of Mr. Williams with reference to Hamburg Bay.

PUBLIC BUILDING AT JACKSONVILLE.

In a further attempt in disparagement of my record and comparing it with his own while a Member of the Fifty-sixth Congress, Mr. Williams proceeds in the article to say:

I also secured a favorable report from the Committee on Public Buildings for an appropriation of \$50,000 for the erection of the post-office building at Jacksonville recently completed in that city.

The above statement is as devoid of truth as any of the other statements to which I have called attention.

The public building at Jacksonville was authorized during the service in Congress of Hon. T. J. Selby, a Member of the Fifty-seventh Congress, who succeeded Mr. Williams. I received to-day the following telegraphic statement from Mr. Selby with reference to the above contention:

HARDIN, ILL., May 29, 1908.

To the Hon. H. T. RAINEX, M. C.,
Washington, D. C.:

The bill authorizing the public building in Jacksonville was introduced by me and passed in the Fifty-seventh Congress.

T. J. SELBY.

To anyone who knows Ex-Congressman Selby the above answer would be amply sufficient. I, however, addressed to Maj. Alexander McDowell, the Clerk of the House of Representatives, the following letter:

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D. C., May 29, 1908.

Maj. ALEXANDER McDOWELL,
Washington, D. C.

SIR: Please advise me whether any public buildings in the United States were authorized as a result of any bill introduced in the Fifty-sixth Congress.

Since the expiration of the life of the Fifty-sixth Congress has any bill for a public building and site at Jacksonville, Ill., been introduced, and if so, in what Congress was it introduced and what Representative introduced the same?

When, during what Congress, and under what bill was the public building at Jacksonville, Ill., authorized? When was the bill reported and when did it pass?

Yours, truly,

HENRY T. RAINEY.

To which I received to-day the following reply:

CLERK'S OFFICE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., May 30, 1908.

Hon. HENRY T. RAINEY,
House of Representatives.

DEAR SIR: Replying to your favor of yesterday, asking me whether any public buildings in the United States were authorized as a result of any bill introduced in the Fifty-sixth Congress, I would say "No."

In reply to your inquiries as to whether since the expiration of the life of the Fifty-sixth Congress has any bill for a public building and site at Jacksonville, Ill., been introduced, and if so, in what Congress was it introduced and what Representative introduced the same, and, again, when, during what Congress, and under what bill was the public building at Jacksonville, Ill., authorized? When was the bill reported and when did it pass? I would say that on January 8, 1902, Mr. Selby introduced a bill for a building and site for Jacksonville, Ill., for \$100,000. On April 26, 1902, Mr. Mercer, then chairman of Committee on Public Buildings and Grounds, introduced an omnibus public building bill, which carried an appropriation of \$60,000 for Jacksonville, Ill. This bill was reported to the House on April 28, 1902.

This bill became a law on June 6, 1902. It was not amended in the Senate.

Yours, truly,

A. McDOWELL,
Clerk House of Representatives.

I also obtained from the document room of the House of Representatives in this connection the following letter:

HOUSE OF REPRESENTATIVES UNITED STATES,
DOCUMENT ROOM,
Washington, D. C., May 30, 1908.

Hon. H. T. RAINEY,
House of Representatives, City.

DEAR SIR: I have carefully examined the records of this office on House bill No. 6238, Fifty-sixth Congress, introduced by Hon. W. E. Williams, and find that no action was taken on it, and this was the only bill on the subject introduced by Mr. Williams.

I inclose copies of bill.

Respectfully,

JOEL GRAYSON,
Special Clerk, House Document Room.

The bill attached to the above letter was the following bill:

A bill (H. R. 6238) for the purchase of a site and the erection of a public building at Jacksonville, Ill.

Be it enacted, etc., That the Secretary of the Treasury be, and is hereby, authorized and directed to purchase a site for a suitable building, with fireproof vaults therein, for the accommodation of the post-office and other Government offices, at Jacksonville, Ill., and cause such building to be erected thereon. The plans, specifications, and full estimates of said building shall be previously made and approved according to law and shall not exceed, for the site and building complete, the sum of \$150,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than 40 feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for the said building shall be vested in the United States, nor until the State of Illinois shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

I have now disposed of all the contentions contained in Mr. Williams's letter as to what he accomplished in Congress, and to which he calls attention in his attempt to disparage what I have tried to do, except that in the article I am answering he claims that he secured the passage of all pension legislation to which he was entitled to in the Fifty-sixth Congress.

In this connection I call attention to the following confession of failure on the part of Mr. Williams. On February 8, 1901 (twenty-three days before the expiration of his term of office), at the second session of the Fifty-sixth Congress, page 2169 of the CONGRESSIONAL RECORD, in discussing the pension bill of Don Farrington, Mr. Williams said:

A CONFESSION OF FAILURE.

My district has been in the unfortunate habit for several years past of "swapping horses," as it were, every two years. There have not been a half dozen private pension bills passed for ten years for the benefit of that district. And yet it should not be forgotten that as many men responded to the country's call and went into the service of the Army during the war as from any other district in Illinois. We have not been here, as many Members have, asking the passage of private pension bills session after session. This is the third one reported

favorably during my term, and with the prospects in that district for the next ten years we will likely suffer the same default that we have suffered in the past.

THE EXTRA SESSION MILEAGE IN THE FIFTY-EIGHTH CONGRESS.

There were three sessions of the Fifty-eighth Congress. The law provides that mileage at the rate of 20 cents a mile for each session of Congress for each mile traveled in coming to Washington and going home again, shall be allowed Members of Congress as part compensation. The seventeenth section of the act of Congress of 1866 is the only act now in force upon this subject, and that act gives to a Member of Congress his salary, and mileage "as additional compensation." I have never voted to increase my own salary directly or indirectly, nor to increase any of the allowances fixed by law to a Congressman. Neither have I voted to increase the salary or allowance of any other official or employee of the National Government at any time. There are usually two sessions in every Congress. There were three sessions in the Fifty-eighth Congress. I voted for the mileage allowed me by law at each session of the Fifty-eighth Congress. There were three sessions in the Fifty-third Congress, and three sessions in the Fifty-fifth Congress. Mileage was allowed for each session during both the Fifty-third and Fifty-fifth Congresses.

President Cleveland called an extra session of the Fifty-third Congress June 30 to convene August 7, 1903. The Members of that Congress were paid mileage for three sessions, to wit, \$130,000 paid the Members of the House each of said sessions, and the members of the Senate \$45,000 each session. (See vol. 28, Stat. L., pp. 11, 19.)

President McKinley called an extraordinary session for the Fifty-fifth Congress in March, 1897. Mileage was paid the Members for three sessions of said Congress, to wit: \$130,000 for each of the three sessions for the Members of the House and \$45,000 for the members of the Senate for said sessions.

These appropriations for mileage were made for the three sessions of the Fifty-third and Fifty-fifth Congresses under the laws as they now stand, and approved by the two Presidents. No one has ever questioned the right to receive said mileage or the law under which payment was made.

Certain State officers and county officers are allowed a salary and mileage. They collect their salary and charge mileage whenever they serve a writ on a witness or a defendant living 20 or any number of miles from the office of the official serving the writ, and if the writ is served within the office of the official serving it, he is allowed mileage to the residence of the witness or defendant and charges it and collects it. It is part of his compensation. He is entitled to it. The same rule applies to Members of Congress. I voted for the mileage the law clearly gave me.

It is impossible for a Member of Congress to collect even his salary without voting for an appropriation bill making the necessary appropriation. This was what I did in all three sessions of the Fifty-eighth Congress.

On account of this vote I have been subjected in Mr. Williams's article to a most malicious attack. As a Member of the Fifty-sixth Congress the RECORD shows that he voted for his mileage for all the sessions of that Congress and collected the same.

The objection usually made, and the objection Mr. Williams makes to a vote for the mileage of the first session of the Fifty-eighth Congress is that there was only an interval of a few minutes between the two sessions of Congress. That the first session adjourned and within a few minutes thereafter the second convened, and that inasmuch as it was impossible for a Member of Congress to go home in the interval, and inasmuch as they did not go home, they had no moral right to vote for mileage they did not earn by going home.

Admitting that there is force in the argument as applied to other Members who voted for the mileage, there is absolutely no force in the argument as applied to me. I went home immediately before the commencement of the second session of Congress, getting back just in time to be there at the convening of the session. I effected a pair with a Republican Member of Congress, and took one week to make the trip. The record shows the above fact.

Admitting everything that the most violent and unreasonable opponent of the mileage system can say about the matter, I was wholly justified in voting for the measure.

The extra-session mileage was never paid. No Member of Congress ever collected a dollar of it. Mileage was only paid for two sessions during the Fifty-eighth Congress. It was understood in the House when the vote was taken on the proposition of making an appropriation for the mileage of the first session that the Senate would not pass the bill, and Members of Congress who voted for it voted for it believing that they were

voting within their rights, and knowing they would never get it.

The whole mileage system is wrong. It dates back to stage-coach days. No man can now expend 20 cents a mile for travelling expenses, and for that reason the act of 1866 is explicit and allows 20 cents a mile by the nearest traveled route each way as "additional compensation" to Members of Congress. I believe that nothing but actual traveling expenses ought to be allowed. It was understood by many when the vote was taken that if it passed the House a proceeding would be brought to establish the legal status of the mileage question, inasmuch as the Senate would refuse at that session to pass the appropriation. It was believed that the matter would be brought before the Court of Claims in order to once and for all time determine what construction should be placed upon the act of 1866. For that purpose soon afterwards a suit was brought in the Court of Claims by John F. Wilson, Delegate from the Territory of Arizona in the Fifty-eighth Congress.

The case is now pending in the Court of Claims and has gone over to the October term. The case is known as No. 29799. I am quite confident that this court will hold in October of this year that mileage under the law is "additional compensation," and that the Members of the Fifty-eighth Congress were entitled to mileage for three sessions of Congress. I might add that whenever this question has been presented on a point of order in the House it has been held that mileage is "additional compensation," and in the Fifty-eighth Congress two different occupants of the chair held as a matter of law that Members were entitled to the extra-session mileage. I have given the facts and data in the matter, and what I have said can be easily verified.

The extra-session mileage vote was severely criticised in articles furnished at that time by Walter Wellman to the Chicago Record-Herald, and in the Chicago Tribune, and in Collier's Magazine. The articles from the Tribune and Record-Herald were widely copied, and the articles from these papers were copied in the Commoner without comment.

Under the above circumstances and under the law, I contend that my vote for the mileage I never received was entirely justified.

There were three sessions in the Fifty-eighth Congress. The RECORD for each session is bound separately and is designated as "First Session," "Second Session," "Third Session."

All documents, bills, orders, and acts of said Congress were named and designated as of the "first session," or, if they were printed during the second session, they were designated as of the "second session," and the same holds true of the "third session."

A miserable attempt is made in the article attacking me on this question to show that the Commoner commented unfavorably upon my vote, and two alleged extracts are copied from the Commoner without calling attention to the papers where those extracts appear, thus making it almost impossible for a person desiring to ascertain whether the articles really appeared in the Commoner or not to locate the articles.

The first alleged Commoner article is to be found in the Commoner of March 17, 1905, on page 2. A comparison of the article in the Commoner with the alleged copy of the same appearing in Mr. Williams's article will show that the copy appearing in Mr. Williams's article is garbled, incorrect, parts of it have been omitted, and he has made it appear that it is the Commoner's article, when, in fact, it is a reprint without comment in the Commoner of an article which appeared in the Chicago Tribune.

The second alleged Commoner article appearing in Mr. Williams's attack on me can be found in the Commoner of March 24, 1905, on page 5. A comparison of the real article with the alleged Commoner article will show that what appeared in the Commoner simply purports to be a copy of a part of Walter Wellman's letter to the Chicago Record-Herald. This article, however, as given in the attack on me is garbled, is not a copy of the article appearing in the Commoner, and wholly misrepresents the matter in concealing the fact that it is a copy of the article of Walter Wellman which appeared in the Record-Herald.

The statement that in the Commoner, immediately following the last alleged extract from the same, there appears a roll of dishonor in which is printed my name is absolutely false.

Any reference to the Commoner of that date—and I have given the date above—will show it to be false.

I have not attempted to secure favorable newspaper comment. I have simply discharged my duty as a Member of Congress. In the discharge of my duty I have secured my full share of favorable comment. The editor of the Commoner is my ideal

among all the statesmen of the present day, and I appreciate his good opinion more than the good opinion of any other living man. I have done what I could to advance his candidacy for the Presidency. I have made the fights for the things he stands for in my own State, at his request. In the Peoria convention of two years ago, together with Judge Thompson and others, I made the fight on the floor of the convention for the things Mr. Bryan stood for, while the gentleman who writes the article attacking me under Mr. Bryan's name remained in the background and questioned the propriety of making the fight at that time. The fact that he is making this bitter attack against me now has some connection with his attitude in that convention.

I am willing to agree never again under any circumstances to be a candidate for Congress if it can be shown to me that my candidacy in the past has not met with the approval of Mr. Bryan. Since voting for mileage for all the three sessions of the Fifty-eighth Congress I have been twice indorsed by my party. The mileage question was an issue in the election four years ago and cut no figure whatever. Every man against whom the attack was made, either in the Democratic or Republican party, succeeded in securing his party indorsement by a large majority. Since the vote Mr. Williams complains of was cast, I have been elected to Congress twice—once as the only Democratic Member of Congress from the entire State of Illinois, and in that capacity I served all through the sessions of the Fifty-ninth Congress.

Inasmuch as the position of Mr. Bryan's paper with reference to my candidacy has been mentioned, I might call attention to some of the complimentary articles appearing in that journal since the Fifty-eighth Congress, when the three sessions of Congress were held.

In the Commoner of March 27, 1907, page 4, there is a complimentary notice covering more than an entire page of the Commoner having reference to one of my speeches in Congress. In the Commoner of April 12, 1907, on page 14, is another extended complimentary notice. In the Commoner of April 20, 1906, on page 6, is a complimentary notice of one of my speeches covering an entire page. And there are numerous other complimentary notices of my efforts as a Member of Congress. The notices to which I have called attention and other notices are too long to be inserted here. I, however, insert at this point the following short notice, which appears in the Commoner of November 2, 1906, on page 3:

RAINEY OF ILLINOIS.

Commoner readers in every State will be interested in the contest in the Twentieth Illinois district. HENRY T. RAINEY now represents that district in Congress, and he is the Democratic nominee this year. Mr. RAINEY is the gentleman who made the admirable speech on the tariff in which he paid special attention to the watch trust. This speech was reported in the Commoner and attracted widespread attention at the time. Mr. RAINEY is now serving his second term in Congress. He is now a member of the following committees: Labor, Irrigation, Pacific Railroads, Enrolled Bills.

He was one of the four Democrats on the Labor Committee who caught the Republicans when they were unprepared and reported out the eight-hour bill with the recommendation that "it do pass." The bill was reported out on his motion. At the time the motion was made there were present three Republicans and four Democrats. All the Democrats voted for it. The Republicans voted against it. Seven however, was a quorum of the committee. The Speaker of the House did not permit the measure to come before the House. Mr. RAINEY made speeches in Congress on the following subjects: Against a ship subsidy; in favor of railroad rate regulation; in favor of a deep waterway from the Lakes to the Gulf; acceptance of statue of Frances E. Willard, placed in Statuary Hall by the State of Illinois; on the subject of a statue to the memory of John Paul Jones, and in the closing days of the last session of the last Congress two speeches on the watch trust.

His district extends along both sides of the Illinois River, almost from Peoria to Alton; also extends for 60 or 70 miles along the Mississippi River. He is giving the subject of river improvement (particularly the question of a 14-foot channel from Chicago to the Gulf) special attention.

Mr. RAINEY has been a faithful servant of the people, and he deserves to be reelected by a rousing majority. (Commoner, Nov. 2, 1906, p. 3.)

THE SALARY INCREASE.

After establishing so thoroughly my assailant's lack of veracity I hesitate to go into this subject. It seems almost unnecessary to pay further attention to any other false and malicious statements made in the article in question. I voted against the increase in Members' salaries. I am recorded as voting against it. The vote was taken in the House on December 14, 1906, page 389 of the RECORD of the second session of the Fifty-ninth Congress. I voted against it, and am so recorded. The matter came up again in the second session of the Fifty-ninth Congress on January 18, 1907. It was considered in connection with a Senate amendment to the legislative appropriation bill. There were a number of calls for the yeas and nays. I was on

my feet, with others, demanding the yeas and nays. The Speaker put the usual request—that all who were in favor of demanding the yeas and nays “should rise, and remain standing until counted.” I stood and was counted among those standing. A sufficient number did not join in the request.

The yeas and nays were refused, and no other opportunity than this was given any Member to vote against the proposition. I voted against it; I could do no more. Mr. Williams insists that the salaries should have been increased, but he objects to the fact that they were increased. I did not favor the increase, at that time, of Members' salaries. I do not know what else I could have done in opposition to the bill than what I actually did in that Congress.

All Members of Congress are drawing their salary at the increased rate under the law as it now stands, and all Members of the next Congress, whether they were opposed to the increase or not, will draw salaries at the increased rate.

Injunctions by Federal Courts.

SPEECH

OF

HON. ROBERT L. HENRY,
OF TEXAS.

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. HENRY of Texas said:

Mr. SPEAKER: The President, many Senators of the United States, and a multitude of Representatives believe that inferior Federal judges should be curbed in relation to issuing restraining orders and injunctions. There is a widespread sentiment throughout the country that such legislation is necessary, and there has been and is now a strong popular demand for a law governing the issuance of restraining orders and injunctions. On the 10th day of April, 1906, it was my proud privilege to introduce the first bill amending the statutes in relation to granting restraining orders and injunctions by Federal courts. Since then many Representatives of both parties have introduced measures substantially like the one presented by me. At each session of Congress since that time it has been my privilege to reintroduce the same bill. The original bill read as follows:

A bill (H. R. 17976) in relation to granting restraining orders and injunctions.

Be it enacted, etc., That no writ of injunction or temporary restraining order shall be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same: *Provided,* That nothing herein contained shall be held to authorize the issuance of any injunction or restraining order not now authorized by law.

H. R. 69 is identically the same bill, and was introduced by me at the beginning of the Sixtieth Congress.

On April 3, 1893, Circuit Judge Taft, now Secretary of War and probable nominee for the Presidency, rendered the following opinion in what is known as the “Ann Arbor case:”

DECISION OF JUDGE TAFT.

(United States circuit court for the northern district of Ohio, western division.)

The Toledo, Ann Arbor and North Michigan Railway Company, complainant, v. The Pennsylvania Company et al., defendants.

Before Taft, circuit judge, and Ricks, district judge. April 3, 1893.

The opinion of the court was delivered by—

TAFT, Circuit Judge.

This is a motion by the complainant, the Toledo, Ann Arbor and North Michigan Railway Company, for a temporary injunction—to remain in force pending this action—against P. M. Arthur, the chief executive of the Brotherhood of Locomotive Engineers and a defendant herein, to restrain him from issuing, promulgating, or continuing in force any rule or order of said Brotherhood which shall require or command any employees of any of defendant railway companies herein to refuse to handle and deliver any cars of freight in course of transportation from one State to another, to the complainant, or from refusing to receive and handle cars of such freight which have been hauled over complainant's road, and also from in any way, directly or indirectly, endeavoring to persuade or induce any of the employees of the defendant railway companies, whose lines connect with the railroad of complainant, not to extend to said company the same facilities for interchange of interstate traffic as are extended by said companies to other railway companies. A temporary restraining order to this effect was issued by me against Arthur ex parte. A hearing has since been had, and the question now is whether, on the evidence produced, the order shall be continued in force until the final decision of the case.

The original bill was filed against eight railway companies and the superintendents of two of them, and averred that the defendants who were operating lines of railway connecting with that of the complainant company at Toledo had threatened to refuse to receive from and to deliver to the complainant company interstate freight, on the ground that their locomotive engineers, who were members of the Brotherhood, would refuse to haul or handle the same, because complainant employed on its line engineers who were not members of the Brotherhood; and

the bill further averred that if the threat was carried out, it would work an irreparable injury to the complainant, for which damages could not be estimated, and the law afforded no adequate remedy. The prayer of the bill was for an order enjoining the defendant companies, their employees and servants, from refusing to receive and deliver complainant's interstate freight. A temporary order as prayed for was issued by Judge Ricks. An amendment to the bill was afterwards filed making two new defendants, P. M. Arthur and F. P. Sargent. Sargent it subsequently appeared, was a nonresident of the district, and the bill as against him was dismissed for want of jurisdiction.

As to Arthur, the amendment charges that he, as chief of the Brotherhood, exercises a controlling influence upon its members in all matters treated by its rules and regulations; that one of its rules requires all its members in the employ of any railway company, whenever an order to that effect shall be given by its said chief officer, to refuse to receive, handle, or carry cars of freight from any other railroad company whose employees, members of said association, have engaged in a strike; that such a strike has been declared against the complainant by the members of the Brotherhood, with Arthur's consent and approval; that Arthur now publicly announces that unless complainant shall submit to the demands of its striking employees, he will order the rule above stated enforced; that the rule is in direct contravention of the interstate-commerce law and is intended to induce the employees of the defendant companies to violate that law and the previous order of this court; and that Arthur, with others, is conspiring to that end.

The jurisdiction of this court to hear and decide the case made by the bill can not be maintained on the ground of the diverse citizenship of the parties, for the complainant and at least one of the defendants are citizens of the same State. If it exists, it must arise from the subject-matter of the suit. The bill invokes the chancery powers of this court to protect the complainant in rights which it claims under the act of Congress passed February 4, 1887 (24 Stat. L., 529), known as the interstate-commerce act, and an act amending it passed March 2, 1889 (25 Stat. L., 855). These acts were passed by Congress in the exercise of the power conferred on it by the Federal Constitution (Art. I, sec. 8, par. 3) “to regulate commerce with foreign nations, among the several States, and with the Indian tribes.” Counsel for defendant Arthur contend that the interstate-commerce law and its amendments are only declaratory of the common law which gave the same rights to complainant, and that, therefore, this is not a case of Federal jurisdiction. The original jurisdiction of this court extends by act of Congress passed August 13, 1888 (25 Stat. L., 433), to “all suits of a civil nature, at common law or in equity, where the matter in dispute exceeds, exclusive of interest and costs, the sum or value of \$2,000 and arising under the Constitution or laws of the United States.” The bill makes the necessary averment as to the amount in dispute. It is immaterial what rights the complainant would have had before the passage of the interstate-commerce law. It is sufficient that Congress, in the constitutional exercise of power, has given the positive sanction of Federal law to the rights secured in the statute, and any case involving the enforcement of those rights is a case arising under the laws of the United States.

The Brotherhood of Locomotive Engineers is an association, organized in 1863, whose members are locomotive engineers in active service in the United States, Mexico, and the Dominion of Canada. Their number is 35,000. The engineers engaged with the defendant companies are, most of them, members of the Brotherhood. The purpose of the Brotherhood is declared in its constitution to be, “More effectually to combine the interests of locomotive engineers, to elevate their standing as such and their character as men.” These ends are sought to be obtained by requiring that every member shall be a man of good moral character, of temperate habits, and a locomotive engineer in actual service with a year's experience, and by imposing the penalty of expulsion upon any member guilty of disgraceful conduct or drunkenness, or neglect of duty, or injury to the property of the employer, or of endangering the lives of persons. A mutual insurance association is supported in connection with the Brotherhood, in which every member is required to carry a policy, and there is an efficient employment bureau for the members. A strong and complete organization is maintained for the systematic government of the Brotherhood, and its rules are well adapted to establishing and carrying out general and local plans with respect to the terms of employment of its members. Submission to these plans when once adopted by a requisite vote is required of every member on penalty of expulsion. The management of controversies with employer companies is immediately with a chairman of a standing general adjustment committee for the particular railroad system involved, and afterwards with the grand chief. The grand chief has large judicial and executive powers. He is the ultimate authority always called in to adjust differences between members and their employer, and he is the one to whom appeals are made to settle disputes arising between members and subdivisions. He is also the head of the insurance company.

Early last month the superintendent of complainant company refused to grant a demand by its engineers for higher wages. After some unsuccessful attempts at negotiation Arthur, who had been called in, consented to the strike which had previously been voted by two-thirds of the Brotherhood men in complainant's employ. As soon as the men went out, on March 7, Arthur sent to eleven chairmen of the general adjustment committees on as many different railroad systems in Ohio and the neighboring States the following dispatch:

“There is a legal strike in force upon the Toledo, Ann Arbor and North Michigan Railroad. See that the men on your road comply with the laws of the Brotherhood. Notify your general manager.”

A “legal” strike, in Brotherhood parlance, means one consented to by the grand chief. His consent is necessary under the rules of the order to entitle the men thus out of employment to the three months' pay allowed to striking members. Arthur admits that the particular law to which he referred in this dispatch was one adopted by the Brotherhood at Denver three years ago, but which is not published in the printed copy of the constitution and by-laws. It is as follows:

“12th. That hereafter, when an issue has been sustained by the grand chief and carried into effect by the B. of L. E., it shall be recognized as a violation of obligation for a member of the Brotherhood of Locomotive Engineers' Association who may be employed on a railroad running in connection with, or adjacent to, said road to handle the property belonging to said railroad or system in any way that may benefit said company in which the B. of L. E. is at issue until the grievance or issue of whatever nature or kind has been amicably settled.”

It is quite clear from the evidence that “a violation of obligation” is the highest offense of which a member can be guilty and merits expulsion. In obedience to Arthur's direction, it appears that several

general managers were notified of the intention to enforce the rule. Watson, the chairman of the adjustment committee of the Lake Shore system, sent the general manager of that system the following telegram:

"We ask you, in the interests of peace and harmony, not to ask your engineers to handle Toledo, Ann Arbor and North Michigan freight business after 6 o'clock March 8, as the engineers and firemen of said road go out on a strike."

Through the intervention of the Ohio labor commissioner, William Kirkby, negotiations for an adjustment began between Arthur and the local Brotherhood committee on the one side and the complainant on the other. Kirkby refused to take part until the embargo laid on complainant's freight was raised. Accordingly, on March 11, in Arthur's absence, his assistant sent in Arthur's name the following dispatch to chairmen of adjustment committees:

"Pending negotiations with the president of the Toledo and Ann Arbor road, resolution 12, page 45 of ritual, is suspended. In case negotiations fail you will be promptly notified."

Arthur says that he did not know of this dispatch when sent, but that he subsequently approved it. On March 13, as a result of the negotiations referred to in the telegram of March 11, the following paper was signed by Arthur and others for the striking engineers:

"We, the undersigned, late employees of the motive-power department of the Toledo and Ann Arbor Railroad, have authorized our chief executive officers to withdraw the embargo against connecting roads. Should we be reinstated, we hereby agree, each for himself, to submit to William Kirkby, railroad commissioner, as our representative in all matters of grievances touching orders issued by officials, with authority to confer with Governor Ashley, president of the Toledo and Ann Arbor Railroad, and we hereby agree to abide by their concurrent decision. This will also include the return of the men without prejudice and the rates of pay to be agreed upon."

A schedule of wages was agreed upon, but the negotiations were subsequently broken off because the striking engineers refused to consent to a requirement that applications in writing should be made for employment by each of their number. Thereupon, on March 16, Arthur sent to the committee chairmen the following dispatch:

"All efforts to effect an honorable settlement of the grievances of the engineers and firemen on the Toledo, Ann Arbor and North Michigan Railroad have failed. See that your men comply with the laws of the Brotherhood. Notify your general manager."

The result of this was that engineers, members of the Brotherhood, did refuse to handle complainant's freight on connecting lines for a short time, and in several instances quit the service rather than to do so. On the 17th of March the temporary restraining order issued by me and above referred to was served on Arthur. He was therein commanded to rescind any order he might have promulgated to engineers on connecting lines to refuse to handle complainant's freight. Under advice of counsel he obeyed, and sent a dispatch to committee chairmen rescinding his previous dispatch of March 16. This had the effect to lift the "embargo," so called.

The result of this evidence is that the members of the Brotherhood of Locomotive Engineers have by the adoption of rule 12 made an agreement among themselves that whenever any of their comrades, with the consent of Arthur, leave the employ of one company because the terms of employment are unsatisfactory, the members employed by companies operating connecting lines will inflict an injury on the first company by preventing as far as possible the first company from doing any business as a common carrier involving the interchange of freight with connecting lines. The engineers of the connecting lines are to effect this purpose, first, by refusing to handle the freight of the offending company, and, second, if necessary, by quitting the service to avoid handling it, in order that the connecting companies, by fear of the evil effect of a strike upon their own business, will be compelled to join with their engineers in a refusal to handle the offending company's freight and inflict the injury, which is the main purpose of the combination. In this connection should be noted in Arthur's telegrams of March 7 and 16, directing the enforcement of rule 12, the significance of the sentence, "Notify your general manager," and the language of Watson's dispatch to the general manager of the Lake Shore system. These notifications were threats to the connecting companies which it was hoped would lead them to assist in injuring the complainant company. No such notice was thought necessary when rule 12 was suspended.

Rule 12 is not operative until a strike has been declared with the consent of Arthur. Arthur states that there is nothing in the rules requiring him to communicate with the committee chairmen as he did and that the rule would execute itself. But it is obvious that as under the rule he must declare a strike "legal" before its consequences follow, he is the person upon whom devolves the task of authoritatively advising the rest of the Brotherhood through their immediate chairmen that the time has come for the enforcement of the rule and the injury of the offending company. That he and the members of the Brotherhood recognize this as a necessity is clear from the evidence of Watson and what actually occurred here. On March 8 the rule was enforced by his order. On March 11 the rule was suspended by an order issued in his name. On March 16 the rule was again enforced by telegraphic order from him, and upon March 18 the enforcement of the rule was again suspended. Arthur says that neither he nor his assistant had power, under the constitution and by-laws of the Brotherhood, to suspend the enforcement of rule 12, and that the dispatch of March 11 doing so was an unconstitutional assumption of power on his part. We are not called upon to construe the constitution and laws of the Brotherhood except so far as they reflect on the actual power exercised by Arthur in the enforcement of rule 12. It suffices to say that so much of the governing law of the Brotherhood as we have seen invests Arthur with wide powers and a great influence over the actions of his subordinates and the Brotherhood members, and that in the practical exercise of power he has twice both directed and suspended the enforcement of rule 12.

It will be convenient in discussing the question whether any relief can properly be given to complainant Arthur to consider rule 12 and the acts done or to be done in pursuance thereof, first, in the light of the criminal law; second, with reference to their character as civil wrongs, and, third, with reference to the remedies which a court of equity may afford against them.

First. The complainant and defendant companies are common carriers subject to the provisions of the interstate-commerce act, and the business exchanged between them is averred by the bill to be nearly all interstate freight. The second paragraph of the third section of the act provides that—

"All common carriers subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and

equal facilities for the interchange of traffics between their respective lines, and for the receiving, forwarding, and delivery of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines." (24 Stat. L., 379.)

In view of the foregoing section, it needs no argument to demonstrate that one common carrier is expressly required by the interstate-commerce act to freely interchange interstate freight with another when their lines connect.

Section 10 of the act as amended (25 Stat. L., 855) provides that— "Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, or lessee, agent, or person, acting for or employed by such corporation, who, alone, or with any other corporation, company, person, or party, * * * shall willfully omit or fail to do any act, matter, or thing in this respect required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done, not to be done, or shall aid or abet such omission or failure, * * * shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed be subject to a fine of not to exceed \$5,000."

By the foregoing section, a common carrier who is not a corporation is made liable criminally for violations of the interstate-commerce law. But when the carrier is a corporation and violates the law, not the corporation, but its officers, agents, and persons acting for or employed by it, who do the wrongful work, are made liable. (In re Peasley, 44 Fed. Rep., 271.) The corporation is made civilly liable under section 8.

As every locomotive engineer of defendant companies is "a person employed by" a common carrier corporation, subject to the provisions of the interstate-commerce law, he is guilty of the offense described and subject to the penalty imposed by section 10, if he, while acting as engineer for his corporation, refuses to handle interstate freight for the complainant, and thereby, in his discharge of a function of the company, willfully omits to do an act required by the law to be done; and it is immaterial whether what he does or fails to do in violation of the statute is with or without the orders of his principal. (United States v. Tozer, 37 Fed. Rep., 635.)

Arthur and all the members of the Brotherhood engaged in enforcing rule 12, and in thereby aiding and abetting every such engineer to violate the section, are equally guilty with him as principals (United States v. Snyder, 14 Fed. Rep., 554); and they are thereby also guilty of conspiring to commit an offense against the United States and subject to the penalties of section 5440, Revised Statutes (United States v. Stevens, 44 Fed. Rep., 132).

But suppose that this view of section 10 is erroneous, and that the words "person acting for or employed by such corporation" refer only to its managing officer or agent, the enforcement of rule 12, with its evident purpose, would still be a violation of law. For even then it is quite clear that anyone, though not an officer or agent, successfully aiding, abetting, or procuring such officer or agent to violate the section, would be punishable under it as a principal. Thus in *The United States v. Snyder* (14 Fed. Rep., 554), under a statute making it a crime for a postmaster to render a false report to the Government of his receipts, one who aided, abetted, and procured a postmaster to send such a report was found guilty as principal of violating the statute, and the conviction was sustained by Judges McCrary and Nelson, in an opinion citing authorities fully justifying their conclusion.

It is therefore evident that Arthur and the other members of the brotherhood, if successful in procuring the managing officers of the defendant companies to refuse to handle interstate freight from complainant company, would be guilty of violating section 10, and punishable as principals thereunder.

Section 5440, Revised Statutes, provides that—

"If two or more persons conspire * * * to commit any offense against the United States * * * and one or more parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty of not more than \$10,000, or to imprisonment for not more than two years, or to both fine and imprisonment, in the discretion of the court."

All persons combining to carry out rule 12 of the brotherhood against the complainant company, if any one of them does an act in furtherance of the combination, are punishable under the foregoing section. This is true, because, as already shown, the object of the conspiracy is to induce, procure, and compel the managing officers of the defendant companies to refuse equal facilities to the complainant company for the interchange of interstate freight, which, as we have seen, is an offense against the United States by virtue of section 10 above quoted. For Arthur to send word to the committee chairmen to direct the men to refuse to handle interstate freight of complainant and to notify the managing officers of the defendant companies with the intention of procuring them to do so, all in execution of rule 12, is an act in furtherance of the conspiracy to procure the managing officers of the defendant companies to commit a crime and subjects him and all conspiring with him to the penalties of section 5440, Revised Statutes. Again, for the men, in furtherance of rule 12, either to refuse to handle freight or threaten to quit, or actually to quit, in order to procure or induce the officers of the defendant companies to violate the provisions of the interstate-commerce law, would constitute acts in furtherance of the conspiracy which would render them also liable to the penalty of the same section.

But it is said that it can not be unlawful for an employee either to threaten to quit or actually to quit the service when not in violation of his contract, because a man has the inalienable right to bestow his labor where he will, and to withhold his labor as he will. Generally speaking, this is true, but not absolutely. If he uses the benefit which his labor is or will be to another, by threatening to withhold it or agreeing to bestow it, or by actually withholding it or bestowing it, for the purpose of inducing, procuring, or compelling that other to commit an unlawful or criminal act, the withholding or bestowing his labor for such a purpose is itself an unlawful and criminal act. The same thing is true with regard to the exercise of the right of property. A man has the right to give or sell his property where he will, but if he give or sell it or refuse to give or sell it, as a means of inducing or compelling another to commit an unlawful act, his giving or selling it or refusal to do so is itself unlawful.

Herein is found the difference between the act of the employees of the complainant company in combining to withhold the benefit of their labor from it, and the act of the employees of defendant companies in combining to withhold their labor from them; that is, the difference between the strike and the boycott. The one combination, so far as its

character is shown in the evidence, was lawful because it was for the lawful purpose of selling the labor of those engaged in it for the highest price obtainable and on the best terms. The probable inconvenience or loss which its employees might impose on the complainant company by withholding their labor would, under ordinary circumstances, be a legitimate means available to them for inducing a compliance with their demands. But the employees of defendant companies are not dissatisfied with the terms of their employment. So far as appears, those terms work a mutual benefit to employer and employee. What the employees threaten to do is to deprive the defendant companies of the benefit thus accruing from their labor in order to induce, procure, and compel the companies and their managing officers to consent to do a criminal and unlawful injury to the complainant. Neither law nor morals can give a man the right to labor or withhold his labor for such a purpose.

It may be noted in passing that the enforcement of rule 12 presents a much stronger case of illegality than the ordinary boycott. As usually understood, a boycott is a combination of many to cause a loss to one person, by coercing others, against their will, to withdraw from him their beneficial business intercourse through threats that unless those others do so the many will cause similar loss to them. Ordinarily, when such a combination of persons does not use violence, actual or threatened, to accomplish their purpose, it is difficult to point out with clearness the illegal means or end which makes the combination an unlawful conspiracy, for it is generally lawful for the combiners to withdraw their intercourse and its benefits from any person and to announce their intention of doing so, and it is equally lawful for the others, of their own motion, to do that which the combiners seek to compel them to do. Such combinations are said to be lawful conspiracies, though the acts in themselves and considered singly are innocent, when they are done with malice, i. e., with the intention to injure another without lawful excuse. See the judgment of Lord Justice Bowen in *Mogul Steamship Company v. McGregor, Gow & Co.* (L. R., 23 Q. B. D., 298); *Walker v. Cronin* (107 Mass., 515); *Casey v. Typographical Union* (45 Fed. Rep., 135); *Steamship v. McKenna* (30 Fed. Rep., 46); *State v. Glidden* (55 Conn., 76); *State v. Stewart* (59 Vermont, 273); *Crump v. Commonwealth* (84 Va., 927); *State v. Donaldson* (32 N. J. L., 151); *Carew v. Rutherford* (106 Mass., 1); *Moore v. Bricklayers' Union* (23 Weekly Law Bulletin, 48). But in the case at bar, although malice is certainly present, the illegality of the combination does not consist alone in that, for both the means taken by the combination and its object are direct violations of both the civil and the criminal law as embodied in a positive statute. Surely it can not be doubted that such a combination is within the definition of an unlawful conspiracy, recognized and adopted by the Supreme Court of the United States in *Pettibone v. United States* (decided March 6, 1893), to wit: "A combination of two or more persons by concerted action to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful by criminal or unlawful means."

We have thus considered with some care the criminal character of rule 12 and its enforcement, not only because, as will presently be seen, it assists in determining the civil liabilities which grow out of them, but also because we wish to make plain, if we can, to the intelligent and generally law-abiding men who compose the Brotherhood of Locomotive Engineers, as well to their usually conservative chief officer, what we can not believe they appreciate, that notwithstanding their perfect organization and their charitable, temperance, and other elevating and most useful purposes, the existence and enforcement of rule 12, under their organic law, make the whole brotherhood a criminal conspiracy against the laws of their country.

Second. We now come to the character of rule 12 and its enforcement as a civil wrong to complainant. Lord Justice Fry said, in case of the *Mogul Steamship Company v. McGregor, Gow & Co.* (L. R., 23 Q. B. D., 598, 624):

"I can not doubt that whenever persons enter into an indictable conspiracy, and that agreement is carried into execution by the conspirators by means of an unlawful act or acts which produce private injury to some person, that person has a cause of action against the conspirators. (See also *Buffalo Lubricating Oil Co. v. The Standard Oil Company*, 106 N. Y., 609; *Steamship v. McKenna*, 30 Fed. Rep., 46; *Carew v. Rutherford*, 106 Mass., 1; *Moore v. Bricklayers' Union*, 23 Weekly Law Bulletin, 48.)"

Under the principle above stated, Arthur and all the members of the Brotherhood engaged in causing loss to the complainant are liable for any actual loss inflicted in pursuance of their conspiracy.

The gist of any such action must be, not in the combination or conspiracy, but in the actual loss occasioned thereby. No civil liability arises simply because of the rule 12 or its attempted enforcement unless injury is done.

Ordinarily the only difference between the civil liability for acts in pursuance of a conspiracy and for acts of the same character done by a single person is in the greater probability that such acts when done by many in a combination will cause injury. If a single engineer of one of defendant companies, acting alone, and with intent to injure the complainant, should actually cause the complainant loss by refusing to handle its interstate freight, complainant could maintain a right of action against him for damages. The refusal on his part would be a wrongful and illegal act under the interstate-commerce law, and as said by Lord Justice Brett in *Bowen v. Hall* (6 Q. B. D., 333, 337):

"Whenever a man does an act which in law and in fact is an unlawful act, and such act as may, as a natural and probable consequence of it, produce injury to another, and which in the particular case does produce such an injury, an action on the case will lie."

And so, if a single engineer, with intent to injure complainant, could, by threatening to quit or by actually quitting for the purpose, procure or induce the defendant company in whose employ he is actually to inflict a loss upon complainant by unlawfully refusing to interchange interstate freight, complainant could hold him civilly liable for the loss.

By section 8 of the interstate-commerce law the complainant is expressly given a cause of action in damages against any connecting common carrier company for such a loss, and it is clear upon the authorities that anyone intentionally procuring the connecting company to inflict such loss would be equally liable. Thus, in *Walker v. Cronin* (107 Mass., 515), the supreme judicial court of that State sustained an action for damages by the plaintiff, who was a shoe manufacturer, against the defendant for inducing plaintiff's employees to break their contracts of service with him, to his injury. In *Lumley v. Wagner* (2 Ellis & Blackburn, 215) it was held that the plaintiff could recover damages from the defendant for procuring a third person, with whom the plaintiff had made a contract, to break the contract, when such procuring was with the intention of injuring the complainant. The same principle was announced in *Bowen v. Hall* (6

Q. B. D., 333, 337), and has since been followed in other cases; and the doctrine has been applied even where there was no binding contract, but only the probability that one, though not binding, would be performed. (See *Rice v. Manley*, 66 N. Y., 82, and *Burton v. Pratt*, 2 Wend., 385.)

If a person, with rights secured by a contract, may in case of loss recover damages from one not a party to the contract, who, with intent to injure him, induces a breach of it, *a fortiori*, can one whose rights are secured by statute recover damages from a person who with intent to injure him procures the violation of those rights by another and causes loss?

The difficulty in supposing or stating any civil liability when the acts we have been discussing are done by a single engineer is in the improbability that either by singly refusing to handle the freight he could cause any injury to complainant, or by singly threatening to quit, or by quitting, he could procure his company to do so. But when we suppose that all or nearly all the engineers on the eight different defendant companies combine with their chief to do these unlawful acts for the purpose of injuring complainant the intended loss becomes not only probable but inevitable.

Third. Having thus shown that Arthur and all the members of the Brotherhood with him, conspiring by enforcing rule 12 to injure complainant, will be liable in damages to complainant for any loss they may thereby occasion, the question remains, Can equity afford any relief by preliminary injunction to prevent the loss?

We shall be assisted in answering the question by considering, first, what the court may do by injunction against the defendant companies and against the engineers under the averment of the bill that the defendant companies threaten to refuse to interchange freight with complainant because of the refusal of their engineers to handle it.

The office of a preliminary injunction in equity is to preserve the status quo until, upon final hearing, the court may grant full relief. Generally this can be accomplished by an injunction prohibitory in form, but it sometimes happens that the status quo is a condition not of rest, but of action, and that the condition of rest is exactly what will inflict the irreparable injury upon complainant which he appeals to a court of equity to protect him from. In such a case courts of equity issue mandatory writs before the case is heard on its merits. (*Robinson v. Lord Byron, Brown's Ch. Cases*, 588; *Lane v. Newdigate*, 10 Vesey, 192; *Hervey v. Smith, 1 Kay & Johnson*, 392; *Beadle v. Perry*, L. R., 3 Eq., 465; *London & Northwestern Railway Company v. The Lancashire and Yorkshire Railway Co.*, L. R., 4 Eq., 174; *Whitcar v. Michenor*, 37 N. J., Eq., 6; *Brown v. N. Y. & N. J. Co.*, 42 N. J., Eq., 141.)

Now the normal condition—the status quo—between connecting common carriers under the interstate-commerce law is a continuous passage of freight backward and forward between them, which each carrier has a right to enjoy without interruption, exactly as riparian owners have a right to the continuous flow of a stream without obstruction. Since Lord Thurlow's time the preliminary injunction has been used to keep clear the stream. (*Robinson v. Lord Byron*, 1; *Brown's Ch. C.*, 588; *Lane v. Newdigate*, 10 Vesey, 192.)

So an obstruction to the flow of interstate freight must be preliminarily enjoined, even though it requires a mandatory injunction. The quasi public nature of the duty to be performed by the common carriers and the irreparable character of the injury likely to result are ample grounds for this. The interstate-commerce law recognizes the necessity for such a remedy, for in summary equity proceedings at the instance of the Interstate Commerce Commission, provided by section 16 as amended in 1889, express power to issue injunctions, mandatory or otherwise, to prevent violations of the orders of the Commission, is given to circuit courts. Moreover, by a subsequent section, upon the application of an interested person, the district and circuit courts may issue a mandamus to compel compliance by the common carrier with the provisions of the act. As this latter proceeding is denominated cumulative in the statute, it does not prevent the remedy by injunction; nor would it in any event, because the inadequacy of the legal remedy which justifies equitable intervention by injunction is only the inadequacy of a recovery in damages by action at law. (*Attorney-General v. Mid-Kent Railway Co.*, L. R., 3 Ch., 100.)

As against the defendant companies, the complainant is, therefore, clearly entitled to a preliminary mandatory injunction to compel them, pending the hearing, to discharge the duties imposed by the interstate-commerce law and to exchange with complainant interstate freight. This was expressly decided by Judge Love, of the Iowa district, in a well-considered opinion in the case of the *C. B. & Q. R. Co. v. The Burlington, C. R. & N. Ry. Co. et al.* (34 Fed. Rep., 481.) And in analogous cases, where it has been sought to enforce the common-law obligation of a common carrier, the preliminary mandatory injunction has frequently issued. Thus in the case of *Coe v. The Louisville & Nashville R. R.* (3 Fed. Rep., 775) Judge Baxter issued a preliminary mandatory injunction to compel the defendant railroad company to deliver and receive cattle at a particular cattle yard. (See also *Chicago & A. Ry. Co. v. The New York, L. E. & W. Ry. Co.*, 24 Fed. Rep., 516; *Wolverhampton & Walsall Ry. Co. v. The London & Northwestern Railway Co.*, L. R., 16 Eq., 433; *Denver & N. O. R. R. Co. v. The Atchafalaya, T. & S. R. R. Co.*, 15 Fed. Rep., 650; *Scofield v. The Lake Shore and Michigan Southern Ry. Co.*, 43 O. S., 571.)

If a preliminary mandatory injunction may issue against the defendant companies to prevent irreparable injury, it may certainly issue against their officers, agents, employees, and servants. This is the usual form of the writ of injunction to prevent a trespass, a nuisance, waste, or other inequitable act. Mr. Kerr says, in his work on injunctions, 559:

"Though an injunction restraining the act complained of is claimed against the defendant alone, the order will, if necessary, be extended to his servants, workmen, and agents; and it is, of course, to insert these words. (Foster on Federal Practice, 1st ed., 234; 2 Daniels Ch. Pr., 5th Amer. ed., 1673; Seton's Decrees, 4th ed., 173; Lord Wellesly v. The Earl of Mornington, 11 Beavan, 180; Hodson v. Coppard, 29 Beavan, 4; Mexican Ore Company v. Guadalupe Mining Company, 47 Fed. Rep., 351, 356.)"

The necessity for inserting the words in the injunction issued against the defendant companies in the present case was made apparent by the averment of the bill that they had threatened to refuse to handle complainant's freight because of the unwillingness of their engineers to handle it. Mandatory as well as prohibitory injunctions have frequently been made to run against the defendant, his agents, servants, and workmen. In *Smith v. Smith* (L. R., 20 Eq., 500), Sir George Jessel, M. R., issued a mandatory injunction requiring the defendant to take down a wall which obstructed the light, and that injunction ran against the defendant, his contractors, builders, agents, and workmen. (See Seton on Decrees, 4th ed. from the 4th Eng.

ed., 89.) A similar mandatory decree was entered against the defendant, his servants, etc., from permitting an obstruction to the flow of water in a stream to continue on his lands. (Seton on Decrees, 103; *Ivimey v. Stocker*, L. R., 1 Ch., 496.)

This form of injunction against a corporation is generally necessary in order to enable the court to enforce its writ. A corporation acts only through its officers and employees, and it is through them only that its action can be restrained or compelled. While doing the work of the company, the employee is the company, and having notice of a mandate from a court of competent jurisdiction as to how that work must be done, he must in his work obey the mandate. Especially is this true with respect to employees of common-carrier corporations subject to the interstate-commerce law. They are fully identified with their employer in the discharge of its public functions. When doing the work of the corporation they are made criminally liable for disobeying the commands of the law to the corporation.

Nor is it an objection to granting complainant this equitable relief directly against the servants of defendant companies that the latter will be bound under the mandate of the court to discharge servants refusing to obey the law and the order of court. The complainant is not required to await this action on the part of the defendant companies or to suffer the delay which a refusal by the servants may entail. Such a refusal will be no defense to the defendant companies (*C. B. and Q. R. R. Co. v. The Burlington, C. R. and N. Ry. Co.*, 34 Fed. Rep., 481), but this is far from saying that the court may not, in complainant's interest, direct its process at once against all assuming to act for defendant companies in their business.

Nor is the mandatory injunction against the servants an enforced specific performance of personal service. It is only an order restraining them, if they assume to do the work of the defendant companies, from doing it in a way which will violate not only the rights of the complainant, but also the order of the court made against their employers to preserve those rights.

They may avoid obedience to the injunction by actually ceasing to be employees of the company. Otherwise the injunction would be in effect an order on them to remain in the service of the company; and no such order was ever, so far as the authorities show, issued by a court of equity. It is true that if they quit the service of the company in execution of rule 12, in order to procure or compel defendant companies to injure the complainant company, they are doing an unlawful act, rendering themselves liable in damages to the complainant, and they may be incurring a criminal penalty, as already explained; but, no matter how inadequate the remedy at law, the arm of a court of equity has never been extended by mandatory injunction to compel the performance of personal service as against either the employer or the employee. (*Stocker v. Brockenbank*, 3 Mac. and G., 250; *Johnson v. Shrewsbury Railroad Company*, 3 DeGex, M. and G., 914; *Pickering v. The Bishop of Ely*, 2 Y. and C. C., 249; *Lumley v. Wagner*, 1 De Gex, M. and G., 604.) The reason is obvious. It would be impracticable to enforce the relation of master and servant against the will of either. Especially is this true in the case of railway engineers, where nothing but the most painstaking and devoted attention on the part of the employee will secure a proper discharge of his responsible duties. It would even seem to be against public policy to expose the lives of the traveling public and the property of the shipping public to the danger which might arise from the enforced and unwilling performance of so delicate a service.

We finally reach the question whether Arthur can be enjoined from ordering the engineers to carry out rule 12. That he intends to enforce the rule if not enjoined is not denied. If, as we have seen, the injury intended is of such a character that the court may issue its mandatory injunction against the engineers to prevent them from inflicting it, Arthur may certainly be restrained by prohibitory injunction from ordering them to inflict it. Arthur's order, if issued, will be obeyed, because the penalty of disobedience is expulsion from the Brotherhood. The many engineers who serve the defendant companies will refuse to handle the complainant's freight. The defendant companies will probably be coerced thereby to refuse complainant's freight, for the bill avers that they have threatened to do so. The interstate business of complainant will be interrupted and interfered with at every hour of the day and at every point within a radius of many miles, and all because of Arthur's order. The injury will be irreparable, and a judgment for damages at law will be wholly inadequate. The authorities leave no doubt that in such a case an injunction will issue against the stranger who thus intermeddles with and harrasses complainant's business.

In *Sherry v. Perkins* (147 Mass., 212) the officers of a trade union were enjoined by the supreme judicial court of Massachusetts from displaying in front of plaintiff's premises a banner announcing a strike and requesting workmen to stay away. This was said to cause an injury of such a continuing character as to make it a nuisance. So in *Springhead Spinning Company v. Riley* (L. R., 6 Eq., 551), a case presenting facts exactly like those in *Sherry v. Perkins*, an injunction was allowed. In *Casey v. Typographical Union* (45 Fed. Rep., 135) Judge Sage granted an injunction against the members of a typographical union who had instituted a boycott against a newspaper, and who were attempting to drive away business from it by threatening its subscribers and advertisers to boycott them in case they continued their patronage. In *Emack v. Paine* (34 Fed. Rep., 47), Judge Blodgett granted an injunction against persons who, by threatening infringement suits without any intention of bringing them, were attempting to interfere with plaintiff's enjoyment of his lawful patent. And in *Coeur d'Alene Consolidated and Mining Company v. Miners' Union* (51 Fed. Rep., 260) Judge Beatty enjoined the members of a union from intimidating plaintiff's workmen and thereby preventing them from continuing in its employ. Arthur's proposed invasion of complainant's rights, in the means to be adopted and the character of the injury intended, is quite like the wrongs enjoined in the cases just cited.

It would seem from the foregoing authorities that we may enjoin Arthur from directing the engineers to quit work for the purpose of coercing the defendant companies to violate the law and complainant's rights. Though we can not enjoin the engineers from unlawfully quitting, it does not follow that we may not enjoin Arthur from ordering them to do so. An injunction in this form, however, has not been asked and we need not decide the question.

The rule that equity will not enjoin a crime has here no application. The authorities where the rule is thus stated are cases where the injury about to be caused was to the public alone, and where the only proper remedy, therefore, was by criminal proceedings. When an irreparable and continuing unlawful injury is threatened to private property and business rights, equity will generally enjoin on behalf of the person whose rights are to be invaded, even though an indictment on behalf of

the public will also lie. (See the cases cited in sec. 20 of High on Injunctions.)

We have thus far considered the right of the complainant to an injunction in an independent suit against Arthur. But the case as presented to this court is far stronger. Here a mandatory writ was actually issued against the defendant railroad companies and their employees restraining them from refusing to interchange with complainant interstate freight. Subsequently Arthur was made a defendant by amendment to the bill, which advised the court that he, as the chief of an unlawful conspiracy to injure the complainant by destroying its interstate business, had just issued or was about to issue an order to the engineers in the employ of the defendant companies not to handle complainant's freight, and that, if issued, Arthur's order was more likely to be obeyed than the injunction of the court then in force. Is it possible, in such a case, that a court of equity must remit the complainant to an action at law for the injuries which Arthur's unlawful order will certainly cause, and that the court must await in silence the defeat of its own injunction? The putting of the question answers it. It is the duty of the court promptly to prevent, at all hazards, the probable obstruction to its main injunction, by auxiliary injunctive process, and if such obstruction has actually been interposed, to remove it by the same means.

On this ground the court was fully justified in restraining Arthur as it did from continuing in force any order he might have issued in conflict with the previous order of the court. This was mandatory, but it was necessary to secure the enforcement of the court's previous order and to preserve the status quo. Had the order of Arthur, then in force, been allowed to continue, future equitable relief would have been unavailing. A rescission of his order could work injury to no one. Mandatory injunctions issue under such circumstances. Mr. High states the rule as follows in his work on injunctions, section 2:

"And when there is a willful and unlawful invasion of plaintiff's right, against his protest and remonstrance, the injury being a continuing one, a mandatory injunction may issue in the first instance. (See *Robinson v. Lord Byron*, 1 Brown's Ch. C., 588; *Hervey v. Smith*, 1 Kay & J., 392; *Lane v. Newdigate*, 10 Vesey, 192; *Whitcar v. Michener*, 47 N. J. Eq., 6; *Broome v. New York & N. J. Co.*, 42 N. J. Eq., 141; *Beadle v. Perry*, L. R., 3 Eq., 465; *L. & N. Ry. Co. v. The L. & Y. Ry. Co.*, L. R., 4 Eq., 174.)"

Arthur says that when he sent out his telegraphic instructions to the members of the Brotherhood on March 16 he had no knowledge of the injunction of this court against defendant companies and their employees, issued on the 11th. This is surprising, in view of the interest he had in the subject and the wide publicity given to the injunction.

His knowledge of the injunction would be quite material in a proceeding against him for contempt or in a criminal prosecution of him for conspiring to defeat the administration of justice in the United States courts (*Pettibone v. United States*, *ubi supra*), but it was not material here. The fact that his order actually nullified the order of the court and was continuing to do so was enough to justify the court in compelling him to rescind it.

The temporary injunction will be allowed as prayed for.

WM. H. TAFT, Circuit Judge.

On Tuesday, January 28, 1908, following up the bill theretofore introduced by me, I delivered in the House of Representatives the following remarks in regard to curbing the power of Federal judges:

MR. CHAIRMAN: For the purpose of calling attention of the country to a few matters now pending before Congress, I take the floor this morning. The gentleman from Iowa [Mr. HULL] said the Republican party in due time would revise the tariff, but would do it along protective lines. If we mistake not the rumblings from Iowa and other States, the people of this Republic will revise it sooner than that, and it will be along the lines of old-fashioned Democracy, following the flag of the Democratic nominee, William J. Bryan. [Applause on the Democratic side.]

This plea for postponement of the tariff issue is in the nature of an application for continuance in a criminal case—hoping that if the continuance be granted the evil day of punishment may not come. They think that a postponement now may indefinitely prevent tariff reform.

However, these are not the questions I have arisen to present this morning. It is now manifest that the Republican party has no intention of enacting any legislation at this session, except the usual appropriation bills. There will be an effort to pass some sort of currency legislation, but from the deadlock exhibited on this floor between members of the Committee on Banking and Currency, it is apparent that no two of these gentlemen agree upon common ground.

Mr. Chairman, there are certain people whom we choose to call the laboring classes in this country who have been clamoring at the doors of Congress for years for legislation along certain lines. They have appealed to the Speaker of the House, to the Committee on Rules, the only powers that can open the doors of relief to them; they have besought the Committee on the Judiciary and other committees. So far no relief has been given them, no encouragement has met their just demands. The first question I propose to discuss this morning is that of limiting the power of Federal judges in the issuance of temporary restraining orders and injunctions. For years the laboring people have appealed to Congress, and particularly to the Judiciary Committee, and no committee secrets are disclosed in making the statement. Their demands have been just and reasonable. I discuss them not because this is class legislation, but because it is just legislation that should be enacted in the interest of the whole people. Session after session bills have been introduced and referred to that committee and other committees, but they have been silently pigeonholed and never reported back to the House.

Is this legislation just? Is it something that is reasonable? Mr. Chairman, it is legislation that should be passed, and I only take the floor this morning because these bills have been introduced from time to time and no attention has been paid to them by this body. The honor was mine to introduce some of the measures, and let me call attention to the provisions contained in one of these bills. One of them reads as follows:

"That no writ of injunction or temporary restraining order shall be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same: *Provided*, That nothing herein contained shall be held to authorize the issuance of any injunction or restraining order not now authorized by law."

Mr. Chairman, substantially that language was the law of the country for seventy-nine years. In the act of 1791 it was provided that notice should be given by Federal judges before the issuance of temporary restraining orders and injunctions. In 1872 Congress passed an act which eliminated the provision requiring notice in injunction proceedings, and since that time Federal judges have held their star chamber sessions and have issued their temporary restraining orders and injunctions without any sort of notice to the adverse party or his attorney. This manifest defect should be remedied by an act of Congress. Are you ready and are you willing to pass legislation, not only for the benefit of the laboring people who have demanded it, who have been tyrannized over by injunction suits, who felt the sting of unjust government by injunction, but are you ready to give it to the American people? This bill has been introduced by me at several sessions of Congress. There have been other bills introduced. The gentleman from Kansas [Mr. CAMPBELL] has introduced one along the same line and still the Speaker and the authorities of this House turn a deaf ear to such legislation. Secretary Taft, seeing the impending storm, has sought cover, and now tries to face about and win back those he unjustly oppressed while he was Federal judge. He says in a letter to the Ohio labor organizations:

"Second. You ask me what I think of a provision that no restraining order or injunction shall issue except after notice to the defendant and a hearing is had. This was the rule under the Federal statutes for many years, but it was subsequently repealed. In the classes of cases to which you refer I do not see any objection to the reenactment of that Federal statute. Indeed, I have taken occasion to say in public speeches that the power to issue injunctions ex parte has given rise to certain abuses and injustices to the laborers engaged in a peaceful strike. Men leave employment on a strike, counsel for the employer applies to a judge, and presents an affidavit averring fear of threatened violence and making such a case of the ex parte statement that the judge feels called upon to issue a temporary restraining order. The temporary restraining order is served upon all the strikers; they are not lawyers; their fears are aroused by the process with which they are not acquainted, and, although their purpose may have been entirely lawful, their common determination to carry through the strike is weakened by an order which they have never had an opportunity to question, and which is calculated to discourage their proceeding in their original purpose. To avoid this injustice I believe, as I have already said, that the Federal statute might well be made what it was originally, requiring notice and a hearing before an injunction issues."

"Third. In answer to your third question, it would seem that it is unnecessary to impose any limitation as to the time for a final hearing if before an injunction can issue at all notice and hearing must be given. The third question is relevant and proper only should the power of issuing ex parte injunctions be retained in the court. In such cases I should think it eminently proper that the statute should require the court issuing an ex parte injunction to give the person against whom the injunction was issued an opportunity to have a hearing thereof within a very short space of time, not to exceed, I should say, three or four days."

Gentlemen, will you heed the voice of the people? If not, the time will come when they will be accorded this relief. I don't know whether it will be at the hands of a Republican Administration or at the hands of a Democratic Administration, but as certain as we live such legislation will be enacted.

Mr. GAINES of Tennessee. Why was the law changed?

Mr. HENRY of Texas. The gentleman from Tennessee asks me why the old law was changed. I have investigated that and find that when the statutes were recodified it was left out, as it has been since stated, inadvertently, and that it was not done intentionally. Yet during all this time the omission has remained upon the statutes, although session after session bills have been introduced and Representatives have come before the Judiciary Committee and have asked for relief.

Mr. Chairman, this is manifestly a just proposition. Let me give you the precise language of the act of March 2, 1793, and show that I have only provided for reenacting the law as it once existed. The Clerk will read the section I have marked.

The Clerk read as follows:

"Sec. 5. And be it further enacted, That writs of ne exeat and of injunction may be granted by any judge of the Supreme Court in cases where they might be granted by the Supreme or a circuit court; (a) but no writ of ne exeat shall be granted unless a suit in equity be commenced, and satisfactory proof shall be made to the court or judge granting the same, that the defendant designs quickly to depart from the United States; nor shall a writ of injunction be granted to stay proceedings in any court of a State; nor shall such writ be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same."

Mr. HENRY of Texas. In order to parallel the old law with the present law, let the Clerk read section 719 of the Revised Statutes, which shows the provisions requiring notice to have been eliminated.

The Clerk read as follows:

"Sec. 719. (Injunctions.) Writs of injunction may be granted by any justice of the Supreme Court in cases where they might be granted by the Supreme Court; and by any judge of a circuit court in cases where they might be granted by such court. But no justice of the Supreme Court shall hear or allow any application for an injunction or restraining order in any cause pending in the circuit to which he is allotted, elsewhere than within such circuit or at such place outside of the same as the parties may stipulate in writing, except when it can not be heard by the circuit judge of the circuit or the district judge of the district. And an injunction shall not be issued by a district judge, as one of the judges of a circuit court, in any case where a party has had a reasonable time to apply to the circuit court for the writ; nor shall any injunction so issued by a district judge continue longer than to the circuit court next ensuing, unless so ordered by the circuit court."

Mr. HENRY of Texas. Mr. Chairman, there is no demand for radical legislation, nor are the people who have come before the Judiciary Committee asking for that kind. They would be satisfied with a reenactment of the statute that was law for seventy-nine years, which requires notice by a Federal judge before an injunction issues.

Mr. DRISCOLL. Will the gentleman yield for a question?

Mr. HENRY of Texas. Yes.

Mr. DRISCOLL. I heard the bill read. I want to ask the gentleman if he would in all cases insist that a notice be first served before an injunction or a restraining order be granted?

Mr. HENRY of Texas. I certainly would, because it was the law for seventy-nine years and worked well.

Mr. DRISCOLL. I will submit this proposition which came to me and of which I know, as I was the attorney in it. Suppose a man got title to a piece of land with a mortgage and the building is being removed

off the land, which is practically all the value there is in it. Say that the building is being moved on rollers, etc., would you say the man who held the mortgage, practically owning the land, should be required to go to a judge and have him issue notice and serve notice on the party before he could restrain him from moving off that building? Would that be right or fair?

Mr. HENRY of Texas. Every State in this Union has laws against stealing horses, cattle, or any other property, and so they have against such an offense as that and covering all kinds of trespasses against property and persons.

Mr. DRISCOLL. There are many other ways in which said damage can be done as well as in that, and I am simply referring to that—

Mr. HENRY of Texas. I think that for all these difficulties, Mr. Chairman, there is a statute in every State in the Union to cover such offenses, to cover breaches of the peace and riots and all such cases as the gentleman may imagine.

Mr. DRISCOLL. For instance, in the case like that there can be no redress against the people moving that building. The man who really owns it has to protect himself; he must get an injunction to stop the removal before the damage is done.

Mr. HENRY of Texas. If the sheriff could not overtake a house with a writ of sequestration, he ought to be impeached.

Mr. DRISCOLL. The question is one of ownership.

Mr. HENRY of Texas. He steals without anybody knowing it, and when the house is found it can be recaptured.

Mr. HUGHES of New Jersey. As I understand this bill, it provides notice. In a case of that man I imagine a half-an-hour notice to the man would be sufficient.

Mr. DRISCOLL. It may take some time to get notice and serve it and have a hearing and get an injunction.

Mr. HENRY of Texas. I am glad these gentlemen put these questions, because it brings before the House just the point I desire them to investigate this morning. The bill only provides for previous reasonable notice. Letters from a number of Federal judges have come to me approving this bill, stating that it is reasonable and manifestly just and ought to be passed; that star-chamber proceedings ought to be stopped, and blanket injunctions without notice ought to cease; that traps for trying, convicting, and imprisoning men should no longer be set. [Applause on the Democratic side.]

I have no attack to make upon the judiciary of this country, either the Federal or State judiciary. But legislation of this kind ought to be given the American people. Before anyone is enjoined in his property rights or his personal rights he ought at least to have notice from Federal tyrants. He ought to have the poor privilege of appearing, filing answer, and being heard. Equity rule 55 provides for and requires notice in all such cases, but for years Federal tyrants have ignored it, flagrantly violated it, and spat upon it. They utterly disregard this plain provision of our equity rule. Let us pass a simple mandatory statute requiring previous reasonable notice before these blanket injunctions, or any other kind, can be issued by a Federal judge. Let us as Representatives of the people rob them of the power of imprisoning good and innocent men with their midnight orders and injunctions without hearing the other side, which often has a complete defense. But your Speaker and his Committee on Rules will stand with their eyes shut and as firmly as the walls of this Capitol spurn this just demand for relief. I freely make that prediction. [Applause on the Democratic side.]

Mr. GAINES of Tennessee. Are not cases reported where parties have been punished for contempt of court who had no real notice of the injunction and who disobeyed it unwittingly?

Mr. HENRY of Texas. Yes; there have been such cases, where they have been hauled up before a Federal judge without any notice that they were even charged with an offense, and Federal judges have denied them the poor privilege of trial by jury and placed them in prison and outraged them in many ways. Such judicial outrages ought to cease in this country, regardless of whether the man is a laboring man or any other citizen of the Republic. [Applause on the Democratic side.]

Mr. LENAHAN. Is it not a fact the case cited by the gentleman from New York is an exceptional one—so exceptional that it should be given no consideration in the consideration of this question which you are arguing now?

Mr. HENRY of Texas. I quite agree with the gentleman and think the trouble in that case is so small that it should not weigh one instant against the immense amount of benefit that would arise from the enactment of a just statute like this. Of course the injury could be prevented by other civil remedies. There is a remedy for all trespasses against property and personal rights.

I have introduced another bill, one that passed the United States Senate a few years ago by unanimous vote, with the exception of Senator Hoar, of Massachusetts. He did not vote against the measure, but refrained from voting for it because he had not investigated it. I refer to the bill which passed that body providing for a trial by jury in cases of indirect contempt—that is, in cases of contempt committed out of the presence of the court. It passed the Senate and came to this body, and session after session, year after year, it has been reintroduced, and those entitled to the relief have been demanding its enactment; and yet it has never found its way out of the Judiciary Committee, and, in my humble judgment, will never do so until the American people command the Speaker of this House and that committee to take favorable action. [Applause on the Democratic side.]

Substantially the same bill has been introduced by me at several sessions of Congress. It is now pending before the Judiciary Committee, of which I have the honor to be a member. It divides contempts into two classes—direct contempts and indirect contempts. Where the contempt is committed in the presence of the judge there should be no trial by jury, but the judge himself should have the power to punish summarily such offenses. But where it is committed out of the presence of a court, where the offender does not know whether or not he has committed a contempt, he ought to have the privilege of calling for a jury. Aye, more. We ought to transfer the case from the jurisdiction of the Federal judge that issued the injunction, and let some other judge, without prejudice, try the offense.

Are you ready to enact such legislation as that? Is the Republican Speaker ready to give ear to the demands of the people who have called for this legislation year after year? You will give hearings this session, but no relief. Year after year they have come in a body and have demanded it of the Speaker, and he has frowned upon them. They will come again and make the same demands. I serve notice now that as long as I am in Congress this matter will be pressed until you act. These people would be satisfied with reasonable legislation if we would enact it. True, some of them want to go further. This House should not enact any law that is unreasonable, that is too radical, but we could certainly afford to reenact this old statute, and we agree that an offender in cases where an injunction has been issued

without notice shall be entitled to the constitutional right of trial by jury. Jefferson said, and truly, that the Federal judges are "the sappers and miners, gradually undermining the foundation of this Government;" and he never stated a truer proposition.

Mr. Chairman, we have seen year after year one right after another taken from the American people, from the respective States of this Union by the Federal judiciary. When a power is conferred upon them they clamor for more. I know that in some quarters it is not fashionable to talk about State's rights. I know that it is not fashionable to denounce tyrannical Federal judges. And I do not criticize the just ones. The Constitution does not commend itself to some gentlemen. But we observe that only a few days ago the Supreme Court again decided a measure which passed through this House was unconstitutional. This reminded us that we still have a Constitution to govern us in our actions, and may go only so far in our legislative actions.

There is another bill introduced by me touching this subject—that no Federal judge shall issue an injunction or restraining order against a State officer or enjoin a State statute. That is to say, that whenever a State like Virginia, or North Carolina, or Alabama, or Missouri, or Pennsylvania, or any other State has enacted a solemn statute, there shall be some presumption in favor of the justice and validity of the statute, and Federal judges shall cease to enjoin them, at least "before final judgment on the merits of the case."

Now, gentlemen, we can afford to go that far. I would even go further, if I had my way. I would provide that where a corporation or an individual attacks the validity of a State statute they should raise that defense in the courts of the State, and if they have a Federal question involved in their litigation the case should go by writ of error from the court of last resort of the State to the Supreme Court of the United States. Let us not deprive any citizen or any corporation in this broad land of the privilege of going into the Federal courts and adjudicating their rights. Let us not take from them any right that is guaranteed by the Constitution and the statutes. Throw wide the doors of the Federal courts and the State courts as well to every citizen and corporation who has a right to assert. But, Mr. Chairman, when a Federal judge can enjoin a solemn act of a State acting within its inherent sovereignty the time has come when we should have legislation preventing such exercise of Federal power. Not many months ago when a railroad corporation in Missouri applied to Judge Smith McPherson to enjoin the 2-cent passenger-fare law of the State of Missouri he said:

"Gentlemen, the solemn enactments of the State of Missouri are entitled to some consideration, and I will not enjoin the enforcement of this State law, restraining the officers of the sovereign State of Missouri. I will allow it to be in operation for some time and see if it confiscates your property, as you say."

[Loud applause.]

Such is the true doctrine that should actuate a Federal judge. But it finds lodgment in the breasts of very few.

Mr. HACKNEY. I wish to make the suggestion that such order was made against the railroad companies a year ago, and they have made no application to have the injunction issue.

Mr. HENRY of Texas. I am glad the gentleman has made that statement, and desire to say that I understand the railroads have found remunerative business in carrying passengers at the rate of 2 cents per mile, although they swore in their ex parte affidavit that their property was being confiscated. [Applause.] Mr. Chairman, give the other side a hearing, give them an opportunity, and whenever a State in this Union passes a law, the presumption should be that it is acting within the scope of its constitutional authority and in accordance with the Constitution of the United States. [Applause.] For the just Federal judge who respects his oath and the Constitution, who recognizes the rights of the States that have not been surrendered to any other power, who believes that the people of the States have retained some powers, I have a wholesome respect. But I fail to see the goodness and patriotism of those who would spit upon State statutes, as has been done in Virginia, North Carolina, and Alabama and other States. [Applause.]

Let me call your attention to another fact. In many instances where corporations have taken their cases to the Supreme Court of the United States, that court has held the State statutes constitutional and they should not have been enjoined.

Mr. SHACKLEFORD. If the gentleman will allow me, is not the judge to whom the gentleman refers as denying the issue of some of these oppressive and improvident injunctions the very judge that issued an injunction suspending the laws of the State of Missouri in reference to freight rates?

Mr. HENRY of Texas. Well, he issued some, but since that he has reformed to some extent, because his last order is subsequent to the one alluded to by the gentleman.

Gentlemen, I wish there were time to go into these subjects further, but I am limited this morning. I only took the floor for the purpose of calling the attention of the American people to these things, and to say that those interested in such statutes are appealing for legislation at this session of Congress. They may appeal and appeal again to the majority of the committee of which I am a member, where I and other Democrats as well are ready to report such legislation at any time, but they will find no sympathy there. Such legislation will come. We will all live to see the time when it will be law. There will be jury trial in contempt cases. The American people will have it, and, though justice may be tardy, it is certain. The power of Federal judges will be curbed. The period is rapidly approaching when those whom you choose to call the laboring people will come into their rights. They are asking for nothing more than that which should be accorded to every honest and patriotic American citizen. Let me warn the Republican side of this House that while these people have patiently waited while demanding relief from you, they have done so for the last time. They will do so no longer. The party which I represent is ready to heed their just demands. We are ready to join hands with you and be just. Help us to command the Speaker in his high place, surrounded by his arbitrary Committee on Rules, and these just measures will be speedily presented to the American people as solemn statutory enactments. [Loud applause.]

In addition to these remarks, several short addresses were delivered by me urging the Republican party to join with the Democrats and pass the bill, or something substantially like the one herein above set out. The Republican party has turned a deaf ear to all such overtures and has studiously denied the passage of any sort of an injunction law at this session of Congress and the preceding ones, during all of which their attention has

been directed to the subject-matter. The Democratic convention in the State of Nebraska this year inserted a plank in its platform vigorously indorsing, in substance, the injunction bill introduced by me. This would indicate that the probable nominee of the Democratic party for the Presidency approves such a law. His home State takes a firm stand in its Democratic convention.

On July 13, 1894, Circuit Judge Taft rendered the following opinion in the case of *Thomas v. Cincinnati (N. O. & T. P. Rwy. Co.)*, which discusses at great length the proposition involved in the above bill and one hereinafter to be set out:

TAFT, Circuit Judge.

Samuel M. Felton was appointed receiver in the above-entitled cause March 18, 1893, and has ever since been engaged, under the order of the court, in operating the railroad of the Cincinnati, New Orleans and Texas Pacific Railway Company, which is more commonly known as the "Cincinnati Southern Railroad." On Monday, July 2, 1894, he filed an intervening petition in the original action, in which he stated that during the previous week and at the time of filing the petition he was greatly impeded in the operation of the road by a strike of his employees and of the employees of other railroads in the city of Cincinnati, who were prevented from receiving from him and delivering to him freight carried or to be carried over his road; that said strike was the result of a conspiracy between one F. W. Phelan, now in Cincinnati, and one Eugene V. Debs and others, to tie up the road operated, as the said conspirators well knew, by the petitioner as receiver, and other roads in the Western States of the United States, until certain demands or alleged grievance of certain persons not in the employ of the receiver or of any other railroad of the United States were acceded to by persons in no manner connected with the management of any railroad of the United States; that the demand of the employees of one George M. Pullman, or of the Pullman Palace Car Company, at Pullman, Ill., for higher wages was refused, whereupon said Debs, Phelan, and others, members of an organization known as the "American Railway Union," combined and conspired with each other and with sundry persons, who became members of the organization for the purpose, to compel the Pullman Company to comply with the demands of its employees, and that for the purpose of injuring the Pullman Company, and of thereby forcing from it the concession demanded, Debs, Phelan, and the others named had maliciously conspired and undertaken to prevent the receiver of this court and the owners of other railroads from using Pullman cars in operating their roads, though they are under contract to do so; that in pursuance of said conspiracy, Phelan, a resident of Oregon, came to Cincinnati a week before the filing of the petition and set on foot and incited a strike among the employees of the receiver and of other railroad companies whose lines run into Cincinnati; that on June 27 and at other times and places Phelan made inflammatory speeches to such employees, well knowing many of them to be employees of the receiver, in which he urged them all to quit the service of the receiver and the other railroads of the city, and to tie them all up, and to prevent others from taking their places, by persuasion, if possible, by clubbing, if necessary; that said Phelan was still in the city, directing and continuing the strike and interfering with the receiver in the operation of the road; that as a result of the conspiracy and strike the receiver had been obliged at great expense to secure and maintain the protection of armed men for his employees, and that all of the foregoing constituted a contempt of this court and a ground both for committing Phelan and for enjoining him from a continuance of said acts.

Upon the filing of the petition an attachment was issued for Phelan, the contemner, and on the morning of the 3d of July he was arrested and brought before the court. He was admitted to bail, and at the same time was enjoined by the order of the court from, either as an individual or in combination with others, inciting, encouraging, ordering, or in any other manner causing the employees of the receiver to leave his employ with intent to obstruct the operation of his road, and thereby to compel him not to fulfill his contract and carry Pullman cars. On Thursday, July 5, the motion of the receiver for Phelan's commitment came on to be heard, and a week has since been taken up in the giving of testimony and argument.

I propose first to run over the evidence, as briefly as may be, and determine the facts, and then to consider the law applicable to them. The American Railway Union is an organization of railway employees, to which are eligible as members all persons in the service of railways below a certain rank. It was organized in June, 1893. On May 11, 1894, at Pullman, Ill., the employees of the Pullman Palace Car Company, engaged in manufacturing railway cars of all kinds, including sleeping cars, left the company's employ because of its refusal to restore wages which had been reduced during the preceding year, and the works were then closed. On June 11, 1894, the general convention of the American Railway Union met at Chicago, and decided that the American Railway Union would take measures to compel the Pullman Company to resume business and to reemploy its employees, who had left its service, on terms to be fixed by arbitration. It does not appear that at this time the Pullman Company's employees were members of the American Railway Union, or eligible as such. At the June convention of 1894 there were present representatives from 450 lodges of the union, and the number of members, as estimated at that time, was 250,000. It is said that the local unions had voted for the Pullman boycott before the convention met. The question where the boycott originated is not very material, but it may be said that, as the Pullman strike occurred but a month before the convention, and as it had been deemed necessary by the union to send men all over the country to explain to its members the merits of the Pullman controversy during the boycott, it is obvious that the boycott had its real origin in the union convention at Chicago, where the subject was brought before it, presumably by its board of directors.

The chief governing body of the union is a board of directors, which elects a president, vice-president, and secretary, who are the chief executive officers of the union. Eugene V. Debs is, and has been since its organization, the president. Section 6 of the constitution of the union, as adopted in June, 1893, provides that "the board is empowered to provide such rules, issue such orders, and adopt such measures as may be required to carry out the objects of the order, provided that no action shall be taken that conflicts with this constitution." By section 11 of the same instrument the president's powers are thus described:

"It shall be the duty of the president to preside over the meetings of the board and the quadrennial meetings of the general union. He

shall at each annual meeting of the board and at each quadrennial meeting of the general union submit a report of the transactions of his office and make such recommendations as he may deem necessary to the welfare of the order. He shall enforce the laws of the order, sign all charters, circulars, reports, and other documents requiring authentication. He shall decide all questions and appeals, which decisions shall be final unless otherwise ordered by the board. He may, with the concurrence of the board, deputize any member to perform any required service, issue dispensations not inconsistent with the constitution or regulations of the order, and perform such other duties as his office may impose, and he shall receive such compensation for his services as may be determined at the time of his election.

Phelan, when on the stand, said that these were sections of the old constitution, but that he understood the constitution had been generally changed. He would not say that extensive or material changes had been made, but simply that general changes had been effected. He was in attendance as a delegate only during the last five days of the convention, and this is his explanation for not knowing what the changes were. Phelan's answers on this subject had really no effect to show that the foregoing sections are not still in force, but simply illustrated the evasiveness and verbal quibbling to which the witness was willing to continually resort under examination. It is certainly strange that if he was here, as he says, as a representative one had been made, in the constitution under which he was initiating men into the union and was receiving orders from his superior officers. We shall see as we progress that the two sections of the old constitution are still in force, if we can judge at all from the actual authority exercised by the officers of the union during the present boycott.

The plan of the boycott, as shown by the evidence, was this: Pullman cars are used on a large majority of the railways of the country. The members of the American Railway Union whose duty it was to handle Pullman cars on such railways were to refuse to do so, with the hope that the railway companies, fearing a strike, would decline further to haul them in their trains and inflict a great pecuniary injury upon the Pullman Company. In case the railway companies failed to yield to the demand, every effort was to be made to tie up and cripple the doing of any business whatever by them, and particular attention was to be directed to the freight traffic, which it was known was their chief source of revenue. As the lodges of the American Railway Union extended from the Allegheny Mountains to the Pacific coast, it will be seen that it was contemplated by those engaged in carrying out this plan that, in case of a refusal of the railway companies to join the union in its attack upon the Pullman Company, there should be a paralysis of all railway traffic of every kind throughout that vast territory traversed by lines using Pullman cars. It was to be accomplished, not only by the then members of the union, but also by procuring, through persuasion and appeal, all employees not members either to join the union or to strike without joining, by guaranteeing that, if they would strike, the union would not allow one of its members to return to work until they also were restored. I shall allude again to the gigantic character of this combination. For my present purpose it is sufficient to say that on Sunday, June 24, Phelan came to Cincinnati as the authorized representative of the president and board of directors of the union to enforce and carry out the contemplated boycott and paralysis of business on all railway lines running into Cincinnati which used Pullman cars until they should cease to use them.

I am aware that Phelan denies that such were his authority and instructions, but, as in the case of his answers in respect to the Constitution and its provisions, his denials do not, in view of the overwhelming proof of the circumstances not denied, and his previous admissions not denied, show the fact to be otherwise, but only decrease the reliance which can be placed on any statement made by him in this case. He says that he came here with no direction except to visit the employees of the Pullman Company at a branch factory at Ludlow, to explain to them the merits of the controversy between their employer and their fellows at Chicago, and then, if they struck, to see that they appointed committees who should keep order among them and look after the sick. At another time he says he was directed to be in Cincinnati during the boycott, but he strenuously denies that he was here for the purpose of laying on the boycott or inciting a general strike. He would have the court believe that what occurred was wholly spontaneous and not through his agency, and that his business was, if there should be such coincidental spontaneity resulting in a strike, to prevent disorder and to look after the sick. This hardly accords with his first telegram to Debs, his chief officer, dated noon, Tuesday, June 26, as follows: "Pay no attention to press reports. To be effective, was compelled to postpone action until 7, Wednesday morning." On Sunday, June 24, after Phelan's explanation of the Pullman troubles, the Pullman employees at Ludlow determined to strike, and did so Monday morning at 7 o'clock. Phelan says he did not advise them to strike, but just explained the situation, and then a strike followed. When he had explained, and organized committees among the strikers, after the strike had occurred, through no agency of his, his mission was ended so far as his instructions went. And yet we find him on Tuesday, June 26, at 12 o'clock noon, telegraphing his chief that he was obliged to postpone action until Wednesday morning at 7, in order to be effective. Now, what action was this which he hoped to make effective? Can anyone doubt for an instant that the action thus foreshadowed was that referred to in Phelan's dispatch to Debs of June 28 following, when he said: "The tie up is successful?" On Tuesday night, June 26, there was a meeting of all the switchmen of Cincinnati at Wuebler's Hall. There is no direct evidence how this meeting was called, but the circumstances leave no doubt. Phelan, having brought out the Pullman men, then set to work upon the railway men, and hence the meeting. The telegram of June 26 indicates that Debs expected him to have the meeting and action earlier, but that he was not able to secure an attendance at any earlier meeting sufficiently general to make the action taken effective. Indeed, when the Tuesday night meeting was held it was found that action must be still further delayed, and a second meeting for Wednesday night was called. At both of these meetings Phelan explained and discussed the Pullman trouble, and announced the Pullman boycott.

Now, what was his object? Was it for the purpose of inducing the men whom he addressed, and others not present, whom he urged them to talk to, to demand of the railway companies assistance in boycotting Pullman, and, on refusal, to tie them up, or was it simply for their general information? He repeats upon the stand, with much emphasis, that he at no time advised any man to strike. What was he doing? His speeches were all directed to that end, and, even if he did not use the word "advise," his conduct was exactly the same as if he had. His trifling with the truth, and his attempt to seek shelter again behind verbal quibbles, simply disparages him as a witness, without concealing the facts. Now, what was done at these meetings of

Tuesday and Wednesday night after or during Phelan's speeches? A city committee was appointed, consisting of one employee of each of the great railroads entering the city. This committee Phelan continually refers to in his testimony as "my committee," and the term was properly used, for it seems to have spent all of its time in his company and doing his bidding. On this committee was J. Madison, a switchman in the receiver's employ. The first duty of each member of the committee was, on Wednesday, June 27, or on the next day, to notify the yard master of his road that the switchmen and members of the American Railway Union would not handle Pullman cars, because a boycott had been laid on them. Madison duly notified McCarty, the yard master of the receiver. The necessary result was that three switchmen of the Cincinnati, Hamilton and Dayton Railroad were discharged or relieved of duty on the afternoon of Thursday, June 28, and within six hours a general strike of all the switchmen and yard men, including yard engineers and firemen, on all the roads coming into Cincinnati, took place. This was exactly in accordance with the plan which Phelan had outlined to Westcott, a reporter for the Enquirer, on Tuesday or Wednesday before the strike, in a conversation which he does not deny. Beginning with Tuesday night, June 26, Phelan has made speeches every night since, in which he has continued to explain the Pullman troubles to audiences of railroad men, and has read telegrams from Debs of a character calculated to incite and encourage all railway employees to quit their places, to assist in the Pullman boycott. He says he has made as many as twenty speeches. Two, at least, were made at Ludlow, Ky., a railroad town, the inhabitants of which are, or were, many of them, employees of the receiver. It is in evidence that when the meetings began the number of receiver's employees who were members of the American Railway Union was 150. And yet Phelan denies that he is in any sense responsible for the strike of the receiver's employees, or of those of any other road in the town, or for the paralysis of business which followed.

It is marvelous that Phelan can assume such a position in view of the circumstances and his own declaration. Take the evidence of Westcott, the Enquirer reporter, a witness evidently of much experience in acquiring and detailing accurate information, who has no motive to misrepresent Phelan in any way. He was assigned to report the strike, and seems to have found Phelan his best source of information. He made notes of everything at the time and prepared them afterwards for publication. Phelan has not attempted to deny anything he says. Westcott testifies that Phelan told him before the strike that his main object in coming here was to enforce a boycott against Pullman cars by tying up every road in Cincinnati for the American Railway Union; that he frequently and constantly repeated the statement that they intended to tie up every road in the town and keep them tied up until they refused to handle Pullman cars; that after the strike on Thursday he said he had most of the American Railway Union men out in Cincinnati, Ludlow, and Covington, and that those who were not out would be out the next morning; that after his arrest he explained that his course had been to tie up the freight trains, and not so much to stop passenger trains, because the money was in the freight business. Schaff, Gibson, and Bender, officers of the Big Four Railroad, testified that Phelan said to them on Thursday afternoon, when they met him for the purpose of seeing whether the "embargo," as Phelan and Debs expressed it, could not be lifted from the Big Four, because it was a Wagner sleeping car line, that he proposed to tie up every line in town, and was in a hurry, because he must go over and tie up the Panhandle and the Chesapeake and Ohio before sunset, and that, just to show Schaff what he could do, he had called out some more of the Big Four employees. Phelan and those members of the city committee who accompanied him to this meeting deny that this was said, but their denial shows nothing save that their loyalty to their chief is greater than their regard for the sanctity of their oaths. Westcott, the Enquirer reporter, talked with Phelan about this Schaff interview, and Phelan said that as Schaff tried to "bluff" him he had called out some more of his men to show that he had no hard feelings, and when Westcott expressed surprise at that way of showing friendliness, Phelan said that was the way the American Railway Union showed its friendliness in a fight. On June 28, the day of the strike, Debs telegraphed Phelan to let the Big Four alone, if not handling Pullmans, to which Phelan replied: "I can not keep others out if Big Four is excepted. The rest are emphatic on all together or none. The tie-up is successful. Once more will Big Four be let alone." If Phelan was not the chief agent and inciter of the general tie-up in Cincinnati, he has been most unfortunate in the use of the language in his telegrams. What he here said necessarily implied that he had induced all the employees to go out and was trying to keep them out, and that they threatened to return if the Big Four line was exempted from the tie-up.

What I have said of the credibility of Phelan in reference to his agency in enforcing the boycott and tie up applies with equal force to nearly all his witnesses, especially to those from his city committee. They would have the court believe that Phelan was merely a peace-maker in this community with no responsibility for the strike and no purpose to incite it or to continue it. Take Bateman. He was a switchman of the receiver and on the subcommittee of the road. Debs had been applied to by the president of the stock yards to allow the cattle cars to be unloaded, and Debs—presumably in the exercise of the dispensing power given him by the constitution—had directed Phelan to have this done if no injury to the cause resulted. Pending this matter, Westcott was inquiring into the outcome and applied to Bateman as the subcommittee for information. Westcott says Bateman told him the stock matter was in Phelan's hands and that the cattle could not be handled without Phelan's orders; that "whatever Phelan says goes." Phelan told Westcott substantially the same thing, and the telegram from Phelan to Debs is in evidence in which he says, "I am having stock unloaded." And yet Bateman denies his conversation with Westcott, and another member of the city committee says that Phelan had nothing to do with it and only applauded when it was done. Every committeeman who came upon the stand (and they made the majority of the contemner's witnesses) tried to give the impression that they were not acting under Phelan's orders, and so does Phelan, and yet his complete command is so apparent that it can not escape anyone. When Phelan forgot himself he used such expressions as "my committee," "I instructed them to do so and so," and occasionally such telltale words would creep into the evidence of all his witnesses. Another kind of statement indulged in by Phelan and all of the committee was to the effect that these committees were organized solely for the purpose of keeping the peace and assisting the sick, providing for parades, and hiring halls; but not one word is said about the efforts of the committee to induce men to leave the employ of the various railroads, and yet, if Phelan's injunction was followed, persuasion, explanation, and argument were to be used with all who did not join the cause at once. The committee and subcommittees were seventy-five in number. Phelan told Westcott at one time that he had to visit

railroad yards with his committee, and at another time that his committee were out visiting the various yards to see the day crews. Evidently they were visiting the men who remained still at work for the purpose of inducing them to quit; and this, though not mentioned by a single witness for the defense, was doubtless one of the chief reasons for their appointment.

With the intention of showing that he has been guilty of no interference with the compliance with the orders of this court, Phelan said upon the stand that he knew the Southern Railroad was operated by a receiver appointed by this court, and was therefore anxious to avoid interference with its operation, and prevented the calling out of the coach cleaners in the Ludlow yards on this account. Moreover, Buelte, of his city committee, testifies that the Cincinnati Southern was especially excepted from the operation of the boycott notice because it was in the hands of the court. And yet Tuesday night, in the preparation for the boycott and strike which was to be put into effect on Thursday following, through the action of committees in respect to which Phelan himself admits that he made suggestions, and which were appointed under his supervising eye, a switchman from the receiver's yard was made the agent of the American Railway Union and its allies to notify the receiver's yard master of the boycott. The notice was given and the strike occurred earlier among the receiver's employees than among those on some of the other roads. Phelan told Westcott on Thursday afternoon that the men were all out on the Southern, and yet this was the road he wished to save from the boycott because it was in the hands of the court. What did he visit Ludlow for on Friday, and address a meeting of railway employees. If he intended to be careful about interfering with the operation of the Southern Railroad by the court? There are no railway employees in Ludlow but those of the receiver. What was Bateman, the committeeman, doing in that place in attendance at two other meetings, if the respect of Phelan and his committee for the court's orders was so great? The purpose with reference to the Southern, as with respect to every other road, is so clearly shown by the telegrams between Debs and Phelan, that it could hardly be more certain if Phelan had admitted it.

Debs to Phelan.

JUNE 27, 1894.

Indications are that all Western lines will be tied up solidly before sunset to-day.

Phelan to Debs.

JUNE 28, 1894.

I can not keep others out if Big Four is excepted. The rest are emphatic on all together or none. The tie-up is successful.

Debs to Phelan.

JUNE 29, 1894.

About twenty-five lines now paralyzed. More following. Tremendous blockade.

Debs to Phelan.

JULY 2, 1894.

Knock it to them as hard as possible. Keep Big Four out, and help get them out at other places.

Phelan to Debs.

JULY 2, 1894.

Going out all around. Firemen a unit. Will soon be an avalanche to us. Working outside points.

Debs to Phelan.

JULY 2, 1894.

Hold Big Four solid. Going out to-day at every point. Gaining ground rapidly.

Debs to Phelan.

JULY 2, 1894.

Advices from all points show our position strengthened. Baltimore and Ohio, Panhandle, Big Four, Lake Shore, Erie, Grand Trunk, Michigan Central are now in the fight. Take measures to paralyze all those that enter Cincinnati. Not a wheel turning on Grand Trunk between here and Canadian line.

I have now gone over, more at length than necessary, perhaps, the evidence concerning Phelan's connection with the boycott and strike, his purpose in coming to Cincinnati, and what he did here, and I find the fact to be that he came here deputed by Debs, president of the American Railway Union and its board of directors, to enforce a boycott against the cars of the Pullman Company by inciting all the employees of the railroads running into Cincinnati to leave their employ, and thereby to tie up every road and paralyze all traffic of every kind until all the railroads should consent not to carry Pullman cars in their trains; and that his plan and his actions were directed as much against the Cincinnati Southern Road, in the hands of the receiver of this court, as against every other road in the city, and that he knew when he inaugurated the boycott on the Southern Road and incited the receiver's employees to strike that the road was in the hands of the receiver and was being operated under the order of this court.

We come now to consider the question of fact whether Phelan in any of his speeches advised intimidation, threats, or violence in carrying out the boycott. He is charged with having said, on Thursday night, June 28, at the meeting at West End Turner Hall, that the strike was then declared on; that it was the duty of every American Railway Union man to quit work, to induce and coax other men to go out, and, if this was not successful, to take the club and knock them out. He is charged with having said on another occasion during the same week that the committees should be appointed to persuade men to go out; that if they would not go out, then the committee should get around behind and kick them out. The meetings at which these remarks were said to have been made were behind closed doors, and no newspaper reporters were permitted to be present. Only American Railway Union men and railroad employees made up the audience. The first charge is supported by the evidence of one J. O. Sweeney, a timekeeper on the Big Four Railway, and he is, so far as the evidence shows, a wholly disinterested witness, and by the evidence of one E. W. Dormer, a witness whose credibility I shall consider later. They both say that the remark elicited much applause, and that shortly before or after Phelan advised them to be law-abiding citizens. To this charge Phelan makes an explanatory answer as follows:

"I told nobody to take the club, and do anything with anybody. I, upon several occasions in this city, have used about that one expression about in the same line with that, the substance of which is about this: I have told the boys—different ones—there was a good deal of demands upon me to go around and see everybody and explain this Pullman trouble. I was worried to death. I said, 'You can constitute yourself a committee of one, each of you, and go to the

people—the community in which you live. Go to the boys—I mean their acquaintances—and explain to them this trouble. Talk to them about it. Beseech them to listen, because I want them to get the idea before they would condemn us about it; but do not take a club and knock them in the head about it.' The peculiarity of the speech elicited applause, but I am afraid it was taken the other way."

With reference to the second charge, it is supported by the evidence of E. W. Dormer, who testified that he heard Phelan say it. An account of the speech in which it was said to have occurred was published in the Cincinnati Enquirer of June 29, and read to Phelan by counsel for the receiver. It was as follows:

"Mr. Phelan addressed the men familiarly. 'He who is not with us in this struggle is against us, and will be so regarded.' Then he spoke in scathing tones of the Pullmans. 'We want no weak-kneed individuals with us; we want warriors.' Mr. Phelan then launched into an eloquent denunciation of Grand Master Arthur of the order of locomotive engineers. 'He has not the courage to declare a strike.' So far Phelan admitted the truth of the article. The article proceeded:

"When this strike is declared, as it will be before we go home to-night, the members of the American Railway Union in San Francisco, Oregon, Chicago, and all over the great West will stand by you to the bitter end."

As to this he said he did not recollect it, though he would not deny it. "It might have accidentally slipped out," he said. The article, after stating the passage of a resolution not to go back to work until the strike was declared off, which resolution Phelan said upon the stand that he never heard of, proceeded:

"Mr. Phelan then resumed: 'We must stand solidly together in this hour of trial, and if anybody returns to work, or takes the place of strikers, seize them by the back of the neck and throw them out.'"

Upon this passage the examination was as follows:

"Q. Did you say that?—A. I don't recollect.

"Q. Will you swear to the court you did not say it?—A. I don't recollect of saying it.

"Q. Will you swear you did not?—A. I don't recollect of saying it. "Q. That is as much as you will say?—A. That is as much as I will say. I will state this, however, if you want any qualification on it.

"Q. I don't want any qualification.—A. If I did say it, I meant to throw them out of the organization."

This was not a denial of the remark at all, but a statement that it meant something different from what it purported to mean. Phelan said several times in his examination that in a speech remarks slip out that one does not intend. Certainly, if he did not intend personal intimidation by this remark, it was an unfortunate one.

An attack is made on the credibility of Dormer. He was a detective in the employ of Field's Detective Agency, of St. Louis, and in the employ of the receiver, ostensibly as a brakeman at first and afterwards a striker, under the name of Williams. His character has not been attacked otherwise than by showing an assumption of a false appearance and name. There is evidence tending to show a willingness on his part to involve some of his fellow-strikers in a trespass on the company's property, but I am bound to say that his accuracy as to everything else that occurred at the meetings which he attended has been borne out by the evidence of Phelan and his witnesses as far as they are willing to recollect. Were the charges as to Phelan's language dependent on Dormer's statement alone, I should not give them sufficient weight to overcome positive denials from Phelan; but the difficulty with Phelan's case is that he does not really and positively deny the statement of Dormer, but seeks to give the language another meaning, which it can not bear. He contends in respect to each of the charges of inciting violence that his meaning was misunderstood. Had his evidence and that of his committee upon the main issue in this case been most evasive and wanting in sincerity, I should still be inclined to give Phelan's explanation credit, and give him the benefit of a doubt on this point; but his whole case breaks down with the attempt of himself and his followers to conceal and pervert the most apparent fact in the case, namely, that he instigated, engineered, and controlled the boycott and strike at Cincinnati from beginning to end. After this his denials and evasions can be given little weight. It is doubtless true that Phelan did tell his men to be law-abiding, that he did tell them to stay out of saloons and off the company's property, in public, and that he did not wish his followers to subject themselves to the punishment of the law. Westcott testifies as to this, and so do Dormer and Sweeney, and this has doubtless prevented many open assaults and trespasses. But I do not doubt that at the same time he encouraged in them a vicious and malicious disposition toward those of their fellows who did not join with them in this boycott, by expressions of the kind testified to by Sweeney and Dormer, and most evasively denied by Phelan, slyly slipped in where they could be given a double meaning if questioned.

The expressions were for the purpose of bringing into operation that secret terrorism which is so effective for discouraging new men from filling strikers' places, and which is so hard to prove in a court of justice unless it results in open assault. That Phelan openly discouraged conflict with the law is to his credit as a strike organizer, for he wished public sympathy; but that he wished the aid of secret terrorism, which is as unlawful, seems to me to be established. The town of Ludlow has been in such a state that the receiver's employees who live there have been in constant fear. Two engineers have left town and moved their families away. The receiver has boarded employees within guarded precincts. It has been shown that storekeepers of Ludlow have refused to sell goods to receiver's employees because they were boycotted. Threats have been made and an assault. Insulting and aggressive language has been used to receiver's employees on both sides of the river. Threats are hard to prove. If effective, they not only keep away the employees from service, but the witness from the stand. The receiver has been obliged to keep a large force of the United States deputy marshals on both sides of the river and on his engines and trains in order to induce his employees, new and old, to remain in his service. I can not presume that such protection was invoked by the employees because of groundless fears. The question of fact whether Phelan used expressions in his speeches behind closed doors to the employees of the receiver which were calculated to induce intimidation is not of primary importance in this case, for, as will hereafter be seen, his interference with the operation of the Southern Road by the instigation and maintenance of the strike against the road was the main contempt of this court. The suggestions leading to intimidations would only be aggravations of the contempt; that is all.

Section 725, Revised Statutes of the United States, provides that:

"The said courts (i. e., courts of the United States) shall have power to impose and administer all necessary oaths and to punish by

fine or imprisonment, at the discretion of the courts, contempt of their authority: *Provided*, That such power to punish such contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence or so near thereto as to obstruct the officers of said court in their official transaction and the disobedience for resistance by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said courts."

It has been held by Judge Drummond, in *Secor v. Railroad Co.* (7 Biss. 513, Fed. Cas. No. 12605), that any unlawful interference with the operation of a road in the hands of a receiver is a contempt of the court because it is a disobedience or resistance by a person to a lawful order of the court. This view has been taken by Judges Brewer and Treat in *United States v. Kane* (23 Fed., 748) and in *re Doolittle* (Id., 544), and by Judge Pardee in *re Higgins* (27 Fed., 443). These authorities show that any willful attempt by anyone, with knowledge that the road is in the hands of the court, to prevent or impede the receiver from complying with the order of the court in running the road, when the attempt is unlawful and as between private individuals would give the right of action for damages, is a contempt of the order of the court. The rights of the receiver with reference to his business in conducting the railroad under the order of the court are not different in any respect from those of a private railway corporation. The only difference is in the remedy which the courts will apply to prevent or to punish a violation of them when such a violation prevents or impedes the operation of the road and is intended to do so.

There is no doubt that Phelan intended to prevent utterly the operation of the Southern road by calling out the receiver's employees. He wished thus to paralyze his business. He did the trust a very substantial injury by stopping all traffic for a time, by making it necessary for the receiver to pay heavy expenses for unusual police protection, and by putting him to much trouble and expense in securing new employees. Now, if the receiver were a private corporation, could he recover damages for the injury thus inflicted on the business of the road? A malicious or unlawful interference with the business of another by inducing his employees to leave his service is an actionable wrong and subjects the offender to liability for the loss occasioned. In *Walker v. Cronin* (107 Mass., 555) it was held that a count in a declaration which alleged that a plaintiff was a manufacturer of shoes and for the prosecution of his business it was necessary for him to employ many shoemakers; that the defendants, well knowing this, did maliciously and without justifiable cause molest him in carrying on his said business with the unlawful purpose of preventing him from carrying it on, and willfully inducing many shoemakers who were in his employ and others who were about to enter it to abandon it without his consent and against his will; and that thereby the plaintiff lost their services and profits and advantages, and was put to great expense to procure other suitable workmen, and was otherwise injured in his business, stated a good cause of action. (See also *Sherry v. Perkins*, 147 Mass., 212, 17 N. E., 307.)

The real question, therefore, is whether the act of Phelan in instigating and inciting the employees of the receiver to leave his employ was without lawful excuse, and therefore malicious. The question is not whether such an act would subject Phelan to punishment by indictment and trial under the criminal laws, but whether the act was unlawful in the sense that he could be made to pay damages for the loss occasioned. Of course if the act would subject him to punishment for an indictable misdemeanor and crime, a fortiori would the act be unlawful; but his act may be a contempt without being a crime.

Now, it may be conceded in the outset that the employees of the receiver had the right to organize into or to join a labor union which should take joint action as to their terms of employment. It is of benefit to them and to the public that laborers should unite in their common interests and for lawful purposes. They have labor to sell. If they stand together they are often able, all of them, to command better prices for their labor than when dealing singly with rich employers, because the necessities of the single employee may compel him to accept any terms offered him. The accumulation of a fund for the support of those who feel that the wages offered are below the market prices is one of the legitimate objects of such an organization. They have the right to appoint officers who shall advise them as to the course to be taken by them in their relations with their employer. They may unite with other unions. The officers they appoint, or any other person to whom they choose to listen, may advise them as to the proper course to be taken by them in regard to their employment, or, if they choose to repose such authority in anyone, may order them, on pain of expulsion from their union, peaceably to leave the employ of their employers because any of the terms of their employment are unsatisfactory. It follows, therefore (to give an illustration which will be understood), that if Phelan had come to this city when the receiver reduced the wages of his employees by 10 per cent and had urged a peaceable strike and had succeeded in maintaining one the loss to the business of the receiver would not be grounds for recovering damages, and Phelan would not have been liable to contempt even if the strike much impeded the operation of the road under the order of the court. His action in giving the advice, or issuing an order based on unsatisfactory terms of employment, would have been entirely lawful. But his coming here and his advice to the Southern Railway employees, or to the employees of other roads, to quit, had nothing to do with their terms of employment. They were not dissatisfied with their service or with their pay. Phelan came to Cincinnati to carry out the purpose of a combination of men, and his act in inciting the employees of all Cincinnati roads to quit service was part of that combination. If the combination was unlawful, then every act in pursuance of it was unlawful, and his instigation of the strike would be an unlawful wrong done by him to every railway company in the city, for which they can recover damages, and for which, so far as his acts affected the Southern Railway Company, he is in contempt of this court.

Now, what was the combination and its legal character? Was it an unlawful conspiracy? I do not mean by this an indictable conspiracy, because that depends on the statute; but was it a conspiracy at common law? If it was, then injury inflicted would be without legal justification, and malicious. A conspiracy is a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful, by criminal or unlawful means. (*Pettibone v. United States*, 148, U. S., 197, 13 Sup. Ct., 542.) What were the purposes of this combination of Debs, Phelan, and the American Railway Union board of directors? They proposed to inflict a pecuniary injury on Pullman by compelling the railway companies to give up using his cars, and on refusal of the railway companies to yield to compulsion, to inflict pecuniary injury on the railway companies by inciting their employees to quit their services, and thus paralyze their business. It could not have been unknown to the combiners that the Pullman cars were operated by the

railway companies under contracts with Pullman. Such large transactions are never conducted without contracts saving the rights of both sides, and the combiners had every reason to believe that it would be a violation of those contracts for the companies to refuse further to haul Pullman cars in their trains. One purpose of the combination was to compel railway companies to injure Pullman by breaking their contracts with him. The receiver of this road is under contract with Pullman, which he would have to break were he to yield to the demand of Phelan and his associates. The breach of a contract is unlawful. A combination with that as its purpose is unlawful and is a conspiracy. (*Angle v. Railway Co.*, 151 U. S., 1, 14, Sup. Ct., 240.)

But the combination was unlawful without respect to the contract feature. It was a boycott. The employees of the railway companies had no grievances against their employers. Handling and hauling Pullman cars did not render their services any more burdensome. They had no complaint against the use of Pullman cars as cars. They came into no natural relation with Pullman in handling the cars. He paid them no wages. He did not regulate their hours, or in any way determine their services. Simply to injure him in his business they were incited and encouraged to compel the railway companies to withdraw custom from him by threats of quitting their service, and actually quitting their service. This inflicted an injury on the companies that was very great and it was unlawful because it was without lawful excuse. All the employees had the right to quit their employment, but they had no right to combine to quit in order thereby to compel their employer to withdraw from a mutual profitable relation with a third person for the purpose of injuring that third person, when the relation thus sought to be broken had no effect whatever on the character or reward of their services. It is the motive for quitting, and the end sought thereby, that make the injury inflicted unlawful, and the combination by which it is effected, an unlawful conspiracy. The distinction between an ordinary, lawful, and peaceable strike entered upon to obtain concessions in the terms of the strikers' employment and a boycott is not a fanciful one or one which needs the power of fine distinction to determine which is which. Every laboring man recognizes the one or the other as quickly as a lawyer or the judge. The combination under discussion was a boycott. It was so termed by Debs, Phelan, and all engaged in it. Boycotts, though unaccompanied by violence or intimidation, have been pronounced unlawful in every State of the United States where the question has arisen, unless it be Minnesota; and they are held to be unlawful in England.

In *Moore v. Bricklayers' Union* (23 Wkly. Cin. Law Bull., 48), a union which embraces 95 per cent of the bricklayers of Cincinnati, got into a controversy with Parker, a boss bricklayer, concerning apprentices and other matters. The union boycotted Parker and notified all material men that any one selling him material would themselves be boycotted. Moore & Co. continued to sell Parker lime. Thereupon the union notified all the plaintiff's customers and probable customers that none of its members would work Moore & Co.'s materials, and seriously damaged the business of Moore & Co. There was no violence, actual or threatened, in the case. Moore & Co. sued the bricklayers' union and some of its prominent members for the damages caused by the boycott. This case was tried before a jury in the superior court of Cincinnati and resulted in a verdict for the plaintiffs of \$2,500. The motion for a new trial was reserved to the general term, where the case was fully considered and the conclusion reached that the verdict must stand, because the combination to injure Moore & Co. was an unlawful conspiracy. The case was then carried by writ of error to the supreme court of Ohio, and the judgment of the superior court was affirmed, without opinion. By the common law of Ohio, therefore, boycotts are illegal conspiracies. I quote from the opinion of the superior court in that case two passages which seem to me to state the ground for holding boycotts illegal:

"We are dealing in this case with common rights. Every man, be he capitalist, merchant, employer, laborer, or professional man, is entitled to invest his capital to carry on his business, to bestow his labor, or to exercise his calling, if within the law, according to his pleasure. Generally speaking, if in the exercise of such right by one another suffers a loss, he has no ground of action. Thus, if two merchants are in the same business in the same place and the business of the one is injured by the competition, the loss is caused by the other's pursuing his lawful right to carry on business as seems best to him. In this legitimate clash of common rights the loss which is suffered is *damnum absque injuria*. So it may reduce the employer's profits that his workmen will not work at former prices and that he is obliged to pay on a higher scale of wages. The loss which he sustains, if it can be called such, arises merely from the exercise of a workman's lawful right to work for such wages as he chooses and to get as high rate as he can. It is caused by the workman, but it gives no right of action. Again, if a workman is called upon to work with the material of a certain dealer, and it is of such a character as to either make his labor greater than that sold by another, or is hurtful to the person using it, or for any other reason is not satisfactory to the workman, he may lawfully notify his employers of his objection and refuse to work it. The loss of a material man in his sales caused by such action of the workman is not a legal injury and not a subject of action. And so it may be said that, in these respects, what one workman may do many may do, and many may combine to do, without giving the sufferer any right of action against those who caused his loss. But on this common ground of common rights, where everyone is lawfully struggling for the mastery, and where losses suffered must be borne, there are losses willfully caused to one by another in the exercise of what otherwise would be a lawful right from simple motives of malice."

"The normal operation of competition in trade is the keeping away or getting away patronage from rivals by inducements offered to the trading public. The normal operation of the right to labor is the securing of better terms by refusing to contract to labor except on such terms."

If the workmen of an employer refuse to work for him except on better terms, at a time when their withdrawal will cause great loss to him, and they intentionally inflict such loss to coerce him to come to their terms, they are bona fide exercising their lawful rights to dispose of their labor for the purpose of lawful gain. But the dealing between Parker Brothers and their material men, or between such material men and their customers, had not the remotest natural connection either with the defendant's wages or the other terms of employment. There was no competition or possible contractual relation between plaintiffs and defendants where their interests were naturally opposed. The right of the plaintiffs to sell their material was not one which, in its exercise, brought them into legitimate conflict with the rights of the defendants to dispose of their labor as they chose. The conflict was brought about by the efforts of the defendant to use plaintiff's right of trade to injure Parker Brothers, and, upon failure of this, to use plaintiff's customers' rights of trade to injure plaintiffs. Such effort can not be in the bona fide exercise of

trade is without just cause, and is, therefore, malicious. The immediate motive of the defendants here was to show to the building world what punishment and disaster necessarily followed a defiance of their demands. The remote motive of wishing to better their condition by the power so acquired will not, as we think we have shown, make any legal justification for defendants' acts."

And so here there was no natural relation between Pullman and the railway employees and their attempt to injure the companies because they would not injure him is without cause, and is malicious, and is unlawful, even though the injury is inflicted merely by quitting employment. *Temperton v. Russell* (1893) (1 Q. B., 715) was a case quite like the case just cited. There a firm of builders refused to obey certain rules laid down by three trades unions connected with the building trade at Hull. Thereupon a joint committee of unions boycotted the building firm—that is, they attempted to prevent it from procuring any material by notifying material men not to furnish them on pain of being themselves boycotted. The plaintiff, a material man, refused to comply with its demand, and the unions then demanded of his material men not to furnish him with any material, with the threat that, if they did so, their workmen would quit. The result of this was that contracts for supplies to the plaintiff were broken, and others who, but for the threats, would have made contracts were deterred from doing so. It was held that the boycott was an unlawful conspiracy and that the joint committee of the unions who were sued were liable in damages for a malicious interference with the plaintiff's business. There was no violence or threatened violence in this case. The case was decided by the court of appeals, England, consisting of Lord Esher, master of rolls, and Lopes and A. L. Smith, lord justices.

In *Carew v. Rutherford* (106 Mass., 1), a contracting stone mason, contrary to the rules of the union, sent some of his material out of the State to be dressed, and his men, members of the union, refused to work for him any longer unless he paid a fine to the union, and did not return until he paid the fine. This was held to be illegal conspiracy for the purpose of extortion and mischief, and the employer was given a judgment for the recovery of the fine and damages.

Boycotts have been declared illegal conspiracies in *State v. Glidden*, 55 Conn., 46, 8 Atl., 890; in *State v. Stewart*, 59 Vt., 273, 9 Atl., 559; *Steamship Co. v. McKenna*, 30 Fed., 48; *Casey v. Typographical Union*, 45 Fed., 135; *Toledo, A. A. & N. M. Ry. Co. v. Pennsylvania Co.*, 54 Fed., 730, 738; and in other cases.

But the illegal character of this combination, with Debs at its head and Phelan as an associate, does not depend alone on the general law of boycotts. The gigantic character of the conspiracy of the American Railway Union staggers the imagination. The railroads have become as necessary to life and health and comfort of the people of this country as are the arteries of the human body, and yet Debs and Phelan and their associates proposed, by inciting the employees of all the railways of the country to suddenly quit their service without any dissatisfaction with the terms of their own employment, to paralyze utterly all the traffic by which the people live, and in this way to compel Pullman, for whose acts neither the public nor the railway companies are in the slightest degree responsible, and over whose acts they can lawfully exercise no control, to pay more wages to his employees. The merits of the controversy between Pullman and his employees have no bearing whatever on the legality of the combination effected through the American Railway Union. The purpose, shortly stated, was to starve the railroad companies and the public into compelling Pullman to do something which they had no lawful right to compel him to do. Certainly the starvation of a nation can not be a lawful purpose of a combination, and it is utterly immaterial whether the purpose is effected by means usually lawful or otherwise.

More than this, the combination is in the teeth of the act of July 2, 1890, which provides that:

"SECTION 1. Every contract, combination in the form of trusts or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of misdemeanor, and on conviction thereof shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or both said punishments, in the discretion of the court."

That such a combination as the one under discussion is within the statute just quoted has been decided by Judge Billings, of Louisiana, in *United States v. Workmen's Amalgamated Council of New Orleans*, (54 Fed., 994.) His view has been followed by the circuit judges of this circuit within the past ten days, by Judges Woods, Allen, and Grosscup, of the seventh circuit, and by Judge Wilson of the eighth circuit. A different view has been taken by Judge Putnam in *United States v. Patterson* (55 Fed., 605), but, after consideration, Judge Lurton and I can not concur with the reasoning of that learned judge. The fact that it was the purpose of Debs, Phelan, and their associates to paralyze the interstate commerce of this country is shown conclusively in this case, and is known to all men. Therefore, their combination was for an unlawful purpose and is a conspiracy within the statute cited.

It could also be shown, if it were necessary, that this combination was an unlawful conspiracy, because its members intended to stop all mail trains, as well as other trains, and did delay and retard many, in violation of section 3995, Revised Statutes of the United States, which imposes a penalty on anyone willfully and knowingly obstructing or retarding the passage of the mail. It would be no defense under the statute that the obstruction was effected by merely quitting employment where the motive of quitting was to retard the mails, and had nothing to do with the terms of employment. Something has been said about the right of assembly and free speech secured by the constitution of Ohio. It would be strange, indeed, if that right could be used to sustain the carrying out of such an unlawful and criminal conspiracy as we have seen this to be. It never has been supposed to protect one from prosecution or suits for slander or for any of the many malicious and tortious injuries which the agency of the tongue has been so often employed to inflict. If the obstruction to the operation of the road by the receiver was unlawful and malicious, it is not less a contempt because the instrument which he used to effect it was his tongue rather than his hand.

But it is unnecessary to consider the question further. It is very clear that Phelan came here to carry out an illegal conspiracy, in the course of which and in the pursuance of which he attempted and partially succeeded in tying up the Southern Railroad, operated by a receiver under an order of this court, as he well knew. His purpose in calling out the employees of the Southern Railroad was unlawful by the law of Ohio and the laws of the United States. He intended to prevent entirely its operation. He partially succeeded, and he subjected the receiver to great expense in reducing the loss occasioned by his acts.

It follows that the contemner is guilty as charged and it only remains to impose the sentence of the court. This is in the discretion of the court to be exercised on any information in reference to the convicted person which the court believes to be reliable. The court would be much more disposed to leniency in this case if the contemner, after his arrest, had shown the slightest regard for the order of the court which the receiver was attempting to comply with in the operation of the road. Even if he did not fully realize the position in which he had put himself with respect to the order of the court to the receiver to operate the Southern Railroad, his arrest, and the service of the intervening petition, together with the restraining order, should have quickened his conscience and his perception of his duty in this regard. It was his duty, therefore, to cease all his operations with reference to the strike in this city which could in any way affect the operation of the Southern Railway, whether by inciting employees to leave the receiver or by preventing his employment of others. What did he do? Instead of ceasing to incite the receiver's employees to leave his employ in pursuance of his unlawful conspiracy, there has been no change whatever in his course from that pursued by him before his arrest. By speeches every night since the arrest he has aggravated his contempt. On the night of July 4, it is in evidence, the contemner said, in a speech to railroad employees of this city, referring to this trial:

"I don't care if I am violating injunctions. No matter what the result may be to-morrow, if I go to jail for sixteen generations, I want you to do as you have done. Stand pat to a man. No man go back unless all go, and all stay out unless Phelan says go back."

It was a direct invitation to continue the course already taken under his direction of preventing the return of employees to the receiver and of persuading the striking of others, and an avowed intention of disregarding the order of the court.

The punishment for a contempt is the most disagreeable duty a court has to perform, but it is one from which the court can not shrink. If orders of the court are not obeyed, the next step is unto anarchy. It is absolutely essential to the administration of justice that courts should have the power to punish contempts and that they should use it when the enforcement of their orders is flagrantly defied. But it is only to secure present and future compliance with its orders that the power is given, and not to impose punishment commensurate with the crimes or misdemeanors committed in the course of contempt, which are cognizable in a different tribunal or in this court by indictment and trial by jury. I have no right, and do not wish, to punish the contemner for the havoc which he and his associates have wrought to the business of this country and the injuries they have done to labor and capital alike, or for the privations and suffering to which they have subjected innocent people, even if they may not be amenable to the criminal laws thereof. I can only inflict a penalty which may have some effect to secure future compliance with the orders of this court and to prevent willful and unlawful obstructions thereof.

After much consideration, I do not think I should be doing my duty as a judicial officer of the United States without imposing upon the contemner the penalty of imprisonment. The sentence of the court is that Frank W. Phelan be confined in the county jail of Warren County, Ohio, for a term of six months. The marshal will take the prisoner into custody and safely convey him to the place of imprisonment.

These two opinions by Judge Taft are inserted to disclose exactly the points on these questions judicially determined by him during his career as a circuit judge of the United States. Inasmuch as he discusses at length the question of contempts in the above case, I hereby insert the bill introduced in the House of Representatives by me on April 10, 1906, and since then at every session of Congress, in relation to contempts of court:

A bill (H. R. 17975) in relation to contempts of court.

Be it enacted, etc., That contempts of court committed during the sitting of the court, or of a judge at chambers, in its or his presence or so near thereto as to obstruct the administration of justice, are direct contempts. All other are indirect contempts.

SEC. 2. That a direct contempt may be punished summarily without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defense or extenuation the accused offered thereto and the sentence of the court thereon.

SEC. 3. That upon the return of an officer on process or an affidavit duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue and such person be arrested and brought before the court; and thereupon a written accusation, setting forth clearly and succinctly the facts alleged to constitute such contempt, shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court may, on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced. If the accused answer, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or, upon application of the accused, a trial by jury shall be had as in any criminal case. If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment.

SEC. 4. That the testimony taken on the trial of any accusation of indirect contempt may be preserved by bill of exceptions, and any judgment of conviction therefor may be reviewed upon direct appeal to, or by writ of error from, the Supreme Court, and affirmed, reversed, or modified, as justice may require. Upon allowance of an appeal or writ of error, execution of the judgment shall be stayed, upon the giving of such bond as may be required by the court or a judge thereof, or by any justice of the Supreme Court.

SEC. 5. That the provisions of this act shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court.

The Democrats in the House of Representatives have frequently insisted on the passage of this bill and have challenged the Republican party to aid in its enactment. On many occasions Democrats in the House of Representatives have appealed to the Republican party and to the Speaker to permit the consideration of such a measure, and have met only with constant denial and scorn.

Drainage and Road Improvement.

SPEECH

OF

HON. JAMES O'H. PATTERSON,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. PATTERSON said:

Mr. SPEAKER: That the National Government should take active interest and exercise liberal spirit in the drainage of swamp lands and the betterment of the public roads is at once so pleasant a duty of gratitude and a policy of such wise forethought and foresight for the future as to be self-evident and to need no elaborate argument to convince any doubting Thomas who may in the selfishness of his immediate surroundings see nothing beyond the range of his own eyesight and hear nothing farther away than the whistle of the throbbing engines of his own vicinity. For the country is the nursery for the larger orchard of the nation, from which the men plants came that grow to protecting greatness in time of storm and stress into sheltering sweetness when skies are clear and winds are soft and soothing in their whisperings of peace.

From this fitting school of the country came the strong bodies, the ablest minds, the self-poised, intelligent, intellectual forces that develop in the captains of industry in the mercantile and manufacturing and commercial activities that have made such marvelous progress in this great Republic of the New World. From the rural communities come great evangelists of the churches, wise statesmen, leaders of the people, builders of its prosperity, and defenders and champions of the public good. Within hearing of my voice are many that first saw the light of life in quiet country homes, who in its freedom from artificial lanes and environments drew in with their youthful breaths the feelings of exultant independence, of sturdy self-respect and self-confidence, of broadening patriotism and love of the Union that have won the confidence of their constituents and guided and encouraged their upward ambitions until they have become worthy of enrollment among the law-makers of their country, of votes and voices in this greatest of all human parliaments.

More than that, when the public safety and the public honor call for strong arms and brave hearts and courageous souls, the battle cry outstrips the wind in reaching the simple home, the quiet hamlet, the little village, and the plow is left in the furrow, the yardstick laid on the counter, the hammer dropped to the floor, and the brave, true boys come, consecrated by the prayers of the mothers that bore them, nerved and cheered to heroic deed and daring by the promise of the rose-cheeked, dewy-eyed sweetheart girl to wait his home-coming when the cruel war shall have ended and drum beat and bugle blast have been hushed and the gentle music of peace, white-winged and soft-voiced, has come again.

Wherever the flag of the free floats, in arctic seas or on the burning equator, the man from the country is found, and grandly true to duty. From the broad fields of America, where the golden crops of grains that help to feed the hungering world are made; from the sunny South, where the snowy staple grows that clothes humanity, from the "four hundred" of New York to the semisavage in darkest Africa; from the country come the products that give employment to the manufactories of the cities, that give freights to the ships that sail all seas, that preserve the balances of trade in our favor. From the field is every beginning of prosperity; from the country every crusade for right.

Shall we not, in this splendid capital of this great world power, the youngest and the strongest and the fairest of all the civilized peoples of the world, trustees for the well-being of our fellow-citizens, stewards for the public good, show and prove our appreciation of the real foundation of our civilization, the foundation on which all the weal or woe of the future must be built?

The homes of the people! In them rest all peace, all prosperity, all power; in them may be all the weakness, all the discontent that drift toward disaster.

Modern science has shown that, not only on our own Southern coasts, but in the far-off Philippines; in Cuba, where the yellow pestilence had kept up its carnival of death for centuries; on the Isthmus of Panama, once called "the graveyard of America," "an ounce of prevention is worth a pound of

cure." Drainage of our swamp lands will not only minister to the health of the people, but it will add vastly to agricultural possibilities and realities and result in larger storehouses for home living and trade and commercial developments.

Highway improvement is the twin sister of drainage—almost equally beautiful and helpful. Give the people of the rural communities the helping hand in the improvement of their roads, in the marketing of their crops, in their social intercourse and association, and they will catch the spirit of progress and self-help and make their homes blossom as the rose. Make country life so attractive that from the sweatshops of the cities the pale-faced, ill-fed, worse-paid, heart-dead toilers shall go and be born again into a life of hope and comfort, and there will be no more strikes, or riots, or Black Hand crimes and assassinations. The tramp will cease his wanderings, the jail grow lonesome, and the golden age return again.

We are fringing our ocean coasts—Atlantic and Pacific—and the Gulf with fortifications for the protection of our people from foreign attack which may never come. God grant it shall not! The grandest battle fleet in all the history of all the ages is our messenger of peace to-day on the greatest of the oceans, threatened battle zone between the white and yellow races.

Let us not, in this policy of self-protection, forget the centered wisdom of the old creeds, that "charity begins at home;" that the love of home and of country is the surest guaranty of high citizenship and good government, the invincible protection of right against the assault of might or stealth of treachery.

Were we blind to the requirements of gratitude we can not, if there is wisdom among us, be indifferent to the requirements of the future, the exigencies that lie along the years when our children shall inherit whatever of good we may have done or bow beneath the burdens we may have heaped for them.

Let us, obedient to gratitude, faithful to duty, true to ourselves and our constituents, legislate to make the home happy, healthy, and hopeful, and we shall not have labored in vain, nor have spent our strength for naught, for so doing we shall, so far as mortals may, have made our country "four square to all the winds that blow."

GOOD ROADS.

My plea to-day, Mr. Speaker, is for good roads. Not a road here or a road there, but a system of good roads throughout the land. Making that plea in this place and in this presence it will naturally be argued that I stand for Government aid in so great an undertaking. And so I do. I want good roads from East to West, from North to South; roads for the construction of which the greater portion of the funds shall come from the National Treasury. Nor shall I be satisfied with asking that these funds flow sparingly through a long succession of years. I want to see such a system of good roads from one end of the country to the other perfected within the next twenty-five years. It can be done if the work is pushed forward with energy and with such appropriation at the start that it shall not lack money at any time of its progress.

For a people like that of the United States, standing in the very forefront of the civilized nations of the world, public roads such as, with but few exceptions, our highways are, constitute an anachronism. They would be in place in darkest Africa. Some one has said that "roads are indispensable to civilization; their absence is a sure evidence of barbarism." There can be no mistake about the majority of our public roads being barbarous, so far as their effect upon man and beast is concerned. The wear and tear in this case is not on the roads, but on those that are compelled to use them. We Americans pride ourselves upon our progressiveness. We point to our luxurious railway trains, our magnificently appointed steamships, our palatial hotels, to all the comforts with which our homes are equipped; but when it comes to the public highways we have to hang our heads in shame and confusion, because they are an everlasting reproach to the nation. They are a national disgrace. How much longer are we to tolerate this stigma on our vaunted progressiveness?

In all the world's history there never has been a nation that amounted to anything unless it was a great road builder. Greece, Egypt, Carthage, and above and beyond them all imperial Rome, gave evidence of the civilization of their time by the roads they constructed. Scratch Italy's soil and you will find the imperishable Roman roads. The Appian Way, traveled by millions since Appian Claudius Cæcus had it built, to-day proclaims the greatness of that nation. "Regina viarum" it was called, and "regina viarum" it is even in our day. Wherever Rome's victorious legions entered, whether in Gaul, or Spain, or England, they erected memorials to their nation in the shape of roads, and the ravaging tooth of Time has not been able to obliterate them. Rome bequeathed her prowess

in road building to the nations she had conquered, and so we find to-day the most superb highways in the world in France, Italy, Spain, Germany, and England. You may travel in those countries for months and never see a rut in the roads over which your wagon or carriage rolls. Not only the highways, but even the byways, are thus well kept.

Why not we here in the United States, Mr. Speaker? To paraphrase the old campaign song of "Tippecanoe and Tyler too," time, "we have the men, we have the grit, we have the money, too." Why do we lag ingloriously in the rear of peoples whose lack of less essential accessories of civilization we contemplate with a pitying smile? Somewhere I read the other day these lines:

Human existence is pleasant or painful as its wants are satisfied or denied, and of course that system of internal communication which provides for them becomes one of the first cares of civilized society, one of the greatest objects of all intelligent legislation.

This nation, Mr. Speaker, has reached man's estate; it can no longer be excused for failing to do what in its youth it attempted but failed to carry to a successful conclusion.

In theory, and for a number of years in practice, our Government has recognized its obligations to the people in the matter of the building of public roads. With few exceptions our Presidents, from Washington to Roosevelt, have favored such a policy, some more forcibly than others. Even Old Hickory, who vetoed bills providing for such public improvements as the Maysville and Lexington turnpike and to improve the navigation of the Wabash River, because he held such legislation to be inhibited by the Constitution, yet while in the Senate cast his vote for bills such as these:

Authorizing a road from Memphis to Little Rock.
Making certain roads in Florida.
Making a road in Missouri.
Extending the Cumberland road to Zanesville, Ohio.

In his first annual message to Congress in 1790, Washington said:

I can not forbear intimating to you the expediency * * * of facilitating intercourse between distant parts of our country by a due attention to the post-office and post-roads.

In his third annual message the first President of the United States said:

The importance of the post-office and post-roads on a plan sufficiently liberal and comprehensive as they respect the expedition, safety, and facility of communication is increased by their instrumentality in diffusing a knowledge of the laws and proceedings of the Government, which, while it contributes to the security of the people, serves also to guard them against the effects of misrepresentation and misconception.

Madison, in his annual message, in 1815, made use of the following language:

Among the means of advancing the public interests the occasion is a proper one for recalling the attention of Congress to the great importance of establishing throughout our country the roads and canals which can be best executed under the national authority. No objects within the circle of political economy so richly repay the expense bestowed upon them; there are none the utility of which is more universally ascertained and acknowledged; none that do more honor to the Government whose wise and enlarged patriotism duly appreciates them. Nor is there any country which presents a field where nature invites more the art of man to complete her own work for his accommodation and benefit. These considerations are strengthened, moreover, by the political effect of these facilities for intercommunication in bringing and binding more closely together the various parts of our extended confederacy. Whilst the States individually, with a laudable enterprise and emulation, avail themselves of their local advantages by new roads * * * the General Government is the more urged to similar undertakings, requiring a national jurisdiction and national means, by the prospect of thus systematically completing so inestimable a work.

John Quincy Adams, in his third annual message to Congress, in 1827, said:

The appropriations for the repair and continuation of the Cumberland road, for the construction of various other roads * * * may be considered rather as treasures laid up from the contributions of the present age for the benefit of posterity than as unrequited application of the accruing revenues of the nation.

President McKinley said, in his annual message in 1899:

There is widespread interest in the improvement of our public highways at the present time.

President Roosevelt, in his address before the National Good Roads Convention in St. Louis, in 1903, said:

No one thing can do so much to offset the tendency toward an unhealthy drain from the country into the city as the making and keeping of good roads. They are needed for the sake of their effect upon the industrial conditions of the country districts, and I am almost tempted to say that they are needed more for their effect upon the social conditions of the country. If winter means for the average farmer the existence of a long line of liquid morasses through which he has to move his goods if bent on business, or to wade or swim if bent on pleasure; if an ordinary rain means that the farmer's girl and boy can not use their bicycles; if a little heavy weather means the stoppage of all communications, not only with the industrial centers but with the neighbors, then you must expect that there will be a great many young people of both sexes who will not find farm life attractive.

When John C. Calhoun was Secretary of War during President Monroe's Administration, the House of Representatives directed him to submit a report on the subject of Government aid to roads and canals. In January, 1819, Mr. Calhoun sent in his report and in it occurs this passage:

But in such great undertakings (i.e., judicious systems of roads and canals), so interesting in every point of view to the whole Union * * * the expense ought not to fall wholly on the portions of the country immediately interested. As the Government has a deep stake in them * * * it ought, at least, to bear a proportional share of the expense of their construction.

While Albert Gallatin was Secretary of the Treasury he made a report, in 1808, in obedience to a resolution of the Senate, directing him "to prepare and report to the Senate, at their next session, a plan for the application of such means as are within the power of Congress to the purposes of opening roads and making canals, together with a statement of the undertakings of that nature, which, as objects of public improvement, may require and deserve the aid of the Government." In that report Mr. Gallatin says:

The early and efficient aid of the Federal Government is recommended by still more important considerations. * * * Good roads and canals will shorten distances, facilitate commercial and personal intercourse, and unite, by a still more intimate community of interests, the most remote quarters of the United States. No other single operation within the power of government can more effectually tend to strengthen and perpetuate that union which secures external independence, domestic peace, and internal liberty.

The total amount estimated by Mr. Gallatin for the improvements recommended by him in this report was \$20,000,000, and among the improvements suggested were the following:

A great turnpike road from Maine to Georgia, along the whole extent of the Atlantic coast, \$4,800,000; four first-rate turnpike roads from four great Atlantic rivers to four corresponding Western rivers, \$2,800,000; improvement of roads to Detroit, St. Louis, and New Orleans, \$200,000.

In his annual message to Congress in 1827 Mr. Adams tells of surveys, made by authority of Congress, for the following objects:

Continuation of the national road from Cumberland to the tide waters within the District of Columbia; continuation of the national road from Canton to Zanesville; location of the national road from Zanesville to Columbus; continuation of the national road to the seat of government in Missouri; post-road from Baltimore to Philadelphia; a national road from Washington to Buffalo.

President Monroe was not sure whether the Constitution was sufficient to warrant the Federal Government to undertake internal improvements, or that the States should be asked to grant additional powers to that. But he declared:

It seems to be the prevailing opinion that great advantage would be derived from the exercise of such power by Congress.

And then he says, further on in the same state paper:

Great improvements may also be made by good roads in proper directions, through the interior of the country. * * * Much has been done by some of the States, but yet much remains to be done with a view to the Union.

Surely these words apply with as great a force to present conditions as when first addressed to Congress; perhaps even more forcibly, because the country has become greater and richer and the Government better able to undertake the work of aiding in the construction of public highways of the most approved pattern.

Upon the defeat of the bill for a national system of roads and for the funds for the same, Congress returned to its former method of providing for road building from funds derived from sale of public lands. In 1811, 5 per cent of the net proceeds of the sales of public lands in Louisiana were, as in the case of Ohio, given to that State for the building of roads and levees; in 1816 the same percentage of a similar fund was given to Indiana for roads and canals, and in 1817 a like sum was given to Mississippi for this purpose. In 1818, 2 per cent of a similar fund was given to Illinois for roads leading to that State; in 1819, 5 per cent to Alabama; in 1820, 5 per cent to Missouri, and in 1845, 5 per cent to Iowa. In the meantime the annual appropriations for the Cumberland road of sums to be replaced from the funds thus set aside in the States through which it passed were continued. For the fiscal year 1819 over half a million was donated, and on May 25, 1838, the last appropriation, amounting to \$150,000, was made.

Internal improvements are again looming up in ever increasing proportions before the public eye. Inland waterways; the improvement of rivers; the junction of them by a system of canals; the binding together of the Great Lakes and the Gulf of Mexico, and of the Mississippi River and the Atlantic Ocean by some system of inland water communication—the importance of all these undertakings is admitted on all hands. The millions that will have to be spent to construct them are as nothing compared with the many millions which will be added to the national wealth by such works. And what is

true of these is equally true of public highways. Every consideration that can be urged in favor of inland waterways can also be urged with equal force in favor of public roads. Commerce and agriculture will be benefited by the former; they will be equal, if not greater, gainers by the latter. Especially is the farmer concerned in the construction of good roads, and inasmuch as the agriculturists contribute the greater share of the nation's wealth, they ought to receive at the hands of Congress that consideration which their interests demand. Add to the prosperity of the farmer and you increase the prosperity of the whole country. The richer the farmer, the richer the merchant. Napoleon placed agriculture at the head of the great assets of the state. The farmer of the United States has been aided by Government appropriations less than any other class of wealth producers of the country. He has been singularly modest. His just claims ought to have proper consideration. With good roads he would save millions every year on the wear and tear alone on his road stock—wagons and harness. It has been calculated that this saving would amount to 50 per cent on every ton of farm products marketed. He would not need as many horses and mules to take his produce to market.

Taking the figures of the last census there was something like 16,000,000 of horses and mules used for farm work in the United States. If the roads were as they ought to be—good, hard roads, not the agglomeration of ruts and holes and hills that constitutes our dirt roads—it is safe to say that at least 10 per cent of these animals might be dispensed with. The value of this 10 per cent is not less than \$80,000,000; the annual maintenance of that number of animals is certainly as much. So we have \$160,000,000 that would be saved to the American husbandman every year if he had good macadamized roads over which to carry his produce to market.

The Brownlow bill, which may be accepted as a model on which to construct legislation of this character, proposed an annual appropriation of \$24,000,000 to be allotted among the different States. The allotment is to be made, according to the terms of the bill, in the ratio which the population of each State bears to the total population of the United States. It ought to be subject, furthermore, to a stipulation that each State shall appropriate an amount proportionate to that given by the United States for the building of roads, this to be supplemented still further by appropriations from county funds. The construction of the roads ought to proceed in accordance with a general plan, modified perhaps by local conditions, under the joint supervision of officers of the Engineer Corps of the Army and officials appointed by the respective States.

Let me show you, Mr. Speaker, how derelict the people of the United States have been in this matter of road building. In 1904 there were in the United States, according to a bulletin issued by the Office of Public Roads of the Department of Agriculture, 2,151,570 miles of public road. Of this mileage, 108,232.9 miles were surfaced with gravel, 38,621.7 with stone, and 6,807.7 miles with special materials, such as shells, sand-clay, oil, and brick, making in all 153,664.3 miles of improved road. This shows 7.14 per cent of improved roads in this country. By comparing the total road mileage of all the States and Territories, it appears there was 0.73 of a mile of road per square mile of territory.

A comparison of road mileage with population shows there was 1 mile of road to every 35 inhabitants and 1 mile of improved road to every 492 inhabitants. Compare this with France, the country which stands at the head of all civilized countries in the matter of good roads and where road building may be said to have attained the degree of a fine art. From an official report, made about the year 1904, it appears that at that time France had 321,803 miles of stone roads. In the six years from 1881 to 1886, 25,994 miles of such roads were built at a cost of \$57,404,789. Assuming this to be about the ordinary cost of construction, we get an average of \$2,207.50 per mile, or a total cost of all the stone-road mileage in France of \$710,380,122. The annual expenditure for maintenance, including improvements and repairs, of all these roads is given approximately as \$31,551,860. Placing the population of the country at 40,000,000, this would make the per capita cost of maintenance annually about 80 cents. Of course we must consider that France has been engaged in this work of stone-road building for centuries, and we can not hope to rival her in this respect for a very long period of time to come, if at all. But with our wealth—national, State and municipal—and applying to this problem the same energy we are now displaying in building the Panama Canal, we ought to make a very respectable showing in the next twenty-five or fifty years, provided that we handle this problem as energetically and with the same liberality in the matter of expenditure that we are giving to the improvement of our rivers

and harbors, to the irrigation of our arid lands, and to other public works of like magnitude and importance.

Just at present we are doing nothing at all, or just as good as nothing. We have permitted the Secretary of Agriculture to establish a Bureau of Public Roads, and since 1893 we have been making some trifling appropriations annually, aggregating up to the present time something less than half a million dollars, and this money has been expended not in building roads, but in helping the people in different States who showed an inclination to do something to learn how to build them. Did I put the case too strongly, Mr. Speaker, when I said that our record as to public roads is simply disgraceful? And is it not time that we bestir ourselves in this matter? We have given hundreds of millions in cash and in public lands to aid in the construction of the great transcontinental railways. It has added billions to the national wealth. Does anyone doubt that the same generous policy applied to building good public roads would yield equally beneficial and remunerative results?

Our Government has not been so lax in this respect in our insular possessions. In the Philippines, where our officials have a pretty free hand, there have been considerable efforts to remedy the deplorable condition of the roadways. Under Spanish rule nothing was done save to exploit the islands and their inhabitants for the individual benefit of Spanish officials. The Spaniards cared little or nothing for the welfare of the people, and history simply repeated itself in this respect as it has in every Spanish colony since the days of Cortez and all the other robber bands who murdered the natives, scraped together all the gold they could lay their hands on, and then sailed back to Spain to let others of their countrymen continue the process ad infinitum.

The advent of the American in the Philippines has changed all this. Our insular officials at once appreciated the necessity of putting the islands in some sort of traversable condition. Almost from the very moment of our taking possession—certainly after the suppression of the Aguinaldo insurrection, and more particularly since the extermination of the *ladrones* and other robber bands—the work of road construction has been undertaken with some measure of success. In the beginning, of course, the work was more or less spasmodic, the greatest difficulty experienced being to get the natives to work on the roads in any systematic way, but gradually they are doing better.

In 1903 Congress, by act approved March 3 of that year, apportioned \$3,000,000 to relieve distress in the islands, to be expended in the discretion of the Philippine government, among the methods of relief being the employment of labor in the construction of wagon roads and other public works. It is not necessary for the purpose of my argument to go through all the details of the expenditure of that fund. I shall content myself with glancing at what was done in 1906 in the way of road construction. In that year (see Report of Philippine Commission, Vol. IX, pt. 3, p. 233) 404,664.52 pesos, or about \$200,000, was spent on the making of roads. Well done, say I. But what a commentary upon our pitiful appropriation, during fourteen years, of a total of \$461,000 for what may be called "aid to learners in road building!"

The Philippine Commission has done even better than that. In July, 1906, it enacted a law providing for the construction, repair, and maintenance of public highways, bridges, wharves, and trails, and imposing a penalty for malicious injuries to such public works. This act places upon every male inhabitant of the islands who is subject to the payment of a poll tax the duty of laboring on the public works named for five days of eight hours each, every calendar year, or pay the equivalent in cash of such days' labor. If any person under such obligations to work fails to respond to the notification to that effect, he is liable to arrest and to compulsory labor for a period of eight days, or to a fine equal to eight days' cash value. All such fines go into the treasury of the respective provinces where the work is to be or has been done. There is a kind of autonomous arrangement which leaves it to the choice of the respective provincial authorities to accept the double cedula or poll tax imposed by recent legislation. If they accept the tax, they share in the distribution of the 10 per cent of the internal-revenue tax proportionately to the population; if they do not, then their share is added to the fund of those provinces that do accept the tax. In addition to all this, the Commission made an appropriation of 1,321,225 pesos—approximately \$650,000—for roads and bridges, nearly \$200,000 more, Mr. Speaker, than we have granted for public road work in fourteen years. And right here be it said to the great credit of those provincial authorities—those little brown men—that all but four of them accepted the double-tax burden in order that they may participate in the \$1,000,000 of insular money available for road

purposes. (See Report of Philippine Commission for 1907, p. 162.)

Secretary Taft, in his special report to the President on the Philippines, says:

The truth is that good roads will develop as the people develop, because the people can keep up the roads if they will, and it is not until they have a large sense of political responsibility that they are likely to sacrifice much to maintain them.

Unconsciously, perhaps, the Secretary of War administers in these words a stinging reproach to the Congress and to the people of the United States. Do the people of our States, of our country, lack this "large sense of political responsibility," and does this lack account for the unwillingness to sacrifice much in money and effort for the construction and maintenance of good roads? Nearly all our States have road laws of some sort, but, with a few notable exceptions, these laws have not been able to evolve such highways as would be entitled to the designation of good public roads. This "sense of political responsibility," Mr. Speaker, ought to stimulate us to meet legislation along the lines proposed in the Brownlow and Latimer bills. It should move the Congress to spend annually as much for good roads as it costs to build and equip two first-class battle ships; it should move our State and county and municipal legislators to second any effort put forth by the National Government until every State has good, hard, macadamized roads throughout its domain and joining it to its neighbors.

A bad road, Mr. Speaker, is a perpetual tax, a burden which can not be lifted except by the permanent improvement of the highways. One of the officials of the Canadian Pacific Railway, in a paper entitled "Road making and maintenance," had this to say about the roads in the United States and Canada:

The country roads seem to be principally used by farmers, to whom time seems to be no object, and who do not apparently realize that good roads can be profitable, since they do not actually place dollar bills in their hands, and who seem to think that the only way to increase their income is to sell more produce, no matter how much it may cost to draw it to market, and accordingly they spend a great part of their lives slowly plodding over bad roads without a thought of trying to improve them.

The principal advantages of good roads are that larger loads can be carried with greater speed, that farmers can market their produce at whatever time they can get the best prices, without being dependent on the weather, and that they can also use the roads in wet weather during the winter and spring, when they can not plow, thus utilizing their horses when they would otherwise be idle. It is said on what appears to be good authority that it costs as much to haul a bushel of wheat over 5 miles of country road in Illinois from farm to railroad as it does to carry it by rail from there 1,100 miles to the elevator in Buffalo. If this is a fact—and there is no reason to doubt it—then think of the enormous capital the farmers of the United States waste each year because they have so few good roads. It is safe to say that bad country roads cost the American farmer not less than one-half of the profit he would get from his crops if he had roads in fact instead of in name only.

Within the last few Congresses a number of bills have been introduced looking to the beginning of the work of building good roads throughout the country. The beginning, I say, for though the provisions of the Brownlow bill and of the one introduced by the late lamented Senator from my State would be a great step forward, yet \$24,000,000—that is, \$8,000,000 a year for three years—distributed over the whole country would be a mere drop in the bucket. When I said a while ago that legislation on this subject ought to proceed along the lines laid down in these bills I had reference to their general tenor, but I do not think that the sum they provide meets the exigencies of the situation. There are two ways to finance the building of roads throughout the country. One is a bond issue, say, to the amount of \$200,000,000, the proceeds to be devoted to the construction of public roads; the other is an annual appropriation from the current revenues of the Government of \$20,000,000 for ten consecutive years. I would have it understood, of course, that each State should only receive its proportionate share of this annual disbursement upon conditions that such share would be supplemented by an appropriation of equal or nearly equal amount from the State treasury, and an additional proportionate appropriation from county funds. I have no fear, Mr. Speaker, that any State or any county in any State would not gladly avail itself of this offer of friendly assistance from the National Treasury or that it would fail to meet the liberality of the National Government with like liberality on its own part.

Like the appropriations for the postal service, the direct benefits of which come straight home to every citizen, the inestimable benefits arising from the building of good roads will be felt by everyone, whether resident of city or dweller on farm. No voice has ever been raised in protest against the

sums we spend for our mail service, even though they reach \$160,000,000 or more, as they do this year. Nobody cares whether the postal service is self-supporting or not, but everybody clamors that it be made as perfect and as far-reaching as possible, no matter what the expense. Rural delivery started on a small scale; it has grown to big proportions; it must continue to increase with the growth of the country. The farmer is the chief beneficiary of this part of the postal service, and he will be the chief beneficiary of the model highway.

History will have a luminous page for the Congress that appropriated the first millions for the Panama Canal. No less, Mr. Speaker, will it celebrate the Congress to whose credit can be recorded the inauguration of a well-thought-out and generously endowed system of good-roads construction throughout the length and breadth of this country. For the beginning of this undertaking, fraught with incalculable benefits to the generations of the future, I pray the day may soon dawn, and I trust I may live long enough to see the consummation of a goodly part of the work.

DRAINAGE.

Six years ago the Federal Government adopted a policy which looked to the preparation of the waste lands of the United States for the uses of man. The subject had been before Congress several years earlier. A committee to consider the question of irrigation was appointed by the Fifty-second Congress. Later President Roosevelt took up the subject in his message to Congress and treated it as a matter of the greatest importance. When the Fifty-seventh Congress met it was realized that the time had arrived for action and an irrigation bill was passed by both Houses and was signed by the President June 17, 1902. No ye-a-and-nay vote was taken on it in the Senate. When the matter came before the House of Representatives the bill was passed by a vote of 146 to 55. Eighteen Members answered "present." One hundred and thirty-two did not vote and of these 128 were paired. So the real vote, giving each side the number that was paired in its favor, stood 220 to 129, with 22 present and not voting or absent and not paired. The vote by which this bill was passed had no political complexion. Of the 146 Members voting in its favor 69 were Republicans, 72 were Democrats, 4 were Populists, and 1 a member of the silver party. The number of Republicans voting for it was greater than the entire number of votes against it. The number of Democrats voting for it was greater than the entire number of votes against it. Every Populist and the single silver man in the House voted for it.

And the vote by which this measure was passed was not sectional. The bill applied only to Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming; and yet the votes that were cast in its favor from other States than these lacked only two of being double the entire vote cast against it.

So here was a matter concerning which no party strife displayed itself. A few individuals made objection, but no party took the view that in embarking on a career of irrigation the Government was transcending its powers. We may safely assume, then, that the act was not in any way violative of the Constitution.

In justification of it, however, authority may be cited. It is not necessary for the exercise of a power by the Federal Government that it should be expressly granted in the Federal Constitution, or even that it should be "clearly and directly traceable to some one of the specified powers" granted. Any number of the powers granted, or all of them, may be combined and considered together, and any power necessary to carry out the general purposes of any or all of the powers specified will be considered granted by implication and as an incidental means of executing the powers specifically granted. (Knox v. Lee, 12 Wall (U. S.), 457.)

Every statute is presumed to be constitutional. The courts ought not to declare one to be unconstitutional unless it is clearly so. If there is doubt, the expressed law of the legislature should be sustained. (94 U. S., 123.)

Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. (99 U. S., 718.)

But it is useless to continue to fight a man of straw. The right of the Government to put water on lands when by so doing it will make them valuable is not questioned. This admitted, the right of the Government to take water from lands when by so doing it will make them valuable can not be questioned. The right to irrigate implies the right to drain. If irrigation is a duty where needed, drainage is a duty where needed. If the Government, in the exercise of its powers, enhances the value of property in certain States, it should, by

the exercise of its powers, enhance the value of property in other States if its work is needed. The States are all equal in rights and should be treated alike. A benefit bestowed on a few and withheld from others is sectionalism and injustice. A benefit bestowed on all alike removes all ground for a charge of sectionalism and gives justice to all.

The irrigation act as originally passed applied only to public-land States, but not to all of them. It applied to all in which large areas of public lands remained still unsettled, but I do not think it applied to them because of this fact. I think it was applied to them because they needed the work for which it provided. Generally speaking, these States had areas of arid land that was worthless, but that could be made valuable by irrigation. The States were provided for because of their needs. The act set aside all moneys received from the sale of public lands in the States and Territories mentioned in it as a specific fund, to be known as the "reclamation fund," to be used "in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid lands and semiarid lands in said States and Territories."

If the irrigation act had been confined to the States for which it originally provided, it might have been held, with a show of reason, that the Government was only improving its own lands and that, if lands held in private ownership were benefited, this benefit was only incident to the work the Government was doing for itself. This impression, if it existed, was removed when the provisions of the act were extended to Texas—a State which held the original title to its lands and in which the Federal Government owned no lands unless by purchase. The extension of the provisions of this act to Texas showed that it was not intended merely for the improvement of the lands whose title was vested in the Government, but was intended to have a general application.

The irrigation act sets aside, for the purpose of reclaiming arid lands, so far as it is needed, all moneys received from the sale of public lands in sixteen States and Territories, except such as was applied by law to the cause of education, and a later act added Texas to the list. The bill I have introduced proposes the use for the purpose of drainage under the same conditions, and under the same restrictions, of the moneys derived from the sale of Government lands in the remaining public-land States. The lands available for sale for irrigation purposes are vastly more extensive than those which would be available for sale for drainage purposes, as the following table giving the public lands remaining in the different States and Territories shows. The figures given are for 1906, and show the areas of Government land unappropriated and unsurveyed at the end of that year. The changes since that time will very slightly affect the proportion shown:

Drainage.		Acres.
Alabama	-----	108,520
Arkansas	-----	1,859,809
Florida	-----	667,500
Louisiana	-----	145,121
Michigan	-----	306,208
Minnesota	-----	2,507,550
Mississippi	-----	44,834
Missouri	-----	107,538
Wisconsin	-----	36,900
Total	-----	5,843,980
Irrigation.		
Arizona	-----	45,571,305
California	-----	32,403,695
Colorado	-----	28,472,033
Idaho	-----	30,989,840
Kansas	-----	480,439
Montana	-----	51,398,631
Nebraska	-----	4,150,301
Nevada	-----	61,204,087
New Mexico	-----	49,890,637
North Dakota	-----	4,033,871
Oklahoma	-----	83,589
Oregon	-----	19,739,649
South Dakota	-----	8,673,727
Utah	-----	88,279,631
Washington	-----	6,260,980
Wyoming	-----	36,726,337
Total	-----	418,358,752

No Government lands remain in Illinois, Indiana, Iowa, or Ohio, and the title to the lands in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Tennessee, Kentucky, and Texas was never vested in the Government.

In the States for which irrigation is provided the Government still holds 650,000 square miles of land—a domain greater than the combined areas of Germany, France, and Austria-Hungary. In the States where drainage is needed the total area of Gov-

ernment lands is little more than 9,000 square miles. The extent of the available land, however, matters little, for the proceeds of one acre might be sufficient to drain many acres.

The drainage bill, paralleling the irrigation act, authorizes the loan of money for drainage purposes, to be repaid in annual installments extending for a period of not longer than ten years. Thus the money borrowed to drain one acre, when repaid, may be used to drain another, and another, and another until the work is finished. The Government is not asked to give any money either for drainage or irrigation. Where other land than its own is drained it simply advances the money on ample security.

I have referred to irrigation in discussing drainage, because one is supplementary of the other. Both are needed to complete reclamation. One without the other supplies only half of what is needed. One without the other fails to deal out equal justice to all States and all sections. Both should have been provided for in the same bill. Both should have been paid for out of the same fund. I do not see why one group of States should derive all the benefits from the sale of public lands within its limits while another group is left to depend on a smaller area.

The public lands are the property of all the people, not simply of the people who live in the States in which they are located. The people of the older States acquired them, and those who remain in the older States should not be treated as sacrificing their rights to the proceeds from the sale of the public domain because of the fact that they did not move to the new States. They have a right to their share, to be used in the drainage of swamp lands.

To show what this drainage work might mean to the United States, it is only necessary to give the swamp areas of the different States. Expressed in square miles, the swamp area is as follows:

	Square miles.
Florida	29,000
Louisiana	15,000
Arkansas	9,000
Mississippi	9,000
Michigan	7,500
Minnesota	6,000
Wisconsin	4,500
Maine	4,000
North Carolina	3,750
Georgia	3,750
Illinois	3,500
Texas	3,500
Missouri	3,000
South Carolina	2,750
New York	2,500
Alabama	1,750
Virginia	1,600
Tennessee	1,250
Ohio	1,250
Indiana	1,250
New Jersey	900
New Hampshire	600
Massachusetts	500
Maryland	500
Iowa	400
Vermont	400
Nebraska	400
North Dakota	375
South Dakota	375
Kentucky	350
Pennsylvania	300
Kansas	250
Connecticut	100
Delaware	50
Rhode Island	30
Other States	10,000
Total	129,380

Figures do not always give the idea they are intended to convey. The swamp area of Florida is only 1,000 square miles less than the entire area of South Carolina. The swamp area of Louisiana is greater than the entire area of Delaware, Maryland, and the District of Columbia combined. The swamp area of Arkansas is only 300 square miles less than the entire area of New Hampshire. The entire State of Massachusetts could be put into the swamps of Mississippi and lack 700 square miles of filling them. New Jersey's entire area is only 300 square miles in excess of the swamp area of Michigan, and the swamps of Minnesota are more than 1,000 square miles larger than the entire State of Connecticut. The swamp area of the United States is larger by nearly 4,000 square miles than the combined area of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Delaware.

The swamps of the United States have a total area of 82,803,200 acres. The area planted in corn in the entire country in 1906 was only one-fifth larger than this, and it yielded a product worth, on the farms, \$1,166,626,479.

The area of wheat and oats was about 6 per cent less than

the swamp area, and it yielded \$796,625,738 worth of products, valued on the farms.

The area in hay and cotton was about 11 per cent less than the swamp area, and it yielded a product worth, on the farms, \$1,200,221,671.

In 1906, 260,000,000 acres in corn, cotton, hay, wheat, oats, rye, barley, buckwheat, tobacco, and potatoes yielded a product worth on the farms, \$3,491,888,710. This acreage was only three and one-third times the swamp area of the country. This area, if in cultivation and only as productive as the average land now in cultivation, would yield an annual value of more than a billion dollars a year. The land that would be reclaimed would be vastly more valuable than the average and would probably yield a product worth \$2,000,000,000 a year.

To give an idea of the value that awaits the work of drainage, I will make another comparison. The swamp area of the United States, as already stated, reaches a total of 129,380 square miles. The following table shows the area and population of three European countries whose combined extent is approximately as great:

Country.	Square miles.	Population.
Italy.....	110,550	32,475,233
Belgium.....	11,373	7,074,850
Saxony.....	5,787	4,508,601
Total.....	127,710	44,058,704

So we see in Europe, living on an area slightly less than that of the swamps of the United States, more than half as many people as live in all the States of this great Union.

Of course the people of Italy, Belgium, and Saxony do not all live on the local products of the soil, and probably not half of them do. Much of this land, however, is not available for cultivation and much that is cultivated is not fertile. Italy is ribbed through the center and shut in on the north by mountain chains, and Saxony is also mountainous. Their land is not nearly as fertile as that which lies beneath the slime of the marshes of the United States. The richest land in Europe is in Holland and it was reclaimed from the waters, as our land, greater in extent than Italy, Belgium, and Saxony, should be reclaimed.

Individuals have done, on a small scale, the work that the nation should do with the completeness that only its vast resources permit. Some of the land on the Atlantic seaboard, reclaimed from the swamps over a century ago, has been in constant cultivation for more than one hundred years, without fertilization or rotation of crops. Without the use of fertilizers it is still producing an average of 50 bushels of corn per acre. The largest average production of corn in the United States for the best crop year ever known was less than 31 bushels per acre.

Every variety of products could be grown on this land, and, if it were reclaimed for use, it would add not millions, not tens of millions, not hundred of millions, but billions to the wealth of the nation.

I do not decry the importance of irrigation. I would not divert a dollar from the good work that is enriching the West. But, as a Southern man, I say let the good work go on. I am an American, and I think I can justly claim that the people I represent are as broadly American as any who live between the oceans. I rejoice and my neighbors rejoice in the prosperity of any section of this great country—our great country—that our Marion and Sumter and other patriotic and devoted forefathers helped to endow with the rights of a separate national existence and with the blessings of free government. I represent a race not new to America, but sprung from the men who felled the forests when savages, meaning death, were lurking behind the trees, and who faced the bayonets that the British King had sent over for their enslavement. We inherit from our ancestors a love for everything American and a pride in everything American that is too broad to be hemmed in by State or sectional lines. So we say to the North and the West godspeed. May you ever advance in all that makes a nation great and a people prosperous and happy. We will try not to lag behind in the race, but we will keep up by accelerating our steps, not by trying to pull others back.

Our Representatives and Senators voted for Government aid for the work that is developing the West, and we rejoice in the success that is attending it, but we ask that a similar assistance be extended to an equally important work in our own States. We ask it as a matter of justice, and we have no fears that it will be denied.

I say the work of drainage is as important as that of irrigation. It is really more important. The States in whose behalf

I ask Federal assistance for drainage had in 1900 64,632,147 people on 1,190,496 square miles, an average of more than 54 inhabitants to the square mile. The States that are included in the provision for irrigation had 11,671,240 people in 1900 on 1,836,293 square miles, an average of little more than 6 to the square mile. The first-named group has less than 12 acres to the inhabitant. The last-named group has 106 acres to the inhabitant. Which is most in need of more land?

If the first-named group increases as rapidly in the near future as it has increased in the recent past, it will have a population of 140,000,000 in a third of a century, and nearly 200,000,000 in a half a century. In enlarging the tillable area of these States we are providing for the near, not for the remote, future. There are children alive to-day who will live to see a quarter of a billion people in these States.

If land is to be provided for people who need it, the nearest provision is the best provision. It costs money to move and pay railroad fares for a distance of 2,000 miles. The lands that would be made fit for use by drainage are right at the doors of the people who will soon be sorely in need of land. The lands that are being made fit for use by irrigation lie in States and Territories that are sparsely settled and will long need more people rather than more land.

The need of drainage has been long recognized, but I think the method at first adopted to secure it has hindered rather than promoted. In 1850 the Federal Government granted to the States in existence at that time, with three exceptions, all lands which were unfit for cultivation, because of the fact that they were swamp or overflowed lands.

The States, however, are hampered in their attempts at drainage by the powers granted the Federal Government. The Federal Government has charge of interstate commerce and it also controls all navigable waters.

By the act of September 19, 1890 (26 Stat., 454), the creation of any obstruction not affirmatively authorized by law, to the navigable capacity of any waters in respect of which the United States has jurisdiction is prohibited; and, in considering the scope of this act, the Supreme Court (174 U. S., 708) finds that the language is general and must be given the broadest interpretation.

It is not a prohibition of any obstruction to the navigation, but any obstruction of the navigable capacity, and anything whatever done or however done within the limits of the jurisdiction of the United States which tends to destroy the navigable capacity of one of the navigable waters of the United States is within the terms of the prohibition.

Whenever any public lands might be involved in any proposed scheme of reclamation the State would be powerless to act, because the constitutional grant of power to Congress over property of the National Government excludes all other authority over the property which could interfere with the exercise of that power or impair its efficiency. (133 U. S., 504.)

Where tide-water lands are to be reclaimed action by the Federal Government is necessary. In the case of *Coxe v. The State of New York* (144 N. Y., 401) it was decided that a State statute granting to a corporation the right of property in the tide-water marsh lands, with power to reclaim and drain wet or overflowed lands and tide-water marshes on or adjacent to Staten Island and Long Island is obnoxious to the Federal Constitution.

The proportion of swamp lands which could be reclaimed without Federal intervention is comparatively insignificant when compared with the large areas connected with navigable or tide waters or which involve the control of interstate waters.

Thus we see that the Federal Government is the only power that can do this work without hindrance. The expenditures and the work to be done under the provisions of the proposed act are public and governmental in character.

It is not necessary in order that a use may be regarded as public that the whole community or any large part of it may participate in it. If the drain be of public benefit, the fact that some individuals may be specially benefited above others affected by it will not deprive it of its public character. (*Ross v. Davis*, 97 Ind., 79; *Lake Erie, etc., Railroad Co. v. Hancock Co.*, 63 Ohio, St. 23; 57 N. E., 1009.)

The work is also governmental in the sense that the Congress has authority under the Constitution, to which it must look for all its powers, to effectively legislate with a view of making the lands habitable and valuable to the nation. All the property and revenues must be held and applied "to pay the debts and provide for the general welfare of the United States." (Constitution, Art. I, sec. 8, clause 1; *Van Brocklin v. State of Tennessee*, 117 U. S., 151-158.)

Another feature of this discussion is worthy of extended discussion, but does not need it. Drainage would increase comfort, prevent very many cases of illness, and save many lives.

It is now known that malaria is caused by the bites of a species of mosquito known as the "Anopheles." This is not now one of the theories of medical men. It is a fact proved as conclusively as if by mathematical demonstration. There are few opinions concerning which doctors do not differ. This is one of the few. Every physician will say that malaria is caused by mosquito bites and by nothing else. Then if we would get rid of malaria we must get rid of mosquitoes. If we would get rid of mosquitoes we must get rid of the swamps.

Many men think that malaria is peculiar to the South. It is peculiar only to regions where there are mosquitoes. It is prevalent in low, swampy sections only because mosquitoes are found in such sections in great numbers. Malaria exists in the swamp lands of the North and East and West as well as in the swamp lands of the South.

If the mosquito were not a transmitter of disease, it would be well worth while to go to any trouble and expense to get rid of him. He is an intolerable pest, and in low-lying parts of the country makes the day uncomfortable and the night intolerable.

But the mosquito fills with malaria hundreds of thousands—yes, millions—of our people every year. Not all of them have what they recognize as a spell of sickness. Many simply feel a lassitude that makes the discharge of their duties almost impossible. Many have to give up work and become seriously ill. Many die of malaria whose lives would be saved and whose health would be made nearly perfect by removing the mosquito, by draining the swamps.

Santiago was once little better than a death trap. General Wood made it a healthy city. Habana was once the constant victim of yellow fever. Yellow fever is rarely known there now. The Isthmus of Darien was once a region of sickness and death. Now few spots on earth are more healthful. What has made all these changes? The extermination of the mosquito has done the work. The Government is very properly devoting its energies to the prevention and the cure of consumption. It could just as properly bend its energies to the eradication of malaria. Fewer men die of malaria than of consumption, but vastly more suffer with it than suffer with consumption.

Americans ought to lead the world in prosperity. Our country in the variety, the extent, and the richness of its natural resources is far in the lead of all others. I wish to see this land put in its best possible condition throughout its entire extent. Such parts of this work as are too vast for accomplishment by individual effort are vast enough to deserve the assistance of the Federal Government in the discharge of its duty of providing for the general welfare of the United States.

Eulogy on the Late Senators Morgan and Pettus.

REMARKS

OF

HON. RICHMOND P. HOBSON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1908.

The House having under consideration the following resolutions:

"Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

"Resolved, That as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m. on Monday next.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators."

Mr. HOBSON said:

Mr. SPEAKER: A scarcely higher privilege could come to an Alabamian than to have an opportunity to thus do honor to the memory of two great men from our State, General MORGAN and General PETTUS.

On June 11, 1907, JOHN TYLER MORGAN, and six weeks later, on July 27, EDMUND WINSTON PETTUS each answered the final call and closed his record of faithful service to his fellow-man, to his country, and to his God. On that day in June when the news of the death of Senator MORGAN reached our State, and on that day in July when the sad tidings came that Senator PETTUS had followed his lifelong friend and colleague to the grave, "the mingled tones of sorrow like the voice of many waters was heard throughout the State," for Alabama was "weeping for her honored sons." Joined with the grief of Alabama was

the sorrow of her sister States, for the loss was not alone to the State and the South, but to the nation as well.

In all the varied walks of the long and noble lives of these two great Alabamians they had played every part well; their records in war and in peace, in public and private life, are records of which the State is justly proud, and the memory of their lives and achievements is a rich heritage to the youths of our land.

SENATOR MORGAN.

Senator MORGAN's public career began before the civil war, and he early displayed those traits which won for him afterwards such a brilliant career in national life. When the war broke out he enlisted as a private in the Confederate army. Here his ability and courage soon won him a commission as major, and later as a brigadier-general. During the trying days immediately following the war he took an active part in the work of bringing order out of chaos. In this he so clearly demonstrated his ability and worth that he was chosen United States Senator for the term beginning March 4, 1877.

His six terms in the Senate were filled with evidences of highest patriotism, and he always strove to render a maximum of service to his State and country. His sterling honesty and persistence of character soon made him a powerful figure in Congress. His curt refusal of the offer of the president of the Southern Pacific Railroad to make him consulting attorney for the company, at \$50,000 per year, just after Senator MORGAN had forced an investigation of the Southern Pacific that enabled the Government to regain much valuable land that had been fraudulently used, is both well known and characteristic. He informed the railroad magnate that he had come to the Senate to serve the people and not the railroads, and that anyone who would make him such an offer was not welcome under his roof.

Though the route selected for the canal connecting the Atlantic and Pacific oceans is not the one favored by MORGAN, yet the canal itself will ever be recognized as a permanent monument to Senator MORGAN, for it was due to his untiring and persistent labor that the people were finally aroused to the importance and necessity of building the canal.

Gifted with a breadth of vision possessed by few men of this or any other generation, Senator MORGAN early recognized the great importance to America of acquiring the Hawaiian Islands. In the face of the opposition of his party, he fought consistently to have the United States annex these islands; and without his aid the great peace nation might have lost this important outpost in the Pacific.

Soon after the annexation of Hawaii the wisdom of his course was vindicated, for they proved invaluable to us in the Spanish-American war.

He had the vision of a world statesman, and saw far in advance of his time that the control of the Pacific depended upon the possession of this great strategic point, stationed at a point well named the "crossroads of the Pacific," and of still more importance, he realized that the control of the Pacific was vitally necessary to maintaining our national integrity.

In this, as in all other matters touching our foreign relations and policies, he took the lead in advocating that our Government maintain strong and just policies with foreign nations.

While always a loyal Democrat, he was an American before he was a Democrat, and when his principles and party policy conflicted he never hesitated in standing for those principles against his party.

The resources of Alabama were recognized by him before the world at large realized the wonderful natural wealth of our State, and he was a pioneer in proclaiming to the world the remarkable advantages of our State. He never ceased to work for the advancement and development of State and nation until the hand of death interposed.

SENATOR PETTUS.

The history of Senator PETTUS is that of the State which he has served so long, so faithfully, and so successfully. He was born but two years after the admission of Alabama into the Union, and in its every activity of war and of peace he took the active part of leader.

When the war with Mexico was declared Senator PETTUS volunteered his services to his country and served it gallantly as a lieutenant until the victorious end. Again, when the civil war opened, Senator PETTUS drew his sword, but this time in behalf of his State. He distinguished himself at Vicksburg by conspicuous personal bravery, and again at Franklin by the skillful manner in which he handled his brigade in covering the disordered retreat of the Confederates. When the god of war had declared against him Senator PETTUS did not nurse his grievances nor yield to the despair of defeat, but entered ac-

tively upon the rehabilitation of his State and country under the new régime.

He took but little part in politics as a profession, and sought no office for himself, but he spared himself never when there was aught he could do to win the white man's battle. As a private citizen he served his State so well that it finally thrust honor upon him by making him its Senator. That part of his life spent in the Capital working in the interest of his country is known to all, and, indeed, is writ so legibly in the annals of national achievement that he who runs may read. There remains, therefore, for me only to join my voice with the voices of my colleagues and my countrymen in sorrow at the loss, and in thanksgiving for the example of so illustrious an Alabamian and so able an American as the late Senator PETTUS.

Mr. Speaker, the world is better for the example of the lives of such men as Senators MORGAN and PETTUS, and I thank God that such men call themselves Americans.

Prohibition for the District of Columbia.

SPEECH

OF

HON. THETUS W. SIMS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. SIMS said:

Mr. SPEAKER: When I came to Washington last October, I found that the newspapers were discussing the numerous personal assaults upon helpless, undefended women on the streets of Washington, and the snatching of their purses. Many of these robberies were accompanied by brutal assaults and batteries, and some of them occurring in the best parts of the city. These crimes seemed to increase as winter drew nearer, until a state of terror seemed to seize the people. Women were afraid to go anywhere at night unattended.

The attention of the police department of the city was called to the matter, and all possible efforts to relieve the situation seemed to be made, but resulted in very few arrests. Upon the report of the major of police the Commissioners recommended an increase of the police force by at least 100 men.

Such a condition resulted in a serious consideration of what was best to be done to remedy the then existing conditions. As ranking minority member of the House Committee on the District of Columbia, I was asked to make a study of conditions.

I began my study by reading the last report of the Metropolitan police department for the year ending June 30, 1907, in which I find the following:

For the fiscal year that ended June 30, 1907, there were recorded 34,417 cases of arrest—16,623 against whites and 17,794 against colored.

There was an increase of 3,000 misdemeanor cases during the year over the prior one, sustained by the courts, in a measure due to increased population and activity on the part of the guardians of the public peace.

On further examination of the same report I find the population for the year 1906 is given at 326,435 and for 1907 at 329,591, showing a total increase of 3,156. These include all persons enumerated, women and children, few of whom are among the number of persons reported as arrests. While the total population for the year 1907 shows an increase of barely 1 per cent, the cases of convictions for crime during the same year show an increase of about 10 per cent. The explanation of this increase given as based on increase of population falls to the ground, as the whole increase of population is barely 1 per cent. If the other 9 per cent of increase is due to activity on the part of the guardians of the public peace, as alleged, those same guardians must have been very inactive in the year 1906. This is an attempt at explanation that does not explain, as the whole number of increases of convictions is about equal to the whole increase in population.

The population, as shown by said report for 1907, is, white, 233,403; colored, 96,188, which shows the colored or negro population of the District of Columbia to be about 30 per cent of the whole.

This same report shows arrests, white, 16,623; colored 17,794, or that of the 233,403 white people there were 1,171 fewer arrests than there were of the 96,188 colored or negro population for the same year.

All the assaults upon defenseless white women, numbering about 31 or 32, occurring last fall and winter, were committed by negroes.

Unless we are prepared to admit that the negro, as a race, is more criminal and vicious by nature than the white race,

we must look for an explanation due to other causes. No doubt there are a greater per cent of the negroes of the District of Columbia that are educated than anywhere else in the United States. He is seen under more favored conditions, and with all these advantages we find 30 per cent of the population of this District, who are negroes, commit more crimes than the 70 per cent that are white.

By further examination of said report for 1907, under classification of offenses for which arrests were made, I find that the whole number of arrests made for disorderly conduct was 9,995, or 10,000, speaking in round numbers. Of this 10,000 I find that there were, white 3,604, colored 6,331, or nearly twice as many negroes were arrested for disorderly conduct as white people, though constituting only about 30 per cent of the population. Must we admit that by nature the negro is six times as turbulent and disorderly as the white man? This must be true or else we must seek other causes by which to explain these reports of arrests for 1907.

In the same report we find that the cases of arrests for assault for the year 1907 were 2,692. Of these, 729 were whites and 1,963 were negroes, or nearly 3 to 1. Must we admit that the negro, as a race, is nearly seven times as combative as the white race, or shall we seek other causes for this great disparity?

It will be observed that in all of the above classified offenses the use of intoxicating liquors naturally play an important part, being in almost every case the direct cause of the arrest or commission of the offense for which the arrests were made.

Now, let us examine further said report as to offenses committed by white and colored races for the same year in the District of Columbia, where the use of intoxicating liquors do not usually have any effect.

	White.	Colored.
Desertion.....	21	3
Fugitives from parents.....	104	21
Violation of—		
Building regulations.....	32	10
Boarding-house law.....	25	3
Barber-shop law.....	18	9
Food law.....	287	22
Game law.....	9	—
Gambling law.....	24	7
Health ordinances.....	254	174
License law.....	136	69
Police regulations.....	2,263	1,415

It will be unnecessary to carry this comparison any further, as the same relation holds throughout the list. In that class of offenses most usually committed while wholly or partly under the influence of intoxicating liquors, we find that the negroes are at least five times more criminal and vicious than are the white people, while in the eleven other classes of offenses cited, the commission of which is not caused or stimulated by a state of partial or complete intoxication, the negroes of the District of Columbia show themselves to be more law-abiding and less criminal than the white race. We can reach no other conclusion in a study of these reports than that at least 75 per cent of all minor offenses committed by the negroes in the District of Columbia are the direct result of the use of intoxicating liquors. This accounts for the otherwise unexplainable fact that 30 per cent of the population of the District of Columbia committed more than 50 per cent of the criminal offenses for which arrests were made for the year 1907. If this is the condition we find to exist in Washington, where the negro has his best environment in the way of education and moral training, what are we to expect of the race in the United States as a whole?

The conditions I have recited and a study of the official reports led me to believe that an abatement of the open saloon in the District of Columbia was the only thing that could give complete and perfect relief from these conditions of rapidly increasing crime in the District of Columbia.

The several temperance organizations and churches in the District of Columbia, through their authorized representatives, brought me a bill which they had prepared, and asked me to introduce it as embodying their joint efforts and as expressive of the kind of a temperance law they desired. This was done on the 19th day of February, 1908, and I introduced it on the same day. It reads as follows:

A bill (H. R. 17530) to prevent the manufacture and sale of alcoholic drinks in the District of Columbia.

Be it enacted, etc., That on and after the 31st day of October, A. D. 1908, no person or persons of any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, directly or indirectly, in the District of Columbia, shall manufacture, sell, offer for sale, keep for sale, traffic in, barter, or exchange for goods or merchandise, or solicit or receive orders for the purchase of any alcoholic liquors, give away the same at his, its, or their place

of business in the course of, or as inducement to, trade within the District of Columbia. Wherever the term "alcoholic liquors" is used it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, ambrosia, or any article used as a beverage, in the composition of which whisky, brandy, wines, or alcohol, or any other spirituous, vinous, or fermented liquors shall be an ingredient.

Sec. 2. That nothing herein contained shall prevent the compounding and selling of alcoholic liquors as aforesaid on a prescription by a regularly licensed druggist or pharmacist upon a written and bona fide prescription of a duly licensed and regularly practicing physician in the District of Columbia, who must sign his own name thereto, but the said druggist or pharmacist shall make but one sale on any one such prescription. Each prescription shall be numbered and dated and pasted in a book specially kept for this purpose, which book shall, during business hours, be accessible to public inspection. He shall enter in said book the date of every sale of alcoholic liquors made by him, the quantity and price thereof, the name of the person to whom sold, and his residence; and said purchaser shall sign his own name in said book, receipting for the liquor received by him. Any failure of any such druggist or pharmacist to comply with the provisions of this act shall make him liable to the same penalties as if he were not at the time such druggist or pharmacist. Any licensed and regularly practicing physician or any other person who shall give a prescription for alcoholic liquor to a person not under his charge professionally, or who is not receiving medical advice or treatment from him, shall, upon conviction thereof in the police court, be fined not less than fifty nor more than three hundred dollars, or be confined in the District jail or workhouse for not less than thirty days nor more than one year, or both fine and imprisonment, at the discretion of the court.

Sec. 3. That any regularly licensed druggist or pharmacist may also sell or furnish wine for sacramental purposes, and pure alcohol for mechanical and scientific purposes, but before selling or furnishing wine or pure alcohol for the purposes specified he shall require and obtain from any applicant for the same an affidavit clearly setting forth the purpose or purposes for which such wine or alcohol is intended. Such affidavits shall be filed by said druggist or pharmacist and shall be accessible to public inspection during business hours. Any person who shall procure from such licensed druggist or pharmacist such wine or alcohol by making false representations as to the uses for which it is obtained or falsely give his name shall, upon conviction thereof in the police court, be fined not less than \$50 nor more than \$300, or be confined in the District jail or workhouse for not less than thirty days nor more than one year, or both fine and imprisonment, at the discretion of the court.

Sec. 4. That any person or persons of any house, company, association, club, or body corporate, his, its, or their agents, officers, clerks, or servants, who violates the provisions of section 1 of this act shall, on conviction thereof in the police court on a prosecution in the name of the District of Columbia, be punished by a fine of not less than \$100 nor more than \$500 for the first offense, and for the second or any subsequent offense for the violation of said provisions such person shall be fined not less than \$300 nor more than \$1,000, and be imprisoned in the District jail or workhouse not less than six months nor more than one year. And in case of any house, company, association, club, or corporation convicted of violating the provisions of this act it shall be lawful to impose the penalty herein prescribed upon the president, vice-president, secretary, treasurer, or other officer, or upon any and all of them, in the discretion of the court.

Sec. 5. That prosecutions of the violations of the provisions of this act shall be on information filed in the police court by the attorney of the District of Columbia, by whatever name he may be designated, or any of his assistants duly authorized to act for him, and said attorney or any of his assistants shall file such information upon the presentation to him or any of his assistants of sworn information of any person that said law has been violated. It shall be the duty of said attorney of said District, or any of his assistants, to prosecute any person who violates said act by information in said police court when satisfied by evidence or information from any source that said act has been violated; and it shall be the duty of all policemen and other officers whose duty it is to arrest violators of law within said District to give information to said attorney, or any of his assistants, of any infractions of said act that may come within their knowledge.

Sec. 6. That it shall not be necessary in order to convict any person, house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, of violating the provisions of section 1 of this act to prove the actual sale, delivery of, or payment for any alcoholic liquors, but the evidence of having or keeping them in hand or offering to sell or barter, exchanging for goods or merchandise shall be sufficient to convict; nor shall it be necessary in a warrant or information to specify the particular kind of liquor manufactured, sold, offered for sale, kept for sale, trafficked in, bartered, or exchanged for goods or merchandise, or orders solicited or received for the purchase of alcoholic liquor; but it shall be sufficient to allege in the warrant or information that the accused manufactured, sold, offered for sale, kept for sale, trafficked in, bartered, or exchanged for goods or merchandise, solicited for, or received orders for alcoholic liquors, or kept it deposited to sell or barter alcoholic liquors.

Sec. 7. That whenever any person shall charge, on oath or affirmation before the attorney of the District or any of his assistants, duly authorized to act for him, representing that any person or persons, house or company, association, club, or corporation has or have violated or is violating the provisions of section 1 of this act, and shall request said attorney or any of his assistants, duly authorized to act for him, to issue a warrant, said attorney or any of his assistants shall issue such warrant, in which the house, building, or other place in which the violation is alleged to have occurred or is occurring shall be specifically described; and said warrant shall be placed in the hands of the captain or acting captain of the police precinct in which house, building, or other place above referred to is located, commanding him at once to thoroughly search said described house, building, or other place, and the appurtenances thereof, and if any such place shall there be found to take into his possession and safely keep, to be produced as evidence when required, all alcoholic liquors, if the same shall be found in quantities and in condition to suggest that it is kept for sale, and all the means for dispensing same, also all the paraphernalia or part of the paraphernalia of a barroom or other alcoholic liquor establishment, and any United States internal-revenue tax receipt or certificate for the sale of alcoholic liquor effective for the period of time covering the alleged offense, and forthwith report all the facts to the attorney of the District of Columbia; and such alcoholic liquor or the means for dispensing the same, or the paraphernalia of a barroom or other alcoholic liquor establishment, or any United States internal-revenue tax re-

ceipt or certificate for the sale of alcoholic liquor, effective as aforesaid, shall be prima facie evidence of the violation of the provisions of section 1 of this act as charged or presented; if the accused shall be found guilty, the alcoholic liquor so seized shall, after the trial and time for writ of error, if no writ of error is taken, be destroyed by the police department; if the accused be found not guilty, the whole shall be held as his, its, or their property, or the property of the real owner.

Sec. 8. That every person who shall within the District of Columbia directly or indirectly keep or maintain by himself or by associating or combining with others or who shall in any manner aid, abet, or assist in keeping or maintaining any clubroom or other place in which any liquor, the sale of which is prohibited by this act, is received or kept for the purpose of use, sale, barter, giving away, or otherwise furnishing, or for distribution or division among the members of any club or association by any means whatever, and every person who shall use, sell, barter, give away, or otherwise furnish, distribute, or divide any such liquors so received or kept, shall be guilty of a misdemeanor and subject to the penalties prescribed in section 4 of this act.

Sec. 9. That the possession of a United States internal-revenue tax receipt or certificate shall be prima facie evidence of selling or keeping for sale alcoholic liquors, and it shall be only necessary to prove the possession of such receipt or certificate to convict of violations of any provision of this act, unless the same is disproved by positive testimony.

Sec. 10. That in the interpretation of this act words of singular number shall be deemed to include their plurals, and words of the masculine gender shall be deemed to include the feminine, as the case may be.

Sec. 11. That all laws and parts of laws inconsistent herewith are hereby repealed.

It will be seen at once that this is a drastic prohibition bill, for the language and provisions of which I claim no credit, but for its introduction and advocacy I assume full responsibility and have done all I can to have it favorably reported by the committee of which I am an humble member.

Believing as I do that the people of a locality know better what is needed in that locality than anybody else is my reason for introducing this bill. I believe the temperance people of the District of Columbia are largely in the majority as a whole, and I have not the slightest doubt that a large majority of the white people are for a sound, conservative, effective, prohibitive liquor law. But unfortunately there is no legal way by which a vote of the people of the District of Columbia can be had on anything. I would be glad to have any measure affecting the local welfare of the people of this District submitted to a vote, but I see no immediate prospect of getting any kind of a law passed by which the franchise can again be extended to these people. I therefore see no reason why we should wait for temperance legislation to some remote day in a more remote future when it may please the powers that be to restore to these enlightened people of the District the right and privilege to express their wishes by casting the ballot of a freeborn American citizen.

The negro has not had time to advance his standard of civilization, his moral ideals, his force of moral character to such an extent as to enable him to withstand the temptations furnished by the open saloon to the same extent as has his white neighbor. Hence we find in all classes of offenses which are most commonly committed while the offender is in a partial or complete state of intoxication that the negro race is at least five times more criminal than the white race, as shown by the official reports of the Metropolitan police department of the city of Washington, and I think this condition is general throughout the whole of the United States. The same classes of offenses committed by white people are also caused, in almost all instances, by the excessive use of intoxicating liquors. But if this is not the case as to the white people, is it not the patriotic duty of the white people of this District to give up the conveniences of drink furnished by the saloons rather than subject the negro race to temptations that they can not withstand, thus becoming criminals and, as such, a burden to the taxpayers of the District and the nation?

For fear that some gentlemen from the North will not accept the testimony of the white man unsupported by negro witnesses as to the effect prohibition has on the negro, I take the liberty to read the following newspaper clipping:

BOON TO BLACK MAN—BOOKER T. WASHINGTON REJOICES OVER PROHIBITION—OBJECT LESSON IN ATLANTA—NOT ONE NEGRO IN THE JAIL THERE CITED AS AN INSTANCE OF THE WIDESPREAD EFFECT OF THE REVOLUTION IN SOUTH—LEADER OF BLACKS SAYS ABOLITION OF BAR-ROOM ALMOST EQUALS THAT OF SLAVERY.

NEW ROCHELLE, N. Y., March 1, 1908.

Before the largest audience that ever assembled at the People's Forum, Booker T. Washington, at the New Rochelle Theater, this afternoon delivered an address on the race question, in which he expressed his gratification at the progress made by the temperance cause in the South and declared that the abolition of the barroom was a blessing to the negro second only to the abolition of slavery.

Two-thirds of the mobs, lynchings, and burnings at the stake, he declared, were the result of bad whisky getting into the stomachs of bad black men and bad white men.

"The great temperance movement which has swept the South," said he, "has been without parallel in history. Now that I have lived to see the whisky shops and open barrooms done away with, there is no telling what other reforms may take place anywhere. You little realize how much it means to the colored race."

"Without an expenditure of money a mighty revolution has been accomplished. To-day we find only thirteen counties in Kentucky where whisky is sold under licenses; in Tennessee, in only four cities and two towns. In the State of Florida there are only fourteen counties where saloons and barrooms exist. They are almost extinct in North Carolina.

"After next Christmas every barroom in Mississippi and Alabama will close up. Already every barroom in Georgia has gone out of business, and for the first time in forty years the Atlanta Journal came out and said that not a single black man was in the city prison." [Applause.]

The clipping just read is a statement of one of the most noted negroes in the United States, if not the most noted, as to the effect the removal of the saloon has on the negro race in the South, where it has been tried.

I am trying to confine my remarks as much as possible to conditions bearing on the local situation, as this bill is of local application. I now read from the hearings on this bill held by the District Committee the statement of Mr. James H. Harris, warden of the jail of the District of Columbia:

Mr. Chairman and gentlemen of the committee, as warden of the United States jail, there are committed to my care about 3,600 people annually; that is, more than 3,600 this last year and about 35,000 people in the last ten years. These people are committed for various causes, a very great many of them for assault, simple assault, and assault with a dangerous weapon, and assault to kill, and murders. A very large per cent, seven or eight out of ten, perhaps, either directly or indirectly, are committed there on account of drink. Nearly all the assault cases are in consequence of drunkenness. As I remember, every murderer who has come to the jail has been a drunkard. Every one who has been hanged, and there have been fifteen men executed since I have been warden in the ten years, has been a drunkard, and in my judgment there never will be one executed there who is not a drunkard.

The jail has more than twice the number of prisoners that it should have now in comparison with its size. There are just a few over 300 cells in the jail, all told, and they are very small, being only 5 feet by 8 feet long, and we have as many as 617 prisoners in the 300 small cells. It would cost the Government more than \$400,000—perhaps \$500,000—to make the jail as large as it should be to be anything like as good as ordinary county jails are. But the jail is large enough now and would be large enough for many years to come if you had absolute prohibition in this District. I am only speaking now of what people come to me; the workhouse is overcrowded also.

I have talks every day of my life with prisoners who tell me that their downfall is in consequence of strong drink. If he is a thief, he says it is because of his drinking; he spent his money that way and he must have money, so he steals. If he is a housebreaker, or if he is a criminal in any sense, you can almost trace every crime back to drink. That, I am sorry to say, is the case with women as well as men. I have not come here to make a temperance speech, gentlemen, and perhaps what I have said is as much as you care to hear from me.

Mr. SIMS. How long have you held the office of warden?
Mr. HARRIS. I have been warden ten years; I have been at the jail eleven years. Of course, I might say a great deal along the line of what ought to be done, if the whisky and the rum are going to be sold as they are, but I think this committee is not here to hear an argument of that sort now; but I do say that the jail is plenty large enough and would be for years to come. There ought to be some modern improvements. I will admit, because it is not up to date, but comparatively a small appropriation would be sufficient if there was no rum sold in the District.

Mr. MURPHY. What does your experience show the effect of the liquor on the colored population to be?

Mr. HARRIS. They nearly all drink, and a colored man is sure to do something that he should not do if he drinks, almost invariably.

Mr. MURPHY. What is the proportion of prisoners in the jail who are colored people?

Mr. HARRIS. More than six to one; we have six colored people to one white person, and I may say incidentally that the District is not getting a less proportion of colored people as the city grows, and if you will hear me, I will say this, that in view of the fact that there is now quite a move in some States of this Union in favor of prohibition, I think they have found it absolutely necessary to do this thing because of their inability to restrain and keep within proper bounds a certain class of their population, and I think this District is in the same condition.

In the same hearings Rev. Walter H. Brooks, pastor of the Nineteenth Street Baptist Church, colored, made a statement, which I now take the liberty to read:

Mr. Chairman and gentlemen, in asking you to abolish the liquor traffic in the District of Columbia, we do so from a sense of duty and patriotic devotion to the highest interests of this community and the nation. We recognize the fact that valued monied interests are at stake, that the employment of an army of men is threatened by this issue, that the pleasure of tens of thousands is menaced in what we advocate; nevertheless, we are satisfied that the thing for which we stand must come some day or the fairest city on the American continent must sink beneath the curse which it imposes upon itself. Reforms always bring with them some temporary hardships and losses; the closing of a brothel entails upon its inmates a condition of want and misery for a season; the shutting up of a gambling den destroys the proprietor's games and calling. The preaching of a well-known apostle in other times so affected the business of certain manufacturers that they convened the men of their crafts and set the ancient city of Ephesus in an uproar with the cry "Great is Diana of the Ephesians," and this cry was kept up for the space of three hours. It required a band of Roman soldiers to quiet the mob and to hush their voices; but the reform came and the shrines of Diana are not.

Here, in our own country, independence came as the result of great loss to the colonists and to Old England, but who would exchange the conditions of to-day for those which antedated the birth of the Republic? The emancipation of the slaves in these United States cost the nation millions of money and filled the North and South alike with widows and orphans, but the country is richer in every part and infinitely better off than it was before the great civil conflict. The responsibility for all these hardships and losses lies not with the reform which we urge in this community, but with the cause that needs reforming. "The reform in every age must stand squarely on the declaration, 'Let justice be done though the heavens fall.'" We think this a sufficient

answer to those who would tolerate in this community a great social and moral evil on the plea that the prohibition of that evil would entail nothing short of the confiscation of vast properties. We are deeply convinced that the liquor traffic is fraught with evil.

Now, I believe that the liquor traffic is, per se, a moral iniquity, and for that reason it has no right to exist. I have seen one boy who had killed another; I had two members of my church, the one had a brother, the other had a son; the son murdered the brother. I know where they got their liquor. One asked the other to treat him; they rushed out of that saloon, and in a few minutes one boy was dead and Mr. Cleveland saved the other from the gallows by sending him to the penitentiary. Only a few weeks ago a poor child came to my door in the care of a policeman. She was ragged and she had stolen a dress to hide the nakedness of her little sister. The next day that child was taken from its mother and is to-day in the hands of the Board of Children's Guardians. Is the thing right? Is the thing moral and right?

Only last week we had a murder—a man murdered his wife and then killed himself. This is a new order of things among us, of men killing themselves, but liquor turns men into demons, and this takes place in a part of the city where there are numerous saloons, and I might stand here and call up case after case where crime and murder have been manifest through the liquor traffic.

Now, gentlemen, it was said here that there are six colored people in that prison to one white, but we form only one-third of the population, and therefore you must multiply that six by three, which means that there are eighteen black people to one white person, according to the population, and what is the cause of it? We give all our money to these people, and if we get in a fight we have no money to pay the fines. If we misbehave we must go to prison. I say "we," I mean the people of our race. What I want to see in this District of Columbia is every saloon closed, and let me say I have no ill will against these people. I respect and honor the men in the business. I would do them any kindness, but I would wipe their business off the face of the earth, because it is destroying my people, and we can not go down without them going down, too. These people are destroying themselves as well as us. Let me tell you there are 500 saloons in the District of Columbia, but I do not think over 10 of those are managed by colored people. We are the victims; we are sinned against more than sinning in this matter, and I appeal to you, gentlemen, stand for the right and deliver us from the curse of the saloon.

I invite your special attention to the statement of the warden of the jail and to the statement of the colored Baptist minister as to the effect the open saloon is having on the negro race in the city of Washington, and beg to say that if the good, Christian, philanthropic people of the North who are so much concerned about the negro in the South being deprived of his vote will turn their attention to their own Representatives in Congress they can give to the negro in Washington, where neither negro nor white man can vote, the blessings of good temperance legislation which we of the South are giving both negro and white man, and for the effect of such legislation on the negro race I cite the above testimony of Booker T. Washington.

I shall content myself as to the negro race in Washington with relation to this bill with what I have already shown, and shall now call attention to the need of a saloonless Washington from considerations of a general character, as well as local, and with regard to the effect of legislation of this character on the nation at large. As Members of Congress are not voted for or nominated by the people of Washington, we ought to be able to give full weight to the true state of facts, without regard to political effect, as we find them. Bearing upon conditions here, I shall now take the time to read a clipping from a local newspaper:

PROHIBITION FOR FIREMEN—CHIEF BELT RECOMMENDS STRINGENT REQUIREMENTS FOR APPLICANTS—FINDS THAT NEW MEN ARE CHIEF OFFENDERS OF DEPARTMENT REGULATIONS FOR TEMPERANCE.

Absolute prohibition among the members of the Washington fire department will be required in the future. Chief Belt yesterday made a recommendation to this effect to Commissioner Macfarland. He said he made the suggestion in view of the number of cases of intoxication which have occurred in the department recently. All applicants for appointment are to be required to make affidavit that they have not indulged in any spirituous, malt, or intoxicating liquors for at least six months, and before any person is appointed in the service he will have to sign a pledge to totally abstain from the use of intoxicating liquors for a period of five years.

Chief Belt's recommendation said that provisions in the fire regulations regarding the conduct of members of the department are lax. They are designed to prevent officers and members of the fire department from overindulgence in liquors, but the chief observes that the increase in the number of violations of these provisions would indicate that the penalties imposed have not been sufficiently severe to discourage the practice.

Investigation shows, he says, that the new members of the department are the principal offenders, and it is toward new members that attention should be directed.

Chief Belt has been in the fire department of this city for more than forty years. He must know whereof he speaks. I ask, is it not an appalling state of affairs when the chief of the fire department of the Capital City of this nation has to resort to such drastic measures in order to have a sober body of firemen, capable of giving the city the protection from fire it needs and must have. I call special attention to the latter part of this statement, which says that the new members of the department are the principal offenders. This statement proves beyond the shadow of a doubt that drunkenness is on the increase in the city of Washington.

The opponents of this measure claim that prohibition does not prohibit. They claim that there is more drunkenness in cities and States where prohibition prevails than where the open

saloon is tolerated. I now call on all such persons to point out a single city in the United States where prohibition prevails where it has been necessary to resort to such means to keep firemen fit for duty as has been found necessary in Washington.

The State of Maine has had prohibition liquor laws longer than any other State in the Union. It is situated in the extreme far northeastern part of the United States. As a result fewer people from the other States of the Union visit or pass through Maine than perhaps any other State in the Union. These facts make it easier to misrepresent conditions in Maine than any other State where prohibition has been tried. As a result there are hundreds of false statements sent broadcast over the country as to the Maine prohibition liquor laws in order to prevent other States from following the example of Maine. While these falsifiers have been exceedingly busy for many, many years, the cause of prohibition is making rapid strides in all parts of this country. As a complete refutation of these false and slanderous statements as to Maine, I now read from a newspaper a statement given by the Hon. CHARLES E. LITTLEFIELD, an honored Member of this House, as to conditions in Maine, and put it against the whole army of false witnesses who slander the good name of Maine for so much per:

Is the prohibitory law against liquor selling actually effective in Maine, where it has been in supposed operation for fifty-seven years?

That is a threadbare question. Stealing is a crime in Maine, but men steal. Liquor selling is prohibited, but liquor is sold. The State law is secretly violated, as everyone knows who knows anything at all, but the men who violate it are afraid of the Government in Washington and are careful to pay the license fee which the law of the nation has established. I shall reply to your inquiry by saying that the last obtainable figures show that Illinois pays an internal-revenue tax of \$9.20 per inhabitant. In other words, if the money paid by all the makers and dealers of liquor in Illinois to the National Government were divided by the number of persons living in the State, the tax per person would be \$9.20. The tax in Ohio is \$3.36 per capita, in Kentucky it is \$8.72, and in Pennsylvania it is \$2.30. What do you suppose it is in Maine? Exactly 4 cents.

OBSERVATIONS ON PROHIBITION.

I think all decent men will say that the liquor business must be regulated. Well, what is the best way in which to regulate it? If it is by license, I should be for license. In my view, however, prohibition is the best way, and therefore I am a Prohibitionist. An internal-revenue tax of 4 cents per capita in Maine persuades me that I am right. I might further justify myself with figures as to insanity, pauperism, and crime, but I will not take the trouble. Nevertheless, I should like to add that Maine has \$66,000,000 deposited in savings banks. Maine is not a rich State, and has sent great sums of money into all parts of the country for investment, yet for each inhabitant of Maine there is \$95.22 in local savings banks. For each inhabitant of Ohio there is \$10.71 in local savings banks; for each inhabitant of Illinois there is \$13.43 in local savings banks; for each inhabitant of Pennsylvania there is \$16.72 in local savings banks. There are no savings deposits whatever in Kentucky.

A stranger comes to Maine, sees two or three drunken men on the streets of some city, and goes home to report that prohibition is a failure. A statement of that kind is puerile and unworthy of notice. Against it must be put the record of half a century. I have seen ships of rum unloading at our wharves, but such ships are to be seen no more. In Washington liquor in bottles is displayed in show windows like shoes, millinery, and dry goods. There is no such exhibition anywhere in Maine. There are places where liquor is sold, and men who drink may guess or learn their location, but the whole proceeding is under the ban and could be instantly stopped were the officers of the law mindful of their duty.

In order that the House may know the extent to which the saloon evil inflicts this city and in order that it may know how many dramshops are open in the nation's capital, how many wholesale liquor dealers, so-called, ply their vocation in this city, and how many illegal places sell intoxicants, and who some of them are, I shall give the House some official and unofficial evidence.

From the report of the excise board for the District of Columbia dated March 3, 1908, it appears that for the year ending October 31, 1907, 521 bar-room licenses were granted by said board, and for same period licenses for wholesale liquor dealers were issued to 142 applicants, making a total of 663 licenses issued to liquor dealers in the District of Columbia for year ending October 31, 1907, by the excise board. Under the excise law druggists can not be granted a wholesale liquor license, but are permitted to sell liquors on the prescription of a reputable physician. Wholesale liquor dealers are permitted to sell intoxicating liquors in quantities as small as one pint but not to be drunk on the premises.

In order to show how many persons in the District of Columbia paid special taxes as wholesale and retail liquor dealers for the year ending June 30, 1907, to the United States Government I read the following letter from the Hon. J. G. Capers, Commissioner:

TREASURY DEPARTMENT,
Washington, March 23, 1908.

Hon. T. W. SIMS, M. C.

House of Representatives, Washington, D. C.

SIR: I have the honor to acknowledge receipt of your letter of March 22, in which you ask to be informed as to how many persons in the District of Columbia pay special taxes as wholesale and retail liquor dealers.

The last report of the Commissioner of Internal Revenue shows that during the fiscal year ended June 30, 1907, there were issued in the

District of Columbia 930 special-tax stamps to retail liquor dealers and 65 special-tax stamps to retail dealers in malt liquors. During the same period there were reported in the District of Columbia 32 wholesale liquor dealers and 29 wholesale dealers in malt liquors.

Dealers in malt liquors are not permitted to sell spirituous liquors, such as whiskies, brandies, etc., but must confine their business to beers, ale, etc.

Respectfully,

J. G. CAPERS, Commissioner.

It appears from the report of the excise board that there were only 663 licenses, including both retail, or barroom, and wholesale dealers, for the year ending October 31, 1907, issued by said excise board for the whole District of Columbia, while from the letter of the Commissioners it appears that for the last fiscal year there were issued 930 special-tax stamps to retail liquor dealers and 65 special stamps to retail dealers in malt liquors, as well as 32 wholesale liquor dealers and 29 wholesale dealers in malt liquors.

From these letters and reports it appears beyond the shadow of a doubt that a large number of persons who have paid special taxes as liquor dealers in the District of Columbia have obtained no licenses from the excise board—that there must be a large number of unlawful "speak easies" in this District, notwithstanding the 521 licensed barrooms. Bearing on this question of the illegal sale of intoxicating liquors by unlicensed persons in the District of Columbia, I read from the testimony of Mathew E. O'Brien, Congressional representative of the National Prohibition Committee, given at the hearings on this bill before the District Committee:

There are in the District of Columbia to-day more than 200 "speak-easies." I am going to give you a list of those in what is known as "Hooker's Division," in the city of Washington. Here is a list of places that are to-day engaged in selling intoxicating liquors in violation of law in that little strip of territory where there are a number of licensed saloons, and most of them are also houses of prostitution, for which the licensed saloon is the feeder.

Mr. O'Brien then gave the names and street addresses of persons who have paid United States stamp taxes as retail liquor dealers, but who have not obtained licenses from the excise board. Mr. O'Brien, testifying further, said:

This list contains the names and addresses of eighty women who are selling intoxicating liquors without a license from the excise board, and this under a license system. Here you have speakeasies under a license system with which the mercantile association says we ought to be satisfied. A license system that they declare works well and is the best in the country.

If the conditions that exist down in the "Division" can be produced under what the liquor men claim is a good license system, is it not time to abolish that system altogether? In this small corner of Washington are found 80 houses of assignation all selling intoxicants and paying for a revenue-tax receipt to sell intoxicants, and yet there are plenty of licensed saloons in this vicinity.

As a matter of fact, the licensed saloon acts as the recruiting station for these places. The men behind the bar pilot the stranger into them. They know that both go together and they have no desire to have the law enforced against the illicit seller of liquor and the women of the lower class, because they are themselves violators of the law and know that all must hang together or hang separately.

Wherever the saloon abounds, you will find that the dive and the brothel go unmolested. You do not find these places where liquor is prohibited. In every city where they exist the saloon furnishes them their patrons. This is not supposition with me. I know from actual experience. By closing up the saloon you will drive out the vice that now flourishes in the "Division."

Recently in my home city, Bridgeport, Conn., I closed up the saloons on Middle street, known as "the Midway," and the Saturday night after these saloons were closed for violations of the liquor laws seventy-two lewd women departed from the city on a single train.

I was sheriff of the city of Bridgeport for four years and I enforced the liquor laws while I held that office. I would rather fight the man who has no sanction of law to engage in the business than the man who is licensed to do business under regulations and who violates the regulations.

I was compelled not only to fight the violators of the license law, but the mayor and police commissioners of the city as well, and it required determination on my part to make them understand that law must be respected. The licensed dealers are the worst violators of the law. They will not live within the provisions of the law if they dare violate it. They are the most persistent violators and the most daring bribers of public officials.

By intimidation or bribery they hope to keep the officials charged with the enforcement of the law under their control. There could be no such organized lawlessness under prohibition. The man selling liquor under prohibition could not occupy the position that the licensed dealer does in any community.

I have only in part given you the facts bearing on conditions existing in the city of Washington. Time and space forbid giving even a synopsis of the evidence developed at the hearings and arguments based thereon in support of this bill or some good temperance measure that will improve conditions. Bad as these conditions are, those who oppose this bill claim that conditions are ideal and that no change of any kind or character should be made. As a candid statement of those who oppose not only this bill, but any and all legislation in any way affecting the liquor traffic in Washington, I read the following communication from the Washington Mercantile Association:

THE WASHINGTON MERCANTILE ASSOCIATION,
Washington, D. C., February 15, 1908.

DEAR SIR: The Washington Mercantile Association is now actively at work endeavoring honorably to prevent the enactment of a prohibition law in the District of Columbia. This association is composed of

representatives of all the interests affected by the proposed legislation, but it represents also all persons who do not believe in prohibition. It intends to make a most vigorous effort to convince Congress that the people of this District do not want prohibition or any other liquor legislation. They do not want any change whatever from the law as it stands. The association invites the sympathy and support of all persons who believe, as we do, that the District of Columbia is well governed and needs no new and experimental laws.

In order to meet the determined and united attack of the prohibition people it is necessary that this association should be provided with funds for legitimate expenses—and there will be no other expenses. The fight is open and aboveboard, but it is costly, nevertheless. The prohibitionists are supplied with funds from their friends all over the country. We ask for help, likewise, from every person who opposes prohibition. Every cent of this money will be accounted for, and any person contributing to the fund will be at liberty to inspect the books at any time.

The association asks you to send in a contribution in such amount as you see fit to give. Make check, money order, or draft payable to Charles Jacobsen, treasurer, Twenty-seventh and K streets, NW., Washington, D. C. He will promptly acknowledge receipt. If you have any suggestion to offer for assisting us in this campaign, be free to send them with your contribution, and we shall give them careful consideration. We are in this campaign heart and soul, fighting your fight, and we feel that we have a right to ask your help. An immediate and liberal response to this appeal will be your best argument against the enactment of a prohibition law in this District. Any further information desired can be had of any member of the executive board, whose names appear above.

Yours, respectfully,

THE WASHINGTON MERCANTILE ASSOCIATION,
WILLIAM MUEHLEISEN, President.

HUGH F. HARVEY, Secretary.

I have read to you the charter and business occupations of those who oppose this bill as stated by themselves in the foregoing communication.

I now read you a communication from those churches and associations who favor this bill and then leave you to decide for yourselves in whose company you had rather be found and on which side of this controversy you will align yourselves, for in the end this question must be fought to a finish:

Churches.—Methodist Episcopal, Methodist Episcopal South, Presbyterian, Lutheran, Baptist, Christian (Disciples of Christ), Congregational, Methodist Protestant, Society of Friends, Catholic, African Methodist Episcopal, Washington Ministerial (Colored).

Temperance and other organizations.—Independent Order of Rechabites, Independent Order of Good Templars, Woman's Christian Temperance Union, Catholic Total Abstinence Union, Anti-Saloon League, International Reform Bureau, Woman's Interdenominational Mission Union, Prohibition Crusaders.

Executive committee.—A. E. Shoemaker, Anti-Saloon League; Rev. J. W. R. Sumwalt, presiding elder Methodist Episcopal Church; Rev. George E. Miller, Christian Church; Rev. George E. Cummings, Presbyterian Church; Rev. A. K. Wright, Baptist Church; Rev. B. P. Truitt, Methodist Protestant Church; Rev. S. Reese Murray, Prohibition Crusaders.

Petition committee.—Rev. B. P. Truitt, Rev. A. K. Wright, John R. Mahoney.

FEDERATION OF MINISTERS' CONFERENCES
AND TEMPERANCE ORGANIZATIONS,
Washington, D. C.

REVEREND AND DEAR BROTHER: The federation of ministerial associations and temperance organizations in the District of Columbia have, through the Hon. T. W. SIMS, introduced a bill in Congress for prohibition in the nation's capital, known as "H. R. bill No. 17530."

The bill is now in committee and under consideration. We are assured by friends in Congress that should the bill be reported to the House of Representatives by the committee it would pass by a large majority.

Efforts are being made to have a favorable report from the committee. Without voice or vote in our local affairs we are dependent upon the will of the committee; hence we appeal to you that you interest yourself in our behalf to the extent of urging members of your church and citizens in your community to write letters or send telegrams to the Member of Congress from your district, urging such Member to support the bill for prohibition in the District of Columbia, and insist upon a report of the same to the floor of the House by the committee.

Immediate action is necessary as the hearing is now on. May we not have your active aid and cooperation in this matter? Prohibition for the District of Columbia would be the death knell to the traffic in the nation. So in helping us you are hastening the saloon's overthrow in your section of the country.

B. P. TRUITT,
A. K. WRIGHT,
JOHN R. MAHONEY,
Committee.

As a further statement of the character of organizations and of the people who favor this bill I now read from a statement made at the hearings before the District Committee by Mr. Albert T. Shoemaker, local attorney and representative of the Anti-Saloon League, as follows:

Mr. Chairman and gentlemen of the committee, we are here to-day in the interest of House bill 17530, popularly known as the "Sims bill," which provides for the prohibition of the liquor traffic in the District of Columbia. This is an old question, but a very important one with us in the District of Columbia. I represent to-day a committee of seven, which in turn represents the following organizations in the District of Columbia. These organizations came together in a conference and discussed, over a period of two or three weeks, the question as to what legislation we should ask at your hands at this session of Congress. The organizations participating in this conference are as follows: The Presbyterian Ministers' Conference, the Methodist Protestant Ministers' Conference, the Methodist Episcopal Ministers' Conference, the Baptist Conference, the Christian Ministers' Conference, the Methodist Ministers' Conference South, the Lutheran Ministers' Conference, the Washington Ministers' Conference, the African Methodist Episcopal Ministers' Conference, the Catholic Church, represented by Reverend Father Mackin, the Prohibition Crusaders,

the Woman's Interdenominational Missionary Union, the Woman's Christian Temperance Union, the Anti-Saloon League, the Catholic Total Abstinence Union, the National Reform Bureau, the Rechabites, the Congregational Church, and the Society of Friends. We have the honor, gentlemen, to speak for these organizations to-day, representing, as they do, in all fully 100,000 people of the District of Columbia. And there are many other people in the District who also favor prohibition, but for whom we do not directly speak.

I do not know how I can more fittingly close these remarks than by reading the eloquent and burning words spoken at the hearings in behalf of this bill by the Rev. S. Reese Murray, of this city:

The Sims bill (H. R. 17530) was submitted, as you perhaps know, at the instance of the united ministerial and temperance bodies represented in a conference of the same at the Y. M. C. A. in the months of January and February just past. It represents the wishes of these forces and of the allied interests of congregations of Christian people, and householders and property holders in the District of Columbia. The morality, the intelligence, the civic conscience, the civic public spirit, all that constitutes the very essence of the public good, all that fosters the nobility of this community, all that hinders moral disorder and the injury of the individual character—are back of that bill. If it is passed it can do nothing but make the District of Columbia the happiest spot of world-wide significance on the globe. It will give it name and fame no other capital of the earth has ever enjoyed. It will produce consequences of the most momentous character in inducing the nations to take steps toward rehabilitating the manhood of their domain, which in the generations past and in that now on the stage of action has been burdened, humiliated, driven, cursed, frenzied by the use of intoxicating drink.

And it will be in the line of procedure which is beginning in the scientific study of alcohol and alcoholism everywhere in the foremost republics and kingdoms, in the actions of those associations of citizens of the most renowned character, and in the laws of legislatures, and the proclamations of courts upon those deadly beverages and drugs which ruin the physical man, overthrow the sanity of the intellectual man, and cast the spiritual man into perdition. Such a bill means everything as an object lesson for America and for the world in the way of pure civic life, a larger pursuit of liberty, and a degree of happiness never dreamed of in the wildest nightmare of a brain steeped in the revels and distraught with the poison of alcoholic drinks.

Against the bill you will not find arrayed any business of large character which has a right to exist under the common law of our land. You will not find the Christian opinion—which is the dominating opinion in our land—supporting any opposition to it. You will not find the centers of education, the great moral elements among us, the philanthropic spirit of this place, that great body of public enterprise known as the Young Men's Christian Association, nor any civic life which looks to the well-being of Washington, attacking this bill.

Its opponents and would-be destroyers are men whose business, under whatever high-sounding names it may be conducted and under whatever pretenses it may be lauded, tends as certainly to criminality, to lawlessness, to the support of lawlessness, to the arrest of the pursuit of life, liberty, and happiness on the part of millions in our land as the tides tend to their ebb and flow under the resistless pull of the moon.

When court after court, publicist after publicist, statistician after statistician, police record after police record, warden's testimony after warden's testimony, and the endless tales of sorrow and of horror poured into the ears of minister and priest pile up an irresistible demonstration of the foul ends to which the drink traffic leads on, no one lost to all decency of thought, no one not hopelessly sodden in immoral opinion can deny that the business of making and selling liquors for beverage purposes is cursed with an infamous outcome.

That outcome stands against this bill. That business which can not deny this outcome without a lying lip stands against this bill. That plea for its overthrow can not advance an argument which means anything for civic order, anything for the safeguarding of youth, anything for the preservation of virgin purity in woman, anything for the suppression of the bawd, the gambling den, the low carousal, the individual "drunk." It can not lift a plea for the home. It can not remove an infinitesimal of squalor. It can not wipe away a single tear of wretchedness. It can not hush the sob of a solitary orphan. It can not stand by the open grave with any bereaved heart and lend even the semblance of sympathy for the thousands that drink has slain. It is as cold, as cruel, as relentless, as perfidious as anything that links purposes with the nether regions can be imagined to be.

Election of United States Senators by the People.

SPEECH

HON. WILLIAM SULZER,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908,

On the resolution to elect Senators in Congress by the people.

MR. SULZER said:

Mr. SPEAKER: The Democratic party to-day favors every reform demanded by the farseeing, patriotic, and intelligent electorate of the country. It is now, as it ever has been, the party of Jefferson, the party of the plain people, and the party of the Constitution. It stands for equal rights to all, special privileges to none. It is opposed to the centralization of wealth in the hands of the few by the robbery, under color of law, of the many. It is opposed to the further centralization of power in the Federal Government by depriving the States of their reserved fundamental rights. It is the foe of subsidies and of every special privilege; and, as a minority party, in recent years

it has accomplished much for the general welfare in preventing the enactment of iniquitous Republican legislation for the benefit of the few at the expense of the many.

The Democratic party favors the election of United States Senators by the direct vote of the people, and will make it an issue and a live question in the coming campaign. It favors this change in the Federal Constitution as it will every other change that will restore the Government to the control of the people. It wants the people, in fact as well as in theory, to rule this great Republic and the Government at all times to be directly responsible to their just demands.

In my opinion, the people can and ought to be trusted. They have demonstrated their ability for self-government. If the people can not be trusted, then our Government is a failure, and the free institutions of the fathers doomed. We must rely on the people, and we must legislate in the interests of all the people and not for the benefit of the few.

We witness to-day in the personnel of the United States Senate the supplanting of democracy by plutocracy. Here Mammon is entrenched. Here the criminal corporations take their stand and defy the people. Here is the last bulwark of the predatory trusts. Here is the citadel of the unscrupulous monopolies. And more and more the special interests of the country, realizing the importance of the Senate, are combining their forces to control the election of Federal Senators through their sinister influence in State legislatures. Forty-six United States Senators can prevent the enactment of a good law or the repeal of a bad law. The United States Senate is the most powerful legislative body in the world and its members should be elected by the people of the country just the same as the Representatives in Congress are elected. This is of the utmost importance to the wage-earners of the country, because when the Senate is directly responsible to the people they will control it; and then, and not till then, will that august body respond to the will of the people.

The right to elect United States Senators by a direct vote of the people is a step in advance and in the right direction. I hope it will speedily be brought about. It is the right kind of reform, and I hope it will be succeeded by others, until this Government becomes indeed the greatest and the best and the freest Government the world has ever seen, where the will of the people shall be, as it ought to be, the supreme law of the land.

Mr. Speaker, ever since I have been a Member of this House—for nearly fourteen years—I have advocated and worked faithfully to bring about the election of Senators in Congress by the direct vote of the people. In every Congress in which I have served I have introduced a joint resolution to amend the Constitution to enact into law this most desirable reform, and the record will show that I have done everything in my power, in Congress and out of Congress, to secure its accomplishment. On several occasions the resolution has passed the House, only to fail in the Senate, because the Senate would not allow the question to come up for action. At the beginning of this session of Congress I again reintroduced my resolution to amend the Constitution so that United States Senators shall be elected by the direct vote of the people. It is similar to the resolution I introduced in all previous Congresses of which I have been a Member. I now send this joint resolution to the Clerk's desk and ask to have it read in my time, so that it will be printed in the RECORD as a part of my remarks.

The Clerk read as follows:

Joint resolution (H. J. Res. 137) proposing an amendment to the Constitution providing for the election of Senators of the United States by direct vote of the people.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment be proposed to the legislatures of the several States, which when ratified by three-fourths of said legislatures, shall become and be part of the Constitution, viz: In lieu of the first and second paragraphs of section 3 of Article I of the Constitution of the United States of America the following shall be proposed as an amendment to the Constitution:

"SEC. 3. First. The Senate of the United States shall be composed of two Senators from each State, who shall be elected by a direct vote of the people thereof for a term of six years, and each Senator shall have one vote. A plurality of the votes cast for candidates for Senator shall elect, and the electors shall have the qualifications for electors of the most numerous branch of the legislature.

"Second. When vacancies happen, by resignation or otherwise, in the representation of any State in the Senate, the same shall be filled for the unexpired term thereof in the same manner as is provided for the election of Senators in paragraph 1: *Provided*, That the executive thereof shall make temporary appointment until the next general or special election, held in accordance with the statutes or constitution of such State."

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as a part of the Constitution.

Mr. SULZER. Mr. Speaker, that joint resolution speaks for itself. It needs no apology. I believe it is right. I know the

people favor it. I want to see it a part of the fundamental law of the land. I want to make the Senate less aristocratic and more democratic. I want to make it more obedient to man and less responsive to Mammon. I want to make it pay more heed to the appeals of the people and listen less to the demands of plutocracy. I want the Senate to be the people's Senate, in the interest of the many and for the benefit of all the people, and its accomplishment will keep the Government nearer the masses and herald the dawn of a better and a brighter day in the onward march of the Republic.

The people all over this country demand this much-needed change in the Federal Constitution, so that they can vote directly for Senators in Congress, and they appeal to us to enact this law to give them that right. It is not a partisan question, neither is it a sectional issue. The demand reaches us from all parts of the land and from men in all political parties with a degree of unanimity that is quite surprising. It is our duty to respect the wishes of the people and to give them a uniform law allowing them to vote for Senators in Congress just the same as they now vote for Representatives in Congress.

I am opposed to delegating away the rights of the people, and where they have been delegated away I would restore them to the people. I trust the people and I believe in the people. I believe that all governments derive their just powers from the consent of the governed, and hence I want to restore to the people the right now delegated to the legislatures by the framers of the Constitution, so that the Senate as well as the House will be directly responsible to the people and the Government become more and more a pure democracy, where brains, fitness, honesty, ability, experience, and capacity, and not wealth and subserviency, shall be the true qualifications for the upper branch of the Federal Legislature.

It may be said that it will be useless, and a waste of time, for the House to again pass this joint resolution, as the Senators will never consent to a change in the method of their selection. That may be true in regard to some of the Senators, but I know it is not true in regard to all of them. Many of them favor this change and advocate it. If we pass this resolution, it is true it may fail again, as it has failed before, to meet the approval of the Senate, but those who believe in this change will not give up the struggle to bring it about until it is accomplished, and, mark my words, sooner or later it will be accomplished.

If a majority of the Senators oppose the adoption of this resolution in this Congress and from private motives, or personal ideas, vote it down, the agitation of the people for this much-needed reform in the organic law will not cease, but will become more and more pronounced until there shall be a Senate that will listen to their demands. Do not be deceived; make no mistake; this reform is growing more and more in favor with the people every year and is destined to become more and more popular until in the near future it will be adopted.

Already twenty-seven States have passed joint resolutions through their respective legislatures demanding this change in the Constitution. These States are Pennsylvania, Indiana, Texas, California, Nevada, Missouri, Nebraska, Arkansas, Wyoming, North Carolina, Illinois, Colorado, Louisiana, Kansas, Montana, Wisconsin, Oregon, Michigan, Tennessee, Idaho, South Dakota, Washington, Utah, Kentucky, Minnesota, Iowa, and Oklahoma.

The action of these twenty-seven States of the Union demanding this change in the Federal Constitution, so that the people shall have the right to vote directly for United States Senators in Congress should be conclusive, and must impress Senators who are doing all in their power to prevent the enactment of this law that patience has almost ceased to be a virtue, and unless they take heed in time these States and some of the other States favorable to this reform will call a constitutional convention on their own initiation and amend the Constitution in accordance with the wishes of the people. This is a most important question to all the people and the Senate will make a sad mistake if it attempts longer to ignore it. The people are in earnest in this matter and any attempt to thwart their will in this reform will only hasten its consummation.

The adoption of this joint resolution will prevent corruption in State legislatures, stop scandal, and end to a great extent the temptation of political parties to gerrymander legislative districts for partisan purposes. Let me say to this House that this legislative gerrymandering has been carried further by the Republican party in my own State of New York than perhaps in any other State in the Union. In the State of New York, under the present outrageous Republican apportionment the people can not secure a Democratic legislature unless the

Democratic party carries the State by at least a plurality of 150,000 votes.

The Republicans in their partisanship went so far that they wrote in our State constitution that no matter what the population of Greater New York should be, no matter if it were twice as large as the population of the rest of the State, the city of Greater New York should never have more than one-half the members in the upper branch of our State legislature. I believe the change in our Federal Constitution sought to be made by this resolution will almost entirely prevent these unfair and outrageous apportionments and at the same time give the worthy man the same opportunity under the law as the corporation's man to submit his cause and his candidacy to the arbitrament of the people for the high and honorable office of a Senator in Congress.

The SPEAKER. The time of the gentleman from New York has expired.

The Currency Bill.

SPEECH

OF

HON. RUFUS HARDY,
OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 27, 1908.

Mr. HARDY said:

Mr. SPEAKER: I present the proposition that no party that deliberately and knowingly goes before the people with a false pretense inscribed on their banner and a fraud branded on their forehead deserves to be trusted. Harsher terms are not parliamentary, but when a party, through all its leaders, its President in office, its certain and already selected candidate for President at the approaching election, and its leaders on the floor of the House and Senate declare that they favor a law which shall make public every campaign contribution before the election, so that the people can know what people and what interests are supporting each party, and that before they vote, and when the party so declaring, having a large majority in both Houses and the acknowledged and undoubted and absolute power to do it, fails to pass such law during a six-months' session, such declaration is doubted. When such party has before it a bill embodying such law in plain, clear terms, reported by its own committee—the McCall bill—but holds it back till the closing days of the term, and then suddenly loads it down with an amendment—the Crumpacker bill—which they absolutely know will prevent its passage in the Senate, whereas the bill unamended would pass the House without a roll call and the Senate without opposition; when such party having such power pass such bill so amended in the House and send it over to the Senate, where they know it will never see the light again much less pass and refuse to pass the original unamended bill, the plain people outside of the Halls of Congress will call their declaration that they favor a publicity campaign contribution law a plain, simple lie. To prove these facts, Mr. Chairman, I refer the people, first, to the fact that the President, Mr. Roosevelt, in more than one message urged this Congress to pass a plain campaign contribution publicity law; second, to the fact that Representative McCall, a Republican, early in this session introduced a bill embodying such a law; third, that on the 20th day of April, 1908, that bill was reported to the House; fourth, to the CONGRESSIONAL RECORD, which shows that JOHN SHARPE WILLIAMS and other Democrats not once, but twenty times, offered to the Republicans to join them and pass the McCall bill if they would call it up with the minor amendments suggested by the committee which reported it; fifth, to the RECORD of the House dated May 22, page 7072, showing that Mr. CRUMPACKER that day moved to suspend the rules and brought in without notice the McCall bill with his—CRUMPACKER'S—bill added as an amendment, and with twenty minutes to the side debate passed the bill as amended, after being warned by Mr. RUCKER and other Democrats that the amendment killed the bill.

The warning was full, fair, and true, and known to be true by every Republican in the House. The warning of Mr. RUCKER, which was echoed and sanctioned by every Democrat and known to be true by every Republican, was so clear that I give it in part here. He said:

Mr. Speaker, if anything were wanting to demonstrate to every intelligent man in the United States that the leaders and managers of the Republican party here on this floor are guilty of hypocrisy, deceit, and

false pretense, we have that demonstration here to-day. [Applause on the Democratic side.] For more than a month the identical bill which you have reported here to-day, being the first ten sections of the pending bill, has been on the Calendar of the House, properly reported by a committee duly appointed by the Speaker of the House, and during all that time the Speaker has persistently and stubbornly refused to give recognition to any member of that committee to call it up and move its passage. Now, in order to hide behind a shabby false pretense and to deceive the public you hypocritically and falsely pretend that you want to enact a campaign contribution publicity law, when in fact and in truth your real purpose is to kill it. You have linked this wise and meritorious measure—this measure which, I add, the most corrupt man in Congress would not dare to openly oppose if presented in its original form—to one of the dead skeletons of the past, well knowing and intending that this unholy union ought to and will destroy every hope of its passage.

Sixth. To the fact that the measure, as it passed the House, sleeps in the Senate without even the shallow pretense of being called up.

Seventh. I call attention to the following, which appeared in all the great dailies about May 26:

Mr. Bryan's telegram was as follows:

"I beg to suggest that, as leading candidates in our respective parties, we join in asking Congress to pass a bill requiring publication of campaign contributions prior to election. If you think best, we can ask other candidates to unite with us in the request."

"W. J. BRYAN."

Taft sees President.

Secretary Taft, before he received this telegram, had a talk with the President at the White House, so that he was prepared immediately upon his return to the War Department to give out for publication his answer, as follows:

"Hon. WILLIAM J. BRYAN, Lincoln, Nebr.:

"Your telegrams received. On April 30 last, I sent the following letter to Senator BURROWS, the chairman of the Committee on Privileges and Elections of the Senate: 'My dear Mr. BURROWS: I sincerely believe that it would greatly tend to the absence of corruption in politics if the expenditures for nomination and election of all candidates and all contributions received and expenditures made by political committees could be made public, both in respect to State and national politics. For that reason I am strongly in favor of the passage of the bill which is now pending in the Senate and House, bringing about this result so far as national politics is concerned.'

"I mark this letter personal because I am anxious to avoid assuming an attitude in the campaign which it is quite possible I shall never have the right to assume, but so far as my personal influence is concerned I am anxious to give it for the passage of the bill.

"Very sincerely, yours,

"WILLIAM H. TAFT."

"Since writing the above, in answer to inquiry, I have said publicly that I hoped such a bill would pass.

"WILLIAM H. TAFT."

CHANDLER EXPRESSES VIEW—SAYS SECRETARY TAFT'S ANSWER IS "BETTER LATE THAN NEVER."

Former Senator Chandler sent the following letter to Senator BURROWS yesterday:

"MY DEAR SENATOR BURROWS:

"Better late than never! Secretary Taft, under Bryanitic pressure, to-day makes public his letter to you of April 30, favoring a publicity bill, and saying he is anxious to give his personal influence in its favor, but marking his letter personal, because anxious to avoid, without right, 'assuming an attitude in the campaign.'

"He adds that he has said publicly that he hoped such a bill would pass, omitting to note that this was said under a certain amount of pressure on May 19, nineteen days after his private letter to you.

"Secretary Taft has certainly done you much honor by assuming that you are not only Senator and chairman, but also the whole committee, the Senate, the Congress, and the people, so that to influence them all he needs is only to communicate with you privately.

"His desire, if it had been stated publicly to them all on April 30, would, in my opinion, have caused the passage of the bill. Was it withheld in order that after the bill should be smothered the letter might be produced in the campaign in answer to Bryanite taunts?

"The reason the Secretary gives for privacy is absolutely unintelligible. Is there any subject of public and political interest upon which either in writing or public speech he has failed to exercise the right to assume an attitude during the last few months? I know of none except that of publicity for election contributions.

"But while there is life there is hope." At all events we now have his public opinion that no secret Harriman contributions ought to be made during the coming canvass. The House has passed a bill forbidding such by a unanimous Republican vote.

"The bill also revives the crimes sections of the national election laws, repealed in 1894 by a Democratic Congress, and it suggests the probable enforcement of the fourteenth amendment. Senator GALLINGER has offered in the Senate an amendment for reenacting all the national election laws repealed in 1894 and making the fifteenth amendment a living constitutional guaranty of suffrage to our colored citizens.

"Herein is wisdom, good faith, and courage.

"The colored voters of this country, although smarting under the injustice of Brownsville and the exclusions enforced by the 'lily-white' organizations at the South, will vote the Republican ticket in November—even if the unassuming Secretary of War should be the nominee—if Congress will remain in session long enough to pass House bill No. 20112, with Senator GALLINGER'S amendment, which President Roosevelt will make haste to approve as his final tribute to his colored people.

"Banks and tariff, stocks and trade,

Let them rise or let them fall.

Justice asks our common aid;

Rally, one and all.

"Ever your steadfast friend,

"WILLIAM E. CHANDLER."

I call attention to the fact that Mr. Taft's letter to Mr. BURROWS was dated April 30, twenty-two days before the Crumpacker strangling amendment was brought into the House,

but not given to the public until after CRUMPACKER's strangle had done its work and the McCall bill was dead. The case is made out. I might talk of the time when the Roman Empire was put up at auction and knocked down to the highest bidder. I might talk of the notorious corruption that has bought public office in this country and in these latter days; but if the brand of hypocrisy, false pretense, deceit, and falsehood, firmly fixed upon a great party, when practiced by it in order to enable it secretly to gather its sinews of war in its struggle to perpetuate its power, is not infamy enough to damn it, no philippic grounded in truth will harm it.

Perhaps I ought to stop here, but in these last days another fraud is enacting. The Aldrich bill, as it was introduced, plainly sought to make railroad bonds the basis for the issue of paper currency, guaranteed by the Government in the interest of the speculator and the looter; but in the face of a storm of protests, the slippery advocates of that measure dropped the railroad-bond feature, apparently and professedly.

In the House, however, another bill was passed, and the House and Senate were loudly told that the House and Senate Republicans could never agree, that their differences were irreconcilable and fundamental. This "horseplay" was kept up till the very closing days of the term, in fact till there was not other business enough left to require a single day, and then suddenly the Aldrich and Vreeland bills swing corners and promenade together as one creature, in which the railroad-bond feature of the Aldrich bill is born again and a brood of any and all sorts of bonds of any and all sorts of schemes is ushered into life with it, under the broad term "any securities," as the basis of a currency to be redeemed by the Government. Then the Vreeland-Aldrich bill, before the country can fairly wake from its stupor of amazement, is rushed through the House in one hour's time, after six months' hatching, and is to be choked down the Senate with all the speed its sponsors can command, and this country is to be committed to the policy of the Government's redemption of bank-paper currency issued on any "old thing;" and the strangle hold of the banks upon the country is strengthened and entrenched and the power to loot the Treasury is legalized, while the depositors, the people who unjustly suffered in the last panic, are ignored. This bill is an iniquity never dreamed of by any party before, not even by the Republican party. This is the last and, I think, the greatest fraud perpetrated by the party in power on the people. In conclusion, the forces are lining up for the November election. High tariff, high finance, railroad mail jobbery, ship subsidy, greed, graft, and loot are on one side.

Where are the people?

National Corporations.

An American System of National Corporations for Enterprises of a National Character.

SPEECH

OF

HON. JAY F. LANING,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 28, 1908.

Mr. LANING said:

Mr. SPEAKER: The proposition upon which I address this House is not a political one and involves nothing of partisanship or party loyalty. It is not a matter of idle talk for the galleries or for the people merely, but is a subject for the consideration of Congress itself.

I offer a straightforward, business proposition, and one in which you all and all your constituents, whether Democrats, Republicans, or what not, are deeply and vitally interested. It is a matter whose influence reaches into every avenue, every byway, every highway, and every walk of life, and enters into the affairs of every professional man, every merchant, every farmer, every artisan, every laborer, and appeals to and concerns every man, woman, and child, no matter in what occupation he or she may serve or in what line of life their lot has been cast.

My theme is that of corporations. Nearly every American citizen works for one or patronizes one in some manner and is dependent upon it or interested in one, or the workings of one, thus giving them a widespread importance and an all-embracing character. But I do not mean trusts and combinations,

for I now present no scheme of trust busting or combination wrecking. I am seeking the people's interest through corrective rather than destructive legislation.

My plans are optimistic rather than pessimistic; they build up rather than tear down; they encourage rather than discourage; they are reformatory rather than radical; they are new roads to greater achievements and better successes in the world's fields of activity rather than the recitals of failures that have overtaken those who have been treading the uncertain highways of business. They help the deserving corporation, and hurt the undeserving one.

I am proceeding upon the theory that business needs and desires the support of law, and that the law should favor and foster enterprise and thrift, and welcome, stimulate, and applaud business successes, rather than burden, stifle, or oppress them.

I am told that 95 or more per cent of all the men who enter a mercantile life or business for themselves make a failure, and if so, is it not a fair proposition that tradesmen all need the support and forbearance, the confidence and consideration of lawmakers, and the help and sympathy of the public, rather than their coldness or opposition.

Corporations have become great instrumentalities in commercialism, and their methods of procedure should be as open and prevalent before the law as those of the individual business man.

Their history is the history of the marvelous progress of our nation during the last century, and especially during the last half century, as even fifty years ago hardly one existed in our extensive domain.

Then the country was poorly populated and all the people's movements necessarily slow. It was a time of the stagecoach, the hand loom, and the hand printing press, and the day of small business firms, small trade, and small enterprises. To-day corporations are doing 75 per cent of the business of this country. They have been the agency that has developed the age to its present mighty proportions and has promoted the immeasurable prosperity with which our progress has been marked. They have inspired inventions, conducted experiments, perfected processes, put through great undertakings, installed power machinery to take the place of hand, and produced such an untold and diversified wealth that millionaires are as plenty to-day in this country as they were scarce a half century ago.

But the day of small trade is over. The canal boat developed more speed than the wagon, the locomotive more than the stagecoach, and as the latest inventions had the most power to achieve results each old method in turn gave way before the competition of the new one. So the aggregated corporation method has developed more business speed and strength than that which segregated individuals possessed, and it has supplanted the single-handed efforts of the one-man business power, formerly holding undisputed sway over the world of transportation, of trade, and of commerce.

Fifty years ago we had no conception of what our present condition would be. We were poor then, and dependent upon the wealth of the Old World. We are now not only the greatest, but the richest nation of the earth, and are as free and independent of Lombard street, the Bourse of Paris, and the "money barons" of Europe as we were a few years ago dependent upon them. We have gained ascendancy in the world of wealth as well as in the domain of political power, and are now furnishing the ways and means to run all Christendom. And let us pause before this splendid achievement to imagine what our supremacy will be fifty or one hundred years hence if we do not overthrow the means which have so providentially been placed in our hands by which our development can go onward and upward as it has in the uplift of the half century just ended.

As corporations have played an important part in making us what we are to-day, so must they in developing us to what we are to be in the years to come. As capital has been one of the efficient forces which has blazed our way in the past, it is the thing which will make for our future progress, and upon corporations we must rely for its large accumulation and for its lavish use. We live in a transcendent age, an age of big things. No individual efforts seem now to be put forth in matters of any size; everything is the united effort of many. In the days of the stagecoach one man owned and drove, but now one individual must join another in order to provide the ability to administer and the capital to construct and conduct the railroads, steam or electric, the telegraph and telephone lines, and other twentieth-century enterprises. Corporation in one sense means cooperation, and mutualization, and aggregation of interests, and we should realize that they are to be the great aggressive factors that are to maintain and extend the efficiency

of our business institutions, and preserve the prominence of our position as a commercial world power.

Mr. Speaker, what I present is a proposition to conserve the power of corporations and throw safeguards around them that will protect the people's interests. It is a proposition to enable the formation of corporations which desire to do an interstate business under a national law, the franchise being granted by authority of the Federal Government.

Some time ago I introduced a bill (House bill 9124), now pending before our Judiciary Committee, to enable such corporations to be incorporated and regulated under national laws, that there might be brought into existence national corporations, not to displace, but to supplement State corporations, neither kind to transgress upon the other or to come into frictional or competitive contact with it or relation to it.

My premises are that the big commercial business of the country is transacted almost entirely upon national lines, and the control of the great corporate force which is moving commercialism on to its great achievements should be national, and the legal conditions and surroundings of the organization, regulation, and control of corporations doing an interstate business should be raised from State statutes to national statutes, and thus made to correspond with their business status by making them before the law as broad and efficient as they are in their trade relations and undertakings.

This bill presents a Federal law for the incorporation and regulation of corporations desiring to do an interstate business, complete in every detail. It prescribes how they may be formed, recites their powers, specifies their officers, enumerates their duties, defines the capital stock and the relation of stockholders, methodizes the authorized corporate changes, regulates the manner of their meetings, sale of assets, dividends, certificates, and transfers of stock, jurisdiction of courts, winding them up, insolvency, and so forth, and enacts offenses and exacts reports as fully and as liberally as provisions for those things are set forth in any of the State laws.

I will not attempt to give these provisions in detail, as I am not going to discuss the comparative merits of State franchises and national franchises, for I do not seek to destroy or override the former. I shall confine my argument to the propriety of the passage and maintenance of such a national statute and the upbuilding of an American system of national corporation law for enterprises of a national character.

Mr. Speaker, is there need for such a law? I contend there is, because the progress and well-being of the business interests of our country demand it. There is a gap in the statutory law of the country that is open for it, and our national jurisprudence lacks important provisions because we are without such a statute.

It is only a few years ago that franchises were hard to get, as each one was enacted by special act of a legislature, obtainable only at certain times of the year, and its passage was beset with difficulties. The abuses of legislators in granting, and of corporations in getting special charters were so great that the people went into frenzy over the institutions thus created, and they were proclaimed as a public enemy. Then the orator declaimed against corporate wrongs, the same as now, but for a different cause. They were charged with obtaining special privileges by private statutes, and so true were the accusations that all corporations were in public disfavor and discredit until, as a result of the awakened conscience of the people, State constitutions were so amended that lawmakers were forbidden to create such bodies except under general laws, with uniform provisions for all and special privileges for none.

Thus organized, persons who dealt with them could know and might understand when and where they were empowered to act, and were protected against an overstepping of the provisions of the laws from which they derived their existence and by which they were authorized to do business. The dissatisfaction had become so great that a point had been reached where but few charters were being granted, and enterprise languished, as it does now, because of the manner in which corporate instruments and movements were hampered.

This crusade against special charters was well-nigh universal throughout the United States, and its success inspired the people's confidence in the new organizations, where distrust had prevailed before, and a new era dawned for corporations and corporate enterprises. Before then, as I have said, the people's ideal of a corporation was limited. We were a small nation, with small conceptions, small in commercial territory, and about everything undertaken was of a minor or local character.

There was then but little need of interstate corporations, but as the way became open for their easier organization, and they had the sanction of law in their operations, commerce ex-

panded, territorial limits were ignored, and now corporations, although they have definite and prescribed State domiciles, know no limit in their field of operations.

The upbuilding of our country, until it has become a great world power, has been coincident with the growth of corporations, and who knows how much of the great progress we have made as a nation, and of our expansion in manufacture, in art and science, and trade and commerce, have been due to the favors that have been bestowed upon our corporations, and if so, may we not say that, as such an agency, they have been among the greatest of our commercial blessings?

But there now seems to be another standstill in corporate movements. History is repeating itself. Corporations seem to be encountering the same opposition they had fifty years ago. The people have again decided that they are oppressed and hurt by the operations of corporations, and while it is true that there is manifold ground for complaint, some of the fault, to say the least, is in the Government and the execution of the laws by officials and courts and judges, and not all in the corporate being itself or in the way it is managed.

Corporations give industrial power, but there is no harm in that. It is in the abuse and misuse of it that there is cause for complaint.

The corporation that uses unfair methods to destroy its competitors commits a grievous wrong, the same as does an individual who does the same deed, no more, and should likewise be compelled by the strong arm of the law to forsake its evil practices; but it is only when the law can not restrain or control it that it ought to be put out of existence in the business world.

The fact is that the age has grown faster than have the methods for handling its activities. Mind has not developed as much as matter, and art, commerce, and labor have needs incomprehensible to many who now live under the influence of the past age of small and slow-going things and processes, and are unaware of the evolution that has sent everything forward to higher planes of productiveness and need.

Steam and electricity have made mighty conquests in obliterating time and space, and we now have a new order of things we can not measure adequately by the economic rules we were wont to apply to old conditions. New ways of trade and commerce have been developed, and new agencies must be understood and applied to the modern swift and subtle movements of men and markets, superseding the old and slow-going ones.

Business must be treated with liberality, and we must harmonize its laws to the demands of the great fields of human activity and endeavor as they are to-day and discard all thought of the circumscribed efforts of the past.

STATES INCORPORATION SYSTEM.

Corporations exist only by force of the laws of the State wherein they are created, and as concerns their habitation are of two kinds, foreign and domestic. Each corporation is domestic in one State and foreign in forty-five other States and five Territories. Each corporation that does only a small portion of its business in the State which chartered it, does all the rest as a foreign corporation and subject to the disadvantages incident thereto.

The extent to which foreign corporations do business in every State and the variety of the operations in which they engage have created a demand that some method will be instituted that will bring about more uniformity in their rights and obligations, to the end that their operation may be directed and shaped by legal conditions imposed upon them by more than one of the many States where they go and that innocent parties may not be misled in patronizing them.

Because of this so-called "states system" the business marts of every State are now traversed by the representatives of concerns from the jurisdictions of forty-six different States. And the most serious consideration is the fact that each corporation takes with it its charter wherever it goes and stands upon it for its vitality and frequently as to its obligations. Thus forty-six different artificial bodies, made up of as many different basic ideas, because the States differ widely in the principles upon which their corporation legislation is based, are possible in every State and Territory of this Union. With these different creations it is possible for the citizens of each State to come or be forced into contact and be made to suffer more or less from them.

Persons who deal with corporations are bound to take notice of certain features they possess, and act at their own peril if they fail to do so. Among these are their organization, the relationship of the members, their corporate powers and authority, and the rights, duties, and liabilities of stockholders and officers, all everyday, commonplace, and vital matters.

Mr. Speaker, I submit to this body that it is a hazardous thing to run the gauntlet of these forty-six different sorts of charters in these important matters, and I do not believe the people would for a moment allow these dangers to continue if they were fully aware of their existence.

With charters emanating from forty-six different States having diverse requirements, who can tell when he deals with one what chances he is taking that its corporate powers are not being transcended and what losses may befall him in trading with it? When he attempts to collect the debts it has made to him, how can he know that he will not be confronted with a defense of ultra vires and stand to lose his claim? It is true that the statutes of most States prescribe that before a corporation is allowed to do business within the confines of that State it must file in a specified office at the capital a copy of its charter, to be inspected and found agreeable before it is allowed to do business therein.

But there are many instances where corporations do business in many States wherein they have never been formally admitted, and no one has protection against them. Hence arises the demand for a place where trading corporations that go out into the realm of interstate business can first equip themselves with charters that will give them a good commercial and financial standing with those whom they seek as customers. This can be done by the establishment of one national corporation to take the place of the forty-six separate State entities that are now possible.

Mr. Speaker, I desire to go further and illustrate how the forty-six separate and variable corporate bodies may injuriously affect those who deal with them. There are two classes of people who are liable to become contaminated with the virus of these variable foreign corporations—those who become creditors and those who become stockholders. There is no limit to the extent to which either class of persons may become hurt by contact with them, as State lines do not proscribe anyone in trading with or investing in corporate enterprises. Voluntarily or involuntarily, by acts of law, inheritance or otherwise, a man may unconsciously assume this relation and be made to bear consequences he can not fortify himself against, on account of an adverse charter or statute conditions in force in foreign States he has learned of only too late for his own protection.

The laws of some States are prolix and intricate, and so many various statutes exist for the different kinds of corporations that even local residents are misled as to which ones are applicable to the cases that spring up. Hence arises a general extreme dissatisfaction over existing conditions of corporate organic law, and the legal conditions under which corporate business must be carried on.

PERPETUAL CHARTERS.

In the diverse charters issued are further illustrations of the inadequacy of the laws of different States regulating corporations, and of how statutes have failed to keep pace with the growth of the people's interests. In some States charters are perpetual, and in others they run a specified number of years, and must be extended, or renewed by reincorporation. The company has no legal existence after the expiration of the tenure, and no right to do business, and its legal status is very uncertain. In some States charters are amendable, and in others they are not. In some the stockholders may amend, and in others only the directors. But whatever the method be, unless creditors and stockholders can control and can have notice their rights may be jeopardized by changes designedly and clandestinely made by those who are manipulating the institution.

SALE OF ENTIRE ASSETS.

In keeping with this danger is that of the disposing of the entire assets of a corporation. Under the laws of some States it can be done so quietly and effectually that creditors and stockholders have no realization of the transaction until the loss confronts them, and then they are remediless.

SCOPE OF BUSINESS.

In some States corporations are unlimited as to the scope of the business they may perform, while in others they can transact only the business specified in their charter. In the latter instances it is possible for one who deals with them to find himself in litigation to decide whether the powers they have exercised are ultra vires or otherwise.

FOREIGN BUSINESS.

Some States do not allow their corporations to do business in foreign States unless special authorization exists. In some States it must stand out in the articles of incorporation; in others it requires an affirmative action of a certain number of the directors, and in others it can be done only in those States where a reciprocal privilege is extended.

There lurks another danger in dealing with corporations having charters emanating from some fifty different legislative bodies and depending upon the construction by a variety of courts of some forty-six different sets of local statutes. In some States they try to overcome some of the objections that arise by compelling each foreign corporation to file in the office of the secretary of state, as I have noted, a copy of its charter, so that its citizens can—although often through a great loss of time—get at its provisions. In some of these States a failure to file this charter with the specified official and get an authorization deprives the foreign corporation of a right to do business in the State. In some of them the penalty is a fine only, with perhaps a denial of the right to pursue a legal remedy in its courts, and the right to statutes of limitation or exemption from attachment laws otherwise relieved from. In some of them all contracts and deeds of real estate made prior to compliance are declared void and unenforceable in the State courts.

There is a sample provision in the Indiana statutes prescribing inability to sue in the State courts, fine and forfeiture of all right to do business or hold property in the State, and that all contracts are rendered void. Agents are fined also.

While these drastic features tend to help collect the fee for the State, they do not sufficiently protect the persons liable to suffer most, for the corporation, being deprived of its right to do business in a State, and having its contracts made void, especially after once having the right to make them in the State, and probably having agreements which have gone into effect, is in a position to harm innocent patrons who trade with it, or capitalists who invest in its securities.

Does not this unsatisfactory state of things, Mr. Speaker, and this want of legal security for those who participate in any form of interstate commercial business, cry out for a remedy, and is it not time that some law was passed to remove the evils of the present exclusive States system of charters?

The absence of suitable and well-known provisions upon these familiar propositions and the uncertainties that abound as to them often impair the value of stock holdings and the credit of corporations and the marketableness of stocks and bonds, and also hurts the people and the Government, and this remissness of our State statutory laws gives greater force to the argument for a national corporation law.

CREATING DEBTS.

As corporations of an interstate character do not usually limit their field of commercial activity, they find friends and make financial deals and alliances in various States, and their operations of borrowing money and discounting notes, selling their bonds, and the like, are not confined to State geographical lines. Hence it is important for the creditor to know the limitations which their charters put upon this power. This is well nigh impossible under the present State system.

In some States all bonded debts and all mortgages must be made by the directors, in some by the stockholders, and in some by whom is not specified. In some it takes a majority vote of those who are authorized to act, in some a two-thirds vote, and in others a three-fourths vote. In some States the laws provide that the total indebtedness of the corporation must not exceed its capital stock, and in some the debts can not lawfully be more than two-thirds of it, while in some of them bonds on real estate are not counted in the limitation. Some States have no limitation, as in Delaware, New Jersey, and Massachusetts.

Here is a place, if one exists anywhere, that the statutory requirements for fixing the liability of the corporation ought to be simplified and the provisions made more secure and uniform, so that innocent creditors and investors may be protected.

STOCKHOLDERS' LIABILITY.

The matter of stockholders' liability concerns creditors and stockholders to an unusual extent. It may add to a creditor's resources and to a stockholder's responsibility, or take from them, and hence it is important that they be defined by a positive and uniform law the knowledge of which is easily accessible to all.

In California a stockholder is individually and personally liable in the proportion his holding bears to the total subscribed stock, for all debts incurred by the corporation during the time he is a stockholder.

In Indiana, and some other States, stockholders are individually liable for debts to laborers and employees to twice and, upon agreement, to three times their stock.

In twelve States the statutes impose a liability upon stockholders beyond that for unpaid stock subscriptions; hence it behooves a man who buys or has stock thrust upon him, or takes it in satisfaction of a debt, to beware whether it is an asset or a liability. It is also important to have some standard corporation whose legal provisions are constant and reliable as a

guide and a protection to everyone who is to become a stockholder in a corporation.

Furthermore, Mr. Speaker, it is of the highest importance that not only the enabling statutes, those which make for the financial interests of the organizer or promoter, should have close scrutiny and possibly reform, but that those laws serving the creditor classes who are interested because involved in having security for loans or credit, and those acts for the protection of stockholders, all of whom are but quasi creditors, should be safeguarded, while those of the dealer with whom they transact business in a commercial way should be guarded with jealous care.

STRONG CORPORATIONS.

But there are other reasons why there should be an opportunity for a corporation to be created under a national law, and these further illustrate the inefficiency of the present system of following forty-six diverse State laws to produce the result that can be better obtained under one general provision. That we may have uniform charters is a great consideration, but not the greatest. Protection to stockholders and creditors does not come by merely placing in their hands a chance to get wise as to the powers and disabilities of the corporation, but it comes also through the upbuilding of strong and efficient business institutions, capable of securing the confidence of the people and successfully promoting the enterprise the corporation is behind. One reason for wanting national corporations is the desire to establish strong, stable, and continuously prosperous concerns in the domains of business.

The arms of the Federal law are everywhere acknowledged to be stronger than those of the State laws, and a national corporation law would be more confidence inspiring and efficient than any one a State could promulgate.

It will at once be recognized that if the national banks were to be organized as local corporations, those of each State under its own laws, and had only the one national attribute of issuing and distributing money among the States, they would be very weak establishments. What is wanted is one possible fountain for the law of all corporations doing interstate business, as we now have one well-known, efficient statute for incorporating national banks.

Want of confidence in corporation efficacy and honesty in the people has now created a distrust of corporate investments, and depressed the prices of their stocks to the lowest point reached in years. No permanent relief is in sight until this confidence is restored. And one of the surest means of restoration is to place in the Federal statutes of our country a law under which investors will place their money freely in stocks and bonds. A law under the workings of which it will be known with certainty that a few individuals officering a concern can not manipulate its business and divert its earnings from the stockholders to their own private purse and thus wreck it.

There is a well-grounded suspicion among the people that the works presided over by the National Government are more efficiently managed than those under State supervision or individual control, and a corporation organized under national authority will be stronger and command the confidence of investors and patrons as well as of creditors more than any of State creation.

PROSTITUTION OF STATE POWERS.

Were there a way to create a national corporation we would do away with the vicious practice which we now see in States where, for financial gain merely, statutes have been passed to make it invitingly easy and agreeable for a corporation to be organized thereunder, the consideration for this prostitution of powers being merely the thus obtainable incorporation fee.

To get the patronage of promoters these States bid for it by enacting broad-provisioned laws, such as favor the organization, and not the stockholder, the creditor, or the corporation official. Some States have solicitors, who advertise "Where to incorporate," and for a division of the fee put in their time trying to divert from other States patronage of this kind, almost losing sight of the proper relation of the corporation to the State.

This practice creates what is known as the "tramp corporation," and also excites the people's distrust in all corporations. What I am now offering is a plan by which this prejudice can be done away with and the corporation can become the best known, best liked, and most efficient instrument of trade and commerce.

The natural place for an interstate concern to go for incorporation is to the nation, the Federal Government, the body which has the regulation of interstate commerce, and when the laws of one's own State do not suffice for the purposes of a corporation he wishes to promote, if he desires to enter a broader field than those of State affairs he should go to the National

Government, instead of off to some State that makes him the most inviting terms, giving him a charter easy to comply with and at a price that he can easily pay.

When a promoter goes to New Jersey, Delaware, West Virginia, Idaho, or Maine to incorporate a company it may mean something the public does not understand. There may be an exaction in the laws of his own State or a defect, or he may be looking for something easy, and no wonder that the people have imbibed a distrust for corporations, when we consider the extent to which this practice has gone.

If the many foreign corporations doing business in my State were national corporations instead of tramp State corporations, how much stronger would they be, not only in this crisis, but, in fact, all the time, and how much greater in them would be the people's trust and confidence.

Now, Mr. Speaker, the bill that I have introduced is not one to make it easy to get a business incorporated, nor one to make it hard, but just reasonable. The provisions of it are not unlike those of State law. They form a common-sense, practical code of organic corporation law and practice. It is not contended that they will derive force from the exactions which they contain, but from the fact that the General Government will be behind their execution, and that the people will believe that the Federal powers will exact a strict compliance with all of their requirements.

That is one of the things the people want, and such a law will certainly be a popular as well as a useful one.

My contention is for two sources of corporation organic law—the domiciliary State for local institutions, and the nation for larger enterprises that want to take on a broad national character.

Such a plan is in harmony with the sentiment of our laws, and such a measure will be highly acceptable to the people.

PUBLICITY.

The need of reform in corporation law goes unchallenged, but this bill is not advocated as a reform measure. It is in the line with reform ideas, and reform will grow out of the better system of erecting corporations and regulating them, that will follow on the heels of its adoption.

I am aware that publicity as a corrective force to abolish such evils as may arise in the affairs of a corporation is a matter declaimed for by the reformer, and it is regarded by reformers that corporations can not be regulated except through the constant administrative action, inspection, and supervision of the National Government, and a thorough co-operation between Government officials and corporation managers. But I have endeavored to take a more conservative view of this demand. In this bill I have not created a system of espionage, by which corporations are to be inspected and audited with regularity and exactness and a great army of public officials created to visit them, as is done to regulate national banks. Annual reports to the Bureau of Corporations are prescribed and examinations required only when suspicious circumstances arise or a demand from the stockholders necessitates it.

Too much publicity at critical times in the affairs of a corporation might be far more disastrous than too little. Some information that the Government might require should be withheld from the public, and every care should be taken to protect amply the rights of privacy, which are due to stockholders and creditors, and are essential to carrying on their business.

STATES RIGHTS.

Mr. Speaker, I presume there are some who may think that the adoption of a national corporation law would smack of interference with States rights. A few years ago the charge of disturbing State functions would have come with much greater force, but now that the General Government is regulating interstate commerce in many ways that were once objectionable, that obstructive idea has lost its efficacy. Such a law would be in harmony with the efforts that are being made to regulate the sale of impure foods, to promote public health, and the like, and will stand the same tests of States rights criticism.

It is conceded that there are no vital legal objections to the creation of corporations by Congress with power to engage in interstate commerce. The authority to do so is well settled by the practices of this body and by the decisions of courts. But the question has been raised whether an interstate-commerce corporation has additional power to produce or manufacture in any State, so that such a grant of power will be valid as against the States or individuals. But this legal difficulty is not regarded as having much force. From the analogies of other decisions it goes without saying that the courts will hold that the power to produce is necessarily incidental to the power of regulating interstate commerce, by sanctioning the creation of such corporations.

Such a law will be no menace to the States, as it deprives them of nothing they are now entitled to do. No State is entitled to set itself up as a haven to which corporations can go when they want to be organized in a way the domiciliary State would not permit, or have its laws operate as a harbinger against the liability of those who do corporate wrongs, and in fairness, the citizens of no State have the right to resent such a law as I propose.

A FEDERAL LICENSE SYSTEM.

I know that a Federal franchise or license system to State corporations to do interstate business has been proposed, and while this would nationalize the corporate business system of the country, which is now national from a commercial standpoint, and would be conducive to improvement of the present body of the corporation law, it would still have its foundation in State charters, and the operations of the franchise laws would extend over the provisions of the statutes of forty-six States and still be subject to the interpretations of their many courts. There would be dual jurisdiction, while under a Federal system the entire matter of such corporations as organized under the Federal statute would be under one jurisdiction and all chances for friction between the State and the Federal governments would be removed.

Some may think that an effort should be made to get the State governments to perfect their local laws and adopt uniform provisions, and thus provide properly for all interests involved; but this would be a hopeless task. Selfish interests of the States and their mercenary desire for revenues would continue the system of concessions now in vogue, and the present rivalry of States for this business could not be eliminated. There is no reasonable expectation that the forty-six different jurisdictions can ever agree on anything like a uniform system of law covering a matter wherein there is a chance for such sinister objections.

PROVISIONS OF THIS BILL.

Where a corporation is now organized by a special act of Congress, as they frequently are, it is necessary to set forth at length the constituting features which must be defined in order to make it an entity, and these provisions will differ in most cases; but if this bill is passed there will be no necessity for special acts of Congress, as all can then be formed under a general law with uniform provisions, and the business of organizing can be done at any time, whether Congress is in session or not.

Three or more persons can incorporate to carry on any kind of interstate business for which persons may lawfully associate, except for insurance, banking, and building and loan operations.

The articles are to be in the form prescribed by the Commissioner of Corporations and filed in his office at Washington, D. C.

The manner of subscribing and issuing stock, electing directors and officers, the rights of stockholders, and the many details of statutory law necessary to proscribe the powers, duties, privileges, and operations of these institutions are as extensive and do not differ essentially from those given under up-to-date State statutes of leading States.

COMITY.

There is a matter, however, in which such corporations will differ from the usual domestic corporation:

A corporation exists only in contemplation of law, and by force of law, and can have no legal existence beyond the bounds of the State or sovereignty by which it is created.

As the laws of one State can, by their own vigor, have no extra-territorial force in another State, a corporation created by one State can exercise none of the functions or privileges conferred by its charter in any other State of the Union except by the comity and consent of the latter.

Leading authorities agree that the recognition of a foreign corporation and the enforcement of its contracts in States other than that of its creation rests only on comity, and any conditions governing the right to transact business outside the domiciliary State of the corporation may be imposed upon them, or they may be entirely excluded. The legal authorities say that—

A State may preclude all foreign corporations not engaged in interstate commerce, or in the employ of the General Government, from transacting business within its limits, and courts can not inquire into its reasons for so doing.

A State may discriminate between foreign and domestic corporations. Foreign corporations are not guaranteed the same privileges as are enjoyed by domestic corporations, and not entitled to the privileges and immunities of citizens in the several States, under the United States Constitution (Art. IV, Sec. 2).

NOT A FOREIGN CORPORATION.

The bill which I have introduced provides, in section 2, as to corporations organized under it:

Any such national corporation may, without inhibition or hindrance from any State, Territorial, or municipal local law, conduct business in any State, Territory, or insular possession of the United States, or in foreign countries, and may have a principal office in one State or Territory, and one or more offices in the same or other States, Territories, countries, or possessions; and where State, Territorial, or municipal laws conflict herewith, the provisions of this act shall govern.

It has been held by our courts that a corporation constitutionally chartered by the United States is not a foreign corporation as to the soil of any State, nor does its status depend upon the comity of any State. It is also held:

A corporation created by act of Congress, with powers coextensive with the Union, is not a foreign corporation within any State of the Union, any more than an act of Congress is a foreign law within any State of the Union. (98 Pa. St.)

Congress has power to create a corporation whenever to do so is an appropriate means to carry into execution the enumerated powers of that body.

DOES NOT ANTAGONIZE THE STATES.

Mr. Speaker, this act may be unwittingly opposed by some on the theory that it antagonizes the financial interests of the respective States, but such is not the case. On the contrary, it protects and enlarges them.

The domicile of a corporation is the State wherein it is first created. Although it may have business houses in many States, it can not migrate into another State and establish a domicile there, as a man can change his residence.

Good authority says:

Where a corporation is created by the laws of a State the legal presumption, for the purpose of Federal jurisdiction, is that all its members are citizens of the State by which it was created, and in a suit against it is conclusively presumed to be a citizen of such State.

A corporation endowed with its capacities and faculties by the cooperating legislatures of two States can not have one and the same being in both States. Neither State can confer on it a corporate existence in the other, nor add to or diminish the powers there to be exercised. (Thompson on Corporations, sec. 7875.)

Wherever a corporation transacts its business, it carries its charter with it, and that becomes the law of its existence in the foreign State, for the charter is the same at home as abroad. (Frost on Corporations.)

It is laid down in Elliott on Corporations, page 56:

It is not uncommon for several States to incorporate what to all intents and purposes is the same corporation. It is impossible, however, for a State to give extraterritorial force to its laws. (32 W. Va., 164; 3 L. R. A., 572.) Although bearing the same name, there are as many corporations as there are creating statutes. (69 Fed., 753; 30 L. R. A., 250 and cases cited.) For the purpose of jurisdiction it is the corporation of each State, when acting under the authority of the charter of that State. (88 Ill., 615.)

It is said in Thompson on Corporations, section 7886:

Every corporation which seeks by its agents to establish a domicile of business in a State other than that of its creation, must take that domicile as individuals are always understood to do, subject to the responsibilities and burdens imposed by the laws which it finds in force there.

Thus it will be seen that each State has full control over the corporations which can do business therein, except as to national corporations, and in view of this fact there are only two methods by which a corporation can authoritatively do business outside of the State of its creation, viz, by becoming a national corporation and by the consent of the foreign State.

National banks and other national corporations do not need or ask for State consents or pay excise taxes. The States make no requirements upon them, but such is the extent that private corporations do an interstate business that nearly all, if not all, the States have laws for admitting foreign corporations to do business in them, upon the filing of required papers and the payment of a required fee.

With this practice we do not interfere. Sections 59 and 60 of the proposed act provide:

59. Payment of excise taxes: National corporations organized under this act shall be subject to the payment to State authorities of excise taxes upon the business transacted by them in each of the various States in which they do business, to the same extent and in the same manner only as if they were local companies organized and doing that kind and amount of business in the State wherein the tax is to be paid, or as if they were foreign corporations doing business therein in case more favorable local laws exist governing payment of excise taxes by foreign corporations of the class to which they belong. The annual report of the corporations to the Bureau of Corporations shall be the basis of such taxes.

60. Franchise fees and taxes: Such national corporations shall make the same reports and pay the State authorities same franchise fees and taxes in each of the States wherein they do business, and be subject to the same regulations as are required by the local law of foreign corporations doing business in such State.

It will thus be seen that this bill, should it become a law, does not menace States' rights or threaten even to deprive them of their local excise revenues, and hence this act should stir up no spirit of resentment from them. It would be possible to deprive the States, I think, of all restraint over and all revenue

from national corporations, after the example of the present practice with national banks, but as the bill does not attempt to do this, it is unnecessary to discuss the propriety or power of doing so.

FEES.

The Government is prohibited, under the proposed bill, from charging incorporation fees. In my judgment there should be no charge of the kind from a corporation any more than from an individual. Such a law should be as automatic as possible, involving as little expense, annoyance, uncertainty, and business disturbance as are necessary. In a factory business the corporation builds up the community where it is located, gives employment to labor, develops property and wealth, and produces taxes sufficient to compensate for all the privileges the State bestows upon it. But if the States are allowed to retain their excise taxes, that is a stronger reason why the United States should omit incorporation fees. The provisions of the bill are:

61. No United States fees or taxes on filing articles with the Bureau: No tax of any kind shall be levied or assessed by the United States upon a national corporation organized under this act, and no fee of any kind shall be charged for filing any articles of incorporation, report, certificate, or other paper relative to corporations in the Bureau of Corporations, or for any copy thereof required by law to be furnished to said corporation, and such Bureau shall furnish any copy of any such paper called for at a price not exceeding the actual expense of making the same, and all moneys so received by said Bureau shall be for the use of the United States.

This bill, if passed, Mr. Speaker, and if every interstate corporation now in existence should organize under it, would affect no State injuriously. The most that it could do would be to enable all of what are now foreign corporations entering for business in the different States, to become institutions created by one sovereignty instead of by a possible forty-six. It could thus bring about an abandonment of State corporation, entity and the substitution of a Federal entity therefor, but it would simplify and better corporate operations. There would then be but two systems—one State and one national—and two sources to go to to determine the rights, powers, duties, and responsibilities of all corporations doing business in any one State, instead of to the present widely scattered multiplicity of domiciles they inhabit.

PERMISSIVE ONLY.

The proposed act is not an exercise of arbitrary power, and does not seek to compel all corporations that are organized to do an interstate business to come in under its provisions, and thus become national institutions. It is permissive only.

It is to be hoped that the advantages it will bestow to those incorporated under such a law will be a sufficient inducement to compel all who wish to have a strong corporation, with marketable securities, and whose operations will be viewed with public confidence, to come in and avail themselves of its provisions.

Compulsory Federal incorporation of interstate companies is theoretically but not commercially wise, as it would involve radical industrial and political changes, and centralize great power in the Federal Government.

The question of centralization of power in the National Government, Mr. Speaker, is one with which legislators are familiar, and I do not need to discuss it for the benefit of Members of this House. But I want to point out that this question is not extensively related to my proposition, which, properly stated, is a concentration of what are now a lot of segregated doings in forty-six different places, with a view to combining them into one aggregated procedure, to secure the economies and acquire the benefits that will prevail.

While the Government would assume a function it has not been exercising in this instance and one of its administrative bureaus would have to be enlarged, it would be given no new power, as its new duties would be purely administrative. While the Government would be armed with a new duty, no State would be disarmed of its prerogatives, as the right to national incorporation is optional instead of obligatory.

CHOICE AS TO THE FORUM.

I am willing to concede that under ordinary conditions those who wish to have a corporation organized will prefer a State organization to a Federal one, especially if the Federal law imposes conditions upon national corporations which, from the standpoint of those interested in the organization, will be for the public benefit, rather than that of the individual organizers, or even the corporation, and will incorporate in one of the forty-six different forums now offered by the different States instead of the one given by the United States.

There was a time when this might have been taken as painfully true, but things have changed. The practice of corporations organized under loose, remote State laws and other abuses of corporate power have sickened the public, and the

sentiment has developed that a corporation to inspire and deserve confidence must be organized with a view to its business stability and its future prosperity rather than to the possibility of manipulating its stock, and they must avail themselves of such safeguards and bulwarks as are found in a safe and sound organic corporation franchise law. What heretofore might have been optional in this respect has become compulsory under this new order of public sentiment and will compel a preference, by new organizations, of the confidence-inspiring national law. A corporation doing an interstate business that is not organized as a national corporation and has not the designation in its name, if a national law is in existence, will secure poor credit ratings and be an object of suspicion, and will for its own good be forced to go out of business or qualify itself for it by changing its incorporation.

Should this law be adopted, I am satisfied that it will not be long after it is in operation before, by the law of self-interest and self-preservation, corporations will begin to make the selection and come in under it voluntarily.

TRAMP CORPORATIONS.

"Tramp corporations," Mr. Speaker, now numerous, will eventually be done away with by the passage of this act, to the general good of the whole. Citizens of one State, whose laws are not as liberal as those of some others, should not be permitted to go into another State for the purpose of organizing a corporation under more favorable statutes, without the intent of carrying on any business in such State, but with the purpose of carrying on business in the State of their own residence.

REPORTS.

It is not the province of this act, as I have said, to establish a system of espionage over the acts of corporations nor to give extensive publicity to their doings or conditions. It is thought that reasonable provisions of this kind, coupled with the fact that there is among business people a strong respect for the mandates of Federal statutes, will give the best protection to shareholders that it is possible to have in such institutions.

Annual reports are required on blanks to be furnished by the Commissioner of Corporations, provisions for which are:

62. First and annual reports: Every national corporation organized and doing business under this act shall file in the Bureau of Corporations, within thirty days after the first election of directors and officers, and annually thereafter, within thirty days after the time appointed for holding the annual election of officers, a report authenticated by the signature of the president and one other officer or by any two directors of the company, stating:

- I. The name of the corporation.
- II. The State and location (town or city, street, and number, if number there be) of its principal office and of the offices maintained by it in different States, and the name of the officer or agent in charge of each of said offices upon whom process against the corporation may be served.
- III. The name of the president, secretary, treasurer, and directors, with post-office and term of office of each.
- IV. The date of the annual meeting of stockholders for the election of directors.
- V. The character of its business.
- VI. The amount of its authorized capital stock, the par value of each share, the amount subscribed, the amount issued, and the amount paid up.
- VII. The value of the property owned and used by the company in the State where its principal office is located, and the value of the property owned and used by it in each of the States outside the State containing the principal office, and where such property is situated.
- VIII. The assets and liabilities of the company and business done by it in each State.
- IX. The dividends earned and paid to stockholders.

In the report of the Commissioner of Corporations for 1904 it is stated that the generally recognized principal evils of present industrial conditions are:

Secrecy and dishonesty in promotion, overcapitalization, unfair discrimination by means of transportation and other rebates, unfair and predatory competition, secrecy of corporate administration, and misleading or dishonest financial statements.

Much of this would pass away by a regular system of annual reports from corporations, covering their management and methods of business, financial condition, volume and direction of trade, cost and character of production, and other pertinent facts, and such as would naturally be required under such a law as this.

EXAMINATIONS.

Examinations may be made upon the requests of the officers or directors. The provision for this is as follows:

63. Failure to make report—Blanks to be furnished: If such report is not so made and so filed, the corporation shall forfeit to the United States \$200, and \$10 per day additional for each day's omission, to be recovered with costs in action of debt, prosecuted by the Attorney-General, who shall prosecute such actions whenever it shall appear that this section has been violated.

If such report be not so made and filed, all of the directors of any such corporation who shall willfully refuse to comply with the provisions hereof, and who shall be in office during the default, shall, at the time appointed for the next election, and for a period of one year thereafter, be thereby rendered ineligible for election or appointment to any office in the company as director or otherwise; but no director shall be thus disqualified for the failure to make and file such report,

if he shall file with the Bureau of Corporations before the time appointed for holding the next election of directors after such default a certificate stating that he has endeavored to have such report made and filed, but that the officers have neglected to make and file the same, and shall report so far as they are within his knowledge or are obtainable from sources of such information open to him, verified by him to be true to the best of his knowledge, information, and belief.

The Commissioner of said Bureau, upon application, shall furnish blanks in proper form, and shall safely keep in his office all such reports, and shall prepare an alphabetical index thereof; which reports and index shall be open to the inspection of all persons at the proper hours.

JURISDICTION OF COURTS.

The jurisdiction of United States courts over a national corporation under this law is to be the same as it would be over the corporation if it were a domestic concern of the State where it was doing business when sued. Its domicile for the purposes of litigation is that of the State of its principal office, and the courts of the United States have no jurisdiction other than they would have between individuals of that State. This means that the State courts retain jurisdiction over them, the same as of domestic corporations, and suitors are not deprived of the right to redress their grievance in the local courts.

CONVERSION OF STATE CORPORATIONS.

To convert a State corporation doing an interstate business into a national one under this act will not need the usual process of a new corporation and sale and transfer of the assets, but a much simpler and shorter method is provided, being substantially merely the filing of new articles of incorporation.

CRIMES AND CORRUPT PRACTICES.

In this bill are provisions against embezzlement, fraudulent appropriation of corporate property, keeping fraudulent accounts, willful destruction of books, making false entries, and so forth; publishing false statements, issuing false stock, being interested in competing companies, buying an interest in a subsidiary company, buying supplies for personal gain, misleading advertisements of capital stock and dividends, and the like; providing fines and personal imprisonment of offenders sufficient to prevent most of the losses that usually fall on stockholders by want of care and the misconduct of corporate officials.

INDORSEMENTS—ANARCHY SUGGESTED.

But, Mr. Speaker, I am not alone in my views as to the condition and standing of corporations before the law. In the annual report of the Commissioner of Corporations for 1904 he says:

The present situation of corporation law may be summed up roughly by saying that its diversity is such that in operation it amounts to anarchy.

If this is so, why should we not remove this lawless condition and have some standard of corporation law to look to whose provisions are constant and reliable and whose operations are a protection to every corporate creditor and stockholder?

The President of the United States has also, in several recent messages to this Congress, indicated that he favors such legislation as a means of compelling obedience to the law by corporations and a relief from the oppression which large corporations are visiting upon their weaker competitors.

I hesitate to believe that a condition of anarchy in our corporation law will be long tolerated if these institutions and their relation to the industrial and commercial interests of the country be properly placed before the people and the needs of corporations frankly considered.

MONOPOLIES NOT FOSTERED.

As I said at the outset, I am not attempting to foist upon the public, or this body, a scheme of trust-busting, and I want to say, in conclusion, that I am not endeavoring to work up a plan to make the organization of trusts easier or their careers more pleasant, or to enable them to conduct their operations more successfully. I am against monopolies. I believe that laws should be enacted, not only to disable them, but to cripple them in case they are formed; and we should have the foresight to anticipate them and make it impossible for them to organize.

In many States we have laws forbidding the consolidation of two competing railway companies. This principle should be extended so as to prevent any corporation being formed by the amalgamation of any two companies which are doing the same line of business, or the enlargement of the capital stock of one corporation, the proceeds of which is to be used to absorb another which is a competitor. In this safeguard only can the people be secure against the crushing out of competition and the consequent high prices which we must pay as a tribute to support the greed of monopoly.

One thing I think we can rely upon with certainty is that the interests of the people will be guarded more zealously and the business of the corporation be more closely scrutinized under a system of national corporation laws than under the loose laws of forty-six States. The efforts of one executive body to administer the laws in the people's interests, having the whole business in the aggregate, will be more effective than that of forty-six separate ones, each of which has only a part of it, a system under which monopolies now do not seem to be greatly hindered.

Therefore I can not otherwise than believe that this law will be helpful in a practical way in solving the great question of regulating corporation methods and dispensing with corporation unfairness and oppression. It will certainly be a producer of results that will tell for the good of the great reform movement now so uppermost in the minds of the people.

CORPORATE OPPRESSION.

From what I have said it follows that there is evil growing out of corporations and corporate influences as well as good. Corporations have grown faster than our conception of them, our familiarity with their movements and knowledge of their wants, and what may seem to be their faults may, in some instances, be appearances which are deceiving.

Corporations may at times appear oppressive. It is not unnatural that they should appear so to their competitors; but often it is merely because they are progressive. Each forward business movement oppresses those it leaves behind. The manufacture of shoes oppressed the individual shoemaker of forty years ago, found in all the cities and towns, that the swifter factory methods put out of business. The factory vehicle builders drove out of competition the wagon makers of the smaller towns. The watchmaker found a way to make each part by machinery in a great factory and drove out many employees that were doing the work by hand. The canal boat prostrated the stage, and the railroad train relegated the canal boat to a thing of the past. In some places the electric lines have given oppressive opposition to the steam railway. These evolutions come as a matter of course, and every new and improved mode oppresses its rivals, whom it finally puts out of business. But this would be the same with individual effort if it controlled the business of the country. It is not the fault of the corporation, nor due to its existence, but the result of the progress of the times and the development of our country.

We can not wonder that there has been complaint against corporations. That they should be assailed and that their movements should have produced friction. They have made mistakes and overreached. Notwithstanding their transgressions I believe it to be our duty to lay aside all prejudice and consider only the place of the corporations in the great utilities of our great Government, the development we have to secure, and how it is to be accomplished in the future, and do whatever we can for progress by fostering them and aiding them in the great good which they can do. And the surest way to do this is to remove one great obstacle to their growth, by providing for the erection of corporations under a well-guarded, uniform law, through the enactment of the bill which I have proposed, and at the same time curb their careers of predatory imposition upon the people, in the mad chase of their manipulators, after "swollen fortunes."

Mr. Speaker, corporations should be encouraged but made to feel their dependency upon business integrity. If they use their capital and ability in developing their resources and outgrow the law, they should not be required to slow down their pace to the gait set by dilatory legislation. If the laws become obsolete or a misfit the corporation should not be made to suffer for it, but the handicap should be removed by the enactment of laws as large, liberal, and elastic as the business interests of the country demand. If this be done there will be a new era of business growth, similar to that we experienced fifty years or so ago when corporations were put under the restraining ban of general laws. Uniform laws and uniform charters will be the making of the best system of corporation law that has ever been proposed, and the popularity of the American corporation will increase beyond measure. Corporations will be kept within their legitimate sphere of action and operation. Officers will be restrained from despoiling them, and violating their trust, stockholders will be protected to the point of the safety of their investment, and we shall have an ideal American institution, the pride and benefactor of the entire American people.

By the enactment of such a law as I have proposed the plain of corporate existence will be elevated, the power of corporations to take unearned increments will be destroyed, confidence will be restored, the conscience of the public calmed, investments will be protected, and these institutions will enter upon a new and enlarged field of usefulness and action.

The Swamp-Land Claim of Cass County, Ill.

SPEECH

OF

HON. HENRY T. RAINEY,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

The Committee on the Public Lands of the House of Representatives having under consideration the bill (H. R. 4334) providing for the payment of the swamp-land claims of certain counties of the State of Illinois—

Mr. RAINEY said:

Mr. CHAIRMAN: I think the chairman and the gentleman from Tennessee [Mr. GAINES] have come very near reaching the bottom of this matter. Clearing away the brush and getting at the exact equity of this situation, this is the condition of matters: The Government of the United States grants to the State of Illinois a certain definite number of acres of land. There can be no question about that. The number has been ascertained. The Supreme Court of the United States in a case which I will endeavor to find and put in record has recognized that fact. That matter is adjudicated.

Now, after having given to a young and growing State blank acres of land, the definite amount is given in the most solemn manner possible, the Government of the United States, in another way, equally solemn, acting through its agents, sells a portion of this same land granted to the State to private individuals and gives them a title to it, and the private individuals immediately enter upon the possession of the land. After that the State, by an act of the legislature, granted to the counties the lands granted to the State, and when the counties attempted to take possession of certain lands contained in the grant by the Government to the State they found that the Government had sold those lands to somebody else who was in possession and who held his title direct from the Government, and therefore the counties could not get the lands.

Now, certain of these counties, perhaps all of them, applied in the regular way to the proper officials and obtained scrip authorizing them to take the number of acres of land that the Government sold in error. But the Department, as they construed the matter, required them to take land within the boundaries of the State. The situation is this: The Government gave to the State of Illinois a certain number of acres of land and the Government afterwards sold that certain number of acres of land and got the money, \$1.25 an acre, and it is in the Treasury.

Mr. SMITH of California. You are mistaken in that point. The United States received cash for the lands selected by others that was turned over to the State of Illinois, but not so far as the lands were covered by military warrants or something of that kind.

Mr. RAINEY. The principle is the same, whether it is cash or military warrants.

The CHAIRMAN. Of course the gentleman did not finish his statement. He did not intend to say that the grant was by description; the grant was by a description of the character. In many cases the entryman was upon the land and occupied it before the State had identified the land so occupied as coming within the grant.

Mr. RAINEY. I think that would be true in a great many instances. But lands have been identified and the courts have recognized the identification, the courts of the State and the Supreme Court. We can tell exactly what lands are included in the grant.

The CHAIRMAN. As a legal proposition I do not think that makes any difference.

Mr. RAINEY. Yes, sir. Now, as to the point suggested by the gentleman from Tennessee, to which the chairman has also added some valuable suggestions along that line, that this is a matter for the Court of Claims. I think there is a great deal of force in it as applied to all the lands except the land embraced in this particular bill. The object of referring any matter to the Court of Claims is to obtain an adjudication and to find what the rights of the parties are. In my district there are four counties that have been deprived of the lands granted to the State and by the State to them—Calhoun County, 340 acres; Cass County, 1,880 acres; Greene County, 400 acres, and Pike County, 600 acres. I do not think this committee has a particle of jurisdiction as to four of these counties here, because their claims have, perhaps, not been adjudicated. I ought to modify that by saying, if the statement of the gentleman

from Tennessee has any force, and I think it has a great deal of force, it ought to apply only to three of these counties.

There is one of these counties which has obtained an adjudication as solemn, and it ought to be as binding, as could possibly be obtained if this matter was in a position to be referred to the Court of Claims, and that is Cass County. Cass County received from the Government scrip for its 1,880 acres. That is an adjudication that there can not be any question about. They hold the scrip there now, and it should be worth \$1.25 an acre. There has been an adjudication as to this county because they have the evidence of it. They have a certificate which says "the Government owes you so many acres that is worth \$1.25 an acre." What could the Court of Claims add to that adjudication? Absolutely nothing. Mr. Hitt is also of this opinion. But as to the other counties, there might be some question of fact. The only reason for carrying anything to the Court of Claims is to get a finding as to questions of fact. As to Cass County, with its certain definite number of acres, there has been an adjudication and the question of fact has been determined, but as to these other counties I think there is great force in the suggestion that the matter be referred to the Court of Claims in the proper way.

Mr. GRAFF. Do you mean the counties mentioned in this particular bill?

Mr. RAINEY. If all the counties in this bill have received scrip then I think there has been as solemn an adjudication as to them as the Court of Claims could possibly render.

Mr. GRONNA. I have been under the impression all the time that the only lands that received payments are the lands that have been adjudicated; is that right?

Mr. RAINEY. Yes, sir.

Mr. HALL. You alluded to certain scrip issued to one of the counties that you mentioned?

Mr. RAINEY. Yes, sir; in my district.

Mr. HALL. By the term "scrip" do you allude to the certificates we have been alluding to?

Mr. RAINEY. Yes, sir. Perhaps I have not used exactly the proper term.

Mr. HALL. I did not mean to find any fault with the expression, but I merely wanted to make the identification. In the absence of authority for the commissioner to issue scrip or any other agent of the Government to issue scrip, does that add any additional weight to the rights of the counties to which those certificates were issued?

Mr. RAINEY. I think so. The scrip was issued, the certificates, many years ago, and there has been no attempt on the part of this Department or on the part of any other Department for half a century or more in any way to repudiate the action of the official who issued the certificates.

Mr. HALL. In other words, you claim that the doctrine of estoppel would run against the Government.

Mr. RAINEY. No, sir; I do not think the doctrine of estoppel would run against the Government in a matter of that kind, or against a State, or against any sovereign power; but we ought to arrive at the equities of the situation, and that is what I understand the committee is trying to get at; of course, any sort of a proceeding before a committee is simply an effort to arrive at the equities, because you can not compel the Congress of the United States to do anything. You can not arrive at the equities of the situation except by determining what rights the courts would compel as between individuals. If this were a contest between citizens of different States or citizens of the same State, the rule of estoppel would certainly apply.

Mr. HALL. What is bothering me, and the reason that I make this inquiry, is that I am unable to understand why it is that these counties which hold these certificates have any superior rights to any of the other counties to which the certificates were not issued, or to any other State under similar circumstances, if those certificates were issued without the authority of law. In other words, that the officer issuing those certificates acted in an extrajudicial manner.

Mr. RAINEY. But the fact is that he did act within the powers granted him by the act of Congress itself.

Mr. HALL. That is precisely the question. I have examined that act, and I find in that act no authority for the issuance of any scrip or certificate. It is merely a general act, and the Commissioner of the General Land Office would have no more right to issue a certificate than would the President of the United States or the Indian Commissioner.

Mr. SMITH of California. Is not the status of the other 51 counties identical with those mentioned in this bill except that the Commissioner of the General Land Office arbitrarily refused to proceed any further with the issuance of the certificates? He had the same authority to issue certificates to the

other 51 counties as he had to issue them to these counties, and the same proofs were submitted by the other 51 counties that were made by these counties.

Mr. RAINEY. That may be true; I rather think you are right. Let me read section 2 of the act of May 2, 1855:

And be it further enacted, That upon due proof, by the authorized agent of the State or States before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands, within the true intent and meaning of the act aforesaid, the purchase money shall be paid over to the said State or States; and where the lands have been located by warrant or scrip, the said State or States shall be authorized to locate a quantity of like amount, upon any of the public lands subject to entry, at \$1.25 per acre, or less, and patents shall issue therefor, upon the terms and conditions enumerated in the act aforesaid: Provided, however, That the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior.

I think the States under this act were clearly authorized to make this selection.

Mr. SMITH of California. To go elsewhere and locate land in lieu of it, but it does not carry with it the authority for the Commissioner to issue any scrip or warrants. I do not think these counties are in any different category from the 51 counties in the State of Illinois.

Mr. STEIN. Oh, yes, they are. Their claims have not been

Mr. SMITH of California. If the Commissioner had authority to issue the certificates to any county, why did he not issue certificates to the other 51 counties?

Mr. STEIN. Suppose the question of its being swamp or nonswamp land was in dispute, or unadjudicated?

Mr. SMITH of California. That would place a different phase on the matter.

Mr. RAINEY. All the swamp-land claims presented by the various States should not be placed upon the same basis as the claims of the 14 counties in the State of Illinois mentioned in this bill. I desire to call attention to the fact that under and by virtue of the respective enactments of Congress the Secretary of the Interior was designated as the person who should decide whether or not the land claimed by the State as swamp land was really swamp land. It must be taken into consideration that claims were presented by various States for lands which were not in fact swamp lands and could not be proven to be swamp lands to the satisfaction of the Secretary of the Interior. For example, from July 1, 1892, to June 30, 1906, the Department of the Interior rejected swamp-land claims presented by the various States to the amount of 9,983,572.41 acres. In relation to these rejections the Department says: "The rejections and cancellations represented in the above table were illegal, duplicate, and improper claims which have been encumbering the records for many years." Thus it will be seen that many swamp-land claims presented by the various States of the Union which are entitled to the benefit of swamp-land grants are in dispute and have not been proven to have been of a swampy character at the time of the original grant of 1850. Some of these lands may be swampy, but the mere fact that the Department rejected almost 10,000,000 acres in fourteen years is a very strong argument in favor of the proposition that most of the claims which are now pending are really claims that have been made to lands which are not now, nor have they ever been, swampy in character.

(Full data upon this proposition may be obtained by referring to the report of the Commissioner of the General Land Office for the year 1906, p. 116.)

It should be taken into consideration that the State of Illinois has an unadjudicated swamp-land claim for a million and a half acres, also that various other States have such unadjudicated claims. For the settlement of such claims or, rather, for the adjudication thereof no additional legislation is required for the reason that the various swamp-land enactments have conferred upon the Secretary of the Interior sufficient authority to determine the facts as to the respective claims and settle all those claims which were entered for cash upon a basis of \$1.25 per acre, or less.

The claims of these various counties were proven up and adjudicated over fifty years ago, and neither has Congress nor has any departmental official questioned the adjudication of the same. There is no way in which these claims can be satisfied, and whenever the attention of the Interior Department has been called to the condition of these adjudicated claims, upon which the State of Illinois could not realize, this Department has always stated that the claims were just and Congress should take steps to see that the same were satisfied.

No additional enactment is required in order to establish the swamp-land claims of the other States. All lands that were entered for cash will be settled for by the Interior Department when they are proven to be just, and no additional legislation is required to settle such claims. In those public-land States where land was entered with land warrants and scrip there are

sufficient public lands to satisfy any certificate which may be issued upon claims proven to the satisfaction of the Interior Department. We must not get the impression that the State of Illinois is the only State in the Union to which certificates of this character were issued. In the report of the Commissioner of the General Land Office for the year 1906 it is stated that there had been issued to the various States in the Union certificates of the character described in this bill aggregating 862,270 acres. It has been stated that practically all certificates have been satisfied in the other States, with the exception of a few acres in some of the States, and in such States there are a sufficient number of acres of public lands upon which they can be located. If this is correct it will be seen that the Government of the United States has been able to fulfill its obligations in regard to all the States with the exception of the State of Illinois. I submit that the State of Illinois should not be prevented from realizing upon certificates which are exactly similar to those which have been issued to the States of Alabama, Florida, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, and Wisconsin, upon the technicality that the Secretary of the Interior exceeded his authority when he issued the certificates to the State of Illinois. The other States have had the advantage of them, and Illinois should be entitled to similar consideration.

It has been asked if the difference between the claims of the counties mentioned in this bill and those of others which are not adjudicated is not similar to an account stated or to a book account which has not yet been rendered. I do not think so. The claim of these counties has been recognized as an obligation of the Government by the highest authorities of the land. In regard to whether or not these claims are just there is absolutely no dispute whatever; the Executive Department to which Congress delegated the authority to pass upon these claims has repeatedly stated that they were obligations that were just and right and that Congress should take some action to meet them. In regard to the claims presented by the other counties of the State of Illinois and in regard to the claims presented by the various other States in the Union there may be a dispute; as I understand it, the Department denies that the lands claimed by such various counties in Illinois and in other States were swamp lands at the time of the enactment of the act of 1850; hence it will be seen that the Government denies the debt or obligation in regard to all the other claims now pending in the Interior Department. These certificates are plain obligations upon the part of the United States Government to do certain things; they are issued by virtue of Congressional enactment, and bear the signature of an Executive Department. They ought to be the same as promissory notes or Government bonds; their validity is not in dispute, while the claims of the other counties are in dispute, and the most of them, if proven to be just to the satisfaction of the Interior Department, can be settled by the Interior Department without additional legislation.

In *Railroad Company v. Smith* (9 Wallace, p. 99), (1) in speaking of the swamp-land grant of 1850 the court said:

No act of Congress has ever attempted to take back this grant of swamp land, or to forfeit it, or to give it to any other grantee, or modified the description by which they were given to the States.

To show how much importance the Supreme Court attached to this solemn obligation on the part of the Government, the following expression by the court in this same decision may prove interesting:

By the second section of the act of 1850 it was made the duty of the Secretary of the Interior to ascertain this fact (meaning swampy character of land) and furnish the State with the evidence of it. Must the State lose the land, though clearly swamp land, because the officer neglected to do this? The right of the State did not depend on his action, but on the act of Congress, and though the States might be embarrassed in the assertion of this right by the delay or failure of the Secretary to ascertain and make out lists of these lands, the right of the States to them could not be defeated by that delay.

When in 1855 it appeared that the rapid settlement of the public domain was going to deprive the States of the rights intended to be granted by the act of 1850, Congress passed another act in which it sought to further protect the States in those rights. Nor did Congress stop there, but in 1857 passed another act confirming to the several States their swamp and overflowed lands.

SETTLERS' TITLE GOOD.

The title of the settler to these lands has been absolutely and positively determined by both the Congress of the United States and the Supreme Court.

Upon this subject the Supreme Court, after calling attention to the conflicting interests of the settlers and the States, makes the following statement:

The embarrassments of the land department growing out of this controversy between the States and the settlers were removed by this act

of 1855, which confirmed the title of the settlers and compensated the States for the land of which they were deprived. (9 Wallace, 91.)

The States claimed that the grant to them by the act of Congress was a grant in present and vested the title immediately. Such had been the opinion expressed by the Land Commissioner and also by the Attorney-General. (9 Wallace, 91.) In this opinion the Supreme Court sustained such contention.

In the case of *Marks v. Seymour* (7 Otto, 348) the court said:

The act of 1850 was a present grant subject to identification of the specific parcels coming within the description, and the selections confirmed by the act of 1857 furnished this identification and perfected the title.

Careful consideration of the three acts of 1850, 1855, and 1857 compels the conclusion that it was not only the intention of Congress to give to the States the swamp lands in order that they might be made profitable farming lands, but to emphasize that intention in the most positive and solemn manner possible. Reference to the many decisions of the Supreme Court upon this subject shows conclusively that they have in all cases brought before them interpreted the law so as to protect the rights of the States granted to them by reason of these enactments. The court has consistently held that the title of the States was superior to all others, even the National Government itself.

AUTHORITY FOR ISSUANCE OF CERTIFICATES.

It certainly will not be contended that an Executive Department upon which there has been placed the duty of carrying into effect a Congressional enactment has not the authority to perform such duties as are commonly known as "ministerial acts." How would it be possible to execute the acts of Congress without this power? Rules and regulations supplementing and assisting the acts of Congress are promulgated with reference to every act of Congress requiring some labor upon the part of an Executive Department. A vast army of men is constantly employed for that purpose.

Now let us see if the issuance of the certificates was not simply a ministerial act, simply making matter of record a debt which Congress had already acknowledged and recognized. In 1850 there were in Illinois tracts of land amounting in all to over 100,000 acres that Congress desired to grant and did grant to the State. The act became effective immediately. Now, out there in the State of Illinois was a land office, and the official in charge of that office permitted this same 100,000 acres, which the Government had ceased to own, to be sold in the name of the Government or absorbed in some way by individuals. Five years after this tract of land had been granted to the State Congress in substance said: "Through error our enactment has not been carried into effect. We gave the State of Illinois 100,000 acres of land and then we took it away. Here is a solemn obligation on our part. In lieu of the 100,000 acres which we took from the State we will give it 100,000 acres elsewhere." In effect Congress said:

"Furnish us with a description of that land, prove that it was swamp land to the satisfaction of the land department, and then it will be the duty of the land department to permit you to locate upon a like amount elsewhere." Now, in order to carry this into effect it became necessary that rules and regulations should be promulgated and that all should be made a matter of record. A description of the lands lost, the steps taken in the making of proper proofs were made matters of record. These were ministerial acts. Now, when they were through and the final adjudication was made in accordance with acts of Congress was it not just as necessary for the Secretary of the Interior to make his findings a matter of record as it is for a judge to make his decisions matters of record?

The Secretary of the Interior furnished the governor of the State of Illinois with certificates setting forth the result of his findings, and in such certificates stated that according to acts of Congress the State had a right to locate an amount of land equal to that which was set forth in the certificates. He practically said, however, "but each time you locate upon a tract it must be noted upon the back of this certificate, and when it is all taken up you can not locate any more." These certificates were for the guidance of the State of Illinois and for the protection of the National Government. The Secretary of the Interior never made the debt. Congress made the debt and the Secretary of the Interior simply issued the certificate of indebtedness, a ministerial act which he was compelled to perform if he properly carried out the wishes of Congress. He could not go to the governor of the State of Illinois in person and state to him verbally that according to an act of Congress that State had 100,000 acres of land coming to it, so he simply acknowledged the obligation in writing and mailed it to the governor.

He acknowledged several hundred thousand acres of indebtedness to other States and sent them the same kind of documents.

The Government paid those debts; it ought now to discharge the obligation to the State of Illinois.

In the case of *Webster v. Luther* (163 U. S., 331) the Supreme Court of the United States said: "The practical construction given to an act of Congress fairly susceptible of different constructions, by one of the Executive Departments of the Government, is always entitled to the highest respect and in doubtful cases should be followed by the courts, especially when important interests have grown up under the practice adopted." The Supreme Court follows this same reasoning in the case of *Bates Refrigerating Company v. Sulzberger* (157 U. S., 1-34) and the *United States v. Healy* (160 U. S., 136-141).

It will be seen by these decisions that the Supreme Court of the United States recognized the construction that an Executive Department placed upon similar enactments even where the enactment is susceptible of different constructions. There can be but one construction placed upon the enactment of 1855, and all the Interior Department did relative to issuing these certificates was simply done to carry into effect the enactments of Congress and to make its acts a matter of record. All that they did was simply in a ministerial capacity, and even if they had gone so far as to construe the law the Supreme Court of the United States would have recognized such construction.

I speak particularly for Cass County, which is in my district. But the other counties embraced in the present bill are in the same condition exactly. Cass County has been diligent. This county has fully performed all the obligations devolving upon her. She has waited for her money or for the right to dispose of these certificates for over half a century. It has been impossible for her to lay these certificates on public lands within the State of Illinois for the reason that since they were delivered to her there has been no public lands within the State. The Government will not permit this county to take any of the public domain outside the State, and the Government refuses to pay over to the county the proceeds now in the Treasury of the United States arising from the sale of the lands which belonged to the county. The situation is this: The Government sold lands belonging to Cass County, and collected the money on the sales it made; the Government then gave to Cass County its promissory note for the proceeds of the lands so sold, and for fifty years the Government has said to this county, "We will not pay the note and we will not permit you to take any part of the public domain in settlement of the same."

I respectfully submit to this committee that simple justice demands that the established, undisputed claim of this county should now be settled, and that this committee ought now to report this measure out and give us an opportunity to present this matter to the Congress.

The Tariff and Its Effects.

There are two ideas of government. There are those who believe that if you will only legislate to make the well-to-do prosperous, their prosperity will leak through on those below. The Democratic idea, however, has been that if you legislate to make the masses prosperous, their prosperity will find its way up through every class that rests upon them. (William J. Bryan.)

SPEECH

OF

HON. G. M. HITCHCOCK,
OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. HITCHCOCK said:

Mr. SPEAKER: The most discredited law upon the statute books at the present time is the Dingley high tariff passed by a Republican majority in July, 1897.

Under its operation and protection most of the voracious trusts which feed upon the productiveness of the American people have been organized.

Under its stimulation most of the spoliation of our national resources of mine and forest have occurred.

Under its cunning provisions trusts have extorted high monopoly prices from the American people and enormously increased the cost of living to the masses, while creating prodigious fortunes to trust organizers.

Under its license the trusts it has created have sold their products abroad in foreign lands at prices much below the prices extorted from Americans at home.

Under its operation labor has found the struggle for existence growing yearly harder, and even constant work scarcely enables the clerical and industrial classes to make both ends meet.

Under it women and children in increasing numbers have been driven to seek industrial employment in order to eke out the family income.

Under it capital in competitive lines of trade has found increasing risks, so that failures in business are more numerous now than ever before in the country's history.

Under it a vast amount of the country's wealth has by the power of monopoly been transferred from the industrial classes to the protected interests.

Under it occurred last October one of the worst bank panics known in history.

Under it we are now experiencing a business depression in trade, manufactures, and transportation, notwithstanding great crops and all natural causes for good times.

Under it a great army of idle and anxious men, estimated at far over one million, now vainly seek work.

Under it national revenues have greatly fallen off, and the national budget shows that expenditures exceed national revenue by \$70,000,000 for the year just closing, while the deficit for the next year will be a hundred and fifty million dollars.

The American people, therefore, suffering from this perversion of the protective idea and this spoliation by tariff-created trusts, have resolved to repeal the tariff responsible for the trusts and force the latter to come down to reasonable prices and moderate profits.

They are ready at last to listen to the Democratic party, which for eleven years has been denouncing this iniquitous tariff and its foul brood of trusts.

When the Republican leaders enacted the Dingley tariff eleven years ago they did so at the behest of the manufacturing interests. Those interests had contributed largely to the campaign of 1896 and demanded their reward. They received it. The iron and steel manufacturers dictated the iron and steel tariff, which was made so high as to shut out foreign competition. Then after several efforts American competition was ended by the formation of the steel trust. Prices of iron and steel were enormously advanced and trust earnings made great enough to pay returns on a thousand million dollars of capitalization that was fictitious. The paper makers dictated the tariff on paper and six months later formed the paper trust which recently advanced the price of paper 25 per cent in one year. Each other interest secured its shelter in the tariff, and then when secure from outside competition organized its trust to kill off American competition.

Every tariff-protected interest then organized into a trust to monopolize the American market.

The result in eleven years has been a great and artificial rise in prices and an enormous increase in the cost of living.

This increase in the cost of living has vastly intensified the struggle for existence.

According to statistics gathered by Dun's Commercial Agency, the cost of living in America increased from 1896 to 1906 about 49 per cent.

According to the Bureau of Labor, the rate of wages increased during the same ten years 19 per cent.

The change is illustrated by this diagram:

Rate of wages _____
Cost of living _____
INCREASE.

That does not look as though the high-tariff period had benefited labor. Apply the figures to a man who was earning \$600 a year in 1896 and spending \$550 for living expenses. There have been many such cases:

	Year's earnings.	Year's cost of living.
1896.....	\$600.00	*\$550.00
1906.....	\$714.00	*\$819.50
Increase (per cent).....	19	49

* Surplus, \$50.

* Deficit, \$105.50.

As a deficit in the finances of a laboring man's family can not long exist, the result of increasing his cost of living, as above, is to drive his wife or his children into some employment to help out the family income or to absorb his savings or to go into debt.

The only offset to the figures above given is that men were more steadily employed in 1906 than in 1896.

Since then, however, has come the bank panic of 1907 and the depression which has followed, throwing a million or more men out of work.

The favored interests, which asked for and secured the present high protective tariff, averaging over 45 per cent of duties, have pretended that this great amount of protection was necessary to compensate them for the higher wages they paid to their workmen as compared to foreign manufacturers.

Many Americans have cheerfully submitted to paying exorbitant prices for American-made goods, believing that the extra amount they paid went to American labor.

A few official figures easily expose this fraudulent pretense. They show that in many cases the tariff is so exorbitant that it is greater than the whole cost of labor in the article. In many other cases it is nearly as great. These facts prove that the protected trusts are getting a great deal more protection than the difference between the cost of labor in Europe and in America.

The Statistical Abstract, published by the Government, shows that the iron and steel manufacturers (the steel trust) in 1905 turned out \$941,000,000 worth of products, and in doing so paid \$143,800,000 in wages. The total wages paid therefore only amounted to 15 per cent of the value of the product.

The average protective duty levied was 32 per cent. This effectually disposes of the claim that the Dingley tariff is designed merely to compensate for the "difference" between American and foreign wages.

For every \$100 worth of iron and steel manufactured the trust receives \$32 protection and only pays out \$15 for labor.

Stated in proportions, this fact may be illustrated by the following diagram:

Value of product, \$100.	_____
Tariff protection, \$32.	_____
Labor cost, \$15.	_____

What is true of the iron and steel schedules is true of many others, the tariff not only compensates for the difference between American and European wages, but it enables the trusts to get their labor practically for nothing and thus pay dividends on watered stock.

Following are a few of the articles manufactured by trusts. The first column gives the per cent of labor cost as figured from the United States Statistical Abstract, the second column gives the per cent of tariff protection given to the manufacturer:

	Per cent labor cost.	Per cent duty.
Agricultural implements.....	22	20
Ammunition.....	20	20 to 35
Artificial feathers and flowers.....	25	50
Belting and hose, leather.....	8	35
Belting and hose, rubber.....	12	33
Brass ware.....	21	45
Brooms and brushes.....	20	40
Buttons.....	37	53
Carpets, rugs, etc.....	21	67
Carriages and wagons.....	25	35 to 45
Clocks.....	37	40
Cordage and twine.....	11	46
Cotton goods.....	26	50
Cutlery and edged tools.....	38	40 to 150
Envelopes.....	18	20 to 35
Firearms.....	47	46
Glass.....	48	60
Glue.....	13	25
Hats and caps (not wool).....	29	36
Printing ink.....	10	25
Writing ink.....	9	25
Iron and steel—average.....	15	32
Jewelry.....	23	60
Jute and jute goods.....	22	45
Lead—bar, pipe, and sheet.....	4	49
Leather goods.....	20	49
Lime and cement.....	27	25
Linen goods.....	24	35
Lumber and timber products.....	18	13
Matches.....	26	31
Needles, pins, hooks and eyes.....	33	45
Oil.....	4	29
Paints.....	8	33
Paper and wood pulp.....	16	12 to 20
Lead pencils.....	31	40
Fountain pens.....	16	25
Photographic apparatus.....	38	25 to 45
Salt.....	24	40
Saws.....	26	28
Soap.....	7	27
Tin andterne plate.....	6	53
Tinware.....	22	45
Wall paper.....	20	25

The above are only samples of the labor cost and tariff protection.

The best evidence, however, that a confidence game has been worked on the American people is that most of the tariff-protected trusts are selling their goods abroad in other countries in open competition with European manufacturers.

This is now generally admitted, though at first denied.

The prices at which these American-made goods are sold abroad are, of course, far below what they are sold for in America, where the tariff gives the American trust the monopoly.

The fact is that American labor is so much more productive than European labor that it is nearly as cheap. Even though a manufacturer pays a higher rate of wages in America, it often does not cost him any more in wages to make a given quantity of product than it costs in Europe.

When the laborer comes to buy what he needs, moreover, he pays so much more for what he gets that his high wages do him but little good.

He gives as many days' work for a suit of clothes as the European laborer. His rent costs him as many days of toil. It is high because building is expensive. The tariff on lumber, iron, and steel is responsible for expensive building. In fact, the tariff has enabled the trusts to put up the prices of most things to pay dividends on fictitious capital.

Bradstreet's Commercial Agency compiles each month prices on 107 commodities. These prices are then added together. This gives what is called the "index figure." It indicates the price level. This index figure has risen almost 50 per cent in ten years in America under the Dingley tariff.

The following table shows the index figures for 107 commodity prices for the past ten years, the average for each year being given:

Prices of 107 commodities.	
Index figure:	
1897	\$6.11
1898	6.57
1899	7.21
1900	7.88
1901	7.57
1902	7.87
1903	7.93
1904	7.91
1905	8.09
1906	8.41
1907	8.90

In other words, it takes \$8.90 now to buy what \$6.11 would buy before the Dingley tariff was adopted and the trusts began their work of exploiting the American people. Or, to express it otherwise, an income of \$890 now is no better than an income of \$611 was ten years ago.

George Gray on the New Federalism.

SPEECH

OF

HON. JOHN S. WILLIAMS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. WILLIAMS said:

Mr. SPEAKER: Under the leave to print granted by the House, I insert the following as expressive of sentiments truly American and the very antipodes of the theory and practice of the Republican party, which is the embodiment of the "new federalism."

[Address before the Pennsylvania Bar Association June 25, 1907, by Hon. George Gray, of Delaware.]

Mr. President and gentlemen of the Pennsylvania Bar Association, under such a government as ours constitutional discussion can never be out of place, and surely no apology is necessary for such discussion before a body of American lawyers. "A frequent recurrence to fundamental principles is absolutely essential to the preservation of our liberties." This is as true to-day as it was the day it first found expression.

I therefore propose to talk this evening, though in somewhat desultory fashion, of what may be called "the new federalism," in contradistinction to that older "federalism" which had its origin prior to the adoption of the Constitution. As we all know, "federalism" was the name given to the doctrines of those who had sought for the making of a strong central government, whose powers should be, to a large extent, unlimited, and to which the States should be entirely subordinate. When the Federalists, who advocated the making of a different and much more centralized government than that which was made by our Constitution, were compelled to acquiesce in its compromises they devoted themselves to the task of overcoming the formidable opposition that existed in most of the States to the ratification of the work of the Convention by demonstrating how carefully it had preserved the rights of the States and how drastic were its limitations on the power of the General Government. Though the name continued afterwards as a

designation of a party, it necessarily ceased to have much of its former significance. Those who had favored a highly centralized government and the complete subordination of the States had confessedly failed in their object, and were estopped by their own arguments, addressed to the opponents of ratification, from insisting that the character of the Government was other than they had declared it to be, and they contented themselves with regarding the new Government as an experiment doomed to failure.

It was but natural that in the launching of the Federal Republic, created in 1789, its scheme should have been considered on all hands an experiment, and that for more than a period of a generation its practical working should have been watched with anxious solicitude by thoughtful men of all parties and political creeds. That it was beautiful in theory but not workable in practice was the confident belief of many. The prestige of Washington's name and the influence of his character served to ballast, and the genius of Marshall to direct the course of, the ship of state in these first perilous years of trial. These were some of the happy accidents or, to speak more reverently, special providences that allowed use and time and habit to perform their work of bringing confidence to those who were thus embarked. When another generation had passed the Constitution had become, as it now is, "the Constitution of the fathers," and as such evoked those feelings of reverence and affection which naturally associate themselves with the traditions of an honorable past. Thus intrenched, Webster was able to strike those chords of sentiment and patriotism which echoed in the hearts of the people and enabled our institutions to withstand the shock of civil war and the more perilous days of reconstruction when the foundations of the great social deep seemed broken up.

It would seem as if, having survived through the changeable years of more than a century, our dual scheme of government had passed the experimental stage and was destined to rest for generations yet to come on the foundations upon which it was erected. We can not, however, close our eyes to present-day conditions, which, if they do not now seriously menace the permanence of our constitutional scheme, they at least should challenge the serious thought of the country, and especially of that body of men who, by their oath of office, have dedicated their lives to its support and to whom the country at large must look for guidance and instruction.

Let us consider, then, in the brief hour allotted to this discussion what are the grounds of our hope for the continuance in the future of those blessings which we have enjoyed in the past and which we undeniably owe to the wisdom of those who framed our Federal Constitution—the greatest product, as Gladstone said, that was ever struck at one time from the mint of man's brain.

The experiment of 1789 was a fundamental one, and was to test the capacity of the people for self-government. Self-government means self-restraint. Can the sovereign people, in whom all power resides, impose, or continue to impose, such restraints upon the exercise of that power as are necessary to the security of individual and political liberty, as we understand those terms, and prescribe for themselves, by a "self-denying ordinance," such limitations upon their governmental agencies as shall make the absolutism of a majority as impossible as that of a king?

It is not to doubt either the good will or the intelligence of the people for whom and by whom, in 1789, this Constitution was framed, or of the more than 80,000,000 who now consent to be governed by it, or, indeed, to disparage in any degree the capacity of our people, in general and in the mass, for self-government to say that this capacity has been demonstrated and developed only under the peculiar governmental plan evolved by the Federal Constitution of 1789. Whether it could have been demonstrated under any other plan than that of our dual scheme of government is matter of speculation. It is sufficient to know that under it and by it this Federal Republic—this Republic of Republics—has been successfully founded and is maintained upon the will of the people expressed, not through the voice of a majority of all the people of the States collectively, but by the voice of the people of each State, acting separately and independently.

It is not irreverent to say again that, owing to the happy chance that our separate colonies grew into separate States, each endowed with a sovereignty which is only qualified by the formation of a general government, to which enumerated powers have been delegated, there has been an opportunity for the realization of a local self-government which theretofore and in other lands had only been the dream of political philosophers. In other lands its attainment has been attempted by a distribution of powers by a central government down through and among the

communities which were the creations of such government, and were dependent upon it for their existence, while here it has, like all enduring institutions, been the natural product of time and circumstance. The right of local self-government is inherent in the sovereignty of each State and depends on no power extraneous to itself, and it looks to no great central authority except for its guaranteed protection. The States, one and all, the smallest as well as the greatest, the newest as well as the oldest, stand on the firm ground of their equal sovereignty, and equally share the rights of the charter members of the great corporation of American liberty. It is our birthright, and we can boast, as St. Paul did when his Roman citizenship was challenged, that our States were freeborn. When we reflect upon these facts in our history and upon what tremendous and beneficent results have flowed from them, we are driven to believe that neither chance nor accident but the guiding hand of a divine power has shaped our destiny and controlled our ends.

It may be idle now to guess what would have been the result if these separate colonies and their outgrowth of separate States had not in the beginning existed. I do not believe, however, that, even if in their absence successful resistance had been made to Great Britain, we could ever have garnered the fruits of that resistance in a consolidated republic, or have realized a self-government that 80,000,000 of people in the aggregate now enjoy, through the medium of separate and sovereign statehood.

I can not sympathize with those whose constant endeavor seems to be not only to minimize the rights of the States, but to obscure their true relation to the Federal Government, by argumentation in support of the contention that the Federal Constitution was the creation of all the people who inhabited the thirteen original States in the mass, and without regard to the separate States and communities of which they were citizens and members. However much this extreme view of the power of the General Government may have been justified or excused by the extravagant pretensions urged on behalf of the rights of the States—pretensions which did not stop short of the claim to a constitutional right of secession—no such justification or excuse now exists. The open door, which many thought had been left by the framers of the Constitution for such pretensions, has been closed by the inexorable logic of war, and no one now doubts that this Union of ours is "an indissoluble Union," and no more should we doubt that it is "a Union of indestructible States."

A favorite argument of those who are obsessed with a desire to aggrandize the Federal Government at the expense of the States, and to whom the idea of a strongly centralized national government, to which State governments should in all respects be subordinate, has become attractive, is founded on the language of the preamble to the Constitution, that "*We, the people of the United States, in order to form a more perfect Union, etc., * * * establish this Constitution.*" Thus, they say it was the will of the aggregate mass of the people who inhabited all the States that framed this Constitution for themselves, independently of the States or of their people. But the wish here is father to the thought. As a mere matter of construction, the inference drawn by these doctrinaires is not a necessary one, for it is quite as reasonable, as a matter of verbal interpretation, as well as more consistent with the facts, to take the word "people" of the United States as the aggregate of the peoples of the several States. This plural noun "peoples" had not at the time of the adoption of the Constitution made its way into the political vocabulary, as it since has done.^{*} This extreme view, however, is opposed by the facts of history and the provisions of the Constitution itself, and by the calm and deliberate declarations of that great tribunal, which, by the express will of the people of these United States, is the supreme arbiter in all controversies as to the true interpretation, scope, and meaning of the Constitution, and of the great dual system of government which it established.

The facts of history which throw light upon the making of the Constitution and the conditions from which it sprang clearly demonstrate how the great principle of popular self-government worked itself out, not through a merger of the peoples of the several States into one common mass, constituting the people of the United States, but by the expressed will of the peoples of the several States, each acting independently and in its sovereign capacity for itself, and possessing the power to consent to or reject any particular plan of government, even if agreed upon by a majority of the peoples or States represented.

Looking, however, to the provisions of the Constitution itself, we find that its seventh article declares that "the ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution *between* the States so ratifying the same." The use of this preposition clearly indicates

^{*} Its first conspicuous use, it has been said, was by Louis Kossuth, in his speeches here in 1851.

not, of course, that the Constitution is *merely* a compact *between* the States, but that it was the result of a compact between the *ratifying* States, who were, as Tucker says in his recently published Commentary on the Constitution, "still existent parties to the compact between them." This provision alone absolutely negatives the suggestion that the Constitution was ordained by one sovereign people, to wit, the people of the United States, whose will was paramount and sufficient for the enactment of this great organic law, irrespective of the will of the peoples or bodies politic of the several States.

It is clear from this article that the will of the people of the United States was to be ascertained by the act of the peoples of the several States, in their separate conventions assembled, in ratifying or rejecting the Constitution framed by their delegates. In ratifying it they agreed each with the other that when nine had so ratified it it should be established. But how, and as to whom, established? Why, *only as to the nine or larger consenting number.* The right to ratify was the right to reject, and, as a matter of history, the Constitution was established and the Government under it became operative with two of the States, North Carolina and Rhode Island, outside of its jurisdiction, by reason of their not having as yet assented thereto. There can be no question that if these States had refused to ratify, or until they ratified, their peoples would not have been within the jurisdiction of the Federal Government, but would have retained unimpaired that "sovereignty, freedom, and independence" which the second of the Articles of Confederation had declared to be theirs. Nothing of this kind could have happened if the Constitution had emanated from the will of one sovereign people of the United States acting *en masse*. Its will, expressed through the delegates representing its majority, would have been supreme over all its component parts.

The language, moreover, of the Constitution is at war with the idea that the Constitution and Federal Government represent one sovereign people, instead of the peoples of the several States. In Article IV there is a provision recognizing treason against a State—a crime only to be committed against sovereignty. The United States are nowhere spoken of in the singular, but the plural number. "Treason against the United States," it is said, "shall consist only in levying war against *them*, or in adhering to *their* enemies." A person is spoken of as "holding any office of profit under *them*." Article III says that the "judicial power shall extend to all cases arising under this Constitution, the laws of the United States, and treaties made under *their* authority," and finally, the thirteenth amendment, proposed while the war between the States was flagrant, and adopted within a year after its close, prohibits slavery within the United States, "or any place subject to *their* jurisdiction."

What is hoped to be accomplished, I do not know, by the fashion introduced within comparatively recent times of speaking of the United States in the singular number and ignoring the plain implication of the language employed in the Constitution itself, that the United States are multiple and not unitary; plural and not singular. But I do know that the plain facts of history can not be thus contradicted or their significance obscured. Such an affectation is not necessary to enforce the truth, which calm and dispassionate exposition has abundantly established, that in the practical partition of power between the States and Federal Government, accomplished by our Constitutional scheme, the Federal Government has plenary power to govern our intercourse with the outside world, and may do and perform all those acts and things which are really necessary for our independent existence in the family of nations. For all practical purposes that power is national. As to the world at large, we are a nation, whose sovereignty is restrained alone by the canons of international law, the rules of individual justice, and such constitutional limitations as are inherent in our dual scheme of government.

But, after all, the Government of the United States is sui generis. It has the complexity of structure which characterizes all highly developed organisms. In its exterior aspects, as we have seen, it may be called "national." In its interior, or domestic, relations it has been not inaptly denominated a Federal Republic. I have no quarrel with the words "nation" and "national." Popular use has demonstrated their convenience in distinguishing the General Government from those of the States. And, apart from mere popular use, they aptly describe the General Government in some of its aspects. But it is dangerous to permit ourselves to derive from this use of these words substantive powers not granted. The Constitution itself authorizes no characterization or special name for this Government, except that of the "United States" or the "United States of America." It is what it is, and presents itself to our admiring gaze, after more than a century of trial, as adequate

to all the great purposes for which it was framed and as having done more to promote and less to interfere with the happiness, prosperity, and progress of the people subject to its control than any that the world has ever seen.

After what has been said, it seems unnecessary to pursue further the argument, founded on the language and provisions of the Constitution itself, that this great instrument of government proceeded from the peoples of the several States, acting separately, and not from any ideal and supposititious conglomerate people of the whole United States merged in a common mass. Nor is there need to recite the crowning declaration of the tenth amendment, made out of abundant caution, that the great residuum of governmental powers not delegated to the United States by the Constitution, or prohibited by it to the States was reserved "to the States, respectively, or to the people," meaning clearly the people of each State. Nothing else could be meant, as the word "reserved" is applicable only to powers not granted, but which remained in their original depository—the States and their people.

That this highly complex scheme of government, whose blessings we have so long enjoyed, was thus formed, and not otherwise, is a fact pregnant with meaning in these days when the restless spirit of our times chafes at the restraints on governmental power imposed by the Constitution and is pressing in the interests, first of this class and then of that, for governmental interference in the promotion of ends which may seem desirable to the caprice or passion of the hour, forgetting for the time that this Government derives its strength not more from the powers granted than from the limitations on power imposed by its charter, and that encroachment or usurpation by any of its departments can only sow the seeds of its overthrow and bring ruin to the cause of popular self-government the world over. In view of these things, it seems to me the time will not be wasted if I ask your attention for a brief space to a few of those decisions of the Supreme Court with which we are all familiar and which have become monumental landmarks along the pathway of our constitutional history.

Though aside from the purpose of showing the trend of the decisions of that great tribunal, as to the relations between the Federal Government and the States under the Constitution, but that I may not here be understood as contending for any narrow or impracticable construction of the Constitution, let me first repeat that great canon of construction laid down by Marshall in *McCulloch v. Maryland*, which we, as lawyers, all loyally accept: "If any one proposition could command the universal assent of mankind, we might expect it would be this, that the Government of the Union, though limited in its powers, is supreme within its sphere of action. * * * We admit, as all must admit, that the powers of the Government are limited and that its limits are not to be transcended," but "let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

Turning from this to the subject in hand, let me quote the language of the great Chief Justice in delivering the unanimous judgment of the court in the same case. It is true that in this opinion he was asserting to the full the power of Congress to incorporate such a bank as the one in question and denying the right of the State of Maryland to tax its operations, it being one of the constitutional means employed by the Government of the United States to execute its constitutional powers. It is also true that, in defense of the position taken by the court, he was combating the contention of counsel that the Constitution was an emanation of the organized State governments, as distinguished from the people of the several States, in their primary and sovereign capacity. The historical fact, as the Chief Justice pointed out, is that the Constitution was ratified by each State in a convention of delegates chosen in each State by the people thereof under the recommendation of its legislature. It therefore emanated from the peoples of the States as bodies politic, and not from the legislatures, to which the sovereign people of each State had delegated only a limited authority. But in asserting this undeniable proposition he uses the following language: "This mode of proceeding was adopted; and by the Convention, by Congress, and by the State legislatures the instrument was submitted to the people. They acted upon it in the only manner in which they can act safely, effectively, and wisely on such a subject by assembling in convention. It is true they assembled in their several States—and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the States and of compounding the American people into one common mass. Of consequence, when they act, they act in their States."

The authority of this great opinion has grown with the years that have passed since its deliverance, and the doctrine established by it, that the States have no power to tax or control any of the constitutional means employed by the Federal Government to execute its power, has been rounded out by later decisions of the Supreme Court that the Federal Government can not tax, control, or interfere with the governmental agencies or instrumentalities of the States. [Unfortunately not altogether true; vide Supreme Court decision upholding right of Federal Government to levy 10 per cent tax on State bank issues of notes.—J. S. W.] It is, moreover, perfectly apparent, in reading this and other opinions of the Supreme Court delivered by Marshall, that, though he often speaks of the sovereign people of the United States and of the American people as the source from which the Constitution sprang, he means to be understood as speaking of a combination and union of the peoples of the States as distinct bodies politic.

In the much later case of *Texas v. White* the Supreme Court, speaking through Mr. Chief Justice Chase, says: "But the perpetuity and indissolubility of the Union by no means implies the loss of distinct and individual existence, or of the right of self-government, by the States. Under the Articles of Confederation each State retained its sovereignty, freedom, and independence and every power, jurisdiction, and right not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still all powers not delegated to the United States nor prohibited to the States are reserved to the States, respectively, or to the people. And we have already had occasion to remark at this term that 'the people of each State compose a State, having its own government and endowed with all the functions essential to separate and independent existence,' and that 'without the States in union there could be no such political body as the United States.' Not only, therefore, can there be no loss of separate and independent autonomy to the States through their union under the Constitution, but it may be not unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."

In *Collector v. Day*, decided in 1870, one of the cases in which it was held by the Supreme Court, as a sort of complement to the doctrine of *McCulloch v. Maryland*, that the United States can not tax or otherwise control the instrumentalities of a State government, the Supreme Court again says: "It is a familiar rule of construction of the Constitution of the United States that the sovereign powers vested in the State governments by their respective constitutions remained unaltered and unimpaired, except so far as they were granted to the Government of the United States. That the intention of the framers of the Constitution, in this respect, might not be misunderstood, this rule of interpretation is expressly declared in the tenth article of the amendments, namely: 'The powers not delegated to the United States are reserved to the States, respectively, or to the people.' The Government of the United States, therefore, can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication."

"The General Government and the States, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other within their respective spheres. The former, in its appropriate sphere, is supreme; but the States, within the limits of their powers not granted, or, in the language of the tenth amendment, 'reserved,' are as independent of the General Government as that Government, within its sphere, is independent of the States."

"Such being the separate and independent condition of the States, in our complex system, as recognized by the Constitution, and the existence of which is so indispensable, that, without them, the General Government itself would disappear from the family of nations."

No statement, however casual, of the work of the Supreme Court, in maintaining upon its original foundations that political edifice reared by the Constitution, should omit a reference to that great opinion delivered by Mr. Justice Miller, only seven years after the close of the war, in the "Slaughterhouse cases." The ground swell that followed the great upheaval of the civil war had not yet subsided, nor had the bitterness of sectional conflict been entirely assuaged. Good reason, then, there was to apprehend that the extreme assertion of the so-called "States rights" doctrine, which accompanied, if it did

not cause, the bloody conflict, would find an extreme reaction in judicial utterance, as well as in public sentiment, that might have changed the character of our Government and seriously imperiled the constitutional guaranties of State autonomy. But the contrary of this took place, and the triumph of good sense and moderation was due in largest measure to the judicial calmness and fidelity to duty with which public opinion was recalled to a true sense of the importance of our dual scheme of government, to the happiness and welfare of our people. In answering the argument of counsel that, under the thirteenth and fourteenth amendments, certain rights of property and of person, which theretofore had belonged to the domain of State control, had been transferred to the control of Congress, whenever, in its discretion, any of them are supposed to be abridged by State legislation, and that Congress might, in its discretion, pass laws in advance, limiting and restricting the exercise of legislative power of the States in these respects, Mr. Justice Miller uses this forceful language:

"And still further, such a construction" as he was opposing "followed by the reversal of the judgment of the supreme court of Louisiana in these cases would constitute this court a perpetual censor upon all legislation of the States, on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights as they existed at the time of the adoption of this amendment. The argument, we admit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions, when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them, of the most ordinary and fundamental character; when, in fact, it radically changes the whole theory of the relations of the State and Federal governments to each other, and of both these governments to the people, the argument has a force that is irresistible, in the absence of language which expresses such a purpose too clearly to admit of doubt."

"We are convinced that no such results were intended by the Congress which proposed these amendments nor by the legislatures of the States which ratified them."

Further on in the opinion, in speaking of the prevalence of a sentiment in favor of a strong National Government, he says:

"But however pervading this sentiment, and however it may have contributed to the adoption of the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war our statesmen have still believed that the existence of the States, with powers for domestic and local government, including the regulation of civil rights—the rights of person and property—was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States and to confer additional power on the nation."

And I think we may all agree with the learned justice in the truth of his concluding words, as vindicating the wisdom of the fathers in establishing this great arbitral tribunal:

"But whatever fluctuations may be seen in the history of public opinion on this subject during the period of our national existence we think it will be found that this court, so far as its functions required, has always held, with a steady and an even hand, the balance between State and Federal power, and we trust that such may continue to be the history of its relation to that subject, so long as it shall have duties to perform which demand of it a construction of the Constitution or of any of its parts."

As we all of course know, Judge Miller stated the historical fact that the main purpose of the last three amendments was the freedom of the African race and the security and protection of that freedom; but it was admitted, both in the prevailing and dissenting opinions, that the fourteenth amendment was not restricted to that purpose. This amendment has, undoubtedly, brought within the protection of the Federal tribunals from hostile action of the States fundamental rights belonging to citizens of the United States which were before protected by the fifth amendment to the Constitution from invasion by the General Government.

But the wisdom of the decision in these cases, though by a divided court, has vindicated itself, and has been fully recognized by subsequent decisions, and its authority and reasoning accepted in innumerable cases in the State courts. Owing to it, largely, the ameliorating influences of time have had oppor-

tunities to instill in the minds of the people at large the understanding that the three postbellum amendments were not destructive of the character of our Government, and did not seriously or radically diminish the police power of the States. This power, as asserted by Mr. Justice Miller, extends as efficiently as before the adoption of these amendments, and as part of the sovereignty of the State, to the protection of the lives, limbs, health, comfort, and quiet of all persons and the protection of all property within the State. "Of the perfect right of the legislatures of the States to do this," he says, "no question ever was or, upon acknowledged general principles, ever can be made." It would be interesting, but time does not permit the further citation of opinions of the Supreme Court to the same effect. Since writing this, however, the judgment of the Supreme Court in the case of the State of Kansas *v.* the State of Colorado et al. has come into my hands. It is the latest expression of that court touching the relations of the General Government to the States, and as such challenges our attention. It was delivered on the 13th of last month, and has been published within the last two weeks.

As the controversy was between States, the original jurisdiction of the Supreme Court was invoked by a bill in equity filed in behalf of the State of Kansas against the State of Colorado. The gravamen of the bill was that the latter State was threatening to deprive the State of Kansas and its inhabitants of the natural flow of the water of the Arkansas River across the State of Kansas by impounding it for irrigation purposes. A petition for intervention in behalf of the Government of the United States was filed. The ground upon which intervention was claimed was the alleged right and duty of the Government of the United States to legislate for the reclamation of arid lands. "In other words," as stated by Mr. Justice Brewer, the claim was that "the determination of the rights of the two States inter se in regard to the flow of waters in the Arkansas River is subordinate to a superior right on the part of the National Government to control the whole system of the reclamation of arid lands. That involves the question whether the reclamation of arid lands is one of the powers granted to the General Government." He then says: "As heretofore stated, the constant declaration of this court from the beginning is that this Government is one of enumerated powers."

After considering the legislative powers granted to Congress by section 8 of the first article of the Constitution and the claim made for power under section 3 of the fourth article, the conclusion arrived at is that the power contended for does not exist. Adhering to the canon of construction laid down by Chief Justice Marshall, which I have already quoted, the court says: "Yet while so construed, it still is true that no independent and unmentioned power passes to the National Government or can rightfully be exercised by the Congress."

But the part of this judgment which appeals to me just now, as in line with the thought I have endeavored to express, is what is said as to the inherent powers of the General Government. After using the language just referred to, as to unmentioned powers, Mr. Justice Brewer says: "Appreciating the force of this, counsel for the Government relies upon the doctrine of sovereign and inherent power." He then quotes the argument of counsel in support of this doctrine, and says: "But the proposition that there are legislative powers affecting the nation as a whole which belong to, although not expressed in, the grant of powers, is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things, made operative to grant other and distinct things."

As I have already said, it is thus, and not otherwise, that this dual scheme of government of ours has come into being; it is thus, and not otherwise, that the American people have decreed that their sovereign right of self-government shall be secured and enjoyed; and it is thus, and not otherwise, that you and I, my friends, as part of that people, believe that the blessings of political and individual liberty can be best secured and transmitted to an indefinite future, as they undoubtedly have been secured and transmitted to us through nearly a century and a quarter of eventful history.

Let us consider for a moment what have been some of the results of these providential facts in our history. First, as I have said already, we have had secured to us as a birthright the autonomy of the States—that right to local self-government by the people of each State which is derived from no power superior to the peoples of the several States, and which rests securely on the bed rock of State sovereignty. It can only be diminished or impaired by the consent of the States themselves, given in the manner prescribed in the Constitution.

It is more than doubtful whether a consolidated government of one people, constituting one body politic, could successfully have accommodated itself to the expansion of this Republic or met the needs of a growing population scattered over half a continent. Distance from the seat of central authority, even under present-day conditions of communication and intercourse, difference in physical environment, community interests, and in the degrees of social and political development, would all have created demands which could not have been satisfied by the absolutism of a majority, and would have tended in the end to discontent and disintegration. No grant and distribution of local self-government by a central authority, down among the provinces itself had created and could again destroy, could have developed that moral fiber, that civic pride and manhood which permeate the independent and sovereign peoples, from whom, without their own consent, the right of self-government can not be withdrawn. It was the withdrawal of the rights of self-government, such as they were, from the prefectures of France and the rapid centralization of all governmental powers in the monarchy, and the substitution of intendants appointed by the King with control over the local magistracy that disabled and at last unfitted the French people for resistance to the oppression of the Crown, and to the anarchy which followed the explosion of the Revolution and culminated in the reign of terror and the reaction under Napoleon.

Think you that it has been worth nothing to the great cause of free government by the people and of liberty regulated by law that in all these years the people comprising the community of each separate State have learned to feel and believe that their civic well-being, their enjoyment of the largest measure of individual liberty consistent with public order and the rights of others, and their protection in the rights of person and of property depended upon themselves—upon the wisdom, virtue, and self-restraint they could bring to the exercise of their duty as citizens of a free state? Could the inherent capacity of the people for self-government have been thus increased and developed under a consolidated government, established by the absolutism of a majority of the whole people of this Republic merged in a common mass? I do not believe it, nor, in my opinion, do the thinking people of this country believe it.

But however we may indulge in speculation as to this, it is as Tucker, in his instructive work on the Constitution, says, "a question of historic fact, and not of theory, that our Federal Government was created by the peoples of the several States as separate bodies politic, reserving to themselves, respectively, all governmental power not delegated by the Constitution, nor prohibited by it, to the States." And the burden of my thought, which I have endeavored, however imperfectly, to bring before you at this time is that the people as a whole could not otherwise have made successful the great experiment of self-government inaugurated by the fathers; and further, that the people as a whole must be taken to have sanctioned this method at the beginning, and by their acquiescence, as manifested through the various organs of public opinion, through all these years must be taken to have continued that sanction and to be content, as they have reason to be, with the result. Their capacity for self-government will be tested by their ability to recognize the wisdom and to appreciate the importance of those limitations which while they are limitations on their own power will preserve their liberties in the future as they have done in the past.

In the scheme of government thus established there is no place for absolutism. Arbitrary power is everywhere checked, even should its exercise be attempted by the people themselves. Much more is it denied to and withheld from the mere governmental agencies that have been established. The fathers who framed our Constitution had a keen realization of the hatefulness of arbitrary power, and they took care that no place should be found for its exercise in the frame of the government they were about to erect. It was to be a national government in many important respects. In its own sphere it was to be supreme, and the physical force behind it was to be strong, if not overwhelming. They were sedulous, therefore, that its powers should be specifically enumerated, and all not delegated expressly or by necessary implication were withheld and declared to rest, where they had always rested, in the States and the people thereof. Not satisfied with the guaranties thus inherent in the Constitution itself, immediately after its ratification, and almost as a condition thereto, the first ten amendments were adopted, every one of which was an express limitation upon the possible exercise of any powers by the General Government in disparagement of those powers and rights retained by the people of the States.

Is arbitrary power less hateful now than then to the people of this country? If not, let us remember that we can only preserve

ourselves from its baleful sway by keeping alive in the breasts of the men of to-day the sentiments that animated their fathers and the hatred of tyranny and absolutism from whatever source it springs. Let us rejoice in the fact that by the law of the land the arbitrary will of no mere majority of all the people can deprive anyone of the right to be secure from unreasonable searches and seizures of their persons, houses, papers, or effects, and that they can not be deprived under color of State or Federal authority of life, liberty, or property without due process of law. All this is made secure to us by the scheme of the Constitution, and no department of the Government, executive or legislative, nor even the judicial by construction, has authority in the least degree to diminish or impair these fundamental rights. These rights, as said by a distinguished jurist, are inviolable, for if they are not so they are only enjoyments on sufferance. Civil liberty itself is only the enjoyment of these fundamental rights in their full extent under the protection of an inviolable law. Anathema be he who would seek to confound the intelligence and confuse the judgment of the people by persuading them to gratify the passion or caprice of an hour by the sacrifice of that institutional law themselves have established and whose blessings time and use have demonstrated. *A demagogue and a courtier are of the same kidney*—they both seek favor by an ignoble flattery of the source of power, and both earn the contempt they receive.

But besides these beneficent results, which constituted the ends and purpose of our peculiar dual scheme, there are some incidental advantages which have flowed from it that are worthy our consideration. Owing to it and the separateness and independence of the States, each with its independent legislature and judiciary, there has been developed a comparative jurisprudence of which there is no other example in the world. With the advancing education and intelligence of the people *experiments in government have thus been enabled to be localized*, and while one State takes a tentative step the others can and do stand by to observe and watch and record the result for the benefit of all. The tentative step sometimes proves a desirable advance step, which is thus safely taken by other communities without shock or disturbance of public feeling or existing institutions. A certain healthy rivalry and competition between the States have resulted and have done much for the common advancement of all. Wyoming and Colorado are trying the experiment of woman suffrage, and the results are watched with increasing interest by the people of all the States. Whether this system shall generally obtain will depend upon the comparison of advantages and disadvantages that flow from it as found by an actual experience. Some instances might be cited where the example of one State has been a deterrent to others, and experiments begun abandoned by the State in which they were initiated. But it is certain, as I have said, that there has been a healthy competition between the States by which the ideals of government have been materially advanced and the welfare of the people promoted.

A wholesome State pride is not inimical to the union of the States, nor does it detract from the loyalty to the General Government in the exercise of its just powers. On the contrary, that self-respect and pride in State citizenship was a potent factor in rallying the military force of the nation to the defense of its Government in the civil war, and we all remember the keen and loyal competition with which the States furnished their regiments at the call of the National Government in the late war with Spain, each proudly bearing the designation of its State. Nor does respect for the rights of the States derogate from our respect for the national features of our Federal Government in its intercourse with the outside world. In this domain its authority is unquestioned and plenary, and the place of the United States in the family of nations is one of gratifying influence and power. Feelings of just and patriotic pride fill our hearts as we turn the pages of our diplomatic history and read how American conscience and American altruism have measurably raised the standards of international morality and strengthened the moral sanction of international law.

And here let me pause to remark with satisfaction how wide is the field under the Constitution for the activities of an American lawyer. The treaty-making power, expressly conferred by the Constitution upon the President, to be exercised by and with the advice and consent of the Senate, is broad and ample, and fully commensurate with our national needs and our national dignity, and all treaties made under this authority are, equally with the Constitution and laws of the United States, the supreme law of the land. The Constitution, moreover, expressly delegates to Congress the power to define and punish piracies and felonies committed on the high seas and offenses against the law of nations. This brings the courts of the United States, as well as, in some respects, the courts of the

State, in touch with the law of nations, and the scope and obligation of international law must constitute part of the learning of our profession, and "the glad some light" of a world-wide jurisprudence invites us all to the high debates that may influence the peace and civilization of the world.

Into this inviting field the Supreme Court of the United States has opened a gateway. The right of Congress to define and punish offenses against the law of nations necessarily imposes upon the judicial department the authority and duty to determine in any given case what the law of nations may be. Not only so, but the judicial power extends to the interpretation of treaties, and, in some cases, to enforce their obligations as part of the law of the land, and in that connection to consider all related questions of international law. Upon it, also, is devolved the duty of adjudicating the infinite variety of questions touching personal and property rights as they may be affected by that law. It is gratifying as well as interesting to know at this day, when the awakened conscience of the civilized world is demanding the settlement of international controversies by arbitration, that it has been decided by a Federal court of appeals, reversing the court below, in a decision that must commend itself to the judgment of the profession, that where a treaty between the United States and another nation provides that the decision of a tribunal of arbitration shall be final, that decision becomes the supreme law of the land and will be enforced in the courts. (*La Nina*, 21 C. C. A., 434.) The growing importance of our foreign commerce and our foreign relations must tend to enlarge this jurisdiction.

The action of the courts, in cooperation with the diplomacy of our executive department, has made a contribution to the development of international law of which, as citizens of the United States, we may well be proud. Prof. John Bassett Moore has eloquently said, in his essay on *The Beginnings of American Diplomacy*, that the "declaration of American independence" * * * presaged the developments of a theory and a policy to be worked out in opposition to the ideas that then dominated the civilized world. *Of this theory and policy the keynote was freedom; freedom of the individual, in order that he might work out his destiny in his own way; freedom in government, in order that the human faculties might have free course; freedom in commerce, in order that the resources of the earth might be developed and rendered fruitful in the increase of human wealth, contentment, and happiness.* And he adds: "Besides exerting an influence in favor of liberty and independence, American diplomacy was also employed in the advancement of the principle of legality. American statesmen sought to regulate the relations of nations by law, not only as a measure for the protection of the weak against the aggressions of the strong, but also as the only means of assuring the peace of the world." It thus prepared the way for the greatest achievement of our modern civilization—The Hague Conference and the creation of a permanent court of arbitration.

A Constitution which has enabled us to occupy this high place in the family of nations and has clothed our Government with every national attribute necessary for the assertion of our self-respect at home and abroad needs no amendment in the direction of increased powers that would destroy the balance between them and those reserved by the States. On the contrary, it is satisfactory to assume that the limitations on power, so characteristic of our form of government, are applicable to the treaty-making power as well as to others and that as a treaty may be repealed by the legislative branch, so it may be reviewed by the judicial branch, if contrary to the express provisions of the organic law or to the spirit and genius of our institutions.

But it would be idle to close our eyes to the fact that there are many good people in this country to whom an enlargement of this national power seems attractive and who would transfer to the General Government many of the responsibilities and duties which have from the beginning been recognized as belonging to the local government and sovereignty of the States. It has been more than suggested that this enlargement of Federal power should take place as the result of judicial action and that by some of those subtle refinements of which the human mind is always capable and to which human language is always amenable we may create and aggrandize a National Government that would strip the States of much of their reserved sovereignty. *The greatest blessing of our system of government in the past has been that the people of the States, as separate bodies politic, have been compelled to develop their capacity for self-government and provide, by their own civic activity, for the healthful exercise of those great police powers upon which the well-being and safety of the individual and of the community must depend.*

The danger of this centralizing sentiment is that it appeals to the selfishness of human nature and to the willingness to be relieved of the burdens and responsibilities of self-government. But I am persuaded that the prevailing sentiment of the Amer-

ican people does not favor the exchange of our self-governed communities and the individual liberty that they foster for the paternalism of a National Government which suppresses the one and must, in the nature of things, tend to extinguish the other.

Fortunately, on this subject political party lines do not divide us, as witness the protests that have gone up from the press of the country and from the lips of public men, without distinction of party or of section, against the intimation, which only seemed to be made, rather than was made, in certain high quarters, that unless the States performed what certain people considered their duty, a way would be found, by construction of the Constitution, to vest those unused or misused powers in the National Government. That a seeming suggestion of this kind should so alarm thoughtful people in the country at large and call forth such an expression of public opinion in opposition to it is a hopeful sign for our future and increases our confidence in the stability of our institutions.

There is no danger that our courts, and especially our Supreme Court, will respond to such a suggestion, whatever be its source.

Limitation on power has always been recognized as the essential feature of our system of government. President Harrison has said: "A government of unlimited legislative or executive powers is an un-American government." The view expressed by Mr. Justice Miller, in the great case of *Loan Association v. Topeka*, that "the theory of our government, State and National, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers;" and by Mr. Justice Matthews, in *Murphy v. Ramsay*, that "complete and unlimited power is repugnant to our institutions," is emphasized within the year by Mr. Justice Brewer, who, in delivering the opinion of the Supreme Court in the recent case of *Hodges v. United States*, has said that, "notwithstanding the adoption of these three amendments," the last three, "the National Government still remains one of enumerated powers, and the tenth amendment, which reads, 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people,' is not shorn of its vitality." *If the Federal Government is to absorb any of the powers that have been reserved by the States, it will be done in the way pointed out by the Constitution, by amendments, consented to by three-fourths of the States, and not by usurpation or by the insidious method of judicial construction. Under the Constitution as it is there is no supervisory power or function in the General Government over the States. Both governments are supreme in their appropriate spheres, and there is no room for conflict or collision between them. The State governments are not subordinates of the General Government, except so far as the Constitution and laws enacted pursuant to it are the supreme law of the land, and no department of the General Government can prescribe in what manner the States shall perform the duties that belong to them or threaten their people with any diminution of their sovereignty for a supposed dereliction in that regard. As said by Mr. Justice Miller, in the *Slaughterhouse* case, "The Federal Government is not a censor upon the legislation of the States or the civil rights of their citizens."*

With such a list of compurgators as I have cited as to the nature and character of our dual Government, the authority from which it sprang, and the inestimable blessings of civil liberty and individual freedom of which it has been the source, our confidence in its stability should be assured, and we should be able to believe that it will stand unaffected by the clamor of the hour and will remain unshaken on its original foundations to bless generations yet to come. That this may be so we must look to you, gentlemen, and such as you—the lawyers of the country. It has been well said that without your acquiescence no judicial opinion can permanently stand as law, and it is for you to guard this priceless inheritance received from the fathers. We are all high priests in the temple of liberty, ministers at its altar, and are bound by our oaths and by our high calling to the duty of defending the charter of our freedom, of expounding its meaning, and so addressing the intelligence of the people that they may appreciate its benefits and enshrine in their affections this scheme of the Constitution. For more than a hundred years it has preserved and maintained for us the right of self-government and enabled this Republic of Republics to expand over a continent and embrace within its benign sway more than 80,000,000 people, whose allegiance to its dual sovereignty has secured to them the largest amount of individual freedom ever enjoyed in the history of the world.

Free States, like free men, may err in judgment, but if they are really free their freedom to make mistakes can not be impugned and their correction must come from their awakened conscience and better informed judgment. If we are to continue

to enjoy this freedom, we must forego some of those advantages which seem to inhere in absolutism, and content ourselves with the slower, and perchance less efficient, processes which the exigencies of local self-government impose. There are times when we must choose between them and say that we "prefer the stormy sea of liberty to the deadly calm of a despotism." In making that choice are we paying too high a price for this freedom of which I am speaking? If not, we do well to be jealous of power wherever lodged, and should scrutinize with anxious care all suggestions that we part with any of the self-governing powers reserved to the States in order to increase the powers of a central government already so strong, no matter how desirable the ends in view may seem. Our fathers had just freed themselves from the arbitrary rule of the British Parliament and appreciated to the fullest extent the necessity for those limitations on the power of the General Government which were imposed upon it at the time of its creation. Let us not in our day lapse into forgetfulness of their importance.

I have already remarked that there is something in the make-up of human nature to which the proposition of shifting any of the burdens and responsibility of local self-government to other hands strongly appeals, and there is also a tendency of the human mind to admire, if not the pomp and circumstance of a strong government, at least the readiness and directness with which it accomplishes its ends. These tendencies require to be actively resisted, if we would preserve our Government on its original foundations.

Judge Cooley, in his work on "Constitutional Limitations," has said:

A principal share of the benefit expected from written constitutions would be lost if the rules they established were so flexible as to bend to circumstances, or be modified by public opinion. It is with special reference to the varying moods of public opinion, and with a view of putting the fundamentals of government beyond their control that these instruments are framed.

This is true and well said, but it is also true that, with the growth of wealth and population and the increasing activities of modern life, under the new conditions that steam and electricity has wrought, there has been found a wider range for the exercise of the powers delegated by the Constitution to the General Government. In that sense it is not to be gainsaid that those powers have been asserted in a manner, and as to objects ["phases"] would have been a better word than "objects."—J. S. W., that could not have been foreseen by those who framed and adopted the Constitution. But this only proves the wisdom of its founders, and the courts are not enlarging its powers by construction, much less adding to them, when they apply its provisions to the new conditions that have arisen. Powers hitherto dormant may thus be awakened and brought into activity, and powers which have been only partially exercised in the past may be extended to new objects of Federal control. An apparent, but only apparent, expansion of the Federal powers will take place. As I have said, with reference to the plenary national powers as to all exterior matters with which the Government is endowed, so with reference to what may be called the domestic powers, when we reflect on their wide legitimate scope under present-day conditions, there must indeed be lack of appreciation of the value of limitations on governmental power to desire their increase.

The few and simple words which have conferred on Congress the power to regulate commerce among the States have served as a door which has been opened wider and wider in recent times for the admission of the General Government into participation in the internal affairs of the States. We do not wish to close that door, but it does behoove all who love our institutions to guard, so far as they can, against entry through it of those forces of centralization which, under the mere pretense of regulating interstate commerce, are now clamoring for admission. Admitted, unguardedly, they will throng thick and fast over all the barriers of the Constitution, and reduce to ruin the citadel of local self-government, so long and so fondly believed to be the palladium of our liberties. It is no fancied danger against which I presume to warn you. Examples of this mode of seeking to surmount the bulwarks erected by the Constitution against encroachments on the rights of the States are in evidence at each session of Congress. It is a trick easily practiced. It is only to insert in a bill the words "so far as affects commerce among the States," and there are never wanting those who, to forward private interests or class interests, propose enactments by Congress to control the most intimate and exclusive police powers of the States—powers which affect the everyday business and conduct of their citizens. Mr. Justice Brewer, in a recent public address, has sounded a note of warning by asking: "Has not the manifest tendency been to increase and centralize power in the National Government, and to that extent diminish the sovereignty of the State, as well

as the reserved power of the people, and is not the result what might have been expected? Was there ever seen such a mad scramble on the part of everyone believing in the existence of some wrong for Congressional legislation to redress? Trade-marks, divorces, polygamy, insurance, supervision of corporations, inspection of factories—all are crowded upon Congress, and an appeal made to it for action, and when some of the legislation which is proposed proves to be in conflict with previous decisions of the Supreme Court, the effect of these decisions is sought to be obviated by subterfuges of legislation."

It hardly needs pointing out how dangerous such abuse of the tremendous power conferred by the commerce clause of the Constitution may become. Thanks to the common sense and wisdom of Congress, many of those propositions do not escape the limbo of the committees to which they are consigned. But it sometimes happens otherwise. A conspicuous instance of this occurred in the last session of Congress. An appeal to place all child labor under Federal control, on the pretext that its product might enter into interstate commerce, was reported from the committee, and seriously and ably discussed by its distinguished advocate. Of course, if one kind of labor can be brought in this way within the purview of Congressional legislation, all kinds of labor can, and it is easy to see, if such projects were successful, that little power of managing their own affairs would be left to the States. Emasculated and degraded, we might expect that they would soon lapse into the condition of provinces, to be governed by the satraps of a central government. Why not leave the power to remedy the ills of the body politic, or most of them, in the hands of the virile citizenship, which was born of the self-government of the States, where it has reposed so long? If some States lag behind, others are forward in social improvement, and the emulation and experimentation, which is constantly going on among the States, in all that makes or is thought to make for good government, will sooner or later bring the laggards to the front.

I have given one example of the insidious character of the attempts that are made under the commerce clause of the Constitution to enable the Federal Government to absorb powers that properly belong to the States. I have used the epithet "insidious," not in an offensive sense, but because the very benevolence and humanitarianism which characterize the ends in view, serve to mask the peril to our institutions with which they are pregnant. Such is the case with most, if not all, schemes that seek to find a pretext for clothing the Federal Government with powers that are reserved to the States. Zealous and eager reformers, as well as social sciolists, possessed with the sense of their own altruism, are eager to enlist for the advancement of their schemes the all-prevailing and powerful agency of the central Government. They little heed the consequences that may flow from their mistakes, which will fall at once upon the whole people, from ocean to ocean and from the Lakes to the Gulf, and not upon the people alone of a single State.

Not many years ago a most serious and threatening attempt was made to place in the hands of the General Government the matter of education, to control which has been the pride, as well as one of the dearest rights of the States. How think you, if any there be whose attention was not called to the debate in the Senate on this question, this menacing attempt to interfere with the exercise of a right so clearly and undeniably reserved to the people of the several States was sought to be justified? Those who advocated this measure professed to find their justification in the eighth section of the first article of the Constitution, which, in enumerating the powers of Congress, begins by saying: "The Congress shall have power to lay and collect taxes, etc., to pay the debts and provide for the common defense and general welfare of the United States" [as herein-after defined and understood.—J. S. W.] Here, they argued, with great force and earnestness, is an "express power of appropriation" for whatever, in the opinion of Congress, concerns the general welfare of the United States. As these phrases, "public safety" and "general welfare," are capable of precise definition—that is, of course, tantamount to saying that Congress may enter upon the domain of State activities and duties whenever, in its discretion, it sees fit to do so. The bill that was before the Senate appropriated large sums for support of schools in the different States, the amounts being based upon certain statistics as to school population and illiteracy, and upon conditions which prescribed a surrender to the General Government, by the States accepting this largess, of a measurable control over their common schools.

Inasmuch as the General Government could not, by force, enter the States for such a purpose, it seemed to me a monstrous proposition that it could enter the prohibited domain by buying its way in, and I so characterized it at the time. The

advocates and opponents of the bill were not divided by party lines. The suggestion of relieving the people of the States from a large part of the expense of their common schools seemed to appeal strongly to some of those from whom opposition was to have been expected, and the danger of the interpretation of the "general welfare" clause of the section given in certain high quarters seemed to be unappreciated. It was claimed not only that this appropriation, on condition, might be made, but also by some that this right of appropriation, as it was called, implied the power to enter a State and impose upon it, in invitum, just such a scheme of education as might be prescribed by the peculiar notions of the public requirement entertained by the advocates of the bill. Fortunately this view of the "general welfare" clause was rejected, and the saner interpretation prevailed that the power to lay taxes for the common defense and general welfare was limited by the specific enumeration of the powers of the General Government; that *the power to lay taxes is not an original power to be exercised for its own sake, but an ancillary and an attendant power*—one subordinate to and limited by the other powers as necessary to carry them into execution. It might possibly have been inferred without any express provision from the delegation to make all laws necessary and proper for carrying into execution the powers granted. The statement, therefore, of the general intent with which the taxing power is conferred can not enlarge that power, which is shown by its nature to be incidental and subordinate, for all must admit that those words are qualifications and limitations on power.

They are a renewed and express injunction upon Congress that in exercising this ancillary power of taxation, so important and so delicate with reference to subjects within their jurisdiction, they shall keep carefully in view "the general welfare of the United States." Moreover, it is the "general welfare of the United States" that is spoken of; that is, of the Government, the organized body politic created by the Constitution. It is this portion of the "general welfare" which is committed to its keeping. The words "the United States" are used throughout the Constitution to denote the body politic, or governmental organism, as, where it says in this same section, Congress is empowered "to borrow money on the credit of the United States." "The United States shall guarantee to every State in this Union a republican form of government." And so throughout the instrument it is apparent that "the United States" is used in lieu of the corporate name and style of "the United States of America." It is, therefore, with reference to that part of the general welfare which is committed to the keeping of the Government of the United States, and with reference to that part alone, that Congress may, under this section, lay and collect taxes. This is but the briefest summary of the argument used to combat the argument of those who, through many days of interesting debate, advocated with zeal and ability the existence of this so-called "unlimited power of appropriation," for which they found some support in the writings of Monroe and of Judge Storey. I refer to it now only to illustrate from how many different directions assaults on our system of government may come, and how the plain words of the Constitution may be wrested from their true meaning to support the extremist doctrines of centralization. I must say, however, that the debate was worthy of the dignity of the Senate, and the result has been that the control of the school system remains with the States.

And where, on the face of the earth, is there such a system of good schools as has grown up in the several States of the Union, under the fostering care and under the life-giving influence of the free institutions that are cherished and nurtured and protected by the system of local self-government? This common school system was born in one small State, and might have been strangled in its birth had it depended upon a consensus of the whole people of all the States—indeed, would have been. Fostered by the intelligence, independence, and patriotism of the separate States, it has grown by their generous rivalry and competition among themselves, each stimulated in the pathway of progress by the achievements of a sister Commonwealth, until in all the States the system of public education is firmly established upon the solid foundation of self-interest and State pride.

The obligations of the Constitution rest upon all, but especially do they rest upon those in official station who have sworn to support and defend it. They rest upon all Departments of the Government alike—upon the executive and legislative equally with the judicial. But, unfortunately, the attempts so constantly made to pervert its powers to unauthorized purposes are in large part encouraged by the license which individual legislators give themselves in dealing with constitutional restraints. The situation is sometimes hardly caricatured by the witticism, "What is the Constitution among

friends?" Seriously speaking, however, do not legislators abdicate their solemn duty when they promote legislation of more than doubtful constitutionality, and satisfy their conscience by the thought that the courts will nullify their acts if they violate the organic law? And is not the dereliction still more serious when they gain their own consent to so exercise the legislative function as to evade judicial scrutiny and thus permanently enlarge, by misuse, the powers of the General Government?

I have already spoken of how the commerce clause has been perverted to ends foreign to its true purpose, and how an unlimited and distinct power of appropriation has been asserted by some as among the powers conferred upon Congress, but one of the readiest means for circumventing the will of the people, as expressed in the Constitution, has been found in the taxing power conferred on Congress by the section we have just been considering. From necessity it is unlimited, both as to the objects upon which its heavy hand can be laid and the amount and extent of the exactions it can make, and the right to its exercise is plenary, *as to all legitimate governmental objects*. It is obvious, however, that it can confer no new power upon Congress or legitimately bring within Congressional control matters clearly reserved to the States. Marshall's dictum, that "the power to tax involves the power to destroy," gives startling emphasis to the danger that lurks in the exercise of this power for an unauthorized purpose.

How constant has been the endeavor to use this power, not for the purpose of raising revenue, but to accomplish ends not within the scope of Congressional power, and in derogation of the rights of the States, I have had frequent occasion to observe. A notable instance of the successful perversion of this power was the passage by Congress of a bill to levy a tax upon the manufacture and sale of oleomargarine. *Prima facie*, it was a revenue measure within the power of Congress to enact, and therefore the amount and extent of the tax was within its discretion, but the unconcealed purpose of the act was to suppress altogether the manufacture and sale of the product proposed to be taxed and to protect the manufacture of another. Its very title discloses this purpose. Those who supported and promoted the passage of the bill resorted to no subterfuges, but with entire candor said that the object was to protect the dairy interests of the country from competition, and with that avowed object the bill was passed, bringing not one cent of revenue into the Treasury, but accomplishing the purpose as stated. No matter that the people of a State might wish to regulate the sale of this product in such fashion as not to suppress it, but to permit the use of a cheap and wholesome article of food in such way as to protect those who used it from being imposed upon by false appearances, the General Government has, by what I think should be considered the unauthorized use of the taxing power, practically destroyed a right expressly reserved to the States and their people. As it was a bill exercising the power of taxation, no court could set it aside.

It is a doctrine full of peril to our liberties, that Congress may seize upon any weapon it pleases out of the great armory of Federal powers and *wield it for a purpose for which it was not there deposited*. It would be in vain to call this a Government of limited powers, if the powers granted for one purpose could be perverted to another not contemplated in the Constitution. Something else is needed besides the specification and enumeration of the powers of legislation, and the definition of their scope and purposes, to insure the maintenance of the constitutional scheme of government devised by our fathers, and that is an absolute fidelity to the great trusts of power conferred by the Constitution on the part of those who administer and exercise them. That the end in view is in itself desirable only enhances the danger I have endeavored to portray.

And what are we to say of the suggestion recently made, that if Congress is dissatisfied with the control given it by the Constitution over interstate commerce, it may arrogate to itself the power to control all commerce—that which is confined within State boundaries as well as that which is interstate in its character. The specific power under which this claim is to be made is, I believe, the power to establish post-offices and post-roads, which is among the legislative powers enumerated in the eighth section of the first article of the Constitution. No intimation is made as to the creation and building of a post-road by the Government or of any *needed regulation in the interest of the postal service* of those roads over which that service is conducted. *It is a bald assertion of the right to exercise a power not granted, under color and guise of an essentially different power, granted for a specific purpose, in the exercise of which the power proposed to be usurped is not involved. It is a claim of the right to regulate intrastate commerce, though the Constitution has expressly confined the power of regulation to interstate commerce.*

If this suggestion can be carried out, what police power of the State, however essential to its existence, will not be at the mercy of the caprice of Congress, under some such fanciful construction as this, and of what value is our boasted right of local self-government if a legal casuistry can be invented for the perversion of the plain language of the Constitution? *It is not a question between a strict construction and a liberal construction.* That distinction is no longer to be recognized. *It is the honest construction of the Constitution upon which we should always insist.* It can only be so interpreted by reading the language employed in its natural sense and giving to words the natural meaning of men, whose intention, in the words of Marshall, "required no concealment."

Believing that the whole people are capable of recognizing, and do recognize, the peculiar character of the complex government under which they live, and place a proper value upon the scheme of local self-government they have so long exercised and enjoyed, and that they have the intelligence to believe that the great principle of self-government could never have been so well assured by any other scheme, I look with unabated confidence to the future. I do not believe that this new federalism, this recrudescence of the old federalism, which had its only legitimate place before the adoption of the Constitution, will commend itself to the calm judgment of the American people. Let it be our duty to contribute to the formation of a sound public opinion in these matters—not the effervescent opinion of a day, the popular clamor of the hour, which finds expression in appeals to Congress for the remedying of every fancied grievance—but that sober second thought, that intelligent and enlightened opinion which crystallizes after discussion and argument, and which is ultimately supreme, controlling the destinies of nations and the policies of kings and cabinets.

Let us teach our children the history of their country and imbue them with the spirit of her institutions. Let us impress upon their minds the sentiment of Edmund Burke, so felicitously used by our President the other day, that "we have a government to save as well as a government to reform." Let its Constitution be carried in the memory of every child that comes out from the portals of a common school. Let them all be taught that the government that it establishes is as strong in its limitations as it is in its powers, and that the edifice reared by our fathers, which has withstood the shock of foreign war and the tempest of civil strife, will survive to protect them and their children's children so long, and only so long, as they are true to the principles on which it is founded and to the genius of its structure.

Rural Free Delivery.

SPEECH

OF

HON. ARTHUR L. BATES,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. BATES said:

Mr. SPEAKER: The rural free-delivery service has fully kept pace with the growth and development of our whole country. The farmer is now reaping some of the rewards he has so justly earned in the past by the burdens that he has borne. He is the producer of wealth. He is coming to be one of the most independent of all our citizens. No branch of the public service has been so well developed and improved in the past few years as the rural free delivery. There were only 8,000 rural routes in operation six years ago. There are now almost 40,000, and these are scattered through every State and Territory of the country, so that there is not a rural section in the whole land that is not practically covered. This entire service has been extended from a small beginning eleven years ago, during the three Republican Administrations with which this country has been blessed since 1897. I believe that the appropriation of \$35,000,000 made this year for the support of rural free-delivery service brings more direct benefit to the people of this country whom it affects than almost any other appropriation made by the General Government.

In 1900 President McKinley, in his message to Congress, in speaking of the postal service, used language as follows:

Its most striking new development is the extension of rural free delivery. * * * This service ameliorates the isolation of farm life, conduces to good roads, and quickens and extends the dissemination of general information. Experience thus far has tended to allay the ap-

prehension that it would be so expensive as to forbid its general adoption or make it a serious burden. Its actual application has shown that it increases postal receipts and can be accompanied by reduction in other branches of the service, so that the augmented revenues and accomplished savings together materially reduce the net cost.

In his first message to Congress President Roosevelt said:

Among the recent postal advances the success of rural free delivery wherever established has been so marked and actual experience has made its benefits so plain that the demand for its extension is general and urgent. It is just that the great agricultural population should share in the improvements of this service.

Again, in his last annual message, the President says:

The rural free-delivery service has been steadily extended. The attention of Congress is asked to the question of the compensation of the letter carriers and clerks engaged in the postal service, especially on the new rural free-delivery routes. More routes have been installed since the 1st of July last than in any like period in the Department's history. While a due regard to economy must be kept in mind in the establishment of new routes, yet the extension of the rural free-delivery system must be continued for reasons of sound public policy. No governmental movement of recent years has resulted in greater immediate benefit to the people of the country districts.

Rural free delivery, taken in connection with the telephone, the bicycle, and the trolley, accomplishes much toward lessening the isolation of farm life and making it brighter and more attractive. In the immediate past the lack of just such facilities as these has driven many of the more active and restless young men and women from the farms to the cities, for they rebelled at loneliness and lack of mental companionship. It is unhealthy and undesirable for the cities to grow at the expense of the country; and rural free delivery is not only a good thing in itself, but is good because it is one of the causes which check this unwholesome tendency toward the urban concentration of our population at the expense of the country districts.

These indorsements demonstrate beyond the possibility of question that under Republican rule this service, fraught with so much good to the people of the rural communities, has been nurtured and cared for until it has become one of our permanent institutions, against which no political party will ever dare raise a voice.

At present New York has nearly 2,000 routes in operation; Pennsylvania, 2,100; Indiana, 2,200; Ohio, 2,500; Illinois, 2,800; Minnesota, 1,600; Missouri, 2,000; Nebraska, 1,000. In fact almost all cases pending during the past year have been disposed of, and wherever an adequate number of people desired the service it has been established and put in daily use.

INCREASED VALUE OF FARM LANDS.

The testimony of those who enjoy this service from all over the country proves that by reason of the free rural delivery the actual value of farm lands has been greatly increased. I have had farmers inform me that they would not dispense with the service for \$50 or even \$100 per annum. It has been estimated that the value of farm lands has risen by this means as high as \$5 per acre in many States. A moderate estimate would show a benefit to the farm lands of from \$1 to \$3 per acre.

BETTER PRICES FOR FARM PRODUCTS.

A better knowledge of trade conditions is always of great advantage. The farmer is not only the producer, but he is also his own salesman, and it is essential that he should be acquainted with the daily prices of the produce he raises in order to know when it will be to his advantage to market his goods. He is now enabled to receive a city daily paper giving him quotations and prices of stock and produce, and in fact the changing values of everything he raises on the farm. By means of this better communication with the markets he is able to obtain better prices for all that the farm produces. He can also receive and dispatch mail much more quickly than before—in fact he can in many cases obtain an answer to his letter on the day following its dispatch. In the old days our rural inhabitant was obliged to send to the post-office for his mail, and in the busy season, when his horses were busy in the fields, a week would sometimes elapse before he or any of his family could reach the post-office. Now there are delivered daily in the course of a year a half million pieces of mail on rural routes throughout the country to the farmers and inhabitants of the sparsely settled regions.

Increased facility always brings increased use and enjoyment. The increased number of letters written and newspapers subscribed for and received has so greatly augmented the revenues of the country's postal service as to make the rural free-delivery service almost self-sustaining.

Rural free delivery is encouraging the building of good roads. The farmer desires the delivery of his mail, and the Department wisely insists that each locality must furnish roads easily traversed if such a benefit is to be bestowed. In many localities, therefore, our people have taken the matter of good roads into consideration, and through their supervisors and commissioners have improved grades, turned waterways, built bridges, and thus not only aided the delivery of mail, but have facilitated general communication among our people.

This service has been practically established and built up within the last eleven years. During the last Administration

of President Cleveland rural free delivery was condemned and rejected by the Committee on Post-Offices and Post-Roads of the House. Under this same Democratic Administration in 1894 the Postmaster-General refused to make use of the appropriation of \$10,000 offered him to begin the service. He stated that the project was unwise and could not be carried out. Under the Republican Administrations it has been extended until it has become one of the most beneficial and useful portions of legislation provided by the Federal Government. It has become, under Republican prosperity and Republican Administration of law, thoroughly established as one of our permanent institutions. Its general use and benefits are conclusive proof of the wisdom of recent Republican progress.

Eulogy on the late Senators Morgan and Pettus.

REMARKS

OF

HON. HENRY D. CLAYTON,
OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1908.

The House having under consideration the following resolutions:

"Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

"Resolved, That, as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m. on Monday next.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators."

Mr. CLAYTON said:

Mr. SPEAKER: Doubtless the custom which the House of Representatives observes to-day will never be abolished. Certainly it will be cherished as long as the American people love free institutions, appreciate faithfulness and ability on the part of their public servants, and so long as there is in the hearts of men affection for former associates and a just regard for the great and good deeds of those who have passed from the activities of this life to the undiscovered country.

So much has been said here in this Hall and at the other end of this historic building, the greatest legislative building in the world, in eulogy of the characters, lives, and public services of JOHN TYLER MORGAN and EDMUND WINSTON PETTUS, the two distinguished sons of Alabama, now gone to their reward, and whose memories we honor to-day with our last sad tribute, that one can not be expected to do much more now than to repeat, in different form, what has been by others so truthfully and beautifully expressed. Perhaps, sir, a Representative from the State of Alabama would be criticised by the people of that Commonwealth were he to remain silent on this occasion when distinguished men from different States of our common country unite in doing honor to the illustrious dead. However that may be, I am constrained, Mr. Speaker, by a higher motive, by my affection for and admiration of Senator MORGAN and Senator PETTUS, to give utterance to my sentiments for them and my estimate of them and their achievements.

JOHN TYLER MORGAN.

JOHN TYLER MORGAN was born at Athens, Tenn., but in his early youth removed with his parents to Talladega County, Alabama, and was there reared to manhood. Senator MORGAN rarely ever spoke of himself, and on account of this modesty we do not know as much of his childhood and youth as we would like to know. It is said that as a child he was far from robust, and that on account of this fact he was compelled to cultivate and pursue a fondness for reading books for his entertainment and instruction. He could not and did not engage as much in youthful sports as boys generally do. If this be true, then it would seem that what might have been a misfortune in his youth was turned into a blessing, and the delicate boy became studious and finally developed into a learned and great man, who kept up the intellectual industry and habit of his youth almost to the very hour of his departure from this life.

Perhaps it is not an exaggeration to say that Senator MORGAN had more information on a greater variety of subjects than any of his associates in that august tribunal, the Senate of the United States, of which he was a useful and conspicuous member for more than a quarter of a century. It is not overpraise to say that in years to come he will be written down as one of

the few great statesmen of America who wrought during the last two decades. Not only, sir, did Mr. MORGAN have a wonderful store of information, but his information was full and accurate, for he was always a student and was blessed with a marvelously good memory.

No man could read a book or treatise and analyze and comprehend it more quickly and accurately than he could; and he never forgot anything that he had learned. His mind was a vast storehouse of knowledge of every kind that he had ever acquired, and he had the rare ability to use his information aptly in writing, in discourse, or in debate. Some teachers deplore very much training of the memory of the youth upon the assumption that great development of the memory is at the expense of the reasoning faculties. But Mr. MORGAN's case furnishes an illustrious example where a good memory was ever ready to serve and did serve a splendid intellect in the sublime art of reasoning, the great weapon of offense and defense of men eminent in statecraft, in the pulpit, at the bar, and on the bench. A distinguished man, who served in the Senate for a number of years with Mr. MORGAN, said of him that he was the most wonderful man that he had ever heard; that there seemed to be no limit to his knowledge, and that the accuracy of his learning and statements was marvelous.

Senator MORGAN's intellect was so fruitful and he so industrious, and spoke and wrote so much and so well, it is, perhaps, true that his reputation suffered as a consequence. He said so much that was worth knowing, so much that was worth remembering, that he sometimes surfeited his listeners or readers. Hardly anyone except a student or a specialist was willing to follow him in all of his wonderful speeches and writings, exhaustive in research and learning and faultlessly expressed in dignified and excellent English.

Mr. MORGAN was famous as a statesman before he added to his renown by his work as a member of the Bering Sea tribunal. His reputation was great and secure without his conspicuous service on the Hawaiian Commission. He was illustrious throughout the world and beloved by the people of the South before he defeated the "force bill" in the Senate, a bill that was designed to reintroduce there the saturnalia of crime, misgovernment, and corruption that characterized the period of reconstruction. He was a renowned statesman before he persuaded the people of the United States and all their representatives in high places that the construction of an isthmian canal was essential or important in the commercial progress and development of the country and necessary for the better national defense. Almost in the beginning of his Senatorial career he became the persistent champion of the construction of this canal. At first he had but few coworkers or sympathizers, but he lived to see the day when the people of the whole country recognized what he had seen with his wise and wonderful vision many years before. No one will dispute, when the two oceans shall have been united by a canal across the Isthmus, that this great work will stand as an imperishable monument to the statesmanship, the persistence, and wisdom of Senator MORGAN.

We must leave it to his biographer to catalogue his many wonderful speeches, his many learned reports and other documents and state papers—all of them constitute a large part of and a real contribution to the legislative and political literature and history of the last two decades and more.

Senator MORGAN was a member of the Methodist Church, and was esteemed for his many virtues of head and heart by all the people of his State, regardless of creed. It was beautiful on that June day when he was laid away in "God's acre," when the trees were in full foliage and the roses there in bloom, to see the whole population of Selma and the surrounding country unite in paying his memory respect and honor. This great man lived a long and useful life, and when, as ripe grain ready for the harvest, I doubt not that he consoled himself with the elevated thought and conviction that he so appropriately pronounced in his eulogy on Senator Hill when he said of that distinguished son of Georgia:

Discarding all blind confidence in fate and deeply sensible of responsibility to God, his noble and just spirit left its brief existence for one that is eternal, satisfied with the past and confident of the future.

EDMUND WINSTON PETTUS.

EDMUND WINSTON PETTUS was a native of Limestone County, Ala., where he grew to manhood. Early in his career as a lawyer he was attracted to Selma, where the fertility of the land, the wealth of the people, and the large farming and other interests presented an inviting field to a young lawyer of ability and ambition. He was of sturdy Welsh descent and came directly from Revolutionary heroes. He rarely ever spoke of himself and never boasted of his many achievements, the legitimate

fruits of his intelligence, his unswerving honesty, and his sturdy manhood. He was too brave and too modest to make pretensions or to engage in self-laudation.

Senator PETTUS was one of the greatest lawyers that Alabama ever produced. It is easy to say that he was learned and able. It is but just to him that we particularize. He was learned, because he had mastered the hornbooks in his profession and was a faithful student of the commentaries on legal subjects and the opinions of the courts. He was able because he had stored away in his well-ordered and great mind knowledge of the law as a science. And he was able also because of his unsurpassed power of analysis and statement. He had the rare gift of being lucid and yet brief in his argument before courts and juries.

No court or judge ever tired of hearing him maintain or controvert a proposition asserted as law. He knew what to say, how to say it, and had the good sense always to know when to end his argument either before the court or jury. He was a strong advocate. He never shot his argument over the heads of laymen, but had the rare faculty of applying the facts of his case to correct exposition of the law, so that any man of ordinary intelligence could comprehend his argument and appreciate the logic of his conclusions. He made no pretense at what may be called mere oratory, and yet in any great case or on any great occasion his ringing sentences, his vigorous statements were at times most eloquent. He was a diligent student of the Bible. He quoted from it more frequently than from all other books combined. Occasionally he would quote from Shakespeare or some other author, but the Bible seemed to be the source from which he drew all of his philosophy and nearly all of his illustrations.

General PETTUS was about 76 years of age when he came to the Senate. He at once devoted himself to the duties of his high position and met every requirement of his people and his country. Those of us here who served in the House of Representatives during the same time that he served in the Senate can testify to his faithfulness in the discharge of his duties, not only in the Senate, but before the Departments of the Government in any case where any of the people of Alabama were interested. He was never too busy, nor was any day so unpleasant as to prevent him from going cheerfully, if requested, with any of the Representatives from Alabama to look after the interests of any of his constituents before any Department. It seemed to afford him a pleasure to be able to do good outside of the mere discharge of his duties as a Senator. He was always polite, courteous, and considerate of those who invoked his aid or advice in his official or unofficial capacity. He was never impatient, never disagreeable, but always obliging and manly and helpful.

He came to the Senate after he had lived out the allotted time of man, and was immediately thrown in contact with great lawyers, distinguished statesmen, men who had been exponents of constitutional law for years. Yet he easily took rank among the foremost of them. It is true that as an advocate he had passed beyond the zenith of his glory before he came to this new scene, and yet his learning, ability, and great wisdom readily gave him high standing among his fellow-Senators. He was a ripe and wise counselor. His conciseness of statement was pleasing, the brevity and logic of his argument was attractive and generally convincing. His inflexible adherence to vital points involved in any case or question was attractive and remarkable. He never went off after side issues or immaterialities. He never sought at the bar or in the Senate to mislead an antagonist into some byway to divert attention from what seemed to be a vulnerable place in his own case. He had too much intellectual integrity for that; his honesty would not permit him to resort to any tricks. He believed his position right and had the courage to present it with his argument fully in front of the case and contention of his antagonist. He knew what to say, and struck at the vital and essential points. He had a rare sense of humor, which sometimes he used to great advantage.

He had the respect and admiration of his fellow-Senators. He was a hard worker in the committee and a regular and faithful attendant upon the sessions of the Senate. He had great respect for the dignity of his position, and often insisted in the Senate upon the decorum becoming to that body, and for which it has been so long distinguished.

General PETTUS served his people long, well, and faithfully in his capacity as private citizen, as jurist, as soldier, and statesman. With the exception of a short while in his early life when he was a circuit judge, he never held any civil office until he came to the Senate. Mr. Speaker, I would not institute invidious comparisons, and I would not say that General

PETTUS performed during those dark days following the great civil war, from 1865 to 1875, more services to his people than any other man in the State, but I believe, sir, that were the question submitted to the people of Alabama to name the most conspicuous, the most modest, unselfish, and influential private citizen of that Commonwealth in those terrible and trying times they would, perhaps, and without offense to anybody, respond with the name of EDMUND WINSTON PETTUS.

It is difficult for those who have come upon life's stage since the reconstruction period to fully comprehend, even when told about it, the wonderful courage, fidelity, and unselfishness of this great man. After he had fought for his people he returned to them, lived with them, counseled and acted with them and for them. Not only was he modest and brave, but he was one of the wisest of men. He loved peace rather than war, preferred tranquillity to violence, but he never hesitated to fight if that was the only avenue to right and the only way to prevent wrong. He revered his God, loved his fellow-man, and feared nothing beneath the shining stars. Senator PETTUS was a great lawyer, a brave and distinguished soldier, an able and faithful Senator, a devoted husband, father, and grandfather, and an honest and just man. He has gone to the reward that belongs to those who faithfully meet every obligation of life in its every relation—to God, to country, to fellow-man, and to family.

MORGAN AND PETTUS.

Mr. Speaker, there are many remarkable features about the lives and careers of these two men, JOHN TYLER MORGAN and EDMUND WINSTON PETTUS. Many of these features belong alike to the history of each of them. Their public and private careers touched each other in many relations. They were both lawyers and came to the bar about the same time. They each took up residence at Selma about the same time, where they continued to reside until their death. They were among the great leaders of the bar of Alabama, for they were great lawyers. They were friends and fellow-workers and political associates from early manhood to ripe old age, and in their latter days, after having been before so honored, they were each nominated by the people of Alabama in the same primary election for and reelected by the same legislature to the high office of United States Senator, which in the case of Senator MORGAN began the 4th of March last and in the case of Senator PETTUS was to begin the 4th of March, 1900, at the expiration of the term he was serving when death came to him.

Mr. MORGAN and Mr. PETTUS alike believed that the States had the right to secede from the Union. They both fought for their convictions, and each became a brigadier-general in the Confederate army. After Appomattox they accepted in good faith the results of the war, and renewed their allegiance to the Union, and counseled and labored to the end that our distressed country should be reunited in fact and in the affections of all the people. They were honest, brave, and were always guided throughout their lives by exalted patriotism. After the disastrous and unsuccessful war they returned to their homes in Alabama and devoted themselves to binding up the wounds of the suffering people and State, and, facing the new situation, proclaimed the gospel of hope and encouragement to the oppressed in the well-nigh desolate country. The wall of despair never fell from the lips of either of these great men, they never chafed under the new conditions; and when the unfortunate period came in the history of America, when reconstruction, with attendant evils, was forced upon the people of the South, these patriots resented in every proper way the wrongs perpetrated upon their helpless neighbors and fellow-citizens. MORGAN, PETTUS, and other Confederate soldiers showed the way to liberation from oppression, and pointed out the course by which the people of that State came again into the possession of their own, and the blessings of a white man's government and Christian civilization.

Many other facts could be recited, Mr. Speaker, to show how, in many particulars, the careers of these two illustrious men were intertwined the one with the other. Finally, they both died within a few weeks of each other, being at the time United States Senators from Alabama, one, Mr. MORGAN, past 82 years of age, and the other, Mr. PETTUS, upward of 86 years of age. They now sleep, after "life's fitful fever," within a few yards of each other in the same hallowed spot.

Their lives were useful and honorable. They enriched the history of their country; they were a credit to the people of Alabama, by whom they were beloved, and their examples furnish inspiration to ambitious and struggling youth throughout the land.

WAR DEPARTMENT, THE ADJUTANT-GENERAL'S OFFICE.

Statement of the military service of Edmund W. Pettus, C. S. A., major, Twentieth Alabama Infantry, September 9, 1861; lieutenant-colonel, Twentieth Alabama Infantry, October 8, 1861; colonel, Twentieth Alabama Infantry, May 28, 1863; brigadier-general, provisional army, Confederate States, September 18, 1863.

EDMUND W. PETTUS entered the military service of the Confederate States as major of the Twentieth Alabama Infantry September 9, 1861; was promoted to lieutenant-colonel and colonel of the same regiment October 8, 1861, and May 28, 1863, respectively, and to brigadier-general, provisional army, Confederate States, September 18, 1863.

In the earlier part of his service he was with his regiment in the Department of East Tennessee. Of his service at this time it is officially stated that "his conduct was of the noblest character, and there, while he won the admiration of his superiors and the love of his subordinates, he evinced those qualities as a commander that have since on several bloody fields rendered his name illustrious."

Moving with his regiment from East Tennessee to Mississippi, he bore a part in the operations preceding and during the defense of Vicksburg. His conduct on these occasions is thus recorded: "At the battle of Port Gibson his gallantry was conspicuous. At Bakers Creek and during the siege of Vicksburg his deeds of daring earned a prominent place on the page of history." He is also specially mentioned by Maj. Gen. C. L. Stevenson in his report of the siege of Vicksburg, as follows: Referring to the assault of the Union forces on May 22, 1863, he says:

"An angle of one of our redoubts had been breached by their artillery before the assault and rendered untenable. Toward this point, at the time of the repulse of the main body, a party of about sixty of the enemy under the command of a lieutenant-colonel made a rush and succeeded in effecting a lodgment in the ditch at the foot of the redoubt and planting two flags on the edge of the parapet. The work was constructed in such a manner that this ditch was commanded by no part of the line, and the only means by which they could be dislodged was to retake the angle by a desperate charge and either kill or compel the surrender of the whole party by the use of hand grenades. A call for volunteers for this purpose was made and promptly responded to by Lieut. Col. E. W. PETTUS, Twentieth Alabama Regiment, and about forty men of Waul's Texas Legion. A more gallant feat than this charge has not illustrated our arms during the war.

"The preparations were quietly and quickly made, but the enemy seemed at once to divine our intention and opened upon the angle a terrible fire of shot, shell, and musketry. Undaunted, this little band, its chivalrous commander at its head, rushed upon the work, and in less time than it requires to describe it and the flags were in our possession.

"Preparations were then quickly made for the use of hand grenades, when the enemy in the ditch, being informed of our purpose, immediately surrendered."

Other commanders also commend his services during the defense of Vicksburg. At the battle of Port Gibson, May 1, 1863, he was captured by the opposing forces, but soon thereafter made his escape and rejoined his regiment, with which he was surrendered July 4, 1863.

After his promotion to the rank of brigadier-general he was assigned to the command of a brigade, which he led in the Chattanooga-Ringgold campaign, in November, 1863. General Stevenson, in his general orders of November 27, 1863, says:

"It was PETTUS's brigade * * * which first checked an enemy flushed with victory on Lookout Mountain and held him at bay until ordered to retire. On the next day, on the right of Missionary Ridge, * * * and PETTUS's brigades * * * fought with a courage which merited and won success."

General PETTUS, with his brigade, participated in the campaign which culminated in the capture of Atlanta, Ga., by General Sherman's army. Moving northward with General Hood's army, he commanded his brigade in the campaign which resulted in the battle of Nashville and the subsequent movement of the Confederate army into the Carolinas.

He was specially commended by superior commanders for his conduct in the Nashville campaign.

In the campaign of the Carolinas he and his brigade bore an active part, participating in the engagements at Kinston and Bentonville. In the last-named battle he was wounded.

He was paroled at Salisbury, N. C., May 2, 1865.

Official statement furnished to Hon. H. D. CLAYTON, House of Representatives, April 24, 1908.

By authority of the Secretary of War.

F. C. AINSWORTH,
The Adjutant-General.

You Can Not Make a Silk Purse of Reform Out of a Sow's Ear of Bossism.

SPEECH

OF

HON. DAVID A. DE ARMOND,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. DE ARMOND said:

Mr. SPEAKER: In our scheme of Government the House of Representatives was designed to be, and should be, peculiarly the forum of the American people, speaking, heard, and acting through their chosen Representatives.

There is no place in our governmental system for the boss. In its essence and purity ours is a bossless Republic of sovereign citizens. Appear wherever he may in these United States, the boss is an intruder, a usurper, a corrupter, a destroyer of sound American institutions. He is bad in the town council, worse in the legislative assembly of city or State, and worst of all in the popular branch of the American Congress. In this

House he paralyzes other Representatives who in rights are his peers and in merit much superior to him. In striking down the Representative the boss nullifies the will of the sovereign people, and converts their free Government into a despotism. He is the lion in the path of every reform; he is the promoter and bulwark of every wrong.

We are at the closing of a session of Congress, characterized in this House by usurpation of power and denial of rights unparalleled in the legislative history of our country.

As our constituents are equals under the law, so we, their Representatives, come to this House equal under the Constitution, in our rights, privileges, duties, and responsibilities. That representative equality the Speaker of this House has denied, ignored, and, for the time being, destroyed. In this work of usurpation, tyranny, and spoliation he has assumed the rôle of the boss and acted the part.

The Speaker determines whether a measure shall be voted upon in the House—yea, more, he determines whether it shall be considered at all by the body over which he is elected to preside, but of which he has wantonly made himself the master. Recognition is accorded to a Member as a matter of grace, not of right, or it is arbitrarily denied. Those measures which the Speaker wishes to have passed, by the gracious permission of the Speaker are brought before the House for passage; those which the Speaker does not wish to have passed have no chance to pass, for the Speaker will not permit a consideration of them.

And while the Speaker acts the boss, his peers meekly submit to the degradation, and tamely endure the humiliation of being bossed. Indignation at the outrages perpetrated by the Speaker melts into pity for the abject mien of subdued Members, and both indignation and pity give way to an abiding feeling of contempt for all thus involved. Not all the Members cringingly bend low for the master's yoke or wear it in patient submissiveness; but too many take to the yoke as if they never were free men, and wear it as a decoration. In some minds familiarity with tyranny breeds a contempt for liberty.

Let us particularize a little. As a rule, no Member can get recognition to call up a measure for consideration unless the Speaker wishes to have it considered. Generally the Member must appeal privately to the Speaker for permission to exercise a clear constitutional right, and if the Speaker deny the boon of recognition, the unfortunate, if he would follow the precedents, must submit to a wrong which also is a humiliation.

Individuals, organizations, and the country may in vain demand or petition for rights which it may please the autocrat in the Speaker's chair to deny.

Shall a proposition to amend the tariff law have consideration? The Speaker determines that. Shall the voice of millions of laboring men be heard or heeded when they petition for legislation which they believe would be just and to their interest? Certainly not, if the Speaker does not favor such legislation! There shall not be granted the poor comfort of consideration against his controlling will. Is there an earnest, respectful demand from a multitude of American citizens for some legislation to enable the people to deal with the troublesome liquor question in their several communities according to their local laws? Well, what of it? Let the sovereign citizens—millions of them—go hence and take nothing with them; the Speaker is not upon their side, and he decides against them. Do the people want a law that will cause a disclosure of the amounts and sources of campaign contributions? Who could expect to find the Speaker's wants identical with theirs? In a spirit of faceiousness the Speaker gives them a taste of publicity "loaded." Insult is added to injury. As for financial legislation, find out what the Wall street gamblers would have, and then note that that is in harmony with what the Speaker permits the House to enact into law.

There is urgent need for many reforms, but none of them are likely to come by Congressional action until the first great reform is accomplished—the Speaker must cease to be the House boss. It is idle to write and speak and campaign and petition for this reform or that reform, so long as the Speaker remains a czar who despotically bars the way to reform. This is and ever must be true: You can not make a silk purse of reform out of a sow's ear of bossism.

In choosing their Representatives in Congress it is well for the people to consider and determine whether they wish those Representatives to submit to the Speaker as a boss or to maintain their own dignity and freedom by resisting and opposing bossism; whether their Representatives shall be subjects or sovereigns in the House of Representatives. This issue is above partisanship. It is one of patriotism. In all parties are men independent enough to stand up for their own rights and the rights of their constituents, and brave enough to oppose the boss and bring him down to his proper level. In every party,

also, are men who, whatever their professions and proclamations made to get office, will be the subservient tools of the boss, that petty thrift may follow pettier fawning.

The choice between the two classes is more important far than any selection based on party distinction can be. The wise choice means independent, manly representation of the people in the lawmaking body over which the people have, or may have, the most direct control. The other choice means a continuance and if possible an extension of boss rule, with the sacrifice of right and the promotion of wrong in legislation.

There is a brutal injustice in the make-up of committees in the House. Of the great committees, the majority party has twelve members and the minority but six. Thus, with about 58 per cent of the membership of the House, the majority party takes two-thirds of the committee places and graciously gives one-third to a minority of 42 per cent of the whole. Stated roundly, 58 Republicans out of every 100 Members get sixty-seven committee assignments, while the 42 Democrats get but thirty-three. How far this outrage of boss rule goes toward making majority Members its servitors may be a conundrum for the curious and inquisitive.

Upon the Currency Commission provided for in the Wall street gamblers' financial act just passed, boss rule in the House gives six places to Republicans and three to Democrats. In the Senate contingent are five Republicans and four Democrats—a just division. In the House bossism gave the Republicans one place on the Commission which of right belongs to a Democrat. This outrage, beside which larceny might appear semi-respectable, is not exceptional, but is according to the formula of boss rule. The Member in the stolen chair may be expected to stand—or sit—firm for the boss.

I repeat that the beginning of reform in legislation is the elimination of bossism from the National House of Representatives. When the people recover control of that body then, and not before, may they expect their will and not the will of the boss to be done. They can recover that control in the coming election. If they do recover it, well and good; if they do not, bad and worse.

Boss rule or the rule of the people; which shall it be?

Postal Telegraph.

SPEECH

OF

HON. SAMUEL W. SMITH,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. SMITH of Michigan said:

Mr. SPEAKER: I find in the CONGRESSIONAL RECORD of May 28 that the following resolution was adopted in the Senate by unanimous consent:

Resolved, That the Secretary of the Department of Commerce and Labor be, and he is hereby, directed to institute an investigation into all the telegraph and telephone companies engaged in the conduct of an interstate business as to the methods used in handling the public's business, the wages paid telegraphers, telephone operators, and other employees of such companies, and the working conditions of the employees thereof, together with a statement of the receipts and expenditures of such companies for a period of five years.

And he is further directed to report the result of such investigation to the Senate on the first Monday in December, 1908.

On the 20th of last April I introduced in the House of Representatives a similar resolution. I hope the investigation will be speedy, thorough, and effective, and, if possible, result in preventing another telegraph strike such as paralyzed the business of the country in 1907.

May 26, 1906, I made a speech in the House of Representatives on the subject of "postal telegraph," looking to the reduction of telegraph rates, and I am pleased to be able to state that in my judgment the cause is rapidly gaining ground. Notwithstanding, the Western Union and Postal Telegraph companies have since increased their rates, as they claim, so as to enable them to pay their employees better wages.

In my speech of May 26, 1906, I made use of this language:

Telegraphy is still pounding along with hand labor, very much as Morse devised it nearly seventy-five years ago. It can never be cheap or fast until machinery is used to prepare the messages and to hurl them at higher speed over the wires.

A short time ago a friend wrote me using the following language:

No; I had not noticed that the telegraph companies had been left out of the operation of the Public Utilities Commission of New York. Neither had I heard of the particular appliances you speak of (mean-

ing the telepost) for increasing the work done by a telegraph machine, but I do know this, that years ago when the elder Gould was managing the Western Union, I was told by an employee of the telegraph company that in the second story downstairs of the Western Union Building, in New York City, in one of the vaults was two large safes filled with patented appliances that would greatly increase the speed and lessen the cost of telegraphing, but if put into use would reduce the rates; that they were mostly "Edison" patents, had cost over a million dollars, and that aside from that Mr. Gould had an arrangement with Mr. Edison for the first refusal of all of that kind of patents; thus you see the present method of suppression is not a new one, and that is one reason why the Western Union has been able to hold the field against all comers for so long a time.

The telepost is one of the modern inventions that the telegraph companies have not been able to control. This machine will send 1,000 words a minute over a single wire by actual test. If the telepost were to be put into general use, we would be able to send twenty-five words for 25 cents between all points and fifty words for 25 cents where the dispatch is delivered at the post-office and subsequently by carrier. The telepost has been on exhibition in the city of Washington during the last few months, and in the closing hours of Congress was in the committee room of the Committee on Post-Offices and Post-Roads of the House of Representatives, where it was seen by many Members of Congress and others, and I think this exhibition has done much to aid in securing hearings before the Committee on Post-Offices and Post-Roads at the coming session of Congress, and I believe when they are once more begun that the work will be kept up until there will be some legislation looking to a reduction of telegraph rates. In this connection I desire to say that if there is any other machine that will do as good or better work than the telepost, I would suggest that it be brought to the attention of the Committee on Post-Offices and Post-Roads, both in the Senate and the House, and placed on exhibition if possible, so that Members of Congress can see and know for themselves the importance of taking some immediate action regarding this subject, which is of such vital interest to all our people.

I would like to insert, as a part of my remarks, a very able article, entitled "A Government telegraph system," by Romyn Hitchcock:

A GOVERNMENT TELEGRAPH SYSTEM.

[By Romyn Hitchcock.]

- I.—Introductory comments.
- II.—Present condition of telegraph service—Methods.
 - The Morse key and sounder.
 - Keyboard, Morse transmission.
 - Printing telegraphs.
 - Keyboard, page printers.
 - Tape-transmission printers.
 - Tape transmission.
- III.—Automatic high-speed telegraphy.
- IV.—The utilization of different methods.
- V.—Effect of cost upon volume of correspondence.
- VI.—Effect of high charges on kind of business done.
- VII.—High speed as a fundamental need of a national telegraph system.
 - Cost of line.
 - Cost of operating.
 - A hypothetical pneumatic mail tube.
 - Private preparation of messages.
 - Private transcription of messages.
- VIII.—Economies of the page-printing telegraph.
- IX.—Business policy and attitude of telegraph companies toward improved methods.
- X.—Capitalization—The burden of excessive fixed charges.
- XI.—The Telepost Company.
- XII.—Government ownership or control of public utilities.
- XIII.—Means of effecting government ownership or control of telegraphs.
 - Government purchase of telegraph lines.
 - Special service and private wires.
 - Government control of telegraphs.

I.—Introductory comments.

The telegraph service of the United States is the poorest, slowest, and most expensive of any commercial nation. It is likewise the only great telegraph system under private control. If it were necessary the direct relation between these facts could be convincingly shown. But it is not necessary to repeat statistics and arguments which are doubtless familiar to Members of this body. The average charge per message in this country, 31 cents, is "three times the average rate in all other countries under post-office telegraph service." (Judge Walter Clark.)

In other countries the excessive and restrictive charges of private telegraph corporations and the right of the people to enjoy the benefits of electrical communication at cheap rates has been recognized by statesmen, and governments have purchased private lines and extended the service. Sir W. H. Preece, for many years engineer in chief of the British telegraph service, says: "Telegraphy became * * * so closely allied with other modes of communication that public opinion in 1868-69 forced the government to purchase and absorb all the telegraph companies." The rates were immediately reduced one-half, and—note this equally important fact—the time of transmission of messages between cities in England has been reduced from two to three hours in 1870, when the government took control, to seven to nine minutes.

We need not discuss the annual British deficit—a deficit, by the way, which has saved the British public more than \$150,000,000 since it began to accumulate—but Vice-President Clark of the Western Union testified that, in his opinion, "it was the policy of extending the telegraph to unprofitable places that caused the deficiency." This extension for the benefit of the people is precisely what government can do in response to demands, and what private ownership will not do.

I am no faddist on the subject of government ownership. Whether we have government ownership or government control and supervision is a question subordinate to the achievement of the great purpose of making the telegraph most effectively a public utility. Most kinds of business must be privately developed and conducted, but monopolies of service which should be universally enjoyed ought to be managed by government for the benefit of all. This can not be if dividends are to be paid out of income and profits divided among a few individual owners.

To argue that government can not conduct business as well or as cheaply as private corporations managed for profit, is contrary to experience. If the people want a government telegraph they will take measures to have it well conducted, and opponents of the idea need not cherish so many misgivings on the political side. Authoritative confirmation of the conviction thus expressed has since been given by Sir William Preece. He says: "The telegraph business of this country (Great Britain) has reached its present dimensions because the work has been done well, and it has been done well because the mode of doing business has been so well and so thoroughly supervised by the public."

Legislation is supposed to be for the public welfare and if representatives of the people in Congress recognize, as I believe they do, a duty to contribute ever more and more to a realization of the great purposes of the Constitution, there can remain no doubt with any Member who studies this question that the telegraph should belong to the people. The telegraph franchise has never been surrendered by the Government. The exclusive right of the Government to carry the mails, whether by pony post, steam railroad, or pneumatic tube, implies also the exclusive right and obligation to utilize the best agencies available for facilitating correspondence.

All that can be said in opposition to this view has been said persistently and repeatedly. Fallacies, misrepresentations, have been many times exposed, yet they are reiterated and no doubt are believed by many who ought to be better acquainted with the facts. If we eliminate from the discussion the errors upon which the strongest arguments against government control are based, confining attention to testimony which results from careful investigation, honest and well-intentioned, we find but little to contend against. What does remain pertains mostly to questions of policy as, for example, the academic question whether it is a proper function of government to do anything that can be done by private means, the dangers of increased political patronage, and so forth. The real question of the general good is made subordinate to disputations on such subjects as these.

All such arguments lose their force in the face of the significant fact that the United States is alone among nations in permitting the private control of telegraphs. Sir William Preece has summed up the case in these words:

"It is amusing after this length of time to read the arguments that were adduced against the absorption of the telegraphs by the state. The objections raised were:

- "1. It was not the Government's business to telegraph.
- "2. There would be a loss if it did.
- "3. The telegraph would be better conducted under private enterprise.
- "4. The Government rates would be higher.
- "5. The use of the telegraph would decrease.
- "6. The Government service would be nonprogressive, with no stimulus to invention, etc.
- "7. The secrecy of messages would be violated.
- "8. The telegraph would be used as a party machine.
- "9. The Government could not be sued.
- "10. To establish a public telegraph would be an arbitrary and unjust interference with private interests. The companies had risked their capital in the new enterprise, and just as they were about to get their reward the Government was going to take the business away from them. Private enterprise experimented and the people wanted to steal the fruit.

"Every reason has been proved wrong, every prophecy has remained unfulfilled. I can say this with good grace, for I was one of the prophets. The advantages of a state-controlled telegraph system have been amply shown. There has been established a cheaper, more widely extended, and more expeditious system of telegraphy; the wires have been erected in districts that private companies could not reach; the cost of telegrams has been reduced not only in their transmission, but in their delivery; the number of offices opened has been quadrupled; a provincial and an evening press has been virtually created."

The evidence is all in, the arguments have been made, it remains for Congress to act. Doubtless on no other question are the people so united. More than seventy-five bills have been before Congress advocating a postal telegraph. Sixteen investigating committees have reported in its favor. The following organizations and many others have expressly favored a postal telegraph system: The Farmers' Alliance, the National Grange, Knights of Labor, Railway Union, American Federation of Labor, International Typographical Union, the People's Party, the Prohibitionists, many boards of trade and commercial bodies. More than 2,000,000 votes have been cast for it. Successive Congresses have investigated the subject, committees have reported in favor of it, specialists and eminent legislators and Postmasters-General have urged it; but there seems to have been an adverse power greater than the popular will, an influence stronger than constituencies, which has defeated every effort for its realization.

With men in Congress or in private affairs responsibilities are not lightly assumed. In this matter of the telegraph the natural disposition is to give undue weight to arguments and representations from those who speak with experience in the administration of existing telegraph companies. But I would say, in all earnestness, that the best source of information concerning the possibilities of a business largely dependent upon technical knowledge, is not those who are responsible for its unprogressive administration and whose business interests might be injured by government ownership.

We are an enterprising, inventive, and progressive people; but the telegraph monopoly has not favored the introduction of new methods. Stock dividends issued with a lavishness that puts wild-cat mining companies in the shade, have proved more alluring to the management than investment in improved methods. The natural consequence is that the great telegraph monopoly is powerless to withstand competition. The Western Union Company has hitherto met competition by purchase of competitors, the most costly and ruinous policy known, and it can no longer do so. The logical result of pernicious, speculative financiering, even when it aims to perpetuate the control of a great monopoly, must be stagnation and ruin. Sooner or later blind conservatism finds it has gone too far and the old methods are shown to be obsolete and unsuited for modern requirements.

II.—Present condition of telegraph service—Methods.

As now conducted the telegraph is the most inefficient service in the whole range of developed industries. This inefficiency is not only absolute as relates to the amount of business done by operators, but when compared with the possibilities afforded by the application of improved methods it is enormously below reasonable demands. No technical knowledge is necessary to understand that the making of dots and dashes by hand is a slow and consequently inefficient method of transmitting signals. An eminent authority has pronounced it the greatest anachronism of the time. A means that served admirably in the early days, when the business was light, is not necessarily or presumptively satisfactory now, and the effect of adherence to such a method is to prevent such an expansion of the service as would naturally come if it were better and cheaper. The president of the Western Union officially declared, in April, 1907, "That 99 per cent of the messages transmitted now are transmitted in the same old way that was in operation in the days of Morse. The system is not changed except that the output per operator is not nearly so great as it used to be." The only notable improvements in methods that have been largely introduced in operating our telegraph have been adopted to increase the amount of business over a wire with Morse key sending. Practically the sum total of telegraph experience in fifty years has resulted in an increase from an average of 15 words a minute with two operators to 60 words a minute, quadruplex working, with eight operators. This is the result of private management. No one can believe that this represents the progress made in the art by electricians and inventors.

Improvement in the telegraph service requires that the efficiency of operators shall be increased to the highest limit, that the conducting system be improved and adequately utilized in its carrying capacity, thus reducing the number of wires. To make clear the importance of these items in their bearing upon an up-to-date Government system, a concise statement of the principal available methods seems desirable.

The Morse key and sounder.—With this apparatus two operators are required, one to transmit messages, the other to receive them by sound and transcribe them, usually on a typewriter. The average speed is fifteen to twenty words a minute, or seven and one-half to ten words a minute for each operator. This is the measure of the commercial efficiency of operators.

Different methods of multiplex operating are in use, whereby a number of messages can be simultaneously transmitted over a wire without interfering with each other. Practically, the limit of multiplexing with us is found in the quadruplex, with which four messages are sent, two in each direction. If the operators are skillful and line conditions favorable, eight operators may do an average of eighty words a minute with the quadruplex. But, in fact, the quadruplex is not continuously operative, and it is by no means possible to average eighty or even sixty words a minute during active business hours.

When it is understood that the figures given represent the commercial efficiency of 90 per cent of the telegraph business of the Western Union Company, it must be conceded that herein is one excellent reason why the tolls for messages are so high.

Keyboard, Morse transmission.—A good receiving operator is able to read by sound faster than one can send with the Morse key. Recently machines have been introduced with typewriter keyboards which send Morse signals automatically when the keys are operated. The signals are thus more rapidly made, and the speed can be adjusted to the ability of the receiving operator.

Printing telegraphs.—It is obvious that if messages can be printed automatically at the receiving stations this would dispense with the receiving operator. If, in addition, the speed of working is equal to that of rapid typewriting, the gain in both economy and time over any form of Morse operating is considerable.

Without referring specifically to the older forms of printing telegraphs which, like the well-known stock tickers, deliver messages printed on tapes, we may pass directly to the later forms of page printers, which deliver messages in letter form, like typewriters. Among these we have only to consider such as are commercially available and which have the requisite speed, since only with such apparatus can the necessary efficiency for large commercial business be attained. Telegraphic page printers are operated in two ways. First, we have the keyboard transmitter with the keys arranged in the same manner and order as on the standard keyboard of typewriters, so that it may be operated by any person who can use a typewriter. Second, we have a form with automatic transmission from a previously prepared perforated tape.

Keyboard, page printers.—Among these, although many forms have been devised and tried, the machine of Mr. J. E. Wright is the most perfect and the only one commercially available and adapted to ordinary use. This apparatus can be operated by any typist, as it has a free keyboard—that is to say, the keys are all independent and free as on a typewriter—and it can be worked at ordinary typewriter speed.

Not less admirable, although far more complex, is the Rowland printer. This is not so easily manipulated, and it is more particularly adapted to the larger requirements of the telegraph service where it is desirable to multiplex and operate a number of machines with separate keyboards and printers simultaneously on a single wire. It is used by the Postal Telegraph Company.

Tape-transmission printers.—Of these we need only mention the Buckingham and the Barclay printers, which are operated automatically by previously prepared punched tapes. The paper strip is first prepared with a keyboard machine, which punches holes corresponding to the characters on the keys. The punched strip is then run through a mechanical transmitter which sends the proper electric impulses to the line and thus operates the distant printer. The transmission is thus more rapid than direct keyboard sending, the speed being limited to the line conditions and by the electrical and mechanical possibilities of the printing mechanism. It may be approximately stated at rather less than twice the speed of direct keyboard transmission. The Barclay machine is used by the Western Union Company.

Tape transmission.—Until the adoption of the Barclay tape-transmission printer by the Western Union, Mr. Barclay being the chief electrician of the company, a few years since, the attitude of telegraph authorities generally in this country was one of uncompromising hostility toward the use of tapes in telegraph operating, either for transmitting or receiving. Regardless of the fact that the Wheatstone automatic, which is a rapid method using tapes both for sending and receiving, has been in extended use abroad for many years, and that it is also used occasionally in this country for "emergency service," which apparently means when the slow hand methods are not in good working order and it becomes necessary to get business through on a few wires that may be working, the opposition to the use of tapes has been so strong that the advantages of the Wheatstone method have

never been properly utilized here. The speed of the Barclay printer is no greater than has been available to the Western Union Company with the Wheatstone for fifteen years. The Barclay machine has only the advantage of receiving the messages in printed form, which is, indeed, considerable.

The argument has always been that there is no advantage in using tapes, because in the time required to prepare a message on the tape it can be directly sent over the wire. This is true if only one message is in question. But the great advantages of tape and automatic working are found when there are many messages. The machine works faster than hand sending, it transmits messages without interruption as rapidly as they can be fed and run through and it can work continuously at full speed all the time. There are always many interruptions in manual work on the wire.

If it were not that the adoption of the Barclay machine by the Western Union has effectually set at rest all controversy concerning the advantages of tape transmission, it would be necessary to deal with the subject here at greater length. I am glad enough to be relieved of the necessity to repeat arguments which are well understood as false, their main reliance having been upon "authority." There is now some disposition to give a twist to the old controversy which is not supported by the published literature of the subject, by asserting that the objection has not been to the use of tapes for transmission, but for receiving only. This is quite untrue. Fortunately, however, surrender at one end of the line necessitates defeat at the other end. The arguments are precisely the same fundamentally. What is true as regards feeding the wire is equally true of handling the received messages.

III.—Automatic high-speed telegraphy.

We have now to consider messages that are transmitted at a speed far beyond the possibilities of a printing receiver—at a speed which precludes the use of any mechanical marking or printing device to make a record. Such messages must be electrolytically recorded—preferably in regular Morse characters, on moving tape. They can then be transcribed on typewriters. The transcription is not so rapid as the Barclay direct printing, but the transmission is perhaps ten times as rapid. The advantages of the increase in transmission speed will be shown further on.

The somewhat indefinite term, "high speed," is used to designate any method of telegraphy which permits messages to be sent at a speed restricted only by the electrical limitations imposed by the conducting wire. This electrical limitation is far beyond the speed possible for any moving mechanism to record signals. The most rapid mechanical recorder is that of the Wheatstone apparatus, but that, as has been before remarked, "is not speedy enough to establish automatic telegraphy on a plane by itself." The ideal method has only electrical limitations. The result has been commercially accomplished by Mr. Patrick B. Delany. By his method impulses of alternating polarity are transmitted, all of the same duration, and the record at the distant station is made by electrolytic action, the line current passing through the receiving tape. Thus we have purely electrical transmission and recording, the attendant simple mechanism having to do only with the running of the tapes. By this method the practicable speed is determined by the nature and length of the conductor and the electromotive force used. It may be 1,000 words a minute or 5,000. There is practically no limit to the speed of legible recording, but, commercially, 1,000 words a minute is sufficient for the most urgent demands.

The features that give this method precedence over all others are reliability and accuracy, combined with extreme simplicity in operation. The apparatus is always in condition for use; there is nothing to get out of order. I need not more fully describe the Delany telegraph, because it can be seen in operation at Washington. But I hope Mr. Delany will be called upon to make a statement in connection with the general subject of cheap telegraphy.

IV.—The utilization of different methods.

It should be evident that all these different methods are necessary in a national telegraph system which aims to afford the full benefits of electrical communication. The people have a right to expect cheap rates and facilities embracing all possibilities available by the state of the art. It is no time now to consider corporate interests, vested rights, capitalized franchises, or established business. Nor is it necessary to deal with corporations which have basely neglected opportunities to utilize improvements, as they were morally bound to do in return for the immensely valuable franchises they have so long enjoyed. If we review the great field of industrial work, noting the wonderful advances in all directions, particularly in the field of electricity, we find only one example standing out conspicuously, absolutely by itself and unique, in which there has been no advance, no change in method for fifty years—the most typical, convincing illustration in the whole wide world of the deadening power of an irresponsible, unprogressive monopoly in control of a public utility. During the years of remarkable progress in every other art and industry, the telegraph alone has been stagnant, actually opposing radical improvement, discouraging invention, holding down the vast telegraph business of the country to the slow, primitive method of hand sending, the least efficient and most expensive of all. While in all other electrical distributions the aim has been to utilize conductors up to their full carrying capacity, in telegraphy they have only been permitted to carry what can be sent by hand—60 words a minute, while they can carry 1,000 or 2,000.

The benefits of utilizing the carrying capacity of a conductor have not been wholly disregarded in the practice of the monopoly, but they have been limited strictly to the method of hand sending. Even with this narrow limitation they have proved extremely valuable. Mr. Norvin Green, formerly president of the Western Union Company, declared that the introduction of the two additional circuits of the quadruplex, which at most only doubled the duplex, was worth to that company \$10,000,000. If at that time an increase from 30 words a minute to 60 words was worth \$10,000,000, what is the value now of a method that will transmit 1,000 words or more over the same wire and in the same time?

That such a method possessed any practical value has been emphatically denied by high telegraph officials. For fifty years they have seen no value in anything that would supersede the Morse key. The argument finally came down to this: That since the established wire system is sufficient to carry all the business offered (it is not done with promptness), there is no need of more rapid methods. The multiplicity of wires has been partly the result of purchasing competing companies and taking over their wires, partly necessitated by the arbitrary adherence to hand working. But, in fact, the more potent reason for

opposing a considerable increase in speed and efficiency has been the anticipated demand that would follow for cheaper rates and better service.

V.—Effect of cost upon volume of correspondence.*

The average rate for telegrams in this country has advanced from 31 cents in 1902 to 33.7 cents in 1907. Proof that the charges are too high is shown by the relatively small proportion of the people who use the telegraph. President Green stated that the proportion of social messages in this country was about 8 per cent. In England the proportion is ten times as large, and on the Continent social messages constitute two-thirds the entire business. It is thus evident that there is in this country an immense volume of telegraphic business that has not been developed and which awaits only adequate rate reductions to come forth.

The effect of changes in rates in different countries is well shown by the following quotations, taken from good sources:

GREAT BRITAIN.

A reduction of 33 per cent on three-tenths of the messages and 50 per cent on the remainder caused an increase of 100 per cent in about two years.

The social business is said to be four times as large as in this country—eight times as large in proportion to population.

CANADA.

A reduction which applied to less than 10 per cent of the business augmented it 25 per cent in the first year.

BELGIUM.

These reductions have caused four times the number of dispatches that would have been sent at the old rates.

SWITZERLAND AND BELGIUM.

A reduction of one-half in the rates produced a double business in one year.

AUSTRALIA.

Australians send more than twice as many messages over the lines at the lower rates as Americans do at the present prices.

PRUSSIA.

A reduction of 33 per cent in the rate was followed by an increase, in the very first month after the change, of 70 per cent in messages.

SWITZERLAND.

The Swiss inland rate was reduced 50 per cent * * * and in the first three months there was an increase of 90 per cent in messages.

BRAZIL.

The rates charged are high, amounting in 1899, the last year for which there are available statistics, to an average of 4.4 cents a word. Two years earlier, when the rate was just half that amount, nearly 10,000,000 more words were sent over the wires, and the revenues were much increased. The experience of the Brazilian Government during a series of years has been that the lower the rates the greater the traffic and the amount of revenue produced.

The testimony is wholly, unexceptionally, in one direction. Mr. Wanamaker once said: "It would be such a benefit to get twenty words for 10 cents that I am afraid, if rates were lower, we would be in the same position as the English lines were in the beginning. They were overwhelmed with business."

The following statement shows the number of messages for each hundred of population in certain countries, and the relation between letters and telegrams. It is not up to date, but has no less significance for that reason.

Telegrams per hundred of population.

Great Britain	184
Switzerland	127
France	108
United States	95

Letters and telegrams.

Great Britain, one telegram to thirty letters.
Switzerland, one telegram to thirty letters.
Belgium, one telegram to twenty-three letters.
France, one telegram to twenty-three letters.
United States, one telegram to forty-two letters.
Before the British telegraphs became Government property there were 121 letters to 1 telegram, and in Belgium at the same time 37 letters to 1 telegram.

If the statistics possess any significance whatever, they reveal immense possibilities in telegraph development in this country through cheapening the tolls. People can not afford to use the telegraph freely when they must pay from 25 cents upward for ten words. The minimum charge possible with improved methods and profitable returns to an operating private company is lower than the world has yet experienced, and would lead to a volume of correspondence by wire impossible to estimate from any known data. At the same rates a Government system would pay for itself in a few years.

VI.—Effect of high charges on kind of business done.

President Green stated that 46 per cent of the Western Union business was brokerage and exchange, the kind known as speculative; 12 per cent was press business, 34 per cent legitimate trade or general commerce.

* Mr. George H. Fearons, general attorney for the Western Union Telegraph Company, in an address before the House Committee on Interstate Commerce, May 5, 1908, is reported to have stated "that 60 per cent of the telegraph business of the country was the transmission of information for exchanges, boards of trade, and similar commercial bodies, 20 per cent was newspaper matter, 15 per cent railroad intelligence, and less than 3 per cent private and social telegrams."

Can there be any clearer evidence of the extremely restricted use of the telegraph in the United States—only 3 per cent of private and social telegrams, against a proportion of two-thirds the entire business on the Continent of Europe?

cial business, and only 8 per cent social. Thus it appears that the companies are not serving the public generally, but only a small part of the public that can afford to pay the high tolls because of the nature of the business done or the absolute necessity to use the telegraph. We shall later refer to this aspect of the subject in another connection.

VII.—High speed as a fundamental need of a national telegraph system.

The economies of high-speed operating may be realized under two widely different conditions, viz:

(1) When the volume of correspondence to be developed on short lines is sufficient to keep the apparatus in reasonably constant operation during hours of active business.

(2) On long lines universally, since on these the capital investment is large and the maintenance costs heavy.

This brings to mind that there are two elements in the cost of telegraphing which ought to be separately considered, the cost of the engaged line and the cost of the operating force. Assuming an equal wage scale between stations the latter is constant, while the line costs are variable, involving under present methods repeating or relay stations.

Cost of line.—A copper wire weighing 400 pounds to the mile will carry 1,000 words a minute between New York and Chicago with no higher voltage than is now in common use in telegraphy. The same volume of business by Morse methods would require from 17 to 20 Morse wires representing perhaps 1,800 to 2,100 pounds of copper per mile. The cost of copper is only one of the elements in line construction and maintenance. A large number of wires require high and strong poles which are not only costly, but because of the great weight of metal and the strains, and the surface exposed to accumulate ice, and the pressure of wind against the structures, such lines are subject to frequent damage, and serious interruptions of communication occur. Pole lines carrying two to four wires, such as serve for high-speed distance working, are much less costly to construct and may be made almost proof against damage in storms.

Cost of operating.—Mr. A. B. Chandler, formerly president of the Postal Telegraph Company, stated before the Industrial Commission that "salaries for all classes of service" are "approximately 70 per cent" of the expenses of operation. This is not a particularly illuminating statement for what we would like to know, but it indicates that operative costs are a very important item. Material reduction in this direction would therefore result in great economy.

If we can actually take operatives away from the line, so that their work is done on machines that have no connection with the sending of messages over the wire but consists only in preparing messages to be sent by some other person, and if that other person can send over the wire all the messages that can be made ready by twenty preparers, working continuously, we then have the conditions of high-speed operating. If we further conceive that the twenty operatives prepare messages for transmission by working on keyboard machines resembling typewriters, but which punch tape at more than double the speed of Morse sending, it is clear that we have reduced this part of the work to simple typewriting. The telegrapher has been removed from the wire and a machine that sends 1,000 words a minute takes his place. The work hitherto done at the end of a wire by telegraphers is now done by ordinary typists, each working three times as fast as the telegrapher could work on the wire.

Thus the efficiency of the operative service is increased about three times over that of Morse working, while the rate of pay is reduced to the typewriting basis. The time required for one man to transmit each message is perhaps the tenth or a fifth of a second. It is so short as to be negligible, and no message is delayed since the wire can carry all messages as fast as they can be prepared and run through the machine. The operative economy may thus be reduced by probably 75 per cent when the business is large.

At the receiving station the message comes out on tape in Morse dots and dashes. These can be transcribed on typewriters at a speed not less than double that of Morse sending.

A hypothetical pneumatic mail tube.—Suppose a private corporation had established a pneumatic tube to carry letters of 50 to 100 words at great speed and low cost between New York and Chicago. Suppose also that such letters sent from one city after business hours would be delivered in the other city early the next morning. The benefits to the business world would be very great. But, for reasons which need not detain us, we will suppose that the company requires that all letters for transmission through the tube must be handed in to be copied by its own employees upon special blanks, thus enabling the company to count the words, read the contents, and adjust the charges. Would there not be indignation and a strong protest? Patrons would say: "We have our own stenographers and typists, our letters are clearly written, why should we pay you for rewriting them as well as for transmission? You have no right to read our correspondence; but you can give us your blanks and we will use them and inclose them in addressed wrappers ready for your tube. Your business is to transmit correspondence. We are willing to pay you for doing that, but we will not pay for the clerical work of rewriting our letters."

Now, it is a curious fact that while every person who hears of such a proposal concerning letter correspondence would be highly indignant, we have only to substitute telegraph wire for pneumatic tube when there is not a word of protest. A few words in a letter must be sacred from prying eyes; the same words in a telegram are always read by two persons in the telegraph office, one who copies in transmitting them, another who transcribes them at the receiving station. There can be no privacy about a Morse telegram, and the charges include the dual operations. So long as telegrams are sent by operators who must spell out every word and form every letter in dots and dashes it is impossible to avoid this technical service. But with a rapid machine taking the place of the operators the condition is totally changed. It is impossible for the one who feeds the machine to read the message, or for the one who receives it. The tapes are unwound and rewound from reels at the rate of 5 feet a second.

Although the introduction of high-speed methods will make telegraphing absolutely private, this result will not be perfectly attained at first. With the introduction of the system, business will be done at the telegraph offices in the same manner as at present—that is to say, messages will be written on blanks and handed in to be prepared on tapes and transmitted. At the distant station they will be transcribed and delivered in typewritten form by post-office or messenger, as may be ordered. There will be a radical departure, however, in the length of messages. Because of the cheap rates, they will be 50 to 100-word messages or more. They will be letter telegrams, which will greatly facilitate business and social correspondence. There will natu-

rally follow the demand for privacy and the home preparation of messages.

Private preparation of messages.—The punching of tapes being a purely mechanical operation, independent of transmission, it can be done anywhere and by stenographers or typists in private offices. It is only necessary to have a keyboard punching machine. A reel containing the message thus privately punched can be sent to the telegraph office, where the tape may be run through the machine, automatically rewound, and given back to the messenger. It has been sent through without the possibility of reading it. The charge would be for transmission only. Relieve the telegraph administration from the clerical work of preparing messages, and the operative costs will be greatly reduced.

The private preparation of messages is not only practicable, since it involves no change in the present routine of office work, for telegrams are now dictated and written on typewriters, but it is sure to be much more widely extended. Stenographers at hotels will be prepared to punch telegraph tapes, and it can also be done at the telegraph offices directly from dictation. It leads to this great change in conditions, however, that the charges for preparation and for transmission will be separate items. Payment will be made for service actually rendered.

Private transcription of messages.—At the receiving station the message comes out in Morse dots and dashes on the tape, which is rolled on a reel. The person in charge unrolls the tape far enough to read the address—it should be understood that messages pass over the wire backward, hence the address is first unrolled—and sends it to its destination either by mail or by messenger. The reading of the tape is quickly learned by typists, as the Morse letters are clearly spaced on the high-speed tape, and transcription is as rapid as reading from print.

VIII.—Economies of the page-printing telegraph.

The keyboard printer is of particular importance in this connection. This is not in disparagement of the tape-transmission printer, which has great value also; but we have now to consider the most useful accessories to high speed on important lines, including means of collecting and distributing messages which must be delivered locally or retransmitted for short distances. It is evident that if such messages are to be retransmitted to a final destination in some small town or village it will generally be desirable to transcribe them directly by use of a keyboard telegraphic printer. The operation is the same, in fact, as transcribing them from the high-speed tape on a typewriter, except that the printing is done at a distance.

It is therefore desirable to consider in some detail the merits of the keyboard printer. The increase in speed over Morse working is partly due to the more rapid sending from a keyboard, on which a single movement of the finger prints a letter, partly to the fact that the receiver is a machine which does not "break" or call for repetitions, as does a Morse operator. Without entering upon a full exposition of a subject which must be reasonably clear to anyone who gives it a little thought, it may be more to the point to state the actual results of experience abroad with printing telegraphs, all of which are quite inferior in speed and ease of manipulation to the forms heretofore mentioned. The Hughes printer, long in use abroad, doubles the capacity of a Morse line in the same time. In the rental of telegraph lines in Germany, twice as much is charged for a Hughes as for a Morse line. The Hughes machine is operated with keys arranged similarly to those of a piano. It requires specially skilled operators and prints on strips of tape. A less number of operators is required than for Morse, because the receiver is an automatically operating printer. The Baudot printer, considerably used abroad, shows in practice the same superiority over Morse as the Hughes.

These two forms of printing telegraph have been used abroad for many years, thus effectually demonstrating the commercial utility of such apparatus. They practically double the operative efficiency by dispensing with the receiving operator, and they also work at higher speed. Putting the matter in tangible form, a quadruplex Morse line sends four messages at a time, two in each direction, but requires eight operators. The same amount of business is done on a duplexed Hughes line with two keyboard operators.

IX.—Business policy and attitude of telegraph companies toward improved methods.

The policy of the telegraph companies has been to put up an additional wire for every increment of business beyond what can be done at forty to sixty words a minute, regardless of the length of the line or the amount of business available. In the early days no other means of increasing facilities was known. It was later discovered that two messages could be simultaneously sent in opposite directions on one wire, thus doubling the capacity with no additional cost for wire. This duplexing idea was ridiculed and opposed by the Western Union Company. It was developed by others and became competitive, when the old company was obliged to adopt it or go out of business. Then followed the quadruplex, which enabled four messages to be sent simultaneously. This likewise was derided and opposed, but finally adopted. But remember that this is the limit to-day—sixty to eighty words a minute—determined by the speed of hand sending.

It would be unjust to attribute this condition wholly to the non-technical directors of the company. However strongly an improvement may be advocated by outside parties, however clearly may be presented the advantages of the new device, those gentlemen of wide business experience know that not every much-lauded invention is practicable. Naturally they refer such things to their own technical men; and if these report unfavorably, there is no reason to consider the matter further. The attitude of technical men in the telegraph service, and of operators generally, has been one of uncompromising opposition to any proposed departure from Morse key working. With all respect for the knowledge and experience of technical men of influence in the telegraph service of this country, the responsibility for the backward condition of the telegraph service in this country, which has led the world in notable telegraph inventions not used by the companies, rests in a large measure with them. So long as such men are unwilling to declare in favor of changes of obvious advantage to the service, because they tend to replace the Morse key, it is difficult to see how non-technical directors can assume the initiative in introducing them.

If our telegraph companies had favored rapid methods in early days, they would not now be burdened with the great number of wires required to carry the business at the speed of hand working. Although automatic methods were at first quite imperfect, they really revealed great possibilities and needed only the encouragement and support of

the telegraph authorities to make them practicable and profitable. The telegraph electricians opposed them, therefore they could gain no favor or use from the established companies. When they did come into use at one time, and were doing good business, the old company managed to get control and killed them. The electrical engineer of the Western Union Company states the company's case against the better utilization of line when he says: "Whatever necessity may have originally existed for the use of automatic systems passed away with the multiplication of wire facilities." This remarkable declaration regards the telegraph as having reached its fullest development, and assumes that wire facilities will need no further increase.

But there are not wires enough now where they are wanted to afford quick service by hand methods, yet poles are greatly overloaded and large expenditures are necessary to meet the increase of business due to larger population and business extension. The multiplication of wires must continue indefinitely and will prove ruinous to the companies unless radical changes of method are adopted. On the same authority we are told (in 1902) that "college professors, interested inventors, promoters, and other advocates of fast methods of transmission may figure it out theoretically and say what they please about quicker service, cheaper rates, or other alleged benefits to be derived by the public by the adoption of automatic methods of working, but twenty years of actual experience with the best of these methods have emphatically demonstrated the utter fallacy of such reasoning and conclusions."

The world generally, including business men, is coming to believe that when college professors figure out a thing theoretically in these days there is likely to be something in their conclusions that can not be so easily dismissed from consideration. Moreover, the Western Union has not had twenty years of experience with "the best of these methods," for it has had no experience whatever with the best, and if the allusion is intended to be to the Wheatstone method, all that can be said is that although it is much better than the Morse, it has not been developed in this country because it is an automatic method. Its efficiency and accuracy are, however, below the requirements of automatic telegraphy as conceived by college professors and others.

Let it be understood, then, that only under the compulsion of successful competition will the telegraph monopoly adopt cheaper and high-speed methods. If such competition develops, as it surely will, and if the Western Union Company should attempt to meet it by introducing improvements, the conditions would be these:

(1) The company would be unable to get the use of the only known efficient and perfected system of high-speed operating.

(2) If it should attempt to get such a system it would find that the cost of patent rights and of new equipment would add so much to the burden of interest and dividend payments upon the increase of bonds and stock necessary to purchase them that the operative economies would be largely offset. The company can not now become competitive against a new company doing business on a reasonable basis of profit on necessary money investment. Hence we must look to other means for attaining cheap telegraphy. The Western Union is absolutely out of the race.

X.—Capitalization—The burden of excessive fixed charges.

The late Mr. Russell Sage once declared that a new company could enter the field, parallel the Western Union lines, and do profitable business at one-half the Western Union rates. This was said with no thought of the economies of new methods. The business is now done on an exceedingly small margin of profit, only 3.5 cents a message. The cost of sending a message by the Western Union is, however, no indication of the necessary cost of the service, as will be shown further on.

One reason for the excessive cost may be seen from an examination of the growth of the capitalization, as shown by the statement compiled some years ago by Prof. Frank Parsons, which is here given:

WESTERN UNION CAPITALIZATION.

Original investment	\$150,000
Original capital	240,000
Capital stock, 1852	385,700
Brownsville line, worth \$75,000, bought by issuing stock	2,000,000
1863 Western Union plant, worth \$500,000, stock	3,000,000
Stock dividends, 1863	3,000,000
Total stock, 1863	6,000,000

* In 1870 the chief electrician of the Western Union officially reported that he had proved the utter impossibility of attaining by any known means a greater speed than fifty to sixty words a minute automatically on 100 miles of line. The editor of the Scientific American declared, however, that he had in his possession a perfectly legible communication by the American Automatic system sent at a speed of 100 words a minute, from Washington to New York, 280 miles.

In 1873 President Orton of the Western Union conceded that the American Automatic would send an equivalent of about 36,000 words an hour over 300 miles of single wire, which would require eight Western Union wires and sixteen expert Morse operators.

"To the everlasting glory and honor of the discoverer of the telegraph, it should be remembered that Professor Morse gave to the world a well-nigh perfect system when his great brain evolved the entire theory, principle, and practice of telegraphy." (Telegraph Age, 1902, p. 229.)

"I know of no automatic system that can be employed to move the great telegraph traffic of the country so expeditiously and economically as is done by the present Morse." (Francis W. Jones, electrical engineer, Postal Telegraph Company, 1902.)

When Mr. Wanamaker was Postmaster-General he had occasion to know something of the subject and he said: "I have had enumerated perhaps a score of devices already patented for the purpose of cheapening and quickening the telegraph service, which find no use and no profit under the present conditions, but they can not get into operation with the field monopolized. The public can not have the benefit of this rare class of brains, nor can the inventors find a deserved remuneration for their work. The Western Union Company having control of the telegraph business has no use for devices which cheapen and quicken the telegraph service and warrant a claim for reduction of rates." At the same time the Hon. Charles Sumner said: "The Western Union has suppressed inventions. It has done so systematically."

It has been charged, and correctly I believe, that of all nationalities the American operator is at once the most proficient and the most prejudiced. He excels at the Morse, but will learn nothing else. * * * The three-keyed puncher of the Wheatstone system contains two keys more than the Morse operator cares to use. One has always been quite enough for him. (Edward A. Calahan, 1901.)

Stock to buy other lines	\$3,322,000
Stock dividends	1,678,000
Total stock, 1864	11,000,000
Stock dividends	11,000,000
Total stock, January, 1866	22,000,000
Stock to buy United States Telegraph Company, worth \$1,433,000	7,216,300
Stock for American Telegraph Company, worth perhaps \$1,500,000	11,833,100
Total stock, 1866	41,049,400
Stock dividends	5,060,000
Stock for American Union and Atlantic and Pacific companies (worth together about \$3,232,000 aside from the franchises), over \$23,000,000, but as Western Union already owned over \$4,000,000 of Atlantic and Pacific, the new issue was	19,080,000
Stock dividends	15,000,000
Total stock, 1884	80,000,000
Stock for Mutual Union, worth about \$5,000,000	15,000,000
Total stock, 1895	95,000,000

Since the above statement was compiled the issued stock of the Western Union Company has been increased to \$97,370,000, and in November, 1906, an issue of \$25,000,000 in bonds was authorized.

The total capitalization of the telegraph under the control of the two principal telegraph companies, exclusive of ocean cables, may be stated as follows:

TELEGRAPH CAPITALIZATION.

Western Union stock	\$97,370,000
Western Union funded debt	35,815,000
Western Union, other stocks	1,946,592
Postal Telegraph Company, 4 per cent	20,000,000
Total	155,131,592

The sum of interest and dividend charges against the two companies is, annually, as follows:

Western Union bonds, interest	\$1,420,061.00
Western Union stock, dividends	4,868,096.25
Postal Telegraph Company bonds, interest	800,000.00

Total annual payments—7,088,157.25

From the above it may be seen that the profits of the business must be large. Mr. Wanamaker said: "An investment of \$1,000 in 1858 in Western Union stock would have received, up to the present time, stock dividends of more than \$50,000, and cash dividends equal to \$100,000, or more than 300 per cent of dividends a year." Aside from the excessive amounts of stock issued when competing lines were taken over, partly used, no doubt, in payment for properties, it would appear that no stock has been issued for capital since 1858, until within the last two years through the sale of part of the last bond issue. Nevertheless, it seems the profits are not sufficient in these later days to pay dividends. Not only has it been necessary to obtain new capital, but to increase the charges for messages. The rate between New York and Philadelphia has been advanced from 20 cents to 25. Formerly the New York-Washington rate was only 25 cents. When business becomes large the costs of doing it ordinarily decrease, but it is different with the Western Union. Of course there are attempts at explanation, but they do not explain very well.

It seems desirable to give some illustrations of the great possibilities of profit from operating telegraphs without reference to the use of new methods. Some of us will remember when the Baltimore and Ohio Telegraph Company was in competition with the Western Union. It had a 10-cent rate on nineteen routes and was doing a profitable business. President Green said: "They came into the field to smash things, and they did." In reply to statements that the business was not profitable Mr. D. H. Bates, the manager of the company, declared that "The Baltimore and Ohio did make a profit in spite of its low rates, and that the Western Union succeeded in buying up the Baltimore and Ohio lines not because they were unprofitable, but because disaster overtook the road in other departments and it sold its telegraph business as the most available source of realizing the funds necessary to right itself."

At the annual meeting of the National Board of Trade, in January, 1888, Hon. R. W. Dunham, of Chicago, described the operations of a telegraph company doing business between Milwaukee and Chicago, and of which Mr. Dunham was a stockholder. The company began with a charge of 1 cent a word and within two years paid back to the stockholders 90 per cent of the money they had paid in. Then they reduced the rate to one-half cent a word, or 5 cents a message, and at this rate paid over 40 per cent on the entire stock. This went on for two years, and then "we doubled our stock from \$14,000 to \$28,000, making it one-half water, and still the result is the same, and from 25 to 40 per cent is still paid back on the 5 cents a message paid by the patrons." Such results with a business all the time under fire of fierce competition clearly prove the possibilities of a low tariff. This Milwaukee fact, together with the Western Union rates for Signal Service and press messages, points to the conclusion that a 10-cent rate would be more than sufficient, even with present methods. (The Telegraph Monopoly, Prof. Frank Parsons.)

"The Connecticut Telegraph Company, a small local concern capitalized at \$35,000, has for some years been paying 8 per cent in dividends, but in April it paid a dividend of 100 per cent, thus returning to its stockholders all the money put into the company. The circular accompanying the checks says that the business is uncertain and that, as this surplus has been accumulated, the management thought it would be well to make the shareholders good as to their investment. Future dividends, it is significantly said, will be less regular or certain." (Telegraph Age, 1906.)

From this the conclusion is irresistible that there is a large profit in the telegraph business without the use of improved methods at less than present rates, and that the cost of telegraphing is at least double what it would be to-day but for monopolistic control. It has well been said that "Under real competition consumers pay the actual cost of the service plus a moderate profit; under monopoly they pay the actual cost plus all the traffic will bear."

XI.—The Telepost Company.

This company, which is now constructing its first wire line for commercial business, proposes to enter the general field of telegraphy with the use of the best methods known to the art. It represents a new departure and will bring about radical changes, not only in the methods of operating, but also in the increased use of the telegraph by the people. Although the company is not yet engaged in the telegraph business, its operating methods are not experimental, and it is proper to recognize it now as a corporation to be seriously considered in this connection.

To avoid possible misconception concerning my personal relations to the Telepost Company, a matter of no public interest but which might be made a subject of unjust comment, I may be permitted to say that I am a stockholder in the company because of services rendered in connection with the Delany system before the company was formed, and have no more knowledge of the organization, resources, or plans of the corporation than is available to any person who may choose to make inquiries. My contention has always been that great improvements in telegraphy should not be controlled by a private corporation. Doubtless the Government will eventually take over the Delany and other useful inventions and give the public all the benefits. I submit herewith a report of an address recently given by Mr. Delany before the Franklin Institute. From this it will be seen that automatic telegraphy is not confined to high-speed operating, but is adapted to all ranges of speed. The one feature characterizing these adaptations is the great economy over all other methods.

XII.—Government ownership or control of public utilities.

Under this head is afforded opportunity to discuss academic questions and others of a quasi political or socialistic nature; but since there is no finality to arguments on these lines I propose to treat the subject from a purely commercial and practical standpoint. Opponents of government and municipal ownership refer to many conspicuous failures on record, particularly of undertakings in the industrial field. In the same way critics of cooperative enterprises select specific examples to prove false generalizations. In neither case are the arguments sound. They are unreliable and unconvincing because they do not deal with basic principles or causes. A business depends for success upon proper management. Such management is as readily available to Government as to private parties or corporations. Government has, indeed, exceptional means of administration and while these may be in some ways complex, cumbersome, and wasteful, these faults, which are minor and only incidental, can be corrected. Efficiency of service is more easily secured by opportunities for promotion for merit in Government service, and pensions for age, than by commercial establishments in which the workers are mere units in a machine, with suppressed ambition and hopeless of advancement.

But charges were brought against Government methods which should be squarely met, for they are not sustained by observation. It is said that Government business is not conducted economically, that private management is altogether better and more satisfactory to the public, and that it is impossible for official administration to compete with private methods. It may be true that private business is more exacting of service from employees, but that the economies resulting from this and in other ways correspondingly accrue to public benefit is not so clear. On the contrary, it can easily be shown that, with all its faults, Government administration of public utilities would be greatly advantageous to the public. (See quotation from Sir W. Preece, p. 4.)

No doubt political influence and wire-pulling does tend, to some extent, to demoralize Government service. Most of us are convinced there are some influential politicians with a disposition to interfere, for selfish purposes, with the competent administration of Government business. Such men care nothing for the efficiency of the public service, and strive to replace competent and trained officers or employees by ignorant incompetents. Unfortunately, we must reckon with this selfish, moral irresponsibility. But it is to be doubted if, in these later days, the effect of such pernicious activities is sufficient to greatly influence, certainly it can not fatally affect, the general efficiency of Government work. It is to be hoped that any argument tending to magnify the importance of the comparatively few instances of reprehensible political interference with Department administrations will be treated as involving assumptions to be emphatically resented. Certainly I am not prepared to admit as an outsider, and I do not think there is a Member of this House who believes, that the evils of political favor and graft are inherent in or inseparable from our institutions.

If it is true that in some ways Government business is not conducted with quite the same economy as well-organized private business, the difference between the actual cost of administering and operating telegraphs, including interest payments on a Government bond issue at 3 per cent, for example, representing the value of the physical properties, and the present charges under private management is so great that the relative administrative efficiencies are an insignificant consideration. Sooner or later the question of government ownership or control of public utilities must be comprehensively dealt with by Congress. For uncontrolled private ownership has recognized no responsibility to the public. There is no power exercised to-day so directly and strongly inimical to the welfare of all the people, as distinguished from the few beneficiaries, as the private ownership of public utilities, unless we specify also the private ownership of the earth. It has been shown that railroad magnates have regarded railroads as sources of private gain only. In no case have the charges for freight and passenger business been based upon reasonable earnings of the necessary capital investment engaged in construction, maintenance, and operation. In this connection one of the most exacting and monstrous and enormously profitable private monopolies, which has to a large degree usurped the functions which railroads should perform, is the express business. The charges for express transportation of merchandise are higher to-day than they were ten years ago. Where formerly the charge was 25 cents and the companies eager to get business, the charge to-day is 35 cents and deliveries are less prompt. This transportation business is conducted over rights of way granted by the people, and the public has a right to demand adequate and efficient service at reasonable rates, which will not be granted by private corporations.

Such facts stand clearly before us, indefensible, and of the highest public importance. They can not be indefinitely ignored; they are dangerous, for they are arousing public resentment, and unless we are to encourage the spread of anarchistic and disturbing socialistic teachings, such as are already gaining many followers, a remedy must be quickly applied. The facts are not new. They have been repeatedly and adequately discussed before committees of Congress, but it would

seem there has always been some influence strong enough to prevent action in behalf of the public. There seems to be no remedy for the extortions of public utilities except Government intervention in some form. The telegraph monopoly has increased its tolls. The Western Union Company has been so badly managed that an increase of rates became necessary to maintain dividend payments on a business enormously profitable. Here is a fine example of how the boasted economies of private management result in practice. The annual interest and dividend payments for the telegraph exceed \$7,000,000. This is in excess of the cost of a service conducted by the most ineffective and expensive method known. It is safe to say that it costs the people twice as much as they ought to pay.

I hope the time has come when this subject will be earnestly taken up and brought to a conclusion. It is worth any man's devotion of whatever powers he may possess to achieve a result so universally beneficial to the people of this country as the establishment of electrical communication by the best and cheapest means. It has been my thought for years. My desire is to be identified with such an effort, as closely as may be advantageous for the cause, to establish, with American inventions, the best Government telegraph in the world. Ours is the only important nation with its telegraph system under private control. In this respect we have ignored a constitutional obligation. (See, on this subject, Judge Walter Clark, 54th Cong., 1st sess., S. Doc. 205.)

XIII.—Means of effecting government ownership or control of telegraphs.

The simplest and most direct and probably the best way to establish a government telegraph system is precisely the plan that would be adopted by a private concern entering the field with an independent system. This would be to begin by constructing or leasing lines, later purchasing such wire facilities as it needs and can get on satisfactory terms from the old companies. Many telephone wires might be found immediately available for telegraph use. The advantage of new construction of lines with special regard for their permanence and adaptation to the use of new methods are very great. Existing telegraph lines comprise tall poles carrying as many wires as possible. Such lines are liable to damage from strains and storms. By the latter methods shorter and stouter poles would carry only the few wires necessary for a much larger volume of business at a greatly increased speed.

Government purchase of telegraph lines.—When government undertakes the telegraph business the private companies will offer to sell their properties, or such portions of them as are least valuable, for a large consideration. There is no objection to the purchase of good and desirable lines by the Government at a proper valuation, based upon cost of construction. But there is decided objection to purchase at any price lines that are not well constructed or that are not needed. Under the law of 1866 the Government is empowered to take over all the telegraph lines and properties at an appraised valuation. But it would be wasteful folly to purchase, even at bargain-counter prices, all the existing lines or all the apparatus owned by the companies. The Government, as representing the people who pay the bills, should expend no more for acquiring the properties it needs than it would cost to construct its own good lines and appliances sufficient for the needs of the service at the time.

But what about the immensely valuable rights of way, the franchises, and other intangible assets represented in outstanding bonds and capital stock? These obligations aggregate for the two companies about \$155,000,000. The law says nothing about these securities, and it is doubtful if the Government has anything to do with them. For although in the realms of high finance "securities" are bought and sold which represent no tangible values, the Government can not properly use public money except for the purchase of real property. It will be said that to carry out this policy in the purchase of the telegraphs would be destructive of large money investments. If investors in securities evolved, as shown on page 23, suffer loss it would seem to be only a logical result. By no fair reasoning can it be made the duty of Government to protect investors in inflated shares of stock. As regards franchises, they are not exclusive, therefore their value must be subject to competitive influences. The competition of the Telepost Company is certain to be ruinous to the old companies, since they can not possibly meet the rates of automatic operating for the general business of the country. But in this connection, disregarding any competition based upon the use of improved methods, we should recall the remark of Russell Sage, that a new company could do business at half the Western Union rates (p. 23). But small value can therefore be claimed for the franchise rights of the present companies.

Special service and private wires.—Referring to the statement of President Green (p. 14) that 46 per cent of the business of his company was stockjobbing and speculative deals in futures, it ought to be considered that this kind of business is the kind the Western Union has specially fostered, even to the extent of subordinating to it the regular commercial business. It is the only business that is done with telegraphic promptness, and presumably it is the most profitable. It may be questioned whether gambling in stocks and in agricultural products is to be allowed to continue, but if so it certainly ought not to be conducted by the use of Government telegraph wires any more than should horse racing events be delivered to pool rooms. My proposal is, therefore, to leave the whole of this gambling business in the hands of the private telegraph companies, under Government supervision only, taking from them the legitimate commercial business and general correspondence by wire. This would leave to the present companies one-half the business now done, and presumably the more profitable half, and with this they might easily make a readjustment of their finances and avoid the more serious losses which would inevitably result in a short time from strong competition.

Government control of telegraphs.—There seems to be a growing sentiment favoring government supervision over corporate business. Many persons opposed to the principle of government ownership favor Federal control. Certain of the larger corporations have also signified approval of it, but seemingly under the impression that it practically tends to eliminate competition, which must be an error. While govern-

* When it became known that the British Government proposed to take over the telegraph business there was great booming of stocks of the telegraph companies, some of which were quoted at extraordinary prices. It is difficult for government officials to defeat such speculative activities when capital stock is to be bought instead of the properties or real values such stock is supposed to represent. The British Government paid five or six times the value of the properties purchased. The public certainly derived much benefit from the change of management, but the overvaluation imposed heavy burdens, while large amounts have since been expended every year in improvements and extensions, so that the charge for telegrams is higher than on the Continent.

* See statement of Romyn Hitchcock, Postal Telegraph System. Report of Industrial Commission on Transportation (Vol. IX, 890).

ment control may be corrective or preventive of some forms of wrongdoing, its functions in this direction would seem to be only supplementary to courts of law. The conditions with us are not quite the same as in some countries abroad, for our great corporations are operative under State charters. There are very narrow limitations to the effectiveness of government control under such conditions. It would seem that the only sound basis for government activities in relation to private business is to protect the public in the purchase of goods against corporate greed and extortion. Government control of private business can have no other purpose than to provide goods for public consumption at actual and necessary costs plus a fair, competitive profit on the properly engaged capital; and if this single purpose is accomplished, all the evils which characterize the methods of corporations will necessarily be self-corrective.

One element which now enters more or less, sometimes very largely, into the cost of production of goods by great capitalistic organizations, is no proper element of cost and does not appear in business conducted by individuals or copartnerships. It is an anomalous and intolerable condition that the money actually utilized in the legitimate business of a corporation, the capital invested in cost of real estate occupied, machinery, materials, and engaged as working capital or for other necessary purposes (the only capital that would be contributed by a copartnership), must divide its earnings with other capital not engaged in the business, which has not added to the assets, resources, or earning capacity of the corporation, but only to its nominal book liabilities. This extraneous, unavailable, useless capital is represented in overcapitalization, in water stock, and imposes an eternal, unnatural, reprehensible tax upon almost every great incorporated industry in the land, which must be paid by the public in the form of an increase in the price of goods. The amount of this overcapitalization is some thousands of millions of dollars. The additional charge for goods is necessary to pay dividends to capital that has done nothing, but is invested in stocks that have been issued, not for the benefit of the corporation, but for private gain.

It is not within the power of the Federal Government to directly attack this monstrous evil, for it has been sanctioned and legalized by the corporation laws of the several States. Hence this unnecessary, extraneous element becomes virtually inherent in production costs, making the net cost of goods to a highly capitalized corporation actually greater than it would be to an individual producer or copartnership operating with the same facilities.

Applying these considerations to the telegraph, we find that the combined capitalization of the companies precludes the possibility of adequate reduction in tolls through government control. We can not get away from annual interest and dividends of over \$7,000,000. Referring to the figures on page 23, it is startling to learn that the total investment in Western Union by stockholders, including the amounts paid into the treasuries of all the companies taken into the fold, has been estimated at not over \$16,000,000. The business is therefore exceedingly lucrative. It is not possible to say what is the present value of the properties; but the Government would not be justified in undertaking control of the business of the two companies if it involves an obligation to maintain payments on stocks and bonds aggregating \$155,000,000 or more. It would be infinitely better to issue 3 per cent bonds for a new system throughout, for bonds can be redeemed out of earnings and the interest payments would soon come to an end.

As an appendix to the remarks of Mr. Hitchcock, I would like to insert an article entitled "The Telepost System," delivered by Patrick B. Delany, before the Franklin Institute in Philadelphia, January 15, 1908:

APPENDIX.

THE TELEPOST SYSTEM.

Patrick B. Delany, the well-known telegrapher and inventor, read a paper before the Franklin Institute, Philadelphia, on January 15, 1908, in which the telepost system of automatic or machine telegraphy, the invention of Mr. Delany, was discussed at length. He said in part:

"As you all know about the ordinary Morse system, comprising the relay, sounder, and key, it will be easy to understand the modifications by which it is proposed to improve Morse working, to the extent of quadrupling its present message capacity, whether the wire be used for simplex, duplex, or quadruplex transmission. In these days it is hardly worth while, however, to include the Morse quadruplex in any practical estimate, as its day is about done, owing to increasing underground construction and inductive interferences from power wires. Wherever operable, however, the ratio of gain will hold.

"The president of the Western Union Telegraph Company stated publicly last April that 99 per cent of the messages handled in this country were still transmitted by the old-fashioned Morse key, at a speed averaging seventeen messages an hour, and stated also that this was considerably less than the speed of several years ago. Allowing thirty words for each message, including address, date, and signature, this shows an average of nine words per minute per circuit. Thus it seems that while the transfer of energy over a wire in another department of electricity has been increased from a few hundred volts to 75,000 within the last twenty years, the transfer of words has fallen off during the same period and is now about one-fourth of what a wire is able to convey.

"Up to a few years ago there was strong opposition on the part of telegraph companies to the preparation of messages on tapes preliminary to their transmission, but it is now conceded that in no other way can the speed of a circuit be appreciably increased, and the perforated tape is coming into use even for unimportant advances in telegraphy.

"Four operators may be employed in perforating tapes by Morse key at the rate of twenty-five words per minute each, and the product of their united work sent through the mechanical transmitter and reproduced on a perforated tape at the distant station. This tape is then distributed among four local circuits where a perfect reproduction of the original characters are ticked off on the sounder and copied on the typewriting machine by the operator, just as if the characters were coming over the wire from the operator's key direct. As a matter of fact, the original manipulation of an operator in preparing the message is greatly improved by the perforating process, since all impulses, whether regularly or imperfectly made by the operator's key, make the same sized hole in the tape. The impulses over the line must therefore be all uniform. Of course, the variations in length of dashes or spaces will be faithfully duplicated on the receiving tape, but the evenness of impulses passing over the line from the uniform perforations greatly improves the general quality of the work. Obviously, the original preparation of the message and the transcription by sound may be carried on at any rate that the operator is capable of perforating

or reading by sound. For instance, a keyboard Morse transmitter can be used for perforation at fifty words per minute, there being no interruptions incidental to a line, and no operator at the distant end to limit manipulation by the perforating operator. Similarly, the operator reading by sound from the reproduced tape at the receiving station may regulate the speed of his tape to any speed that he is capable of reading and working his typewriter, and may confirm any doubtful word by looking at the perforation. Of course, transcription may be done by reading from the tape direct by those not proficient in reading by sound.

"An inexperienced operator at some way station may perforate 10 words per minute, the message goes over the line at 100 words per minute and is transcribed by sound, locally, at the receiving station at 25 words per minute. Ordinarily, if this message was sent directly over the line the entire use of the wire would be monopolized by the slow operator.

"For through business, New York to San Francisco, for instance, a tape can be reproduced in Buffalo and used for retransmission into a Chicago circuit, where another reproduction can be used for transmission to Denver, then again reproduced at Salt Lake, and finally at San Francisco, at 100 words per minute, as against an average of about 12 words by the present Morse method, using five or six automatic repeaters. Instead of perforating tapes, repetition may be effected by the movement of the perforating levers, or perforation and repeating may be done simultaneously at any station. Duplexed, this system would yield 200 words per minute in perfect Morse and without the slightest deviation from the regular Morse method, the sender working his key and the receiver copying by sound, while the message capacity of the duplexed wire is increased from about 40 words per minute to 200.

"A most important application of this system will be for the distribution of press news. Drop copies can be made at 100 words per minute at thirty or forty way offices, either perforated on a tape for operation of a local sounder at any speed desired or recorded in plain dots and dashes for deliberate transcription by those who can not read by sound. A linotype operator knowing the Morse code will be able to compose directly from the tape. The reproduced perforated tapes may be used for retransmission over other circuits, so that a news dispatch perforated in New York may be distributed all over the country and newspapers now too poor to buy press matter may be supplied at a nominal charge.

"Coming now to the system of rapid automatic telegraphy, or the 'telepost' which records 1,000 words per minute in plain Morse characters, the electrostatic capacity of a line is its capacity to hold current, and this capacity has to be satisfied before a signal can be manifested at the distant station, and the charge left in the wire after the signal has been delivered must be discharged to ground or neutralized by a reverse current before another signal can arrive. The electrostatic capacity of the wire is increased by its envelope, whether it be air or insulating material. The static discharge after each impulse runs out at the ends of the wire, about two-thirds coming back to the sending station and one-third following the signal impulse on to the receiving station. The portion coming back is an obstacle in the way of the next signal, and the portion running out has the effect of elongating the signal which it follows, and if the signals are too close together and the wire long enough, they will appear on the recording tape as a solid line without definition, so that letter p, comprising five dots, would look like letter l, which is a long dash. The remedies for this very troublesome obstacle in the past have been transmission of reverse impulses after each signal, so as to neutralize the static discharge in the line, or connecting the line to ground after each signal, so as to let the static run out. Another way was to put artificial leaks or partial grounds at different points along the line and work over them by surplus power. The first of these remedies is the only one that is practically effective, as the static discharge can be neutralized in about one-tenth of the time taken for its discharge to ground.

"In this system three very important factors are combined for obtaining the best result from a telegraph circuit: First, a positive current sufficiently powerful to make the record electro-chemically in the shortest possible time; second, a regulable source of electrostatic capacity for use where the normal capacity is not enough to make a dash; third, adapting the power of the negative current to the electrostatic capacity of the line, normal or artificially augmented, to give the record the maximum plainness consistent with safe separation of the characters, so as to make transcription easy and accurate.

"It is thought that in this organization is reached the highest signaling efficiency for all conditions of lines—overhead, underground, long or short. There are no electro-magnets to energize, no armature to actuate, no inertia to overcome, or electro-mechanical work to do. The chemically prepared tape is a part of the circuit, and the characters are made simply by the current passing through it. Once installed on a line, there is practically no adjusting to do. A change in weather conditions sufficient to put out of operation any electro-magnetic system does not seriously interfere with the electro-chemical. Half the current might be suddenly diverted during transmission without loss of any of the characters. The record would be fainter, but no impulses would be missing.

"The system can be superimposed on a telephone circuit and worked simultaneously with telephony at about two-thirds of its independent speed.

"While our time has been taken up altogether with the main electrical methods, it may be said that there are numerous features of operation and control which are indispensable for practical commercial telegraphy. The demonstration will show that as the tape bearing the message comes from the perforator it is automatically wound upon a reel, and whether there be one or a dozen messages, or 500 words of press, the tape is a single unit and goes through the transmitter last and first.

"At the receiving station the tape is also wound upon a reel, which brings it right end first for transcription. The received tape is drawn in plain view of the transcribing operator by means under his own control, not continuously moving, but in fixed stops, so that it is at rest while being read. The receiving machine is under control of the transmitting station. When the transmitting lever is put down to start the tape an impulse is sent which starts the receiving tape. When the transmitting tape runs out another impulse is automatically sent which stops the receiving tape. Should the receiving operator wish to stop the transmitting machine he can do so, and the transmitting operator can stop the receiving machine at any stage. Should the wire come accidentally in contact with another both machines would be thrown out of operation.

"It is only by the utilization of the full facilities of a wire that a telepost service can be established. Cheap rates are impossible at 9 words a minute. At 500 to 1,000 words per minute the charges can be

brought to apply to ordinary correspondence now sent by rail. When a letter of 50 words filed in the telepost office in Philadelphia can be dropped in a post-office in Chicago or any other city within half an hour for 25 cents, an enormous traffic will be speedily developed. It will be entirely feasible for business houses or newspaper correspondents to compose their letters or reports on a tape in their own offices by keyboard machine, send the tape in a roll to the telepost office, where it will be forwarded without delay, and have the record tape delivered to the party at the other end for private transcription. In this way correspondence would be absolutely private, for, if desired, the perforated tape could be returned to the sender. Here the telegraph toll would be merely nominal.

"There is nothing now between the high-priced telegram and the 2-cent stamp, of which over \$100,000,000 worth are used yearly. The argument of the telegraph companies has been that telegraphing is an emergency business. People only use it when compelled to, and then are willing to pay the price. This position is in strong contrast with every other art or industry, and must surely give way to a more enterprising policy, and all correspondence of any importance whatever will be telegraphed. Words will go by wire instead of by train. To restrict the use of a wire by working it at from 9 to 40 words a minute when it is capable of carrying 1,000 words is wasteful.

"To put a letter in a bag, cart it to the train, haul it a thousand miles, and then cart it to the post-office, is slow. Between those two methods of communication it is thought there is room for the telepost."

During the lecture 100 words per minute were transmitted from a perforated tape and reproduced in perforations at the receiving end of a 500-mile artificial line. The received tape was then run through a local sounder circuit, yielding perfect Morse at speeds ranging from 10 to 60 words per minute. Over the same line by the rapid automatic or telepost system 1,000 words per minute were plainly recorded in Morse characters on a chemical tape.

Investigation of Controversies Between Capital and Labor by Commissions Appointed by the President.

We are asked to pass a bill that the people or the press of the country have not petitioned for; one that is of great importance to both capital and labor, yet neither has been heard in its favor.

SPEECH

OF

HON. WILLIAM H. RYAN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. RYAN said:

Mr. SPEAKER: In opposing this bill I am fully aware of the responsibilities I assume, but being firmly convinced of the correctness of my position I will proceed.

This, to my mind, is a peculiar situation, but Congress has had many queer conditions in the last few years.

The country has run a mighty hard race, from San Juan Hill to phonetic spelling; we have seen the legend "In God we trust" stricken from the coin of the realm and children cast aside their dolls for "Teddy bears."

That Congress has refused to answer the demands of the people for legislation none can deny. Petitions for revision of the tariff have been presented from every district in the country, and yet those in control of this House deny the demands of the people, while all must admit that the demands are justified.

The demands of labor, as pointed out many times this session and fully set out in labor's protest to Congress presented a few days ago by the representatives of national and international trade and labor unions and organizations of farmers, are still pending.

Financial legislation, demanded on all sides, has given rise to an endless discussion of proposed measures, and the enactment of a law that was bitterly opposed by men who have made finance a life study.

We are asked, however, to pass a bill that the people or the press of the country have not petitioned for, that is of great importance to both capital and labor, yet neither have been heard in favor of it.

NO DEMAND FOR ARBITRATION LAW.

Mr. Speaker, in the time that I will occupy I will endeavor to show that there is no demand for the pending bill either by employers, employees, or the public, that it will serve no good purpose, and ought not to pass.

The bill provides—

That whenever a controversy concerning wages, hours of labor, or conditions of employment shall arise by reason of which controversy the free and regular movement of commerce among the several States and with foreign nations is, in the judgment of the President, interrupted or directly affected or threatened with being so interrupted or directly affected, the President may, in his discretion, inquire into the same and investigate the causes thereof, in accordance with the provisions of this act.

The bill provides, further, that the President shall appoint a special commission, not to exceed seven in number, of persons

with power, to require in each case, before said commission, the attendance of witnesses, the production of books, papers, documents, and so forth, and with authority to employ experts.

Further, that having made such investigation and ascertained the facts connected with the controversy into which it was appointed to inquire, the commission shall with all convenient dispatch formulate its report thereon, setting forth the causes of the same, locating, as far as may be, the responsibility therefor, and making such specific recommendations as shall in its judgment put an end to such controversy or disturbance and prevent a recurrence thereof, suggesting any legislation which the case may seem to require.

It is also provided that the Secretary of Commerce and Labor shall provide suitable offices, and so forth, and incidentally that each commissioner shall receive not to exceed \$30 per day and all expenses.

Mr. Speaker, this bill was pending during the Fifty-ninth Congress, and the only persons examined at the hearings held on the bill were Hon. James R. Garfield, the Commissioner of Corporations, in the Department of Commerce and Labor, and Hon. Charles P. Neill, Commissioner of Labor, same Department.

An article favoring legislation of this character, from Charles Francis Adams, was submitted by the gentleman from Michigan [Mr. TOWNSEND] and a draft of a bill by Mr. John P. Palfrey, of Boston, Mass. This is all of record that was obtained by the Committee on Interstate and Foreign Commerce on this important measure.

It was understood that the bill would not be called up in the House last Congress; it was allowed to die. Practically the same bill, without any additional investigation, was reported at this session, and we are asked to pass it, and not 10 per cent of the Members of the House have given it any consideration.

In order to show to the House that there is opposition to this bill, I will read a letter I received from Mr. Samuel Gompers, president of the American Federation of Labor, which letter I read to the committee before the bill was reported:

WHAT LABOR'S REPRESENTATIVES SAY.

AMERICAN FEDERATION OF LABOR,
Washington, D. C., January 27, 1908.

Hon. WM. H. RYAN, Washington, D. C.

DEAR SIR: Having been asked to express my opinion upon H. R. 4857, introduced by Mr. TOWNSEND on December 5, 1907, first session of the Sixtieth Congress, I submit the following:

Ostensibly the bill has for its purpose the investigation of controversies affecting interstate commerce by commissions appointed by the President. As a matter of fact, it goes much further. No one will pretend to say that all disputes, controversies, or strikes between employees and employers are unjustified, unnecessary, or that they have not been beneficial in their results, and yet section 7 of the bill provides that the commissions shall, in addition to formulating their report, set forth the causes of the controversies, locating the responsibility therefor, and make specific recommendations to "put an end to such controversy or disturbance and prevent a recurrence thereof, suggesting any legislation which the case may seem to require."

Section 6 gives the Commission power to employ experts to examine accounts, books, or official reports or "to examine and report on any matter material to the investigation;" in other words, with certain other provisions of the bill, make it possible for a "dragnet" investigation to be gone into which astute counsel for corporations may demand. It is true that on the surface this is apparently impartial in its application, but, on the one hand, corporate employers particularly have the adaptability to so formulate their procedure as to avoid or evade the technical matters coming within the purview of the investigation of such commission, while, on the other hand, workmen and workmen's organizations usually state plainly and bluntly the things they undertake to do. In the first case it may be the secret arrangement of a few; in the other it is the actions and declarations of vast numbers, which, however discretely declared and decided, must of necessity be an open act.

Section 4 makes an apparent impartial provision—that is, the parties to any controversy shall be entitled to be present in person or "by counsel." It is seldom that organizations of labor can avail themselves of counsel of the first class. Yet these are always available to employers and great corporations.

In the history of the administrations of the industrial courts of arbitration in Australasia one of the great causes of complaint has been the very fact of the appearance of counsel in cases coming before the courts, and yet the right to appear by counsel in any procedure can not be very well denied.

Section 5 vests the commissions with the same powers and to a similar extent which obtain "under the same conditions and penalties" as are vested in the Interstate Commerce Commission. When it is borne in mind that any cases coming before the Interstate Commerce Commission penalties imposed having thus far remained uncollected, and that in cases in which workmen are involved they have been compelled to suffer imprisonment, it is not difficult to discern how in practice provisions of this character would militate against the workers.

The law passed by the Canadian Parliament for the compulsory investigation of controversies between workmen and employers is subject to much adverse criticism. It is still too young in its operations to admit of justified final judgment.

The compulsory arbitration law of New Zealand and other Australasian countries is admitted to be a failure of its purpose. Owing to the determined attitude of organized labor, we have in the United States escaped the enactment of a compulsory arbitration law in many States, and perhaps in the United States. Employers have generally agreed with labor as to the undesirability, the ineffectiveness, and the injustice of such a law, and I have not any hesitancy in declaring my belief

that such a bill as the one under consideration simply means the fore-runner of an attempt at compulsory arbitration by law.

You asked me for my opinion of the Townsend bill. I have crowded in the above a few of the thoughts which I have upon the subject. I am so overwhelmed with other important duties requiring my immediate attention that I can not enter into a fuller discussion of the subject.

Very respectfully, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 23, 1908.

Hon. WILLIAM H. RYAN,
House of Representatives, Washington, D. C.

DEAR SIR: A month or two ago, having been asked to express my opinion upon H. R. 4857, introduced by Mr. TOWNSEND, I wrote to you at considerable length upon the subject dealt with in that bill.

In addition thereto I desire to say that a friend of mine having the same subject in mind addressed a letter to me in the nature of a protest against the passage of the Townsend bill or the principles involved in it, and because it is so pertinent let me quote what he said:

"The open door to compulsory arbitration is the official investigation and report; that is, official arbitration by the Government. The only plausible argument for officialism in labor disputes is the creation, or manufacture, of 'correct' public opinion as to the merits of each dispute as it arises. It is said not to be the design of the advocates of officialism to decide such controversies, but only to investigate and report, thus giving publicity to the facts. But to make a public report in such cases will necessarily involve the passing of judgment. How will these ex cathedra judgments be colored? With the press in the hands of capitalists and the official investigators holding office through political influence emanating from political bosses or political power behind whom are the large employers of labor, could labor expect a proper consideration of its side or a fair presentation to the public of its contentions? Would not the bureau or commission become a sort of capitalistic or commercial priesthood?"

"Such a law would be either thus perverted and turned against labor, or it would be a dead letter. In either aspect of the case it should be opposed."

"There can be no arbitration except where the disputants mutually and voluntarily consent. The initiative should be private, not official. Voluntary arbitration, the only sort that is worth mentioning, is being resorted to almost every day. For this no law is needed. Here the Government—that is to say, political power—should keep its hands off. Moreover, any such law, if resisted, would fail to stand the test of constitutionality."

"But let the bureau, commission, or whatever it may be called, be once established, even if without compulsory jurisdiction, and a cry will at once be set up for power to enforce its decrees. Therefore the description of official investigation and report as the open door to compulsory arbitration is correct."

Now, as to arbitration boards or compulsory arbitration, let me say that organized labor of the United States has from the first opposed the policy or principle of compulsory arbitration, for compulsory arbitration is nothing more nor less than compulsory abiding by the award rendered by the arbitrators.

We hold that to enforce an award against employees, backed up by the law and by the Government, is confiscation. On the other hand, the enforcement of an award by law and by the Government, when such an award is against workmen, involves compulsory enforcement of involuntary servitude; in other words, slavery. And let me add that experience has demonstrated the soundness of contention of the working people of the United States. The compulsory-arbitration law of New Zealand and other Australasian countries is admitted to be a failure of its purpose.

About ten years ago a Mr. Lusk came to the United States, and for months entered upon a campaign to convince our people, particularly the employers, that they should follow in the course of New Zealand and adopt compulsory arbitration. It was my privilege at the time to be present on one of the occasions when Mr. Lusk was addressing an influential public meeting. I took the issue with him, and though made to bear the brunt of adverse criticism by the opponents to our movement and through a portion of the public press, the position I took was thought compelling.

For several years we had to meet the advocates of compulsory arbitration in the various legislatures and in the United States Congress, as well as upon the public platform. A turn in the tide of opinion came and employers generally agreed with labor that compulsory arbitration should not be made part of our economic or political system—that is, compulsory arbitration by the State or nation. Owing to the attitude of organized labor we have therefore escaped the enactment of compulsory-arbitration laws in the States and in the United States. Employers and those having the better understanding of industrial conditions and the industrial relations of employer and employees saw the undesirability and ineffectiveness and, above all, the injustice of such a law.

Organized labor believes in a policy of conciliation and arbitration, but believes in arbitration only where conciliation has failed, and it contends that arbitration when entered into should be voluntary, and voluntarily and faithfully abiding by an award rendered; that this is the only method to obtain and maintain the largest degree of industrial peace consistent with human liberty.

I should add that we believe in an investigation of some of the industrial disputes and controversies which arise, but I am fully persuaded that the fullest advantages and best results with the least injury to the people and their rights would accrue from unofficial or quasi-official investigation, rather than investigations conducted by a commission created by law with power, with penalties, punishments, and what not.

It is exceedingly interesting to note to what extent some men want other men to do by law, and let me add that I have no hesitancy in declaring my sincere convictions that such a bill as the Townsend bill simply means the forerunner of an attempt at compulsory arbitration by law with all that that implies.

Very respectfully, yours,

SAM. GOMPERS,
President American Federation of Labor.

Mr. Speaker, those letters, it seems to me, should be sufficient to warrant this House to go slow.

PRESENT LAW ADEQUATE.

There is now on the statute books the law of 1898, known as the "Erdman Act," bearing on this very question.

In the act creating the Department of Commerce and Labor the Bureau of Corporations is authorized to investigate corporations engaged in interstate commerce. In the same act the Bureau of Labor is given authority to investigate individuals or partnerships—all power necessary to proceed unless it is desired to provide for compulsory arbitration.

That there may be no doubt as to how the organizations of employees of railroads look upon this proposed legislation I will read a letter I hold in my hand, signed by Mr. H. R. Fuller and Mr. M. N. Goss:

ORGANIZATIONS OF RAILROAD EMPLOYEES.

WASHINGTON, D. C., March 17, 1908.

Hon. W. H. RYAN, M. C.,
Washington, D. C.

DEAR SIR: On behalf and by authority of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Brotherhood of Railroad Trainmen, and Order of Railway Conductors, we earnestly and respectfully express the opposition of these organizations to the passage of House bill No. 15447, entitled "A bill for the investigation of controversies affecting interstate commerce, and for other purposes," our reasons for such opposition being expressed in the attached letter bearing the signatures of the chief executive officers of the above-named organizations.

Respectfully submitted.

H. R. FULLER,
Legislative Representative Brotherhood of Locomotive
Engineers, Brotherhood of Locomotive Firemen and
Enginemen, Brotherhood of Railroad Trainmen.
M. N. GOSS,
Legislative Representative Order of Railway Conductors.

WASHINGTON, D. C., March 16, 1908.

MESSRS. H. R. FULLER and M. N. GOSS,
Legislative Representatives, Washington, D. C.

GENTLEMEN: For the members of the organizations we represent you are authorized to oppose the passage of H. R. 15447, a bill for the investigation of controversies affecting interstate commerce, and for other purposes.

Legislation such as this bill contemplates is not sought by the railway employees, and is otherwise objectionable. We believe that the bill tends toward compulsory arbitration, which principle we oppose. We are in favor of publicity in all things pertaining to the relations between capital and labor, and of any method or plan that is economically right that will minimize industrial warfare, but we do not any more believe in settlement of these questions under Government domination than we do in government by injunction.

We believe that there is now sufficient law on the subject. The law approved June 1, 1898, known as the "Erdman Act," provides adequate means for mediation, conciliation, and voluntary arbitration. Anything more would, in our judgment, be oppressive.

Yours, truly,

W. S. STONE,
Grand Chief Brotherhood of Locomotive Engineers.
J. J. HANNAHAN,
Grand Master Brotherhood of Locomotive Firemen and Enginemen.
A. B. GARRETTSON,
President Order Railway Conductors.
P. H. MORRISSEY,
Grand Master Brotherhood of Railroad Trainmen.

The Brotherhood of Locomotive Firemen and Enginemen, in the following resolutions adopted at a meeting held in Washington recently, reiterate their position in regard to the Townsend bill:

PETITION OF THE BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN.

PETITION OF THE Brotherhood of Locomotive Firemen and Enginemen praying for the enactment of legislation to require common carriers to equip their locomotives with automatic self-dumping ash pans; and also for the passage of the so-called "La Follette-Sterling employers' liability bill," etc.

WASHINGTON, D. C., March 31, 1908.

SIR: The undersigned, a committee representing a union meeting composed of 1,000 delegates representing the Brotherhood of Locomotive Firemen and Enginemen from thirty States, held at Masonic Temple, Washington, D. C., March 30, 1908, respectfully submit for the consideration of the Senate the following memorial adopted by said meeting:

"Resolved, That we favor the early consideration and passage by Congress of the Hemenway-Graff bill, requiring common carriers to equip their locomotives with automatic self-dumping ash pans, thereby doing away with the necessity of men exposing themselves to danger by being compelled to go under locomotives."

"Resolved, That we favor the passage by Congress of the La Follette-Sterling employers' liability bill, as against the Knox bill. The former being broad in its application and plain and explicit in its terms, thereby furnishing protection to a greater number of employees and their families, and being capable of intelligent understanding by those who would benefit by its provisions, while the latter bill is limited in its scope, less liberal to the employees, and contains principles which are experimental and untried in legislation, and which would not be understood by many affected by it."

"Resolved, That we are unalterably opposed to the passage of the Townsend bill, entitled "A bill to provide for the investigation of controversies affecting interstate commerce," as we believe said bill aims at governmental regulation and control of labor disputes, is a step toward compulsory arbitration, and therefore threatens our liberties, both as employees and citizens."

"Resolved, That we view with increasing alarm the steady and gradual encroachment upon our liberties by Federal judges through the abuse of the power of injunction in labor disputes, such power having already been extended so as to prevent workmen from striking and from

organizing. We protest against this abuse, and demand the passage by Congress of such legislation as will preserve to us our civil rights and prevent the abuse of such power in the future."

Respectfully submitted.

JOHN M. HALL,
WILLIAM A. CAHOON,
Committee.

ONLY VOLUNTARY ARBITRATION EFFECTIVE.

The only arbitration that can be effective is voluntary arbitration. The plan proposed here would be no more effective than international arbitration, and the current history of our country is the best evidence I can offer at this time of the extreme ridiculousness of that great question.

This Government is annually appropriating hundreds of millions for war purposes, our plans for attack and defense provide for land forces, fleets at sea, submarines, and war balloons, and yet we welcome with great pomp the peace gathering in New York, and annually have delegates representing this country at The Hague. It reminds me of the energetic policeman who, when a fight was imminent on his post, said, "There will be no fight. I will preserve the peace if I have to kill every man in the crowd."

In a work entitled "Capital and Labor," edited by John D. Peters and published in 1902, appears the following comments on this question by men whose opportunities to judge can not be questioned:

Samuel Gompers, president American Federation of Labor, says:

Arbitration is only possible when voluntary. It never can be successfully carried out unless the parties to a dispute or controversy are equals or nearly equals in power to protect or defend themselves. The more thoroughly the workers are organized in their local and national unions and federated by common bond, policy, and polity the better shall we be able to avert strikes and lockouts, to secure conciliation, and, if necessary, arbitration; but it must be voluntary arbitration, or there shall be no arbitration at all—voluntary in obedience to the award as well as voluntarily entered into.

It is our aim to avoid strikes, but I trust that the day will never come when the workers of our country will have so far lost their manhood and independence as to surrender their right to strike or refuse to strike. We seek to prevent strikes, but we realize that the best means by which they can be averted is to be the better prepared for them. We endeavor to prevent strikes, but there are some conditions that are far worse than strikes, and among them is a demoralized, degraded, and debased manhood. Let our attitude be misconstrued, we emphatically, and without ambiguity, declare our position. The right to quit work at any time, and for any reason sufficient for the workman himself, is the concrete expression of individual liberty. Liberty has been defined as the right to move freely from place to place. Hence any curtailment of this right, by or through law, or by and through contract enforced by law, is, in fact, a negation of liberty and a return to serfdom.

Mr. Gompers says further:

Unions of labor endow the workers with individual dignity and individual freedom. The unions prescribe a minimum living wage, not a maximum wage. They insist upon a living rate, and never hinder an employer from rewarding superior skill or merit, the charge of labor's enemies to the contrary notwithstanding.

American labor has been clearly demonstrated to be the cheapest in the world, in spite of the higher wages prevailing here; the cheapest because the most efficient, intelligent, alert, conscientious, and productive. American manufacturers have conquered the markets of the world and have defeated their competitors on the latter's own ground, and yet a sycophantic press would have the world believe that the most skilled, the most progressive American workmen, those organized into unions, have sacrificed their dignity and individuality and leveled themselves down to the least capable. Never was America's foreign trade so stupendous as now, and never was labor better organized or more alive to its interests than in our day.

Compulsory arbitration is the very antithesis of freedom and order and progress. On the one hand, it would mean confiscation of property; on the other it involves slavery; and the enforcement of either or both of these is the beginning of the end, the death knell of the industrial and commercial superiority of America.

JOHN MITCHELL.

John Mitchell, whom no one will deny has done a great work in improving the conditions of the United Mine Workers of America, is quoted in this work on this very question as follows:

Arbitration has been advocated by many eminent and worthy people for many years, but I am glad to note that the advocates of compulsory arbitration are growing fewer with each succeeding year, and that there is a corresponding increase in the number of those who favor voluntary arbitration. Arbitration, to be practical, to be beneficial, must be entirely voluntary. Compulsion and arbitration are in themselves contradictory terms; there can be no real arbitration that is compulsory, and were the people of our country forced to agree that arbitration should become compulsory, that penalties should be inflicted upon either the employed or the employing classes for a failure to accept the award of a board of arbitration, it would destroy every principle of free government, and I am free to confess that I know of no method by which compulsory arbitration could be adopted which would not mean the imprisonment of those who refused to accept the decisions of boards of arbitration, providing they were unable or unwilling to pay fines.

State boards of arbitration, created by our legislatures, have been tried in many of our States, and I believe that much good has been accomplished by such boards; but I am satisfied that they have accomplished good while acting as boards of conciliation, rather than as boards of arbitration.

In the State of Illinois we have a State board of arbitration, through whose efforts many strikes have been settled, and I believe that in a majority of cases this result was attained by the board exercising their power as conciliators.

Martin Fox, president of Iron Moulders' Association of America says:

I recognize, of course, that were it possible always to guarantee a tribunal to adjudicate upon a dispute which could and would do full justice to all interests, compulsion, both in arbitrating and in enforcing the award, could be justified. We know, however, that among men as at present constituted such a guaranty is impossible. We know, also, that there is not a perfect community of understanding among the classes upon what is called the labor problem. That being the case, it would be an extremely difficult matter to constitute a court of arbitration which would have the entire confidence of the interests involved, and hence to secure a court whose findings would be satisfactory.

I am strongly of the conviction that, in a country like the United States, where there are so many diverse interests, so many views, and so many instances in which the interests of capital are placed before those of labor, compulsory arbitration is thoroughly impracticable, and its principal is thoroughly obnoxious to the American citizen. The citizen can not afford to lend his assent to any governmental institution which, in the capacity of a court having power to enforce its award, could compel him to submit to conditions of labor which are obnoxious to him, under penalty of fine or loss of liberty.

COMPULSORY ARBITRATION IN NEW ZEALAND.

Australasia has been spoken of in connection with the arbitration question and the New Zealand law has been referred to as an example of how successful the law has been administered there and the good results following its enactment. I have some data here on that very point and I will show by competent authority that the law itself has failed of its purpose and that the conditions in that land are not similar to conditions here.

Hon. Carroll D. Wright, former United States Labor Commissioner, says on that point:

The experience of New Zealand is giving some impetus to the doctrine of compulsory arbitration, but the fact is, the experience of New Zealand can not be taken in any sense as a measure of what should be established in the United States. The industries of New Zealand are small and in their period of inception, while in the United States industry is organized on a large scale, with vast capital involved, large industrial armies employed, and the conditions of distances, of transportation, of cost, and of marketing entirely at variance with the conditions existing in New Zealand.

Taking another view of compulsory arbitration, it would seem that it must inevitably result in the destruction of trades unions. A union, a party to a suit in a compulsory court, must be able to sustain the penalty involved for a violation of the decree, either in damages, which must be met by a money payment, or in the loss of its charter. It is this particular condition which makes nearly all labor organizations in this country, especially those represented in the American Federation, antagonistic to the inauguration of a system of compulsory arbitration. Adverse decisions, the impossibility of obeying decrees of judgments, would mean inevitably the destruction of the unions involved and ultimately of trade unionism itself.

Thomas J. Hogan, general secretary of the National Association of Stove Manufacturers, says in relation to arbitration in New Zealand:

Compulsory arbitration has been suggested as a solution of the question, it being said to be in successful operation in New Zealand. While it may be a solution of the problem in that country, it is hardly possible that it will ever obtain to any extent in this country. It is opposed to the principles of individual liberty and at variance with the spirit of our Constitution to compel men's action contrary to their own will. There is no law to compel a man to work if he does not want to, nor to prevent a man closing down his works if he elects to do so.

The following from the pen of J. Gratton Grey shows the result of the attempt to settle disputes under the arbitrations of New Zealand and how it failed of its purpose:

In June, 1901, Mr. Ballance, premier of New Zealand and leader of Labor Liberal party, had established a labor department, with a minister at the head, and he appointed Mr. W. F. Reeves minister. Mr. Reeves had identified himself very considerably with labor interests, and had complained bitterly that the industrial classes had been scandalously neglected by successive administrations and Parliaments. Consequently, it was considered that no better selection could have been made, and Mr. Reeves justified the confidence reposed in him by the general mass of the people. Labor enactments followed in rapid succession, and besides this the labor department became a real live and useful institution of the state. While Mr. Ballance lived and Mr. Reeves remained at the head of the labor department an immense amount of good was done on behalf of the industrial classes; but after Mr. Ballance's death and Mr. Reeves's departure for London, abuses soon manifested themselves, and it is therefore much to be regretted that Mr. Reeves did not continue to control the labor department, as he would never have permitted the scandalous use that has since been made of it for political purposes.

RAILWAY EMPLOYEES' ORGANIZATIONS.

Mr. Speaker, at the present time all the railway employees' associations act more as arbiters than in any other capacity.

Their by-laws provide for an amicable settlement of all questions wherever such a settlement can be reached in an honorable manner.

The chief executive officers of these associations are frequently requested to take part in the conferences between officials of the railway companies and committees of employees by the railway officials themselves.

The officials who refuse to recognize the employees' associations now are in the minority and their number is constantly growing less.

It is obvious that where a company employs many thousands of men it is better for the employer to do business with them in an orderly way by means of committees than it is to attempt to do so by the individual plan.

The broad-minded operating officials of the present time openly state that they would not care to dispense with these associations. They claim in many instances that they are an absolute necessity for the proper administration of affairs.

They insure industrial peace by contract. They make wage questions easy to handle and furnish a means of settling other kinds of disputes that are inseparable from the business along strictly equitable lines. The committees enable the officials to get through with wage and grievance questions quickly, thus giving the officials more time to attend to other administrative duties.

Before the advent of these associations strikes were quite frequent and very disastrous in character. For reference see reports on Pennsylvania Railroad troubles in 1877, New York Central strike in 1888, Southwestern strike in 1886, American Railway Union strike in 1894, and many others. The present-day railway employees' associations were then in embryo, and their successful work was made possible by the mistakes made by other associations.

More settlements are made by these associations than the public is aware of. For instance, the Order of Railroad Telegraphers made fifty-nine amicable settlements in the year 1907, and the year was free from strikes as far as that association was concerned. The conferences are private, and the public does not hear about them.

The public hears about strikes, the worst feature in organization, but does not hear about the friendly settlements, the best side of organization.

It is constantly said that strikes are bad for the wage-earner. It may look so on the surface, but the fact is the reverse. Each strike is made so expensive for the employer that he sees the error and will do better next time rather than stand such another experience. The weakest organization on the railroads can teach its employer a lesson in ethics, and frequently does so.

If strikes were losing propositions for the employees, they would not be instituted, and the employees' associations would go to pieces because of it. The working people are more intelligent than lawyers and judges give them credit for, but they are not so thrifty and avaricious as the average employer.

The employer in the past has taken a greater part in the framing of laws than the employee; hence the statute books are full of speciously worded laws that favor the employer as against the interests of the employee. In other words, the rich have made the laws for the poor. But this phase is now undergoing a change, and the world is better for it.

The employee does not court favor or charity or special privilege. He does not want that which does not by right belong to him. He simply demands justice.

The truth is on the side of the worker, or he would have been crushed long ago. The employer has the best lawyers, writers, and purchasable brains in the country, while the worker can only confront them all with the naked truth.

RECENT COURT DECISIONS.

Mr. Speaker, organized labor in this country has been given some very hard raps recently. The decisions of the Supreme Court declaring unconstitutional the employers' liability act came first, then the Adair case was decided, where the court held the act of June 1, 1898, known as the "Erdman Act" unconstitutional in so far as it protected members of labor organizations from being discharged from their positions because of such membership, and soon after came the decision in the United Hatters case, where the court decided that the Sherman antitrust law applied to labor unions.

This record has fallen as a heavy blow on labor unions, and to add to this list the abuse of the power of injunction by the circuit courts, as evidence, in the order granted in the circuit court of the United States for the northern district of West Virginia, have aroused a righteous indignation among the wage-workers of the country, as the very existence of their organization is imperiled. This feeling resulted in the recent national conference of representatives of trade labor unions and organizations of farmers that was held in Washington and the presentation to Congress of labor's protest as follows:

LABOR'S PROTEST TO CONGRESS.

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 19, 1908.

We, the official representatives of the national and international trade and labor unions and organization of farmers, in national conference assembled, in the District of Columbia, for the purpose of considering and taking action deemed necessary to meet the situation in

which the working people of our country are placed by recent decisions of the courts, now appear before Congress to voice the earnest and emphatic protest of the workers of the country against the indifference, if not actual hostility, which Congress has shown toward the reasonable and righteous measures proposed by the workers for the safeguarding of their rights and interests.

In the name of labor we now urge upon Congress the necessity for immediate action for relief from the most grave and momentous situation which has ever confronted the working people of this country. This crisis has been brought about by the application by the Supreme Court of the United States of the Sherman antitrust law to the workers, both organized and in their individual capacity.

Labor and the people generally look askance at the invasion of the court upon the prerogatives of the law-making and executive departments of our Government.

The workers feel that Congress itself must share our chagrin and sense of injustice when the courts exhibit an utter disregard for the real intent and purpose of laws enacted to safeguard and protect the workers in the exercise of their normal activities. There is something ominous in the ironic manner in which the courts guarantee to workers:

The "right" to be maimed and killed without liability to the employer;

The "right" to be discharged for belonging to a union;

The "right" to work as many hours as employers please and under any conditions which they may impose.

Labor is justly indignant at the bestowal or guaranteeing of these worthless and academic "rights" by the courts, which in the same breath deny and forbid to the workers the practical and necessary protection of laws which define and safeguard their rights and liberties and the exercise of them individually or in association.

The most recent perversion of the intent of a law by the judiciary has been the Supreme Court decision in the *Hatters' case*, by which the Sherman antitrust law has been made to apply to labor, although it was an accepted fact that Congress did not intend the law to so apply and might even have specifically exempted labor but for the fear that the Supreme Court might construe such an affirmative provision to be unconstitutional.

The workers earnestly urge Congress to cooperate with them in the upbuilding and educating of a public sentiment which will confine the judiciary to its proper function, which is certainly not that of placing a construction upon a law the very opposite of the plain intent of Congress, thus rendering worthless even the very moderate efforts which Congress has so far put forth to define the status of the most important, numerous, and patriotic of our people—the wage-workers, the producers of all wealth.

We contend that equity, power, and jurisdiction, discretionary government by the judiciary for well-defined purposes and within specific limitations, granted to the courts by the Constitution, has been so extended that it is invading the field of government by law and endangering individual liberty.

As government by equity—personal government—advances, republican government—government by law—recedes.

We favor enactment of laws which shall restrict the jurisdiction of courts of equity to property and property rights and shall so define property and property rights that neither directly nor indirectly shall there be held to be any property or property rights in the labor or labor power of any person or persons.

The feeling of restless apprehension with which the workers view the apathy of Congress is accentuated by the recent decision of the Supreme Court.

By the wrongful application of the injunction by the lower courts the workers have been forbidden the right of free press and free speech, and the Supreme Court in the *Hatters' case*, while not directly prohibiting the exercise of these rights, yet so applies the Sherman law to labor that acts involving the use of free press and free speech, and hitherto assumed to be lawful, now become evidence upon which triple damages may be collected and fine and imprisonment added as a part of the penalty.

Indeed, the decision goes so far as to hold the agreements of unions with employers to maintain industrial peace to be "conspiracies" and the evidence of unlawful combinations in restraint of trade and commerce, thus effectually throttling labor by penalizing as criminal the exercise of its normal, peaceful rights and activities. The fact that these acts are in reality making for the uplift and the betterment of civilization as a whole does not seem to be understood or appreciated by the courts. The workers hope for a broader and more intelligent appreciation from Congress.

It is not necessary here to enter into a detailed review of this decision.

The workers ask from Congress the relief which it alone can give from the injustice which will surely result from the literal enforcement of the Sherman antitrust law as interpreted by this decision. The speedy enactment of labor's proposed amendment to the Sherman antitrust law will do much to restore the rights from which the toilers have been shorn.

We submit for consideration, and trust the same will be enacted, two provisions amendatory of the Sherman antitrust law, which originally were a part of the bill during the stages of its consideration by the Senate and before its final passage, and which are substantially as follows:

That nothing in said act (Sherman antitrust law) or in this act is intended, nor shall any provision thereof hereafter be enforced, so as to apply to organizations or associations not for profit and without capital stock, nor to the members of such organizations or associations.

That nothing in said act (Sherman antitrust law) or in this act is intended, nor shall any provision thereof hereafter be enforced, so as to apply to any arrangements, agreements, or combinations among persons engaged in agriculture or horticulture, made with a view of enhancing the price of their own agricultural or horticultural products.

It is clearly an unwarranted assumption on the part of the courts or others to place the voluntary associations of the workers in the same category as trusts and corporations owning stock and organized for profit.

On the one hand, we have the trusts and corporations, dealing with purely material things and mostly with the inanimate products of labor; on the other hand, there are workers whose labor power is part of their very life and being and which can not be differentiated from their ownership in and of themselves.

The effort to categorically place the workers in the same position as those who deal in the products of labor of others is the failure to discern between things and man.

It is often flippantly averred that labor is a commodity, but modern civilization has clearly and sharply drawn the line between a bushel

of coal, a side of pork, and the soul of a human, breathing, living man.

The enactment of the legislation which we ask will tend to so define and safeguard the rights of the workers of to-day and those who will come after them that they may hope to continue to enjoy the blessings of a free country as intended by the founders of our Government.

In the relief asked for in the proposed amendment to the Sherman antitrust law which we present to Congress labor asks for no special privileges and no exemption from the treatment which any law-abiding citizen might hope to receive in a free country.

Indeed, the present Parliament of Great Britain, at its session in December, 1906, enacted into law what is known as the "trades dispute act." It is brief, and we therefore quote its provisions in full:

"1. It shall be lawful for any person or persons, acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides or works or carries on his business or happens to be—

"(1) For the purpose of peacefully obtaining or communicating information.

"(2) For the purpose of peacefully persuading any person to work or abstain from working.

"2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be ground for an action if such act when committed by one person would not be ground for an action.

"3. An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid."

We submit that if such relief from the onerous conditions brought about by the Taff-Vale decision of the highest court of Great Britain can be enacted by a monarchical government, there ought to be no hesitancy in conceding it in our own Republic.

The unions of labor aim to improve the standard of life; to uproot ignorance and foster education; to install character, manhood, and an independent spirit among our people; to bring about a recognition of the interdependence of man upon his fellow-man. We aim to establish a normal work day; to take the children from the factory and workshop and give them the opportunity of the schools, the home, and the playground. In a word, our unions strive to lighten toil, educate their members, make their homes more cheerful, and in every way contribute an earnest effort toward making life the better worth living. To achieve these praiseworthy ends we believe that all honorable and lawful means are justifiable and commendable and should receive the sympathetic support of every right-thinking American.

Labor asks only for justice. It asks that it be not victimized and penalized under laws never intended to apply to it.

We hope for a prompt recognition on the part of Congress of the wage-workers' very reasonable and moderate insistence in this important matter.

In addition, the other most important measures which labor urges are: The bill to regulate and limit the issuance of injunctions—Pearre bill. Employers' liability bill.

The bill extending the application of the eight-hour law to all Government employees and those employed upon work for the Government, whether by contractors or subcontractors.

There are other measures pending which we regard as important, but we feel especially justified in urging the passage of those mentioned, because they have been before Congress for several sessions and upon which extended hearings have been had before committees, every interest concerned having had ample opportunity to present arguments, and there is no good reason why action should longer be deferred by Congress.

We come to Congress hoping for a prompt and adequate remedy for the grievances of which we justly complain. The psychological moment has arrived for a total change of governmental policy toward the workers; to permit it to pass may be to invite disaster even to our national life.

In this frank statement of its grievances the attitude of labor should not be misinterpreted, nor should it be held as wanting in respect for our highest lawmaking body.

That the workers, while smarting under a most keen sense of injustice and neglect, turn first to Congress for a remedy, shows how greatly they still trust in the power and willingness of this branch of the Government to restore, safeguard, and protect their rights.

Labor proposes to aid in this work by exercising its utmost political and industrial activity, its moral and social influence, in order that the interests of the masses may be represented in Congress by those who are pledged to do justice to labor and to all our people, not to promote the special interests of those who would injure the whole body politic by crippling and enslaving the toilers.

Labor is most hopeful that Congress will appreciate the gravity of the situation which we have endeavored to present. The workers trust that Congress will shake off the apathy which has heretofore characterized it on this subject and perform a beneficent social service for the whole people by enacting such legislation as will restore confidence among the workers that their needs as law-abiding citizens will be heeded.

Only by such action will a crisis be averted. There must be something more substantial than fair promises. The present feeling of widespread apprehension among the workers of our country becomes more acute every day. The desire for decisive action becomes more intense.

While it is true that there is no legal appeal from a Supreme Court decision, yet we believe Congress can and should enact such further legislation as will more clearly define the rights and liberties of the workers.

Should labor's petition for the righting of the wrongs which have been imposed upon it and the remedying of injustice done to it pass unheeded by Congress and those who administer the affairs of our Government, then upon those who have failed to do their duty and not upon the workers will rest the responsibility.

The labor union is a natural, rational, and inevitable outgrowth of our modern industrial conditions. To outlaw the union in the exercise of its normal activities for the protection and advancement of labor and the advancement of society in general is to do a tremendous injury to all people.

The repression of right and natural activities is bound to finally break forth in violent form of protest, especially among the more ignorant of the people, who will feel great bitterness if denied the consideration they have a right to expect at the hands of Congress.

As the authorized representatives of the organized wage-earners of our country, we present to you in the most conservative and earnest

manner that protest against the wrongs which they have to endure, and some of the rights and relief to which they are justly entitled. There is not a wrong for which we seek redress, or a right to which we aspire which does not or will not be equally shared by all the workers—by all the people.

While no Member of Congress or party can evade or avoid his or their own individual or party share of responsibility, we aver that the party in power must, and will, by labor and its sympathizers, be held primarily responsible for the failure to give the prompt, full, and effective Congressional relief we know to be within its power.

We come to you not as political partisans, whether Republican, Democratic, or other, but as representatives of the wage-workers of our country, whose rights, interests, and welfare have been jeopardized and flagrantly, woefully disregarded and neglected. We come to you because you are responsible for legislation or the failure of legislation. If these, or new questions, are unsettled and any other political party becomes responsible for legislation, we shall press home upon its representatives and hold them responsible, equally as we now must hold you.

SAM'L GOMPERS,
W. R. FAIRLEY,
JOS. F. VALENTINE,
T. C. PARSONS,
P. J. MCARDLE,
C. M. BARNETT,
W. D. MAHON,
Committee.

Officers of the American Federation of Labor.

Samuel Gompers, President;
James O'Connell, Third Vice-President;
Max Morris, Fourth Vice-President;
D. A. Hayes, Fifth Vice-President;
Daniel J. Keefe, Sixth Vice-President;
William D. Huber, Seventh Vice-President;
Joseph F. Valentine, Eighth Vice-President;
Frank Morrison, Secretary; and
John B. Lennon, Treasurer.

Executive Council American Federation of Labor.

George L. Berry, International Printing Pressmen's Union.
Norman C. Sprague, International Printing Pressmen's Union.
John P. Frey, Iron Molders' Union of North America.
G. M. Huddleston, International Slate and Tile Roofers' Union.
James Wilson, Pattern Makers' League of North America.
Richard Braunschweig, Amalgamated Wood Workers' International Union.
Charles R. Atherton, Metal Polishers, Buffers, Platers, and Brass Workers' Union.
A. B. Grout, Metal Polishers, Buffers, Platers, and Brass Workers' Union.
Jere L. Sullivan, Hotel and Restaurant Employees' International Alliance.
W. R. Fairley, United Mine Workers' Union of North America.
Thomas Haggerty, United Mine Workers' Union of North America.
A. McAndrews, Tobacco Workers' International Union.
E. Lewis Evans, Tobacco Workers' International Union.
James J. Freel, International Stereotypers and Electrotypers' Union.
W. F. Costello, International Steam and Hot Water Fitters and Helpers' Union.
H. T. Rogers, International Steam and Hot Water Fitters and Helpers' Union.
James O'Connell, International Association of Machinists.
Arthur E. Holder, International Association of Machinists.
A. McGilray, International Association of Machinists.
M. O'Sullivan, Amalgamated Sheet Metal Workers' International Alliance.
Thomas F. Ryan, Amalgamated Sheet Metal Workers' International Alliance.
J. E. Pritchard, International Pavers and Rammermen.
Thomas T. Maher, Amalgamated Sheet Metal Workers' International Alliance.
J. L. Feeney, International Brotherhood of Bookbinders.
C. M. Barnett, American Society of Equity.
O. D. Pauley, American Society of Equity.
Timothy Healy, International Brotherhood of Stationary Firemen.
Rezin Orr, Amalgamated Street and Electric Railway Employees.
W. D. Mahon, Amalgamated Street and Electric Railway Employees.
John A. Moffitt, United Hatters of North America.
Martin Lawlor, United Hatters of North America.
J. W. Kline, International Brotherhood of Blacksmiths and Helpers.
H. G. Poulesland, International Brotherhood of Blacksmiths and Helpers.
J. M. Cox, International Brotherhood of Blacksmiths and Helpers.
F. M. Ryan, Bridge and Structural Iron Workers' International Association.
William J. Barry, Pilots' Association.
A. B. Lowe, International Brotherhood of Maintenance of Way Employees.
W. W. Beattie, Commercial Telegraphers' International Union of America.
Wesley Russell, Commercial Telegraphers' International Union of America.
Percy Thomas, Commercial Telegraphers' International Union of America.
J. E. Davenport, International Brotherhood of Maintenance of Way Employees.
A. B. Wilson, International Brotherhood of Maintenance of Way Employees.
M. J. Shea, International Stereotypers and Electrotypers' Union.
James L. Gernon, Patternmakers' League of North America.
J. M. McElroy, Brush Makers' International Union.
T. A. Rickert, United Garment Workers of America.
B. A. Larger, United Garment Workers of America.
M. Zuckerman, United Cloth Hat and Cap Makers of North America.
H. Hinder, United Cloth Hat and Cap Makers of North America.
H. B. Perham, Order of Railroad Telegraphers.
A. T. McDaniel, Order of Railroad Telegraphers.
W. J. Gregory, Order of Railroad Telegraphers.
James F. Speirs, Brotherhood of Boiler Makers and Iron Ship Builders.
Thomas C. Nolan, Brotherhood of Boiler Makers and Iron Ship Builders.
William Grant, Brotherhood of Boiler Makers and Iron Ship Builders.
F. J. Kelly, International Photo-Engravers' Union.

William D. Huber, United Brotherhood of Carpenters and Joiners.
 James Kirby, United Brotherhood of Carpenters and Joiners.
 Samuel Gompers, Cigarmakers' International Union.
 G. W. Perkins, Cigarmakers' International Union.
 Thomas F. Tracy, Cigarmakers' International Union.
 J. T. Carey, International Brotherhood of Paper Makers of North America.
 J. B. Espey, International Brotherhood of Bookbinders.
 M. J. Kelly, International Brotherhood of Bookbinders.
 John F. Breen, Hod Carriers and Building Laborers' International Union.
 Max Morris, Retail Clerks' International Protective Association.
 J. A. Anderson, Retail Clerks' International Protective Association.
 Herman Robinson, Retail Clerks' International Protective Association.
 D. F. Manning, Retail Clerks' International Protective Association.
 John F. Tobin, Boot and Shoe Workers' Union.
 John P. Murphy, Boot and Shoe Workers' Union.
 William Silver, Granite Cutters' International Association.
 W. A. James, International Brotherhood of Stationary Firemen.
 F. M. Nurse, International Brotherhood of Stationary Firemen.
 J. C. Balhorn, Brotherhood of Painters, Decorators, and Paperhangers of America.
 Charles C. Bradley, American Wire Weavers' Protective Association.
 E. E. Desmond, American Wire Weavers' Protective Association.
 John A. Dyche, International Ladies' Garment Workers' Union.
 William J. Spencer, United Association of Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers.
 Joseph N. Weber, American Federation of Musicians.
 T. J. Sullivan, Hotel and Restaurant Employees' International Alliance.
 J. H. Williams, Order of Railway Telegraphers.
 F. L. Mahan, International Plate Printers.
 Ed. L. Schrack, International Plate Printers.
 John J. Hanrahan, Brotherhood of Locomotive Firemen and Engineers.
 A. P. Kelly, Brotherhood of Locomotive Firemen and Engineers.
 H. Brosmer, Brotherhood of Locomotive Firemen and Engineers.
 John Manning, Shirt, Waist, and Laundry Workers' International Union.
 C. A. Laffin, Brotherhood of Locomotive Firemen and Engineers.
 William H. Frazier, International Seamen's Union.
 T. J. Duffy, International Brotherhood of Operative Potters.
 Frank H. Hutchens, International Brotherhood of Operative Potters.
 Ed. Menge, International Brotherhood of Operative Potters.
 V. A. Olander, International Seamen's Union.
 Frank L. Ronemus, Brotherhood of Railway Car Men of America.
 George C. Griffin, United Brotherhood of Carpenters and Joiners of America.
 Louis Kemper, International Union of Brewery Workers of America.
 A. J. Kugler, International Union of Brewery Workers of America.
 William Hellmuth, International Union of Brewery Workers of America.
 T. C. Parsons, International Typographical Union.
 George G. Seibold, International Typographical Union.
 D. A. Hayes, Glass Bottle Blowers' Association.
 William Launer, Glass Bottle Blowers' Association.
 James J. Dunn, Glass Bottle Blowers' Association.
 F. H. Williams, Glass Bottle Blowers' Association.
 James McHugh, Journeymen Stone Cutters' Association.
 Daniel J. Keefe, International Longshoremen's Association.
 Thomas Gallagher, International Longshoremen's Association.
 T. A. Rickert, United Garment Workers of America.
 J. J. Flynn, Interior Freight Handlers and Warehousemen's Union.
 P. J. Flannery, Interior Freight Handlers and Warehousemen's Union.
 W. J. McSorley, Wood, Wire, and Metal Lathers' International Union.
 R. V. Brandt, Wood, Wire, and Metal Lathers' International Union.
 P. J. McArdle, Amalgamated Association of Iron and Steel Workers.
 John Williams, Amalgamated Association of Iron and Steel Workers.
 Jacob Fischer, Journeymen Barbers' International Union.
 Frank K. Noschang, Journeymen Barbers' International Union.
 John Golden, United Textile Workers of America.
 Albert Hibbert, United Textile Workers of America.
 Daniel J. Tobin, International Brotherhood of Teamsters.
 Matt Comerford, International Union of Steam Engineers.
 F. A. Didsbury, Pocket Knife Blade Grinders and Finishers' National Union.
 Edward W. Potter, Amalgamated Meat Cutters and Butcher Workers of North America.
 Homer D. Call, Amalgamated Meat Cutters and Butcher Workers of North America.
 H. L. Eichelberger, Amalgamated Meat Cutters and Butcher Workers of North America.
 A. L. Webb, Amalgamated Meat Cutters and Butcher Workers of North America.
 Frank Gehring, Lithographers' International Protective and Beneficial Association.
 J. F. Murphy, International Union of Elevator Constructors.
 Frederick Benson, International Seamen's Union.
 John H. Brinkman, Carriage and Wagon Workers' International Union.
 P. F. Richardson, International Car Workers.
 Joseph Reilly, United Brotherhood of Carpenters.
 I. B. Kuhn, Cigarmakers' International Union.
 Thomas McGilton, Brotherhood of Painters, Decorators, and Paperhangers.
 John Weber, Bakery and Confectionery Workers' International Union.
 James J. McCracken, International Union of Steam Engineers.
 James H. Hatch, Upholsterers' International Union.
 J. F. McCarthy, Hotel and Restaurant Employees' International Alliance.

Mr. Speaker, the American labor unions are entitled to more favorable consideration than is here proposed. The American wage-worker is the bone and sinew of the land; he is the means by which the country excels in the world of trade; he is the one who, in times of danger, must bear the brunt of battle; the country's producer in times of peace, and its defender in times of war, he is entitled to a square deal, and every fair and reasonable opportunity for advancement should be given him. Instead of adverse legislation, he should be uplifted and encouraged, and no such legislation as is here proposed should be enacted.

Philadelphia—Mother of Patriotism.

SPEECH

OF

HON. J. HAMPTON MOORE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. MOORE said:

Mr. SPEAKER: On page 6038 of the CONGRESSIONAL RECORD the gentleman from Mississippi [Mr. WILLIAMS], in the course of a running discussion with the gentleman from New York [Mr. PAYNE], gives utterance to an assault upon the city of Philadelphia. It is a glancing blow, the like of which is frequently sustained by the kindly old person of good intentions who plays the part of peacemaker between an obstinate husband and a scolding spouse. The two great leaders of partisanship in the House were throwing stones, and peaceful, by-standing Philadelphia was struck by a flying missile. Since the gentleman from Mississippi, however, reflected upon the political integrity of Philadelphia, I can absolve him from any personal feeling against the standard of life in the city which, in part, I have the honor to represent.

The gentleman from Mississippi is too appreciative of fairness and truth to do an injustice to a great people whose traditions and achievements are foremost in the annals of our country. He makes it clear that his assault was political, having special reference to the purity of elections, and to that extent it may be fair to invite a comparison of the political methods that hold in the respective States of Mississippi and Pennsylvania.

WHERE IS THERE NO NOTE?

In a population which now reaches 7,000,000 who would be surprised that flaws may be found; that frauds may be enacted; that crime may prevail; that the infidel and the fanatic and the misanthrope may stalk abroad? Have we more of them in Pennsylvania in proportion to the population than are to be found in Mississippi? Does not the very growth of a community require provision for the protection of the lives and health of the people? Does not regulation follow logically the trend of increase in population, and shall we cease to grow and cease to prosper because, perchance, a theft is committed or a public official plays false to his trust? Is the rule different in any other State? Does not every State establish its reformatories, its prisons, its insane asylums? Does not every State maintain its courts for the enforcement of its laws? Why are they necessary in every State, as they are admittedly necessary in Pennsylvania?

True, in the matter of elections, Pennsylvania has suffered long and painfully from the shafts of critics beyond her borders. She has suffered at the hands of the anonymous letter writer and the claptrap orator; yet she has steadily progressed; improved her natural opportunities and created wealth for her people, a wealth that has placed her second amongst the States of the Union. Responding to the demand of her people she has taken advanced ground in the matter of suffrage, and in some respects has thrown about the voter greater safeguards than are vouchsafed in any other Commonwealth.

SAFEGUARDS FOR THE VOTER.

She has enacted a uniform primary election law which has done away with the old system of party conventions; she has enacted a personal registration law which prevents fraud upon the ballot by padding or impersonation. She has enacted, and enforces, a corrupt practices act which requires an accounting of all funds contributed or used for political purposes. Has she not purged herself of the charge of neglect of the rights of suffrage? What Commonwealth, indeed, has done better?

Were I inclined to pursue the inquiry further I would compare the method of voting in Pennsylvania with that prevailing in Mississippi. I would show that while but one political party approaches the polls in Mississippi a dozen parties contend for the mastery in Pennsylvania. I would show that if the election methods of the two States were reversed Pennsylvania would be entitled to 165 Representatives in the House of Congress upon the Presidential returns of 1904, and that if the average returns of the last Congressional election in Mississippi were accepted, Pennsylvania's representation in Congress would consist of 600 members. I do not chide the gentleman from Mississippi for the conditions that prevail in his State; I believe I understand them as few Northern Representatives do. Were it not for the temper of the gentleman's remarks, I would not refer to the matter at all.

WHY THE ASSAULT?

Quoting from the Record, the gentleman said:

Why, here is the good old City of Brotherly Love, just across the way here. I like it; have been there several times, and have been subjected to arguments of a persuasive character at banquets, but if politically there ever was a thing that was a stench in the nostrils of all humanity it is the boss-ridden, Republican city of Philadelphia. Why, it was such a bad smell that even the Republicans themselves could not stand it all the time, and they came together for a little while and threw it off, but later, like the dog, went back to their vomit.

Why so ungenerous a statement? Why need one so high in the councils of a great party, and so strong in his personality, give credence to the vaporings of slanderers whose intolerance and abuse have become so nauseating? I do not attribute to my friend the viciousness of the demagogue. He is too broad, too generous, and by instinct and association too courteous for that. Rather would I lay his expressions to the heat of debate and the aggravation which enters into the quarrels of leadership.

THE DISTRICT RANDALL SERVED.

A new Member of this House, sent forward by a district the historic importance of which is not exceeded by any other, the old Third District of Pennsylvania, in which the Declaration of Independence was signed, and which for many years sustained its reputation for political fairness by sending to this House the distinguished American statesman and Democrat, Samuel J. Randall, I had entertained the hope that the day would come when, laying aside the prejudices of the past, the younger Members of Congress, without regard to section, might forget the asperities of their elders and make common cause for the improvement of our resources and the happiness of our people wherever found. That sentiment I have more than once endeavored to encourage in this House. It has given rise to friendships formed with Members upon the other side; friendships which I treasure and shall continue to cultivate; friendships which lead me to believe that a frank resentment of a slur upon my own constituency could never violate the manhood or the chivalry of any State.

ABUSE MAY FALL ON ANY STATE.

The gentleman from Mississippi, following up his unhappy reference to Philadelphia, added these words, words which, in my judgment, have no greater application to his own constituency than to any other. They illustrate more than anything I can say the injustice of promiscuous abuse and the proneness of all to err.

"There was a time in the history of my section," says the gentleman from Mississippi, "when there was intimidation and when there was fraud."

With this I close my reference to the remarks of the gentleman from Mississippi, recalling, in the hope that it may be agreeably entertained by him and his people, the motto of my city since the days of Penn—"Philadelphia, maneto"—let brotherly love continue.

THE OLD THIRD DISTRICT.

Mr. Speaker, since the opportunity has presented itself, I desire to present a few facts about the old Third District in the city of Philadelphia, and about that city itself. In October next, beginning on the 4th and ending on the 10th, will be celebrated the two hundred and twenty-fifth anniversary of the founding of the city. In 1682 William Penn, a sublime figure in American history, who framed a government for Pennsylvania, "fixed at the mercy of no governor that goes to make his fortune great"—landed from the ship *Welcome* on the site of the old Third District.

"You shall be governed by laws of your own making," he wrote to the inhabitants of his colony, "and live a free and, if you will, a sober and industrious people." It was in the Third District with bricks brought from England that he reared his home, a structure that is still preserved in Fairmount Park. In the Third District he made his treaty with the Indians, a treaty which is memorialized to-day by a public park, in which stands the successor of the umbrageous elm under which his pact with the Indians is said to have been made.

LAID OUT BY WILLIAM PENN.

In the Third District is most of the city proper as laid out by Penn; its public squares are preserved; its streets still maintained as he had planned them. Even the peaceful, quiet Quakers, coming, as they had done, to worship God as they saw fit, were subject to imperfections and blemishes; but Penn's work prospered; churches grew in larger fold than prisons; the good men far outnumbered the bad, and so a firm foundation was established for the oncoming of events affecting the colonies and the nation—events that destiny confined to the old Third District.

PHILADELPHIA AND THE CONSTITUTION.

President Roosevelt, in an address to the governors at the White House conference of May 13, speaking of the efforts of our forefathers to preserve the resources of the country, said:

Washington clearly saw that the perpetuity of the States could only be secured by union, and that the only feasible basis of union was an economic one; in other words, that it must be based on the development and use of their natural resources. Accordingly, he helped to outline a scheme of commercial development, and by his influence an internal waterways commission was appointed by Virginia and Maryland.

It met near where we are now meeting, in Alexandria, adjourned to Mount Vernon, and took up the consideration of interstate commerce by the only means then available—that of water. Further conferences were arranged, first at Annapolis and then at Philadelphia. It was in Philadelphia that the representatives of all the States met for what was in its original conception merely a waterways conference; but when they had closed their deliberations the outcome was the Constitution which made the States into a nation.

ADOPTED IN INDEPENDENCE HALL.

That Constitution was adopted in Independence Hall in 1787. It was the culmination of the stirring events of the Revolutionary war, a war which was organized, financed, and directed from the old Third District. In that district, Mr. Speaker, stands Carpenter's Hall, the building in which the first Continental Congress met. There, too, under the shade of the trees assembled the colonists to protest against the tyrannies of King George. It is not generally known, but the townspeople of Philadelphia were far ahead of the Boston Tea Party in their denunciation of the stamp act and their determination to resist the importation of tea. On October 16, 1773, a town meeting in statehouse yard resolved "that whoever shall directly or indirectly countenance this attempt * * * is an enemy to his country." In Boston, November 3 following, a meeting of colonists declared that the "sense of this town can not be better expressed than in the words of the judicious resolves lately entered into by our brethren, the citizens of Philadelphia." Boston adopted the Philadelphia resolutions, word for word. The famous "tea party" ensued; but Captain Ayres, of the British ship *Polly*, fared no better at the hands of the Philadelphians. He was given the alternative of a coat of tar and feathers or immediate departure from the port. The captain departed. This was the Philadelphia way.

STRUGGLES OF THE COLONISTS.

Clustering about the old Third District are memories that can never be effaced so long as patriotic fervor continues to animate the American heart. The Old Swedes Church is there—founded in 1677, intact since 1700—a mute reminder of the early struggles of the Swedes and the Dutch. Old Christ Church is there, with its pews of Washington and other Revolutionary statesmen, preserved in grateful memory. The building in which the first Supreme Court of the United States sat is there; the original building in which Washington and Adams were inaugurated to the Presidency is there; the structure in which the signers of the Declaration of Independence affixed their names to that imperishable document is there. The old Bell which "proclaimed liberty throughout the land and to all the inhabitants thereof" is there, the sacred heritage of 85,000,000 freemen. In that district were the homes of Washington, "the Presideliad," it was called in those days; the home of Benjamin Franklin; the home of Robert Morris; the homes of Thomas Jefferson, of Alexander Hamilton, of John Adams, and other American immortals.

WASHINGTON'S HOME IN PHILADELPHIA.

"Arrived at the seat of the Federal Government," says the historian of this period, "the President and Mrs. Washington formed their establishment upon a scale that, while it partook of all the attributes of our republican institutions, possessed at the same time that degree of dignity and regard for appearances so necessary to give to our infant Republic respect in the eyes of the world. The house was handsomely furnished, the equipages neat, with horses of the first order; the servants wore the family liveries, and, with the exception of a steward and a housekeeper, the whole establishment differed but little from that of a private gentleman. On Tuesdays, from 3 to 4 o'clock, the President received the various ambassadors and strangers who wished to be introduced to him. On these occasions, and when attending the sessions of Congress, the President wore a dress sword. His personal apparel was always remarkable for its being old-fashioned and exceedingly plain and neat.

"On Thursdays were the Congressional dinners and on Friday nights Mrs. Washington's drawing room. The company usually assembled about 7 and rarely stayed exceeding 10 o'clock. The ladies were seated and the President passed around the circle, paying his compliments to each. At the drawing rooms Mrs. Morris always sat at the right of the lady President, and at all

the dinners, public and private, at which Robert Morris was a guest, that venerable man was placed at the right of Mrs. Washington. When ladies called at the President's Mansion the habit was for the secretaries and gentlemen of the President's household to hand them to and from their carriages, but when the honored relicts of Greene and Montgomery came to the presidential the President himself performed these complimentary duties."

WHERE SLUMBER THE GREAT.

History was made in the Third District of Pennsylvania. It had endured the Revolutionary period. It had suffered the invasion of the British army under Howe in 1777, and it had risen at the adoption of the Constitution to be the social, commercial, and maritime center of the country. So replete is the old district in incidents of patriotic endeavor that I dare not trespass far upon this line of thought. The monuments of the great men of the earlier days still remain. In Christ Church graveyard rests the body of Benjamin Franklin; in this district he feasted upon his famous loaf, labored as a printer, attracted electricity from the clouds, established the Junta, and laid the foundation for enduring institutions. In a neighboring graveyard rest the bones of signers of the Declaration of Independence; in St. Mary's the body of Commodore John Barry, the "father of the American navy;" in St. Peter's the body of Stephen Decatur, the intrepid commander at Tripoli.

MAJOR ANDRE'S FATAL VERSE.

It was during the occupation of Howe, when the Tories were jubilating, that Major Andre, from a house in this district, wrote his mock verse to the tune of Yankee Doodle:

But now I end my lyric strain,
I tremble while I show it!
Lest this same warrio-drover Wayne,
Should ever catch the poet.

It was this same "warrio-drover" Wayne, the dashing "Mad Anthony," a Philadelphia boy, to whom the unfortunate poet, bearer of the treacherous message to Arnold, was subsequently delivered at Tappan. John Paul Jones sailed out of the Third District commissioned by the Continental Congress. On board the *Alfred*, it is said, he had the honor himself of first hauling to the masthead the flag of America.

THE OLD FLAG HOUSE STANDS.

The old Flag House still stands in the Third District; that house in which the deft fingers of Betsy Ross wrought into eternity the Stars and Stripes. The first bank chartered by Congress is there, the bank of Robert Morris's creation, the existing Bank of North America. There, too, doing service as a custom-house for the port of Philadelphia, is the famous structure which invited the antagonism of Andrew Jackson, the Bank of the United States, rich in its classic architecture, a modern representation of the Parthenon; there it stands, a useful, living monument to the financial ability of Nicholas Biddle, and to the irresistible opposition of "Old Hickory." In that district, under the direction of Franklin, Adams, and Jefferson was prepared the first great seal of the Government of the United States, the original of which is now preserved in the State Department at Washington.

"THE PHILADELPHIA LAWYER."

In old St. Joseph's Church Lafayette and Rochambeau worshipped. The great lawyers, who gave a distinguishing character to the Philadelphia bar, were residents of the Third District. Dickinson, Shippen, Boudinot, Hopkinson, Sargent, Binnay, Cadwalader, Biddle, Brewster, Duponceau—these are but few of the illustrious names. It was in tolling the death of Chief Justice Marshall, a resident of the district, that the Liberty Bell was cracked and silenced forever. In this district Hopkinson composed and dedicated to his country "Hail! Columbia." Literature and science flourished here. Here the celebrated "Wistar Parties" originated. Dr. Benjamin Rush, whose body lies close by that of Franklin, was attached to the district; and David Rittenhouse, the greatest astronomer of his time and the intimate of Washington. Rebecca Gratz, the original of Scott's Rebecca in "Ivanhoe," was among the celebrities of the district, her body now resting in a neighboring Jewish cemetery.

In this district Edwin Forrest, the tragedian, and Joseph Jefferson, the greatest "Rip Van Winkle," were born. Here Louis Hallam, "father of the American theater," died. Longfellow's "Evangeline" is said to have found her resting place in the old graveyard at Sixth and Spruce. Whittier labored in the district in the cause of abolition. He witnessed here the destruction of Pennsylvania Hall. Poe edited Burton's Magazine in this district, and here James Russell Lowell brought his bride and completed much of his best work. Unending indeed is the list of names and incidents describing the glory of the Third Pennsylvania District. It was here the foundation of the nation's political and commercial strength was laid.

THE MOTHER OF PATRIOTISM.

The old Third District! May we not proclaim it the mother of patriotism, out of whose womb have come the spirit and the glory of the nation? But before we leave it let us pause for a moment to consider its substantial worth in three crises of the nation. The Revolutionary war! Consider the ragged Continentals at Valley Forge; an army fed by the blasts of winter; a General destined to rise above the turmoil and the terror of the times to be "The Father of his Country," "first in war and first in peace." Who was it who lifted the clouds and brought the cheer of financial encouragement to Washington and his wretched forces? Robert Morris, president of the Third District and founder of the Bank of North America. Consider the war of 1812. A country insistent upon being free, plagued again by the stern necessities of finance. Who was it, when Jackson's fiery shafts were hurled against the British from behind the bales of cotton, who rose to the occasion and pointed the way to financial relief? Stephen Girard, resident of the Third District; merchant and mariner; philanthropist. Consider the rebellion! A nation torn asunder; the solemn Lincoln bearing the brunt of malevolent criticism, patient in the face of the most astounding financial necessities. Who was it whose strong directing hand brought hope to the President? Jay Cooke, whose modest banking house in the old Third District became the center of governmental expectancy.

THE INDUSTRIES OF PHILADELPHIA.

It might help those who have been speaking ill of Philadelphia to a better understanding if I were to speak of the shipbuilding which made the American merchant marine a formidable competitor in earlier days upon the high seas. It was done along the banks of the Delaware in the old Third District. From the days of Joshua Humphreys, who built the *Philadelphia*, which Decatur took at Tripoli, down to the passing of the clipper ship and the rearing of the modern armor-clads, the Third District has been conspicuous, even foremost, in the development of the American Navy and merchant marine. It was in the Third District that Baldwin built his first locomotive; Baldwin, whose successors in the great works that bear his name to-day are now constructing eight locomotives every working day of the year for the railroads of the world.

FIRST IN STEAMBOAT CONSTRUCTION.

In this district, long before the achievements of Robert Fulton upon the Hudson River, way back in 1787, John Fitch, a Philadelphian, devised and operated a steamboat which followed a regular schedule between Philadelphia and Bristol. In this old district the Pennsylvania Railroad sprang into being; that road which gives employment and sustenance to hundreds of thousands of people, and carries a tonnage from the thriving industries of Pennsylvania greater than that of any railroad in the world. It was in this district the Reading Railroad was created, the greatest carrier of anthracite coal from the greatest mines in the world. It was in this district that John Wanamaker began his business career, a career which has since made him the greatest merchant in the world.

SCORN NOT THE PAST.

But, Mr. Speaker, I shall pass from the Third District, pass from it reverently and as a dutiful son would take his leave of a fond and aged parent. The district has grown old; its streets and its buildings bear evidence of the passage of the years. Do we respect less the kindly parent because the hand trembles and the hair is silvered? Shall we respect less the structure of history because the rot is eating away the timbers and the incessant tread of the pedestrian is wearing away the stones? Why make light of the things that no longer respond to our modern fancy? From the old has sprung the inspiration of the new; the narrow streets of William Penn have given way to wider thoroughfares in newer communities. The buildings huddled together for protection against the Indians have not been duplicated. Costly residences and modern structures that tower toward the sky have come instead. The old gives way to the new, but shall we mock the old?

ALIVE TO OPPORTUNITY.

To-day the factories and warehouses have largely taken the place of the ancient homes in the Third District. Respecting her landmarks Philadelphia has kept abreast of her opportunities. Is it commonly known how Philadelphia stands as a manufacturing center? Mr. Speaker, according to the Government census the Quaker City is third in the list of manufacturing cities. She has not extended her borders, but confines her statistics to original lines. For manufacturing from raw material direct it is believed that Philadelphia stands at the very head of the manufacturing cities of the country. Her

output is more than \$600,000,000 per annum. She is foremost in locomotives, in leather, in carpets and rugs, in hosiery and knit goods, in hats, in woolen goods, and in the manufacture of street cars. At the time of the last census she gave employment to more than 225,000 wage-earners alone. She utilizes materials drawn from every section of the country. She is a good customer of every raw-material producing section. Useful to the cotton planter of the South, the wool grower of the West, and the farmer whose corn and produce she takes and stores away. Yes, in a thousand ways she is essential to the welfare of vast communities of people. She is doing her part nobly and well.

FINANCIAL STRENGTH OF THE CITY.

Her vast enterprises challenge the workmanship of the arts and trades; they find their support in the conservative banks of the city. Most of these banks, be it said again, are doing business in the old Third District. These banks, with a capital approximating \$22,000,000, do a loan and discount business of \$224,000,000. The business of the nation, as it was done through the Bank of the United States in 1835, was only \$24,000,000.

But, Mr. Speaker, if we are to consider Philadelphia, including the Third District, we are brought face to face with a substantial development, a safe and steady progress, that is at once a refutation of the small talk about the City of Brotherly Love. In the narrow limits of 129 square miles, the full extent of Philadelphia's area, she sustains a population of 1,500,000 people. Peaceful, law-abiding, property-owning, respectable citizens; a citizenship of churches and of homes.

A CITY OF 300,000 SEPARATE HOMES.

What other city can boast, as Philadelphia does, of 300,000 separate and detached homes with modern conveniences; most of them the property of the occupants? Through the building association, which is peculiarly a Philadelphia institution, the wage-earners of Philadelphia have now invested \$100,000,000. Sadly maligned, as Philadelphia has been, no experienced traveler can deny that in her observance of the American Sabbath Philadelphia stands first. Her schools and colleges, charitable institutions, public parks, and free libraries are her chiefest pride. The tax rate for many years has been maintained at \$1.50 per thousand. Property in Philadelphia is assessed for taxation at more than \$1,600,000,000. Contrast that, if you please, with the assessable valuation of many of the States of this Union, and Philadelphia will not be found abashed.

THE GOVERNMENT OF THE CITY.

The fame of the city political has been assailed. May it not be well to produce some facts that reach the marrow in the bone of municipal government? Philadelphia owns her own gas works, and under a lease supplies consumers with 22 candle-power gas at a rate reduced from \$1 to 85 cents a thousand feet, with provision for future reductions, besides obtaining her public light free. Philadelphia is credited by experienced observers with being the best lighted, by gas and electricity, and the best paved city in the world. Philadelphia filters her water from two rivers, and is now constructing the largest and most complete filtration plant in the world, a plant which has been an object lesson to engineers the world over. Philadelphia has compelled her traction companies, apart from fees, taxes, and other charges, to pave and keep in repair streets occupied by such companies, at a cost to the companies until a recent period of more than \$15,000,000. In addition to appropriations made by the State of Pennsylvania, the city has contributed since 1894 to the removal of impediments to navigation and the deepening of the channels of the Delaware and Schuylkill rivers, both navigable streams, a total of more than \$2,300,000.

DONATED NAVY-YARD TO UNITED STATES.

In 1863 the city purchased for \$430,000 1,000 acres of land known as "League Island" and presented it to the Government—the greatest and only fresh-water naval station and repair shop in the world. In official life Philadelphia employs the services of more than 10,000 men and women, who, apart from occasional individual wrongdoing, constitute in the matter of police, fire, and health and property protection as capable an army of patriotic workers as can be found in any city.

EXPENSES LIMITED TO REVENUE.

The annual revenue of the city reaches a total of \$30,000,000, and from its tax rate it has reared a city hall which is one of the marvels of the structural world, at a cost exceeding \$25,000,000. The debt of Philadelphia, and I would invite comparison of this debt with that of other large cities, is \$66,000,000, a debt which could be utterly extinguished by the sale of a single piece of the city's property—Fairmount Park. The assets of the city of Philadelphia in public lands and buildings, in schoolhouses, libraries, parks, wharves, boats, municipal equipment, estates in trust challenge comparison with those of any

city in the United States. Is there corruption in the municipal life of Philadelphia? Let us see. The city can not borrow money in excess of 7 per cent upon the assessed value of its taxable property. It does not borrow money except it makes provision for a sinking fund for the redemption of every permanent loan. The city can not appropriate any money nor enter into any contract without first having the funds in hand. Therefore it would seem that if there is political offending, it can not be of a fundamental nature.

FINANCIAL SYSTEM CONTRASTED.

But to those who persist in their disbelief let me commend the regulations pertaining to the control and management of municipal funds. I invite a comparison of this system with that of any other city. Each bureau and department which receives money on behalf of the city of Philadelphia must make a daily return to the city treasurer, and the city treasurer in turn must make a daily sworn statement of receipts to the city controller. And the city controller must keep upon file for public inspection the orders, receipts, and vouchers for work performed or for materials required in the conduct of the city's business. The books and papers of the office of the controller and treasurer, and in fact of all the departments and bureaus, are open for the inspection of the critical; and those who are bitterest and most persistent in their grievances are fully aware of the fact.

WHERE IS PERFECTION?

Why, then, shall this great community be singled out as an unholy object lesson in municipal affairs? Are there crooks in the city of Philadelphia? One, perhaps, to a thousand reputable, law-abiding citizens. What city has not a black sheep in its midst? Are there cranks and demagogues in the city of Philadelphia? One of each, perhaps, to every 3,000 home-loving, even-tempered, common-sense citizens. What city of respectable proportions is without its cranks and its demagogues? Are we to judge the standard of living in Mississippi, or in California, or in Massachusetts by the sporadic outbreaks of lawlessness occasionally reported? Are we to estimate the worth of a community, the very fiber of its citizenship, by the professional misfit, or the wandering hobo whose last resort is scurrillity and blackmail? Are we to take our standards from the ephemeral writers who flit into a city in search of the stench, and with devilish haste rush back to print? Shall we not admire the great glory of art behind the speck upon the windowpane?

CHARITY OF A GREAT CITY.

Philadelphia has been asking no favors. She has suffered overmuch, but she demands that rightful position in the esteem of Americans to which her proud history, her wonderful achievements, her domestic happiness entitle her. Has she not come promptly forward when distress has crowded hard upon other communities? Ask the stricken people of Russia, to whom she sent her ships of relief. Ask the downtrodden peasants of Ireland, who know her bounty. Ask the sufferers by earthquake in Charleston; the flood sufferers in Galveston; the sufferers by hurricane in Porto Rico; the stricken people of Johnstown; the victims of the earthquake in San Francisco. Philadelphia, prosperous and happy, there she stands, exchanging her commodities with the world, sending forth her precious manufactures upon all the seas, providing comfortably for her own, ever ready to respond to the call of the unfortunate.

DEAL FAIRLY WITH MUNICIPALITIES.

Mr. Speaker, let us deal fairly with the great municipalities. As they have grown in substance and in influence they have had to make provision for violations of the regular order. Such violations are inevitable; but the law maintains its supremacy. The proportion of wickedness to the population of to-day is less than it was a century ago. The scrutiny of men's acts is keener than it was then. The scent of the public press is close to the trail of public and private wrongdoing. The misfortune is that the ill we do attracts the greater mention. The preponderance of good that is done is wont to go unheralded. The orderly work of a thousand men will pass in the obscurity of a footnote; the deviltry of a single scamp will draw the title-page.

Philadelphia needs no defender. She is high above calumny. She has proven her courage in the days of trial. On the rock of liberty her walls were laid. Morality and the law have guided her course. Her industry has blessed and exalted her people. The city has given its best blood to the American nation. It holds in its keeping the custody of the nation's priceless treasures. On more than one occasion it has demonstrated its mother love. Witness the Centennial Exposition of 1876. First of the international expositions under American auspices, it brought together the representatives of the progressive peoples of the world. It opened up the eyes and minds of men to op-

portunities of modern genius and resources. It gave to America new industries and aspirations, and first unfolded to the world the marvelous possibilities of the telephone. By that exposition the city established a new record for the nation, and made for itself a record in turning back to the United States the money it had appropriated to support the enterprise. Eleven years later it again evidenced its public spirit, celebrating the one hundredth anniversary of the adoption of the Constitution. In this it taught anew the lesson of our national institutions. The great Peace Jubilee of 1898, bringing together the various States, the North and the South, at the close of the Spanish-American war, is readily recalled. In these and numerous other instances the city has led in patriotic well-doing. It has never faltered; never lacked the spirit nor the strength.

THE CELEBRATION IN OCTOBER.

And so it enters upon its new imposed task. With the coming of October, 1908, the gates of patriotism and fellowship will be opened wide to visitors. The scenes historic, the material growth of two and a quarter centuries will then bespeak the city's pride. Truly an event that deserves the interest of all who live and strive for better things. Legions will come and to them will be extended the cordial hand of hospitality. The officials and the people have spoken. They glory in Philadelphia's contributions to the nation's history, and putting aside "the slings and arrows" that but prod and fortify, they rear in golden letters, high above the city's portals, the name of that good ship which bore the peaceful Penn to these fair shores—at once an emblem and a greeting—WELCOME!

National Defense.

SPEECH

OF

HON. RICHMOND P. HOBSON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. HOBSON said:

Mr. SPEAKER: Events of recent years have produced dangers in the Pacific greater than those of the Atlantic, for which latter alone our present Navy has been built.

In the absence of an international system of jurisprudence, the peace of the world requires a balance of power on the high seas. This balance of power in the Atlantic is maintained by the presence of the fleets of all the great nations of Europe—except for America's fleet there is not a battle ship of any white nation in the Pacific, while Japan's whole navy is concentrated there. The only hope of a balance of power depends upon America's maintaining permanently in this ocean a fleet substantially superior to the Japanese navy. Mr. Speaker, under leave to print, granted by the House, I desire to place in the RECORD the following articles that appeared in the *Cosmopolitan Magazine* for May and June, 1908:

[*Cosmopolitan Magazine.*]

IF WAR SHOULD COME! FIRST ARTICLE—THE QUESTION OF PREPAREDNESS. BY CAPT. RICHMOND PEARSON HOBSON.

[EDITOR'S NOTE.—In spite of the assurances of Japanese diplomats, war with that nation is by no means improbable. By many clear-sighted statesmen it is even regarded as inevitable.

How are the American people prepared to cope with so stupendous a possibility? Are we adequately equipped and fortified against so formidable an enemy?

Would it be an impossibility, under present conditions, for the Japanese to occupy our Pacific seaboard, lay San Francisco, Seattle, and Los Angeles under tribute, and fortify the Coast States so thoroughly and scientifically that their reconquest would cost billions of dollars and perhaps a million lives?

Does not the mere suggestion of so desperate a contingency point urgently to the necessity of swift national action for the adoption of the most complete preparatory plans?

These are questions which concern every American citizen from Maine to California. In order that the readers of the *Cosmopolitan* may understand the facts about the peril which threatens the country and the measures which must be instantly taken to meet it, we have obtained a highly interesting series of articles by Capt. RICHMOND PEARSON HOBSON, in which the situation is reviewed from the standpoint of an expert. The first of these articles is presented herewith. It will be followed by two others in the next succeeding issues. We venture to say that the facts presented by Captain Hobson will make very clear the duty of Congress to take such vigorous and immediate action as will be likely to avert the danger which is so lucidly and convincingly pointed out.]

The sailing of the American fleet from Hampton Roads through the capes of the Chesapeake into the open sea on its voyage to the Pacific was the greatest naval spectacle ever witnessed in the western world. The tens of thousands of spectators who had come from far and near to witness this event were electrified when the sailors mounted the bulwarks, superstructures, turrets, rigging, and masts and gave rousing cheers as the President reviewed the departing ships. The multitude

in turn spontaneously cheered as the great ships weighed anchor and one by one stood away in solemn grandeur in a column extending over 4 miles. The multitude present was but the eye and the voice of the 80,000,000 Americans who gazed upon this event from afar, and with a feeling of misgiving, but all with the confidence and assurance which possesses the American people, undismayed by nature and never yet defeated by man.

This event stirred the people of America, however, not merely with feelings of pride and of expectancy awakened by the mere fact of undefined danger; beneath the great shouts of applause, pitched in the major of exultation, there was in the depths a minor chord, expressed in the tears of parents, children, wives, sweethearts, whose dear ones were leaving for the unknown.

The eyes of the whole world also were fixed upon this fleet, and properly so. For the first time in history the yellow men of the Orient and the white men of the Occident gazed together with concentrated interest upon each other and upon a movement of vital moment, not only to their two continents, but to all men and nations, indeed to civilization itself. And yet few people in any country seem to have comprehended the full significance of what was occurring.

For the first time since the birth of our Republic the monarchies of Europe were looking upon an undefended American coast line. How the members of the Holy Alliance, against whose conspiracy the Monroe doctrine was declared, would have gloated over that sight! What was whispered in Europe's secret councils by the direct successors of those conspirators against the rights of the people, as the American fleet passed from the Atlantic to the Pacific, transferring to our western waters practically the entire naval power of the one nation that has stood for and compelled the progress that has been achieved during the past century, not only in America, but also in Europe? The answer concerns our people more than the price of stocks, the cause of the panic, or the solution of any of the grave internal questions which now perplex the nation.

Leaving the European chancelleries to discuss these events, the American fleet has retraced the course taken by the *Oregon* in 1898, when that gallant ship made the record voyage for a single ship in time of war. Heretofore America has faced eastward, whence our foreign wars have come. Now, and suddenly, we have been compelled by the action of an Asiatic power to leave our European seacoast unprotected and to place practically the entire naval power of the nation between us and Asia. And yet the dangers in the Atlantic have not disappeared; they have not even decreased. Indeed the "mistress of the sea" is at this moment, and for the first time in history, in league with the Asiatic power that has compelled this change in the policy of our nation. Though England is our mother country, two of our foreign wars have been fought with her. We have no contract with England binding her to respect our territories and rights. Japan has such a contract with England, and contemporaneously with the sailing of our fleet England gathered together, for foreign service, a fleet almost twice as large as ours.

No sudden or even immediate change had taken place in Europe or in our relation with European powers. The change that had taken place was in Asia, or, preferably, in our relation with one of the Asiatic powers, the one that is making itself the master of the Orient. The dangers in the Atlantic are not decreased, but the dangers in the Pacific have increased, and our President was compelled by the logic of events to take this action. It was not a matter of private opinion or personal preference. Conditions, not theories, confronted the nation, and duty laid its compelling hand upon our Chief Executive.

During the past two decades Japan has seized upon and utilized to the utmost the inventions and discoveries made by the white race. And in consequence Japan holds to-day the mighty forces of nature and of organization more completely at her command than any nation of the white race. In naval and military affairs each western nation has built up a practice of its own, with both good and bad characteristics. Japan, on the other hand, has appropriated the good characteristics of all; and just at the time when Japan is emerging from feudalism she has made her entry into the council chamber of the nations through the gate of war forced open by the mighty power of her military organization.

The feudalism from which Japan is now emerging was regnant in Europe centuries ago. It was never a part of the life of America. This fact makes it difficult for Americans to grasp, without careful consideration, the significance of what is now transpiring. The white nations, on the whole, are three or four hundred years beyond feudalism, and under the leadership of America are swiftly traveling the road toward international confederation and organization that will tend to make war obsolete. But these nations are not yet federated. War is not yet absolute even among the white nations in their relations with each other, and it behooves them to understand the meaning of Japan's rise in power through victorious handling of the weapons of war. The presence of superior power is absolutely necessary to check the natural course of that nation toward war with foreign powers, now that war within her own body has ceased as a result of the union of the feudal lords behind the Mikado.

No internal question at this moment is comparable in importance to the present and prospective strength of Japan compared with that of our country. The supreme duty of America at this moment is to gauge accurately the possibilities of Japan's military power and to make that power ineffectual by the provision of an unquestionably superior force. No other thing that our Government can do would have so powerful an influence for the establishment of justice and the maintenance of peace in international relationships.

The departure of the fleet was like a flash of lightning. Things heretofore hidden by the darkness were brought momentarily into plain view. On one side of the Pacific was disclosed a great nation, heretofore considered inferior, that had demonstrated superior power on the field of battle, and emerged victor over the most populous nation of Europe. Justly proud of its achievements, and wounded by the condescensions of the western world; different in color, in traditions, in political institutions, from our country; capable of being either friend or enemy to America as its supposed interest at any moment may dictate; almost as different from us in character and in preparedness and inclination for conflict as in color or in position on the world's map, this people, molded into one body and with a common purpose in the act of war with Russia, caused and witnessed the most humiliating military and political spectacle ever seen in the western world, namely, a revelation in the face of a grave danger that the United States is unable to execute a just foreign policy, is unable even to perform the duty imposed by the Constitution of preserving the members of the Union in the full and free exercise of the rights reserved by the several States. The people's representatives neither foresaw the danger nor provided against it. Congress, the press, the two great

political parties of the country, did not see, even in this flash of light, that our nation is defenseless, and that the most tempting morsel that ever became a menace to national character or international peace is displayed unprotected before the rising power of the Orient.

The strength of a nation is in the number of its able-bodied men, their availability for action, the average fighting value of the men, and the preparation and efficiency of their organization.

For her soldiers and sailors Japan draws upon a population at home of nearly fifty millions, a population greater than that of England, Austria-Hungary, or France, and only second to that of Germany in Europe and the United States in America.

By an extensive system of propaganda Japan is preparing to draw upon the 450,000,000 people in China, making, with Japan, for prospective use, a total of 500,000,000, more than the combined population of all Europe and both the Americas.

The Japanese population is more available for war at the present moment than the population of any white nation. The people are not only more disposed for war, on account of the stage of their civilization and their recent victories, but are more willing than the people of the West to bear the greater burdens of taxation without murmuring against the government. Furthermore, the women are more ready to do the work while the men are on the battlefield. In the next place, the military forces can be maintained and a campaign properly executed at a cost far below what the same movements would impose upon the white nations.

Since the Russo-Japanese war the world has been compelled to put the fighting value of the average Japanese above that of the average white man. The Japanese has shown himself equally courageous in action and equally skillful in the use of modern weapons, while superior in endurance and more amenable to discipline.

The degree of preparation for war in America is low; it is high in the chief military nations of Europe, but it is higher still in Japan. There they begin with the school children and continue the work throughout life. In the Russo-Japanese war the extraordinary degree of preparation and the efficiency in action of the Japanese organization were the marvel of the world. The character of the yellow man, his patience, his attention to details, his endurance, make him an ideal unit for the organization of a perfect human mechanism of no matter what dimensions. The only safe assumption for a white man to make is that the yellow man, on the average, will be found his superior as a soldier and his equal as a sailor.

I do not hesitate in making this statement. With a knowledge of the Chinese derived from actual experience in China, I am prepared to say that the average Chinaman, properly trained, will make a better soldier than the average Japanese, being equally intelligent, more reliable, of greater strength and endurance, and without fear of death. In estimating the present as well as the prospective preparation of Japan it is necessary to take this fact into account, for Japan at this moment is carrying on a systematic instruction of the Chinese in the arts of war, and when war comes Japan will find a way of drawing upon China for assistance.

The Japanese are masters in the inspection and spying out of the naval and military preparations of other nations. They are past masters in secreting their own preparations and intentions. They have had opportunity, and have made use of it, for learning everything that is going on in America. They have allowed no access to anything going on in Japan. The half has not been told of the preparations for war made by Japan during the past two years and a half, and yet that which is known of their preparations should rouse this nation to a sense of the danger and to a performance of its duty to the States composing the Union, and to the great principles of liberty, of which our nation is the world's leading exponent.

After the war with Russia, when the one fleet to be feared by Japan had been destroyed, when the vessels captured in the war constituted a substantial increase in the Japanese navy, when the heavy burdens laid upon the people by the war called for economies, especially in view of the fact that by the treaty of Portsmouth the expected war indemnity was denied to the victor, it would have been natural for Japan to rest for a while and recover herself before inaugurating an expensive programme for an increased navy. Instead of doing this, Japan has ordered more than one hundred million dollars' worth of new ships of the *Dreadnought* class and large armored cruisers, eleven in number, together with auxiliaries and torpedo boats. Rush orders for these ships were given to English and Japanese shipyards.

Japan was already allied with Great Britain. There was certainly no need of additional ships to cope with Germany, France, or Italy. Why was this done? The only plausible inference is that the purpose was to secure an advantage over America while she was still sleeping. It was a master stroke, proved by the fact that Congress simply discussed the question for two whole years before ordering a single large ship of the new type; and the peace societies of America even increased their agitation in favor of disarmament.

Our people are liable to indulge in a feeling of unwarranted security now that our fleet has arrived safely in the Pacific and has been joined by the two battle ships and the two squadrons of armored cruisers already in those waters, numbering altogether 18 battle ships and 8 armored cruisers, making 26 armored vessels. The Japanese now have in Pacific waters 11 battle ships and 11 armored cruisers, making 22 armored vessels. It should be noted that the Japanese armored cruisers *Tsu Kuba*, *Okoma*, *Ibuki*, and *Satsuma* carry 12-inch guns, larger than any guns carried by our armored cruisers. These Japanese armored cruisers will certainly be found on the battle line with the regular battle ships. The moderate superiority of our fleet will soon disappear. Our own ships will gradually deteriorate because of the lack of docking and repairing facilities, and the Japanese will be constantly adding to their fleet the great new ships as they are completed. The only two of this type that we have in course of construction will probably go into commission in the summer of 1910, and will be on the Atlantic seaboard. The Japanese by that time will certainly have in commission 8, and possibly 11, more vessels, all of the new type. Conservative estimates have placed one vessel of the new type as equivalent to at least three vessels of the type that compose our fleet.

Assuming that our two new vessels can reach the Pacific in time, Japan will have a superiority of 9 new vessels. The total strength of the two fleets, estimated in the average units of the present vessels, will be, United States 32 and Japan 55. To bring us up to an equality with Japan we must order at once and complete in record-breaking time 8 battle ships of the *Delaware* class of 20,000 tons. If we order two of this class to complete a squadron of four, with the two already building, and at the same time four of an improved class of 25,000 tons, we can realize the same result at considerable less cost and in the same time. This programme must be regarded as the very minimum demanded by scientific treatment of the subject, for even then all these vessels would have to leave the Atlantic to make our strength equal to

Japanese strength in the Pacific. The fact is Japanese efficiency must be reckoned as gradually becoming greater than ours on account of their superior docking and repairing facilities and because of their presence in home waters. It is not scientific to have simply an equal fleet in the Pacific. We should have an unquestionably superior force so as to prevent war if possible and to win if conflict is inevitable.

This still leaves the Atlantic Ocean absolutely stripped of American war vessels, a condition which Congress can never justify before the American people.

One would have expected that the armies of Japan would decrease after the peace of Portsmouth. On the contrary, five divisions have since been added to the Japanese army, and to-day Japan is prepared to put into the field half again as many men as in the war with Russia; this would mean 1,500,000 trained men.

The preparation of war material would naturally have fallen to a normal condition upon the conclusion of peace with Russia. Instead greater activity has resulted. Old works have not only continued in full force and overtime, but new works of great size have been established, and they are kept working day and night. The Japanese have built new steel works and armor-plate factories, new ordnance works for heavy guns, new torpedo factories, new powder factories, new factories for high explosives, also factories for small arms and projectiles; new shipyards have been established, new dry docks built, as well as new building slips, new machine shops, new building and repair works, and new boiler and engine shops; and besides all this, heavy orders for war material have been placed abroad.

In contrast with this great army of 1,500,000 trained men, containing 1,000,000 seasoned veterans, and with this feverish activity, America has drifted drowsily along and now has but 69,000 men in the Regular Army and only 140,000 raw militiamen, most of the Regulars being now in service in Cuba and the Philippine Islands. There are now available inside of our own country only 9,000 infantry of the Regular Army, less than the police force of New York.

I estimate that Japan could place 500,000 trained men on the Pacific slope within four months, and 1,000,000 men within ten months, against whom we could not marshal over 200,000 men that have ever had any substantial military service. Where great numbers are involved untrained men can not be effective against veterans. Our Army, therefore, is hopelessly inadequate to cope with Japan even on the Pacific slope, to say nothing of the Hawaiian Islands and the Philippines. So that for security we must depend absolutely upon superiority on the sea.

In addition to the preparation described above, in modern warfare a nation must not neglect to provide money or to secure active assistance, or neutrality where assistance is impossible, on the part of the most important nations likely to be affected by the war. In preparation of this kind Japan has been wonderfully active and successful. She has negotiated great loans at home and abroad, and now has on hand over 600,000,000 yen in specie, mostly in European depositories and immediately available for military purposes—sufficient to keep 1,000,000 Japanese soldiers in the field for a year.

Although the exact text of the treaties between Japan and France and Japan and Russia is not fully known, there are evidences that by these treaties Japan has secured the neutrality of these two powers through conceding to them, with England's approval, special privileges in certain sections of the opening markets of China.

It is certain, however, that the accumulated wealth of France is pouring into Japanese coffers. But important as these things are, the supreme achievement of diplomacy was an offensive and defensive alliance with Great Britain, which for a century has held undisputed control of the sea. Being an island kingdom, Japan is vitally affected by the attitude of the "mistress of the sea" until such time as she is in control of the situation. This treaty continues until 1915 and renews itself automatically for ten-year periods successively, unless denounced by one of the parties. We must, therefore, squarely face the natural conclusion that Great Britain will cooperate with Japan, and consequently we must prepare to be masters of our waters in the Atlantic at the same time that we hold the supremacy in the Pacific.

[Cosmopolitan Magazine.]

IF WAR SHOULD COME! SECOND ARTICLE—THE CONFLICT. BY CAPT. RICHMOND PEARSON HOBSON.

[EDITOR'S NOTE.—In the last issue of the *Cosmopolitan*, Captain Hobson showed very clearly how thoroughly Japan is prepared for war at the present moment in comparison with the state of affairs in this country.

In the following brilliant article he describes Japan's attack and America's defense, if war should come.

This is no work purely of the imagination. Captain Hobson is one of the greatest living experts in the science of war, and every move described in these pages is the result of careful study. He considers it the most important piece of writing he has ever done.]

In America, every function of government should have the earnest thought of the people. In no function of government is the need of an enlightened and interested public opinion greater than in that of providing for national defense. So vague is our present condition of knowledge upon this important subject that a popular discussion from the platform or in the press brings forth criticism and condemnation, as though such a discussion tended to bring on war. In truth, the only true way to prevent war is for our people to understand the elements of national defense and the real factors that determine war and peace.

Nothing can have a more beneficial effect at this juncture than a general discussion of the contingencies of war. If there were not a single cloud above the horizon this would still hold true. As it is, the sky is overcast. It is past the eleventh hour. Any other people on earth or in the world's history would, long ere this, have thoroughly investigated the contingency of war with the great powers over the ocean from us and would have adopted precautionary measures to prevent the culmination of war if possible and to insure victory if war must come. As it is, our people, absorbed in developing our resources, have given no heed to the steady approach of the world's great armies. The annihilation of space and the conquest of the ocean have brought the great armies of Europe to our eastern doors; new armies, more portentous than those of Europe, have arisen in Asia and are likewise at our western doors, and to-day America is not only unable to prevent war but is powerless to avert disaster if war comes.

It has been shown how completely Japan is prepared for war. A recent interpellation in the Japanese parliament as to the nation against which the warlike preparations were being made brought forth the answer from the minister of war that the preparations were "against eventualities in the Pacific," an official confirmation of the universally recognized fact that great war preparations have been

going on for a long time. It has been evident for some time that Japan intends to move upon China, but her stupendous efforts in augmenting her navy leave no doubt that America is the objective. The swarming of spies over our country and our possessions, the peremptory attitude of Japan after the trivial incidents in San Francisco, her attitude on the immigration question, all confirm this conclusion. To study the contingency of war with Japan is, therefore, now an urgent public duty. In discussing this contingency, it may be remembered that there is no danger of divulging any secrets, naval or military. Japan and every other nation already know all our secrets, all our elements of weakness and of strength.

No one can forecast the exact date for the beginning of any war, even when war is recognized as inevitable. The only means of approximating it is to determine the time when the aggressive power will have relatively the greatest strength. By this test war is liable to come before our fleet reaches the Far East. If it does not come before that time it is likely to be postponed until the fleet, or part of it, returns to the Atlantic, or until it deteriorates because of the lack of docking and repairing facilities and the Japanese fleet is reinforced by additional vessels.

Permanent control of the sea in the Pacific will determine the issue of the war. Therefore the destruction of the battle-ship fleet of the enemy will be the supreme objective of both powers. Japanese diplomacy has been invoked to secure the division of the American fleet by bringing danger from Europe through the Anglo-Japanese alliance. The second clause of the treaty of alliance reads as follows:

"If, by reason of an unprovoked attack or aggressive action, wherever arising, on the part of any other power or powers, either contractor be involved in war in defense of its territorial rights or special interests mentioned in the preamble, the other contractor shall at once come to the assistance of its ally, and both parties will conduct war in common and make peace in mutual agreement with any power or powers involved in such war."

It is to be noted that an "aggressive action" may occur anywhere. The special interests mentioned in the preamble are those "in the regions of eastern Asia and India." It is impossible for any war against Japan not to endanger that country's interests in the "regions of eastern Asia," and any war would be proclaimed "unprovoked" and "aggressive" on the part of the other party. Therefore the only interpretation permissible is that Great Britain would join with Japan in a war with America.

When America assembled 16 battle ships in the Atlantic, Great Britain assembled 26 battle ships. This was designed to cause a protest from the Atlantic coast States against the stripping of the Atlantic, and to result in only a part of the fleet being sent to the Pacific. Our Government wisely proceeded to send the whole commissioned fleet. As new vessels are commissioned in the Atlantic, they should be sent straightway to the Pacific, and the whole fleet should be kept together, constantly ready. As soon as practicable this whole fleet should be sent to the Philippines. If it is permitted to reach those waters before a rupture occurs, the Japanese-English purpose will be to bring about its departure for the Atlantic in whole or in part. We should, on the contrary, keep the whole united fleet permanently in far eastern waters and build additional fleets for the Atlantic. It is only by having the fleet in the Far East that we can be sure of forcing a general engagement in case of war. This very fact gives us our only chance of peace and our only hope of victory if war is inevitable.

Should the fleet remain in the Far East, Japan will doubtless wait until it deteriorates because of the lack of docking and repairing facilities, and until she adds the *Ibuki*, the *Kurama*, the *Oki*, and the *Satsuma* to her fleet. Without the last two vessels the Japanese would have 24 armored vessels to our 26. While they would have the advantage of being in home waters and of having adequate docking facilities our fleet would still have a good fighting chance. But when the *Oki* and the *Satsuma* are added, each carrying 4 12-inch guns and 12 10-inch guns, 32 great guns in all (as many as any 8 of our vessels), giving the Japanese the equivalent of 32 vessels to our 26, the chances will be heavily against us. In spite of all that we can do, this Japanese preponderance will exist before the summer is here. For the last three years we have neglected to build big vessels of the new type, and if war comes upon us in these most unfavorable circumstances, our best possible condition will see our fleet of obsolete vessels move out to engage a superior Japanese fleet headed by two *Dreadnoughts* with their terrible concentration of power. Our only reliance, a reliance that should never be required, would be upon superior skill and greater efficiency.

It is altogether likely that Japan will add two more, and possibly four more, *Dreadnoughts* to her fleet before we can hope to add the *Delaware* and the *North Dakota*. We must therefore proceed with all dispatch not only to build new fleets of *Dreadnoughts* for the Atlantic, but new ones for the Pacific, and these latter must come as fast as the Japanese reinforcements. If the fleet reaches the Far East and remains there, we must be prepared for some time to come to see a general engagement with the odds against us. Should we win the victory the war would be over. Should the Japanese win the war would be just begun, for they would have control of the Pacific, and the invasion of the Philippines and of our Pacific coast would begin. There is little doubt that the British would join the Japanese the moment the Japanese gained such control of the Pacific that their armies would be available to cooperate with the British armies in an invasion from Canada. It is probably one of the objects of the peculiar wording of the Anglo-Japanese treaty to give the British a line of retreat or advance, according as defeat or victory perches on the Japanese banner.

Let us now take the case of our fleet being on the Pacific coast when war comes. As before, the permanent control of the sea is supreme and the destruction of the battle-ship fleet of the enemy the objective. In this case the long distance across the ocean becomes a leverage against us. Hawaii is the point without which neither power could take the aggressive, even after a victory that gave control of the sea. If Japan had control of the sea and also held Hawaii, the Pacific slope would at once be open to invasion. If America held Hawaii in force, the Japanese would have to overpower our force there, at great sacrifice, before invasion would be possible. Since Japan is compact, with strongly fortified harbors and a great army, America is forced to adopt the defensive. Even if we held Hawaii and gained control of the sea, we could never do more than destroy Japanese over-sea commerce, which is never a deciding factor in a great war. From the outset, therefore, we must realize that we have nothing to gain and everything to lose by war. Japan has little to lose and from her standpoint everything to gain.

Considering the fact that there are over 100,000 Japanese and only 7,000 Americans in the Hawaiian Islands, we must assume that Japan controls the pivot, and if she should get control of the sea invasion of

the Pacific slope would follow. We should at once place in Hawaii a garrison sufficient to keep the Japanese inhabitants under control and to repel a landing in force, even under the protection of Japanese ships, and we must take no chances of losing the control of the sea.

After hostilities began our fleet should remain on the defensive off our coast and put the enemy at the disadvantage of crossing the ocean before he could get an engagement. On no consideration should we venture farther than Hawaii, and this far only if we were in control and Pearl Harbor entrance can be dredged. This harbor is the most wonderful and most vital sheet of water in the world. Whether in the hands of the white men or the yellow men, it is destined to become the greatest naval station the world has ever seen. If held by the yellow men, America will be helpless against Asiatic invasion. It is our supreme duty to hasten to garrison and fortify the island of Oahu and speedily establish a naval station at Pearl Harbor.

Judging from the circumstances attending the beginning of the Russo-Japanese war, America would know nothing of the first moves of Japan if war should come. Our first indication would be the simultaneous cutting off of cable communication with the Hawaiian Islands and the Philippines without warning or explanation. The cutting of the cables would be followed within a few hours by the landing of Japanese expeditions. Two of our fastest armored cruisers would probably be dispatched at once to make a reconnaissance of Hawaii. A week would probably elapse before any definite news would come from Manila by way of Hongkong or Saigon or Singapore. This news would probably recite that a Japanese expedition, under heavy escort, had landed probably 100,000 men in the Lingayen Gulf or on eastern Luzon, and that this army was advancing on Subig Bay and Manila. Reports would follow that the Filipinos were flocking to the Japanese colors. From the day America retained the Philippine Islands, the Japanese have been in communication with the natives, planning our expulsion. The landing of the Japanese army would be the signal for an uprising.

The first report about Honolulu would probably be brought by the armored cruisers about ten days after they started from the coast, and their report would probably announce that a Japanese expedition had landed probably 15,000 men, with large quantities of arms, ammunition, and supplies; that the Japanese on the island had risen; that the small garrison and the American residents who joined it had been overpowered; that a Japanese army of probably 50,000 men was in camp out of range from the water; that active preparations were in progress to resist any landing that might be attempted, and that the vessels in the expedition had retired.

The seizure of the Philippines and the Hawaiian Islands would be the first move of Japan. Preparations have been completed for this move. The bases for the Philippine invasion will be Kilung, Formosa, and a harbor in the Pescadores Islands, which are being prepared for this purpose. These bases are so near Luzon that 150,000 men could be thrown into this island long before our fleet could cross the Pacific; and once in the islands, with large quantities of munitions, the army could live on the country.

The first advance of this army would be upon Subig Bay, which would be quickly taken from the rear, and would thereafter be the naval base for the Japanese fleet. I do not believe, however, that the Japanese fleet would remain there. The one supreme objective being control of the Pacific, the Japanese plan would be to lure our fleet to the relief of Manila. The advance of the Japanese army and the siege of Manila would be conducted toward this end, and the dispatches allowed to go out would be planned to stir the American people to the attempt. Should we make the blunder of attempting the relief of Manila, the disintegration and ultimate annihilation of our fleet would be practically assured. It really could not relieve Manila, because we have no transports to convey the necessary troops, and we have no troops if we had the transports. The fleet would find itself in hostile waters over 6,000 miles from a base and unable to force a general engagement. The main Japanese battle-ship fleet would retire to the security of fortified home bases. Our fleet would be compelled to seek one of the inadequate, undeveloped harbors of the Philippines, without any facilities for docking or repairing. The enemy's cruisers would scour the ocean and cut off or cripple the collier coal service. The coal carried by the colliers with the fleet would be quickly exhausted. The fleet would doubtless be subjected to repeated attacks from torpedo boats and to harassment from the enemy's cruisers. Every time a vessel was injured repairs would be impossible. The machinery would rapidly deteriorate for lack of overhauling and the bottoms would foul without a chance for cleaning. The health and esprit of the men would sink steadily to a low level. Disintegration and ultimate defeat would be inevitable.

In case the fleet undertook to find the Japanese fleet and to force an engagement, it would be compelled to force an entrance into one of the fortified harbors of Japan to reach their fleet, incurring dangers and disadvantages that could not end but in disaster. Without troops it would be almost impossible to seize and hold an adequate Japanese harbor for a base from which to conduct a blockade. Thus it may be taken for granted that any attempt to relieve the Philippine Islands after they had been occupied would certainly end in disaster that would give to Japan permanent control of the sea.

The moment this control was secured the invasion of America would begin. The first step would be the gathering of a great army in Hawaii. Two hundred thousand men could be landed there in two weeks, 200,000 more in four weeks, and 200,000 additional men every month for six months. From Hawaii it is but a step to the Pacific coast—about 2,100 miles to San Francisco, about 2,200 to Los Angeles, and a few more to Port Townsend. The choice of these points of invasion would depend on whether the British were in cooperation or not. Judging from the words of the Canadian premier, Sir Wilfrid Laurier, in a speech in the Dominion parliament on the Japanese immigration question, on February 28, we can not assume that the Japanese would be alone. On the contrary, Sir Wilfrid pictured a Japanese fleet weighing anchor at Vancouver to proceed against a common enemy in the North Pacific. With British cooperation the invasion would take place simultaneously from British Columbia and at points on the coast of California.

Assuming British cooperation, there would be ample transport service, and in a few weeks 250,000 Japanese, with substantial reinforcements of Canadian and British soldiers, would proceed to occupy the cities and country around Puget Sound and then go southward through Portland, Oreg., occupying as they went all the territory from the coast to the Cascade Mountains. Branch expeditions would be dispatched to hold the railroads and other passes through the mountains. Simultaneously two expeditions would land, one below Los Angeles, whence the city and the Southern Pacific, the

Santa Fe, and the Salt Lake railroads would be seized, the other landing below San Francisco, whence this city and the Union Pacific Railroad would be seized. As reinforcements arrived these expeditions would move northward, occupying the territory from the coast to the Sierra Nevada Mountains, and seizing the mountain passes. The forts defending San Francisco would be taken from the rear, and this city with its harbor would become the base for the united armies of invasion after they made a juncture. In the seizure of the coast cities and the mountain passes the Japanese already on the coast would be invaluable, particularly the compact, disciplined Japanese clubs. As the country was occupied it would be thrown open to Chinese and Hindus, as well as Japanese, and with the ocean open the white population of the slope would soon be overcome.

Simultaneously with the invasion of the slope Alaska would be occupied by Canadians, and there would be an invasion by the British from the Canadian frontier. Porto Rico, Cuba, and Panama would be seized, an unopposed fleet would destroy all the shipyards, and assaults would be made on our cities on the Great Lakes and on the Gulf and Atlantic seaboard. Our vulnerability on these waters is appalling. On the Atlantic coast alone our population aggregates over 15,000,000, with over \$17,000,000,000 worth of property within gunshot of the water. Coast defenses have always proved inadequate. The efficient protection of all these cities depends on the control of the sea. With the enemy in undisputed control of the sea the damage that could be inflicted and the tribute that could be exacted would stagger the world.

On the Great Lakes there are over 7,000,000 people and over \$7,000,000,000 worth of property within gunshot of the water, all without defenses of any kind, while over 200 British light-draft vessels can pass quickly through the Canadian canals to the lakes.

I do not believe that Great Britain would undertake to join Japan unless Japan soon gained permanent control of the Pacific, so that troops from Japan and India, coming in through Vancouver and on the trans-Canadian railways, could join Canadian and British troops in the invasion from the north. However this may be, Great Britain is held in the offensive-defensive alliance, and it is our duty to investigate the contingency of war with those two powers. This investigation shows that for a long time nothing but the direst adversity could be expected. Upon the outbreak of war the Regular Army would be mobilized, and the militia would be called out. Our people would awaken in consternation to find that there were only about 9,000 infantry of the Regular Army in the whole country, and that these few were scattered far and wide. The consternation would be intensified when it was found that only about 60,000 militia were fit for duty, and that these likewise were scattered over the whole country.

The President would probably issue a call for 250,000 volunteers, and the nation would be shocked to find that there was no system prepared for their organization and equipment; that not even uniforms could be supplied to half that number; that facilities were lacking even for their mustering in.

In olden days, when the numbers involved were comparatively small and the time available after the declaration of war was great, preparation in advance was not vital, though it has always been of great importance. Not so to-day. It is too late to prepare after war has come. Formerly vessels could be built in ninety days, and it took an enemy's fleet that long to get over the ocean and inaugurate a campaign. To-day it takes three years to build a battle ship, and an enemy's fleet could be at our doors in less than two weeks and destroy our shipyards so that no vessels could be built at all. Likewise with armies. When the numbers are so great it is impossible to perfect the organization overnight. In the Spanish war we called out but a quarter of a million volunteers altogether, but the woes of imperfect organization were so great that they died off like flies in camps at home here in our midst. A great industry or a great business can not be created overnight. Much less can an army.

With the Japanese in control of the sea in the Pacific it would be impossible to prevent the invasions mentioned above. We could not possibly oppose the three invasions of 200,000 trained soldiers each, the veterans of Port Arthur and Manchuria, with 25,000 trained soldiers in each case. It would simply be slaughter and butchery to attempt resistance. It would take America at least a year to assemble and train an army competent to undertake the expulsion of the invaders. Ere this the host of Japanese, reinforced doubtless by Chinese and Hindus, would be in complete occupation, and with 1,500,000 veterans in control of the mountain passes they would be impregnable. The transportation and commissary problems, with the deserts and thinly settled stretches east of the coast ranges of mountains, would be stupendous, while the Japanese, besides having a rich country on which to live, would have the open-sea communications with the mother country.

We might as well realize now as later that the Asiatics, in control of the Pacific, could dislodge the Americans on the Pacific slope, and as long as they retained control of the sea we could never successfully contest their supremacy.

A general invasion from Canada by the combined British, Canadian, and Asiatic forces, with both oceans open and with east and west railroads and the waters of the Great Lakes for transportation, while the coasts were held by the unopposed fleets, would present us with a problem almost as hopeless. The invasion would probably reach from the frontier to New York and even to the Chesapeake, east of the Appalachians, and perhaps to the Ohio River, in the Middle West. Our people have been living under the impression of absolute security against invasion. This impression was well founded when the ocean was a great barrier and the only danger was from Europe. Events of recent years, however, have demonstrated the great capacity of Asiatics for war and have at the same time annihilated the time-and-space separation due to the ocean. With Europe and Asia cooperating and in control of the sea in both oceans the question of invasion takes on a new aspect. Japan is planning and preparing to gain control of the population and resources of China. The cooperation of Great Britain, the "mistress of the seas," would make practicable the invasion of America along its northern frontier. No nation could stand up under the weight of numbers the alliance could command.

It is time patriotic Americans were considering the possibility of a war for our very existence. They should realize that everything would hinge on the control of the sea in the Pacific. We must take no chances of having the permanent control of the sea in this ocean. If our fleet were on the Pacific coast at the outbreak of war it should remain on that coast, moving out no farther than Hawaii, and allow the Japanese to occupy the Philippine Islands for the time. Except for cruises by our armored cruisers we should stand fast and proceed to build a new fleet as big again as our present fleet, and in the meantime should undertake no offensive move except to gain complete control of the Hawaiian Islands and establish a great naval base there. Of course

Japan would proceed to build new ships also, but we could ask nothing better than a race in building ships. We should so move that the Japanese fleet could get a general action only by crossing the ocean.

Should war come when the fleet is in the Atlantic, its difficult transfer to the Pacific would begin immediately, but it should hug the coast on the eastern shores of the Pacific and force the Japanese fleet to cross the ocean to get a general engagement. Of course the Philippine Islands, Guam, Hawaii, the Aleutian Islands, Samoa, and Alaska would be seized, but the general invasion of the Pacific coast would not be undertaken while our fleet remained afloat. During the absence of the fleet, however, the coast would be subject to raiding expeditions. It is only too true that, almost without warning, such expeditions could seize Los Angeles, San Francisco, Seattle, Tacoma, and the other cities on Puget Sound, and possibly Portland. It is conservative to state that with our present lack of coast defense these raiding expeditions could be made successfully with our fleet in the Philippines, and some of them could be made successfully with our fleet on the coast. The Japanese have no doubt planned such expeditions. Quickly executed, with 25,000 men in each expedition, there would be no hope of successful resistance at a single point.

Fabulous ransoms would be exacted, and, if refused, the cities would be looted and laid waste or left in ashes. If the ransoms were paid all the works of defense would be destroyed, forts would be blown up, naval stations, arsenals, ship-building plants, wharfs, drydocks, ferry-boats, and railroad terminals would all be destroyed. All vessels and shipping would be captured and taken away. The size of the ransom and the extent of the damage that could be inflicted can be appreciated when we understand that in the State of Washington there are \$317,000,000 worth of property within gunshot of the water; in Oregon \$248,000,000; in California the huge sum of \$2,100,000,000, a total of \$2,665,000,000.

If war comes before we have taken more adequate steps for defense, we can only expect humiliation and defeat. The American nation, however, has never yet accepted defeat as final.

Atlantic Coast Inland Waterways.

SPEECH

OF

HON. J. HAMPTON MOORE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. MOORE of Pennsylvania said:

Mr. SPEAKER: No public question, except it be that of the currency, has so occupied the attention of the business men of the nation during the past year as that of transportation. In more than one message to this House and in his extraordinary convention of governors at the White House, the President of the United States has evinced his deep interest in this subject, and particularly in that of the development of our harbors and internal waterways. If I mistake not the temper of the people of this country, this great problem of internal development will at an early day require of this House its intelligent cooperation.

Our tremendous increase in population has been followed by the growth of industries unrivaled on the face of the globe. We must sustain these industries and encourage their development. They can not continue to prosper unless a ready and convenient market is obtained for them. Such a market is dependent upon means of transportation. The farmer whose great crops are ready for the harvest can not secure a fair reward for his toil and expenditure unless he is given an outlet to the consumer of his product. The manufacturer who provides the farmer with his tools and wearing apparel must have the same opportunity to distribute his commodities. Thus the industrialists and the agriculturalists alike are vitally concerned in the matter of transportation.

RAILROADS NEED RELIEF.

We are told that we have more railroads than any other country and that we afford better service to the traveling public. As a civilizing influence, bringing cities to the wilderness and helping the wilderness to blossom with comfortable homesteads, full credit is to be given to the railroads. Whether they have been rightfully or selfishly managed is beside the question. The people need the railroads as the railroads need the people. The difficulty is, that great as has been the growth of the railroads, gridironing over State and Territory, they have not progressed in proportion as the necessities of the people have increased. This was so apparent preceding the recent financial flurry that no less eminent a railroad manager than James J. Hill, in an address before the National Rivers and Harbors Congress in December last, declared the utter incompetency of the railroads to keep pace with our commercial and industrial requirements. In that address, the terms of which might later have been modified because of the subsequent business depression, Mr. Hill made specific appeal for the opening of the waterways of the country to relieve the railroads of their congestion of freight. He declared for the return of the canal,

hailing it as a wise move, and pleaded for a uniform depth of not less than 16 feet. Since that remarkable speech there has been another of equal significance, supporting the proposition that waterways have become essential to transportation, and that their installation will mean a saving of the natural resources of the country.

CARNEGIE SPEAKS FOR WATERWAYS.

At the conference of the governors at the White House, May 13, Andrew Carnegie, speaking upon "The conservation of ores and related minerals," said:

In my opinion, we should watch closely all the assets and begin both to save and to use them more wisely.

Let us begin with iron: We must in all possible ways lessen the demands upon it, for it is with iron ore we are least adequately provided. One of the chief uses of this metal is connected with transportation, mainly by rail. Moving 1,000 tons of heavy freight by rail requires an 80-ton locomotive and twenty-five 20-ton steel cars (each of 40-ton capacity), or 580 tons of iron and steel, with an average of, say, 10 miles of double track with 90-pound rails, or 317 tons additional; so that, including switches, frogs, fish plates, spikes, and other incidentals, the carriage requires the use of an equal weight of metal. The same freight may be moved by water by means of 100 to 250 tons of metal, so that the substitution of water carriage for rail carriage would reduce the consumption of iron by three-fourths to seven-eighths in this department. At the same time the consumption of coal for motive power would be reduced 50 to 75 per cent, with a corresponding reduction in the coal required for smelting. No single step open to us to-day would do more to check the drain on iron and coal than the substitution of water carriage for rail carriage wherever practicable and the careful adjustment of the one to the other throughout the country.

Addressing the President and the governors of the various States, Mr. Carnegie summed up what he declared to be our duty as a people in this wise:

First, conservation of forests, for no forests, no long navigable rivers; no rivers, no cheap transportation.

Second, to systematize our water transportation, putting the whole work in the hands of the Reclamation Service, which has already proved itself highly capable by its admirable work. Cheap water transportation for heavy freights brings many advantages and means great saving of our ore supplies. Railroads require much steel, water does not.

Third, conservation of soil. More than a thousand millions of tons of our richest soil are swept into the sea every year, clogging the rivers on its way and filling our harbors. Less soil, less crops; less crops, less commerce, less wealth.

THE AGITATION WEST AND EAST.

With these brief references to the opinions of high authorities I wish to call the attention of the House to that part of the great inland waterways movement of the United States which is confined largely to the Atlantic seacoast.

The recent trip of the President and the Inland Waterways Commission along the Mississippi River is of too recent occurrence to require explanation. That inspection was the outcome of the demand of the people of the Mississippi Valley for relief from railroad congestion in the Middle West and for an outlet for bulky freight to the sea. In view of the near completion of the Panama Canal and of the growing importance of New Orleans and Galveston and other Southern ports of entry, the agitation leading up to the President's visit to the Mississippi country was none too early. The wonder is that it had not been undertaken before. The outcome of the Mississippi agitation was a reawakening of inland waterways opportunities throughout the country. Along the Atlantic seaboard the impression prevailed that the time had come to put the coast inland waterways in unison with the general trend. They had been the thought and concern of our forefathers, including Washington, Jefferson, Gallatin, Clinton, and others. The original canal and waterway had largely given over to the better equipped and more expeditious railroad, and the business activities of the people had caused them to neglect the importance of keeping alive these serviceable and competitive avenues of communication. Freight congestion eventually brought the shippers of the East to a realization of their position, so that in November last, when a conference of the representatives of the Atlantic coast was called to meet in Philadelphia, governors and active business men of no less than fifteen States responded. These States extended in a line from Maine to Florida, divesting the movement of any sectional interest and enabling the delegates to declare in the interests of commerce and for the general welfare only, that waterways were no longer to be slighted. The resolutions of that conference are here reproduced:

ATLANTIC COAST LINE URGED.

The delegates from the Atlantic seaboard States, assembled in Philadelphia in the Deep Waterways Conference, after full and free discussion of all the aspects of the project for a deep waterway along the whole Atlantic coast and along the Gulf to the Mississippi River and of the plans so far suggested for creating such a waterway, approve and adopt the following resolutions:

"Resolved, That, as a primary movement, the opening of ship canals and deepening of intervening rivers and approaches from Norfolk, Va., southward to Key West, Fla., from Chesapeake Bay to Delaware Bay, and from the Delaware River to the Raritan River, and across Cape Cod, along the lines approved by Congress as the most practical,

having due consideration for the cost and promptness of their development, is demanded by the commercial interests of 30,000,000 people on the seaboard directly, and indirectly and ultimately by those of the remainder of the American people.

"Resolved, That, in our judgment, the construction of this highway can alone give gravely necessary and permanent relief to the business of transportation, and it will surely result both in stimulating commerce and in reducing the cost of moving commodities.

"Resolved, That the canals should be dug in any case by the Federal Government: First, because the Government alone has authority over navigable waters; second, because all the canals should be free, but chiefly because the enterprise planned in the interests of peace will have incalculable value for the whole nation in time of war.

"Resolved, That the present Congress be urged to take this great matter in hand at once, and to arrange for the practical starting of the undertaking at the earliest possible moment."

LENGTH OF CANALS AND TONNAGE.

In order to show exactly what such an inland chain of waterways as is contemplated by the resolution would mean, I submit the following data, prepared for the conference, showing the length of existing and proposed canals from Boston to Beaufort, N. C., and the difference in freight tariff rates by railroad and by water, the miles given being statute miles:

LENGTH OF CANALS.

No. 1. Cape Cod Canal via Buzzard's Bay, 7.5 miles long, saves 148 miles outside.

No. 2. Delaware and Raritan, 31.4 miles long, saves 184 miles outside.

No. 3. Chesapeake and Delaware, 13.8 miles long, saves 318 miles outside.

No. 5. Albemarle and Chesapeake, 13.9 miles long, saves 50 miles outside.

AVERAGE TARIFF PER TON MILE.

Earthen roads by animal power	cents	25
Steam railroads (1906)	mills	7.8
Canals, from 5 to 10 feet	do.	2 to 3
Rivers, from 5 to 10 feet	do.	1
Lakes, ocean, etc.	do.	0.5

TONNAGE RATES COMPARED.

I also submit an editorial from Shipping (February 8, 1908) bearing upon the importance of an improved coastwise system of inland waterways:

Enlargement of the Atlantic coastwise canals for the benefit of our manufactures and commerce is a matter of the greatest importance in the interest of economical transportation. The total amount which the people of the United States pay annually as freight for goods hauled over the railroads alone is more than \$1,400,000,000. The average length of haul is 131 miles, and although the rate per mile is only 0.78 cent, the charge per ton is therefore \$1.02 for every ton hauled. One-fourth of this movement is coal, much more consists of raw material and manufactured product, so that a large part of the cost of producing any articles of commerce is composed of the freight charges. These are lower in the United States than in any other part of the world, yet the foreign railroads are enabled to charge a much higher rate, while the manufacturers are able to undersell our own. This paradox is explained by the general use of waterways for transportation of raw materials, while the finished products are carried by rail at a charge which they can readily bear. No country in the world has apparently greater possibilities for the development of interior waterways than this, yet they seem to be sadly neglected by the States and the National Government. The niggardly appropriations made will not meet the present demands of about \$500,000,000 for fifty years, by which time the population will have far more than doubled. This has led to a general demand for a return to the original policy of authorizing corporations, States, or private parties to make their own improvements as they may be required, just as has been done in the case of other lines of communication, as for roads, canals, railroads, telegraphs, telephones, etc.

NEW YORK CANALS TOLL FREE.

Prior to the ascendancy of railroads, the States built many miles of canals, but they were purchased and, in a measure, destroyed to eliminate the competition. New York, however, has preserved her system as a public highway, free of tolls, and is now enlarging it at a charge of \$101,000,000. The congestion on all lines of railroads compels them to refuse freight and causes annoying delays at terminals, so that frequently from four to six days are required for deliveries within a radius of 100 miles. Enormous orders for more cars are placed, but even this will not increase the terminal facilities, and the cars will continue to be used for storage until each one, as a unit, can be unloaded in the warehouse or vessel. Again, the cost of movement by canal being but one-third of that by rail, while in open water it is but one-tenth, the enormous economy thus secured is attracting the attention of the manufacturer to the improvement of the available waterways between the great centers of industry which stud our coast. There is no such aggregation of capital and manufactures in the world as is to be found from Boston to Norfolk, and the physical advantages for an interior waterway of ample dimensions connecting them are unsurpassed, but unfortunately for more than a century they have been almost neglected because of the hostility to their improvement by vested interests. It is said the open sea is available, but this is not always true: in storms or in war it is unsafe, whereas the interior waterway passes through a fertile, safe, and enormously productive territory, both flanks of which are teeming with traffic, while the ocean is nonproductive from start to finish, without long detours into the bays and estuaries to reach particular ports.

THE MASSACHUSETTS CANALS.

It is not unnatural, in view of the foregoing, that the State of Massachusetts has granted charters to three distinct companies to attempt the construction of canals, from private funds, across the Cape Cod peninsula, one at Bass River, one at Buzzards Bay, and the last and most important from Weymouth Fore River via Brockton to Taunton River and Narragansett Bay, that her citizens may secure fuel to support her manufactures of shoes, cotton, and other goods which line the route. The next link across New Jersey which at one time had a traffic of about 4,000,000 tons, has been throttled by the small dimensions of the canal and the increase in the size of boats until it can not pay the fixed charges. The link connecting the Chesapeake and Dela-

ware bays, although having the greatest draft of any, is still far too small and unable to pass more than about 3 per cent of the vessels navigating these waters. The tonnage now in sight amounts to something above 50,000,000 registered tons, yet most of it must go to sea at greater risk, loss of time, and expense. These, as well as the Schuylkill Navigation, which has been leased by the Reading Railroad Company, are all barriers to interstate commerce and a check upon the growth and industries of the great States to which they are tributary, because of the high rates which are maintained by their controlling interests. If made free, as in other parts of the country, great economies would be effected to all consumers, and the overland transporters would be materially benefited by the higher class freights which would result from the industries thus fostered.

INTERSTATE COAST COMMERCE.

An analysis of the statistics of foreign commerce along the Atlantic coast, from the viewpoint of the Philadelphia Ledger, March 10, 1908, is also submitted:

Boston's chamber of commerce has been making a detailed analysis of the statistics of the foreign commerce of that port, together with a comparison with the imports and exports of the other principal ports of the United States. This analysis and comparison afford food for thought for Philadelphia shippers as well as for those of Boston, and while the showing made by Philadelphia is not all that it should be and can be made, it is decidedly inspiring. It shows that, whatever the reasons, the last year has been one of extraordinary gains, and it gives solid ground for the expectation that, with an intelligent administration of the affairs of the port, with the provision of adequate docking and transportation facilities, and with the completion of the channel to the sea, to which Philadelphia is justly entitled, the ground that has been gained will be permanently retained.

In the aggregate of its foreign commerce the port of Philadelphia stands fifth in the list, its total of \$187,000,000 in 1907 having been exceeded not only by New York, but by Boston, New Orleans, and Galveston as well, in the order named. New York's lead is so great that none of the other ports of the country can be compared with it, but Philadelphia's exports and imports fell below those of Boston by only \$40,400,000, and was less than New Orleans' by \$21,560,000 and of Galveston's total by \$16,670,000. On these totals alone, considering its geographical and industrial position, Philadelphia would have no cause to be satisfied, but there is another aspect of the situation which is more encouraging.

INCREASE OF IMPORTS AND EXPORTS.

It is to be noted that while Philadelphia did not alter its relative position as compared with the figures for 1906, its foreign commerce for last year increased at a rate that was not approached by any other American port. The actual increase was 17 per cent, as compared with an increase of only 7.9 per cent at New York and 9 per cent at Boston, and a decrease of 1.7 per cent at New Orleans and of 11.5 per cent at Baltimore. This port increased its imports by \$8,555,000 and its exports by \$18,588,000, the percentages of increase and decrease, as compared with 1906, at the different ports being shown in the following table:

	Imports.		Exports.		Totals.	
	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.
New York.....	6.3	-----	9.8	-----	7.9	-----
Boston.....	11.9	-----	5.3	-----	9.0	-----
New Orleans.....	-----	1.5	-----	1.8	-----	1.7
Galveston.....	55.0	-----	5.2	-----	6.5	-----
Philadelphia.....	11.9	-----	21.0	-----	17.0	-----
Baltimore.....	2.5	-----	10.3	-----	11.5	-----

It will be observed that Philadelphia's principal gain was in its exports, but it is also to be noted that its increase in imports was equal to that of Boston. The large percentage of gain for Galveston, in the import column, represented an actual gain of only \$2,700,000—the strength of that port being almost wholly as a shipping point for cotton—whereas the actual gain for Philadelphia in that column was \$8,555,000. Boston alone exceeded this aggregate, although the percentage of gain was the same. In the table of exports, on the other hand, the record of Philadelphia gains is exceeded by none of its competitors, New York not being considered in the comparison of totals.

This is a condition of affairs so gratifying that it should inspire the commercial interests of the port to a serious study of the causes for these substantial gains, and to a united and determined effort to make still further progress, a progress which shall wipe out the effects of the present temporary depression and carry the port forward another point in the table of comparison with its rivals on the Atlantic coast.

ATTITUDE OF LYNN BOARD OF TRADE.

As showing the commercial attitude toward the proposed inland chain, a letter from the Lynn Board of Trade to my colleague from Massachusetts [Mr. TIRRELL] will also be of interest. This communication is selected from many others received from points along the New England coast, showing the widespread interest in the movement to secure adequate transportation facilities by water:

SECRETARY'S OFFICE, LYNN BOARD OF TRADE,
Lynn, Mass., March 21, 1908.

C. Q. TIRRELL, M. C.,
Washington, D. C.

MY DEAR SIR: It is generally understood that the railway systems in the eastern part of the country are utterly unable to handle the volume of freight which comes to them, and because of this vexatious delays in the transportation of freight are constantly occurring, putting the shippers to a considerable money loss.

This state of affairs also prevents the development of agriculture and manufacturing industries. The only relief for this unfavorable condition lies in the development of transportation by water. The most pressing need at present seems to be the development of inland waterways, according to the plans adopted in the Atlantic waterways conference and the national rivers and harbors congress, both held during the present winter.

Believing that the carrying out of this project will be of great and lasting benefit to the commercial interests of the country, the Lynn Board of Trade is in favor of some form of legislation which will best promote that end.

The secretary of the Lynn Board of Trade has been instructed to write you, requesting you to urge upon Congress such favorable legislation. Trusting this will meet with your approval, we remain,
Respectfully, yours,

HENRY A. SAWYER, Secretary.

INLAND WATERWAYS MEAN GROWTH.

Without desiring to encumber the RECORD, but because of its brevity, I draw attention to the following editorial from the Philadelphia Record, under the caption "Inland water-borne commerce:"

A census of vessels engaged in the transportation of freight and passengers on the waters of the United States taken for the year 1906 is now completed by the compilation of the facts and the tabulation of the figures, and the results are most encouraging. They show that wherever the conditions for navigation are reasonably good water-borne traffic has enormously increased, thus supplying irrefutable arguments in favor of the improvement advocated by the Internal Waterways Congress and affiliated associations. Where rivers have been neglected or the contemplated deepening or canalization has been delayed business has fallen off. Despite these instances of decay in the business of inland transportation by water the industry as a whole has kept step with the growth of the country's wealth and business. Proportionately the increase of interior navigation has been as great as, if not greater than, the increase of railroad facilities.

In the seventeen years since the last special census was taken the value of the vessels employed on the interior waterways and in coasting (fishing vessels excluded) has increased from \$200,000,000 to \$500,000,000; their gross income has grown from \$162,000,000 in 1889 to \$295,000,000 in 1906, and the wages paid to employees from \$41,000,000 to \$72,000,000. In the former year these vessels carried 130,000,000 net tons of freight; in 1906 they carried 265,000,000 net tons. The gross tonnage of all the inland water and coasting craft was 8,359,135 in 1889, and 47 per cent only of this was in steel or iron vessels; in 1906 the gross tonnage had risen to 12,893,420, and the proportion in steel or iron vessels to 82 per cent of the total. The steam vessels increased in number from 5,603 to 9,927, and in registered tonnage from 1,710,073 to 4,059,521 tons. By far the largest part of this shipping is operated on the Atlantic and Gulf coasts and the adjacent estuaries, sounds, and bayous, the totals being 20,000 vessels, with a registry of 4,800,000 tons. To what proportions this embryonic fleet could grow under the impetus of a coastal inland waterway from New England to Texas beggars the imagination.

The number of vessels employed on the Mississippi and its tributaries is 9,622, and their aggregate tonnage is 4,400,000, and from these figures one might get the impression that traffic can flourish on waterways even that are not improved. But the Mississippi craft are mostly coal barges and scows; their total value was but \$23,000,000, and their annual gross income \$17,000,000. Moreover, in the seventeen years under consideration general traffic on the Mississippi had dwindled, and would be almost negligible but for the development of the coal-carrying trade coming down through the Ohio. The St. Louis steamboat trade is almost extinct. The 2,990 vessels on the Great Lakes represented a value of more than \$130,000,000—over six times that of the entire Mississippi outfit—and they earned \$65,000,000 in freights and fares.

SOUTHERN CARGOES HELD UP.

As an object lesson, pointing a waterways moral, I also present the following statement of fact with regard to the difficulties under which interstate commerce, as between the Atlantic States, is now carried over such inland waterways as are left to us. This article is from the Philadelphia Inquirer of March 9, 1908:

The arrival at this port yesterday of thirty-two barges loaded with the largest cargoes of lumber ever shipped here at any one time, which had been tied up for over a month in the canals between here and Newbern, N. C., furnished maritime and commercial interests with another forceful argument for prompt Government action on waterways development. The delay of the barges was due, it is said, to the fact that many of the canals which they were compelled to pass through were closed either because of the ice or for repairs, while in other instances they found the waterways so badly in need of improvement and development that they were hardly navigable.

The barges are loaded with 10,000,000 feet of lumber, several thousand tons of wood pulp, 200,000 mine props for the coal mines and a large quantity of copper ore. The cargoes come from Virginia and North Carolina and the delay in transit, it is said, will mean a serious loss, not alone to their owners, but also to the concerns to which the lumber and other material are consigned.

According to shipping men, the poor condition of the inland waterways along the Atlantic coast has been a source of great financial loss to the maritime interests of the Delaware River and other ports, and this fact alone, they say, should hasten the adoption by the Government of a comprehensive programme for developing the canals and other inland navigable streams. The most serious delay encountered by the barges was in the Delaware and Chesapeake Canal, one of the most important of the inland waterways along the coast, which had been closed to navigation for several weeks because of necessary repairs which had to be made. Friday the repairs were completed and when the lock at St. George was thrown open the big fleet of barges, together with other craft which had been tied up in the canal, passed through into the Delaware River. Besides the vessels which were tied up in the canal there were a score or more bound from this port for Baltimore and other places which could not take their departure because of the fact that the Delaware and Chesapeake Canal was temporarily closed. With the opening of the canal navigation between here and Baltimore and other Southern points has again been resumed.

SAVING OF LIFE AND PROPERTY.

Another phase of the problem to which attention is respectfully drawn is the life-saving and property-protecting advantages of inland waterways. Since this subject is comprehensively treated in a letter from Col. C. P. Goodyear, of Georgia, I offer it for the consideration of the House:

BRUNSWICK, GA., March 19, 1908.

HON. J. HAMPTON MOORE.

MY DEAR SIR: In my inquiry concerning the proposed Atlantic and Great Western Canal across the hills of Georgia I have been led to make an investigation of Life-Saving Service records, due to my per-

sonal knowledge that there have been very few disasters upon the Georgia coast in my thirty-eight years' residence here.

I find the record for a period of ten years prior to June 30, 1906, most gratifying, but 43 disasters of all kinds in the ten years.

There were 3,760 disasters in same period on Atlantic and Gulf coast.

The location of these disasters, it seems to me, is a most impressive argument for the inland waterway down the entire coast, across the State of Florida, and to the Mississippi River.

The New England coast record distributed through the ten-year period named shows 561 disasters for the Maine coast, 33 for New Hampshire's only 12 miles of coast, 851 for Massachusetts, 151 for Rhode Island, 73 for Connecticut; total, 1,669.

Many of these were total wrecks. Much loss of life ensued. How much the Life-Saving Service reports do not specifically show for localities for such period. (See Life-Saving Service reports, 1906.)

The arrival of vessels at Boston, coastwise ports south and east, was 8,643 vessels, 9,274,615 gross tons, 1906; 9,616 vessels, 10,261,474 gross tons, 1907. (See Monthly Summary Commerce and Finance, December, 1907, p. 1189.)

The ten-year period shows for New York, New Jersey, Delaware, Maryland, 978 disasters. New York's coastwise commerce, vessel arrivals, 1905, 7,182; 1906, 7,186; 1907, 6,326. Philadelphia coastwise arrival vessels, 1906, 4,211; 1907, 4,450.

Total vessel arrivals for the three ports, 1907, 16,392. I do not have for this portion of coast disasters for 1907, but the average for each year often is 2,547, all avoided by the inland route.

Of the 16,392, the Boston data shows proportion from Southern ports to be from Southern ports, 1907, 6,306; 1906, 5,672. New York and Philadelphia data does not show this, but proportions probably about the same, about two-thirds, about 10,000 from the South; therefore the disasters south of Maryland become important.

Of course arrivals should be doubled to show number of trips affected, as vessels go as well as come, making total affected for Northern ports named 32,784, at least 20,000 to and from the South.

For the ten-year period, disasters on coasts as follows south of Maryland: Virginia, 278; North Carolina, 283; South Carolina, 53; Georgia, 43; Florida, 184; Alabama, 20; Mississippi, 7; Louisiana, 26; Texas, 119; total, 1,013. The straits of Florida, the danger points off North Carolina and Virginia coast, all avoided by the 32,784 vessels, which statistics account for at least by 20,000 of them in a year. The average per year, South, 103.

If the data for all important ports were given, as Portland, Providence, New London, Wilmington, Baltimore, Norfolk, and Newport News, it would, I believe, readily show interchange coastwise business of not less than 50,000 vessels; not less than 33,000 between northern and Southern ports.

Counting all classes of vessels in coastwise trade, \$20,000 would be, I think, a ridiculously low estimate of average value of vessels, or \$7,000,000,000 of total cargoes, \$500,000,000 exposed to these dangers relieved by inland passage.

For the years 1904 and 1905, vessels in disaster, 530; 1905 and 1906, 465. On Atlantic and Gulf coast: Value of such vessels and cargoes, 1904 and 1905, \$29,000,579; 1905 and 1906, \$28,558,680; losses, 1904 and 1905, \$4,447,480; 1905 and 1906, \$3,034,970; tonnage, 1904 and 1905, 316,126; 1905 and 1906, 307,358; tonnage, total loss, 1904 and 1905, 47,961; 1905 and 1906, 28,650. Lives lost, Atlantic and Gulf coast, 1905, 86.

The yearly increase of this coastwise interchange of freights can probably be gotten at from records of trade bodies in the different ports, and would be of great value.

The data can also be obtained of coastwise insurance, which would be, of course, greatly reduced for an inland passage.

The reduction in freight rates would make an enormous yearly saving to commerce. The loss of any part of eighty-six lives a year which would be saved is not purely a humanitarian question. An able-bodied man has a yearly value in dollars.

The classes of freight transferred upon the two coasts—coal, lumber, and other heavy commodities, a vast majority of the tonnage—can not stand a high-class freight.

Sincerely, yours,

C. P. GOODYEAR.

THE PEOPLE LOOKING TO CONGRESS.

Important as the waterways problem is to the people, it has been apparent for some time past that owing to the exigencies of this session it would not be advisable to attempt waterways legislation. A rivers and harbors bill of generous proportions was enacted in the Fifty-ninth Congress, and a public buildings bill had to be first considered this session. The hopes of waterways advocates, therefore, turn to the next session of this Congress. The Inland Waterways Commission appointed by the President will continue its inquiries, and the various associations operating together, in conjunction with the Rivers and Harbors Congress, will proceed with their work of education and agitation. Since the various commercial and trades bodies of the country are behind the movement and the prosperity of the country shows no sign of abatement, nor any disposition to make lighter the task of the railroads, there is every reason to believe that the next Congress, responding to the wishes of the people, will give consideration to their claims in respect to waterways.

As to the necessity for a survey for a continuous inland waterway from Boston to Beaufort, N. C., as contemplated by concurrent resolution No. 35 introduced by me, and from Beaufort, N. C., to Key West, Fla., as proposed in concurrent resolution No. 39, introduced by Mr. SMALL, of North Carolina, I deem it proper to present certain information which has come into my hands as to the distances along the proposed inland waterway from Boston to Beaufort, and the saving by an inside over an outside course. The following letter from the Superintendent

of the Coast and Geodetic Survey, followed by one from the Acting Superintendent, presents authentic figures:

FIGURES AS TO DISTANCES.

DEPARTMENT OF COMMERCE AND LABOR,
COAST AND GEODETIC SURVEY,
Washington, March 13, 1908.

Hon. J. HAMPTON MOORE,

House of Representatives, Washington, D. C.

SIR: In response to your letter of March 10 I have pleasure in furnishing you below the distances along the proposed inland waterway from Boston, Mass., to Beaufort, N. C., these distances having been measured from the larger scale charts of this Survey.

	Nautical miles.
Boston to New York, via Cape Cod Ship Canal	226
New York to Philadelphia	90
Philadelphia to Baltimore	93 1/2
Baltimore to Norfolk	154 1/2
Norfolk to Beaufort, via Albemarle and Chesapeake Canal	175

Total 739

Seven hundred and thirty-nine nautical miles is equal to 851 statute miles.

Respectfully,

O. H. TITTMANN,
Superintendent.

DEPARTMENT OF COMMERCE AND LABOR,
COAST AND GEODETIC SURVEY,
Washington, March 13, 1908.

Hon. J. HAMPTON MOORE,

House of Representatives, Washington, D. C.

SIR: Replying to your letter of March 16, I have the honor to furnish the following information:

The shortest navigable distances in nautical miles for full-powered steam vessels are as follows:

	Miles.
Boston to New York	300
New York to Philadelphia	229
Philadelphia to Baltimore	355
Norfolk to Beaufort	357

Total 1,241

Respectfully,

F. W. PERKINS,
Acting Superintendent.

AUTHENTIC ESTIMATE NEEDED.

From the above data it will be seen that in nautical miles the outside sailing distance from Boston to Beaufort is 1,241; the inside distance, 739 nautical miles. The saving of sailing distance in favor of the inside passage therefore is 502 nautical miles, and this saving involves the passage around Cape Cod, around Cape May, around Cape Charles, and around Cape Hatteras, the terror of all coastwise mariners. I commend to the attention of the House the notable saving in sailing distance inside as between Boston and New York, New York and Philadelphia, Philadelphia and Baltimore, and Norfolk and Beaufort.

Obviously the 30,000,000 people directly and indirectly interested in the business of the Atlantic coastwise States should have some definite information as to the cost of the proposed inland waterway and some reasonable prospect of having this waterway opened up for commercial, industrial, and agricultural purposes. So far as information upon this subject could be obtained, I am convinced that it would require no more money to build a 16-foot barge canal, with greater depths at certain points from Boston to Beaufort, than the single State of New York has already appropriated for its improved Erie Canal system. In answer to an inquiry for an estimate, based upon such data as he already had at hand, the then Chief of Engineers, United States Army, whose retirement upon age has removed from the Government service one of its most faithful officials, sent the following letter:

THE GOVERNMENT'S INCOMPLETE DATA—VALUABLE INFORMATION ALREADY AT HAND, BUT NOT SUFFICIENT FOR THE PURPOSE.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, February 24, 1908.

Hon. J. HAMPTON MOORE,

United States House of Representatives.

SIR: 1. In reply to your letter of the 5th instant, concerning estimates for an inland waterway from Boston to Beaufort, I have to state that there is considerable information at hand concerning all sections of the route with the exception of the Delaware and Raritan Canal link and the region bordering upon the open stretch between Narragansett Bay and the eastern entrance to Long Island Sound.

2. For the section between Boston and Fall River reliance is placed upon the estimate of the board of harbor and land commissioners of Massachusetts, published in their report of May 1, 1902, amounting to \$57,618,358 for a canal 25 feet deep and 130 feet wide at the bottom. The preparation of an estimate for a canal 35 feet deep will probably require a series of borings.

3. The routes across Cape Cod have been extensively investigated and the conclusion reached that the line by way of Barnstable and Buzzards bays is superior to all others. The estimated cost of a canal along that route 23 feet deep and 198 feet wide at the bottom is approximately \$10,000,000.

4. No reconnaissance appears to have been made for an inland waterway to avoid the stretch of open sea of about 40 miles between the entrance to Narragansett Bay and the eastern entrance to Long Island Sound. A draft of 25 feet can now be carried from Fall River to the northern end of Staten Island, passing through Long Island

Sound, East River, New York Bay, and Kill von Kull. A draft of 14 feet is available between that point and the Raritan River, and operations are in progress to obtain a depth of 21 feet. The preparation of an estimate for a channel 35 feet deep from Fall River to the mouth of the Raritan will perhaps require borings in Narragansett Bay, East River, the Kill von Kull, and the Arthur Kill, but it is possible that the information obtained by the local engineer officers in connection with works of improvement may be sufficient for the purpose.

5. The available depth in the 12 miles of the Raritan River between its mouth and the entrance to the Delaware and Raritan Canal is about 9 feet. Estimates for channels 16 to 35 feet deep will probably necessitate borings in the bed of the Raritan, and careful surveys and borings along the 44 miles of the Delaware and Raritan Canal. The available depth in that canal is 7 feet. Its cost to December 31, 1870, was given by the Tenth Census as \$4,735,353.

6. The limiting depth in the Delaware River between the Delaware and Raritan Canal and Philadelphia is about 8 feet at the mouth of the canal and at Kinkora Bar. Elsewhere the depth is greater, and it is thought that the local engineer office at Philadelphia can furnish estimates for a 16-foot channel between those points. Estimates for channels of greater depths will probably require borings. From Philadelphia to the mouth of the Chesapeake and Delaware Canal a 30-foot channel is in progress of excavation, and it appears possible that the local engineer office may also be in a position to estimate the cost of a 35-foot channel between those points.

7. Several estimates are available for the proposed Chesapeake and Delaware Ship Canal, viz:

For depth of 15 feet and bottom width of 100 feet (Sassafras route) approximately-----	\$5,713,345.00
For depth of 26 feet and bottom width of 100 feet (Sassafras route)-----	8,085,330.00
For depth of 27 feet and bottom width of 100 feet (Back Creek, existing route, but not including cost of obtaining possession of existing canal)-----	7,605,471.39
For depth of 35 feet and bottom width of 150 feet (Back Creek route, including cost of obtaining possession of existing canal)-----	20,621,323.70

8. A 35-foot channel is in progress of excavation in the Chesapeake Bay, from Baltimore southward, and a 28-foot channel is available through Hampton Roads and the Elizabeth River to the navy-yard at Norfolk. It is thought that the information in possession of the local office at Norfolk will permit the preparation of an estimate for a 35-foot channel.

9. Surveys have been made for a waterway between Norfolk and Beaufort Inlet. The estimate for a cut 90 feet wide and 16 feet deep is \$10,023,000.

10. On account of the length of time required to furnish even an approximate estimate of cost of the entire waterway with any of the uniform depths specified in your letter, no attempt is made at this time to do so.

The nearest approach that can be attempted without considerable labor is as follows:

Estimated cost of 25-foot depth from Boston to north end of Staten Island (in open ocean from Narragansett Bay to Long Island Sound)-----	\$57,618,358.00
Cost of 25-foot navigation from north end of Staten Island to Philadelphia (involving deepening of Arthur Kill, Raritan River, Delaware River, and the construction of a canal from Raritan River to the Delaware)-----	Indefinite.
Cost of 27-foot depth from Philadelphia to Norfolk-----	7,605,471.39
Plus value of works and franchise of Chesapeake and Delaware Canal, given in Senate Document No. 215, Fifty-ninth Congress, second session, as-----	2,514,289.70
Cost of 16-foot depth from Norfolk to Beaufort Inlet-----	10,023,000.00

Total-----
Plus a large and indefinite amount for Delaware and Raritan section.

Very respectfully,

A. MACKENZIE,
Brigadier-General, Chief of Engineers, United States Army.
COST OF A MISSING LINK.

It is observed that General Mackenzie carries his estimate of cost of the entire work at varying depths to \$77,761,119.00, but omits one or two links in the chain, notably that across the State of New Jersey on lines contiguous to the Delaware and Raritan Canal. Since Government data upon this link are imperfect, I have gone to the author of a report of a canal commission authorized by the city of Philadelphia to make a survey in 1894. His letter is that of a civil engineer whose views have not always coincided with those of the Government engineers and whose opinion with regard to the general project is that the Government estimate of the cost from Boston to Beaufort is too high. The letter of Professor Haupt, to whom I refer, estimating the cost of the link between New York and the Delaware River across the State of New Jersey at between fifteen and twenty millions of dollars, is as follows:

LEWIS M. HAUPT, CONSULTING ENGINEER,
Philadelphia, Pa., March 12, 1908.

Hon. J. HAMPTON MOORE.

MY DEAR SIR: I have cut my paper on "Our waterways" short that I may give some attention to your request for estimates on the entire coast line from Boston to Beaufort, as well as for a 16-foot navigation from Trenton to Philadelphia, and for 35 feet thence to the sea.

In the brief note of this morning I intimated that the Cape Cod project of Mr. Belmont, now under contract, is the one which may properly be taken, so far as national defense is concerned, and that is to be provided for by private capital, as is also the Boston-Brockton canal for the preservation of the business interests along its banks. They will be completed without cost to the Government and in less time, from all appearances, by avoiding entangling alliances, if experience is any criterion.

As to the New Jersey link, the data are all clearly given in the Report of the Philadelphia Canal Commission of 1894. (See p. 28 et

seq.) For a 16-foot canal across these 31.4 miles of the plateau, the only reduction would be in the amount of excavation, as all the works and auxiliaries remain about the same. This means some 3,000,000 cubic yards less, but to-day the prices of labor are higher than when the estimate was made, at least 50 per cent, so that the unit price would more than offset the reduction in quantity, and the cost would be about \$15,000,000, aside from the cost of securing the old works by condemnation, which may be five millions more, or, say, \$20,000,000 in all.

The Chesapeake and Delaware link for 16 feet can be placed at \$10,000,000, including the right and franchises, the removal of the summit level, and making of an open cut at sea level between the two bays, with very little work in the approaches; and the Norfolk-Beaufort section is estimated at ten millions, making for these three connections only \$40,000,000, or with the Cape Cod link \$50,000,000, which was the figure Senator Quay had fixed upon some twenty years ago.

As to the river, I presume you have Mr. Hasskarl's late report of December 31, 1907, giving all the statistics of appropriations and works, and hence I can briefly refer you to his digest as to the condition of the 26-foot project when the 30-foot one was substituted for it and it had been declared completed. He says on page 3 that the depth on Tinicum Island Shoal was 23.6 to 26 feet over a distance of about 4,200 feet. Above Schooner Ledge 24 to 26 feet for about 4,800 feet, and from below Marcus Hook to Bellevue 23 to 26 feet over a distance of 13,500 feet, which is about 23 miles over what is known as the Cherry Island Flats, which have been dredged some five or six times, but constantly fill up. On his summary he shows "Minimum present depth as being in all cases 30 feet, excepting at Duck Creek Flats, which has shoaled to 23 feet for a distance of 24,000 feet opposite Listons Point, or almost 5 miles. But on inquiry of the pilots as to the actual conditions of these several bars, I learn that they are shoaling rapidly, excepting at the Bulkhead and just below Fort Delaware, where the channel is reasonably permanent. His report states on page 4: "The work of dredging under the 30-foot project has resulted in the formation of a channel 30 feet deep, with a mean width of 600 feet at the following localities: Duck Creek Flats, channel length, 43,000 feet, $8\frac{1}{2}$ miles; Baker Shoal, 20,500 feet, 4 miles, and Salem Cove Flats, 12,500 feet, $2\frac{1}{2}$ miles.

This is the usual phraseology in reporting the results, yet his profile and summary both show the shoaling to 23 feet for a distance of nearly 5 miles at Duck Creek, and there are credible reports of shoaling elsewhere so that there is nothing very reliable within reach as to the actual amount to be removed to recover and maintain the 30-foot project.

As to the artificial island intended for a dump, referred to on page 7, it is reported as being completed and protected by stone riprap, at a cost of \$465,326.86 for the latter, which was not contemplated in the estimate, but I learn that the bulkhead is not completed and the island is no longer used as a dump for the dredged material which is being deposited in the *tideway of the bay*, since the action of the tides in the gap at the island is such as to have bored so deep a hole that it can not be closed, and it is not practicable to pump the silt over it. In this connection I beg to call your attention to the excellent paper of Mr. Ripley, which was handed you, for an intelligent understanding of the conditions which militate against the procuring of even a 30-foot channel by dredging which disturbed the regimen of the river at the place of excavation as well as that of deposit. The upper river only needs a little regulating above the Kinkora bar to give a good 16-foot navigation, which I believe could be secured for about \$150,000.

Regretting that I must be thus brief and so unsatisfactory in a matter of so great importance to the commercial welfare of the country, I am,

Very sincerely, yours,

LEWIS M. HAUPT.

THE DEEPER DELAWARE PROPOSITION.

Although there is a much greater depth than 16 feet in the Delaware River below the city of Philadelphia, the importance of deepening the channel from 30 to 35 feet bears so directly upon the commerce of all the States affected by a continuous inland waterway, of which the Delaware would necessarily be a part, that I have obtained from the engineer director of the department of wharves, docks, and ferries of the city of Philadelphia an estimate of the cost of deepening the Delaware channel which, in the absence of Congressional sanction by survey, can not otherwise well be obtained. Mr. Hasskarl, the writer, was formerly in the Government service, and is well qualified to make the estimate which is herewith presented:

DEPARTMENT OF WHARVES, DOCKS, AND FERRIES,
Philadelphia, March 19, 1908.

Hon. J. HAMPTON MOORE,

Member of Congress, House of Representatives,
Washington, D. C.

DEAR SIR: In reply to yours of the 16th instant, I have the honor to submit figures, which are very nearly correct, as to quantities and cost of deepening the Delaware River Channel, from Christian street, Philadelphia, to the bay, from 30 to 35 feet.

In this estimate please bear in mind that the depth is computed to 37 feet, which allows 2 feet overdepth, which is about the average amount of overdepth dredged in forming such a channel, and with side slopes of 1 on 5.

The amount to be removed from Christian street to the Bay, exclusive of Schooner Ledge section, is about 40,600,000 cubic yards, which at the rate of 15 cents per cubic yard amounts to \$6,090,000.

Schooner Ledge, it is estimated, will require the removal of 100,000 cubic yards of rock, estimated cost of which is \$15 per cubic yard, making a cost of \$1,500,000; and 550,000 cubic yards of overlying material, at the rate of 50 cents per cubic yard, making a cost of \$275,000; making a total cost of \$7,865,000.

Add to this 10 per cent of the total amount for engineering expenses and contingencies, \$786,500, makes a grand total of \$8,651,500.

SUMMARY.	
40,600,000 cubic yards dredged, at 15 cents per cubic yard-----	\$6,090,000
100,000 cubic yards of rock at Schooner Ledge, at \$15 per yard-----	1,500,000
550,000 cubic yards of overlying material at Schooner Ledge, at 50 cents per yard-----	275,000
Total-----	7,865,000
Engineering expenses and contingencies, 10 per cent of total-----	786,500
Grand total-----	8,651,500

I have just succeeded in getting information concerning the old project of a canal across New Jersey, which information you also desire. I will cull out the data you wish and will send it to you tomorrow.

Very respectfully, yours,

J. F. HASKKARL.

THE ASPECT FROM BEAUFORT SOUTH.

Before leaving this phase of the subject I wish to say that with but very few exceptions, the newspapers along the entire Atlantic seaboard, reflecting the opinions of boards of trade and commercial bodies generally, have urged upon Congress the importance of early action. This has been due to the complaints of business people, particularly those of New England and shippers in congested centers elsewhere, who have been unable to make shipments without demurrage and who have been compelled to hold up bulky freight because the railroads were obliged to devote their equipment to the lighter and more perishable kind. It has also been due to the demand of the farmer, both North and South, for the opening up of agricultural lands otherwise waste and unprofitable and the opportunity waterways would afford to send the product of the farm to market.

In order that a better understanding may be had of the progress of inland waterways south of Beaufort, N. C., I call attention to this letter from the vice-president and general manager of the Florida Coast Line Canal and Transportation Company:

FLORIDA COAST LINE CANAL AND TRANSPORTATION COMPANY,
St. Augustine, Fla., April 4, 1908.

Hon. J. HAMPTON MOORE,
Member of Congress, Washington, D. C.

MY DEAR MR. MOORE: Some of the prominent business men of Jacksonville yesterday called my attention to the fact that the bill which you introduced in Congress, relating to an appropriation for a survey of the inland waters of the Atlantic coast, only provided for a survey of the route between Boston and Beaufort, N. C.

These gentlemen stated that, while they have recently felt a strong interest in the movement started by the Atlantic Deeper Waterways Association, they now feel that the southern part of the State of North Carolina, and all of the waters of South Carolina, Georgia, and Florida have been left out of your programme, notwithstanding the fact that they were all included in the resolution adopted at Philadelphia last November, defining the policy to be followed by that association.

You may remember that the delegates to the Philadelphia conference discussed this question at considerable length and decided that the efforts of the association were not to be concentrated on the waters between Boston and Beaufort, but that they should extend to all of the inland waterways of the Atlantic coast, between Boston and Key West. It was stated that there was to be no sectionalism in the movement, and that the project referred to in the resolution adopted, so far as the Atlantic Deeper Waterways Association was concerned, should be at all times considered in its entirety, leaving the merits and requirements of the various links in the chain to be presented by the local Representatives in Congress.

It was therefore assumed by the gentleman who spoke to me in Jacksonville that when you, the head of the Atlantic Deeper Waterways Association, introduced a bill in Congress providing for an appropriation for a survey of the route from Boston to Beaufort only, you had decided to change the policy of the association and confine its efforts to the waters mentioned in your bill. I assured them that I did not think that this was the case, as, if so, you would not have made the trip to Florida and examined the waterway of this company; but I could see that if you require the support of the citizens of Jacksonville and other sections of the South it would be more energetically given if you could amend your bill so as to provide a survey for a 9-foot barge canal from Beaufort, N. C., to Key West, in addition to the survey for a ship canal from Boston to Beaufort.

The barge canal would, I think, be sufficient for present requirements, and should not cost more than eight or nine million dollars; although this is merely an approximate estimate, based on the cost of the work done by this company.

As you know, we have opened an inland waterway for nearly 400 miles along the east coast of Florida, about 100 miles of which is artificial work, and the balance natural waterway. The cost of this work did not exceed \$2,000,000. It is true that the minimum depth provided for in our work is only 6 feet at mean low water, with a width of 60 feet; but it would not be a serious nor an expensive undertaking to increase the depth to 9 feet.

Between the St. Johns River, Florida (the proposed northern terminus of our canal), and Georgetown, S. C., there is, at the present time, an inside passage, which by waiting for tides can be navigated by vessels drawing 8 feet of water. It would not, therefore, be a serious matter to secure a 9-foot channel along this portion of the route. While between Georgetown and Beaufort, N. C., I understand that several reaches of natural inland waters exist, which could be connected and deepened at a very moderate cost. However, nothing but a survey can settle these questions definitely. And, if you will forgive my making a suggestion, I believe if you could amend your bill so as to cover the whole of the route between Boston and Key West, you would have the people of all the South Atlantic States back of your movement, and they would insist that their Representatives in Congress should work with you to secure the legislation necessary to carry out the programme of your association.

A waterway such as I mention, viz. 9 feet in depth, would answer for torpedo boats and light-draft floating batteries, which would fully protect the coast, as the uncertainty of their whereabouts in time of war would cause hostile vessels to keep well off shore, thus giving protection to the territory bordering the Atlantic coast of the United States for its whole length.

With kind regards,

Yours, very truly,

GEORGE F. MILES,
Vice-President.

Mr. Miles, it is observed, gives it as his opinion, based upon the expenditure made to cut 400 miles of inland waterway in

Florida, that the entire cost of a 9-foot barge canal from Beaufort, N. C., to Key West would not exceed \$9,000,000. This is the best approximation I have been able to obtain, since inquiry of the Chief of Engineers of the Army fails to disclose any reliable data.

For the information of the House, however, and as showing the advantages that would accrue to the Government in the construction of inland waterways along the southern Atlantic coast, a survey for which is asked in the concurrent resolution introduced by Mr. SMALL of North Carolina, and particularly in southern Florida, which, in the event of war, would have tremendous strategic advantages, I deem it proper to place in the RECORD the accompanying letter from General Mackenzie, with inclosures:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 30, 1908.

MY DEAR MR. MOORE: Referring to your verbal request for available data regarding an interior waterway from Georgetown, S. C., to Miami, in Florida, I have the honor to advise you that we have not been very successful in finding reliable facts which would permit even a guess as to the cost of extending the Atlantic Coastal Canal southward; in fact, all information on file is somewhat old, no surveys or examinations of the line having been called for by river and harbor acts. While I appreciate the fact that the information will not be a great service, I inclose copies of certain indorsements giving the condition of the existing channels in 1901 between New York and Fernandina; a letter from Major Shunk, written in 1904, as to the channel then existing between Fernandina and Palm Beach, and letters dated October 25 and November 6, 1907, from Major Beach regarding inland channel from St. Johns River to Biscayne Bay.

Very respectfully,

A. MACKENZIE,

Brigadier-General Chief of Engineers, United States Army.

Hon. J. HAMPTON MOORE,
United States House of Representatives.

THE AMERICAN-HONDURAS COMPANY,
Cleveland, Ohio, May 21, 1901.

CHIEF OF ENGINEERS UNITED STATES ARMY,
Washington, D. C.

GENERAL: I have the honor to request that you will have the kindness to cause to be sent to me such information as you may have on file in your office relating to the inside or coastwise canals and inside water passages from New York to Key West. The company of which I am the chief engineer desires to send a steamer 97 feet long, 22 feet 10 inches beam, and drawing when light 5 feet and loaded 7 feet, from New York to Central America, and we desire to take advantage of the inside passages along the coast wherever possible, but have no information as to the locations and the extent or the depth available or the size of the locks. This information we would also be glad to have on the Gulf of Mexico coast, if you have such in your office, as we may have occasion to use them there also. If this data is not available in your office, will you please advise me where it can be obtained? Would we find it in an Atlantic Coast Pilot? Any printed charts that you have of these canals and waterways for distribution we would be glad to receive to use on the voyage. I have the honor to remain,

Yours, very respectfully,

J. FRAZ. LE BARON, Chief Engineer.

[First indorsement.]

OFFICE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Savannah, Ga., May 25, 1901.

Respectfully referred to Maj. James B. Quinn and Capt. E. W. Van C. Lucas, J. C. Sanford, and Cassius E. Gillette, Corps of Engineers, for remark by each officer, in the order named, concerning so much of the within-mentioned route as relates to his respective district.

To be returned to this office by Captain Gillette.

A. MACKENZIE,
Acting Chief of Engineers.

[Second indorsement.]

ENGINEER OFFICE, UNITED STATES ARMY,
Norfolk, Va., May 31, 1901.

Respectfully returned to the Chief of Engineers, United States Army, through the officers named in the preceding indorsement.

A vessel of the within-mentioned dimensions will experience no difficulty in navigating either of the existing private canals and connecting waters between Norfolk and Albemarle Sound, North Carolina. The services of a local pilot are necessary, however.

There is not much choice in the navigation of either canal. A navigable depth of 8 feet exists in each, and the locks are capable of passing vessels over 200 feet in length and 35 feet in width. The canals afford the only means of communication between the waters of Chesapeake Bay and Albemarle Sound.

JAMES B. QUINN,

Major, Corps of Engineers, United States Army.

1604 Misc.

[Third indorsement.]

UNITED STATES ENGINEER OFFICE,
Wilmington, N. C., June 1, 1901.

Respectfully returned to the Chief of Engineers, through Captains Sanford and Gillette.

A vessel drawing 7 feet can go through Albemarle, Croatan, and Pamlico sounds to Ocracoke Inlet, and if drawing only 5 feet can go through Core Sound to Beaufort Inlet. The route from Pamlico Sound to Ocracoke Inlet is shown on coast survey charts 140, 142, and 143, and that through Core Sound on coast survey chart 421. The successful navigation of Core Sound with 5 feet draft is somewhat difficult and requires a skillful pilot, and with a boat of within dimensions it would probably be better judgment to go out through Ocracoke

Inlet; but a local pilot is desirable for navigating Albemarle, Croatan, and Pamlico sounds, and necessary at Ocracoke Inlet. From Beaufort Inlet, North Carolina, to Winyaw Bay, South Carolina, there is no chance for inland navigation with a vessel drawing over 3 feet.

E. W. VAN C. LUCAS,
Captain, Corps of Engineers, United States Army.

[Fourth Indorsement.]

UNITED STATES ENGINEER OFFICE,
Charleston, S. C., June 4, 1901.

Respectfully returned to the Chief of Engineers, through Capt. Cassius E. Gillette, Corps of Engineers.

It is customary for vessels of the size in question to wait for good weather and make the trip from Beaufort, N. C., to Charleston, S. C., outside. The distance is about 240 miles, with Cape Fear River, 100 miles from Beaufort, and Winyah Bay, 180 miles, as harbors of refuge. A boat drawing 5 feet can pass through from Winyah Bay to Charleston by the inland route, but such a boat would be obliged to have high tide at several places, notably Cape Romain, Bulls Bay, and Meeting Reach, in order to get through. A vessel drawing 7 feet might possibly get through from Winyah Bay to Charleston with spring tides, but would be greatly delayed. A draft of 7 feet can be taken all the way from Charleston to Savannah, but there are several points where high tide would be necessary to give this draft. At Mosquito Creek there is not over 2 feet at low water, with a tidal rise of from 5 to 6 feet. There are several places on the route from Charleston to Savannah where the exposure is considerable, as at St. Helena and Port Royal Sounds, but a vessel as large as that described would hardly be delayed on this account. A pilot is necessary. Coast Survey Charts Nos. 153, 154, and 155 give general information.

J. C. SANFORD,
Captain of Engineers.

[Fifth Indorsement.]

UNITED STATES ENGINEER OFFICE,
Savannah Ga., June 7, 1901.

Respectfully returned to the Chief of Engineers.
The boat mentioned within can go, loaded, inside all the way from Savannah to Fernandina, with the possible necessity of waiting a little while for the tide at Parsons Cut, Mud River, and Jekyll Creek.

A local pilot would be advisable, but not necessary, if the boat goes through by daylight, as the route is clearly and accurately shown on Coast Survey Charts 156 and 157.

CASSIUS E. GILLETTE,
Captain of Engineers.

UNITED STATES ENGINEER OFFICE,
Jacksonville, Fla., February 1, 1904.

Brig. Gen. A. MACKENZIE,
Chief of Engineers, United States Army, Washington D. C.

GENERAL: 1. As directed by first indorsement on letter of E. A. Moseley, secretary Interstate Commerce Commission, dated January 23, 1904 (49925), in regard to information relative to certain water routes requested by J. N. Savignac, M. D., Ottawa, Canada, I have the honor to submit the following information regarding that portion of the route between Fernandina and Palm Beach, Fla.

2. The inside passage between Fernandina and the St. Johns River is shown on Coast Survey Chart No. 577. The limiting width is about 50 feet, and the limiting depth is about 3 feet at low water and 7 feet at high water.

3. Between the St. Johns River and the Halifax River there is no communication by water, except by sea. A boat would have to proceed from the mouth of the St. Johns River to Mosquito Inlet. From the latter point a boat may proceed inside through a series of salt-water lagoons, connected by artificial cuts, to Lake Worth, on which Palm Beach is located, and thence to Miami. From the latest information available, the limiting width through this portion of the route is 40 feet, and the limiting depth 2½ feet. The range of tide at shoalest places is insignificant.

4. General information regarding the route may be obtained from Coast Survey Charts Nos. 157, 158, 159, 160, 161, 162, 163, 164, and 165.

Very respectfully, your obedient servant,

FRANCIS R. SHUNK,
Captain, Corps of Engineers, United States Army.

UNITED STATES ENGINEER OFFICE,
Jacksonville, Fla., October 25, 1907.

Brig. Gen. A. MACKENZIE,
Chief of Engineers, United States Army, Washington, D. C.

GENERAL: 1. In compliance with second indorsement of October 21, 1907 (E. D. 65319), I have to submit the following report upon the application of the Florida Coast Line Canal and Transportation Company for permission to extend their canal system from St. Augustine to the St. Johns River, Florida.

2. The Florida Coast Line Canal and Transportation Company has constructed a good navigable channel from St. Augustine to Biscayne Bay, utilizing such natural waterways along the route as best served the purpose, cutting canals through such portions as were not traversed by navigable waters. The Indian River, which is under control of the United States, forms the middle length of this waterway. I recently passed over the route and found it to be in good navigable condition, the shoalest places in the entire distance being found in Indian River, under control of the United States. The route is one possessing considerable military and strategic value, and its connection with the St. Johns River would greatly increase its importance. The work proposed by the company would increase the importance of the route and make it much more serviceable to the public in general and to the Government in case of hostilities.

3. As the work proposed involves dredging in Pablo Creek, which is a navigable stream, traversed by boats at the present time, it would seem proper that a permit should be issued for the purpose. The route proposed by the company will materially shorten the length of Pablo Creek, which is now a very crooked stream, but as it has practically no current except that of ebb and flow of tide—being more properly a bayou than a creek—it is not believed that the shortening of the route will result in any scour or detriment to the waterway, but will be an advantage by avoiding the many and awkward bends and reduction of distance.

4. I would therefore recommend that permit be issued the company to dredge the channel as requested in Pablo Creek and to connect its canal in this manner with the St. John's River; the work to be done under the supervision of the Engineer Officer in charge.

5. The work south of Pablo Creek, being the construction of the canal, would hardly seem to come within the province of the United States, but, as I understand it, is to be done under the State charter.

Very respectfully,

LANSING H. BEACH,
Major, Corps of Engineers, United States Army.

UNITED STATES ENGINEER OFFICE,
Jacksonville, Fla., November 6, 1907.

Brig. Gen. A. MACKENZIE,
Chief of Engineers, United States Army, Washington, D. C.

GENERAL: 1. I notice by the papers that the Waterways Commission, which is considering the waterways for the entire country, has recommended the improvement or establishment upon a larger scale of the inland waterway from Cape Cod to Beaufort, S. C.

2. I would, however, like to bring to your attention the existence of the inland waterway at present open and available for traffic from St. Augustine to Biscayne Bay, Florida, and which will, it is believed, soon be opened up to the St. Johns River; application for permission to straighten Pablo Creek and connect it with North River, which empties into Matanzas River at St. Augustine, having been made by the Florida Coast Line Canal and Transportation Company, which controls the waterway, with the exception of Indian River.

3. This inland waterway appears to me to form one of the most valuable links of the whole chain, from a military and strategic point of view, as it could be easily made available for the passage of torpedo boats and all light-draft vessels, and they would thus have a secure line past the Bahamas, which form the most dangerous point for a hostile fleet or vessel to station itself.

4. It may be that the newspapers have not reported the decisions of the board correctly, but I thought it advisable to mention the existence of this waterway and its importance in military operations.

Very respectfully,

LANSING H. BEACH,
Major, Corps of Engineers, United States Army.

THE KEY WEST VIEW POINT.

From the Key West view point the improvement of inland waterways for naval strategic purposes looms up as highly important. I append two letters addressed by Commodore Beecher, United States Navy, to Mr. Miles, of Florida:

UNITED STATES NAVAL STATION,
Key West, Fla., February 7, 1906.

DEAR SIR: Please accept my sincere thanks for the copy of the Engineering News of August 25, 1904, and of the Florida Magazine for January, 1903, containing your article on the waterway of the Florida Coast Line Canal and Transportation Company, and that of Mr. Nather on the inland waterways of Florida, which you kindly sent me through Mr. Trumbo, who is in charge of the work of filling at this station.

Mr. Trumbo very kindly delivered your message to me, with the invitation to visit this waterway, and I beg to assure you that I shall be delighted to avail myself of your courtesy should opportunity offer.

I have the honor to be commandant of the seventh naval district, which extends from Tampa to Jupiter, Fla., and I have an order to consult with the admiral commanding the coast squadron in regard to the interior waterways of the naval coast patrol.

The development of this work is of immense importance, because of the strategic position of Key West in the command of the approaches to the Gulf and the isthmian canal. Since I have been here it has been my endeavor to bring this strategic value of Key West into prominence.

I have recommended that Fleming Key shall be a torpedo-destroyer depot. This key is in Man-of-War Harbor, at Key West, adjoining the proposed terminus of the Florida East Coast Railroad. It is a most admirable site for such a base for a torpedo flotilla, and in connection therewith the waterways of the Florida Coast Line Canal are of the utmost importance.

I have read these articles with a great deal of interest, and while they are intended for the laymen, they convey a very good general idea, but for the practical use of these waterways it would be necessary to have much more complete detailed information.

The naval officers in command of torpedo boats should have sufficient information to be able to navigate these canals without the aid of pilots or other persons, and therefore it would be very desirable for me to have blue-prints showing the hydrography and details as given on the Coast Survey chart. It is possible such charts are in existence, but I have none, and I assure you I would highly appreciate any further data that you can give me in regard to this canal, both completed and proposed, or, rather, such proposed work as is deemed probable of being carried out.

The development of this inland waterway along our coast is surely of the highest importance for the naval coast patrol and command of this strategic point, which should be one of the most important naval bases of our country. You yourself have not in the least exaggerated the immense importance of this inland waterway for the development of the country.

While serving as naval attaché for four years in Berlin my attention was called to the efforts of the German Emperor in developing the waterways in Germany. I was present at the opening of the Ems-Dortmund Canal, and also the opening of the port of Emden, which, in the time of Germanicus, was the port of northern Europe. The construction of these canals, giving direct sea communication with the Rhine, and also connecting Wilhelmshafen, the great naval port, with Emden, has had an immense effect upon the development of Friesland, which was a comparatively thinly populated portion of Germany. The canal connecting Emden with the great naval port of Wilhelmshafen is an inland waterway, second only to the great Kaiser Wilhelm Canal at Kiel in strategic importance in all Europe. But notwithstanding all these, in the future the inland waterways of our coast with which you are connected are of much greater importance, strategically and commercially, and I take the opportunity to congratulate you upon being engaged in a work of such great value to our country, independent of whatever other compensation you may derive from your financial interests in this enterprise.

I can make no plans myself in regard to visiting these waterways until after the arrival of Admiral Dickens with the Coast Squadron, and I am not yet informed as to when he will probably come here.

I have been studying the salient features for the organization of this naval coast patrol, and I beg to assure you that the information you so kindly sent me is most highly appreciated.

Thanking you again for your kind courtesy, I have the honor to be,
Very respectfully,

W. H. BEEHLER,

Captain, United States Navy, Commandant.

Mr. GEORGE F. MILES,

Manager and Director, Florida Coast Line Canal and
Transportation Company, St. Augustine, Fla.

PROTECT COMMERCE OF FLORIDA STRAITS.

UNITED STATES NAVAL STATION,
Key West, Fla., April 22, 1908.

DEAR SIR: I have the honor to acknowledge the receipt of your letter of April 15, with inclosures, relating to the inland waterways from the Florida point of view, and also by separate mail a report of the Atlantic Deeper Waterways Association, for which I beg you will accept my sincere thanks.

I shall endeavor to embody something of your typewritten paper on the inland waterways in my article that is to appear in the next number of the proceedings of the United States Naval Institute.

I notice from the reports that you expect to have 9 feet of water throughout the canal as a minimum depth eventually, and that you have 7 feet now. The torpedo boats have a draft of 7 feet, but their propellers require, I think, at least 2 feet more. I am not certain in regard to this.

In the data that I have collected regarding the strategic value of Key West, I have a report from the weather observer at Sand Key, who keeps an accurate record of all passing vessels. From this record it appears that 4,000 vessels passed through the straits of Florida, south of Sand Key, during the year 1907. This is a greater commerce than that of any other point of our coast, and in time of war this vast American commerce would be the first objective for an enemy, and provision must be made to protect this commerce. Manifestly this can only be done by the Navy, and the inland water route along the Atlantic seaboard would be most valuable for torpedo boats to concentrate at any point along the coast from Key West north.

The outer line of reefs—those outside the Florida Keys—should be fortified to a certain extent by isolated, turret forts, especially the entrance to Key West Harbor and Knights Key and one or two other points. The flotillas of torpedo boats, with a base at Key West and secondary bases at Dry Tortugas and Knights Key, could operate against any hostile fleet and secure perfect protection for our commerce. From this you will perceive how important the Florida inland waterway is to the country.

If submarines are half as efficient as they are claimed to be, they would be of the greatest value in the inland waterways of Florida, inside the outer reefs. These submarines would necessarily be on the surface while within the inland route, but after passing out from the reefs they would find deep water, and could operate against an enemy with great advantage, and most assuredly with great deterrent effect if it were known that these submarines were available for that purpose.

I have been insistent for the past three years, in season and out of season, urging the Department to send torpedo craft to Key West to operate in these waters and to make a study of the conditions and facilities that may be available, so that now, in time of peace, we may be so well prepared that no one would dare to go to war with us in the hope that this vast commerce of the Straits of Florida would be an easy prey.

The third torpedo flotilla is now at St. Josephs Bay, where they went for practice because the water is said to be always smooth in that bay, and sometimes the harbor of Key West is lumpy. I do not know what reasons govern that my urgent request for the flotilla to maneuver in these waters and have their target practice here as they did last year was not granted, but I am very much disappointed.

Key West received such a "black eye" because of its inadequacy during the Spanish war. This was due chiefly to the lack of proper communication, and this lack of communication is now remedied by the construction of the railroad extension to Key West and your canal. The water supply was inadequate and 7 cents a gallon was paid by the Navy for fresh water during the war with Spain. This last has also been remedied by the building of cisterns, so that we now have 800,000 gallons storage, which will be increased to 1,200,000 this year, with plans for 800,000 more under consideration, making 2,000,000 gallons, which will be ample; together with a distilling plant which produces 15,000 gallons daily, the water problem is thereby solved. Thus it is a difficult matter to convince not only the citizens, but the Navy Department, as to the vital necessity for the development of Key West into a proper naval base. My paper will show all this clearly, and one of the most important strategic features of Key West is your canal.

I sincerely hope I may have an opportunity to make a trip on the canal this summer, and will let you know when it will be possible for me to do so.

Very respectfully,

W. H. BEEHLER,

Commodore, United States Navy, Commandant.

Mr. GEORGE F. MILES,

Vice-President and Managing Director,
Florida Coast Line Canal and Transportation Company,
St. Augustine, Fla.

In my judgment, Mr. Speaker, those who will carefully consider the subject, no matter from what section of the country they come, will agree that the Government ought to be in possession of accurate information as to the cost of an inland waterway from a point south of rockbound New England—that is to say, Boston—to the southern extremity of the coast, to wit, Key West. From such information as I have laid before you it appears that a survey to ascertain the cost of this beneficent enterprise should be undertaken at once. The cost of the survey would be less than \$200,000, and the cost of constructing the canal would not far exceed \$100,000,000. When a single State can appropriate that amount for the improvement of its own waterways and the development of its own trade, why can not the Government afford to do it? The advantages are legion. The cotton planter of Alabama could send his raw material at reduced rates to the manufacturer along the New England coast.

The New Englander who turns out agricultural machinery and finished textiles could take the water route for his products to the South. From point to point along the line the shipment of commodities and farm products would be facilitated with improving commercial advantages. Waste land would become worth tilling and settlements would arise along the borders of the waterway. Capital would come from its hiding place, seeking investment where opportunity thus presented itself. Labor would find a market in new fields, and occupations that had long since succumbed to the march of progress in other directions would be re-created with profit to the toiler. The North and the South would vie with each other in commercial supremacy, exchanging their output and creating avenues of employment for the youth of the country who would otherwise be lost in the overcrowded professions. There could be no return from this investment that would not benefit all the people. Why not let it come?

The Textile Unions.

SPEECH

OF

HON. WILLIAM S. GREENE,
OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. GREENE said:

Mr. SPEAKER: I am very much gratified to be able to present a copy of the statement submitted by Mr. James Tansey, president of the textile council of the city of Fall River, Mass., where I reside, to that organization on the evening of Wednesday, May 20, 1908.

The textile council is composed of three representatives of each of the five textile unions, which comprise a very large number of the operatives in the 100 cotton mills located in the city where I reside. For general information I will state that the manufacture of cotton goods was commenced in the city of Fall River, Mass., in the year 1813, the water power which came from Watuppa Pond, flowing through the Quequechan River, with 126 feet fall, to Taunton River, being the original basis of the cotton industry there. The successful management of the mills, which were begun nearly a century ago, was the real foundation of the greatest cotton manufacturing center in the United States. The first mill contained about 9,000 spindles, and now there are more than 3,500,000 spindles in the more than 100 mills in Fall River, Mass. This city has more than one-seventh of all the cotton spindles in the country and nearly one-quarter of those in New England, and manufactures three-fourths of all the print cloths in the United States. It contains more spindles than are contained in any State of the Union, excepting Massachusetts, and up to within a very few years had as many cotton spindles as all the Southern States combined.

Every working day its mills weave more than 1,500 miles of cloth, or more than 2 miles every minute.

In the city of New Bedford, Mass., only 12 miles distant from Fall River, and in the Congressional district which I have the honor to represent, are more than 2,000,000 cotton spindles. That city is the center for the manufacture of the finer grades of cotton goods in this country, and it has developed a marvelous growth of that branch of the cotton industry within the past few years.

The Thirteenth Congressional District of Massachusetts is especially adapted for the manufacture of cotton goods of both the finer and coarser varieties. Skilled operatives of native birth, and many who have come from all parts of the world, have sought the district which I have the honor to represent because of the opportunities for education for themselves and their children, the salubrity of the climate, and social conditions, according to the traditions of the Commonwealth of Massachusetts.

The letter of Mr. Tansey, president of the textile council, is as follows:

Report on margins from November 25, 1907, to May 20, 1908:
The total margins for the 153 marginal days is 12,189.2623. The average margin for the 153 marginal days is 79.6683.

During this period the highest price for middling upland cotton was 12.25 cents per pound, lowest price 9.90 cents per pound. The highest price for 28-inch standard print goods was 5 cents per yard, lowest price 3½ cents per yard. The highest price for 38½-inch print goods was 6 cents per yard, lowest price 4 cents per yard.

The price of cotton to-day is 10.90 cents per pound; 28-inch standard goods, 3½ cents per yard; 38½-inch goods, 4½ cents per yard; margin to-day, 57.61.

The highest daily margin during the period was November 25. Cotton was quoted at 11.20 cents per pound, 28-inch goods at 5½ cents per yard, 38½-inch goods at 6 cents per yard; margin for the day, 128.8550. The lowest daily margin during the period May 14 and 15, 1908. Cotton was quoted at 11.30 cents per pound, 28-inch goods at 3½ cents per yard, 38½-inch goods at 4½ cents per yard; margin each day, 50.2712.

During the last forty-five days the margin has ranged between 64.2837 cents and 50.2712 cents, and during twenty-four days of that period 60 and below.

Your executive committee met the manufacturers' committee on Tuesday afternoon, May 19, to compare notes and margins. The manufacturers' report being made up to Saturday, May 16, showed the margin for the one hundred and fifty working days to be 80.80. Our council's report up to the same date is 80.1202. As our margins were made up to Tuesday, May 19, it showed the margin for the one hundred and fifty-two marginal days to be 79.8135.

As it will require a total margin for the one hundred and fifty-six marginal days of 12,495.60 to bring the margin for the six months to a fraction over 80, and there being but three days of the period left, which means that the average for the three days would have to be about 102.2, and the daily margin to-day being only 57.861 cents, it will be seen that all chances for an average for the period of six months of over 80 cents is hopeless.

Taking the average margin of to-day and assuming that the daily margin of to-day will continue to the end of the week, the estimated margin for the six months will be 79.1159.

In accordance with the agreement reached by the various textile unions and the manufacturers, through their respective representatives, the price for weaving, commencing Monday morning, May 25, will be based on a margin of 80 cents, and the price for weaving will be 19.66 cents per cut, and all other departments in proportion, a reduction of 17.94 per cent, unless the exceptional change in margins as stated above should take place.

In submitting this report we are fully conscious of the fact that the reduction of wages which goes into effect Monday morning is the heaviest that has ever been made at any one time in the wages of the operatives of Fall River, and more than was ever anticipated by either of the parties to the present wage agreement.

The indications and conditions of trade six months ago were such as to encourage even the most pessimistic observer that at least another year of prosperity, with the prevailing high rate of wages, would be the predominant feature. But unfortunately, conditions arose which could not be foreseen or prevented either by the employers or employees, or the most keen observer of commercial interests, which shattered the prospects of all interested, brought disaster to our trade, and wrecked a future which seemed bright and promising for our city and all its citizens.

We, the members of the Textile Council, regret that such conditions have arisen, which should call for the reduction in wages as stated in the agreement; and while we realize that the reduction is a steep one, we hope and feel that you will not lose sight of the fact that it is being taken from the highest rate of wages that has ever prevailed during the life of the Textile Council, and for many years previous to its existence. It is safe in saying that we can go back at least thirty-five years, and then only under the most exceptional conditions can a comparison be made.

It should not be necessary to remind you that the rate of wages paid during the last twelve months is 10 per cent higher than ever was paid in the city during our life as combined unions; and further that it is 20 per cent higher, with an exception of a period of about nine months, a few years ago.

With regard to the present agreement we do not say, nor have we ever taken the stand and declared that it is the panacea for all difficulties existing between the employer and employee in our trade. But we do declare, emphatically and without reserve, that it is and has proven to be the best agreement for the operatives that was ever accepted by the employers for the control and regulation of the rise and fall in wages; and further assert, for reasons stated above, that it is well worthy of a trial for experience and a guide in dealing with such questions in the future.

Until such time that we see that a change is necessary in the margin scale, we say to our members that this agreement should be honorably lived up to, as it was entered into honorably by a vote of acceptance and indorsed by all of the unions at their general meetings before being signed by the representatives of the respective associations contracted.

Even though the reduction in wages is greater under the agreement than was anticipated by its most ardent supporters, and which we regret, we are not prepared to declare that it is a failure, because, owing to the unfortunate trade conditions previously referred to, which suddenly and unexpectedly worked havoc with our industry, we do not believe it has had a fair trial; and until such time that it has, the least that can be expected is that judgment should be suspended and hasty action upon our part be rejected.

We do not take the position that this agreement can not be amended. We believe that there are some phases of it that can be discussed by the representatives of both of the parties interested, and further believe that it can, with a disposition of sincerity and honesty of purpose on both sides, be so amended by mutual agreement, that it will eventually prove to be the best instrument for the welfare of the city that was ever entered into by the employers and employees.

Coming back to the agreement, the present rate of wages and the reduced rate that goes into effect Monday morning. If the agreement was not in existence, why is it not fair to assume that the unfortunate history of Fall River in the past, under such depressed conditions of trade with regard to agitations, cut downs, shut downs, threatened strikes, and actual strikes, would repeat itself with all its attendant evils and demoralizing effects upon our city and its various commercial interests. History does repeat itself, and, under like conditions, were it not for the agreement now in existence, we believe that it would.

The only comparison that we can draw to compare with present conditions is that which existed in 1898, ten years ago, when the margin got down about 50 cents and we were obliged to accept reductions in wages which brought the weaver down to 16 cents per cut, and all other departments in proportion. The margin to-day is but 57.61 cents, and has been between the fifties and sixties for nearly two months. And the price per cut under the reduced rate is 19.66 cents per cut, with operatives in all other departments in proportion, a matter of about 20 per cent higher rate than prevailed under similar conditions in 1898, to say nothing of other improved conditions.

Again repeating our regret for the reduction of wages that goes into effect Monday morning, brought about through conditions over which

neither employer or employee have control, we bring these matters to your attention, so that you can deliberate upon the conditions and situation with more intelligence, and give to it that fair, just, and conservative consideration that all such important subjects of its kind are entitled to. With the hope that our industry has seen its worst for years to come, and that prosperity with better conditions and otherwise will be our reward, I remain,

Yours in unity, on behalf of the Textile Council,

JAMES TANSEY, President.

Particular attention is invited to the statement contained in the foregoing letter.

For many years attempts have been made to establish a sliding scale of wages for operatives whereby the rate of wages should be determined according to the existing margin between the cost of the raw material and the finished product, but heretofore these efforts have not been crowned with success.

One year ago, after many conferences were held between representatives of the mill owners and the representatives of the textile council, which was composed of delegates of the different textile unions in Fall River, Mass., a sliding scale of wages was adopted which, owing to the unprecedented prosperity of the country, gave to the mill operatives an increasing rate of wages at each recurring six months, which was exceedingly gratifying to the entire community.

Frequent expressions were uttered by those with pessimistic views that the sliding scale would exist as long as the wages tended upward and the operatives had the advantage, but doleful warnings were expressed regarding the result of a downward tendency in the scale of wages.

Owing to unexpected and unforeseen business conditions, the downward scale of wages, affecting many thousands of mill operatives, was put into effect in Fall River, Mass., on the 25th day of May, 1908.

In view of the unrest and dissatisfaction with labor conditions in various parts of the country, I am very much gratified to point with pride to the breadth of public spirit displayed by the intelligent working men and representatives of the various unions, located in the city where I reside, and I sincerely hope and fully believe that the clouds which now unfavorably hover about the business situation will soon disappear and that a period of unexampled prosperity which will, under the sliding scale adopted, yield an abundant advantage to both the manufacturers and operatives.

National Defense.

The Inadequacy of Land Defenses and the Lack of a Mobile Army Make it Imperative for America to Control the Sea in the Waters that Wash Our Shores in Both Oceans.

REMARKS

OF

HON. RICHMOND P. HOBSON,
OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. HOBSON said:

Mr. SPEAKER: Under the leave to print granted by the House, I desire to place in the RECORD the following article from Everybody's Magazine, by Lieutenant Johnson, United States Army, whose statements are accurate and whose conclusions are conservative and inevitable:

[Everybody's Magazine, March, 1908.]

THE LAMB RAMPANT.

[By Lieut. Hugh Johnson, United States Army.]

[EDITOR'S NOTE.—"Commissions for the Army are going begging. * * * On November 3, 1907, there were 381 vacancies in the grade of second lieutenant, the shortage being 37.87 per cent. * * * At Fort Leavenworth recently only 14 enlisted men were competing for 203 vacancies in the grade of second lieutenant. * * * An heroic attempt was made recently to obtain second lieutenants for the coast artillery. * * * The presidents of 125 colleges and technical schools were informed that the War Department would welcome applications by the graduates. * * * At the end of four months not an application had been received direct from the institutions canvassed." (New York Sun, January 11, 1908.)

The mobilizing of the United States Army, under present conditions, would produce very poor results," says Lieutenant-Colonel Le Juge, a retired officer of the German army, in a pamphlet just issued on the American land forces. "No preparation for war is made in peace; no organization of the units into armies with their requisite staffs has been drawn up, and no provision is made for supply." (Berlin correspondence of New York World, January 13, 1908.)

The foregoing are only random examples of constantly appearing news items and editorials. The country receives them with indifference. It refuses to remember that the most devastating international conflict of modern times—the Franco-Prussian war—began and ended before France, proud, rich, but unprepared, had time to concentrate her resources. Within a few weeks she lay bleeding and humiliated before a

nation at that time potentially no stronger than herself. Unprepared as she was, the defenses of France in 1870 far surpassed those of the United States to-day. There is no doubt of our prosperity; we can raise more money in less time than any nation on earth. We have unparalleled aptitude and inventiveness; within twenty-four hours we could have a million men clamoring to march against an invader. But we are unprepared. It takes eighteen months to make a 12-inch coast-defense gun; from two to three years to erect a plant to make these guns; four months to put a field gun together after the parts have been made; and, worst of all, it takes a year to turn a citizen into a soldier. Of none of these—guns nor soldiers—have we sufficient to begin a war. Meantime, there are nations whose money, brains, and men are practically always in the field. Are we so drunk with dollars and pride that we are careless of the day of reckoning? As we stand to-day, our assertion of the Monroe doctrine is a monumental bluff, backed by nothing but noise and luck. This magazine is not preaching militarism nor conscription; we are not advocating huge military establishments, but we are placing before you the plea of an Army officer, backed by the majority of his fellows, and in this plea we earnestly concur. The result is with you, and you, and you. What are you going to do about it?

Early in May rumors that the hundreds of thousands of Germans who have for years been swarming into South America had joined in a tremendous pro-fatherland movement flitted up the coast, flared into sensational black type, and then flickered out before a murder scandal.

In June positive news came that a congress representing the 500,000 German colonists in South Brazil had adopted articles of federation as an imperial German province, and had appointed a commission to convey to the Kaiser the homage of the colony and its earnest desire to be received into membership in the Empire.

This news caused tremendous excitement from one end of the United States to the other. There rose an overwhelming, deep-toned chorus, first asserting the essential rightness of the Monroe doctrine, and second making a fierce avowal that, even though the policy were wrong, no insolent disregard of it by another nation would be tolerated.

Official inquiries from this side met with a response from Germany to the effect that the matter was of such grave importance that it could not be dismissed hurriedly. News dispatches from Germany reflected no popular excitement on the subject, though, to be sure, it was known that a rigid censorship over outgoing news had been established in Germany on June 6. But the public in Germany seemed to be absorbed in admiration of the land and naval maneuvers of the forces of the Empire, which included an ostensibly experimental gathering of all the merchant marine fit for transport service.

On June 12 the ambassador from Berlin announced to the President that it was the intention of the Imperial German Government to accept the territory and the allegiance of the citizens of the new state.

The answer was a sharp, unmistakable note, reciting the language of President Monroe's letter, with an emphatic reassertion of the policy therein contained. It was of such sort as to obviate the possibility of any protracted diplomatic negotiations, and was construed in Germany as a declaration of war. There was an ominous silence of a few days, and then there issued from Berlin a manifesto announcing that a state of war had existed between the United States and the German Empire since June 14.

Germany's war preparations had been going on since that date—possibly since June 6. On June 19, the day after Germany's declaration, the United States War Department issued orders for the immediate concentration near Washington and Philadelphia of all regular troops in the United States. The States were called upon to send to one or other of these camps as much of their militia as was fit for immediate service. The Navy Department recalled the battle-ship fleet, which was in the Pacific.

Late on the evening of June 20 heavy signal firing was heard off the coast of lower Jersey. At midnight the life-saving stations reported a great fleet of battle ships, cruisers, and torpedo boats, conveying an enormous flotilla of big merchant ships.

The news, once it got abroad in New York, stirred the city into a crazy people. Before daylight militia that had not yet boarded its trains for Philadelphia was recalled to the armories. Regular troops in progress toward Philadelphia were stopped and ordered to New York to join the forces being assembled to protect the rear of the harbor coast defenses—Forts Wadsworth, Hamilton, and Sandy Hook. These forts are provided only with great guns that point rigidly out to sea. It had been the theory that these guns might be relied upon to prevent any hostile fleet from entering the harbor and that great bodies of troops would protect the rear of the forts from an enemy's force landed at remote points and coming up to the forts on the land side. But it was found that only 5,000 men, Regulars and Volunteers, would be available before June 22.

Yet dawn of June 21 disclosed another heavily guarded flotilla of German transports disembarking men and horses by thousands at Rockaway Beach. Some of the boatloads of landing soldiers were towed away by launches toward Barren Island and Canarsie. Then it was realized that the country was witnessing the actual occurrence of the thing that had always been regarded as axiomatically impossible—a foreign invasion of the United States. Yet how simple it was! There was not the slightest hesitation on the part of the invaders; every step they took had been studied out and mapped out in their war colleges for years, as had similar campaigns against every other power.

But on shore there was a very different feeling. New York was dazed with surprise and fright. The officers of the Army, who had studied the defense problem, knew the futility of any effort to resist the attack, but disposed such troops as they had—on the first day perhaps 3,000—for the defense of Fort Hamilton. Those who proceeded across Brooklyn by the subway and the elevated railroads were not in time to intercept a flying column of 15,000 or more superb German troops, who marched swiftly on Fort Hamilton and smothered its little garrison under sheer weight of numbers. The guns of Wadsworth and Sandy Hook, across the bay, were not able to help without hurting friends more than foes. When the capture of Fort Hamilton had been completed and its guns were in the hands of the Germans, the enemy's column landed at Long Branch during the night and swept up to a rear attack on both remaining forts, which were subjected to fire from Fort Hamilton as well as to the crushing rear attack of field artillery, cavalry, and infantry. Despite the most heroic defense neither fort lasted more than a few hours.

The landing force at Rockaway Beach formed columns as fast as it landed and marched quickly through Springfield and Jamaica, and then, wheeling on Jamaica as a pivot, swung its left wing to Fort Hamilton and held a line across Long Island, placing Brooklyn at its mercy.

All night long half-equipped, demoralized militia and portions of depleted Regular regiments straggled into the city. By 4 o'clock on the morning of June 22 about 4,000 American troops and a variously armed

mob of as many more lined up across the outskirts of Brooklyn, throwing up street barricades to stand off the oncoming of the Jamaica-Fort Hamilton line of the enemy. But the enemy regarded these preparations with utter indifference, not to say complacency. Their silence was disconcerting; but its meaning began to be clear when at sunrise a great gray battle ship steamed grimly past the silent forts, followed by another and another. Menacing specters in the early mist, they took station across the bay with the precision of beads on a string. Watchers gathered in great black crowds on the docks, wondering, fearing they knew not what. On the stroke of 7 a round, white, compact cloud jumped out over the water: the windowpanes of three cities rattled, and a shrieking cloud of steel destruction hit lower Broadway like a blight.

In the ensuing days gloom engulfed the nation. A superb array of 200,000 seasoned Germans held the financial and commercial heart of the country so securely that hope of its recapture seemed futile. Of the 47,000 American Regular troops then actually in service 10,000 were in the Philippines, 4,000 in Cuba, 15,000 with the guns of the coast defense, 2,000 in Alaska, Porto Rico, and Hawaii, and 3,000 had been taken or destroyed in the capture of New York; 13,000 men in depleted regiments were scattered in small garrisons all over the United States.

Of the paper strength of 125,000 militia, 60,000 were found effective, and these, half trained, ill equipped, varying in efficiency from troops little below the Regulars to companies in name only, were dispersed in some forty totally distinct armies in miniature, from Oregon to Florida. The armed force of the United States, at the most optimistic estimate, could not exceed 80,000 men, and their incorporation into an army was a recognized impossibility.

While the country lay in this shocked condition, strong raiding parties destroyed the Springfield and Watervliet arsenals; this was a second staggering blow, only less vital than the first, for it became apparent that neither arms nor equipment for the contemplated 400,000 volunteers were at hand, nor were there facilities for their manufacture. We have no arsenals at Pittsburgh, Bethlehem, nor Gary, steel cities in the heart of the nation. German troops were arriving on the seaboard daily, and the Government frankly admitted its inability to hold Washington, Philadelphia, or the naval stations of the Atlantic, as well as the fact that an indefinite time—at least a year—must elapse before it could attempt any offensive warfare whatever. Even the returning fleet, deprived of coaling and supply stations, as it inevitably must be, found itself in the position of an enemy attacking a hostile coast line that had long been considered impregnable, and with its own base of supplies four times as far away as its rivals. The naval situation was impossible.

Now, all these things are the things that would happen, approximately, if our very good friends—the Germans—were to fall out with us, as God grant, for the sake of the kinship of nations, they never may. They will not happen in our time, because our Administration and the rulers of Germany have worked long and faithfully to avoid the possibility of such a clash between the nations. But that they will not happen is not because, in the event of a sufficient quarrel, we are in the least prepared to resist a foreign invasion. This statement of the complete possibility of such a capture of New York City, with no reasonable fear of failure, is from a man who is almost certainly the highest possible authority on this department of military art in the United States—one of the highest in the world.

If one cares for such elementary problems in war and international policy, there is a much simpler one in the Pacific.

Suppose the Navy normally disposed in a certain spring. Beginning with the San Francisco school affair, Japan had busied herself in compiling a series of international episodes, the termination of each of which left the United States in the light of a nation not punctilious regarding her treaty obligations. By a clever move Japan had cornered almost the entire torpedo output of the world—she has already actually done so, if it is of interest. "Fifty thousand men had long been employed night and day in her arsenals, similar energy being expressed in the steel-gun foundries and shot works at Nagasaki and Tokio, the output of these factories being 500 guns daily" (this was reported by an officer of the Austrian staff in an article published in America in July, 1907). Such activity could, of course, point only to intended invasion, and since Japan had nothing to gain by an Asiatic move, and since the conquest of the Philippines would require no preparation by her whatever, her only possible strategic point for definite results could be the Pacific coast of the United States. All this excited no general comment, nor did the material increase of Japan's peace establishment after a long and costly war. (Whatever may be the peace-sunshine significance of these facts, here they are.)

As a culmination to this series of international events, there came, like a bolt from the blue, the firing of an American cruiser upon a Japanese gunboat off the Aleutian Islands on March 1. This fact was reported to the State Department through the Japanese ambassador, for no word had been received from the American ship.

On March 15 the conciliatory attitude of Japan vanished. Presenting a long list of wrongs, footed by this last incident, she demanded a humiliating and abject action on the part of the United States, reciting that the Japanese flag should be saluted in all ports; that a heavy and untempered indemnity should be paid, and that certain hitherto enforced immigration restrictions should be at once removed.

On March 18 the State Department, in a note expressing indignation and surprise, refused to accede to any or all of these demands. On the same day the Pacific cables ceased to work, save unsatisfactorily and intermittently, until March 24, when the last message crossing over them told that the Japanese Government declared that a state of war had existed between the United States and Japan since March 18. No news got out of Japan by the European cables.

For two days no news could be procured of the small Asiatic or Philippine squadrons of the United States. On March 26 the Chinese embassy informed our Government that both had been crushed by the overwhelming fleets of Japan between March 19 and 23.

On March 24 orders were issued for the concentration of all effective Regular troops on the Pacific coast.

ONLY 15,000 WERE AVAILABLE

on account of the frightened demands of the East, which was suffering from delusions that an Atlantic coast attack of Japanese threatened. The Atlantic Fleet was ordered made ready to hurry on the back track of the Oregon; the militia were called out, and 35,000 of them were ordered to proceed to the West coast; a call was issued for 500,000 volunteers.

The concentration of the Regulars at San Francisco was complete by April 4, though but 10,000 militia had arrived. None of these troops, militia or Regulars, had as much as 60 per cent of their war quota. Though applications for enlistments for the entire 500,000 volunteers had been received instantly, the muster of no more than 50,000 had

been completed, and this at widely divergent points, when on April 12 scout ships and lookouts of the Pacific Squadron reported an advance fleet of Japanese war ships, which, as afterwards became apparent, must have left Japan as early as March 16. Four days later a battle was fought off Monterey Bay, to the complete destruction of the Pacific Squadron, saving one unprotected cruiser and one gunboat, then in San Francisco Harbor. And the Atlantic battle ships were somewhere below Panama.

By this time there were on the Pacific coast 40,000 armed and equipped American soldiers, poorly organized and trained, and with no hope of material reinforcement in less than three months other than through the recruiting of their own ranks. It was apparent that after the arming and equipping of men to fill the entire Regular and militia establishments to their full quota, the military stores of the United States would be exhausted.

To the horrified surprise of the general public, the Japanese landed four considerable armies almost simultaneously on the coast (and all but one without opposition)—one at Bodega Bay, one at Grays Harbor, one at Monterey Bay, and one above the guns at San Diego. A novice's glance at the map will explain the statement that this stroke gave the Japanese control of the four fortified harbors of the Pacific, deprived the oncoming fleet of a naval base, and gave the brown men possession of Portland, Seattle, Tacoma, San Francisco, and Los Angeles, and probably with them the control of the ultimate destiny of the Pacific. For no serious opposition could be offered them in the three coast States, and they had ample opportunity to seize and fortify every pass into the interior, with a year of grace in which to establish themselves in their holding.

Neither, of course, did this happen, but there is no impossibility, nor even any especial military difficulty, in any of the suppositions.

WE HAVE NO ARMY,

but what is worse, we have absolutely no system of defense. All of the great foreign powers exist simply and solely on their ability to mobilize great armies of four or five hundred thousand men in a week; that is the patent of their existence. It is incontrovertibly true that we could not mobilize such an army in one whole year. Popular and constitutional inhibitions will forever prevent the maintenance by this country of a large standing army, and none is necessary. Even the most military of nations does not maintain the enormous force that it can move in a week; the simple potentiality of assembling such a force keeps the world's peace. But the powers have admirable systems for utilizing the resource of their population, and we have not the glimmer of such a system. You see, the material is "resource" in time of peace only; if that resource can quickly be converted into "power," the nation is strong in a military sense, but if the resource is an inert lump, apart from the potentiality of its presence it is useless. And right here is the sluggish heart of our national blunder. We utterly fail to discriminate between

RESOURCE AND POWER.

In crude, inert, uncut resource we are fabulously rich; in actual, efficient, brilliant military power we are as poor as Job. It is the contemplation of the resource that explains the neglect of our true condition, for at a last resort there are 13,000,000 men in the United States eligible for military service, with the fertile land behind them for their sustenance. No other nation has half that resource. But, if in a year only one twenty-sixth of this number can be used to fight other nations that are fifty times as powerful, of what use are they, save to suffer shame? For time is a commodity of terrible significance in war. If we are ever attacked, it will be by a nation whose existence depends upon its power of rapid mobilization. War will come swiftly or not at all, for as the first army to use efficient artillery fought with a new force, so did the first army that realized the value of swift initial strokes—it was Prussia's—fight with a new force; and as artillery was generally adopted so has the swift initial striking been generally adopted.

Germany can mobilize a million men in a month, France as many, Japan at least 800,000—we, with good fortune, a million in two years. In the Franco-Prussian war the Germans placed an initial army of 578,000 men, 159,000 horses, and 1,284 guns in the field within five days after the declaration of war, and effected the most complete conquest of a powerful nation known in history. Simple system was the secret of German effectiveness, and on the fifth day the great German machine of destruction, composed of men who but a week before had been clerks, artisans, and mechanics, began to move, alert, fit, efficient, and equipped to the last shoelace. Advancing with lightning rapidity and perfect control, it gained contact with the French before the completion of the French concentration, and without respite annihilated army after army, until within six weeks the flower of the French establishment had fallen.

Contrast with this the mobilization of our forces for the Spanish-American war. Congress began to issue calls for an army of 216,000 men four days after the declaration. In four months the required number had been enlisted, but the men were, in large part, half organized, half drilled, and half equipped. In two of their great camps more men died of disease than were killed in the entire war, and even at the end of four months they were not able to compare with the German levies in point of efficiency.

Germany—five days, an army of 518,000 men, marching.

The United States—four months, a body of 216,000, learning.

It is a fair statement of the power of the two nations.

It is difficult to say just what Japan can or can not do. In her recent war she mobilized 1,200,000 men just as fast as she could possibly need them, and she is supposed to be able to put in the field 21 perfect divisions of veterans in one month.

Now, a battle-worthy fighting line for the United States could be promised in not less than one year.

WHAT COULD HAPPEN IN THAT YEAR,

once Germany or Japan had established bases on our shores, is appalling and impossible of sensible conjecture. In the East, Germany could fortify and defend New York almost beyond hope of recapture. Washington, Philadelphia, and the coast defenses would certainly fall, leaving the Navy without a base and helpless. Whether she would cross the Appalachians would depend on whether she had any object in doing so.

On the Pacific the problem is simpler. The three coast States constitute one of the richest sections in the world, a new and better Japan. Between it and the interior stretches an almost unbroken line of mountains, flanked by great desert regions impassable to marching armies; taken together, these constitute the most formidable military outworks in the world. Once lodged behind that natural redoubt, with their own country and the island chain behind them, the dislodgment of the Japanese would be as abstruse a military problem as ever confronted the mind of a genius with a Xerxesian host at his command.

In one of our supposititious cases the Navy has been placed on the other side of the world. Although this condition is actually now about to exist, the Navy must ordinarily be considered by a hostile power, and it has not been considered here simply to show how our landward defenses fail. We have a respectable Navy, but the task of policing a territorial grand division, maintaining an arbitrary policy against the world, giving timbre to the predominant voice of the East, and preserving our national integrity, is a fairly large one for so small a weapon. Larger still is that task when we admit that our present fabric of defense is simply our wager (and on it we stake our national existence) that neither Japan nor Germany can destroy our fleet, for once destroyed, the conquest of the land is a conclusion almost foregone.

With the fleet in the Pacific, Germany is one-fourth as far from New York as the fleet is; in the Atlantic, Japan is less than half as far from San Francisco, and with the enemy in possession of either coast the Navy would be helpless on that coast. The fighting chance of the Navy is impossible of determination, and its discussion is no part of the purpose of this paper and deserves the exploitation of an expert.

There are well-defined reasons why we have no system of defense, but they do not excuse the lack of it. For the chiefest of them are the same that explain why people live on the slope of Vesuvius—apathy, nearsightedness, ignorance of conditions, all headed and overtopped by the rut evil.

We are in the much-worn rut of having no national defense because the precedent prescribed none. When the precedent was established we needed none, because of three assets, which are now fallen quite away. The first of these assets was a great natural and geographical rampart, consisting, primarily, of 8,000 miles of sea.

Now, every hour clipped from the transoceanic records brings us closer by that hour to the enormous armaments of Europe and Japan. We know that the record has been cut in twelfths, but mere speed is not the only force at work. Formerly the transfer of a division required a fleet; the building of such ships as the *Lusitania*, the *Mauretania*, and the *Kaiser Wilhelm der Grosse* has rendered the movement of armies simple. The *Deutschland* could easily carry a complete brigade, and Germany could place it aboard in two hours; to assemble a completely equipped brigade of American troops in New York would require a week—they could arrive more quickly from Kiel. Germany has her entire merchant marine on a war-conversion list, and the Japanese system is perhaps even better.

But the water alone did not constitute at that time the only barrier, nor even the greatest one.

Back of the beach howled

MILES OF BARREN WILDERNESS.

Armies move on their stomachs; they must be supplied from home or live on the country. The ocean formerly prevented a resort to the first method of supply for foreign troops, and the land denied the alternative, for it was sparsely settled and productive of comparatively little. The wild terrain inland offered successions of natural defensive positions, and the roads were mere trails—roads are the sine qua non of all military operations. Earnest fate could not have changed this condition more completely. Rich towns now dot the coast country, nets of railroads invite invasion, while fertile fields promise ample support to a marching army. All this is no military secret; every foreign war office recognizes it. German journals have discussed quite freely the plans of the imperial staff, worked out as a war problem, to land 250,000 men on these coasts in twenty days, considering the Navy in the Atlantic.

The second lost asset vanished with

THE PASSING OF THE INHERENT DEFENSIVE QUALITY.

When Congress launched the ship of state without a gun deck America was one vast frontier. Savagery stalked at the back door, and fathers bequeathed to sons the greatest battle of all, the struggle with the untamed wilderness. But the pioneer who was his own soldier is gone. Long Tom no longer hangs above the farmhouse fireplace, and a replica of the "embattled farmers of Lexington" is incongruous with modern settings. Plainsmen, woodsmen, trappers, cowboys, squirrel-rifle men, and scouts—they have all stalked or ridden with the free grace of the open straight into the fascinating pages of romantic history.

We have become an urban people, a nation of city dwellers. The average modern youth can not live under the hardships of the open march, ride, or rustle, and he has no use for firearms. Place him, raw from the streets, in the wilderness from which his grandfather wrested a home and he is irrevocably lost; march him three days forced going and he is literally walking on boils; mount him in the cavalry on a hot dusty day and night will find him unable to ride, his horse withersore and ruined. Forty per cent of cavalry recruits tremblingly admit at their first bareback drill that they have never been astride a horse in all their lives.

Moreover, even in that rougher day, though we had scouts, skirmishers, and open-fighting men in every home, we had (oh, mention it gently!) but few good soldiers. Never forget Washington's heartbroken letters about his incorrigible minutemen, who fought when they felt inclined and went home when they didn't, nor the picture of the frail Jackson bullying his disaffected lines with a horse pistol, and swearing by the Eternal that he would shoot the first man who stirred. Discipline still sits heavy on your American lad. Even in the flush of his ardor he enlists "to fight," but not, "by the nine gods of war," to police company streets. It is the "desperate charge" that appeals to him. But this same cleaning of camp streets is the only thing that keeps ravaging disease at bay, that keeps him alive to know about the desperate charges—of which there are precious few. The street cleaning is an essential part of the soldier business. But though the American youth may burn to do battle, he has no desire to become a soldier.

NO, WE ARE NOT NATURAL SOLDIERS.

We must spend a year in making troopers of men picked raw from the streets, and while our rivals drill every man on their tax rolls we have one trained soldier for every 1,400 souls in our domain, and continue to delude ourselves with the hardy traditions of a past people of the great frontier.

Further, war has become the most abstruse of sciences, and John must now worry his eyes to glasses over logarithmic tables to meet the great guns that kill at 7 miles and a host of lesser shrapnel. While national hardihood has vanished in one direction war has gone glimmering in another, and the old common meeting ground of civilian and soldier is a great gulf. With the widening of it passed the third original asset. We may now consider our loss of military equality with other nations.

We came into being before the Napoleonic wars. Our system now was Europe's system then—that is, the maintenance of a small, rigid

standing army. To keep his conquests conquered Napoleon decreed that Prussia's army should never exceed 40,000 men, knowing that the feet of his marching hosts could outdistance the raising of rebellious levies in point of time. He reckoned without the flash of genius that illuminated the brain of one Scharnhorst, who said, "If I change my 40,000 every year, five years will give me 200,000." Do not smile at this simple arithmetic. From it, in forced and necessary evolution, appeared the terrible armaments of Europe; it is the basic principle of "The Nation in Arms," and it sent Bonaparte to Elba. System, like clockwork, exists for the incorporation of all the civilian body of the foreign nations into armies, and their establishments cost less than our pension list. While we who, to accord with our nonmilitary traditions and yet to live, should have the most elastic and facile military system in the world, have the most inert, unwieldy, and rigid.

We have talked much of military system and we should know more of what it means. If in this country every civilian were a trained soldier, even then we could not present a fighting front in months.

We have no arms and equipment.

We have no plans nor facilities for feeding and supplying.

We have no experts to lead the volunteers.

We have no provision for their handling.

An army is not an armed mob nor a gang of laborers nor a horde of fighting men; an army is a system whereby its own units can be controlled from a central intelligence, as the members of a body are controlled from its brain. Any business organizer can realize that without the very perfection of system 100,000 men can not be fed, fought, nor furnished, and, frankly, there is no system with us so much as to muster them.

In time an army could be rolled and jumbled, stumble, blunder, and miss, into shape, but time, we know, is a commodity of the most terrible significance in war.

Do we then absolutely ignore the lurid fact of war? Have we then no glimmer of an idea of our part in an international crisis? Of course not. We have a lick-and-a-promise war-time plan. There is a vague general idea that in the event of war:

1. The ranks of the regulars will fill from 50 per cent peace strength to 100 per cent war quota.

2. Volunteers will spring up like blades of grass.

3. Somehow, from somewhere, arms and equipment for them will be forthcoming.

4. The new recruits will be trained by experienced soldiers and there will be plenty of teachers.

1. Will the regular ranks fill so? No, the plan fails there. With the alternative of the romantic volunteers no man will enlist in the austere regulars. The enlistments are so falling off at this moment that regular companies all over the States are slowly descending to bed rock. And if the ranks were so recruited, the happy fact would invalidate them for weeks. The addition of twenty recruits to a company demoralize it in peace time—in war an influx of more than its original number in raw material would place it with the noneffectives.

2. Will volunteers spring up like blades of grass? Yes, luxuriantly, because, with no one to take care of them, they would better not, for they will also die like grass, and, further, because,

3. Arms and equipment will not be forthcoming. Equipment for even one-fifth enough infantry does not exist. Rifles, hard-tack, guns, shrapnel, saddles, uniforms, tents, clothing, haversacks, belts, bayonets, sabers, all the jumbled circumstances of war will have to be manufactured after the outbreak of hostilities. We have some 150 field guns; Japan has ten times as many, and guns are wonderfully made. Their manufacture requires trained men, special material and machinery, and weeks of painstaking care. Guns also mean caissons and limbers, shell, shot, and shrapnel, trained men to serve them, trained horses to draw them, and experts to direct them. The ordinary rifle can not be used in war. If the other fellow kills at 2,300 yards and you at 1,000, he will slaughter you unscathed with 1,300 yards margin of safety. Military rifles are made with craft. All these things must be produced in war-time panic, by machines not yet constructed, by specialists not yet taught, in factories not yet built, from material still in the bowels of the earth or growing on its fertile hills.

4. If the volunteers were mustered, would there be instructors to make soldiers of them? Absolutely no. The Regular Army is so denuded of company officers by present peace-time demands from the Army itself that there are not one and a half officers to an organization; there should be three. The increased demands of war will reduce this number to less than one to the company.

THE BLIND WILL LEAD THE BLIND,

and men little better fitted than you who read these words must whip a volunteer army into shape to fight men led by military experts. Can you clothe, discipline, maneuver, fight, and feed 100 raw recruits? Can you command a regiment, maneuver a battery, direct a sap, make a map, report a position, lead a cavalry charge, estimate a range, select a camp, organize a train, plan a battle, defend a mountain, or take a squadron across the unbridged Hudson? Neither can the men who must officer the volunteers.

Two seasons make a marksman, one year a trooper, three a subaltern. Men who can feed and clothe 100,000 hungry men are made by experience; never born equipped.

Yet there is something that counteracts the danger of our position—something that swings the balance even. But it is a very delicate balance, and its quivering beam is unsafe national footing. The fact that has prevented a trial of arms in recent times is this: We are the only nation that could support two years of modern war and not perish from poverty.

THE LAMB RAMPANT.

War is neither imminent nor probable, but nothing in the world could invite war as does our present defenseless state. Moreover, the greater a nation grows in commerce, power, pride, and aggression, the more does she offend, and we like to think that we are greatest in all of these. Through our commercial interests alone we tug at many a purse string, and we declare an intention to dominate the commerce of the world and to control the Pacific, where our richest land, cut off from the citadel of our strength by almost impassable barriers, faces a new force in the world—an aggressive, wonderful people, to whom our avowed aspirations must be an ever-present flaunt. Weak, even in the possession of a boundless wealth, we rashly dare the nations of jealous and overcrowded Europe. We do not need to look deep to see Europe's internal boundaries preserved by the most enormous armaments that time has ever known. Like an assembly of beasts, continental nations are gathered in a dangerous congress, where they keep their integrity by the overt expression of their prowess and the fear that it instills into the hearts of their rivals. Into this perilous gathering we have come, bleating our dicta, making the fiercest flaunts, and venturing at large our opinions, our desires, and our demands—a lamb rampant in a congress of lions.

The Fallacy of Prohibition.

SPEECH

OF

HON. RICHARD BARTHOLDT,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. BARTHOLDT said:

Mr. SPEAKER: I desire to insert in the RECORD an argument submitted by me to the Committee on the Judiciary of the House of Representatives in opposition to the several bills aiming to restrict interstate commerce in certain cases and on the question of prohibition generally. The following is what I said on these most important questions:

"Mr. Chairman and gentlemen of the committee, I do not propose to make a speech, but I desire to submit an argument, and trust the committee will give me as much time as the importance of the subject will warrant.

"Superficial minds may wonder at and flippant tongues may criticize the members of this great committee for devoting as much time as they do to the consideration of the pending bills—and I shall speak collectively of all these measures designed to prohibit interstate traffic in liquors—but thoughtful men will accord to them the fullest measure of credit for their deliberate action and posterity will call them patriots for refusing to destroy, without maturest thought, the proud structure which the fathers of the Constitution have erected. And since I shall submit my argument in the name of all who love the liberties guaranteed to them by the Constitution, I take it upon myself to thank you gentlemen, in their behalf, for your patience, your conservatism, and your patriotism.

"In my judgment there is not now, and there never was, a more important question before Congress than the one involved in these bills, because none affects more vitally our governmental structure and the foundation upon which it rests. In one of its decisions the Supreme Court of the United States has characterized the laws guaranteeing free and unobstructed commerce between the States as sacred statutes, and no less a term will aptly describe them because they convey to us the true significance of our union of States and of a union inseparable and indestructible. The right of free interchange of commodities opens up the whole country as a market to every producer and every consumer. It makes the citizen of Maine a customer of the citizen of California, and the citizen of Florida a purveyor to the citizen of Oregon. It makes the United States, in geographical extent, the largest free-trade territory in the world. And what is of still greater importance, it carries home to every American fireside the lesson of our unity and of a common country. Erect barriers on the boundary lines of the States, stop the flow of trade, and you do not only lay violent hands upon a sacred law, but you undermine the foundation of the Government. The Constitution prohibits the levying of a tax by one State upon imports from another State of the Union. In other words, within the extended domain of the Republic custom duties are absolutely prohibited. Now, it is proposed to substitute the policeman for the tax collector, and instead of levying tribute from the merchants of other Commonwealths the police of prohibition States are to be enabled, by this proposed legislation, to destroy their goods altogether. Why, gentlemen, if such a law could be enacted without doing violence to the spirit of the Constitution, then we would be bound to admit that, instead of a Federal Government with power to regulate interstate commerce, we merely have a loose federation of sovereign States; instead of one republic, forty-five republics, instead of a common country, a divided country.

"And this leads me, at the outset of my remarks, to another question. It has been argued by a gentleman at the other end of the Capitol that we should pass one of these bills merely to obtain an expression from the Supreme Court on the fundamental question involved in them. The gentleman I refer to seems hotly in favor of this legislation, because the interpretation by the Supreme Court of the original-package act has seriously interfered with his pet scheme of regulating the drink question, but, judging from his remarks, even he seems to have his serious doubts as to the constitutionality of any of these bills.

"Mr. LITTLEFIELD. To whom has that reference?

"Mr. BARTHOLDT. I refer to a member of the other body.

"I am sure there is no one sitting around this table who would knowingly vote for an unconstitutional measure. And

even if he was in doubt he would ten times rather dissolve it in favor of the Constitution than in favor of a legislative scheme thrust upon you by interested parties whose arguments here have convicted them of a willingness to spit on the Constitution if they can but have their way. Only a few days ago, by action of the House, a bill was referred to this committee on a subject entirely foreign to its legislative authority. It concerns the forest reservations in the White Mountains and the Appalachian Range. By this reference the House simply propounds the question to the learned gentlemen composing the Judiciary Committee whether that measure is constitutional or not—that is, whether under the Constitution the Federal Government can assume control of these reservations, or whether the respective States should do so. Now, there may be as many lawyers on the Committee on the Public Lands or on Agriculture—whichever originally may have had charge of that bill—but the House wants to hear from the Committee on the Judiciary on this question. It means that this committee is regarded by the House as the watchdog, if I may use this expression, of the Constitution. Its members owe their seats here to their knowledge of constitutional law, and they are justly so jealous of their reputation that even a pronounced prohibitionist would, I believe, as a member of the Judiciary Committee, readily subordinate his personal views to his loyalty to the Constitution rather than vote for a motion to report a bill of doubtful constitutionality, and his constituents would surely uphold him in this action, no matter what their own views may be on the merits of the proposition. We are all under oath to uphold the Constitution, and it is not for the Supreme Court, but for us, in the first instance, to decide a constitutional question. If the adoption of any proposition means a step outside of the organic law, we are not permitted, under our oaths, to take the step. And if anywhere in our great country the Constitution ought to be safe, it is right here in the house of its friends.

"I wish it could be written across the heavens, in letters to be seen by all the 80,000,000 people of this country, that a vote cast in this committee for or against the constitutionality of a measure never commits the member for or against its merits.

"I should refer right in this connection to the unpatriotic course of some of the advocates of the pending bills who are threatening the members of the Judiciary Committee with dire vengeance if they dared to respect their oaths by voting down an unconstitutional measure, but I shall pay my respects to these modern crusaders a little later in my argument. I shall first ask the committee to examine with me the constitutional aspects of the case. Taking it for granted that the several Supreme Court decisions bearing on the so-called 'original-package act' are at your fingers' ends, I shall not weary you with quotations from them. What I propose to submit are my deductions from these decisions.

"Two years ago, on March 16, 1906, standing before this committee, I made this statement:

"I have read law sufficiently to convince me that this bill is clearly unconstitutional. I am satisfied that an attempt to single out a special article of lawful commerce and to decree that in the case of the article thus singled out the operation of the interstate-commerce law shall be interrupted at the boundary line and give way to the police power of a State, so that that article can not be delivered into the hands of the consignee, amounts to a denial of the rights guaranteed by the interstate-commerce clause of the Constitution.

"I hold this same view to-day, only that I am much more strongly convinced of its correctness. And I will go a step further and assert that even if the so-called 'personal use' clause were inserted as an amendment the bills would still be unconstitutional. Why? If the Supreme Court in its various decisions has settled one thing, it is that an interstate shipment can not be interrupted or interfered with from the time of its commencement to its destination—that is, from the moment it leaves the consignor up to the moment that it is delivered to the consignee—and it makes no difference at all whether the consignee has ordered it for his own use or not. In other words, the Supreme Court declares that if a citizen of Iowa orders a shipment of liquor to be delivered to him, say, from the State of Missouri, this order signifies the exercise of a natural right which is founded on the Constitution, and the shipment can not be interfered with or stopped until the goods are delivered into his hands. It naturally follows that an act of Congress subjecting interstate shipments to the police power of a State on the border line would be a violation of a constitutional right, or, to use the language of the Supreme Court, of a right 'founded on the Constitution.'

"The same would be true of a State law which throws any impediments in the way of the delivery of an interstate shipment by requiring proof—for instance, as does the Iowa statute—that the goods are intended for personal use and not for sale. And this interpretation of the organic law by the Supreme Court of the United States makes it wholly unnecessary, in my

judgment, to argue the other questions which have been raised, namely, that the interruption of such shipment before delivery or on the border would give to the prohibition law of a State extraterritorial jurisdiction, inasmuch as it interferes with a sale or a contract made in another State, or even the question whether the right to regulate interstate commerce, granted to Congress by the Constitution, includes the right to totally prohibit it. Under the powers which the States have given up to the National Government under the Constitution, Congress probably has the right to make liquor contraband and prohibit its shipment as an article of interstate commerce altogether—

"Mr. DIEKEMA. By a general law all over the country?

"Mr. BARTHOLDT. Yes, sir.

"But so long as liquor remains a legitimate article of commerce, just so long will any bill of the character of those pending before the committee be contrary to the inalienable rights guaranteed to American citizens by the Constitution.

"To many the questions involved in these bills may have been most complicated and difficult to understand, and much has been said before this committee, especially by the advocates of these measures, to befog the issue, but when you resolutely keep in mind the constitutional guaranty of an uninterrupted interstate shipment, the problem becomes easily intelligible even to the simplest mind. And to those who are still in doubt, I would respectfully recommend the lucid argument made on this question in another place by the distinguished chairman of this committee, the Hon. JOHN J. JENKINS.

"Now, let us turn to another aspect of the case. The advocates of prohibition are asking for the passage of one of these bills for what purpose? To prop up their cause in prohibition States. In other words, wherever prohibition has carried there always is a minority of citizens, large or small, who will not allow any sumptuary State law to interfere with their personal habits and individual right to drink when and what they please. And it is no libel to say that even among the majority there are many who will continue to make use of that right, because by voting for prohibition they meant it for the other fellow and not for the restriction of their own liberty and comfort. And because this is true it is even being claimed that the quickest way to dispose of the prohibition movement would be the strict and relentless enforcement of the laws it has placed on the statute books. I myself would be in favor of such a course if it did not involve an unwarranted restriction of personal liberty, an insult to the rights and dignity of manhood, a ruin of hundreds of thousands of innocent people, and a waste of untold fortunes in property values. But that is neither here nor there. I want to say here and now, and without fear of successful contradiction, that the Federal law which our prohibition friends are urging us to enact is absolutely unnecessary if the States themselves will honestly enforce their prohibition laws.

"And I assert further that it is just because of their non-enforcement that they come here to invoke the aid of Congress. What are the facts? As we have seen, a shipment is free from interference, or immune, if I may use that term, until the goods are delivered to the consignee. But the very moment he attempts to dispose of them, by sale or otherwise, they become subject to the State law, and consequently to seizure and destruction. Hence, if the State authorities do their full duty in enforcing the law, the very object of the bills under consideration here can be accomplished without any aid from Congress whatsoever. It may be argued that an enormous police force will be necessary to watch violations, but, gentlemen, that is the penalty of the enactment of Russian statutes. And certainly it will take a police apparatus of no smaller proportions to watch and search every railroad train, every boat, every farmer's wagon, and the basket of every man and woman as they are crossing the boundary line of a State. The real facts are, my friends—and I address myself to the advocates of prohibition—that your laws are incapable of strict enforcement, either with or without the aid of Congress, because total abstinence is not a result of law, but of sentiment and education. The man who wants to indulge and can not do so because there is a policeman around the corner will do it clandestinely, and as long as people are not satisfied that to drink is injurious and wrong just so long will your laws against indulgence of this kind be ineffective.

"But before showing the futility and fallacy of prohibition laws, let me point to one of the many ethical phases of this contemplated assault on the Constitution. I said prohibition is a failure wherever it has been tried, and I want to elaborate on the statements I made to you in this connection the other day. I asserted in so many words that in Maine there were almost as many drinking places, some public and more secret, as in any license State; in Kansas the business had simply been trans-

ferred from saloons to drug stores, and in Iowa the legislature had passed a law which permits the violation of the prohibition statutes upon payment of a fine. Now, if you want evidence to prove these assertions, I can furnish any amount of it, but instead of taking up the time of the committee unnecessarily I shall, with your permission, print some facts and figures in connection with my statement. We have seen that if the traffic could be suppressed at all the State police power would be amply sufficient to suppress it, but the partial or complete failure to do so is admitted on all sides, even by our prohibition friends, or they would not be here asking for this legislation. There can be but two reasons for such failure. Either the State is not exhausting its powers to that end or the natural human desire for liquor can not be suppressed—that is, its satisfaction prevented by law. In either case there is not the shadow of an excuse for interference by Congress.

"In the first instance, if a State can not furnish to this committee and to Congress complete proof of its inability to suppress the traffic and its entire good faith in the exercise to the utmost limit of its powers to that end, then I claim it has no moral right to invoke the power of Congress. And if, on the other hand, practical experience has demonstrated all honest attempts at suppression to have been futile, simply because of the inefficiency of all law in preventing people from obtaining what they desire, then, I say, it is absolutely useless to provide additional legal machinery for that purpose, because to do so would have no other effect than to undermine, aye, destroy, the authority and dignity of national law in the eyes of the people. During the many hours I have listened here during this and former Congresses I have not heard a single argument on the other side which tended in any way to refute or break down the inexorableness of this situation.

"And in this connection I should like to propound an inquiry to those members of the committee who have been sitting here year after year listening to the appeals of the one side and protests from the other: Has it ever occurred to you that not one of the governors, not one of the attorneys-general, not one of the officials whose province it is to enforce the laws of the prohibition States has ever appeared before you to ask for this legislation? Why have they not come? Evidently because they are more farseeing than the professional agitators and the gentlemen who style themselves, by an ingenious translation of the word "lobbyist," the "legislative agents" of prohibition organizations. Those officials who are clothed with responsibility, the same as we are, have learned two things. The first is, that it is a technical impossibility to enforce their own State laws against prohibition, and the other is that these laws would be incapable of enforcement even if Congress came to their aid by the passage of one of the pending bills.

"As to the first proposition, if it is agreed that such failure is due to the importations from the outside, I answer that these importations can not be stopped because, under the Constitution and the Supreme Court interpretations, every citizen has a right to import for his own use, and any law forbidding it, as we have seen, is repugnant to the Constitution. And this answers the second proposition at the same time. But I will go further and say that even if the importations could be inhibited, no human ingenuity has as yet been able to devise a law by which a farmer, for instance, could be estopped from making all the liquor he wants for his own use. Apples and a cider press are all he needs for that purpose. So you would not even gain anything if Congress, in the exercise of its constitutional powers, deprived liquor of its character as one of the legitimate articles of interstate commerce. Is it not possible, Mr. Chairman, that the officials referred to have been demonstratively absent from these hearings just for such considerations? Realizing that the object of the pending measures could be attained by the State seizing the liquor the moment a consignee attempted to dispose of it, and that the State has failed for one reason or other in employing its police power to this extent, and realizing further that because of such failure the State authorities have no right to come to Congress for aid, they preferred to remain silent for fear that anything they might be compelled to say and admit would simply add to the overwhelming evidence against the inefficiency of all prohibition laws.

"In closing my argument on the constitutional and legal aspects of the case, I can not refrain from briefly referring to the catchword of the other side, the alluring bait by which the votes of the States-rights men are to be caught, namely, that the States should be allowed to have their way in the enforcement of their laws, which, it is alleged, the national laws render impossible in the matter of prohibition. How absurd, in the light of the views I have previously expressed! Why, if I were a pronounced States-rights man, instead of a Federalist and

Unionist, I would regard the bills under consideration as a pernicious attempt at further encouraging the States to sleep on their sovereign power. Two years ago the Speaker of the House of Representatives, Hon. JOSEPH G. CANNON, said in the course of an address at Philadelphia—I merely give the substance of his remarks—that in former years there was great danger in our country of the possible concentration of too great power in the National Government. To-day the danger was the very reverse, namely, that the people of the several States were prone to neglect the exercise of the powers which they have under their constitutions, and preferred to appeal to Congress on all possible and impossible occasions to do for them what they were fully competent to accomplish under their own State laws. Here we have a case in point, and I claim that the safety of the doctrine of States rights lies in the rejection instead of the passage of these bills.

"If you, my Southern friends, will by an appeal to the Federal Government allow the nation to supply the power which the State fails or refuses to exercise, though it is competent to exercise it, then I predict it is only a question of time when you will be entirely governed from Washington instead of from your State capitols. But you say you want the national power in this case to halt at the border of the State in order to give full sway to the police power of the State. Well and good; but do not you see the efficacy of your police power would be more firmly established and better demonstrated by conquering the alleged evil in spite of the concurrent operation of the interstate-commerce law? The evil you complain of exists, not because of a lack of State authority or because of an interference with it by the nation, but because of a failure to fully exercise it. The legislator who would be willing to sacrifice, aye, under the circumstances needlessly sacrifice, the inviolability of interstate commerce in order to hush up the failure of a sumptuary State law and its enforcement may be a good Prohibitionist, but to my mind he is not a good American.

"So much for that, and from now on I shall not again refer to the constitutional and legal features in these bills. Their enactment would be obnoxious to the organic law because it would interfere with individual rights founded not on an act of Congress, but on the Constitution. The lawmaker who believes this to be true need go no further. True to his oath, he will vote down these measures, no matter what their intrinsic merits may be. If he be a Prohibitionist he might wish to aid in their enactment, but conscientiously he can not do so because of his oath to defend and uphold the Constitution. For him it is unnecessary to listen to me any further. But for the benefit of those Members who strangely believe in the constitutionality of these measures I must go into the merits of the proposition. They certainly would not vote to report any of these bills merely because, in their judgment, they do not violate our fundamental law, but after having answered affirmatively and to their own satisfaction the question of constitutionality it becomes their bounden duty to next investigate the question of the expediency and wisdom of such legislation.

"Then, and not until then, will the merits and demerits of prohibition become a paramount issue. As I said before, this is no issue at all with those who honestly believe the bills to be unconstitutional, but it is the sole issue with those who believe otherwise. Hence the brushing aside of the prohibition question proper as something which is not supposed to be involved in the measures now before the committee was, to say the least, a rather risky proceeding on the part of one of their prominent advocates. Or does he really think all that is necessary to insure an affirmative vote on a bill in this great body is its constitutionality? If so, I venture to suggest that his experience here as a legislative agent should have taught him differently. But perhaps this merely gives us a foretaste of what will happen when the two great parties have been crushed and the Prohibitionists will run the Government. No, my good friends, we can not follow you at such a gait in spite of what I regard as a passing fancy or a temporary popular clamor. You may capture women and children, intimidate village councils, and crack the whip over State legislatures, but when you come to Congress you strike a level where people are in the habit of doing a little thinking all for themselves.

"Mr. WEBB. This bill passed Congress in 1907?

"Mr. BARTHOLDT. No, sir; it did not. It passed the House with a slim attendance and without any discussion. It was passed in the House in twenty-five minutes. There was no hearing before any committee.

"Mr. HENRY. It was not this bill?

"Mr. BARTHOLDT. No, sir; it was one of these bills; the Hepburn-Dolliver bill.

"At any rate, Members of Congress are mostly men who have learned to look before they jump. And as to the members of this great committee, any one of whom would grace any judi-

cial bench in the country, why, they are the most conscientious, painstaking, and deliberate judges of the membership of the House.

"Mr. CAULFIELD. If you can not finish to-day, there is a matter that we would like to take up, if it is entirely agreeable to you.

"Mr. BARTHOLDT. I should be very glad to give way. I am slated for a speech on the floor on the battle-ship proposition, so I shall be obliged to you gentlemen if you will let me go at 11.30 o'clock.

"Mr. LITTLEFIELD. There are other people who will have to consent to that. I ask for the regular order.

"Mr. BARTHOLDT. Very well. Then let us examine the merits of the proposition. If these bills are in harmony with our Bill of Rights, then what is their purpose? That is the first question. Their passage is asked for by the advocates of prohibition to make the State prohibitory laws more effective.

"Mr. HENRY. I insist that Mr. LITTLEFIELD listen if Mr. BARTHOLDT is to continue.

"Mr. CLAYTON. I think we all should listen.

"Mr. MOON. I am listening to every word of the argument.

"Mr. BARTHOLDT. I thank you.

"Granted, for argument's sake, that this would be their effect, should Congress lend a helping hand to accomplish this purpose? That is the second and main consideration. So far the Congress has never yet gone on record directly in favor of the principle of prohibition; at least not as affecting the people at large. It has prohibited the sale of intoxicants to Indians, to soldiers and inmates of Soldiers' Homes, and others within Government buildings, military reservations, or immigrant stations; but beyond that the arm of Uncle Sam has not reached. Now, we are asked for the first time to lend aid and assistance to the States in the enforcement of their sumptuary laws. This naturally brings up the question—necessarily the vital one—whether prohibition is right or wrong, good or bad, and last, not least, whether it ever accomplishes its purpose. We can not escape the responsibility of going on record for or against prohibition in voting on these bills, provided we hold them to be constitutional; consequently we pause and investigate. For the conscientious lawmaker it is difficult to reach a conclusion on the spur of the moment.

"With his multitudinous duties he has not the time to thoroughly inform himself on the subject; hence, if I were a member of this committee I would move the appointment of an impartial subcommittee to investigate the subject of prohibition in all its aspects and to report at some future time. This only, as a matter of course, if a majority held the bills constitutional, for in the other case it would not be necessary. As one teetotally opposed to prohibitory laws, for reasons which I shall give you instantly, I am so sure of my ground that I would not only not fear the results of an impartial investigation, but would hail them with delight as surely corroborative of the statements I am going to make to you.

"I have the highest regard for those well-meaning men and women who honestly strive to promote temperance and sobriety, and in all my manhood years I have prided myself with being of their number. But it is as clear to me as if it were one of the Creator's revelations that those who honestly favor sobriety must not advocate prohibition.

"There our ways part, for I regard that alleged preventive against drunkenness, and shall prove it to be such, as a devilish device to nail the human family the more securely to the cross of King Alcohol. I do not hurl this as a wholesale indictment against its advocates, though many of them certainly thrive by the agitation, but I do charge that they are either honestly blind to the truth or intentionally shut their eyes to facts and figures which are patent to every sane and discriminating person, so that, even though 'convinced against their will, they are of the same opinion still.' And outside of insanity, Mr. Chairman, there is only one state of the human mind which the force of reason can not penetrate, and that is fanaticism.

"The belief in witchcraft was that kind of fanaticism. It sent thousands of innocent women to torture and death, and the men who had the courage to protest and who, by an appeal to reason, endeavored to restore the minds of people to their normal condition were first made, by insufferable torture, to recant and then put to death, so that their lips might never tell how their forged confessions were secured. You can not read without shuddering the chapters devoted to witchcraft in Andrew D. White's splendid work, 'A History of the Warfare of Science and Religion,' but you will also learn there how reason finally prevailed. And so it will be in this case. The 'pipe dream' of many of our people in the omnipotence of legislation is bound to be followed by a rude awakening. The belief, almost childish

in its naïveté, in the all-powerful curative effect of law will be rudely shaken by the discovery that legislation will always be a failure when it attempts to correct human nature. And since as good citizens we are interested in maintaining a common respect for law, might I not venture to suggest that it might be more conducive to the welfare of the country not to undermine the authority of law by attempting the impossible by legislation? Have you ever read the history of the so-called 'Kulturkampf' in Germany?

"Mr. CLAYTON. What does that mean?

"Mr. BARTHOLDT. The struggle for enlightenment; a political struggle.

"Well, Bismarck, flushed with his victory over France, attempted to crush or at least repress the Church of Rome, which, to him, had become a somewhat inconvenient factor in the interior politics of the Empire. He announced this policy with the proud words, 'Never shall I go to Canossa,' referring to that unhappy German Emperor who for hours stood in the courtyard of the papal residence in that Italian town waiting for an audience with the Pope.

"And what was the result of Bismarck's daring policy? Figuratively speaking, like Henry IV, he did go to Canossa. His policy proved an ignominious failure, and with all his so-called "May laws" he capitulated before the power of the church. And, mind you, gentlemen, that was only a struggle of the state against one of the churches, an invocation of the power of law against a mere creed. How much more signally will that power fail in a struggle against human nature itself? And by human nature I mean the ineradicable desire and the inalienable natural right to eat and drink when and what you please. Therefore I say to you, my prohibition friends, your movement is doomed to defeat, because you build on a foundation of sand, on a perverted principle, namely, the idea that you can promote sobriety from without instead of from within, by law instead of by moral suasion.

"The CHAIRMAN. We will have to stand adjourned.

"Mr. LITTLEFIELD. I ask unanimous consent that we listen to the argument of Mr. BARTHOLDT.

"The CHAIRMAN. The committee will have to stand adjourned under the rule.

"(Thereupon the committee adjourned.)"

"FRIDAY, May 1.

"Mr. BARTHOLDT. Mr. Chairman and gentlemen, at the last meeting I discussed the legal and constitutional features involved in this bill. I endeavored to show that the bills (and I shall speak of them collectively) are unconstitutional and unnecessary—unconstitutional because they interfere with the right of the citizen of the State to order and have delivered to him an interstate shipment of liquor; unnecessary, because if the laws which are now upon the statute books in the different States are properly enforced liquor can be seized by the agents of the State at the moment when the man who receives it tries to dispose of it by sale or otherwise.

"I stated that those members of this great committee who considered those bills unconstitutional did not have to consider the question whether prohibition is right or wrong. With them it would be sufficient to know that the bills are unconstitutional, and that would settle the question. But for the benefit of those who strangely believe these bills to be constitutional, it is necessary to go into the merits of the question of prohibition and to investigate whether prohibition is good or bad, right or wrong.

"Before, however, proceeding to this part of my argument I should like to read to you a statement prepared by a lawyer which is rather trenchant, but which touches a phase of the question that I believe has not yet been touched upon before this committee:

"POLICE POWER ABOVE THE CONSTITUTION—A DANGEROUS CONDITION."

"The enactment of prohibition to stop the manufacture and sale of liquor without compensation for property destroyed or rendered valueless can not be a constitutional measure.

"In order to accomplish such an outrage upon property rights it is necessary to place what is termed the 'police power' above the Constitution and so confiscate property without any form of redress. This erection of the police power into a giant force overshadowing the constitutional guaranties is an act of revolution and rapine that endangers constitutional liberty. For, if this method of destroying property be employed with reference to liquor, it can be with cotton or tobacco if enthusiasts who claim they want to do good see fit to condemn the production and sale of these staples. Prohibition of the production of tobacco by the exercise of so-called 'police power' would be everywhere resisted, because it would be an exercise of despotic power and a violation of the constitutional guaranties of property.

"The outlawry of any form of property without redress can only be accomplished by the assumption of powers not granted by any constitution. Naming this assumption an exercise of the 'police power' does not help matters at all. Every constitution worthy the name contains declarations of the great charter—'No person shall be deprived of life, liberty, or property without due process of law.' The exercise of the so-called 'police power' prohibiting the use or sale of

any recognized forms of property must remain purely despotic seizure without a shadow of constitutional authority.

"The decision of the New York court of appeals is as good law to-day as in 1856, when New York's prohibition act of 1855 was declared unconstitutional, because it destroyed property without redress, and therefore without due process of law.

"How has this modern invasion of constitutional liberties been so long permitted? Corporations with money and a claim that they want to do good have put their hired agents at work upon the sentiment of the people and have fooled them into believing that sentiment, or a desire to do good, justifies the most drastic measures. Again, the great interests threatened with complete property loss have shown a strange paralysis in the face of this wild crusade. And the general public fails to see that the appeal to the 'police power' to destroy property is summoning a demon that may destroy all forms of property and tread under foot the great charter of liberties. The fact that prohibition has been a fraud and failure is lost to sight.

"Another reason for the advance of the crusade is the utter refusal of the crusaders to permit discussion upon reasonable and constitutional grounds. They force matters by the overwhelming urgency of their devotees who invade the capitols of States, besiege legislators, and even threaten them socially and politically if they do not yield. Impressionable men and women are the chief agents of the sleek lobbyists of the corporations engaged in attacking property rights. They are well disposed, but ignorant and badly deceived. They have done enough mischief.

"And since in this statement the decision of the New York court of appeals is referred to, I should like to call to your attention briefly the legal status of matters in New York with respect to prohibition:

"STATE AND TOWN PROHIBITION IN NEW YORK.

"In 1854 the Prohibitionists, and some allies who cared little for prohibition, carried the State of New York. The legislature of 1855, April 9, enacted a law prohibiting the manufacture and sale of liquor in the State. In July a liquor dealer in Buffalo was indicted for violation of the law. As soon as possible he carried his case to the court of appeals on a writ of error. In March, 1856, that tribunal decided that the prohibition act was null and void, as it destroyed property without due process of law. The court cited the provision that 'No person shall be deprived of life, liberty, or property without due process of law.' The record of this decision will be found in the New York Reports. The legislature never afterwards amended the law to recompense owners of property in liquor nor in establishments for its manufacture, so prohibition failed.

"The decision is still in force, although efforts have been made in recent years to evade it by a system known as 'local option,' or prohibition by towns or other subdivisions. The decision by the court of appeals was a pronouncement of great importance and worthy the eminent jurists who rendered this State famous in legal annals. The court said in effect that a man can not be executed out of hand by vote of the legislature, he can not be imprisoned by vote of the legislature, his property can not be destroyed or taken by legislative enactment, unless provision be made for full compensation under the State's power of eminent domain. Life, liberty, and property are equally protected.

"It follows that if the legislature can not destroy property or annihilate its value by enactment without trial and compensation, the legislature can not delegate such power to a town or city or ward. Local option is therefore unconstitutional and void.

"An effort has been made to substitute the 'police power' of the State for the guaranties of the Constitution, and so justify the destruction of property without compensation. But the guaranties of the Bill of Rights can not be nullified by the 'police power.' That power justly represents no more than the executive arm in the enforcement of law. The police power is not the source of law or government. The Constitution is the source.

"Modern deviations from its sanctions at the behest of enthusiasts who want to do good show decadence or partial abandonment of constitutional government. Those who are so anxious to destroy property and regulate their neighbors also, organize and raise funds to enter into partnership with the state in the enforcement of sumptuary statutes that involve personal liberty and property. This proffered aid to the state is confession that the enactments are impossible of enforcement by the ordinary powers of state.

"The legislature is not justified in helping private corporations to do good by the means involved in prohibition or local option without compensation for property destroyed or rendered valueless.

"I cite these views and statements, Mr. Chairman, for the reason that the enactment of any of the bills pending before you would, in effect, destroy hundreds of millions of property.

"I closed my argument at the last meeting by saying to my prohibition friends that their movement was doomed to defeat, because they were building on a foundation of sand, on a perverted principle, viz, the idea that they can promote sobriety from without instead of from within—by law instead of by moral suasion. Now, let me continue. While we are in an analyzing mood, let us dig a little deeper into the subject. Neither a monarchical nor even a despotic government has ever attempted to prohibit what in itself is not morally wrong. In all countries and at all times it has been held to be wrong to deny an individual a natural right where its exercise does not conflict with the equal right of his fellow-man. Especially is this true as relating to mere personal habits. Deviations from this wise rule have invariably caused social disturbances, bloodshed, and revolution. Lawful liberty is nothing more and nothing less than a guaranty of the natural rights of man, as I have just circumscribed them, and constitutions are made to protect these rights.

"The right to eat and to drink can never be interfered with by any majority, and a law prohibiting it, namely, the act of eating and drinking itself, if put upon the statute books by the 51 outvoting the 49, would immediately be declared unconstitutional. That is the reason why our friends on the other side

seek to accomplish their purpose by indirection. They shrewdly do not prohibit the use of spirituous and malt liquors and wines, but only their manufacture and sale. But what will the American people do when they awaken to a full realization of the fact that the exercise of a personal right, dear even to the serf of Russia and cherished by all as a right, whether really exercised or not, has been or is to be denied them by a trick? Or do you believe for one moment that the present generation of Americans places a less valuation on their priceless heritage than do other nations on whatever liberty they may enjoy, merely because they have inherited it and hence lack a true appreciation of its value? Wait and see. I hold that the people have been misled. Prohibition is parading in the respectable garments of a church movement and an alleged moral revival. Every shortcoming of youth, for which no one but the parents themselves are responsible owing to the laxity in discipline and educational methods, every crime in the Decalogue, poverty, misery, unhappiness in matrimony—all these have been ascribed to the influence of the 'demon rum,' the same as in the age of witchcraft all ills and misfortunes were traced back to the influence of witches.

"It is comforting, perhaps, to seek the cause for our troubles outside of us instead of in us, and it is so convenient to assign one cause for all the ills of society; but is it just and is it true? Surely people will learn to discriminate. While up to this time we may have regarded it as an unseemly task to be our brothers' keepers and as unworthy of a great people to make the personal habits of man and the private lockers of families a paramount political issue, we may yet have occasion to thank these good men and women and the many reverend gentlemen who are engaged in this movement for having opened the Pandora box of social problems. Only we shall not stop where they stop. We shall investigate whether it is not true that many American homes are deserted because the wives and mothers are out upon the streets and the hustings and in legislative halls agitating for prohibition; whether they would not benefit the cause of true temperance immeasurably more by inculcating the right ideas of moderation into the minds of their children; whether the so-called 'temperance drinks' which American women are in the habit of consuming in sickening quantities and at all times of the day are not really more harmful and more alcoholic than the milder of the men's beverages which they propose to put under the ban; whether the charms of 'Home, Sweet Home' are not marred by an agitation which, under the leadership of certain modern clergymen, makes women and children participants in public political demonstrations.

"And those of us who believe in the old sound maxim, 'Render unto Caesar what is Caesar's,' and so forth, will also try and ascertain whether those clergymen, on behalf of their churches, are not grasping for political power, and whether a gratification of their desires would not tear the old ship of state from its safe moorings and carry it into that dangerous whirlpool caused by a mingling of church and state. In a word, the spirits you have conjured up will never again be banished. I am not a prophet, nor the son of a prophet, but I predict here and now that as soon as the masses of the American people will discover that the dominion of the church can not be established in affairs of state except at the expense of the heritage handed down to them by the fathers, the prohibition movement will disappear from the soil of this free country as rapidly as does the mist in the rays of the sun. Henry Waterson has well said:

"Holding the ministry in reverence as spiritual advisers, rejecting them as emissaries of temporal power, I do not intend, if I can help it, to be compelled to accept a rule of modern clericalism which, if it could have its bent and sway, would revive for us a forgotten past. I do not care to live in a world that is too good to be genial, too ascetic to be honest, too proscriptive to be happy.

"I am not unmindful of the fact that those who are undertaking the impossible task of making people sober by legislation are at the same time waging war against a certain form of sociability; in fact, I am sometimes tempted to believe that the professional prohibitionist, since he never discriminates between strong and mild drink and never opens his eyes to the lawless drunkenness which results from prohibitory laws, is really less concerned in the cause of temperance than in the shutting up of the public houses where men congregate for social purposes. And this presents a phase of the question which is entitled to the most thoughtful consideration of all. Shall we constantly walk in the shadow of penitence with stern faces and bent heads, or shall we be permitted to bask, occasionally at least, in the sunshine of life's pleasures? The struggle for existence is intense, and those who visit the public taverns are mostly, yes, 90 per cent of them, hard-working men. Will any reasonable and well-meaning man deny that, in view

of the crowded conditions in a laboring man's home, such places are a necessity?

"It is safe to say that 95 out of 100 men visiting such places are sober and respectable citizens who simply feel the necessity, so thoroughly human, of enjoying a sociable chat with their neighbors, comrades, or friends, and with most of them drinking is only a secondary consideration. They really wish less for the drink than the momentary diversion, the good cheer, the sociability connected with it. Where is the good wife and mother who is willing to deny to him, the breadwinner, this little recreation? The wealthy can, of course, go to their clubs, and these never run dry, especially not in prohibition States, but the middle and poorer classes who can not afford to keep well-stocked ice boxes and sideboards are depending absolutely on the place which has very aptly been called 'the poor man's club.' And this class of men are entitled to the same respectful consideration as are the members of millionaire clubs. This illustrates plainly enough, I think, how prohibition would not only have the effect of rank class legislation, but would also punish the ninety-five moderate and sober men on account of the five immoderate ones. But, besides, I do not believe in a law which restricts a man in the free choice of the kind of happiness he seeks as long as it is moral, or which will in any way tend to lessen a people's opportunity for innocent recreation and enjoyment. Life is too serious as it is. A happy man is always a good man, while his state of happiness lasts, but deprive him of his enjoyment and there will be a vacuum in his heart and mind in which only too frequently vicious thoughts find lodgment. We are smarter than other nations, of course. But it is not always wise, even for us, to discard the wisdom of the ages, that wisdom which, for instance, prompted Roman statescraft to adopt the policy of 'panem et circenses'—bread and the circus—for the people. Yes, and we can learn from the older nations in other respects.

"Why not substitute for the bar imported from England the German combination of restaurant and saloon without a drinking bar? Why not make these places so respectable that none of us need hesitate to take our wives and daughters into them, as is the case in Germany? There the drinking of a glass of beer or wine is merely incidental to the meals people take in these restaurants, and as a result, after nine different trips I made to that country in the last thirty years, traversing it from one end to the other and stopping at some places for months at a time, I never saw a single person under the influence of liquor. Is this wonderful state of sobriety which establishes for the Germans a standard higher than that of any other nation a result of prohibitory laws? No, gentlemen; it is a result of sane regulation and of proper education. Why could not the United States emulate this example?

"Mr. TIRRELL. Mr. Bartholdt, do not the German people confine themselves to German beer, and does not that account for your last observation?

"Mr. BARTHOLDT. As I just now stated, they confine themselves to the consumption of beer and wine, and that to a very great extent accounts for their sobriety. Later on in my argument I will show you the difference between prohibition States and the State of Wisconsin, for instance—Wisconsin, where beer is mostly consumed, and prohibition States, where secretly whisky is used; and I will give you facts and figures on the subject.

"Let me quote in this connection the words, clipped from one of the newspapers, of an American tourist who styles himself a total abstainer:

"I have had a large experience with men, and have traveled extensively. In Germany I found that drunkards are almost unknown. In America they are, unfortunately, too common. Why is this? Because Germany, with her civilization so much older than ours, has had experience with the liquor question and has solved the problem to her own satisfaction by allowing the people to have their beer without legal restrictions. Beer is cheap and common there. The people, young and old, rich and poor, enter the beer gardens quite freely. There is no false glamor about beer drinking, and beer has ceased to be looked upon as a luxury. It has not the taste of forbidden fruit, and the laborer, largely because he does not have to pay much for it or break the law to get it, does not value it highly or become intoxicated upon it. I think we might do well to imitate Germany in this respect.

"These words of a man who evidently traveled with his eyes open remind me of what Ingersoll said on one occasion when the liquor question was under discussion: 'If the Mississippi,' said he, 'contained whisky instead of water no one would care to drink it.' And the water drinking lady confirms this logic when, according to the story, she said: 'This water is delicious; is it not a pity that it isn't a sin to drink it?' To my mind these words express great truths in human nature, and as lawmakers we should profit by them.

"No cause has permanently succeeded in the world's history which was grounded on the idea that human nature could be

corrected or coerced by law or by force. Nature alone is unerringly right and true, and its majestic power scoffs at all attempts at defying it by law the same as the giant would at the somersaults of pygmies. We can harness natural instincts, we can elevate the human mind, we can enrich the human intellect, and by example of love and mutual respect imbue the citizen with the power of self-restraint—and that, by the way, is all there is in our much-boasted civilization—but no one, not even a professional prohibition leader, would be so bold as to contend that these results could be achieved by the exercise of the police power, that they could be brought about by means other than moral suasion and education. Even perversions of human nature can be cured in no other way, because they are mental and not physical diseases.

"A man eats and drinks in obedience to a natural law, and the only power between heaven and earth which can stop him from eating and drinking when and what he wants is his own intellect and his instinctive regard for the preservation of health and life. Attempt to stop him, and he will violate law and overthrow even constitutions. The Constitution of the United States guarantees that right to him, and nowhere in our country could this inalienable right ever be made the subject of a vote by the majority over the minority. Hence the attempt, as I said before, to rob us of it by indirection, namely, by prohibiting not the consumption itself, but the manufacture and sale of what some of our fellow-men do not wish us to consume.

"But if we are not entirely blind to what human nature is, we will see at a glance that this underhanded attempt to rob us of a natural and constitutional right is based upon an utterly false theory. Our friends on the other side foolishly believe that by removing the temptation they will kill the desire. How childish! You might as well say that the way to prevent those unspeakable crimes committed by negroes in the South is to abolish white women because their existence constitutes the temptation. And you would certainly have to abolish money, for there is no gainsaying the fact that the existence of money has caused more crimes in the world than all other temptations put together. And by the time you would get through removing temptations the earth would be desolate, the human race extinct, and there would be nothing left but the stones to cry to heaven and bewail the idiocy of those who had once been made in the image of the Creator.

"Mr. Chairman, the Bible teaches, and all good Christians devoutly believe, that sin has come into the world by Eve giving away to temptation and eating the forbidden fruit.

"Mr. ALEXANDER. You stand on that, do you?

"Mr. BARTHOLDT. Yes, sir; I will show you how far. I am afraid the other side are not standing on it, though.

"According to the theory of the advocates of this legislation, that temptation should have been removed; in other words, the logic of Prohibitionists would make it appear that the Almighty himself made a mistake in permitting apples to grow on that fateful tree in Paradise, and if they had lived no doubt they would have corrected the Creator and removed that apple tree by legal enactment. This is where you will land, gentlemen, when you start from wrong premises. Will you still follow the lead of those modern crusaders who, well meaning, but themselves totally misled, are sure to run counter to reason, to nature, to the Testament, the Constitution, the Bible, and the infinite wisdom of the Almighty himself? Christians? Why, I believe even Mohammedans, who alone observe total abstinence as a religious tenet, would disown them. But to come back to first premises. What is the correct theory? In a word, it is that temptation can not be removed at all; it is with us, always has been, and always will be with us, if we can trust the Bible and its grand philosophy. Temptation has been created by the Creator himself, according to Christian religion, and the degree to which we resist it is the measure of our morality.

"The only logical conclusion from this is that temptation can successfully be resisted only from within, and true reform and moral improvement will consist not in a vain effort to remove temptation, but in an honest endeavor to strengthen human resistance against it. And this is what the opponents of prohibition have been preaching ever since that impossible cure of intemperance has been first heard of. As I said before this committee on another occasion, nobody will place a high value upon the honesty of a man who never had an opportunity to steal or to be dishonest, nor would the world praise a man for being sober when, placed behind prison bars, he could never secure an intoxicating drink.

"But he who is honest despite all opportunities to steal and he who remains sober despite all opportunities to drink is a man after our own hearts. It is certain that you can not make him either honest or sober by legislation, but you can raise and

educate him so as to make him both. The fact is, sobriety, the same as charity, begins at home. Hence we had better turn our faces homeward. And if it were not presumptuous to undertake the teaching of teachers, I would say to my reverend friends: Retrace your steps, because you are on the wrong track. You do not need the Government to make the world better. You are already in possession of the only means by which the evils you complain of can be cured—namely, by good example and precept, and if, despite their proper use, you are obliged to confess to failure, then we had better honestly admit that there exists no remedy at all, for where spiritual power fails in an effort to make human beings good and sober, temporal power will surely be invoked in vain.

"Viewed in this light, your presence in the halls of Congress is really an indictment against the American people in that you make it appear as if this nation were incapable of attaining the high state of sobriety which other nations, without invoking the power of the state, have attained, and in the name of the people I have the honor to represent here, I protest against such an insinuation. In my judgment and theirs, the real cause of the failure which is here alleged is not the lack of State authority, but the unholy hankering after such authority and the waste of so much valuable time on the part of those whose influence on hearts, minds, and souls a nation must largely rely on for its moral welfare. If mothers would stay at home and teach their children proper discipline, if in school men would take the boys in hand and women the girls and instruct them in the principles of ethics and right living, and if our churchmen would look after the spiritual welfare of their congregations instead of chasing after the phantom of political power, there would be no need of an invocation of governmental authority to reform people and correct their innocent habits. And there is no such need. The American people are a religious people, and there is absolutely no reason why they should not rank all other nations when it comes to the highest requirement of real culture, namely, the exercise of self-restraint. But to reach this exalted station, what must we do? We must learn to turn from the police club to educational means, from a meddling interference with the personal affairs of our neighbors to higher ideas and ideals, from undemocratic retrogression to progress, from prohibition to liberty.

"From what I have said, Mr. Chairman, you can not escape the conclusion that prohibition is wrong in theory. The question arises, Has it proved wrong in practice? In order to answer this question I must ask you to follow me from the domain of speculative thought to the practical ground of actual experiment. We do not have to go far to find that a bogus remedy has resulted in a bogus cure. In order to prove, by facts and figures, that prohibition is not only ineffective, but in the highest degree mischievous and dangerous, let us turn to the oldest experimental territory in the Union, the State of Maine. Ever since prohibition has been introduced there, more than half a century ago, it has been an inexhaustible source of social discord, the same as in all other localities where it was tried. Why? Because in matters of conscience and personal habits not morally wrong no minority will meekly submit to the tyranny of a majority.

"The instincts of manhood rebel against every needless restriction of personal rights. Even to-day the dissensions on account of this question are threatening to rend the little State asunder, and it is safe to say that social peace will never return until it is settled and settled right. But what are the facts? The Lewiston Sun says there are 2,583 persons in Maine who have Federal licenses to sell liquor, and the number of places without such licenses where intoxicants can be had is beyond calculation. And they are naturally dives of the worst kind, for what is driven underground can not be supposed to be respectable, and what is still worse, instead of pure whisky, poisonous rot gut is being sold, and the milder drinks which have contributed so much toward true temperance have almost totally disappeared.

"In Portland, Sheriff Pennell's raids have disclosed the fact that there are 495 dives in that city. In Rockland, the home of our distinguished colleague [Mr. LITTLEFIELD], there are said to be over forty. 'Prohibition has placed the whisky jug on sideboards in Maine houses where liquor was never known before,' says a newspaper correspondent who recently traveled through the State for his paper, the Sunday Union, of Springfield, Mass.

"Mr. LITTLEFIELD. Who was that gentleman?

"Mr. BARTHOLDT. Some one connected with the Sunday Union, of Springfield, Mass.

"Mr. LITTLEFIELD. I will undertake to say that that is a falsehood. Put it right in your remarks. He could not know it to be true.

"Mr. BARTHOLDT. I assume no authority—

"Mr. LITTLEFIELD. I do.

"Mr. BARTHOLDT. But I leave the authority to the Sunday Union, of Springfield, Mass.

"Mr. LITTLEFIELD. I do not care about that; I assume authority for the statement.

"Mr. BARTHOLDT. And I have the paper here, if the gentleman—

"Mr. LITTLEFIELD. That does not make any difference. I assume the authority for the statement I make, and the responsibility for it.

"Mr. BARTHOLDT. Let me quote from his description a little further.

"He says:

"In the harbor of Portland and near by there are islands where from 1,000 to 1,200 United States troops are garrisoned. Nearly all of the soldiers are young men. Squads of them, as drunk as they can be, are seen in the streets of Portland every night, and, infinitely worse, a United States Army surgeon is responsible for the statement that the cocaine habit is growing at an appalling pace among the young soldiers stationed along the coast of Maine. The ordinary Maine druggist sells intoxicants over his counter in violation of law. In every city in Maine the drug stores far outnumber the populations when compared with cities in other States. In Lewiston there are thirty-two. Twelve of these are real drug stores where prescriptions may be filled. The other twenty are bars simply masked by fronts containing dummy bottles. Liquor is sold in most of the hotels. One morning, in the Bangor House, the writer counted twenty-one bottles of beer and fourteen empty whisky flasks lying outside the various room doors.

"Mr. STERLING. Is this liquor made in Maine, Mr. BARTHOLDT?

"Mr. BARTHOLDT. It could easily be made there.

"Mr. STERLING. Is it made there?

"Mr. BARTHOLDT. Yes; I think it is made there, as I will show you in a minute.

"Mr. STERLING. If it is not, I should think a law like this might help them out a good deal.

"Mr. BARTHOLDT. I think it is all made there.

"Mr. LITTLEFIELD. I do not think there is the slightest evidence that any of it is made there.

"Mr. BARTHOLDT. I shall show you in a minute. The ordinary Maine druggist sells intoxicants over his counter in violation of law. Throughout the State the liquor sold is of the very worst character (now I come to the point raised by the gentleman from Illinois), most of it being made of high-proof spirits:

"There are a number of formulas, the worst one including a 10-cent plug of tobacco boiled in water. A liquor dealer who retired a year ago said: 'I quit the business because I could not help thinking of the poison I had sold men. I decided that it would be better for me to drive a truck than to sell the vile stuff that passes for liquor in my town.'

"The writer then goes on to describe how prohibition has produced a system of corruption by which the liquor sellers are made to put up and share with the police, thus buying immunity from arrest, and for proof he recites specific cases. Rev. Leonard W. Lott, rector of the St. John's Episcopal Church at Bangor, has said recently:

"I am shocked at the revelations of conditions in Maine. Last May I accepted my charge here after ministering to a church in New Orleans for twenty years. In all of the time of my pastorate in that city I never saw so much intoxication as I have since last May in Bangor. There is something radically wrong with the law.

"He should have said there is something radically wrong with prohibition as a means of promoting the sobriety of the people. Much more could be said to make the dark picture still more hideous, but these observations, I think, will satisfy even a fanatic that prohibition does not only not prohibit, but straightway promotes drunkenness and crime and makes hypocrites and lawbreakers out of otherwise respectable citizens.

"This is Maine, gentlemen, and conditions in all other prohibition States are identically the same everywhere. No sovereign American citizen will allow any power on earth to deny to him the use of what he does not regard as morally wrong to use, and rather than waive his manhood and his personal rights he will stoop to even violate the law, make a hypocritical face, and tell falsehoods. Will you deny that as between the sobriety of the few and the debauching of the many the latter is the greater evil? But if, as I have shown, prohibition promotes both drunkenness and debauchery, surely, Mr. Chairman, every man and woman who honestly abhors such results should reject and condemn it.

"With great flourish of trumpets prohibition papers have recently announced that half of the territory of the Union has gone dry. Dry is the wrong word, of course, for the only real change which has been wrought is that which the hypocrite calls 'right side up with care.' We are merely shutting up the places which were subject to proper regulation and where a man was under the restraint of observation by others and of

his personal sense of decency, and are driving the vice underground to places which the sun of heaven can not shine on. We are doing clandestinely what we were accustomed to do publicly. We are sneaking through back doors and over back steps to procure what, like men, we used to ask for within sight and hearing of all. From men who are openly responsible for their acts we have been converted into sneaks and hypocrites and lawbreakers. From mild drinks which are too bulky to be handled secretly we have been driven to the strong, such as can be conveniently carried even in hip pockets, and our houses have largely been converted into saloons. We have abolished the public bar and legislated the private bar into our homes. Let us be honest and admit that 'dry' means practically this, and nothing else.

"Mr. LITTLEFIELD. Brother BARTHOLDT, just one moment. You quoted just now from the Lewiston Sun, which states that there are 2,500 licensed dealers in Maine. I want to read you a short extract from a letter addressed to Mr. Alexander under date of March 9, 1908, from the Commissioner of Internal Revenue, which states that there are only 869 in Maine, as against 2,500 per the Lewiston Sun. So if the rest of your authority is as accurate as that, it is entitled to little weight.

"Mr. BARTHOLDT. Well, what is the difference in numbers?

"Mr. LITTLEFIELD. Oh, nothing. The difference between 2,500 and 869 does not amount to anything. I only call your attention to that fact. The Lewiston Sun has just about that same degree of accuracy in connection with this question.

"Mr. BARTHOLDT. But right there I want to take you up, Mr. LITTLEFIELD.

"Mr. LITTLEFIELD. Surely.

"Mr. BARTHOLDT. If prohibition in Maine would be strictly enforced by your State authorities, or could be enforced, it would be impossible for even five dealers to take out United States licenses, because they could not sell it profitably.

"Mr. LITTLEFIELD. The only suggestion that I have to make is that if you can not get within more than 33½ per cent of your facts when you quote from the Lewiston Sun, it is not entitled to very great weight before this or any other body.

"Mr. BARTHOLDT. I do not know whether the Lewiston Sun is such an unreliable paper.

"Mr. LITTLEFIELD. Well, there are your figures—2,500 to 869.

"Mr. BARTHOLDT. I have taken it for granted that that statement was correct.

"Mr. STERLING. Mr. BARTHOLDT, the law of Maine provides for dispensaries, does it not (and I suppose they have to have Government licenses), where liquor can be bought for medicinal purposes? I think some lady from Maine here made a statement to that effect.

"Mr. LITTLEFIELD. Oh, yes.

"Mr. BARTHOLDT. No, Mr. Sterling; a druggist does not require—

"Mr. LITTLEFIELD. Not only 'No,' but 'Yes.' The law of Maine does not authorize liquor agencies for the sale of liquor; so that your 'No' is not correct. Yes; it does.

"Mr. BARTHOLDT. Liquor licenses for the sale of liquor?

"Mr. LITTLEFIELD. Why, certainly.

"Mr. CAULFIELD. He did not say that; he said that druggists were not required—

"Mr. BARTHOLDT. No; I said the druggists were not required to have them.

"Mr. STERLING. I do not know that they give licenses to drug stores; but the law provides that cities can establish dispensaries for selling liquor for mechanical and medicinal purposes, so it was stated here by some lady from that State, and of course those people have to have Government licenses.

"Mr. BARTHOLDT. Of course, gentlemen, my facts and figures are taken mainly from Maine sources. If they are not reliable that is not my fault.

"Mr. LITTLEFIELD. I am not criticising you, Brother BARTHOLDT, for that. I am calling you attention to the fact that the Lewiston Sun, the editor of which I know extremely well, is not reliable on this proposition, on the known facts.

"Mr. BARTHOLDT. What about the facts of Sheriff Pen-nell's raid in Portland?

"Mr. LITTLEFIELD. I know him better than I know the man that edits the Lewiston Sun; but of course I will not fill the record up with details on that point.

"The CHAIRMAN. Mr. BARTHOLDT, how nearly are you through? They are just commencing the second roll call downstairs.

"Mr. BARTHOLDT. I have a good deal of material here yet, Mr. Chairman.

"The CHAIRMAN. Several members of the committee want to go right down to the vote.

"Mr. ALEXANDER. Can you not hand the balance of your remarks to the stenographer?

"Mr. BARTHOLDT. Yes, part of it; but there is a great deal that I wanted to present personally—a great deal of material that I could not simply hand in to be printed.

"Mr. ALEXANDER. Then can you not continue this afternoon? What is the objection to having the matter continued this afternoon for a couple of hours?

"Mr. BARTHOLDT. Only this objection—that I am trying to make a public building bill, and have been working for five months for others, which has resulted in complete neglect of my duties. I have correspondence on my desk for three weeks back.

"The CHAIRMAN. We will have to go down now to that second roll call; so the committee will have to stand adjourned.

"Mr. BARTHOLDT. I thank the committee for their attention.

"(The committee thereupon adjourned.)"

"Mr. BARTHOLDT. When interrupted I was endeavoring to illustrate that what we call 'dry' simply means clandestine and mostly immoderate consumption. Such are the glories of prohibition of which our friends boast. If 'dryness' and prohibition were one and the same thing, then surely our receipts from internal revenues should have fallen off exactly in proportion to the territory which the prohibitionists have conquered. In other words, if half of the country has gone 'dry,' our internal-revenue receipts should have been decreased just one-half.

"But what are the facts? The receipts from both spirits and fermented liquors were, in 1880, \$74,015,312. In 1890 they were \$107,691,505. In 1900 the figures were \$183,419,571, and in 1907 they were \$215,894,720, an increase since 1880 of 300 per cent, while the population has increased only 75 per cent in the same space of time. And this very period has witnessed the 'greatest triumphs,' so-called, of the prohibition propaganda. Do you want any more overwhelming proof of the inefficiency of the cure? And when you realize that the increase of consumption has gone hand in hand with the closing of saloons you can easily fix the cause yourselves. But this is not the worst feature. The consumption of strong drink has greatly increased, and the use of mild beverages has correspondingly decreased. From 1900 to 1907, during the time the greatest prohibition victories were heralded abroad, the receipts from spirits increased from \$109,868,817 to \$156,326,902, while the receipts from fermented liquors decreased—yes, decreased despite the increase in population—from \$73,550,754 to \$59,567,818. What an eloquent story these official figures tell, and how they expose the fraud which is masquerading in the garments of a temperance measure?

"I know the question which is on your tongues, my friends. You are about to ask why it is, if such are the results of prohibition, that the 'liquor men,' so called, are opposing it. They oppose it, I reckon, because if we had country-wide prohibition it would destroy the legitimacy of their business, and, at least in the case of the breweries, it would mean the confiscation of hundreds of millions' worth of property. These brewers crave the privilege of remaining what they are to-day, honest, respectable, and law-abiding citizens, who carry on a legitimate business, and a business, too, which has indirectly promoted the cause of real temperance much more materially than all the professional 'promoters' combined have been able to do. These men may prosper financially because prohibition does not prohibit, but if the whole country would become submerged in this wave of intolerance and fanaticism, their business would be outlawed and they would be financially ruined. Could we have a particle of respect for a citizen who would not protest under such circumstances? Most of the men I know in this business are men of the highest integrity of character, and they are fighting not only for their property, but for their honor. And right here let me make a suggestion. We hear so much about the 'low class of men' engaged in the retail liquor business. By such talk a prejudice must necessarily be created against these business men as a class. In other words, a man, no matter how good a citizen he may be, is condemned at the outset simply because he goes into this business.

"I want to suggest that this is surely not the way to improve conditions. These men in catering to a public want are doing a legitimate business, authorized by law, and as long as they obey the law they are entitled to our respect as much as any other class of business men. The good opinion of our fellow-men has as much, if not more, to do with our 'walking the chalk line' as has the fear of the law. But these remarks

are merely incidental. I want to answer the question previously asked: Why protest when under prohibition the consumption of liquor has increased? From a temperance standpoint the question answers itself—that is, the honest temperance man should for this reason alone oppose prohibition—but I want to refer for a moment to another important consideration, which is that the business interests affected are not the only factors who are concerned in this matter. It always arouses my indignation when I read newspaper accounts about the contests between the 'temperance forces' on one side and the 'liquor men' on the other. In the first place, it is not true that all the men who really have the cause of sobriety at heart are supporting prohibition. I can cite you any number of well-known total abstainers who do not. They know that prohibition is a failure and a humbug, and many of them, too, resent the idea of meddling with other people's personal habits. They choose their own mode of living and are willing that their fellow-men should have the right to choose theirs.

"On the other hand, it is a positive insult to the American people to assume that the only citizens ready to defend the cause of individual rights and personal liberty are the men engaged in the liquor business, the same as it is an insult to the men who appeared before you in defense of their cherished rights as American citizens, namely, the representatives of the National German-American Alliance, reverend gentlemen, and others, when the advocates of the other side characterize them as mere tools or agents of the liquor interest. I resent this insinuation with all the scorn that is in me, and predict that the time will come when these very men will be universally recognized as patriots, inasmuch as they perceived quicker than others did how much of American liberty is involved in this question. I myself have large brewing interests in my district, but I want it understood that I do not stand here at their behest or even in their interest, but that I am defending what I conceive to be a high principle. I fear the flame of intolerance and fanaticism which has been kindled by this agitation will eventually consume our Bill of Rights, for when it has come to such a pass that majorities can be deceived by sophistry and fraud, it will not be long before popular self-government will have proved a failure and the beginning of the end of our liberties will have been reached.

"Constitution and laws have drawn a sacred circle around the individual which marks the domain of his inviolable rights. Let that domain once be invaded and there will be no stop to further regulations and infringements until the gallows are erected alongside of the remnants of our boasted liberties. What were the words once attributed to a famous bishop? 'Better England free than England sober,' he is said to have exclaimed, which means, of course, that even sobriety may be purchased too dearly if it be purchased by the loss of freedom so essential to the production of character. Who will dare to deny that these words are just as true of the United States, if not more so, than they were of England? And what if prohibition can, by facts and figures, be proven to simultaneously undermine both freedom and sobriety? I wonder if these considerations will make it plain why I stand before you and why there may be a few other people besides the liquor men, as they are called, interested in the defeat of this dangerous legislation, even though it does not promote temperance. I do not know what you think about it, but I can not help but believe that it is not due to shortsightedness and ignorance alone when the liquor men are being pointed out as the sole defenders and guardians of our personal rights as American citizens. There is no doubt an element of meanness and contempt for the people in the assumption that our citizenship at large have become indifferent as to their rights and privileges to such a degree as to have totally forgotten the old maxim, 'Eternal vigilance is the price of liberty.'

"We have seen that under prohibition the consumption of liquor, at least the stronger kind, has increased four times more rapidly than the population. Now, let me show you, also by facts and figures, that drunkenness, too, is more prevalent in prohibition than in free territory; and since my figures are taken from United States Census bulletins only recently issued they are official. These bulletins (Nos. 20 and 45) contain a detailed statement of the number of arrests for drunkenness and all other causes in all cities of over 8,000 inhabitants. The figures apply to the year 1903, and the population is officially estimated on the basis of the census of 1900. Comparing cities in the prohibition States of Maine, Kansas, and North Dakota with cities in Wisconsin, which are not only "wide open," but have the lowest license besides, we discover the astonishing fact that in proportion to population the number of arrests for drunkenness and crime in the three alleged 'dry' States exceeded by far those in the great beer State of the Northwest. In

Portland, Me., without any saloons and with an estimated population of 52,656, there were 2,186 arrests, or 1 arrest for every 24 of the total population, while in Milwaukee, with a population of 313,025 and 2,145 saloons, there were only 2,197 arrests, or 1 out of every 142 of the total population.

"Or let us compare two cities of about equal population, for instance, Bangor, Me., with 22,675, and Sheboygan, Wis., with 23,600 people. In the Maine city there were 1,236 arrests for drunkenness and other causes, or 1 out of 18 of the population, in Sheboygan only 127, or 1 out of 186 of the population. Now, take Kansas. Compare Wichita, with 31,549 people and 1,212 arrests, and Racine, Wis., with about the same population, namely, 31,529, and 184 arrests, we find that in the prohibition town 1 person was arrested out of every 26, while in Racine 1 out of 171. In Fargo, N. Dak., also a prohibition city, with 11,342 population, 345, or 1 out of every 33, was arrested, while Manitowoc, Wis., with 12,353 people, shows only 49 arrests, or 1 out of every 252 of the population, and so all the way down the list. In other words, there is from six to eight times more drunkenness and crime under prohibition than under proper regulation, according to the official figures of the United States Government. With these figures, gentlemen, I could easily rest my case. Their grandiloquent force is an unanswerable refutation of all there is of reason and argument on the other side, and an imperishable monument to the folly and failure of prohibition. We all know that drunkenness is one of the causes which promote crime, but here we learn from irrefutable facts and figures that prohibition promotes both, and from this there is but one logical conclusion: Society must fight prohibition as much as it does drunkenness itself. In the name of sobriety we must declare war on both.

"Incidentally, Mr. Chairman, these figures also show that there is no casual relation between inebriety and the number of saloons or the amount of the license fee. Wisconsin appears to be the soberest State in the Union, if I may use that expression, and yet it has the lowest license fees and, proportionately, the largest number of saloons.

"I realize, Mr. Chairman and gentlemen, that no argument on this question is complete without a reference to its material or financial aspects. To many the loss to the nation, the States, and the communities as an inevitable result of the destruction of property which prohibition will work, as well as the direct losses of revenues, may even be the main consideration, but this is so apparent to every citizen that I need not emphasize this feature of the problem.

"My purpose was to call attention to principles and considerations involved in the question which, I regret to say, the public prints have rarely touched upon, if at all. Certain it is that if the national capital and the Capitol of the nation were to capitulate before the forces of intolerance and fanaticism, it would be only a question of time when the whole country would fall a victim to these false prophets of temperance. Then we would lose, as experts have approximately estimated, over \$900,000,000 annually, which the liquor trade is now paying, namely, \$220,000,000 to the United States Government in taxes, \$110,000,000 to the States in license fees, \$215,000,000 to labor, \$90,000,000 to the farmer, and \$270,000,000 in miscellaneous expenses, and while giving figures I might as well add that prohibition would destroy \$600,000,000 in capital which the distillers, brewers, and wine growers have invested in machinery and buildings, and, besides, throw over 600,000 men out of employment, upon whom not less than two million and a half of others are dependent, not to speak of the hundreds of thousands of small tradesmen who now live on the patronage of these millions or of the many affiliated trades which will be most seriously affected. It would be a calamity worse than pestilence and war, and we might well paraphrase an old saying and exclaim, 'Oh, reform, what crimes are being committed in thy name!' We all know to-day that the world would have gotten rid of witches without the sacrifice of a single human life, and the question with us to-day is, Can the desired reform not be brought about without a war of wanton destruction of property values and a ruin of hundreds of thousands of men? I leave it to your wisdom to answer this question.

"In this connection let me quote a most sensible editorial utterance of one of my home papers, the St. Louis Times:

"Subsidence of the prohibition wave will be exactly in proportion to the growth of information on the subject among the taxpayers. As soon as the man who foots the bills absorbs the essential facts that he will be compelled to increase his taxes without securing a better or cleaner government and a diminution of the liquor evil, he will begin to vote more carefully on excise questions. He will learn, from an examination of the figures, that prohibition is an expensive luxury. He will find that it does not decrease crime, that it often tends to advance it by encouraging perjury, that it removes from tax an article that ought to pay a tax. Prohibition does not prohibit, yet it prevents the man who makes or sells or uses liquors and beers from paying a license that should be paid.

"I must hurry to a conclusion. I have said enough to convince any rational mind which is at all open to argument that as a cure for inebriety prohibition is worse than the disease; hence I plead for that sane regulation which, rendering the business decent and respectable and letting the sun of heaven shine on it, will not only mitigate the evils of inebriety, but practically eradicate them. To get drunk is certainly a sin and a disgrace. Drunkenness, as a Southern paper recently put it, menaces the happiness of the home—murders it, in fact. The drunkard debases himself, disgraces his family, puts the whole community to shame. It is a moral duty to prevent drunkenness when we can. It is a legal duty to punish it. Prohibition picks up this sin, this disgrace, and says: 'Behold, it is this beast we fight and which fights us. Choose ye between the two.' As a matter of fact, however, the battle is not between the sin of drunkenness and prohibition; for the battle against drunkenness is one which the law has waged from time immemorial and which society, commerce, and business wage and have waged for years. One, too, which religion fights, and which that general spirit called civilization helps to struggle against. All of us know well enough that long ere this prohibition movement materialized drunkenness had become a low thing in the lives of men. It is not necessary to be a very old man to recall the time when business employed men who could drink hard and 'hold' lots of liquor; when society not only tolerated, but condoned drinking to excess, and when men who spent their money freely over the bar were called 'jolly good fellows,' and looked upon as proper persons for responsible business positions and public trusts.

"All this has changed—changed without calling in the aid of prohibition; changed because religion had shaped public opinion, and business and commerce and the spirit of civilization all had been at work demonstrating to humanity the requirements of humanity, one of which is temperance and sobriety. Why, the tendency of man—because of the things the age requires, demands, exacts of him—is toward sobriety. It is as a stone rolling down hill. Unaided, without another push or the slightest further shove, it rolls and rolls to the bottom. So sobriety, long ago, has been set in motion, not by prohibition, but by influences far greater, grander, and more irresistible, and is rolling on and on to its destiny.

"Thus there is no need for this party calling itself 'prohibition,' no actual work for it to do in the cause of temperance, and none recognizes this better than the politicians who jump into prohibition's band wagon. Therefore we find them minimizing the actual fight against drunkenness, though preaching this fight in public. Their efforts are aimed at the temperate as well as at the intemperate, and many good people, though seeing the inadvisability and unwisdom of fighting the temperate, yet pass laws to this effect because they fear the people will construe contrary action as supporting intemperance.

"No wonder these laws are not enforced. They do not strike the real crime at all, which is drunkenness; or, if they do, they at the same time tear at the roots of that which is no crime at all, which is temperance, and thereby they trespass upon the natural liberty of man. Excoriate drunkenness, pass rigorous laws against drunkenness. There is the crime. Whip it. Scourge it. Stamp it with the law's heel, as in larceny; but when the drastic law punishing this crime is made to scourge man for something which is no crime, then common sense and political liberty teach us that such a law is a hideous mockery and a senseless piece of tyranny.

"Mr. Chairman, I conclude my remarks with an extract from a pamphlet entitled 'Plea for Justice,' whose author is a professor of an American university. He says:

"The fundamental argument of the Prohibitionists is that the use of alcoholic beverages is the principal cause of vice, crime, and poverty, and that the only right way of dealing with the matter is to prohibit, by stringent laws rigidly enforced, the making and sale and, consequently, the use of such liquors.

"Distinct issue is taken with both positions taken. 'First, it is not true that crime, vice, poverty, and insanity are in the great majority of cases caused by drunkenness.'

"Second, it is not true that prohibition will prevent those evils. 'And in the third place, the sacrifice of personal freedom is too great a price for so doubtful a good.'

"In the first place, I contend that while drunkenness is one of the many causes of human unhappiness, it is not the sole nor the chief cause. The nations that are notoriously opposed to the use of alcoholic beverages are not any freer from the burden of misery than is our own. It is generally admitted that oriental nations are not accustomed to the use of alcohol, but it has not yet been observed that their lives are any happier than the lives of people in Christian lands. And in our own country, while intemperance leads to the commission of crimes against persons, yet the most serious crimes against life and property are effected by other causes. It would be tedious to enumerate in detail the several causes of crime. But let us select murder as a sample. The most awful and sensational crimes against human life have, as a rule, been instigated by other feelings than that of intoxication. Neither of our three martyred Presidents was slain by a drunkard. Nor have the most sensational crimes against life been induced by drunkenness. Jealousy is more of a menace to life—and causes more murders and more mischief than does intemperance.

"It is difficult to conjecture where the reason of Prohibitionists is when, in view of the numerous crimes against women and against property, that one thing alone, and that not the chief, is singled out as the cause of all human misfortune. The truth is, the charge is not true.

"The question of insanity is subject to the same consideration. Unquestionably, drunkenness may lead to insanity. So do some other excesses. The most reliable statistics of insanity give as the causes—

"First. Self-pollution and sexual excess.

"Second. Religious fanaticism, or excessive zeal.

"And intemperance is given as the third cause.

"If the logic of prohibition is to prevail it would be right to unsex mankind, or to forbid those religious bodies whose practices or teachings lead to insanity. This shows the fatuity of unscientific reasoning on a profound and intricate social problem.

"Let us glance at the problem of poverty. What causes it? Are total abstinences, other things being equal, richer than those who are not? (I am not here referring to drunkards. That question comes under another consideration.) It is well attested, beyond the possibility of any dispute, that poverty, wherever and whenever it exists, whenever it becomes a general social condition, is not in any sense attributable to the use of beer and wine. And any man whose opinion has any value as a student of social economy knows that the causes, not cause, of poverty are complex; are far beyond the reach of the human will, and defy any and every attempt at removal by any act of legislators.

"What is the cause of human misery? What is the verdict of history and experience? Primarily the lack of intelligence, the lack of moral energy, the lack of thrift and of prudence. And further, and not least, long-established customs and modes of living that defy reason and morals.

"It is illogical and unjust to single out instances of want, of crime, and of ordinary wrongdoing to intemperance, when human life for ages past bears testimony to other things more productive of suffering. What shall we say about religious fanaticism, which like a scourge has cursed nations and communities and families? No nation has been exempt from this awful evil. But what is the remedy? Legislation? Force? Only so far as to keep the right of the individual inviolate. The panacea for narrow-mindedness, for religious intolerance, is education.

"Whenever a government has undertaken to rectify religious errors by force of law, it has become the abettor of persecution—the friend of hypocrites, the ally of tyranny.

"Is it the duty of the Government to deprive every man of his personal freedom because there are instances where men abuse their freedom? Are there no other forces at work for sobriety except prohibition? Is the American home without power and influence for good? Is education powerless in forming habits of temperance and sobriety? Is the influence of woman for good waning? Must the civil power stigmatize as a crime what is not a crime?

"The writer answers all these questions satisfactorily, but I leave it to the American people, in whose sound sense I have abounding faith, to answer them at the ballot box after they have given the question their mature thought.

"I thank you, Mr. Chairman and gentlemen, for your time and attention."

Conference Report on Financial Bill.

SPEECH

OF

HON. THEODORE E. BURTON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. BURTON of Ohio said:

Mr. SPEAKER: The bill agreed upon in conference embodies two conflicting theories relating to currency, and gives to each a trial. The one denies the sufficiency of commercial paper or the ordinary assets of banks as a basis for the issuance of circulating notes. This theory is in accordance with the settled law of the United States for more than forty years, under which Government bonds are the only accepted security for bank notes. It is represented in the bill by the Senate provision for making public bonds—State, county, municipal, and so forth—security for bank notes, in support of which it is alleged that our present system of note issue has not only worked well, but has been characterized by undoubted security; and that it is desirable to depart in the least possible degree from established methods. This class of bonds, it is claimed, comes nearest to Government bonds and they are entitled to a special standing because of their public character. Their advocates maintain they will be free from the wide fluctuations which pertain to railroad bonds and industrial securities, and the currency which will be provided in reliance upon them is merely supplementary to that which now exists, and is made necessary by the diminished volume of Government bonds.

The other theory is that no currency based upon a specific class of bonds, or, in fact, upon any securities except such liquid assets as are readily available with all banks, can provide an elastic and workable currency system. Those who sustain the latter theory point to the experience of other countries, and to the obvious advantage of a system under which the amount of outstanding notes will keep pace with the volume of credits and

the shifting demands of commercial transactions. This method of issue, under carefully guarded restrictions, was adopted by the House and is included in the conference bill.

The Senate provision as agreed upon by the conference committee gives the right to any individual bank to issue currency up to 90 per cent of the value of the public bonds described; but in no case shall the amount issued exceed the par value. The House bill gives the right to associations of banks, not less than ten in number, having an aggregate capital and surplus of not less than \$5,000,000, to issue currency to an amount not exceeding 75 per cent of the value of securities deposited, including commercial paper. These two plans are accordingly combined. It will be noted that the percentage is 15 per cent less in the case of commercial paper and miscellaneous securities than in that of public bonds. This distinction is grounded upon the alleged superior stability of bonds issued by States or political divisions. It is clear that this difference will not work hardship, because associations of banks would not lack ample quantities of commercial paper, the volume of which would naturally be greatest at the time when additional circulation would be required.

There is another concession in favor of bonds and long-time securities, in that not more than 30 per cent of the capital and surplus of any bank can be issued in bank notes based upon commercial paper. The highest possible aggregate amount of currency which could be issued upon commercial paper, if all of the national banks should join in associations, would be approximately \$438,000,000. Railroad and other than public bonds can not be used as security by individual banks under the Senate provision, though they may be deposited with the associations provided for under the House bill, but only when approved by the officers of the association; also the notes issued in reliance upon them must be further secured by the joint and several liability of all the banks in each association.

The provisions for the two methods of issue are alike in essential particulars:

1. The issuing bank must, as a condition of issuing any bank notes, have its capital unimpaired and a surplus of 20 per cent and must have outstanding 40 per cent of its capital in circulating notes secured by Government bonds.
2. No currency can be issued under the provisions of the bill except with the approval of the Secretary of the Treasury, and the securities deposited by the banks must be approved by him.
3. Both kinds alike are subject to a tax at the rate of 5 per cent per annum for the first month, which increases at the rate of 1 per cent per annum for each succeeding month until it reaches 10 per cent.
4. The bills are to be alike in form. A change is to be made so that there shall be engraved upon each bill the statement that it is secured by United States bonds or other securities and the promise of the bank issuing the same to pay on demand.
5. The percentage for the redemption fund to be deposited in the Treasury is doubled, so that it shall be 10 per cent on the amount of the notes issued instead of 5 per cent as on notes secured by Government bonds. This was agreed upon as a substitute for the reserves, which, in the House bill, it was proposed should be the same as against deposits. It is evident that at the time when this class of currency would be issued it would be extremely difficult for banks to provide reserves of 25 and 15 per cent, respectively, in reserve and nonreserve cities; and on full consideration it seemed that the double redemption fund would provide for prompt payment of notes and give all needed security.

The whole plan rests upon the idea that this additional or supplementary currency will not be issued except in times of stress, when there are largely increased demands for currency outside the banks and among the people, and no appreciable additional strain will be imposed upon the gold redemption fund. The tax imposed, which will be considerable in amount, is added to the one hundred and fifty millions gold reserve. It would afford a compensation to the Treasury in case any notes should fail of redemption, for it is a feature of the plan that the Government, as in the case of existing bank notes, shall redeem these emergency notes. No other security would commend itself as entirely safe and workable, though the security of the Government is ample.

Many will be disappointed because their theories do not receive greater recognition in this bill, but to anyone who is familiar with the sentiment of the country it must be clearly apparent that no radical change can be made in our currency system at present. A natural conservatism, very deeply seated, combined with a sentiment of satisfaction with our present monetary system, prevents any such radical change. Indeed, it may be said that no such change would be desirable at this time. New forms of currency must carry with them more or less of

experiment; and one of the chief arguments for the compromise measure is that it gives a trial to circulating notes issued in accordance with the most widely advocated theories now prevalent in the country.

No one can with confidence venture a prediction of the method which will ultimately be adopted. The most advanced sentiment among students of finance, as well as the great majority of bankers, favors circulating notes based upon the resources or assets of banks. The country would be more ready to accept this opinion if a plan were proposed which is free from danger and entirely equitable as between the banks and the public, but it must be said that no method has yet been set forth in any bill which is free from very valid objections.

The so-called "Fowler bill," dividing the banks of the country into twenty districts and providing for the issuance of currency by every bank in each district, involves revolutionary changes which the country would not accept. It must also be said that it does not give undoubted assurance of security to the notes. The so-called "McKinney bill" has much in its favor, but it does not impose upon the bank the obligation of redemption in gold, nor does it provide for security beyond question. In many respects it must be said for this latter measure that it is the simplest and most nearly in accordance with the principles of modern banking.

It is possible that for some years to come the present general plan will be continued under which national bank notes, secured by Government bonds, will furnish the nucleus or the great body of our currency; but to this must be added some means which will furnish flexibility and provide for additional demands. The objection to the present bond-secured currency is that it is entirely lacking in elasticity. When banks purchase bonds as a basis for bank notes they are reluctant to withdraw their outstanding issues in times when currency is redundant, because it necessitates the frequent purchase and sale of Government bonds. This fact that the ownership of something outside of their ordinary resources is made the condition for the issuance of currency is a vital defect in the present system. The same objection also lies to currency based upon municipal or public bonds, because it requires banks either to carry a class of securities outside of their ordinary resources or else to purchase them at a time of stress, when their resources are at a minimum.

It is my confident belief that the time will come when the chief aim in view will be to make our paper currency responsive to the varying demands of business, and that the most natural basis for note issues will be found in the credits and resources of banks. The principle to be followed is plain, but the method of execution presents a question of very considerable difficulty. The most obvious provision would be for a central national bank dealing only with the Government and national banks. Other methods would be by the deposit of commercial paper, backed by adequate banking capital, as under the Vreeland bill, or by a combination of banks, all of which would be responsible for all their note issues. It may well be questioned whether any guaranty fund of 5 per cent would prove absolutely safe. It should also be added that no system of issue by banks should be accepted as a final solution of the question, unless each bank or combination of banks is compelled to redeem its notes in gold, not only at its own counter, but at convenient financial centers.

The Democratic Filibuster.

REMARKS OF

HON. ALBERT F. DAWSON,
OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. DAWSON said:

Mr. SPEAKER: With the close of the first session of the Sixtieth Congress it is possible to measure the extent of the attempt of the minority to obstruct legislation by the useless and wasteful filibuster which has been in progress in this House for the past two months under the direction of the distinguished gentleman from Mississippi [Mr. WILLIAMS], the leader of the minority on this floor.

The chairman of the Committee on Appropriations [Mr. TAWNEY] has pointed out how this filibuster has resulted in the appropriation of many millions of dollars more than would otherwise have been appropriated, because the adoption of this

obstructive policy by the minority made it necessary for the majority, in order to transact any public business, to adopt rules under which the House was unable to prevent many of the increases that were finally agreed to.

Aside from the extravagance and wastefulness of this foolish filibuster in dollars and cents, it was even more wasteful in consuming the time of the House in useless roll calls—time which might have been profitably spent in the enactment of legislation.

This filibuster began about April 1—most significant day—and since that time the roll has been called in this House 272 times. The average time consumed in a roll call is thirty minutes, so that a total of one hundred and thirty-six hours of the time of the House has been wasted by this remarkable performance. The average length of the daily sessions of the House is five hours. On this basis more than twenty-seven legislative days were wasted in the monotonous call of the roll. Computed on the basis of a working day of eight hours, seventeen days of the entire membership of this House were lost by this obstructive policy.

The full monstrosity of this filibuster is not apparent, however, until we compute the time lost in one continuous stretch. It did not waste seventeen working days of eight hours each simply for one man; it wasted that much time for each of the 391 Members of this House, or a total of six thousand six hundred and forty-seven days. On the basis of three hundred and twelve working days in a year, this filibuster wasted twenty-one years three months and five days' time.

If the distinguished gentleman from Mississippi [Mr. WILLIAMS], who was the architect and chief engineer of this unparalleled folly, had been compelled to bear alone the burden of this filibuster, instead of distributing it upon the shoulders of all his colleagues in the House, if he had been required to supply the time which he wasted for the other 390 Members of this House, he might have begun answering these roll calls on his fifty-fourth birthday, and if he had worked eight hours a day and three hundred and twelve days a year, he would have been past seventy-five years of age when the final roll call was completed.

The Industry Ought to Bear the Cost of All Accidents; Risk as Well as Labor Should be Paid For.

The law should provide for certain, definite, and fixed compensation, though justly limited in amount, for all injuries in the ordinary course of employment which are not caused by the act or default of the injured.

SPEECH

OF

HON. GEORGE A. BARTLETT,

OF NEVADA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. BARTLETT of Nevada said:

Mr. SPEAKER: Under the general leave to print, I desire to submit the following upon the subject of legislation concerning accidents in industrial undertakings:

The wonderful growth of our industries, made possible by reason not only of the inventive genius of our people, but the widening fields and rapidly increasing knowledge of our natural resources and the more practical utilization of the forces of steam, gas, and the scientific application of the power of electricity, have brought not only untold blessings and great prosperity and natural growth, but also bring responsibilities that we are but now beginning to realize.

In the transition from petty industry to manufacturing on a large scale; in the use of those dangerous elementary forces of steam, gas, and electricity, and in the use of new, complicated machinery have arisen dangers to the safety of life and limb of the workers hitherto unknown.

The accidents which have gone hand in hand with all this splendid development are appalling, and it becomes the immediate duty of all earnest men, upon whom rests the responsibility for progress, to work for a solution of the problem, and to endeavor to prevent the widespread suffering and financial hardship which falls upon and strikes down not only those workers without whom this development would be impossible, but also their families, their children, and their aged who in their failing years have become dependent upon them for support.

The act relating to the liability of common carriers by railroad just reenacted in constitutional form by Congress follows the present tendency of legislation throughout the country. That tendency has been to increase the number of accidents compensated, by increasing the number of employees for whose negligent acts the employer is held responsible in suits under the negligence law, and by changing the burden of proof in those suits from the shoulders of the employee to the employer.

The expansion to its utmost limit of the negligence law, however, while affording some measure of relief by compensating more employees than are compensated to-day, could never justly meet the requirements and satisfy the needs of employees, while it is often in practice most unjust to employers who, under the negligence law, are at any moment subject to a verdict rendered against them solely as a result of ignorance or prejudice or even vindictiveness on the part of a jury for the negligent act of another employee over which act they had no control whatever, and on the amount of which verdict the law puts no limit, some verdicts going as high as \$25,000, of which but very little ever reaches the employee, while others rendered are totally inadequate. The obvious drawback to employees is that under such a system the very great number of accidents which are traceable to no negligence remain entirely uncompensated; that if any compensation is obtained, it is generally obtained through litigation; and owing to the uncertainty inherent in all litigation, when he most needs it, an injured employee has no assurance that he will receive any compensation; and at a time when he is unable to earn wages for his family he has to wait, without any means of support, for his case to be reached (often for several years) on the court docket. It is very little consolation to a man seriously or permanently injured by an accident, who is denied redress for it and whose family has to be supported by the charity of the community, to be told that another workman has recovered a very large verdict.

The greatest drawback to both employers and workmen lies in the uncertainty of their position when an accident happens, in that, respective rights and obligations are a matter of opinion and not a predetermined fact; and wide abuses have grown up around the workings of the negligence law in consequence; a great class of personal-injury lawyers have grown up who are supported by it; negligence suits crowd the court dockets; employers, in order to defend themselves from being mulcted in heavy damages, are forced into the position of fighting their injured employees at a time when humane instincts would make them most desirous of helping them.

The machinery, therefore, for the distribution of any amounts of compensation that ultimately reach the injured employees is enormously expensive; no adequate system of cooperation between employers and employees can be fostered to prevent accidents and to provide the necessary prompt surgical and hospital treatment of the employees who are injured, and who often fall into the hands of unskilled doctors, with most serious injury and lasting ill effects to themselves and to their families.

With these conditions before us, our duty is clear; the difficulties must be faced and overcome. A system of dealing with accidents of industry must be devised that is both just to employers and meets the needs of employees, and which will also result in minimizing the possibility of the occurrence of accidents.

Safety-device laws have been enacted for several years, and the skill and ingenuity of thoughtful minds is actively and continuously engaged in inventing new ways and means for the prevention of accidents. The principle of these laws has its latest evidence in the law passed by the present Congress entitled "An act to promote the safety of employees on railroads," which requires that locomotives be equipped with ash pans that can be dumped or emptied without the necessity of the employees going under the locomotive.

In this session of Congress a bill has become law that contains new principles in dealing with accidents in the United States, though those principles have now been for some time acknowledged in all other important industrial countries of the world. I refer to an act granting to certain employees of the United States the right to receive from it compensation for injuries. The two principles it embodies are:

First. The absolute responsibility of the Government to pay the compensation specified in it, without any question of negligence on its part; and

Second. The avoidance of necessity for suit by the employee to obtain such compensation.

This legislation pays greater regard to the fact that accidents in industry are a product of the trade itself and are traceable to the trade more properly than to the negligence, if any, which may be involved in any particular accident.

In view of the recognition of these principles and the marking of a new trail in this character of legislation in the United States, it will be obvious that a careful examination of what has been done in the countries of the Old World will materially assist our endeavors to meet the situation in our own country as far as our systems and conditions may make it possible for us to adopt their general ideas and to profit by their experience, and I am therefore constrained to take this opportunity of gathering for the benefit of those who are studying this question the information that is to-day obtainable as to the legislative history, the legislative arguments, and the experience of the working of compensation laws in England, and a careful synopsis of the laws of all the foreign countries which have adopted the principle of compensation irrespective of negligence, published in a recent bulletin of the Bureau of Labor, in the hope that it may be found that "compensation" can be substituted for "litigation" throughout the length and breadth of the United States, and that we shall here prove the truth of the statement of Lord Salisbury, the prime minister of England, that the history of the law of compensation is the history of a great machinery for saving human life.

Launcelot Packer, LL. B., who has had many years of practical experience under existing conditions and study of the question, has contributed a most valuable article to a bulletin of the Bureau of Labor, issued in May, 1907. This article evidences such a thorough grasp of the subject, as well as a careful and painstaking examination of the conditions under which the compensation laws were enacted in England, and is so replete with information bearing on the practical application of the principles involved, that its republication at this time will prove of great value in the further development of the ideas in this country, and I therefore attach his article as an appendix to my remarks, together with the synopsis of the foreign laws and the several acts hereinbefore referred to.

APPENDIX.

[Public—No. 100.]

H. R. 20310. An act relating to the liability of common carriers by railroad to their employees in certain cases.

Be it enacted, etc., That every common carrier by railroad while engaging in commerce between any of the several States or Territories, or between any of the States and Territories, or between the District of Columbia and any of the States or Territories, or between the District of Columbia or any of the States or Territories and any foreign nation or nations, shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

Sec. 2. That every common carrier by railroad in the Territories, the District of Columbia, the Panama Canal Zone, or other possessions of the United States shall be liable in damages to any person suffering injury while he is employed by such carrier in any of said jurisdictions, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

Sec. 3. That in all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this act to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

Sec. 4. That in any action brought against any common carrier under or by virtue of any of the provisions of this act to

recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

Sec. 5. That any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this act, shall to that extent be void: *Provided*, That in any action brought against any such common carrier under or by virtue of any of the provisions of this act, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought.

Sec. 6. That no action shall be maintained under this act unless commenced within two years from the day the cause of action accrued.

Sec. 7. That the term "common carrier" as used in this act shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

Sec. 8. That nothing in this act shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other act or acts of Congress, or to affect the prosecution of any pending proceeding or right of action under the act of Congress entitled "An act relating to liability of common carriers in the District of Columbia and Territories, and to common carriers engaged in commerce between the States and between the States and foreign nations to their employees," approved June 11, 1906.

Approved, April 22, 1908.

[Public—No. 176.]

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

Be it enacted, etc., That when, on or after August 1, 1908, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy-yards, or in the construction of river and harbor or fortification work or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission, is injured in the course of such employment, such employee shall be entitled to receive for one year thereafter, unless such employee, in the opinion of the Secretary of Commerce and Labor, be sooner able to resume work, the same pay as if he continued to be employed, such payment to be made under such regulations as the Secretary of Commerce and Labor may prescribe: *Provided*, That no compensation shall be paid under this act where the injury is due to the negligence or misconduct of the employee injured, nor unless said injury shall continue for more than fifteen days. All questions of negligence or misconduct shall be determined by the Secretary of Commerce and Labor.

Sec. 2. That if any artisan or laborer so employed shall die during the said year by reason of such injury received in the course of such employment, leaving a widow, or a child or children under 16 years of age, or a dependent parent, such widow and child or children and dependent parent shall be entitled to receive, in such portions and under such regulations as the Secretary of Commerce and Labor may prescribe, the same amount, for the remainder of the said year, that said artisan or laborer would be entitled to receive as pay if such employee were alive and continued to be employed: *Provided*, That if the widow shall die at any time during the said year, her portion of said amount shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any.

Sec. 3. That whenever an accident occurs to any employee embraced within the terms of the first section of this act, and which results in death or a probable incapacity for work, it shall be the duty of the official superior of such employee to at once report such accident and the injury resulting therefrom to the head of his bureau or independent office, and his report shall be immediately communicated through regular official channels to the Secretary of Commerce and Labor. Such report shall state, first, the time, cause, and nature of the accident and injury and the probable duration of the injury resulting therefrom; second, whether the accident arose out of or in the course of the injured person's employment; third, whether the accident was due to negligence or misconduct on the part of the employee injured; fourth, any other matters

required by such rules and regulations as the Secretary of Commerce and Labor may prescribe. The head of each Department or independent office shall have power, however, to charge a special official with the duty of making such reports.

SEC. 4. That in the case of any accident which shall result in death the persons entitled to compensation under this act or their legal representatives shall, within ninety days after such death, file with the Secretary of Commerce and Labor an affidavit setting forth their relationship to the deceased and the ground of their claim for compensation under the provisions of this act. This shall be accompanied by the certificate of the attending physician, setting forth the fact and cause of death, or the nonproduction of the certificate shall be satisfactorily accounted for. In the case of incapacity for work lasting more than fifteen days, the injured party desiring to take the benefit of this act shall, within a reasonable period after the expiration of such time, file with his official superior, to be forwarded through regular official channels to the Secretary of Commerce and Labor, an affidavit setting forth the grounds of his claim for compensation, to be accompanied by a certificate of the attending physician as to the cause and nature of the injury and probable duration of the incapacity, or the nonproduction of the certificate shall be satisfactorily accounted for. If the Secretary of Commerce and Labor shall find from the report and affidavit or other evidence produced by the claimant or his or her legal representatives, or from such additional investigation as the Secretary of Commerce and Labor may direct, that a claim for compensation is established under this act, the compensation to be paid shall be determined as provided under this act and approved for payment by the Secretary of Commerce and Labor.

SEC. 5. That the employee shall, whenever and as often as required by the Secretary of Commerce and Labor, at least once in six months, submit to medical examination, to be provided and paid for under the direction of the Secretary, and if such employee refuses to submit to or obstructs such examination his or her right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.

SEC. 6. That payments under this act are only to be made to the beneficiaries or their legal representatives other than assignees, and shall not be subject to the claims of creditors.

SEC. 7. That the United States shall not exempt itself from liability under this act by any contract, agreement, rule, or regulation, and any such contract, agreement, rule, or regulation shall be pro tanto void.

SEC. 8. That all acts or parts of acts in conflict herewith or providing a different scale of compensation or otherwise regulating its payment are hereby repealed.

Approved, May 30, 1908.

[Public—No. 165.]

H. R. 19795. An act to promote the safety of employees on railroads.

Be it enacted, etc., That on and after the 1st day of January, 1910, it shall be unlawful for any common carrier engaged in interstate or foreign commerce by railroad to use any locomotive in moving interstate or foreign traffic not equipped with an ash pan which can be dumped or emptied and cleaned without the necessity of any employee going under such locomotive.

SEC. 2. That on and after the 1st day of January, 1910, it shall be unlawful for any common carrier by railroad in any Territory of the United States or the District of Columbia to use any locomotive not equipped with an ash pan which can be dumped or emptied and cleaned without the necessity of any employee going under such locomotive.

SEC. 3. That any such common carrier using any locomotive in violation of any of the provisions of this act shall be liable to a penalty of \$200 for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge.

SEC. 4. That it shall be the duty of the Interstate Commerce Commission to enforce the provisions of this act, and all powers heretofore granted to said Commission are hereby extended to it for the purpose of the enforcement of this act.

SEC. 5. That the term "common carrier" as used in this act shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

SEC. 6. That nothing in this act contained shall apply to any locomotive upon which, by reason of the use of oil, electricity, or other such agency, an ash pan is not necessary.

Approved, May 30, 1908.

BRITISH WORKMEN'S COMPENSATION ACTS—HISTORY OF LEGISLATION AND ATTEMPTED LEGISLATION LEADING UP TO THE BRITISH WORKMEN'S COMPENSATION ACTS—CHANGING ATTITUDE OF PUBLIC OPINION AS TO RELATIONS OF MASTER AND SERVANT.

[By Launcelot Packer, LL. B.]

The attitude of public opinion in England toward the relations of master and servant, of which the latest law regulating the accidents of industry is an outcome, is shown by the current decisions of judges, by attempted legislation, and by the legislation adopted.

That this attitude has changed greatly with the times is illustrated by Parliament's expression of view in 1825, that "all combinations of workmen are injurious to trade," while in 1875 a diametrically opposite view was held, and legislation was enacted in accordance with that view, it being then admitted by the Conservative leader, Lord Beaconsfield, that "for the first time in the history of the country employer and employed sit under equal laws." Again, in 1837 it is said that "principles of justice and good sense" require "that a workman should take on himself all the ordinary risks of his employment," while in 1897 the legislature said, "sound economic doctrine requires that the employer shall take all the ordinary and extraordinary risks involved in the carrying on of his industry."

Examination of the workmen's compensation act of 1897, as amended in 1900, of the parliamentary steps by which it became law, and of its working, leads at the outset to an inquiry into judicial decisions of sixty years before, and the measures subsequently introduced into Parliament dealing with accidents which were the result of the growth and concentration of industries.

COMMON LAW OF NEGLIGENCE.

In 1837 the general principles of the common law of negligence formed the only basis of recovery by a workman from his employer for an accident. Under these general principles a man was held to be responsible to others, including his servants, for injuries resulting from his own negligent acts, or from the negligent acts of his agents in the scope of their employment.

FELLOW-SERVANT DOCTRINE.

A decision rendered by Lord Abinger in 1837 under the common law of negligence, in the case of *Priestly v. Fowler* (3 Mees. & W. 1, Murph. & H., 305), is largely responsible for subsequent attempted legislation and for legislation enacted affecting a master's responsibility to his servant in case of negligence. In this decision was enunciated the doctrine "that a master could not be held responsible for an accident to his servant if such accident were caused by the negligence of a fellow-servant," this being called "the fellow-servant doctrine," or "the doctrine of common employment." This doctrine, whether rightly or wrongly expounded in this decision, has operated as a defense to actions by servants against their masters for damages for injuries resulting from the negligence of their master's agents, if such agents were fellow-servants, and has thus left the workman no redress in many cases where a stranger would have had redress.

The fellow-servant doctrine has been supported on the ground of its expediency (as preventing accumulation of alarming liability), on the ground of "its tending to prevent accidents" (by making each servant watch his fellow-servant), and on the ground of "contract" (it being held to be one of the "implied terms" of the contract of employment). On the other hand, it has been the subject of bitter attack ever since it was enunciated, the statement having been made that it was an exception to the general law of negligence, putting workmen in a worse position than strangers to their employer; that it tended to make employers less careful in the selection of their employees, and that it was founded on a legal fiction, not on a voluntary contract.

The doctrine was entirely repudiated in Scotland until imposed on that country by a House of Lords' decision in 1858 (*Bartonshall Coal Company v. Reed*, 3 McQ., H. L. Cas., 266). Though it remains operative to a certain extent, as modified by the employers' liability act of 1880, the practical workings of the workmen's compensation acts have largely counteracted its effect in the trades to which these acts apply. From allusions to it in debates in 1897 on the workmen's compensation act it seems likely to be soon entirely extinguished by Parliament.

Opinions of lawyers have differed as to the soundness of the decision, some holding that it rightly interpreted the existing

* See lectures by A. H. Ruegg, K. C.

common law, and others that it entirely without warrant engrafted a new doctrine into the law, but it is now according to high English legal authority almost universally admitted to be not only unjust, but also based on illogical reasoning.

DOCTRINE OF ASSUMED RISK.

The doctrine of assumed risk was another defense against an employer being held liable for accident, a doctrine generally based on an "implied term" in the contract of service. It was laid down in the case of *Priestly v. Fowler* (supra) that a servant "assumes all the ordinary risks which are incidental to his employment." (An important corollary of this doctrine of assumed risk is the aforementioned doctrine of fellow-service, namely, that one of the risks incident to the service which the workman agrees to assume is the risk from the negligence of a fellow-servant.) This implied term of his contract of service left the workman to bear the risks he knew or ought to have known, including the burden of dangers inherent in the business, such as unavoidable accidents, etc.

This doctrine has been justified on the ground that the servant is as well able to guard against the risk as his employer and that it is calculated to secure fidelity and prudence on the servant's part; on the other hand, it has been doubted whether it has the effect claimed for it, and it has been suggested that the "dread of personal injury" has always proved sufficient to bring into exercise the vigilance of the servant. Another attempt to justify the doctrine, on the ground that the amount of the workman's wages is adjusted with reference to the character of these risks, is answered by the statement that this theory is borne out only to a very limited extent by the actual facts of everyday life. (Labatt, sec. 259, etc.)

This principle was applied to the relations of master and servant in the case of *Dynen v. Leach* (26 L. J. Exch. N. S., 221) in 1857, and also in *Saxton v. Hawkesworth* (26 L. T. N. S., 851) in 1872, in such a manner that it was made to operate as a defense against a claim by the servant for damages for injuries resulting from "negligence actually existing" on the part of his master, on the theory that the servant had voluntarily agreed to encounter the risks from nonfulfillment of his master's legal duty as to system and appliances.

At the time of these early cases cited the voluntary agreement of the servant was implied from his continuing in the service of the employer, "with knowledge of the defects," so that if the servant remained in the service, with knowledge, he was debarred thereby from maintaining any action for recovery from the master for injuries resulting from such defects.

DOCTRINE OF VOLENTI NON FIT INJURIA.

This old defense of assumed risk, enumerated as a defense peculiar to the relation of master and servant, has been thought by some authorities to be only a form of the wider and more comprehensive doctrine of "volenti non fit injuria" of the common law, which means that "one who voluntarily incurs a risk can not recover." The latter has, by other authorities, however, been stated to be different from the doctrine of assumed risk, as the doctrine of assumed risk arises out of the contract of service between master and servant, while the doctrine volenti non fit injuria is a general principle applicable whether the relation of master and servant exists or not. (Thomas v. Quartermaine, L. R. 18 Q. B. Div., 685; 56 L. J. Q. B. N. S., 340. See Labatt, sec. 370, note.)

This doctrine of volenti non fit injuria was thought not to be a hardship on the servant in the same sense as were the fellow-servant doctrine and the assumed-risk doctrine, as it was common to the whole law of negligence and would be a good defense to a stranger's action against the master for damages for injuries resulting from negligence.

CONTRIBUTORY NEGLIGENCE.

The doctrine of contributory negligence was another defense against claims for damages for injuries resulting from negligence and, in very many instances, defeated a workman's claim against his employer. It is sometimes stated thus: "A plaintiff can not recover damages if but for his own negligence the accident would not have happened, though there was negligence on the part of the defendant." This was also recognized by Lord Abinger in *Priestly v. Fowler* (supra), and applied to a master and servant case, when he laid down that "the relation of master and servant can not imply an obligation on the part of the master to take more care of the servant than he may be reasonably expected to do of himself," thereby recognizing that the servant's right to recovery for an accident was conditioned on his showing that he did not contribute to his own injury. (See Labatt, sec. 313.) This defense, however, was available against the claim of a stranger as well as against the claim of a workman upon his employer. It was based upon the idea that if the plaintiff was negligent, his negligence and not that of the defendant was the real or proximate cause of the injury. (Thomas v. Quartermaine, supra.)

This doctrine was never accepted as sound in the admiralty courts, where, if both parties were negligent, the loss was divided.

EFFECT OF DEATH UPON PERSONAL ACTIONS.

Another defense that operated to defeat a workman's claim was the rule of the common law that every personal action dies with the person entitled to bring it, or on the death of the person against whom it can be brought (*actio personalis moritur cum persona*). This rule of the common law, which relieved an employer from responsibility for all injuries causing death, was, however, abrogated by parliamentary enactment in 1846, under the statute commonly called "Lord Campbell's Act." Until that act the representatives of a workman killed by accident had no redress whatever against his employer.

BURDEN OF PROOF ON PLAINTIFF.

A final stumbling block to recovery by an injured workman lay in the fact that at common law in an action for damages for injuries resulting from negligence the burden of proof lies upon the plaintiff. He has to show (1) negligence, namely, a duty and a breach of that duty; and (2) injury, as a consequence of that breach. In many cases, therefore, even where a workman had a legal right of recovery, he got nothing, as he was unable to prove his case.

ATTEMPTED LEGISLATION, 1875 TO 1879.

An examination of attempted legislation and legislative enactments shows that bills were introduced in 1875 and 1876 to abolish entirely the doctrine of common employment and the defense of assumed risk. These bills were doubtless introduced because the principles so laid down were being pressed more and more severely against the workmen until the restrictions which were conceivably equitable to apply in the case of the smaller industries of former years were made to apply in the case of more recent and indefinitely extended undertakings. Thus the doctrine of common employment was applied to the slight relationship existing between a miner and the engineer of the mine and between the general manager of a railway and a trackman in the service of the same company, resulting in the master in a large undertaking escaping responsibility by delegating authority. These bills were withdrawn, however, on the undertaking that Lord Beaconsfield, who was the prime minister, should cause an inquiry to be made into the subject by a select committee of Parliament.

This committee was duly appointed, and in 1877 submitted a report.

This report recommended that where a master delegates his duty of selecting proper servants, material, and plant wholly to agents, instead of performing them himself, such persons to whom those duties are delegated should be held to be the "alter ego" of the master and not to be fellow-servants of the injured servant.

During the proceedings of the committee, before the adoption of the report, it had been proposed that the committee recommend that the defense of common employment should be abolished in the case of accident through the negligence of any employee exercising authority, however low in the scale he might be, so long as he was not employed in actual manual labor. This recommendation, however, was rejected in favor of the report above given.

About the same time a report from the royal commission on accidents on railways was brought in, to the effect that the master should be made liable for damages for injuries resulting from the negligence of those to whom the master's authority had been delegated on railways.

The following year, 1878, one of the bills to totally abolish the doctrine of common employment was reintroduced. It, however, was "talked out" and then dropped. The attorney-general, however, promised to bring up a bill later. It was then contended that there was no difference between railways and other industries.

In 1879 three bills were introduced, none of which passed. Of these, one proposed to abolish the doctrine of common employment and the other two to modify that doctrine. One of the latter was introduced by the government and was limited in its operation to "railways, mines, factories, and works." It made the employer liable for damages for injuries resulting from the negligence of servants with "managerial" authority; it failed to pass, as there was a dissolution of the government before it had left committee.

EMPLOYERS' LIABILITY ACT OF 1880.

In the following year, 1880, a bill was introduced by Mr. Gladstone's government, which was finally enacted into law and became known as the "employers' liability act of 1880." At the general election, following the dissolution of Lord Beaconsfield's government, the abolition of the doctrine of common employment became an election cry. Therefore, at the entry of

the next government Mr. Gladstone said: "The present law is unsatisfactory and further protection to workmen is necessary," and immediately reintroduced the bill introduced by Lord Brassey in 1879. Mr. Dobson, whose name was on the back of the bill, showed, in his statement, that "the common law had ended in giving the workmen no compensation at all unless he could trace the accident to personal negligence on the part of his employer." He stated that the bill reverted to the ancient state of the law and would take a middle course, making the employer liable for injuries resulting from the negligence of those to whom he deputed his duties, or from defects in the plant due to negligence of his deputies.

Many amendments, which became interesting from their frequent reappearances in later Parliaments, were introduced. One provided for a general system of insurance, and though this amendment was negatived the Government said that while they did not deem compulsory insurance practicable, they would consider proposals thereto. Another amendment, which was negatived, allowed a workman to recover, if injured by a fellow-servant, "in a separate department." An amendment to extend the benefits of the bill to Her Majesty's arsenals and dockyards was negatived on the ground that they now had greater benefits, although it was said that the Government employees would ultimately be treated the same as others. It was claimed by the opponents of the bill that if passed it would result in the ruin of industries. Mr. Chamberlain strenuously denied this in debate.

When the bill became a law it was restricted to a limit of seven years, but it was subsequently extended, year by year, until the passage of the workmen's compensation act of 1897, and is still in force. It, however, imposed a limit upon the amount of damages (previously unlimited at common law) that could be recovered for an accident, namely, "three years' wages of the injured person, or of a person in the same grade in the same district." This limitation has operated as a hardship upon injured children, since their earnings were usually only a few shillings weekly.

The act being a compromise, was imperfectly drawn, and resulted "in a large crop of litigation."

While in introducing the bill the Government had intended to bring back the law to what it was supposed to be in England before the case of *Priestly v. Fowler*, and in Scotland up to the decision in the *Bartonshall Coal Company v. Reed* (3 McQ., H. L. Cas., 266), the result of the act was to *prima facie* entitle the workman to recovery for injuries resulting from the negligent performance of master's duties and powers delegated to superintendents and to other persons. It therefore only obliterated the doctrine of common employment, as far as the five causes of injury to a workman mentioned in section 1 of the act was concerned. That doctrine therefore remained in force as to accidents from other causes than those mentioned in section 1 of the act, but placed the workman in the same position as if he had been a stranger to his employer, so far as the five causes mentioned in that section were concerned. The five causes mentioned were as follows:

(1) Defective ways, works, machinery, and plant (if due to the negligence of the employer or of the person to whom had been delegated his duty thereabout).

(2) Negligence of a superintendent (if superintendence was his principal duty and he was not ordinarily engaged in manual labor).

(3) Negligence of persons to whom the employer had delegated his power of giving orders.

(4) Acts or omissions in obedience to rules or by-laws or in obedience to instructions of persons authorized by employers to give them.

(5) In the case of railway companies, the negligent management of trains, points, and signals.

The act was also at first thought to have taken away the defense of *volenti non fit injuria* (see *Weblin v. Ballard*, 17 Q. B. D., 125); however, the later leading case of *Thomas v. Quartermaine*, supra, showed that this defense still survived, although the subsequent case of *Smith v. Baker* (60 L. J. Q. B., 683), in the House of Lords, minimizes its application.

CONTRACTING OUT.

After the passage of the employers' liability act of 1880 it was found that employers were, by special contracts with their men, freeing themselves from the liability imposed by that act, and the case of *Griffiths v. Earl Dudley* (9 Q. B. D., 357) decided that such contracts were "not contrary to public policy." Therefore, in 1881, a bill was introduced to prevent an employer from contracting himself out of the act. The bill failed, and in the following years, 1882 and 1883, similar bills again failed. It was stated that "it was inexpedient to interfere with freedom of contract and with private schemes that made provision for

every accident, whether under the employers' liability act or not." In 1886 a similar bill contained a further clause that the definition of a person intrusted with superintendence was not thereafter to be limited to "one who is not ordinarily engaged in manual labor, and whose principal duty is that of superintendence." The bill was dropped on the appointment of a select committee to inquire into the workings of the act of 1880.

The committee's recommendations were as follows:

(1) The repeal of the "limiting definition" of a superintendent.

(2) That no contracting out should be allowed, unless for adequate consideration (namely, a contribution to insurance approved by outside authority and guaranteed against deficiency by the employer).

In 1887-88 a bill was introduced by a labor member practically abrogating the doctrine of common employment, and while not affecting existing "contracts out," providing that in future there should be none, but that the "court in any suit" should "reduce the damage" if it was found the plaintiff had received benefits from insurance funds. The bill was dropped on the Government itself introducing a bill on the lines of the select committee's recommendations. That bill was emasculated in committee, and thereafter dropped on opposition by labor members, who insisted on abolishing the defense of common employment and contracting out.

In 1890 another bill was introduced by a labor member abolishing common employment as a defense, and repealing the act of 1880. But the Government again reintroduced its bill, allowing contracting out only when "a written request was made by a workman," and even then allowing the court, in any subsequent suit, to pass on the question of the adequacy of consideration received by him for so doing, and to see that it was a substantial one, other than "continuance in service."

The following year a labor member introduced a bill, which did not pass, entirely prohibiting contracting out, and actually invalidating all such existing contracts.

It will therefore be seen that the Government was on the horns of a dilemma:

On the one hand, it was shown that from the workmen's standpoint there seemed to be no equitable reason for the distinction of the existing law between accidents, the result of negligence, traced to a superior servant, and accidents traced to an inferior servant, the neglect of one being as liable to cause an accident as the neglect of the other, or for the law treating workmen less liberally than strangers, even where the accident was caused by an inferior servant. Again, if a distinction were maintained making "mere authority" on the part of the offending servant the test, it would still be unjust and would practically amount to no distinction at all. The elimination therefore of the distinction by abolition of the doctrine of common employment was put forward as one remedy.

On the other hand, the only other remedy would have been to change the general law by taking away from the master his liability to anyone, to a stranger as well as to a servant, for his servant's acts. This would have caused altogether too great an upheaval of general legal relations, and probably could not have been enacted, owing to opposition not only by the workmen interest, but also by the public interest.

The difficulties that confronted the Government, if they permitted contracting out, were:

(1) Examination of adequacy of contracting-out schemes beforehand would necessitate a Government department.

(2) To allow the adequacy of contracting-out schemes to be passed on by a court in suits would take from the employers "the prevention of suit feature," their chief incentive to contract out.

The Government found, on inquiring into how far contracting out had been carried, since the act of 1880, that as regards mines, a very large number did contract out, and desired to; in railways contracting out was general; in the building trades, the iron trades, and other trades there was generally no contracting out.

Among the reasons advanced for prohibiting contracting out were:

(1) That the act tends to safety through exposing negligent employers in court. But the Government found the number of cases in court were insignificant, and from such statistics as were available concluded that the claim was not borne out.

(2) That if allowed to contract out, workmen will be coerced to contract out for no consideration. The Government found practically no such cases, and also found that employers' contributions to benefit societies under contracting-out schemes exceeded vastly the amount payable under the act.

The contracting-out schemes covered all accidents, both those for which the master could be held liable and those for which the master could not be held liable. They seemed to work advantageously to both parties, the workmen getting larger pecuniary benefits for every accident, and also having an incentive to insure, while the master was freed from suit and was placed on better terms with his men. Therefore it was felt that an absolute prohibition of contracting out would be disadvantageous to both parties.

ATTITUDE OF POLITICAL ECONOMISTS.

The Government had before it, on the one hand, the view of lawyers, employers, and workmen, who argued as if there was then practically no indemnity recoverable for accident, and further that abolishing the doctrine of common employment would give such an indemnity, but that contracting out, if allowed, would take it away again.

On the other hand was the view, from the political-economy standpoint, which admitted that industry ought to bear the cost of all accidents (as risks as well as labor should be paid for), but maintained that it actually did so, in whatever state of the law, in a fractional reduction of the current rate of wages which the employer took from the men and ultimately paid back to them in occasional damages recovered against him for accidents. Political economy was not, therefore, concerned with such changes, since, if the law were made more drastic by abolishing common employment, a slightly larger amount would be retained by the employer from the wages, and if contracting out were permitted again a less amount would be retained by him.

The political economists' view was, therefore, that there was no sound economic reason for making distinctions between accidents which were the result of negligence and pure accidents; that all accidents might be properly compensated; that it merely made the employer an insurer, who took the premiums from the wages in a greater or less degree, and that it was only a political and not an economic question.

THE ASQUITH BILL.

In 1893 the Liberal government, then in power, through the home secretary, Mr. Asquith, introduced a bill to amend the existing employers' liability law. This bill provided for the repeal of the act of 1880 and for the abolition of the doctrine of common employment entirely and the limit of damages recoverable; it prohibited contracting out entirely. Though it did not take away the defense of contributory negligence and acquiescence (*volenti non fit injuria*), it left the servant in the same position as a stranger, thus practically going to the limit of previous contemplated legislation.

At once, on the introduction of this bill, Mr. Chamberlain, who was a member of the opposition (the Conservative party), introduced an amendment to the effect that no change of the law "will be final or satisfactory which does not provide compensation for all injuries in the ordinary course of employment not caused by injured's own act or default." This departure eliminated the question of whether the master was negligent or not.

The attitude toward industrial accidents as expressed in this amendment had for some time past found expression in legislation in Germany and Austria, as well as in other European countries. There the basis of recovery for accidents had been changed from that of the general common law of negligence to the principle that "workmen should receive certain compensation, but limited in amount, for all accidents of industry," irrespective of whether negligence attributable to the master caused them or not; contracting out was prohibited. In one country (Germany), as a machinery for carrying this out, a general system of insurance had been adopted, the industries of equal degree of danger being formed into mutual insurance guilds.

A second bill was therefore introduced by private members making the employer liable to pay "compensation for all injuries due to employment," excepting the willful default of the injured workman, placing limits on such compensation, however, and providing that it should take the form of purchase of annuities from the post-office of the amounts specified in the schedule of the bill. This bill was only tentative, and was withdrawn, as was Mr. Chamberlain's amendment to the Asquith bill.

PRINCIPLE OF THE BILL.

Mr. Asquith, in debate of the Government bill, said the principle of it was exactly similar to the act of 1880, namely, that "if a man, for his own profit, sets on foot industrial operations he ought to be made responsible for the selection of his servants and the supervision of his business, so as to reduce the risks to the smallest possible number," and that this bill would diminish

the area of accidents. The opposition pointed out that masters could not control the acts of the fellow-servants.

After lengthy debate throughout the session, and the introduction of a new clause dealing with employments injurious to health, the Government bill passed the House of Commons.

In the House of Lords an amendment, passed by 148 votes to 28 (known as the "Dudley amendment"), permitted the continuance of existing contracts out, if subsequently approved by a two-thirds vote of the men, and future contracts out on the granting of a certificate by the board of trade "that the scheme compensates all cases of injury, that the employer contributes at least one-fourth, and that an actuary certifies that contributions are proportionate to the liabilities of the fund."

On the House of Lords refusing to eliminate their amendment and concede the unrestricted prohibition of contracting out, on the ground that the workmen were opposed to the prohibition and that it would minimize the prevention of accident feature of the bill, the House of Commons rejected the amendment and threw up the whole bill.

It will be seen that the attitude in England toward the subject of industrial accidents, and the law in force there at the time of the failure of the Asquith bill, corresponded very closely to the attitude toward the subject and to the laws in force in the United States to-day, with the exception that verdicts higher in amount are rendered here by juries. The law in England then was the common law of negligence, subject to the defenses of contributory negligence, assumption of risk, and fellow-servant negligence, as modified by the employers' liability act of 1880. The legislation attempted indicated clearly the tendency of public opinion toward trade compensation for accident irrespective of negligence. In the United States the existing law is the same common law of negligence, subject to the same defenses of contributory negligence, assumption of risk, and fellow-servant negligence, as modified in some States by similar employers' liability acts, and in others by a more limited interpretation of the defense of fellow-servant negligence. In the United States, as then in England, in certain States (as in Massachusetts) there have been suggested changes to laws of compensation irrespective of negligence.

ARGUMENTS ADVANCED WHEN THE BRITISH WORKMEN'S COMPENSATION ACTS WERE ADOPTED—WORKMEN'S COMPENSATION ACT OF 1897—PRINCIPLE OF THE BILL.

The next serious attempt to deal with the subject of accidents to workmen was the introduction by the Conservative Government of a bill which became the workmen's compensation act of 1897. The Government in introducing the bill said: "The present law is notoriously inadequate; it fails to compensate for accidents if caused by fellow-servants, if contributed to by the injured, and if resulting from the risks of occupation; it causes costly litigation, 35 per cent of the amount recovered being legal expense; it leaves the employer ignorant of what his liability is."

The home secretary said that the Asquith bill had attempted the prevention of accidents by making the master responsible for accidents from the negligence of fellow-workmen, as well as from his own, and without limiting the amount of damage, putting the workmen in the same position as strangers; that such legislation rendered proof of negligence necessary, which meant increased litigation, and such a law would still reach only 50 per cent of the accidents that happened.

The Government held that giving a right of action for injuries resulting from negligence could not adequately meet the serious results of accidents to workmen, that they should be put in a better position toward their employers than a stranger and be given a certain but limited compensation for all accidents, not at the expense of taxes or public charity, and that this would tend to prevent accident, though the true method of prevention was by criminal statutes.

The Government said the purpose of their bill was to define and limit the liability and devise a simple and inexpensive method of settling doubtful questions. That the principle was new, based on the doctrine that "When a person on his own responsibility and for his own profit sets in motion agencies which create risks for others, he ought to be civilly responsible for the consequences," but in applying this and granting compensation it was the general opinion that a limit of liability should be adopted with it.

The opposition (Mr. Asquith) admitted the principle of universal compensation and of giving "some solatium for a pure accident, the result of no negligence, to soldiers in the army of industry." He said it was revolting to sentiment and judgment that "men who met with accidents through the necessary exigencies of daily occupation should be a charge upon their own families," and though the bill created a new legal right, so did the poor law, which recognized everyone's right to State food and shelter. He, however, criticized the bill as drawn.

ARGUMENTS FOR AND AGAINST THE BILL.

The following are the leading arguments, pro and con, of the extended debates that followed, grouped under their respective heads, and referred to the different provisions of the bill.

By its opponents the bill was called "a radical revolution" and "a plunge into socialism." It was said to exceed the proper function of government, which was the protection of property and liberty, transferring the burden of accidents from one set of people to another; it was said to put legal responsibility where no moral responsibility existed, and to be contrary to the tenets of the Conservative party introducing it.

This was answered by Mr. Chamberlain, the author of the bill, who admitted that it was a new principle, only applicable if a "great public human interest is involved," but said that the bill dealt with "a great scandal;" not with absolute rights, but with questions of humanity and expediency. He stated that it contained two principles, as follows:

(1) That a workman was entitled for all accidents of occupation to a moderate and reasonable compensation.

(2) That the compensation should be a charge on the trade, like repair of machinery.

He said, moreover, that the bill distinguished between an employer's moral negligence (employer's willful or wrongful act) and an employer's technical negligence (his foreman causing an accident) and an employer's criminal negligence (employer's neglect of precaution after warning).

Mr. Balfour (afterwards prime minister) said that the bill was consistent with previous legislation, the country felt it desirable to "diffuse the shock" of accidents, and had already granted such a relief to the public, and it should be granted to a workman in his vocation. He answered the objection that it put a legal where no moral responsibility existed by showing that the law already did that, as it made a railroad responsible for an injury to a passenger, even where caused by the mistake of a good engineer.

Lord Salisbury (the prime minister) said that the existing law was socialistic and not the bill, since the existing law made the taxpayer through the poor law pay for a railroad engineer killed by an outsider obstructing the track, and so transferring the burden to the industry itself (the railroad) was less socialistic.

He said that there was a proper distinction between State interference when saving life as against saving property; that in no well-regulated State was mere liberty allowed to endanger lives; that it was the supreme duty of the State to see that the claims of property must bow to the interest of citizens represented by safety, life and limb. He added that the bill was part of the series of old factory legislation preventing disease and death. He said the history of the law of compensation was a history of a great machinery for saving life.

The following objections to the bill and answers to these objections were also made:

(1) That it was unfair, as it made the employer liable for acts of strangers, and as a social experiment, if it was expedient for the country, the country should pay for it; but it was answered that it was "fair, moral, and right;" that those for whose emolument the trade was carried on should pay; that as the employer risked only his capital, but the workman his life, he had a right to compensation when injured at his employment; that wear and tear should be borne by the industry; that a maximum of one-half wages lost was fair.

(2) That the German system was better, as under it trade responsibility existed, as opposed to individual responsibility under the bill, and that the state should insure or assume the pensions; but Mr. Chamberlain answered that the German system was too elaborate and was impossible for English people, and that state insurance was a gigantic question.

(3) That it would cause social strife, as it was alleged the German law had done; but its advocates maintained that it would insure social peace and diminish litigation, as they alleged the German law had done.

(4) That the trades unions and friendly societies would suffer through it; but this was denied by the labor-union members.

(5) That it would take away self-reliance and thrift from the workman; but it was said that individualistic theories about the rights and habits of grown men had become obsolete.

(6) That it would reduce wages; but this was not admitted.

(7) That it would increase accidents, as it was alleged the German law had done; but this was denied.

(8) That it would injure old men, as employers would not employ them; but (though the Government was willing to limit the provisions of the bill to men under 60 years) this was strenuously denied by the representatives of labor, who said older men were more careful.

(9) That it was illogical, as it excluded health. The Government admitted this, but said that health was too large a question to tack onto it.

(10) That it would injure trade, especially export trade, and that the bill taxed industry; but it was answered that the employers' liability act of 1880 had been said to impose "terrible liabilities on trade," which experience had shown to be unsound.

Mr. Chamberlain said the Asquith bill was a punishment bill covering 10 per cent of accidents and this bill was a benefit bill covering 80 per cent of accidents.

Other members admitted it would relieve poverty, distress, and ruin to thousands of workmen through accidents.

Mr. Rugg, a leading English commentator on this subject, states the principle of the bill to be that "the pecuniary results from loss of life and injury incident to the carrying on of industrial enterprise" should be regarded as "a part of the expense of production;" that the employer who initiates it should, for convenience sake, pay this expense in the first instance, and that "ultimately it will be paid by the community" for whose use and enjoyment industry is carried on.

SCOPE OF THE BILL.

The act of 1897 is limited in its application to employment on or in or about a railway, factory, mine, quarry, or engineering work, and a building which exceeds 30 feet in height being constructed or repaired by means of a scaffolding, or being demolished, or on which machinery driven by power is being used for those purposes. (Sec. 7 (1).) The act of 1900 added agriculture.

The scope of the act of 1897 was criticised generally as being too exclusive and covering only selected industries; as failing to cover large classes of workmen, such as seamen, agricultural laborers, employees in workshops (factories without mechanical power), and other small employers' work people; as only partially covering building employees; as failing to cover the first two weeks' disability from accident; as failing to cover injuries to health, and as covering trades like coal mining, which would be ruined by the bill.

Generally the Government said that the bill was a tentative measure, and as it involved a new principle it was limited to the more dangerous industries, i. e., to those which had the most accidents; that it covered 6,000,000 work people (leaving 7,000,000 unprotected), but it had covered 60 or 70 per cent of all accidents; that the two exceptions to liability were serious and willful misconduct on the part of the injured employee (sec. 1 (2) (c)) and the exemption of employers from liability for the first two weeks of accidents (sec. 1 (2) (a)), which would foster benefit societies and knock off 25 per cent of accidents (which were trivial) and 30 per cent of the compensation payable; that injury to health was too large a question to add to this.

In discussion Mr. Balfour indicated that a reason for omitting small employers and selecting the great organized trades was to obviate what would be merely transferring the "shock of accident" from one individual to another, the shock being diffused if applied to the great organized trades. It was admitted that when experience had proved there was no injury to the trades covered, such experience would be an unanswerable argument in favor of the extension of the scope of the bill.

In debate it was said that there were three tests of the scope: (1) Risk, (2) capital in industry, (3) insurance feasibility.

SEAMEN.

The arguments against inclusion of seamen, presented by Mr. Chamberlain, were that shipping was a great industry "of special circumstances," and therefore separate legislation was necessary; that the great steamship lines were different from the merchant service; that the inclusion of seamen under the bill would breed opposition; that already injured sailors were paid their wages and medical attention according to special laws. It was said that deaths on sailing vessels were 50 to 1 of deaths on steamers; that it would kill the sailing-vessel industry and the fishing business to include them; that the owner had no control over accidents at sea. Several owners in big steamship lines recommended inclusion, and Mr. Havelock Wilson (who had fought to have the act of 1880 applied to sailors, but failed) pointed out, as to payment of wages when a seaman was injured, that there was no loss to the owner, as the other sailors did the injured sailor's work; that shipowners paid no poor-rate tax, and therefore "landsmen paid for injured sailors;" that there was no medical attention supplied except in the big liners; that the trade was a most dangerous one.

WORKSHOPS.

It was urged that women and children were employed in workshops, that there were no "compassionate allowances" in

workshops, and that the tendency of modern legislation was to unite workshop and factory; but it was answered that they were not dangerous, the proportion being only 2 deaths in workshops to 188 in factories.

BUILDINGS.

The Government refused to eliminate the restriction and cover buildings under 30 feet in height, saying that the inclusion of buildings was a compromise, and that 30 feet was an arbitrary line, based on the factory act.

GOVERNMENT EMPLOYEES.

Persons in the naval and military service of the Crown were excluded (sec. 8); otherwise Government employees were covered.

MALINGERING.

It had been claimed by the opponents of the bill that the German law had increased malingering on the part of injured workmen, and that this bill would have the same effect, but the Government felt that these provisions for medical examination would prevent it, and, further, that cooperative schemes formed under the contracting-out clause, as they would be controlled by workmen, would also prevent it.

ACTS OF STRANGERS.

In reply to the criticism that the bill was unjust in making an employer responsible for injuries to his men caused by acts of strangers, the answer was made that all employers with their fellow-men in their power through industry should "be forced to make them safe." The Government said if the employer was not made liable it would necessitate the inquiry, "Who caused the accident?" and result in litigation, defeating the object of the bill, which was to compensate without inquiry. With a view to this principle, and chiefly to include under it subcontractors' workmen (sec. 4) as employees of the chief employer, so enabling them to get their benefits, section 7 (1) provides that "the act shall apply only to employment by the undertakers," though in all cases, except those in section 4, the injured's own employer is the undertaker (sec. 7); (2) defining the undertaker as "the company" in a railway, "the occupier" in a factory, quarry, or laundry, "the owner" in a mine, "the person undertaking the construction, etc.," in engineering work and in building. Section 4, however, gives the undertaker a right of indemnity against the subcontractor.

COAL MINING.

It was urged that 80 to 90 per cent of the coal in Northumberland competed with foreign coal, and that, therefore, employers could not transfer the burden to the foreign consumer; that any raise in the price would destroy the glass trade and injure the steel trade; that the bill would shut down a number of coal mines. The Government answered that foreign competitors had compensation laws.

AGRICULTURAL LABORERS.

It was urged that agricultural laborers should be covered, as accidents occurred from agricultural machinery, and their poor wages did not enable them to insure; that they presented the most pathetic figure in the social system—a life of unremitting toil, followed by the poorhouse in old age. The Government in 1897 said the bill was only tentative, and agriculture was not a dangerous trade. They did, however, by a separate bill in 1900, include agriculture, which covers horticulture, forestry, husbandry, inclusive of keeping live stock, poultry, or bees, and the growth of fruit or vegetables.

PREVENTION OF ACCIDENTS.

The Asquith bill had been put forward as effecting the prevention of accidents, and his party urged that this bill would not prevent accidents; that the criminal law was ineffectual to prevent them; that there was nothing incompatible in granting universal compensation, and at the same time providing special liabilities for preventable accidents; that the German system provided compensation with prevention under its danger schedule; that in Germany the trades had a remedy against a negligent employer; that under this bill there would be insurance, and that insurance deprived the master of incentive to care.

It was answered that the Asquith bill only made the master responsible in a greater number of accidents than the preexisting law, and that the master could not prevent the accidents caused by fellow-servants, by which only that bill increased his responsibility; that this bill covered a still greater number of accidents than the Asquith bill, and so was more powerful than it to prevent accidents; that increased responsibility meant increased care; that the employers' financial responsibility was a greater preventive than State financial responsibility; that the true method of prevention was by criminal enactment, by factory and workshop acts, and other health and safety acts, and that section 1 (5) of the bill made special reference to the fines applied for the benefit of the injured workmen, and provided that the act should in no way restrict proceedings for

such fines. In regard to insurance, it was stated that employers had always been able to insure; that want of care would affect employers' pockets, as insurance companies would differentiate rates; that they saw to it that machines were well guarded; that it was cheaper, however, not to insure at all, which was feasible now that compensation was definite and limited.

BURDEN IMPOSED BY THE BILL.

On the question as to where the burden imposed by the bill would and should fall, Mr. Asquith said that in trades with foreign competition it could not be transferred to the consumer, but that it would fall on the employer and workman, with consequent injury to the small employer. To prevent the latter happening and to insure the workman getting his benefits, he advocated placing it on the trade as a whole, as in Germany, and, to prevent injury to the trades with foreign competition, he suggested placing the burden of the bill on the community as a whole. He admitted it would not be crushing to industries generally, and that it would be perfectly fair even if the burden fell on wages.

Other members said that the small employer was being crushed out of existence, and advocated some government scheme of insurance, as well for small employers as for trades with foreign competition like the coal trade, which would be ruined, because they could not stand the burden; the foreigners now (though they already had accident compensation laws) were winning in competition. They also said that mine owners would run the risk themselves of bankruptcy through a mine disaster, since rates of insurance would be so heavy to cover them; it was no help to a mine owner with an explosion costing £80,000 (\$389,320) on his hands to be told that the average cost was 1 per cent.

Mr. Chamberlain answered that the cost fell ultimately on the consumer; that it would not be a burden on wages, but would become a part of charges which in foreign countries were called trade charges, as such as fire insurance, and an addition to the cost of raw material; that the price of wages was settled by the supply of labor and not by these charges, unless it could be shown that every business charge became a charge on wages; that wages in Germany had advanced. He characterized the cry of ruining trades as ridiculous and said that generous employers already made similar contributions, and they were glad their competitors were to be brought up to their level.

The attorney-general said the main criticism, "that the cost would be 2d. (4 cents) a ton on coal," meant that the cost would only be 10 to 20 per cent more than the Asquith bill, and that catastrophes like explosions were not arguable; that the bill covered every-day accidents.

Mr. Broadhurst, who had taken a keen interest in labor matters as a member for twenty years, said that a great principle had been established by the bill, but there was "no answer to where the burden would fall." Sir Edward Clark said the burden would fall first on the employer, second on the consumer, and third on wages, which was fair. It was believed that it would only fall on wages when the bottom price in foreign markets had been reached.

It was pointed out that the income tax showed an industrial profit of £336,000,000 (\$1,635,144,000), so that industry could well bear the bill; that the fears of coal owners in 1860, 1872, and 1877 had not been borne out by subsequent facts; that the bill, in reality, was not a serious burden, as improving the conditions of labor by shortening hours, etc., always benefited a trade; that the charitable donations of employers, who voluntarily did as much now, would be saved.

COST OF THE BILL.

The cost of the bill to the trades involved was urged as the strongest argument against it. Mr. Chamberlain believed that on the basis of the government experience, 1 per cent on the wages in coal mining would cover the cost, and one-fourth of 1 per cent in factories, less the cost of present charitable payments and the cost of the employers' liability act of 1880, and that in textile trades one-twentieth to one-tenth of 1 per cent would be sufficient.

Other estimates advanced showed that the existing English law cost one-eighth to one-fourth of 1 per cent, while for the Asquith bill the cost would have been one-half of 1 per cent, and that the cost would be three-fourths of 1 per cent if this bill passed.

One member, an employer in a large engineering firm, said that examination of his experience for ten years past showed that the result of the bill would be one-eighth of 1 per cent on his wages, and another member, the head of another large engineering firm (also manufacturing iron and steel), reached precisely the same result. Still another member gave figures of one-third of 1 per cent for a trade involving 15,000 men.

COAL.

On the figures of the Cheshire Miners' Protective Relief Fund the result of practically 1 per cent of wages on coal was reached, but other estimates varied from two-thirds pence (1.35 cents) a ton (Professor Merivale, Newcastle) to as high as 3d. (6 cents) a ton (Sir William Lewis, South Wales) and from 1 per cent on wages (Government) to 4½ per cent on wages (Mr. Neison), and it was said that 2d. (4 cents) a ton would ruin the trade. The Government answered that Germany now paid 2 per cent, and Lord Salisbury pointed out that freights varied from 5s. 11d. to 8s. 3d. (\$1.44 to \$2.01) a ton, so that 2d. (4 cents) a ton would be insignificant and only the equivalent of carrying 4 miles farther, as freight cost one-half pence (1 cent) a ton.

BANKRUPTCY OF THE EMPLOYER.

Bankruptcy of the employer might be caused by a disastrous accident or might arise in the ordinary course of business. In the first event the workman would lose his benefits and in the latter any annuity he was receiving.

To deal with the difficulty of bankruptcy of the employer remedies were urged (1) making the whole particular trade responsible for accidents affecting each individual employer by compulsory masters' combination, like the German system, (2) adopting compulsory insurance, or (3) inaugurating State insurance. It was answered that though a hardship the workman must take his chance; that bankruptcy was just as likely through an action for damages for injuries resulting from negligence as through this bill.

An amendment to allow the substitution of an approved insurance for the liability under the bill was negatived, as the Government could not undertake to certify the solvency of insurance companies.

To deal with the difficulty of losing annuities the payment of lump sums instead of annuities was urged, it being pointed out that those sums could then be invested to produce an annuity.

The Government later accepted amendments to make the undertaker liable to subcontractors' men (sec. 4) and giving workmen a lien on any insurance the master had if the master became insolvent (sec. 5), but refused an amendment to make him a preferential creditor on the insolvent master's total assets.

CHOICE OF REMEDIES AND LIABILITY OF EMPLOYER.

The bill left a choice of remedies to the workmen—i. e., of claiming at his option under the bill or suing under the common law or under the employers' liability act of 1880—but did not leave the employer liable to pay compensation both independently of and under the act. (Sec. 1 (2) (b).)

It was the intention in passing the bill to restrict the workmen's rights at common law and under the employers' liability act of 1880 somewhat in inserting the words "personal" and "willful" (personal negligence or willful act of the employer or of some person for whose act or default the employer is responsible). Mr. Asquith moved to omit those words and leave the old rights intact, but Mr. Chamberlain, who had said the bill distinguished between "moral, technical, and criminal" negligence, refused to sanction the omission, saying the old remedies were only left for cases of moral negligence and liability—i. e., where there was deliberate and peculiar negligence corresponding to the serious and willful misconduct which defeated the claim of the workman. However, the words have not limited the previous rights to any extent. Mr. Ruegg, who discusses the point in his treatise, says: "None of the workmen's rights, either under the employers' liability act of 1880 or at common law, are taken away by the workmen's compensation act." As the act of 1880 also limited the compensation recoverable for death or disablement to three years' wages, Mr. Haldane said, "There would be no incentive to sue under it," and an amendment taking away the existing rights under that act and the common law, but also taking away the limits of compensation under the bill, was lost by only twenty-four votes.

If a workman sued independently of the bill and lost his suit, section 1 (4) provided that he should not thereby lose his compensation under the bill, but the court should then and there on his request assess it, deducting the costs of suit therefrom, if justifiable, and give a certificate of it, which should be the equivalent of an award under the act. If he proceeded under the bill and failed through any technicality, he could not, however, subsequently sue.

If a stranger was liable for the accident, section 6 gave the workman the option of suing the stranger or of proceeding under the act, and, if he chose the latter course, gave the employer a remedy against the stranger for indemnity.

DEFENSES OF FELLOW-SERVANT NEGLIGENCE AND ASSUMPTION OF RISK.

Amendments to the bill were introduced to eliminate the defenses of fellow-servant negligence and assumption of risk. It was urged that these defenses still applied in the trades not

covered by the bill if suit were brought independently of the bill, and also in the small injuries of less than two weeks' duration excluded by the bill. Mr. Chamberlain pointed out that the amendment would necessarily be limited in effect to the trades within the bill, and that, so far as those trades were covered, the bill practically obliterated those doctrines and in no way defended them; that only a small part of the trivial injuries were traceable to the negligence of fellow-servants. The amendments were lost.

DEFENSE OF CONTRIBUTORY NEGLIGENCE.

The question of eliminating the defense of contributory negligence was a difficult one. Mr. Chamberlain said that, morally, cases caused by the injured's own negligence should not be compensated, but as a matter of expediency, to avoid litigation, they should be.

The Government, however, later approved and passed an amendment to exclude payment for injury to a workman if it was the result of his "serious and willful misconduct" (sec. 1 (2) (c)). Mr. Chamberlain said the wording of the clause destroyed the old doctrine of contributory negligence; but it was unfair to penalize the employer where grossly negligent and not the employee also, and it would tend to prevent accident.

Even this amendment was urged to be contrary to the principle of the bill, and it was feared would open inquiry into the cause of accidents and so promote fictitious defenses and litigation, in an attempt to provide for cases necessarily rare, and it was said that the real beneficiaries, i. e., the family of the negligent employee, were innocent even if he was negligent.

Amendments were then introduced to define serious and willful misconduct, but were negatived, as being a question for the arbitrator in each case. Lord Salisbury, however, said that any breach of rules justifying fine or imprisonment would bar compensation.

ARBITRATION AND LITIGATION.

In furtherance of the Government's purpose to get rid of litigation about accidents of employment and the friction and expense involved, and to devise a simple and inexpensive method of settling doubtful questions, the bill provided (sec. 1 (3)) that on a dispute arising (and then only) it must be settled by arbitration, and the decision of the arbitrator be registered as a judgment, in the way provided in the second schedule (1), (2), (3), namely:

First. By a committee formed by the workmen and their employer for the purpose. This committee might settle the matter or refer it to a single arbitrator.

The Government said the workmen would predominate on the committee or refuse to form a committee.

Second. If there be no committee, or if the committee is objected to by either party before it meets, or if the committee fails to settle the matter or refers it, by a single arbitrator agreed on by the parties.

Third. In the absence of agreement on an arbitrator, then by the county court judge of the district sitting as an arbitrator without fees.

Fourth. If the county court judge is unable to act, then by an arbitrator appointed by him (paid by the State).

APPEALS.

The right of appeal was limited to reduce litigation. There was no appeal from the arbitrator on questions of fact, but he might, if he saw fit, submit questions of law to the county court judge (second schedule (4)), whose decision was final, unless either party appealed direct to the court of appeal. At first appeal was not contemplated, but the appeal on the law to the court of appeal was admitted as necessary to reduce the numerous county court decisions to authoritative general principles. It was then intended that such appeal should be final, but though no appeal to the House of Lords lies for Scotch and Irish cases, it has been decided that it does for English cases.

COSTS.

The payment of the cost of arbitration by the State was urged, but the Government said so doing would promote litigation. Second schedule (6) therefore leaves the costs to the discretion of the arbitrator, but limits them to the ordinary county court costs, none to be paid prior to the award (second schedule (11)).

REGISTRATION.

Second schedule (8) provides that all agreements and decisions by committees or arbitrators shall be recorded by the registrars of county courts as judgments.

LAWYERS.

Lawyers were entirely barred from the proceedings at first, but before the passage of the bill the clause barring them was eliminated on the recommendation of the attorney-general, as

otherwise the conduct of them would fall into the hands of advisers of a low type. Mr. Chamberlain said he had changed his mind on the point and approved the change, as their fees were restricted, and a clause (second schedule (12)) was inserted controlling their fees, in the discretion of the arbitrator and by the court taxing scale. Any party could appear in person as advocate, instead of lawyers, and appearance was also permitted, on leave of arbitrator, to others, including trades-union secretaries, etc., but without any right to fees.

DOCTORS.

The estimate of the disability sustained being one of the most important questions of the bill, it was provided (first schedule (3)) that a workman, on giving notice of accident, must submit himself for examination by the employer's doctor, and on refusal to do so his benefits were to be suspended. During disability he must again submit himself for examination, if required, with the option, however, if he objected to the doctor or his certificate, of submitting himself to examination by one of the doctors appointed by the secretary of state (first schedule (11)), the certificate of the doctor appointed by the secretary of state to be final, and his fees to be paid by the state, as also those of other doctors appointed under the same authority "to report on any matter arising in the arbitration" (second schedule (13)).

Against this whole system of arbitration it was urged in debate that arbitration was really the equivalent of litigation, and that in the previous year in Germany there had been 38,000 appeals from associations of employers and 12,000 appeals to Berlin, but the government felt that the bulk of accidents would not need to be arbitrated, and that the arbitration machinery was simple and would save expense.

COMPENSATION PAYABLE.

The benefits or amount of compensation under the act were based on the wages earned by the injured. It was pointed out in debate that this worked a hardship on children permanently injured, as their wages are small.

It was suggested that, if based on the wages at the time of the accident, that might prove too little or too much, so the average weekly wage was fixed upon as a basis. For the three years' death benefit, if deceased had not been under the same employer for three years, "156 times his average weekly earnings during the period of his actual employment under the same employer" was fixed by the first schedule (1) (a), and for the incapacity benefit, the average weekly wages over twelve months or such less period as he had been employed by the same employer, was fixed as a basis by the first schedule (1) (b).

DEATH BENEFITS.

Where the deceased leaves persons wholly dependent, the first schedule (1) (a) (i) provides a compensation equal to three years' earnings, but not less than £150 (\$729.98) nor more than £300 (\$1,459.95).

Where the deceased leaves persons partially dependent, first schedule (1) (a) (ii) provides a compensation of what may be agreed on or determined by arbitration as reasonable and proportionate to the injury to the dependents, but not more than three years' earnings nor £300 (\$1,459.95).

Where deceased leaves no dependents, first schedule (1) (a) (iii) provides reasonable medical and burial expenses up to £10 (\$48.67).

An amendment to make the death benefits equal, whether there were any dependents or not, on the ground that inequality would injure married men and prevent their employment, was lost, Mr. Chamberlain pointing out that the friendly societies had the same distinctions without that result.

The dependents were limited (sec. 7 (2) (a)) to the persons mentioned in the fatal accidents act, 1846, i. e., to wife, husband, parents, and children (an amendment to add brother and sister having been negatived, as the government would not extend the scope); and questions as to dependency and amounts payable therefor to be arbitrated in default of agreement. (First schedule (5).)

The minimum sum being omitted from the first schedule (1) (a) (ii), dealing with partial dependents, compensation to parents for the death of a child who contributed to the family fund could be properly restricted to the pecuniary loss occasioned, and be fixed by the arbitrator or otherwise at a proper proportionate sum instead of allowing the family to gain by the death. The same rule applied to amounts payable to other partial dependents, the attorney-general saying that they got nothing unless they suffered pecuniary loss through the death.

INCAPACITY BENEFITS.

For injuries causing incapacity, temporary or permanent, and total or partial incapacity, the first schedule (1) (b) provides for a compensation, after the second week, up to a limit of £1

(\$4.87) a week, of not exceeding 50 per cent of injured's average previous weekly earnings.

In fixing the amount of compensation actually payable within those limits (which is done by agreement or arbitration), clause 2 provides that regard should be had to the difference between his earnings before and his ability to earn after the accident.

LUMP-SUM PAYMENTS.

Before adopting the above benefits there was much discussion in debate as to the merits of adopting lump-sum and weekly payments, respectively, as the benefits under the bill.

By those advocating lump-sum payments it was said that the benefits under continued weekly payments would aggregate more than the benefits for death; that payment of a lump sum would be better for a man; that investments of lump sums were possible which would prevent loss of benefit through the employer becoming insolvent; that the continuance of weekly payments during incapacity would be hard on employers; that lump sums would facilitate the employer obtaining insurance.

Amendments were introduced, but lost, making the benefits of the bill for death and permanent injuries lump-sum payments, like an ordinary accident-insurance policy, namely, a definite sum down, three years' wages for death or permanent total disablement, and six months' wages for permanent partial disablement.

It was pointed out that payments of lump sums to widows, dependents, and persons unaccustomed to manage money would result in loss and its being quickly squandered, thus defeating the object of the bill. Mr. John Burns strongly advocated weekly payments in lieu of lump sums. Other members said lump sums would bankrupt and ruin employers.

Mr. Chamberlain said that the permanent incapacity weekly benefit might be hard on an employer if he had no insurance, but if he had insurance it would be trivial; that the limits enabled insurance to be got. He said that disability payments should be more than the death payments, as beneficiaries got the latter.

The views as to lump sums and weekly payments were compromised as follows:

First. By giving authority to the arbitrator in his discretion to invest the lump sums awarded (see First Schedule (6) to (10))—i. e., by agreement or by order of arbitrator a dependent's compensation may be either invested or not. If invested, to be either by way of deposit in or purchase of annuity through the Post-Office Savings Bank, subsequently to be drawn out only on written order of the treasury or county court judge, and,

Second. By providing for liberty to commute the weekly benefits payable.

COMMUTATION OF BENEFITS.

Mr. Chamberlain introduced a clause allowing a commutation of future weekly benefits to be agreed upon, after weekly benefits had been paid for twelve months, either at the request of the workmen or at the request of the employer, limiting such commutation amount, however, to three years' full wages.

Strong argument was introduced against this proposal, pointing out that commutation reduced benefits under the bill, and Mr. John Burns said it would after seven years "relegate the injured people to charity."

For the clause arguments were advanced that, as the indefinite continuation of weekly payment was defined by commutation, insurance would be cheaper; also, that commutation would protect workmen against insolvent employers. The Government said that commutation was very different from putting a stop on weekly payments, since the sum paid down in commutation would purchase an annuity.

When this clause, however, reached the House of Lords they took away from the workmen the power to commute, and as a quid pro quo eliminated the limit of three years' full wages imposed on the amount of commutation. The House of Commons approved this change.

The first schedule (13), therefore, provides that where any weekly payment has continued for not less than six months the liability therefor may be redeemed by the employer by payment of a lump sum, fixed by agreement or arbitration, which may be ordered to be invested or otherwise applied by the committee or arbitrator.

REVIEW OF AWARD.

First schedule (12) also provides that either the master or the workman may, on request, have any weekly payment reviewed, so that it may be ended, diminished, or increased according to the facts then found by agreement or arbitration.

MANNER OF PAYMENT.

The first schedule (4) requires death payments to be made "to the legal personal representative," and if none, "to or for the benefit of his dependents;" and if no dependents are left,

"to the person to whom the expenses are due;" while the Second Schedule (12) specifies that compensation shall be paid on the receipt of the person to whom it is payable. The Second Schedule (10) empowers the county court to make its necessary rules.

NOTICE OF ACCIDENT AND CLAIM.

It was urged that requiring notice of accident and claim would protect employers against bogus claims, and would protect employees against losing their claims; that notice should be given before workmen left the service.

On the other hand, it was said that requiring notices would cause litigation, as attorneys would urge they were necessary in order to have the notices properly given, and further, that no notices were required under the general law of negligence.

After considerable debate, following the precedent of the employers' liability act of 1880, the act provides (sec. 2 (1)) for notice of accident as soon as practicable thereafter and before the workman has voluntarily left the service, while claim must be made in six months from date of accident, if not fatal, and in six months from date of death, if fatal; but to prevent the claim of the workman from being prejudiced through want of or any defect or inaccuracy in notice of accident by a bona fide mistake or other reasonable cause (as through a trivial accident later developing into a serious one), the section provides that such want of or defect in notice shall not be a bar if it is found in the claim proceedings that the employer is not prejudiced in his defense by such want or defect or that it was occasioned by mistake or other reasonable cause.

CONTRACTING OUT.

Contracting out was the question on which the Asquith bill had been wrecked, and was debated at length. The Government introduced a clause into their bill on the lines of the Dudley amendment to the Asquith bill (which the House of Commons had then rejected). The home secretary said that under it the workman could not deprive himself of the benefits of the bill, but was to have freedom to arrange his own wants in his own way, provided that such arrangement was not less favorable to him than the benefits of the bill; in the words of Mr. Chamberlain, that he should have freedom to "contract out" provided he was "not a pecuniary loser" by so doing; that the Government held to the principle of contracting out with that proviso.

To effect this, the bill as passed repealed existing contracts by section 9, but by section 3 permitted the employer to substitute, by contract with his workmen, any "scheme of compensation, benefit, or insurance," which was certified to beforehand by the registrar of friendly societies (a permanent Government official), after taking steps to ascertain the views of the employer and workman, as "not less favorable to the general body of workmen and their dependents than the provisions of this act;" but save that, the bill was to apply notwithstanding any contract to the contrary.

Section 3 (2) provides that the registrar's certificate might expire at the end of a limited period of not less than five years, and section 3 (3) prohibited the issue of a certificate for any scheme "which contains an obligation upon the workmen to join" as a "condition of their hiring." Section 3 (4), moreover, made it the duty of the registrar to examine into any complaint on behalf of the workmen that the scheme is no longer so favorable or is not being fairly administered, and so forth, and revoke his certificate if good cause exists, unless such cause is removed.

It was urged by the opposition (Mr. Asquith) that a workman should not be permitted to waive advantages given in the interest of the community, but it was answered there was no objection, if he gets better terms. Other objections to the clause were that the schemes would localize men; that the clause would injure friendly societies, as the workmen's contributions to schemes would take the place of contribution to the benefit and friendly societies whose income was mainly from that source; that the workmen and trades unions were against it.

It was answered that the clause would give a great impetus to friendly societies and would allow existing associations to use their own machinery and go further than the bill, since employers would figure out the cost of accidents over five to ten years, and contribute the necessary amount to the existing associations, allowing the workmen to manage them; that the latter would deal with the slight accidents themselves and prevent malingering, and reduce the cost of accidents so as to have more to spend on their sickness features. It was also urged that friendly societies were based on considerations other than pecuniary ones, and that the clause compelled the registrar to ascertain the views of workmen and employers before certifying a scheme.

Mr. Chamberlain introduced an amendment to make the employer liable if the funds of the scheme failed, but against this it was urged that such a liability would prevent the clause

being used, as employers would consider it a "heads you win, tails I lose" clause.

Mr. Balfour said the employers' inducement to form schemes was the establishment of better relations with their men, and the workmen's inducement to get more money from their employers. But the clause guaranteeing the solvency of the fund was ultimately eliminated by the House of Lords on the ground that as the workmen would spend the money, it would prevent all contracting out, and the elimination was subsequently agreed to by the House of Commons on the ground that the registrar had to be satisfied that the employers' liability was the equivalent of the bill.

The House of Lords passed an amendment allowing the registrar to consider as a basis for his certificate all the circumstances of the case, which was disagreed to by the House of Commons, however, and failed.

EXPERIENCE OF WORKING OF THE BRITISH WORKMEN'S COMPENSATION ACTS—PRACTICAL WORKING OF THE ACTS AND RECOMMENDATIONS.

In November, 1903, a committee was appointed by the home secretary to inquire and report to the home office—

(1) What amendments in the law relating to compensation for injuries to workmen are necessary or desirable, and

(2) To what classes of employments not now included in the workmen's compensation acts those acts can properly be extended with or without modification.

This committee consisted of the following gentlemen: Sir Kenelm Digby, K. C. B. (chairman); Sir Benjamin Browne, D. C. L. Memb. Inst. C. E.; His Honor Judge Lumley Smith, K. C.; Capt. A. J. G. Chalmers, of the Board of Trade; Mr. George N. Barnes, secretary of the Amalgamated Society of Engineers, and Mr. Robert Reid Bannatyne, of the home office (secretary).

The committee utilized information furnished by the labor department of the board of trade and other Government departments, by inspectors of factories and mines and other Government officials, and by the judges of the county courts. It took extended evidence from representatives of both employers and workmen in the chief industries, from employers' associations and trades unions, from mutual and ordinary insurance companies, and from numerous other sources. It made an exhaustive report in August, 1904, which has been accepted as a basis for future legislation, and its evidence and findings are therefore referred to at length here.

SCOPE OF THE ACTS.

The restriction of the scope of the acts to a few industries was carefully considered by the committee, and they concluded that the experience justified extension to other industries.

The act of 1900 including agriculture had taken away the dangerous employment test for inclusion, and that test could not therefore be adopted as the general principle in extension to other occupations.

The two alternatives presented were to amend the acts (1) by a general extension of their scope to cover all occupations with certain definite exceptions, such as (a) small employers, (b) some forms of casual labor, (c) employments which are not by way of trade or for the purpose of profit, as limited in the factory acts; or (2) by extension to further specially specified industries.

The committee recommend the latter course, suggesting inclusion of any industries which were dangerous, and also those to which the advantage of the act could be applied without imposing an undue burden on the employers, provided that the industry to be included was not one composed largely of small employers who did not insure. As to the limitations on the employments already covered in the act which had been found to be unsatisfactory, they recommended changing section 7 (1) limiting the act to accidents "on or in or about" the places or works, to cover accidents "while on the business of the employers," since they found that, though they were intended to limit responsibility to places which were under the employers' control, those words of the act had resulted in dissatisfaction and incongruity, a mechanical engineer, for instance, being covered in the factory, but not while superintending erection for his employer. They recommended covering all building, all quarries, and practically all laundries (except only those without more than two persons outside of the family). They also recommended including under the definition of engineering, road making, well sinking, and other excavating operations, also the construction of telegraphs, telephones, and other electric appliances.

TRADE DISEASES.

The committee did not, however, consider it advisable to include trade diseases, thinking it better to leave those to special legislation for sickness, and to still leave to the courts such questions as "whether anthrax is an accident."

SEAMEN.

Employers urged the hardship and impracticability of including seamen under the act, owing to prolonged absence of ships and absence of owners' control, frequent changes in crew, and consequent impossibility of securing evidence, as well as the fact that the "whole venture is frequently imperiled through act of God," and consequently compensation should be undertaken by the State. On the other hand, Mr. Havelock Wilson, who has strongly advocated the cause of seamen, urged that exactly the same conditions as to compensation should prevail at sea as on shore. He testified that shipowners were heavy insurers and could bear a loss.

The committee found that as the principle of the act established compensation, whether blame existed or not, the absence of control, etc., gave no reason (nor did they find any) why the principle should not extend to those afloat as well as to those on land. However, after considering the construction of the existing merchants' shipping act, which already amply provided for minor injuries, they recommended an extension of that act to cover death and permanent total and partial disablements of seamen rather than an extension of the workmen's compensation act. As coasting and fishing vessel owners frequently had no assets if their vessels were lost, and as the lives of master and crew frequently had to be risked at sea in the cause of humanity, the committee recommended compulsory insurance with State contribution for seamen, recommending, however, further inquiry as to the fishing trade.

CARRIERS.

They recommended inclusion of all carriers by land or inland navigation.

WORKSHOPS.

They recommended inclusion of the larger workshops, excluding all employing not more than five persons.

SHOP ASSISTANTS.

They did not recommend inclusion of shop assistants, unless there was a general extension of the act, as this was not a hazardous occupation, and "there would also be considerable difficulty as regards small shops."

DOMESTIC SERVANTS.

For a similar reason, as well as on the ground of not further extending the principle to persons not employed in trade or for purpose of gain, they did not recommend the inclusion of domestic servants, unless under special circumstances of danger, such as coachman, etc.

PUBLIC SERVANTS.

As to public servants, the committee saw no reason for treating them differently from other work people.

DEFENSE OF SERIOUS AND WILLFUL MISCONDUCT.

Section 1 (2) (c).—The evidence of both employer and workman indicated that this defense had been in practice infrequently enforced or sustained by the courts (perhaps with the exception of coal-mine cases), though employers who desired a more specific definition had possibly suffered hardship from it rather than the men. The committee felt it better to leave it open to the arbitrator to look at the surrounding circumstances whenever the defense was set up, and they, therefore, did not feel justified in recommending any change in the wording or clause.

TWO WEEKS' IMMUNITY—MALINGERING.

Section 1 (2) (a) and first schedule (1) (b).—In the evidence before the committee from the workmen's side it was almost universally represented that a reduction of the period of nonpayment from two weeks to two or three days, and in the case of serious accidents dating the compensation back to the day of the accident, would save much hardship, especially in those trades where women were employed, where pay was low (in which connection it was stated that 150,000 railroad employees earned less than 18s. (\$4.38) a week), or where the injured people were not members of any friendly society; while from the employers' side it was shown by figures submitted that the two weeks' nonpayment prevented malingering by workmen absenting themselves from work for injuries that were trivial and more or less unreal.

The committee concluded that while it was true that a large number of workmen were put to suffering by this provision, if it were eliminated a large number who had also allowances from friendly societies, etc., would prolong the period for trivial accidents, which it was impracticable for employers to supervise, and that dating back the compensation, if the disablement lasted for two weeks, would also produce malingering. Again, having regard to the additional cost involved of including all cases during the first two weeks, shown by insurance companies to be from 25 to 50 per cent, varying with the different trades, and by the registrar of friendly societies for the schemes he

had certified to be 39 per cent of the total cost, while dating compensation for disablements lasting two weeks back to the day of accident produced estimates of a somewhat less addition to the cost, the committee found no sufficient reason to justify them in recommending a departure from the principle of two weeks' immunity deliberately adopted by the legislature.

ACTS OF STRANGERS.

Employers liable under the act being limited by section 7 (1) to "undertakers," with a view to prevention of the workmen's loss of benefits or evasion of employers' responsibility by subcontracting, it was found that section 4 of the act, which made the undertaker liable to subcontractors' men, might become a dangerous extension of liability if the act were changed to cover work being done off the premises of the undertaker (for instance, it might make a cloth manufacturer liable to the cloth dyers' men), and the committee recommended avoiding the extension of undertaker's liability away from his works.

It was also pointed out that while it was the intention of the act (sec. 4) that the undertaker should have an indemnity over against the actual employer of the injured man, technical interpretation of the wording of the act had precluded him in many cases from getting it, as in the case of railways, factories, mines, and quarries. The committee therefore recommended treating the undertaker more as a surety in any judgments rendered, etc., and making him, in fact, merely a guarantor of compensation payable by subcontractors.

ACT OF 1900.

This act, in adding agriculture, was different from the act of 1897 in that it attempted to exempt small employers and was not confined to trade or industry but extended to persons in private employment.

One difficulty found in the application of this act was the legal interpretation of the limitation of the act to employers who habitually employ one workman, and it was recommended that this be changed to "employ throughout the year at least one workman in agriculture;" it was also recommended that the casual laborer, including harvesters, etc., at hay time, be not covered. Another difficulty was that the small farmer did not insure, with consequent danger of ruin to him financially and failure to compensate his workmen.

PREVENTION OF ACCIDENTS.

As to the effect of the workmen's compensation act in the direction of the prevention of accident, the committee found it extremely difficult to estimate it.

The evidence of the chief inspector of factories showed that the act somewhat tended to eliminate the probability of recovering penalties for failures to guard machines, etc., owing to the fact that a provision in the act (the latter part of section 1 (5)) dealt with penalties and limited the amount of their payment to the injured workmen. Other evidence showed that there had been some tendency to make employees more careless.

On the other hand, a coal mining employers' association said that the act had resulted in a great diminution of real accidents, namely, serious cases, but that it had been accompanied by a great rise in obscure accidents, namely, cases like sprains and trivial accidents; and other testimony was to the effect that increased precautions to avoid accidents had resulted.

The committee, on the whole, came to the conclusion that the act had not had any marked or ascertainable effect one way or the other upon the safety of the workmen. They, however, recommended the repeal of the latter part of section 1 (5), as they did not consider there was any serious objection, where negligence caused an injury, to the injured workman receiving additional compensation by having a penalty, recovered under criminal enactment, paid over to him in whole or in part by the secretary of state.

BURDEN OF THE ACTS.

The committee took testimony as to the extent of the pecuniary burden resulting from the acts, with a view to seeing that no excessive burden was thrown on the employer, with consequent injury to the trade and ultimate loss to the workmen.

They expressed the opinion that employers might be reaping an advantage from having a defined obligation by law imposed on all employers, instead of trusting to moral obligations, which were met by some employers and not by others; that in some instances employers threw the burden on the consumer (as, for instance, they found stevedores to be including the cost in their contract prices); that when labor was unorganized it was sometimes directly thrown upon wages (which they suggested might be checked by extending legislation in line with the Truck acts). One of the members of the committee, Sir Benjamin Browne, had estimated that the act affected trade profits to the extent of reducing a 5 per cent profit on capital

to 4½ per cent, saying also that English manufacturers had so much competition with foreign trade that it would restrict employment and fall, as permanent burdens do, on workmen. The committee, however, believed from the evidence submitted that so far as employers were concerned their chief desire seemed to be for greater certainty in their liability, as certainly made insurance premiums less, and they found that the steady growth of the burden of the permanent weekly payment benefits was a difficulty preventing employers arriving with certainty at the cost, as these necessarily go on accumulating year by year until the point is reached at which the number of new pensioners is balanced by the dropping off of the old.

COST OF THE ACTS.

The committee took the effect on the coal-mine industry as a crucial test of the act. In the evidence before them on the subject of cost one coal owners' mutual insurance association, which had been formed by the large coal owners in the north, after the passing of the act, testified that the cost of all the accidents in their mines had been 0.36d. (0.73 cent) per ton in 1899, increasing to 0.64d. (1.30 cents) in 1903, or a trifle over one-half of 1 per cent on wages in 1899, increasing to nearly nine-tenths of 1 per cent in 1903, the increase being attributed to the growth of the permanent weekly payments. The association itself paid for the cost of supervision and for all legal expenses, as well as for all disasters (accidents involving more than four deaths), and latter for all deaths, leaving the employers individually to pay for nonfatal cases. Another similar association in the Midlands gave similar evidence, namely, that their increase in cost was most marked in the accidents which fell into their classification of nonfatal cases over twenty-six weeks' duration. A similar Yorkshire association, covering 20,000,000 tons of coal raising yearly, testified that their actuary estimated on their experience that the cost, including medical, which was a trifle higher than the first association quoted, would, through the permanent allowances, go nearly as high as 1½ per cent of wages before reaching the maximum. And a South Wales association, covering 80,000 men, showed that the cost had risen from a little over one-half of 1 per cent on wages in 1900 to three-fourths of 1 per cent in 1903, attributable to the permanent allowances, with a guess that it might reach double the last figure. The committee therefore felt that the rapid growth of compensation in the coal industry, its uncertainty, and the liability to disasters in that trade were reasons for caution in materially increasing the benefits payable under the act.

One cotton-trade mutual insurance association, covering 40,000 work people, originally estimated the cost at one-eighth of 1 per cent on wages for weaving, and three-eighths of 1 per cent for spinning, but found that one-sixteenth of 1 per cent was adequate for weaving, and thought a little more than one-fourth of 1 per cent would suffice for spinning. The Master Cotton Spinners' Association, paying £3,000,000 (\$14,599,500) a year wages, which had estimated the cost of spinning up to one-half of 1 per cent, gave evidence showing a similar cost, though it had secured insurance at less.

A mutual builders' accident insurance company that "insured some thousands of firms," found without, however, reserving for permanent injuries, that the cost was one-half of 1 per cent. A large firm of building contractors courteously related their own experience. They stated that they transfer the cost to the purchaser in their contracts, and that they also protect themselves by contract with their subcontractors against claim by the subcontractors' men, though in practice the latter invariably proceed against the subcontractors.

Ratio of accidents to total workmen employed and of compensation to total wages paid by a firm of building contractors, 1901 to 1906.

Year.	Accidents.		Compensation for accidents.	
	Number.	Per cent of total workmen.	Amount.	Per cent of total wages paid.
1901	84	6.6	\$1,645	0.15
1902	72	4.8	3,601	.68
1903	84	5.4	3,256	.50
1904	114	7.8	4,034	.64
1905	133	8.2	5,358	.75
1906	94	6.6	7,412	1.19

As to the regular commercial insurance companies, the committee quoted especially the evidence of Mr. S. Stanley Brown, general manager of a leading company, who said that rates of insurance against accidents charged by an association of these insurance companies, which were at first based on the German and Austrian experiences, had been found too high, and in June,

1899, were reduced one-third, resulting in the percentage of rates on wages shown in the second column of the following table, while his own company's rates for December 31, 1903, are shown in the last column of the table. His company gives the average of all rates charged by them as nearly 1 per cent.

Rate per cent on wages imposed for insurance against accidents in various industries by an association of insurance companies in 1899 and by a leading commercial insurance company in 1903.

Industry.	Rate per cent on wages imposed by—	
	An association of companies, 1899.	A leading insurance company, 1903.
Builders, general	1.25	1.00
Contractors	1.67 to 2.38	1.20 to 2.50
Stevedores	2.38	2.38 to 10.00
Quarries	1.50	1.20
Engineers and iron smelting	1.00	.50 to 1.00
Textiles	.33	
Manufactures, light		.20
Manufactures, heavy		.55

The reports of the same insurance company show an almost steady yearly increase in the average cost of each accident settled, as follows:

Each death case cost £113 (\$550) during 1901, increasing to £117 (\$569) during 1905; each permanent disablement case cost £55 (\$268) during 1901, increasing to £87 (\$423) during 1905, and in 1906 to £97 (\$472); each temporary disablement case cost about £5 (\$24), with little fluctuation during the period.

The committee said that it was through such associations of masters and men, respectively, and the ordinary insurance companies that the financial burden was removed from the shoulders of the individual employer and distributed more or less equally throughout the trade.

The actual cost of the compensation acts to the different trades is not to be had officially, with one exception, that of railways. In the home office returns it is stated that the total amount paid by the railway companies as compensation under the act in the whole country was £118,849 (\$578,379) in 1899, £146,027 (\$710,640) in 1900, £153,928 (\$749,091) in 1901, £144,155 (\$701,530) in 1902, £155,495 (\$756,716) in 1903, and £162,155 (\$789,127) in 1904.

BANKRUPTCY OF EMPLOYER.

It was found that so far, owing to prosperous times and the act being limited to the larger employers, there had been little difficulty from this source; however, the committee felt that the danger of distress to workmen through it happening was very real and should be provided for, especially if the act were extended to cover small employers. They advocated substituting for the personal responsibility of the individual employer the security of a solvent insurance fund. The committee attached great weight to recommendations of statutory regulation of all insurance companies undertaking the risk, such as exist in America, etc., to provide against dangerous competition, and drew attention to the necessity of seriously considering a State or compulsory insurance, in some form or other; especially was this necessary to enable the workmen of the small employer to get his benefits, since through ignorance or inability his employer failed to insure in many instances.

The committee concluded that this evidence showed that the burden on employers had as yet not been excessive, but that it tended to increase. This suggested caution in legislation increasing it and especially in adding to its indefiniteness or uncertainty.

CHOICE OF REMEDIES AND LIABILITY OF EMPLOYER.

The committee reached the conclusion that the provisions of section 1 (2) (b) and (4), permitting choice of the remedies of suit under the employers' liability act of 1880, or common law, or proceeding under the workmen's compensation act, and also allowing the benefits under the latter to be assessed on failure of suit under the former, had worked largely to the disadvantage of both employers and workmen and were responsible for a large amount of illegitimate legislation, in that they had resulted in the illegitimate use or threat of use against the employer of the remedies at common law and under the employers' liability act of 1880, either for the purpose of benefiting the unscrupulous lawyers, who could thereby run up the costs, or for the purpose of improperly forcing settlement under the workmen's compensation act, and that the judge's power to assess the costs of an unsuccessful suit against the compensation under the workmen's compensation act was in practice rarely used and was therefore ineffective as a check. That this abuse had assumed somewhat extended proportions was shown in the fact that, according to Mr. Troup's testimony, in litigated cases in 1902 the cases under the employers' lia-

bility act amounted to about half the workmen's compensation cases in Scotland, as against one-third in England, and that the costs under the employers' liability act averaged £25 (\$121.66), as against £11 (\$53.53) under the workmen's compensation act.

A simple remedy for these abuses would have been to repeal the employers' liability act and common-law rights or consolidate them with the workmen's compensation act; however, while admitting that the testimony showed that the advantages to workmen were great of proceeding under the workmen's compensation act in preference to taking the risks, uncertainty, and costs of suit under the old remedies, they believed repeal of those old remedies was not justified, as there were cases where they were the more appropriate remedies, though they anticipated they would fall more and more into disuse.

Another suggestion considered was to grant higher benefits under the workmen's compensation act where there was much pain or suffering, disfigurement, extraordinary expenses of cure, or wrongful act or default of employer. This they believed would only be reenacting the employers' liability act as part of the workmen's compensation act and would be more of an incentive to attorneys to litigate in a larger number of cases, on the chance of securing the higher benefits than the existing election, which tended to prevent litigation somewhat.

Therefore, to prevent these abuses without preventing recourse to those old remedies in cases where they were really appropriate and at the same time without inflicting any real loss upon the workmen, the committee recommended the repeal of section 1 (4), which gave the court power to assess compensation after unsuccessful suit under the employers' liability act of 1880 or at common law and the adoption of provisions enabling employers to apply to the judge for a stay of any such suits (commenced or threatened) on evidence that the workman had an adequate remedy under the workmen's compensation act; also, that a plea to that effect might be made available as a defense to suits under the employers' liability act of 1880 or at common law.

This would leave it open to the court, if it thought the workmen's compensation remedy inadequate or that there was good ground for a suit at common law or under the employers' liability act of 1880, to refuse the application or, if it thought otherwise, to stop the suit.

DEFENSES OF FELLOW-SERVANT NEGLIGENCE, ASSUMPTION OF RISK, AND CONTRIBUTORY NEGLIGENCE.

The committee said that the principle of the workmen's compensation act was essentially different from that on which the old remedies were based, and that it had largely superseded the old remedies and would in future entirely supersede them; that it was, therefore, undesirable to bring those old remedies into more active operation, which would result from any attempt to abolish the doctrine of fellow-servant negligence, and so forth, and that so doing would open the flood gates to a stream of litigation without affording any more effective remedy than now provided by the workmen's compensation act. They therefore recommended leaving the common law and employers' liability act unchanged, on the expectation that they would gradually cease to be used.

The wisdom of this is illustrated by the home office returns of the figures for death, which is more likely to result in suit than less serious injury, given in the following table:

Average damages in case of death under employers' liability act and average compensation under workmen's compensation acts, 1899 to 1904.

Year.	Employers' liability act.		Workmen's compensation acts.	
	Cases of death.	Average damages.	Cases of death.	Average compensation.
1899.....	14	\$556.18	219	\$842.29
1900.....	7	772.94	245	785.37
1901.....	9	436.77	301	916.75
1902.....	8	561.55	264	817.59
1903.....	14	*1,198.44	323	880.84
1904.....	9	575.54	451	864.03

* Including two cases of special damages.

The average amount of lawyers' costs was approximately £25 (\$122) under the employers' liability act and £13 (\$63) under the workmen's compensation act.

ARBITRATION AND LITIGATION.

The committee inquired as to how far criticism of the act was justified on the score of litigation and how far it was due to preventable causes.

They found that the vast majority of cases were settled by agreement, without litigation.

Secretaries of the leading trade unions gave details showing that many unions had all accidents reported, and settled the

bulk of the cases for the men without any cost, and that some cases of difficulty were settled by their lawyers. The use of lawyers varied somewhat in the different trades, as did the arbitration and court cases, the latter being covered in most trades by 5 to 10 per cent of the cases. In the South Wales Miners' Federation (130,000 men) the number of court cases was said to be "infinitesimally small," and then were cases only where a question of principle existed to be settled, or a dispute as to facts, although there had been several disasters in the trade. Employers' associations and mutual insurance associations corroborated the trades union testimony that 95 per cent of the cases were settled out of court. Other insurance societies and two leading railways said that only 1½ per cent of claims were arbitrated, the rest being settled by agreement. The secretary of the Cotton Trades' Insurance Association (formed after the 1897 act) said that his practice was to settle with the trades union secretaries; that he had only 1 per cent of cases in court, and that only two cases had been brought under the employers' liability act of 1880, and those in the first year of the association's existence; that it was in the nonunion trades that men went to attorneys, who ran up the costs.

The limitations of employment covered by the acts were found to be responsible for most of the litigation. In 1902 forty-three appeals out of ninety-five turned on the question as to whether the employment was or was not within the act. The committee felt that the inclusion of all building operations under the act, even the small builders, would obviate litigation arising out of the limit to over 30 feet in height, the requirement of scaffolding and the employment of machinery, etc., and that the removal of the 20 feet deep limit from quarries and the removal of the special requirements as to laundries would also obviate litigation.

Definitions which had also caused litigation were considered, such as "accidents arising out of and in the course of the employment." No change as to these was recommended, however, as they had been so often judicially passed on and were best left to the courts. The committee had no recommendation to make as to factories proper, railways, or mines. As to constructive factories, although the House of Lords' decisions had modified the difficulties as to loading and unloading on docks, the committee recommended that employment on docks, wharves, quays, and warehouses be specifically stated in the act, covering also the incidental machinery or plant, and they recommended a change in the definition of engineering.

The committee drew especial attention to the fact that in the one district (the Durham coal mining district) where under second schedule (1) a committee of employers and men had been formed and exercised their statutory power of arbitration, a most excellent example of satisfactory reduction of litigation was shown. It resulted in the benefits being paid automatically, even the committee having, during five years, to pass only on 205 cases out of 28,000 nonfatal cases and on 204 out of 664 fatal cases, while of these only 29 nonfatal and 27 fatal cases were taken into court, and some of those were accidents in which the men's own committee told them they had no case.

ARBITRATION PROVISIONS.

It was found that the arbitration by the system of committee of employer and workman (second schedule (1)), which, however, had not been extensively used, had been most successful where used, practically rendering the operation of the act automatic, nor was there any complaint of the provision (2), that the parties appoint a single arbitrator. But the provisions (2) and (3) for use of the county-court judge or his appointee as arbitrator, had resulted in the arbitrations thereunder being practically county-court trials somewhat simplified; however, no recommendation was made to change that.

A strong recommendation of change was, however, directed to the clause (second schedule (8)) as to registration of memoranda of agreements, with a view to controlling the agreements made; it took the form of placing a duty on the employer to register them, empowering the court to enforce a penalty for failure to do so, and rendering them, if unregistered, unavailable as a defense to future claim for weekly payments.

APPEALS.

The creation of a special court (two county-court judges and one permanent judge) to hear appeals on both law and fact, with appeals therefrom to both the court of appeals and the House of Lords, was suggested by Mr. Ruegg, in order to obviate the delay of appeals, and bring the different county court decisions more into harmony. The committee, however, recommended that no appeal be allowed on questions of fact, and no change be made except in the direction of unification of decisions on law, by permitting appeal on law to the House of Lords from both Scotland and Ireland, the chief dispute on fact being as to serious and willful misconduct, which was dealt

with by the arbitrator. Greater facility of appeal would, they believed, add to delay and expense.

DOCTORS.

As the clauses of the act dealing with doctors (first schedule (3), (11), and second schedule (13) made provision for calling in the official medical referee in arbitration proceedings only after the other medical testimony had been heard, practically no use was made of him, nor was he much used when a review of compensation being paid was contemplated, as then it was only optional with the workman to go to him at his own expense. The committee therefore recommended that the medical referee should be used at a much earlier stage; that after the examination by the employer's doctor, the result should be communicated to the workman, in order that the workman might then be examined by his own doctor, and if a dispute existed, it should then and there be submitted to the medical referee before the disputed case goes to court, and that his decision should be final for any subsequent proceedings. One modification, however, was suggested for new accidents, namely, of leaving to the discretion of the registrar, after the reports of both the doctors of the employer and the workman had been filed with him, the question of using the medical referee.

It was thought advisable to leave the judge his power of summoning the medical referee to sit with him as assessor in the actual trial if a case reached the court.

It was further suggested that the medical referee should have the duty of giving employment certificates as to aged, infirm, or maimed persons for their special rate of compensation, which the committee had recommended.

As to the position of the medical referee himself, it was strongly urged that he should be a public officer rather than a medical man in practice, paid by salary, not by fees. In other words, a civil servant in the permanent civil service—one to act for each district, and to prevent making him a partisan by his employment either by one side or the other, that he should have his salary paid by the State.

The committee found that where the organization of the master and men was most complete there was the least amount of litigation, the workmen who had no organization to resort to necessarily having to call in the assistance of lawyers. They concluded that authoritative decisions being necessary the actual litigation produced by the act had been very small, and they felt that providing more effective machinery for settling doubtful questions and increasing the functions of the medical referee would further reduce it.

From the official figures of the proportion of cases that reach the courts, it will be seen that in the home-office statistics for 1904 it is stated that even in cases of death (including cases finally settled out of court, and also those in court solely to apportion benefits among beneficiaries) not 25 per cent came in anyway before the courts, while probably less than 1 per cent of incapacity cases did.

COMPENSATION PAYABLE—THE BENEFICIARIES.

As to the persons entitled to receive compensation, though the definition of workman in the act was wide (covering all employees, whether in manual labor or otherwise, etc.), the committee recommended the inclusion of brother and sister in the beneficiaries, in addition to descendants and ancestors (i. e., the English definition of dependents). This was opposed by employers, who said it would tend to increase their difficulty, in that they now had to pay compensation exceeding what was necessary for the support of dependents, as, for instance, to pay a father earning good wages for the death of a son, provided as a fact the son contributed slightly to the family fund.

Aliens killed or injured within the United Kingdom have the same right of recovery (as have their beneficiaries while resident also) that British subjects have under the act. The committee, however, recommended that the act be made not to extend to beneficiaries who are nonresident aliens, or to beneficiaries who are nonresident British subjects, so as to obviate difficulty in determining the liability involved.

DEATH BENEFITS.

The committee found little criticism, when the deceased left persons wholly dependent, of the amount of the limits payable—minimum £150 (\$730), maximum £300 (\$1,460)—and concluded they had been found satisfactory in practice, and though they found some complaint from employers of decisions as to what constituted partial dependency and awards that disregarded consideration of whether such dependency was for necessities or not, they concluded that no change in that definition was desirable.

INCAPACITY BENEFITS.

Interpretation of the courts as to what constituted average weekly earnings resulted at one time in excluding all casual labor, through the difficulty of reaching an average for a man

employed spasmodically, casual labor covering not only men employed for a job, but large classes, like dock labor. Although the House of Lords reversed this decision, the committee recommended that the duty of "estimating" the injured man's own earnings should be placed upon the judge, guided somewhat by the standard of the district for like employment (as provided by the employers' liability act of 1880), instead of taking the district standard of wages alone, though the latter would be a simpler method. They also recommended an amendment to base it on the net and not on the gross earnings, as the latter often included pay for helpers, tools, etc.

LUMP-SUM PAYMENTS.

Evidence submitted showing the squandering and loss of lump sums paid to widows and the advantage to them and to children of weekly payments in lieu of lump sums, as well as evidence showing the cost to the employer in getting valid releases, led the committee to recommend more elasticity in the powers conferred on the arbitrator in this regard under first schedule (6) by payment of the money into court by the employer and granting the arbitrator a voice in the method of distribution. They recommended that the mode of payment be settled in each case by the county court judge, with power to reduce the amount of any weekly payment to a widow on remarriage, neglect of children, etc., and to decide on the amount, time, and mode of payments to beneficiaries other than the widow, using the office of the county court as the machinery for that purpose whether the amount and compensation was settled by agreement or otherwise.

OFFICIAL COUNTY COURT RETURNS.

The official returns of cases under the workmen's compensation acts, dealt with by county court judges, and their arbitrators in England and Wales, show that in the six years, 1899 to 1904, the average award for deaths where there were dependents varied from £163 8s. 9d. (\$795.37) to £188 7s. 7d. (\$916.75); for total incapacity, from 10s. 11d. to 12s. 2d. (\$2.66 to \$2.96) per week, and for partial incapacity, from 9s. 2d. to 10s. 9d. (\$2.23 to \$2.62) per week, while in 1894 the average lump-sum award for incapacity was £34 12s. 8d. (\$168.54), there being in that year 105 lump-sum against 650 weekly-payment awards.

MINORS.

Both employers and workmen agreed that one-half wages paid to minors permanently injured had proved to be often insufficient compensation. Proposals were made to consider, in fixing compensation, the full wages earned by the highest-grade workmen in the same employ; to fix a higher scale than one-half wages—say full wages; to fix a minimum of 10s. (\$2.43), with power to increase that on reaching 21 years of age. The committee recommended fixing a maximum and leaving it to the discretion of the judge to assess an amount up to that maximum.

OLD MEN AND MAIMED AND DISEASED PERSONS.

The committee found from extended evidence of both employers and workmen that the acts had largely increased the difficulty already existing of old men getting and retaining employment. They found further that employers were being compelled to discharge persons maimed, as, for instance, one-eyed men, and to refuse to reemploy them after accident. While the case of *Lysons v. Knowles* (1 Q. B., 780; 69 L. J. Q. B., 449; 82 L. T., 189), decided by the House of Lords, finally settled that casual labor was not excluded from the act, it was felt, too, that this decision would further operate to bar old men from employment.

This the committee considered to be such a serious drawback to the other advantages of the act that they recommended amendments to be made enabling employers to hire such persons upon special terms as to compensation for accidents, and they suggested an age limit of 60 as desirable if hale, and under that age if infirm or maimed, to which the amendment should apply, with a minimum compensation of 5s. (\$1.22) a week for injury and £25 (\$121.66) for death.

COMMUTATION OF BENEFITS.

The evidence showed that in practice the employer's right under first schedule (13) to apply for a redemption by arbitration of weekly payments by a lump sum was rarely used; that few agreements for commutation were registered even under second schedule (8), but that great numbers of unregistered commutations had actually taken place by voluntary agreement. The latter permitted the defense of accord and satisfaction to subsequent claim for weekly payments. These commutations were often made at figures very much below what the weekly benefits justified, and in many cases were improvident and also oppressive settlements, brought about by improper pressure on the workmen. Though it was found undoubtedly advantageous to workmen, as well as masters, that

commutation should be possible, the committee said that better control over it should be adopted. They considered that the evidence showed it would be disadvantageous to give the workman a right to demand a commutation, as likely to increase the evils attendant on lump-sum payment generally, but in order to render the principle of compulsory commutation workable, if demanded by the masters, the committee recommended the adoption of a maximum limit on the amount of commutation of £500 (\$2,433), and urged, after making the obligation to register commutations stringent by rendering an unregistered agreement inoperative, and so forth, also the giving of discretion to the registrar as to registering, and to the judge as to reopening an entry within six months for fraud or undue influence.

REVIEW OF AWARD.

The difficulty arose of determining, under first schedule (2) and (12), when and to what extent the compensation granted should be reduced.

From the workmen's standpoint, as they got only one-half of their loss to begin with, it was advocated and decided by some judges that this one-half wage compensation allowance should not be reduced until they could again earn full wages, and that no reduction of compensation should take place so long as what they earned, while partially incapacitated, added to the compensation allowed, was not more than their full wages before the accident. Other judges divided the loss, holding that the difference between their partial earnings and their full wages should be divided, the employer bearing one-half the loss and the workman bearing one-half. The committee recommended a more explicit clause adopting the latter mode, thus making the workman share the loss with the employer.

The test of earning capacity had proved to be another difficulty, as, for instance, to determine whether a man who had lost one eye was incapacitated, and so forth. It was suggested that in the highly organized trades something approaching a tariff for injuries might ultimately be agreed on, apart from parliamentary enactment. The committee thought earning capacity, not only at the same kind of work as before the accident, but at any kind of work, should suffice, and strongly recommended clearer enactment. They advocated bringing the medical representatives of employer and workman together at an earlier stage, with the official medical referee as arbiter.

As to increase of weekly payments, it was found that in practice the maximum payment had been so universally allowed that the provision for increase had become unimportant.

NOTICE OF ACCIDENT AND CLAIM.

The requirement in section 2 (1) for notice of accident as soon as practicable after the happening thereof caused laxness in practice and resulted in employers' complaints that it failed to attain the object of enabling them to verify the facts and ascertain the nature and extent of the injury. The committee recommended a limit of six days for notice. As to the claim for compensation, the House of Lords had decided that a mere demand was sufficient to entitle the workman at any time thereafter to institute proceedings. The committee recommended that a written notice of claim be required in three months after the accident. After the expiry of these periods, however, they recommended that leave be given to the workman to file a sworn statement before the registrar showing sufficient reason for the necessary steps not having been taken within the limited time, that notice of this action be served on the employer, and if the latter should object to waiving notice that the registrar should refer the matter for decision of the judge.

CONTRACTING OUT.

As to the effect on mutual benefit and friendly societies, the committee found that where these were supported jointly by the workmen and employers such schemes had been practically put an end to by the act, except in those cases where schemes were framed under section 3 of the act, through the discontinuance of employers' contributions. They found, however, that in some cases voluntary arrangements continued unaffected by the act, where employers were already providing benefits on a more liberal scale than the act, and that workmen's benefit clubs, which were entirely supported by the workmen, continued. There was evidence submitted that through these benefit funds, and so forth, workmen sometimes received more when disabled than if working.

The committee, in considering the contracting out of the act by contracting into definite schemes under section 3, found that, owing to the expense and trouble such schemes entail on both employers and workmen, no extensive use had been made of the section, and they also found that under those schemes which had been certified under the section, the actual payments exceeded the maximum that the act would have paid by

75 per cent, 65 per cent of that excess being pay for the first two weeks not covered by the act. Both workmen's and employers' representatives testified that the schemes, being based on the active cooperation of and being jointly administered by masters and workmen, brought special advantages over the act provisions, such as permitting provision for minor accidents, allowances for old age, and annuities instead of lump sums. They testified that the schemes led to prevention of accident, to litigation being reduced to a minimum, and to good feeling being promoted.

Mr. J. D. Stuart Sim, the chief registrar of friendly societies, characterizes section 3 as a splendid opportunity for regulating the relations between workmen and masters in a thoroughly satisfactory manner and on a sound financial basis; while Sir George Livesey, the chairman of the extensive South Metropolitan Gas Company, has succeeded in demonstrating the practicability of such a regulation in his ten years' operation of a successful copartnership arrangement with all employees, one feature of which is his jury system, namely, having all accidents in his plants submitted to a jury of workmen, resulting in a large reduction of accidents, which feature was specially commended by the committee, who thoroughly indorsed the fact that the above advantages from the section existed, and recommended that it remain practically unchanged.

The following is a summary of receipts and expenditures of workmen's compensation schemes authorized by the registrar of friendly societies, under the workmen's compensation acts of 1897 and 1900, for the seven years from 1898 to 1905:

Summary of receipts and expenditures of workmen's compensation schemes authorized by the registrar of friendly societies under the workmen's compensation act for the seven-year period, 1898 to 1905.

[From Report of the Chief Registrar of Friendly Societies for the year ending December 31, 1905, Part A.]

Items.	Rail-ways.	Facto-ries.	Mines.	Quarries.	Total.
Number of schemes.....	2	24	28	2	56
Average number of workmen contracting out.....	38,491	21,100	58,638	861	119,090
RECEIPTS.					
Contributions of—					
Workmen.....	\$296,185	\$107,054	\$995,238	\$6,370	\$1,404,847
Employers.....	578,918	221,295	1,334,944	12,025	2,147,182
Interest on investments.....		8,453	95,846	389	104,688
Other receipts.....		1,649	14,600	862	17,111
Total receipts.....	875,103	338,451	2,440,628	19,646	3,673,828
EXPENDITURES.					
Benefits for death from—					
Injury.....	237,101	41,589	231,475	501	510,666
Natural causes.....		1,402	23,247	117	24,766
Benefits for incapacity:					
Weekly payments.....	542,668	138,067	928,684	7,018	1,616,437
Lump-sum payments.....	70,482	17,534	71,153	365	159,534
Medical aid.....		11,811	99,590	2,681	114,022
Subscriptions to hospitals, etc.....		4,088	13,003	453	17,544
Other benefits.....	4,194	40,344	130,680	1,309	176,527
Law costs.....		516	6,341		6,857
Other payments.....		23,125	38,684	3,129	64,938
Management expenses.....		4,526	169,004	978	174,508
Total.....	854,445	283,002	1,711,801	16,551	2,865,799
Funds on hand at end of period.....	20,658	70,725	804,700	6,993	903,076

SCHEME ADOPTED BY GOVERNMENT EMPLOYEES.

Following are the benefits under the scheme authorized by the registrar of friendly societies for Government establishments:

For death of a workman leaving dependents wholly dependent, three years' earnings, or not less than £150 (\$729.98) nor more than £300 (\$1,459.95), payable to the dependents or to a trustee; if the dependents are only in part dependent, one-half of the above; if there are no dependents, not more than £10 (\$48.67), for medical attendance and burial. In the discretion of the treasury, a portion of the lump sum payable, up to one-half if there is one dependent child or up to two-thirds if there are more than one, may be set aside, and a pension equal to the annuity which the remainder of the lump sum would purchase granted to the widow or mother.

For incapacity, up to six months, one-half the average wages and hospital or medical attention while the beneficiary is on the hurt list, but "more favorable treatment while on the hurt list" if he is entitled to this under the regulations of his department.

For incapacity beyond six months, the following proportions of his average weekly earnings, according to degree of inca-

capacity: Capacity totally destroyed, twenty-four-sixtieths of his earnings; materially impaired, eighteen-sixtieths; impaired, twelve-sixtieths; slightly impaired, six-sixtieths. If he continues in or returns to the Government service after the injury, the above allowance to be paid in addition to the earnings he then receives, up to the average full earnings before the injury, with periodical adjustments as sanctioned by the treasury. If he leaves the service and is entitled to a pension, the above allowance to be added to the pension, provided both together shall not exceed his earnings at time of injury or £300 (\$1,459.95) a year, whichever is the less.

If the workman is a minor, the above compensation may be increased, in the discretion of the treasury, upon his reaching the age when in ordinary circumstances the pay of an adult workman would be granted him.

Commutation of allowance to a single payment may be made on agreement between the workman and the authorities of the department, with sanction of the treasury.

A claim for an injury which occurred more than three years before such claim was preferred can not be entertained unless such injury caused the applicant's discharge from the service or diminished his prospects for future employment.

BENEFICIAL EFFECT OF THE ACT.

As regards workmen, the committee found that the acts had conferred substantial benefits on those included in them; that prior to them practically the whole burden of industrial accident had fallen on the workmen, and it was right and necessary that some systematic provision for relief by law should be provided; that the act gave substantial relief, not complete indemnity, and there was little complaint from workmen of the limitation to one-half wages and other maximum limits in them.

Personal inquiry by the author concerning the practical workings of the act made during 1906 of Government officials, of employers, and of representatives of labor disclosed a unanimity of opinion that the principle of the act was sound, the extent to which it should be carried being the only question. The act was said to have proved a great boon to the workmen covered by it, labor strongly advocating its extension, while employers generally accepted it. In the building trades the secretary of one of the conciliation boards of a large master builders' association said that the principle was accepted by employers; that the burden was transferred to the building owner and not to wages, which had risen; that the act had tended to prevention of accident, as it had stimulated employers to have better plans; that it had reduced litigation, which was largely confined to nonunion workmen. In the cotton trade a gentleman who was thoroughly informed as to its effect on that trade said that there had been no risk of injury to the trade through the burden of the act; that it had not, however, fallen on wages, which had increased 10 per cent; that the act had operated strongly as a prevention of accident, the monetary liability for every accident, as well as the trade mutual insurance inspection, conducting thereto; that it had caused a large reduction in negligence claims, and that litigation on test cases under the act had practically disappeared, so that friction was reduced to a minimum, while the administration cost nothing, as no lawyers were necessary. As regards railways, an influential employees' organization said that the principle was regarded as absolutely just and valuable to the recipients of the benefits and had kept many from the poorhouse; that the burden was generally conceded to have been transferred to the public; that it did not come out of wages, which had increased (only reaching them to the extent of 25 per cent of the compensation paid in unorganized trades); that litigation on questions of law had now practically disappeared, most cases being settled without even arbitration, and that arbitration cost little, generally under £5 (\$24.33) a case; that the act had tended to prevent accidents, owing to expense now arising for every accident; moreover, that there had been no case of deliberate self-injury on railroads. A representative of the coal miners corroborated the fact that all labor was in favor of the act and illustrated the almost automatic working of it in the case of the Durham miners.

The parliamentary attitude toward workmen's compensation is shown by the fact that the compensation act of 1897 had been introduced and passed by the Conservative party, while, in 1906, the opposite party, then in power—the Liberal party—introduced and passed an amending bill, extending the principles of the act to practically every relation of master and servant, and adding thereto compensation for certain specified trade diseases. The act of 1906 becomes operative after July 1, 1907. The text of this act is given in full in this bulletin.

Laws of a similar character to the workmen's compensation acts have superseded the negligence basis for treatment of industrial accidents in almost all the countries of Europe, as well

as in the colonies of England. However, when it is remembered that England is a free-trade country, with consequent difficulty in transferring the burden of the act to their foreign consumers, their nine years' experience of the satisfactory working of it is the strongest possible argument in favor of the feasibility of such legislation. Considering the overwhelming extent to which the energies of this country are directed into mechanical industry and the high ratio of accident to population therefrom, entailing such widespread hardship through the haphazard treatment of each accident on the negligence basis, with its result of serious injustice in so many cases to employer and workmen alike, as well as the enormous waste of energy and money in the ever-increasing volume of personal-injury litigation, which clogs our courts, it is manifest that the subject requires the earnest and careful consideration of serious people. Nor is it unlikely that the principle of a wise and practical step toward the solution of this difficult, but most important, subject may be found in the British workmen's compensation acts.

WORKMEN'S COMPENSATION ACT, 1897.

Following is the text of the workmen's compensation act, 1897, and of the workmen's compensation act, 1900, which extends the benefits of the act of 1897 to workmen in agriculture: An act to amend the law with respect to compensation to workmen for accidental injuries suffered in the course of their employment [6th August, 1897].

Be it enacted by * * * Parliament assembled, and by the authority of the same, as follows:

1.—(1) If in any employment to which this act applies personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the first schedule to this act.

(2) Provided that:

(a) The employer shall not be liable under this act in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed;

(b) When the injury was caused by the personal negligence or willful act of the employer, or of some person for whose act or default the employer is responsible, nothing in this act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this act, or take the same proceedings as were open to him before the commencement of this act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this act, and shall not be liable to any proceedings independently of this act, except in case of such personal negligence or willful act as aforesaid;

(c) If it is proved that the injury to a workman is attributable to the serious and willful misconduct of that workman, any compensation claimed in respect of that injury shall be disallowed.

(3) If any question arises in any proceedings under this act as to the liability to pay compensation under this act (including any question as to whether the employment is one to which this act applies), or as to the amount or duration of compensation under this act, the question, if not settled by agreement, shall, subject to the provisions of the first schedule to this act, be settled by arbitration, in accordance with the second schedule to this act.

(4) If, within the time hereinafter in this act limited for taking proceedings, an action is brought to recover damages independently of this act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff shall so choose, proceed to assess such compensation, and shall be at liberty to deduct from such compensation all the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this act.

In any proceeding under this subsection, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this act.

(5) Nothing in this act shall affect any proceeding for a fine under the enactments relating to mines or factories, or the application of any such fine, but if any such fine, or any part thereof, has been applied for the benefit of the person injured, the amount so applied shall be taken into account in estimating the compensation under this act.

2.—(1) Proceedings for the recovery under this act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death. Provided always that the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings, if it is found in the proceedings for settling the claim that the employer is not prejudiced in his defense by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake or other reasonable cause.

(2) Notice in respect of an injury under this act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

(4) The notice may also be served by post by registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in prov-

ing the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered.

(5) Where the employer is a body of persons corporate or unincorporate, the notice may also be served by delivering the same at or by sending it by post in a registered letter addressed to the employer at the office, or, if there be more than one office, any one of the offices of such body.

3.—(1) If the registrar of friendly societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, is on the whole not less favorable to the general body of workmen and their dependents than the provisions of this act, the employer may, until the certificate is revoked, contract with any of those workmen that the provisions of the scheme shall be substituted for the provisions of this act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this act shall apply notwithstanding any contract to the contrary made after the commencement of this act.

(2) The registrar may give a certificate to expire at the end of a limited period not less than five years.

(3) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring.

(4) If complaint is made to the registrar of friendly societies by or on behalf of the workmen of any employer that the provisions of any scheme are no longer on the whole so favorable to the general body of workmen of such employer and their dependents as the provisions of this act, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the registrar shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires any moneys or securities held for the purpose of the scheme shall be distributed as may be arranged between the employer and workmen, or as may be determined by the registrar of friendly societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the registrar of friendly societies.

(7) The chief registrar of friendly societies shall include in his annual report the particulars of the proceedings of the registrar under this act.

4. Where, in an employment to which this act applies, the undertakers as hereinafter defined contract with any person for the execution by or under such contractor of any work, and the undertakers would, if such work were executed by workmen immediately employed by them, be liable to pay compensation under this act to those workmen in respect of any accident arising out of and in the course of their employment, the undertakers shall be liable to pay to any workman employed in the execution of the work any compensation which is payable to the workman (whether under this act or in respect of personal negligence or willful act independently of this act) by such contractor, or would be so payable if such contractor were an employer to whom this act applies.

Provided that the undertakers shall be entitled to be indemnified by any other person who would have been liable independently of this section.

This section shall not apply to any contract with any person for the execution by or under such contractor of any work which is merely ancillary or incidental to and is no part of or process in the trade or business carried on by such undertakers respectively.

5.—(1) Where any employer becomes liable under this act to pay compensation in respect of any accident, and is entitled to any sum from insurers in respect of the amount due to a workman under such liability, then, in the event of the employer becoming bankrupt or making a composition or arrangement with his creditors, or if the employer is a company of the company having commenced to be wound up, such workman shall have a first charge upon the sum aforesaid for the amount so due, and the judge of the county court may direct the insurers to pay such sum into the Post-Office Savings Bank in the name of the registrar of such court and order the same to be invested or applied in accordance with the provisions of the first schedule hereto with reference to the investment in the Post-Office Savings Bank of any sum allotted as compensation, and those provisions shall apply accordingly.

(2) In the application of this section to Scotland, the words "have a first charge upon" shall mean "be preferentially entitled to."

6. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the workman may, at his option, proceed either at law against that person to recover damages or against his employer for compensation under this act, but not against both, and if compensation be paid under this act, the employer shall be entitled to be indemnified by the said other person.

7.—(1) This act shall apply only to employment by the undertakers as hereinafter defined, on or in or about a railway, factory, mine, quarry, or engineering work, and to employment by the undertakers as hereinafter defined on, in, or about any building which exceeds 30 feet in height, and is either being constructed or repaired by means of a scaffolding, or being demolished, or on which machinery driven by steam, water, or other mechanical power is being used for the purpose of the construction, repair, or demolition thereof.

(2) In this act—

"Railway" means the railway of any railway company to which the regulation of railways act, 1873, applies, and includes a light railway made under the light railways act, 1896; and "railway" and "railway company" have the same meaning as in the said acts of 1873 and 1896;

"Factory" has the same meaning as in the factory and workshop acts, 1878 to 1891, and also includes any dock, wharf, quay, warehouse, machinery, or plant to which any provision of the factory acts is applied by the factory and workshop act, 1895, and every laundry worked by steam, water, or other mechanical power;

"Mine" means a mine to which the coal mines regulation act, 1887, of the metalliferous mines regulation act, 1872, applies;

"Quarry" means a quarry under the quarries act, 1894;

"Engineering work" means any work of construction or alteration or repair of a railroad, harbor, dock, canal, or sewer, and includes any other work for the construction, alteration, or repair of which machinery driven by steam, water, or other mechanical power is used;

"Undertakers" in the case of a railway means the railway company; in the case of a factory, quarry, or laundry means the occupier thereof within the meaning of the factory and workshop acts, 1878 to 1895; in the case of a mine means the owner thereof within the meaning of the coal mines regulation act, 1887, or the metalliferous mines regulation act, 1872, as the case may be, and in the case of an engineering work means the person undertaking the construction, alteration, or repair; and in the case of a building means the persons undertaking the construction, repair, or demolition;

"Employer" includes any body of persons, corporate or unincorporate, and the legal personal representative of a deceased employer;

"Workman" includes every person who is engaged in an employment to which this act applies, whether by way of manual labor or otherwise, and whether his agreement is one of service or apprenticeship or otherwise, and is expressed or implied, is oral or in writing. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependents or other person to whom compensation is payable;

"Dependents" means—

(a) In England and Ireland, such members of the workman's family specified in the fatal accidents act, 1846, as were wholly or in part dependent upon the earnings of the workman at the time of his death; and

(b) In Scotland, such of the persons entitled according to the law of Scotland to sue the employer for damages or solatium in respect of the death of the workman as were wholly or in part dependent upon the earnings of the workman at the time of his death.

(3) A workman employed in a factory which is a shipbuilding yard shall not be excluded from this act by reason only that the accident arose outside the yard in the course of his work upon a vessel in any dock, river, or tidal water near the yard.

8.—(1) This act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to any employment by or under the Crown to which this act would apply if the employer were a private person.

(2) The treasury may, by warrant laid before Parliament, modify for the purposes of this act their warrant made under section 1 of the superannuation act, 1887, and notwithstanding anything in that act, or any such warrant, may frame a scheme with a view to its being certified by the registrar of friendly societies under this act.

9. Any contract existing at the commencement of this act whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment shall not, for the purposes of this act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this act.

10.—(1) This act shall come into operation on the 1st day of July, 1898.

(2) This act may be cited as the workmen's compensation act, 1897.

SCHEDULES.

FIRST SCHEDULE.

SCALE AND CONDITIONS OF COMPENSATION.

Scale.

(1) The amount of compensation under this act shall be—

(a) Where death results from the injury—

(i) If the workman leaves any dependents wholly dependent upon his earnings at the time of his death, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of £150 (\$729.98), whichever of those sums is the larger, but not exceeding in any case £300 (\$1,459.95), provided that the amount of any weekly payments made under this act shall be deducted from such sum, and if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be 156 times his average weekly earnings during the period of his actual employment under the said employer;

(ii) If the workman does not leave any such dependents, but leaves any dependents in part dependent upon his earnings at the time of his death, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this act, to be reasonable and proportionate to the injury to the said dependents; and

(iii) If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding £10 [48.67];

(b) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity after the second week not exceeding 50 per cent of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed £1 [\$4.87].

(2) In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is able to earn after the accident, and to any payment not being wages which he may receive from the employer in respect to his injury during the period of his incapacity.

(3) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and any proceeding under this act in relation to compensation, shall be suspended until such examination takes place.

(4) The payment shall, in case of death, be made to the legal personal representative of the workman, or, if he has no legal personal representative, to or for the benefit of his dependents, or, if he leaves no dependents, to the person to whom the expenses are due; and if made to the legal personal representative shall be paid by him to or for the benefit of the dependents or other person entitled thereto under this act.

(5) Any question as to who is a dependent, or as to the amount payable to each dependent, shall, in default of agreement, be settled by arbitration under this act.

(6) The sum allotted as compensation to a dependent may be invested or otherwise applied for the benefit of the person entitled thereto, as agreed, or as ordered by the committee or other arbitrator.

(7) Any sum which is agreed or is ordered by the committee or arbitrator to be invested may be invested in whole or in part in the Post-Office Savings Bank by the registrar of the county court in his name as registrar.

(8) Any sum to be so invested may be invested in the purchase of an annuity from the national debt commissioners through the Post-Office Savings Bank, or be accepted by the Postmaster-General as a deposit in the name of the registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings bank, and the declaration to be made by a depositor, shall not apply to such sums.

(9) No part of any money invested in the name of the registrar of any county court in the Post-Office Savings Bank under this act shall be paid out, except upon authority addressed to the Postmaster-General by the Treasury or by the judge of the county court.

(10) Any person deriving any benefit from any moneys invested in a post-office savings bank under the provisions of this act may, nevertheless, open an account in a post-office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

(11) Any workman receiving weekly payments under this act shall, if so required by the employer, or by any person by whom the employer is entitled under this act to be indemnified, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, or such other person; but if the workman objects to an examination by that medical practitioner, or is dissatisfied by the certificate of such practitioner upon his condition when communicated to him, he may submit himself for examination to one of the medical practitioners appointed for the purpose of this act, as mentioned in the second schedule to this act, and the certificate of that medical practitioner as to the condition of the workman at the time of the examination shall be given to the employer and workman, and shall be conclusive evidence of that condition. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(12) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this act.

(13) Where any weekly payment has been continued for not less than six months, the liability therefor may, on the application by or on behalf of the employer, be redeemed by the payment of a lump sum, to be settled, in default of agreement, by arbitration under this act, and such lump sum may be ordered by the committee or arbitrator to be invested or otherwise applied as above mentioned.

(14) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

(15) Where a scheme certified under this act provides for payment of compensation by a friendly society, the provisions of the proviso to the first subsection of section 8, section 16, and section 41 of the friendly societies act, 1896, shall not apply to such society in respect of such scheme.

(16) In the application of this schedule to Scotland the expression "registrar of the county court" means "sheriff clerk of the county," and "judge of the county court" means "sheriff."

(17) In the application of this act to Ireland the provisions of the county officers and courts (Ireland) act, 1877, with respect to money deposited in the post-office savings bank under that act shall apply to money invested in the post-office savings bank under this act.

SECOND SCHEDULE. ARBITRATION.

The following provisions shall apply for settling any matter which under this act is to be settled by arbitration:

(1) If any committee, representative of an employer and his workmen, exists with power to settle matters under this act in the case of the employer and workmen, the matter shall, unless either party objects, by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as hereinafter provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within three months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the county court judge, according to the procedure prescribed by rules of court, or if in England the lord chancellor so authorizes, according to the like procedure, by a single arbitrator appointed by such county court judge.

(3) Any arbitrator appointed by the county court judge shall, for the purposes of this act, have all the powers of a county court judge, and shall be paid out of moneys to be provided by Parliament in accordance with regulations to be made by the treasury.

(4) The arbitration act, 1889, shall not apply to any arbitration under this act, but an arbitrator may, if he thinks fit, submit any question of law for the decision of the county court judge, and the decision of the judge on any question of law, either on such submission, or in any case where he himself settles the matter under this act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the supreme court either party appeals to the court of appeal; and the county court judge, or the arbitrator appointed by him, shall, for the purpose of an arbitration under this act, have the same powers of procuring the attendance of witnesses and the production of documents as if the claim for compensation had been made by plaintiff in the county court.

(5) Rules of court may make provision for the appearance in any arbitration under this act of any party by some other person.

(6) The costs of and incident to the arbitration and proceedings connected therewith shall be in the discretion of the arbitrator. The costs, whether before an arbitrator or in the county court, shall not exceed the limit prescribed by rules of court, and shall be taxed in manner prescribed by those rules.

(7) In the case of the death or refusal or inability to act of an arbitrator, a judge of the high court at chambers may, on the application of any party, appoint a new arbitrator.

(8) Where the amount of compensation under this act shall have been ascertained, or any weekly payment varied, or any other matter decided, under this act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the said committee or arbitrator, or by any party interested, to the registrar of the county court for the district in which any person entitled to such compensation resides, who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and there-

upon the said memorandum shall for all purposes be enforceable as a county court judgment. Provided that the county court judge may at any time rectify such register.

(9) Where any matter under this act is to be done in a county court, or by to or before the judge or registrar of a county court, then, unless the contrary intention appears, the same shall, subject to rules of court, be done in, or by to or before the judge or registrar of, the county court of the district in which all the parties concerned reside, or if they reside in different districts the district in which the accident out of which the said matter arose occurred, without prejudice to any transfer in manner provided by rules of court.

(10) The duty of a county court judge under this act, or of an arbitrator appointed by him, shall, subject to rules of court, be part of the duties of the county court, and the officers of the court shall act accordingly, and rules of court may be made both for any purpose for which this act authorizes rules of court to be made, and also generally for carrying into effect this act so far as it affects the county court, or an arbitrator appointed by the judge of the county court, and proceedings in the county court or before any such arbitrator, and such rules may, in England, be made by the five judges of the county courts appointed for the making of rules under section 164 of the county courts act, 1888, and when allowed by the Lord Chancellor, as provided by that section, shall have full effect without any further consent.

(11) No court fee shall be payable by any party in respect of any proceeding under this act in the county court prior to the award.

(12) Any sum awarded as compensation shall be paid on the receipt of the person to whom it is payable under any agreement or award, and his solicitor or agent shall not be entitled to recover from him, or to claim a lien on, or deduct any amount for costs from, the said sum awarded, except such sum as may be awarded by the arbitrator or county court judge, on an application made by either party to determine the amount of costs to be paid to the said solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(13) The secretary of state may appoint legally qualified medical practitioners for the purpose of this act, and any committee, arbitrator, or judge may, subject to regulations made by the secretary of state and the treasury, appoint any such practitioner to report on any matter which seems material to any question arising in the arbitration; and the expense of any such medical practitioner shall, subject to treasury regulations, be paid out of moneys to be provided by Parliament.

(14) In the application of this schedule to Scotland—

(a) "Sheriff" shall be substituted for "county court judge," "sheriff clerk" for "county court," "action" for "plaint," "sheriff clerk" for "registrar of the county court," and "act of sederunt" for "rules of court."

(b) Any award or agreement as to compensation under this act may be competently recorded for execution in the books of council and session or sheriff court books, and shall be enforceable in like manner as a recorded decree arbitral.

(c) Any application to the sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by the fifty-second section of the sheriff courts (Scotland) act, 1876, save only that parties may be represented by any person authorized in writing to appear for them and subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by act of sederunt to require the sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either division of the court of session, who may hear and determine the same finally, and remit to the sheriff with instruction as to the judgment to be pronounced.

(15) Paragraphs 4 and 7 of this schedule shall not apply to Scotland.

(16) In the application of this schedule to Ireland the expression "county court judge" shall include the recorder of any city or town.

WORKMEN'S COMPENSATION ACT, 1900.
An act to extend the benefits of the workmen's compensation act, 1897, to workmen in agriculture [30th July, 1900].

Be it enacted by * * * Parliament assembled, and by the authority of the same, as follows:

1.—(1) From and after the commencement of this act, the workmen's compensation act, 1897, shall apply to the employment of workmen in agriculture by any employer who habitually employs one or more workmen in such employment.

(2) Where any such employer agrees with a contractor for the execution by or under that contractor of any work in agriculture, section 4 of the workmen's compensation act, 1897, shall apply in respect of any workman employed in such work as if that employer were an undertaker within the meaning of that act.

Provided that where the contractor provides and uses machinery driven by mechanical power for the purpose of threshing, ploughing, or other agricultural work, he, and he alone, shall be liable under this act to pay compensation to any workman employed by him on such work.

(3) Where any workman is employed by the same employer mainly in agriculture but partly or occasionally in other work, this act shall apply also to the employment of the workman in such other work.

The expression "agriculture" includes horticulture, forestry, and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of live stock, poultry, or bees, and the growth of fruit and vegetables.

2. This act may be cited as the workmen's compensation act, 1900, and shall be read as one with the workmen's compensation act, 1897, and that act and this act may be cited together as the workmen's compensation acts, 1897 and 1900.

3. This act shall come into operation on the 1st day of July, 1901.

BRITISH WORKMEN'S COMPENSATION ACT OF 1906.

In the following pages is given in full the text of the British workmen's compensation act of 1906, enacted December 21, 1906, to take effect July 1, 1907. It is given here to complete the record to date of British legislation in regard to the compensation of workmen for injuries received in their employment:

An act to consolidate and amend the law with respect to compensation to workmen for injuries suffered in the course of their employment [21st December, 1906].

Be it enacted by * * * Parliament assembled, and by the authority of the same, as follows:

1.—(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman,

his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the first schedule of this act.

(2) Provided that—

(a) The employer shall not be liable under this act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed.

(b) When the injury was caused by the personal negligence or wilful act of the employer, or of some person for whose act or default the employer is responsible, nothing in this act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this act or take proceedings independently of this act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this act, and shall not be liable to any proceedings independently of this act except in case of such personal negligence or wilful act as aforesaid.

(c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this act as to the liability to pay compensation under this act (including any question as to whether the person injured is a workman to whom this act applies), or as to the amount or duration of compensation under this act, the question, if not settled by agreement, shall, subject to the provisions of the first schedule of this act, be settled by arbitration, in accordance with the second schedule of this act.

(4) If, within the time hereinafter in this act limited for taking proceedings, an action is brought to recover damages independently of this act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this act. In any proceeding under this subsection, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this act.

(5) Nothing in this act shall affect any proceeding for a fine under the enactments relating to mines, factories, or workshops, or the application of any such fine.

2.—(1) Proceedings for the recovery under this act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death.

Provided always that—

(a) The want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defense by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United Kingdom, or other reasonable cause; and

(b) The failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the United Kingdom, or other reasonable cause.

(2) Notice in respect of an injury under this act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

3.—(1) If the registrar of friendly societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependents than the corresponding scales contained in this act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this act shall apply notwithstanding any contract to the contrary made after the commencement of this act.

(2) The registrar may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the registrar of friendly societies by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the registrar shall examine into the complaint, and, if satisfied that good cause exist for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has

been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the registrar of friendly societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the registrar of friendly societies.

(7) The chief registrar of friendly societies shall include in his annual report the particulars of the proceedings of the registrar under this act.

(8) The chief registrar of friendly societies may make regulations for the purpose of carrying this section into effect.

4.—(1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Provided, That where the contract relates to thrashing, plowing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he, and he alone, shall be liable under this act to pay compensation to any workman employed by him on such work.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all question as to the right to and amount of any such indemnity shall, in default of agreement, be settled by arbitration under this act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on or in or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

5.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this act to any workman, then, in the event of the employer becoming bankrupt or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy, and the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) There shall be included among the debts which, under section 1 of the preferential payments in bankruptcy act, 1888, and section 4 of the preferential payments in bankruptcy (Ireland) act, 1889, are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount, not exceeding in any individual case, £100, due in respect of any compensation the liability whereof accrued before the date of the receiving order or the date of the commencement of the winding up, and those acts and the preferential payments in bankruptcy amendment act, 1897, shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the first schedule to this act.

(4) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887, such an amount as aforesaid, if the compensation is payable to a miner or the dependents of a miner, shall have the like priority as is conferred on wages of miners by section 9 of that act, and that section shall have effect accordingly.

(5) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

6. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) If the workman has recovered compensation under this act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this act relating to subcontracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this act.

7.—(1) This act shall apply to masters, seamen, and apprentices to the sea service and apprentices in the sea-fishing service, provided that such persons are workmen within the meaning of this act and are members of the crew of any ship registered in the United Kingdom or of any other British ship or vessel of which the owner or (if there is more than one owner) the managing owner or manager resides or has his principal place of business in the United Kingdom, subject to the following modifications:

(a) The notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give notice of the accident.

(b) In the case of the death of the master, seaman, or apprentice the claim for compensation shall be made within six months after news of the death has been received by the claimant.

(c) Where an injured master, seaman, or apprentice is discharged or left behind in a British possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any judge or magistrate in the British possession and by any British consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to the board of trade, and such deposition or certified copies thereof shall in any proceedings for enforcing the claim be admissible in evidence as provided by sections 691 and 695 of the merchant shipping act, 1894, and those sections shall apply accordingly.

(d) In the case of the death of a master, seaman, or apprentice, leaving no dependents, no compensation shall be payable if the owner of the ship is, under the merchant shipping act, 1894, liable to pay the expenses of burial.

(e) The weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the merchant shipping act, 1894, as amended by any subsequent enactment or otherwise, liable to defray the expenses of maintenance of the injured master, seaman, or apprentice.

(f) Any sum payable by way of compensation by the owner of a ship under this act shall be paid in full, notwithstanding anything in section 503 of the merchant shipping act, 1894 (which relates to the limitation of a shipowner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under the section of this act relating to remedies both against employer and stranger as if the indemnity were damages for loss of life or personal injury.

(g) Subsections (2) and (3) of section 174 of the merchant shipping act, 1894 (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by dependents of masters, seamen, and apprentices lost with their ship as they shall apply with respect to proceedings for the recovery of wages due to seamen and apprentices, and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost, with all hands.

(2) This act shall not apply to such members of the crew of a fishing vessel as are remunerated by shares in the profits or the gross earnings of the working of such vessel.

(3) This section shall extend to pilots to whom Part X of the merchant shipping act, 1894, applies, as if a pilot when employed on any such ship as aforesaid were a seaman and a member of the crew.

8.—(1) Where—
(i) The certifying surgeon appointed under the factory and workshop act, 1901, for the district in which a workman is employed certifies that the workman is suffering from a disease mentioned in the third schedule to this act and is thereby disabled from earning full wages at the work at which he was employed; or

(ii) A workman is, in pursuance of any special rules or regulations made under the factory and workshop act, 1901, suspended from his usual employment on account of having contracted any such disease; or

(iii) The death of a workman is caused by any such disease, and the disease is due to the nature of any employment in which the workman was employed at any time within twelve months previous to the date of the disablement or suspension, whether under one or more employers, he or his dependents shall be entitled to compensation under this act as if the disease or suspension as aforesaid were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:

(a) The disablement or suspension shall be treated as the happening of the accident.

(b) If it is proved that the workman has at the time of entering the employment willfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable.

(c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due.

Provided that—
(i) The workman or his dependents, if so required, shall furnish that employer with such information as to the names and addresses of all other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer, upon proving that the disease was not contracted while the workman was in his employment, shall not be liable to pay compensation; and

(ii) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer and not while in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that that other employer shall be the employer from whom the compensation is to be recoverable; and

(iii) If the disease is of such a nature as to be contracted by a gradual process, any other employers who, during the said twelve months, employed the workman in the employment to the nature of which the disease was due, shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this act for settling the amount of the compensation.

(d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable.

(e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

(f) If an employer or a workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall, in accordance with regulations made by the secretary of state, be referred to a medical referee, whose decision shall be final.

(2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the third schedule to this act, and the disease contracted is the disease in the first column of that schedule set opposite the description of the process, the disease, except where the certifying surgeon certifies that in his opinion the disease was not due to the

nature of the employment, shall be deemed to have been due to the nature of that employment unless the employer proves the contrary.

(3) The secretary of state may make rules regulating the duties and fees of certifying and other surgeons (including dentists) under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given.

Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine.

(b) Where a workman dies without having obtained a certificate of disablement, or is, at the time of death, not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(5) In such cases, and subject to such conditions as the secretary of state may direct, a medical practitioner appointed by the secretary of state for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

(6) The secretary of state may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

(7) Where, after inquiry held on the application of any employers or workman engaged in any industry to which this section applies, it appears that a mutual trade insurance company or society for insuring against the risks under this section has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the secretary of state may, by provisional order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the order. Where such a company or society has been established, but is confined to employers in any particular locality or of any particular class, the secretary of state may, for the purposes of this provision, treat the industry as carried on by employers in that locality or of that class as a separate industry.

(8) A provisional order made under this section shall be of no force whatever unless and until it is confirmed by Parliament, and if, while the bill confirming any such order is pending in either House of Parliament, a petition is presented against the order, the bill may be referred to a select committee and the petitioner shall be allowed to appear and oppose as in the case of private bills, and any act confirming any provisional order under this section may be repealed, altered, or amended by a provisional order made and confirmed in like manner.

(9) Any expenses incurred by the secretary of state in respect of any such order, provisional order, or confirming bill shall be defrayed out of moneys provided by Parliament.

(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply if the disease is a personal injury by accident within the meaning of this act.

9.—(1) This act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to workmen employed by or under the Crown to whom this act would apply if the employer were a private person.

Provided that in the case of a person employed in the private service of the Crown, the head of that department of the royal household in which he was employed at the time of the accident shall be deemed to be his employer.

(2) The treasury may, by warrant laid before Parliament, modify for the purposes of this act their warrant made under section 1 of the superannuation act, 1887, and, notwithstanding anything in that act or any such warrant, may frame schemes with a view to their being certified by the registrar of friendly societies under this act.

10.—(1) The secretary of state may appoint such legally qualified medical practitioners to be medical referees for the purposes of this act as he may, with the sanction of the treasury, determine, and the remuneration of, and other expenses incurred by, medical referees under this act shall, subject to regulations made by the treasury, be paid out of moneys provided by Parliament.

Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.

(2) The remuneration of an arbitrator appointed by a judge of county courts under the second schedule to this act shall be paid out of moneys provided by Parliament in accordance with regulations made by the treasury.

11.—(1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this act, and at any time that ship is found in any port or river of England or Ireland, or within 3 miles of the coast thereof, a judge of any court of record in England or Ireland may, upon its being shown to him by any person applying in accordance with the rules of the court that the owners are probably liable as such to pay such compensation, and that none of the owners reside in the United Kingdom, issue an order directed to any officer of customs or other officer named by the judge requiring him to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by the judge, to abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) In any legal proceeding to recover such compensation, the person giving security shall be made defendant, and the production of the order of the judge, made in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceeding.

(3) Section 692 of the merchant shipping act, 1894, shall apply to the detention of a ship under this act as it applies to the detention of a ship under that act, and if the owner of a ship is a corporation it shall for the purposes of this section be deemed to reside in the United Kingdom if it has an office in the United Kingdom at which service of writs can be effected.

12.—(1) Every employer in any industry to which the secretary of state may direct that this section shall apply shall, on or before such day in every year as the secretary of state may direct, send to the secretary of state a correct return specifying the number or injuries in respect of which compensation has been paid by him under this act dur-

ing the previous year, and the amount of such compensation, together with such other particulars as to the compensation as the secretary of state may direct, and in default of complying with this section shall be liable on conviction under the summary jurisdiction acts to a fine not exceeding £5 (\$24.33).

(2) Any regulations made by the secretary of state containing such directions as aforesaid shall be laid before both Houses of Parliament as soon as may be after they are made.

13. In this act, unless the context otherwise requires—

"Employer" includes any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this act, be deemed to continue to be the employer of the workman whilst he is working for that other person.

"Workman" does not include any person employed otherwise than by way of manual labor whose remuneration exceeds £250 (\$1,216.63) a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or a member of a police force, or an outworker, or a member of the employer's family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labor, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing.

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependents or other persons to whom or for whose benefit compensation is payable.

"Dependents" means such of the members of the workman's family as where wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent, respectively.

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister.

"Ship," "vessel," "seaman," and "port" have the same meanings as in the merchant shipping act, 1894.

"Manager," in relation to a ship, means the ship's husband or other person to whom the management of the ship is intrusted by or on behalf of the owner.

"Police force" means a police force to which the police act, 1890, or the police (Scotland) act, 1890, applies, the city of London police force, the Royal Irish constabulary, and the Dublin metropolitan police force.

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles.

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

"County court," "judge of the county court," "register of the county court," "plaintiff," and "rules of court," as respects Scotland, mean, respectively, sheriff court, sheriff, sheriff clerk, pursuer, and act of sederunt.

14. In Scotland, where a workman raises an action against his employer independently of this act in respect of any injury caused by accident arising out of and in the course of the employment, the action, if raised in the sheriff court and concluding for damages under the employers' liability act, 1880, or alternatively at common law or under the employers' liability act, 1880, shall, notwithstanding anything contained in that act, not be removed under that act or otherwise to the court of session, nor shall it be appealed to that court otherwise than by appeal on a question of law; and for the purposes of such appeal the provisions of the second schedule to this act in regard to an appeal from the decision of the sheriff on any question of law determined by him as arbitrator under this act shall apply.

15.—(1) Any contract (other than a contract substituting the provisions of a scheme certified under the workmen's compensation act, 1897, for the provisions of that act) existing at the commencement of this act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this act.

(2) Every scheme under the workmen's compensation act, 1897, in force at the commencement of this act shall, if recertified by the registrar of friendly societies, have effect as if it were a scheme under this act.

(3) The registrar shall recertify any such scheme if it is proved to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this act as to schemes.

(4) If any such scheme has not been so recertified before the expiration of six months from the commencement of this act, the certificate thereof shall be revoked.

16.—(1) This act shall come into operation on the 1st day of July, 1907, but, except so far as it relates to references to medical referees and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this act.

(2) The workmen's compensation acts, 1897 and 1900, are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this act, except to the extent to which this act applies to those cases.

17. This act may be cited as the workmen's compensation act, 1906.

FIRST SCHEDULE.

SCALE AND CONDITIONS OF COMPENSATION.

(1) The amount of compensation under this act shall be—

(a) Where death results from the injury—

(i) If the workman leaves any dependents wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of £150 (\$729.98), whichever of those sums is the larger, but not exceeding in any case £300 (\$1,459.95), provided that the amount of any weekly payments made under this act, and any lump

sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be 156 times his average weekly earnings during the period of his actual employment under the said employer;

(ii) If the workman does not leave any such dependents, but leaves any dependents in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this act, to be reasonable and proportionate to the injury to the said dependents; and

(iii) If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding £10 (\$48.67);

(b) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding 50 per cent of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed £1 (\$4.87);

Provided that—

(a) If the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week; and

(b) As respects the weekly payments during total incapacity of a workman who is under 21 years of age at the date of the injury, and whose average weekly earnings are less than 20 shillings (\$4.87), 100 per cent shall be substituted for 50 per cent of his average weekly earnings, but the weekly payment shall in no case exceed 10 shillings (\$2.43).

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:

(a) Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district;

(b) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;

(c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;

(d) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

(3) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this act in relation to compensation, shall be suspended until such examination has taken place.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the county court, and any sum so paid into court shall, subject to rules of court and the provisions of this schedule, be invested, applied, or otherwise dealt with by the court in such manner as the court in its discretion thinks fit for the benefit of the persons entitled thereto under this act, and the receipt of the registrar of the court shall be a sufficient discharge in respect of the amount paid in:

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependents, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6) Rules of court may provide for the transfer of money paid into court under this act from one court to another, whether or not the court from which it is to be transferred is in the same part of the United Kingdom as the court to which it is to be transferred.

(7) Where a weekly payment is payable under this act to a person under any legal disability, a county court may, on application being made in accordance with rules of court, order that the weekly payment be made during the disability into court, and the provisions of this schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuance of any such order.

(8) Any question as to who is a dependent shall, in default of agreement, be settled by arbitration under this act, or, if not so settled before payment into court under this schedule, shall be settled by the county court, and the amount payable to each dependent shall be settled by arbitration under this act, or, if not so settled before payment into court under this schedule, by the county court. Where there are both total and partial dependents nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependents.

(9) Where, on application being made in accordance with rules of court, it appears to a county court that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependents, or for any other sufficient cause, an order of the court or an award as to the apportionment amongst the several dependents of any sum paid as compensation, or as to the manner in which any sum payable to any such dependent is

to be invested, applied, or otherwise dealt with, ought to be varied, the court may make such order for the variation of the former order or the award, as in the circumstances of the case the court may think just.

(10) Any sum which under this schedule is ordered to be invested may be invested in whole or in part in the Post-Office Savings Bank by the registrar of the county court in his name as registrar.

(11) Any sum to be so invested may be invested in the purchase of an annuity from the national debt commissioners through the Post-Office Savings Bank, or be accepted by the postmaster-general as a deposit in the name of the registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings banks, and the declaration to be made by a depositor, shall not apply to such sums.

(12) No part of any money invested in the name of the registrar of any county court in the Post-Office Savings Bank under this act shall be paid out, except upon authority addressed to the postmaster-general by the treasury or, subject to regulations of the treasury, by the judge or registrar of the county court.

(13) Any person deriving any benefit from any moneys invested in a post-office savings bank under the provisions of this act may, nevertheless, open an account in a post-office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

(14) Any workman receiving weekly payments under this act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(15) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (14) of this schedule otherwise than in accordance with regulations made by the secretary of state, or at more frequent intervals than may be prescribed by these regulations.

Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the registrar of a county court, on application being made to the court by both parties, may, on payment by the applicants of such fee not exceeding £1 (\$4.87) as may be prescribed, refer the matter to a medical referee.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the secretary of state, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the secretary of state, apply as if the question were a question as to the condition of the workman.

If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment shall be suspended until such examination has taken place.

Rules of court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this paragraph and the forms to be used for those purposes and, subject to the consent of the treasury, as to the fee to be paid under this paragraph.

(16) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this act:

Provided, That where the workman was at the date of the accident under 21 years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding 50 per cent of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding £1 (\$4.87).

(17) Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as, where the incapacity is permanent, would, if invested in the purchase of an immediate life annuity from the national debt commissioners through the post-office savings bank, purchase an annuity for the workman equal to 75 per cent of the annual value of the weekly payment, and as in any other case may be settled by arbitration under this act, and such lump sum may be ordered by the committee or arbitrator or judge of the county court to be invested or otherwise applied for the benefit of the person entitled thereto: *Provided*, That nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(18) If a workman receiving a weekly payment ceases to reside in the United Kingdom, he shall thereupon cease to be entitled to receive any weekly payment, unless the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(19) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

(20) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

(21) Where a scheme certified under this act provides for payment of compensation by a friendly society, the provisions of the proviso to the first subsection of section 8, section 16, and section 41 of the friendly societies act, 1896, shall not apply to such society in respect of such scheme.

(22) In the application of this act to Ireland the provisions of the county officers and courts (Ireland) act, 1877, with respect to money deposited in the post-office savings bank under that act shall apply to money invested in the post-office savings bank under this act.

SECOND SCHEDULE.

ARBITRATION, ETC.

(1) For the purpose of settling any matter which under this act is to be settled by arbitration, if any committee, representative of any employer and his workmen, exists with power to settle matters under this act in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as hereinafter provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within six months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the judge of the county court, according to the procedure prescribed by rules of court.

(3) In England the matter instead of being settled by the judge of the county court, may, if the lord chancellor so authorizes, be settled according to the like procedure by a single arbitrator appointed by that judge, and the arbitrator so appointed shall, for the purposes of this act, have all the powers of that judge.

(4) The arbitration act, 1889, shall not apply to any arbitration under this act; but a committee or an arbitrator may, if they or he think fit, submit any question of law for the decision of the judge of the county court, and the decision of the judge on any question of law, either on such submission, or in any case where he himself settles the matter under this act, or where he gives any decision or makes any order under this act shall be final, unless within the time and in accordance with the conditions prescribed by rules of the supreme court either party appeals to the court of appeal; and the judge of the county court, or the arbitrator appointed by him, shall, for the purpose of proceedings under this act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the county court.

(5) A judge of county courts may, if he thinks fit, summon a medical referee to sit with him as an assessor.

(6) Rules of court may make provision for the appearance in any arbitration under this act of any party by some other person.

(7) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator, or judge of the county court, subject as respects such judge and an arbitrator appointed by him to rules of court. The costs, whether before a committee or an arbitrator or in the county court, shall not exceed the limit prescribed by rules of court, and shall be taxed in manner prescribed by those rules and such taxation may be reviewed by the judge of the county court.

(8) In the case of the death, or refusal or inability to act, of an arbitrator, the judge of the county court may, on the application of any party, appoint a new arbitrator.

(9) Where the amount of compensation under this act has been ascertained, or any weekly payment varied, or any other matter decided under this act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the committee or arbitrator, or by any party interested, to the registrar of the county court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a county court judgment.

Provided that—

(a) no such memorandum shall be recorded before seven days after the dispatch by the registrar of notice to the parties interested; and

(b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this act and the employer, in accordance with rules of court, proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the judge of the county court, under the circumstances may think just; and

(c) the judge of the county court may at any time rectify the register; and

(d) where it appears to the registrar of the county court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependents, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the judge who shall, in accordance with rules of court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just; and

(e) the judge may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependents, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

(10) An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability

or to dependents, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

(11) Where any matter under this act is to be done in a county court, or by, to, or before the judge or registrar of a county court, then, unless the contrary intention appears, the same shall, subject to rules of court, be done in, or by, to, or before the judge or registrar of, the county court of the district in which all the parties concerned reside, or if they reside in different districts the district prescribed by rules of court, without prejudice to any transfer in manner provided by rules of court.

(12) The duty of a judge of county courts under this act, or in England of an arbitrator appointed by him, shall, subject to rules of court, be part of the duties of the county court, and the officers of the court shall act accordingly, and rules of court may be made both for any purpose for which this act authorizes rules of court to be made, and also generally for carrying into effect this act so far as it affects the county court, or an arbitrator appointed by the judge of the county court, and proceedings in the county court or before any such arbitrator, and such rules may, in England, be made by the five judges of county courts appointed for the making of rules under section 164 of the county courts act, 1888, and when allowed by the lord chancellor, as provided by that section, shall have full effect without any further consent.

(13) No court fee, except such as may be prescribed under paragraph 15 of the first schedule to this act, shall be payable by any party in respect of any proceedings by or against a workman under this act in the court prior to the award.

(14) Any sum awarded as compensation shall, unless paid into court under this act, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except the sum as may be awarded by the committee, the arbitrator, or the judge of the county court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(15) Any committee, arbitrator, or judge may, subject to regulations made by the secretary of state and the treasury, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

(16) The secretary of state may, by order, either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this act exclusively on county courts or judges of county courts, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into court, and the order may exclude from the operation of provisos (d) and (e) of paragraph (9) of this schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential, or supplemental provisions as may appear to the secretary of state to be necessary or proper for the purposes of the order.

(17) In the application of this schedule to Scotland—
(a) "County court judgment" as used in paragraph 9 of this schedule means a recorded decree arbitral;

(b) Any application to the sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by section 52 of the sheriff courts (Scotland) act, 1876, save only that parties may be represented by any person authorized in writing to appear for them and subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by act of sederunt to require the sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either division of the court of session, who may hear and determine the same and remit to the sheriff with instruction as to the judgment to be pronounced, and an appeal shall lie from either of such divisions to the House of Lords.

(c) Paragraphs 3, 4, and 8 shall not apply.
(18) In the application of this schedule to Ireland the expression "judge of the county court" shall include the recorder of any city or town, and an appeal shall lie from the court of appeal to the House of Lords.

THIRD SCHEDULE.

Description of disease.	Description of process.
Anthrax.....	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ.....	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ.....	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ.....	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ.....	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis.....	Mining.

Where regulations or special rules made under any act of Parliament for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this schedule to that industry, the expression "process" shall, unless the secretary of state otherwise directs, include only the processes so specified.

SUMMARY OF FOREIGN WORKMEN'S COMPENSATION ACTS.

By the term "workmen's compensation laws" are meant enactments which embody the principle that the workman is entitled to compensation for injuries received in the course of his employment. Such laws have been enacted in twenty-two foreign States.

Usually the injuries must cause disablement for a specified number of days or weeks before compensation becomes due. The employer may usually be relieved from the payment of compensation if he can prove that the injury was caused intentionally or by willful misconduct, or in some countries by the gross negligence of the injured person or during the performance of an illegal act.

The industries usually covered by the acts are manufacturing, mining and quarrying, transportation, building and engineering work, and other employments involving more or less hazard. In Belgium, France, and Great Britain the laws apply to practically all employments. In Austria, Belgium, Denmark, Finland, Germany, Italy, Luxemburg, Netherlands, Norway, Russia, Spain, and Sweden only workmen engaged in actual manual work, and in some cases those exposed to the same risks, such as overseers and technical experts, come within the operations of the law. On the other hand, in France, Great Britain, the British colonies, and Hungary the laws apply to salaried employees and workmen equally. Overseers and technical experts earning more than a prescribed amount are excluded in Belgium, Denmark, Germany, Great Britain, Italy, Luxemburg, and Russia. Employees of the state, provincial, and local administrations usually come within the provisions of the acts.

The entire burden rests upon the employer in all but four countries, Austria, Germany, Hungary, and Luxemburg, where the employees bear part of the expense. The laws in every case fix the compensation to be paid. Except in Sweden the compensation is based upon the wages of the injured person. It consists of medical and surgical treatment and periodical allowances for temporary disability, and annual pensions or lump-sum payments for permanent disability or death.

In most countries employers may contract with state or private insurance institutions for meeting the payments. In a number of countries such transfer is obligatory. Provision is usually made for the protection of beneficiaries in case of insolvency of employers.

The acts of nearly all of the countries are framed with the view of obviating the necessity for instituting legal proceedings. If disputes arise, the acts specify the necessary procedure for settlement by special arbitration tribunals or by ordinary law courts.

The following summary gives the most important features of the workmen's compensation acts of all countries:

AUSTRIA.

Date of enactment.—December 28, 1887, in effect November 1, 1889, Amendatory acts, March 30, 1888, April 4 and July 28, 1889, January 17, 1890, December 30, 1891, September 17, 1892, July 20, 1894, and July 12, 1902.

Injuries compensated.—All injuries causing death or disability for more than three days received in the course of employment, unless caused intentionally.

Industries covered.—Mining, quarrying, stonecutting, manufacturing, building trades, railways, transportation on inland waters, storage, theaters, chimney sweeping, street cleaning, building cleaning, sewer cleaning, dredging, well digging, structural iron working, etc.; agricultural and forestry establishments using machinery.

Persons compensated.—All workmen and technical officials regularly employed, but in agriculture and forestry only employees exposed to machinery.

Government employees.—Act applies to government employees unless an equal or more favorable compensation is provided by other laws.

Burden of payment.—Medical and surgical treatment for twenty weeks and compensation for four weeks of disability paid by sick funds, to which employers contribute one-third and employees two-thirds. Compensation for disability after fourth week, and for death, paid by territorial insurance associations, to which employees contribute 10 per cent and employers 90 per cent.

Compensation for death:

(a) Funeral expenses not to exceed 25 florins (\$10.15).

(b) Pensions to members of family, not to exceed 50 per cent of earnings of deceased, to—

Widow, 20 per cent until death or remarriage; in the latter case a lump sum equal to three annual payments; to dependent widower, 20 per cent during disability.

Each legitimate child, 15 years of age or under, 15 per cent when one parent survives and 20 per cent when neither survives; to each illegitimate child, 15 years of age or under, 10 per cent; pensions of widow (or widower) and children reduced proportionately if they aggregate over 50 per cent.

(c) When pensions to above heirs do not reach 50 per cent, dependent heirs in ascending line receive pensions, not to exceed 20 per cent of earnings of deceased, parents taking precedence over grandparents.

(d) In computing pensions, the excess of the annual earnings over 1,200 florins (\$487.20) is not considered.

Compensation for disability:

(a) Medical and surgical attendance for twenty weeks, paid by sick benefit fund.

(b) For total temporary or permanent disability, 60 per cent of average daily wages of insured workmen in the locality, paid by sick benefit funds, from first to twenty-eighth day; and 60 per cent of average annual earnings of injured person, after twenty-eighth day, paid by territorial accident insurance institutions.

(c) For partial temporary or permanent disability, benefits consist of a portion of above allowance, but may not exceed 50 per cent of average annual earnings.

(d) In computing payments the excess of annual earnings over 1,200 florins (\$487.20) is not considered.

Revision of compensation.—Reconsideration of the case may be undertaken by the insurance association of its own will, or upon petition.

Insurance.—Payments are met by mutual insurance associations of employers, in which all employees are required to be insured. The country is divided into districts, with a separate association for each district.

Security of payments.—Operations of the insurance associations are conducted under the supervision of the minister of interior, who may increase the assessments.

Settlement of disputes.—Disputes are settled by arbitration courts composed of a judicial officer appointed by the minister of justice, two experts appointed by the minister of the interior, and one representative each of the employers and the employees.

BELGIUM.

Date of enactment.—December 24, 1903, in effect July 1, 1905.

Injuries compensated.—All injuries by accident to employees in the course of and by reason of the execution of the labor contract, causing death or disability for over one week, unless intentionally brought on by the person injured.

Industries covered.—Practically all establishments in mining, quarrying, forestry work, manufacturing, building and engineering work, transportation, and telephone and telegraph services; establishments using mechanical motive power; industrial establishments employing five or more persons; agricultural and commercial establishments employing three or more persons; industries designated by royal decree as dangerous. Other industries at option of employer.

Persons compensated.—Workmen and apprentices, and salaried employees exposed to the same risks as workmen whose annual salaries do not exceed 2,400 francs (\$463.20).

Government employees.—Act covers employees of any public establishment engaged in industries enumerated above.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

- (a) Funeral benefit of 75 francs (\$14.48).
- (b) A sum representing value of an annuity of 30 per cent of annual earnings of deceased, calculated upon basis of his age at death, to be distributed to—
 - Dependent widow or widower, whole amount if no other heirs, four-fifths if one child under 16 years of age or one or more dependent heirs, three-fifths if two or more children.
 - Children under 16 years of age, the residue.
 - Dependent heirs in ascending line and descending line under 16 years of age, in absence of widow or widower or children under 16 years of age.
 - Dependent brothers and sisters under 16 years of age in absence of heirs above enumerated.
- (c) Allowances in case of annual wages of 2,400 francs (\$463.20) or more, or of 365 francs (\$70.45) or less, are based upon these amounts, respectively.
- (d) Payments to widow and heirs in ascending line are converted into life pensions, those to other heirs into pensions expiring at age of 16 years. Heirs may require one-third of capital value of life pensions to be paid in cash and pension reduced accordingly.

Compensation for disability:

- (a) Expense of medical and surgical treatment for not over six months.
- (b) If totally disabled, an allowance of 50 per cent of daily wages, beginning with day after accident.
- (c) If partially disabled, an allowance of 50 per cent of loss of earning power, beginning with day after accident.
- (d) If, after three years, disability is permanent, temporary allowance is replaced by life annuity. Victim may require one-third of capital value of pension to be paid in cash and pension reduced accordingly.
- (e) Allowances in case of annual wages of 2,400 francs (\$463.20) or more, or of 365 francs (\$70.45) or less, are based upon these amounts, respectively.

Revision of compensation.—Revision of compensation because of aggravation or diminution of disability, or death of victim, may be made within three years.

Insurance.—Employers may transfer burden of payment of compensation to establishment funds or approved insurance companies or to general savings and retirement fund. They may also transfer burden of payment of temporary allowances to mutual aid societies.

Security of payments.—Employers who have not relieved themselves of liability by insurance must make deposits of cash or securities or give real-estate mortgages to secure pension payments. To secure temporary disability payments of uninsured employers a State guaranty fund is maintained by a tax levied upon such employers.

Settlement of disputes.—The local justice of the peace has sole jurisdiction as a court of first resort over disputes arising under the act, and his judgment is final in all cases involving 300 francs (\$57.90) or less.

BRITISH COLUMBIA.

Date of enactment.—June 21, 1902, in effect May 1, 1903.

Injuries compensated.—Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, unless the injury is "attributable solely to the serious and wilful misconduct or serious neglect" of the injured workman.

Industries covered.—Railways, factories, mines, quarries, engineering work, and buildings which exceed 40 feet in height and are being constructed or repaired by means of a scaffolding or being demolished, or on which machinery driven by mechanical power is used for construction, repair, or demolition.

Persons compensated.—All persons engaged in manual labor or otherwise.

Government employees.—Act applies to civilian employees in the service of the Crown, to whom it would apply if the employer were a private person.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

- (a) A sum equal to three years' earnings, but not less than \$1,000 nor more than \$1,500, to those wholly dependent on earnings of deceased.
- (b) A sum less than above amount if workman leaves persons partially dependent on his earnings, the amount to be agreed upon by the parties or to be fixed by arbitration.
- (c) Reasonable expenses of medical attendance and burial, not exceeding \$100, if deceased leaves no dependents.

Compensation for disability:

- (a) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed \$10, and total liability not to exceed \$1,500.
- (b) A weekly payment during partial disability after second week to be fixed with regard to the difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after the injury.
- (c) A lump sum may be substituted for the weekly payments, after six months, on the application of the employer, the amount to be settled, in default of agreement, by arbitration under the act.

Revision of compensation.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for the substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the attorney-general certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with this scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of the employer becoming bankrupt, such workman has a first claim upon the amount so due, and a judge of the supreme court may direct the insurers to pay such sum into any chartered bank of Canada to be invested or applied to payment of compensation.

Settlement of disputes.—Disputes arising under the act are settled by arbitration of existing committees representative of employers and employees, or if either party objects, by a single arbitrator agreed upon by the parties, or, in the absence of agreement, by an arbitrator appointed by a judge of the supreme court. An arbitrator appointed by a judge of the supreme court has all the power of a judge of the supreme court. Questions of law may be submitted by the arbitrator for the decision of a judge of the supreme court.

CAPE OF GOOD HOPE.

Date of enactment.—June 6, 1905, in effect September 1, 1905.

Injuries compensated.—All injuries to employees arising out of and in the course of the employment causing death or necessitating absence from work for more than three days and not being caused by or through the gross carelessness of the injured employee.

Industries covered.—Any trade, business, or public undertaking, on land or upon or within the territorial waters of the colony, except domestic, messenger, or errand service or employment in agriculture.

Persons compensated.—Employees, whether engaged in manual work or otherwise.

Government employees.—Act applies to civilian persons employed by or under the Crown to whom it would apply if employer were a private person.

Burden of payment.—Employer and every principal are jointly and severally liable for the compensations required under the act.

Compensation for death.—When death results from an injury for which a lump sum has not already been paid on account of permanent disability—

- (a) A lump sum not exceeding three years' wages of deceased, nor more than £400 (\$1,946.60), to those wholly dependent upon the workman's earnings.
- (b) A lump sum not exceeding £200 (\$973.30) to those partially dependent upon the workman's earnings; in the absence of persons totally dependent, the sum not to exceed the value of the support which they were receiving from the deceased, calculated for two years.
- (c) Temporary payments previously made not to be deducted from above sums unless they have continued longer than three months.
- (d) Reasonable expenses of medical attendance and burial not exceeding £40 (\$194.66) in case deceased leaves no dependents.

Compensation for disability:

- (a) A sum not exceeding three years' wages, less any payments received under a provisional order of court, but not exceeding £600 (\$2,919.90) in case of permanent total disability, and a smaller sum in proportion to loss of earning power and not exceeding £300 (\$1,459.95) in case of permanent partial disability.
- (b) A payment made, by order of the local magistrate, at the same intervals as the customary wage payments, not exceeding 50 per cent of wages received at time of the injury, nor £2 (\$9.73) per week if the injury causes temporary disability lasting more than three days.

Revision of compensation.—The provisional order may be set aside or altered by the magistrate, upon request of either party, if justified by a further examination of the injured person or by production of additional evidence.

Insurance.—Employers may insure in a company or association against personal injury to the workmen employed by them or in their behalf. If the employer contributes toward a benefit society of which the injured or deceased person is a member, allowance is made for such contribution by the court in its order or judgment fixing amount of compensation to be paid.

Security of payments.—When an employer or principal is adjudged or admits liability under the act and is entitled to any sum from any insurers on account of such liability, then, in the event the employer becomes insolvent, the worker or his dependents have a first claim upon such sum.

Settlement of disputes.—Compensation in cases of disability is fixed provisionally for not more than six months by the local magistrate after receiving a physician's certificate of disability and holding an inquiry. No appeal can be taken from this preliminary order except against a finding on the question of gross carelessness and then only upon leave granted by the superior court. In case the injury results in death or permanent disability, the claimants have a right of action in the local magistrate's court for the amounts due under the law. In fixing the amount, the court is required in every case to have regard to the workman's or the dependent's necessities.

DENMARK.

Date of enactment.—January 7, 1898, in effect January 15, 1899; amended May 15, 1903.

Injuries compensated.—All injuries by accident occasioned by the trade or its conditions, and causing either death or disability lasting

over thirteen weeks, unless brought on intentionally or through gross negligence of the victim.

Industries covered.—Practically all establishments in mining, quarrying, manufactures, building and engineering work, transportation, telephone and telegraph services, diving and salvage; establishments using mechanical power which makes them subject to factory inspection; other industrial establishments designated by the minister of interior.

Persons compensated.—All workmen in mechanical and technical departments, including those in supervisory capacity whose annual earnings do not exceed 2,400 crowns (\$643.20).

Government employees.—Act applies to all employees of state and the communal governments in industries above indicated.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death:

- (a) Funeral benefit of 50 crowns (\$13.40).
- (b) A lump sum equal to four times annual earnings of deceased, but not over 3,200 crowns (\$857.60) nor less than 1,200 crowns (\$321.60), to—

Widow, whole amount, if she survives.

Child, whole amount, if it be the only heir.

Children, according to decision of insurance council, when there is no widow.

If neither widow nor children, insurance council decides whether and how far other heirs receive compensation.

Compensation for disability:

- (a) From end of thirteenth week after accident until end of treatment, or until disability is declared permanent, a daily compensation of 60 per cent of earnings, but not less than 1 crown (27 cents) nor over 2 crowns (54 cents) for total disability, and a proportionate compensation for partial disability.
- (b) In case of permanent disability an indemnity of six times annual earnings, but not less than 1,800 crowns (\$482.40) nor over 4,800 crowns (\$1,286.40) for total permanent disability, and proportionate payments for partial permanent disability.
- (c) If employee suffering from permanent disability is a male between 30 and 55 years of age, he may demand purchase of an annuity. For men of other ages, or of unsound mind, or women and children, the insurance council may substitute an annuity.

Revision of compensation.—Determination of degree of permanent disability must be made as soon as possible after one year from date of injury. If this be not possible, a temporary determination may be made, but a redetermination may be demanded within two years following.

Insurance.—Employers may transfer obligation imposed by the law, by insuring their employees in authorized insurance companies or mutual employers' insurance associations.

Security of payments.—Where liability under the law has not been transferred by insurance, indemnity for disability is a preferred claim upon assets of employer.

Settlement of disputes.—Disputes concerning compensation, unless settled by mutual consent, must be referred to insurance council. Appeals may be had to the minister of interior.

FINLAND.

Date of enactment.—December 5, 1895, in effect January 1, 1893.

Injuries compensated.—All injuries by accident during work, causing death or disability for more than six days, except when brought on intentionally or through gross negligence of victim, intentionally by any other person than the one charged with supervision of the work, or caused by some other occurrence utterly independent of the nature or conditions of work.

Industries covered.—Mines, quarries, metallurgical establishments, factories, sawmills, industrial establishments using mechanical power, construction of churches and buildings over one story high; construction and operation of water, gas, electric power plants, and operation of railroads.

Persons compensated.—All persons actually employed at work, but not those supervising only.

Government employees.—Act applies to employment on the state and communal construction works and state railways.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death.—In addition to any prior payments on account of disability, pensions to dependent heirs, from day of death, not exceeding 40 per cent of annual earnings of deceased, to—

- (a) Widow, 20 per cent until death or remarriage; in latter case a final sum equal to two annual payments.
- (b) Each child until the age of 15 years, 10 per cent if one parent survives, and 20 per cent if neither parent survives.
- (c) In computing pensions, earnings of workman to be considered not over 720 marks (\$138.96) nor under 300 marks (\$57.90); but no adult employee to receive a pension greater than his actual earnings.

Compensation for disability:

- (a) A pension equal to 60 per cent of employee's earnings for total disability, or a pension proportionate to the degree of incapacity for partial disability, to be paid from day of recovery from illness due to injury, or after 120 days have elapsed since injury.
- (b) Pension may by mutual consent be replaced by single payment, if it does not exceed 20 marks (\$3.86) annually.
- (c) In computing pension, earnings of workman to be considered not over 720 marks (\$138.96) nor under 300 marks (\$57.90); but no adult employee to receive a pension greater than his actual earnings.
- (d) In cases of temporary disability (including all cases of disability for 120 days after injury) daily compensation of 60 per cent of earnings, beginning with seventh day after accident, for complete temporary disability, and a proportionate compensation for partial disability; but not more than 2.50 marks (48 cents) per diem.
- (e) Until recovery, injured employee may be given treatment in a hospital in lieu of other compensation; during such treatment his wife and children get a compensation equal to pension in case of death.

Revision of compensation.—Demands for revision of compensation may be made by either party before proper court.

Insurance.—Employers are required to transfer the burden of payment of compensation to a governmental insurance office, private insurance company, mutual employers' insurance association, or approved foreign insurance company, unless unable to obtain such insurance or released from this obligation on presentation of satisfactory guaranties.

Security of payments.—When exempted from the duty of insuring his employees, or unable to obtain insurance, the employer must guarantee payment of pension to the injured workman or his family by arrangement with a private insurance company.

Settlement of disputes.—In case of absence of insurance or dissatisfaction with decision of insurance company, injured employee or his dependent may carry the case into the inferior court of the locality.

FRANCE.

Date of enactment.—April 9, 1898, in effect July 1, 1899; amendatory and supplementary acts March 22, 1902; March 351, 1905; April 12, 1906, and July 17, 1907.

Injuries compensated.—All injuries by accident to workmen or salaried employees during or on account of labor causing death or disability for five or more days, unless produced intentionally by the victim. If due to inexcusable fault of victim or of employer, compensation may by a court order be decreased or increased, but not exceeding actual earnings of victim.

Industries covered.—Building trades, factories, workshops, shipyards, transportation by land and water, public warehouses, mining and quarrying, manufacture or handling of explosives, agricultural and other work using mechanical power, and mercantile establishments; other industries on request of both parties.

Persons compensated.—All workmen and salaried employees.

Government employees.—Law applies to state, departmental, and communal establishments when engaged in industries enumerated above.

Burden of payment.—Entire cost of compensation falls upon employer.

Compensation for death:

- (a) Funeral expenses not exceeding 100 francs (\$19.30).
- (b) Pensions to dependent heirs not exceeding 60 per cent of annual wages of deceased, distributed to—
Widow or widower, 20 per cent until death or remarriage, in which latter case a final sum equal to three annual payments.
Children under 16 years of age if one parent survives—15 per cent if there is but one child; 25 per cent if there are two children; 35 per cent if there are three children; 40 per cent if there are four or more children.
Each child under 16 years of age if neither parent survives, 20 per cent.

Each ascendant and each descendant under 16 years of age dependent upon deceased, if no widow or children survive, 10 per cent, the aggregate not to exceed 30 per cent.

- (c) If annual wages exceed 2,400 francs (\$463.20), only one-fourth of the excess is considered in computing pensions.

Compensation for disability:

- (a) Expenses of medical or surgical treatment.
- (b) If permanently disabled, a pension of 66⅔ per cent of annual wages for total disability and of one-half loss of earning capacity for partial disability; or, if demanded, one-fourth capital value of pension in cash, the pension to be reduced accordingly.
- (c) If temporarily disabled, an allowance of 50 per cent of daily wages, beginning with fifth day, and including Sundays and holidays, unless disability lasts more than ten days, when payments become due from the first day.
- (d) If annual wages exceed 2,400 francs (\$463.20), only one-fourth of the excess is considered in computing pensions.
- (e) Payments of pensions of not over 100 francs (\$19.30) per annum may, by mutual consent when beneficiary is of age, be replaced by a cash payment.

Revision of compensation.—Revision of compensation because of aggravation or diminution of disability of victim may be made within three years.

Insurance.—Employers may transfer burden of payment of compensation to approved mutual aid, accident insurance, or guaranty associations, or, in case of pensions, to national accident insurance or national old-age pension funds.

Security of payments.—The State guarantees against loss of pension payments on account of insolvency of employers or insurance organizations, and is reimbursed by a special tax on employers within scope of the act. For temporary disability payments, medicines, and medical or surgical attendance, and funeral expenses of the victim, his creditors or representatives have a preferred claim on property of employer.

Settlement of disputes.—Disputes as to pensions or involving more than 300 francs (\$57.90) may be carried into higher civil courts. Judgments of local justice of the peace are final in other cases.

GERMANY.

Date of enactment.—July 6, 1884, in effect October 1, 1885. Supplementary acts May 28, 1885; May 5, 1886; July 11 and 13, 1887. A codification enacted June 30, 1900.

Injuries compensated.—Injuries by accident in the course of the employment, causing death or disability for more than three days, unless caused intentionally. Compensation may be refused or reduced if injury was received while committing an illegal act.

Industries covered.—Mining, salt works, quarrying and allied industries, shipyards, factories, smelting works, building trades, chimney sweeping, window cleaning, butchering, transportation and handling, agriculture, forestry, and fisheries.

Persons compensated.—All workmen, and those technical officials whose annual earnings are less than 3,000 marks (\$714). With the approval of the Imperial Insurance Office the law may be extended to other classes.

Government employees.—Act covers government employees in postal, telegraph, and railway services and in industrial enterprises of army and navy, unless otherwise provided for.

Burden of payment.—Medical and surgical treatment for ninety-one days and benefit payments from third to ninety-first days are provided by sick-benefit funds, to which employers contribute one-third and employees two-thirds; from twenty-eighth to ninety-first day payments are increased by one-third at expense of employer in whose establishment accident occurred; after ninety-first day and in case of death from injuries expense is borne by employers' associations supported by contributions of employers.

Compensation for death:

- (a) Funeral benefits of one-fifteenth of annual earnings of deceased, but not less than 50 marks (\$11.90).
- (b) Pensions to dependent heirs not exceeding 60 per cent of annual earnings of the deceased, as follows: Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to three annual payments; dependent widower, 20 per cent of annual earnings; each child 15 years of age or under, 20 per cent; payments to consort and to children to be reduced proportionately, if the

Compensation for death—Continued.

total would exceed 60 per cent; dependent heirs in ascending line, 20 per cent or less, if there is a residue after providing for above heirs; orphan grandchildren, 20 per cent or less, if there is a residue after providing for above heirs.

(c) If annual earnings exceed 1,500 marks (\$357), only one-third of excess is considered in computing pensions.

Compensation for disability:

(a) Free medical and surgical treatment paid first thirteen weeks by sick-benefit funds, and afterwards by employers' associations.

(b) For temporary or permanent total disability, 50 per cent of daily wages of persons similarly employed, but not exceeding 3 marks (71 cents), paid by sick-benefit funds from third day to end of fourth week; from fifth to end of thirteenth week, above allowance by sick-benefit fund plus 16½ per cent contributed by employer direct; after thirteen weeks, 66½ per cent of average annual earnings of injured person paid by employers' associations.

(c) For complete helplessness, necessitating attendance, payments may be increased to 100 per cent of annual earnings.

(d) For partial disability, a corresponding reduction in payments.

(e) If annual earnings exceed 1,500 marks (\$357), only one-third of excess is considered in computing pensions.

Revision of payments.—Whenever a change in condition of injured person occurs a revision of benefits may be made.

Insurance.—Payments are met by mutual insurance associations of employers, in which all employees are required to be insured at the expense of employers. Separate associations have been organized for each industry.

Security of payments.—Solvency of employers' associations is guaranteed by the State.

Settlement of disputes.—Disputes are settled by "arbitration courts for workmen's insurance," composed of one government official, two representatives of workmen, and two of employers.

GREAT BRITAIN.

Date of enactment.—December 21, 1906, in effect July 1, 1907; replacing acts of August 6, 1897, and July 30, 1900.

Injuries compensated.—Injuries by accident arising out of and in the course of employment which cause death or disable a workman for at least one week from earning full wages at the work at which he was employed. Compensation is not paid when injury is due to serious and willful misconduct, unless it results in death or serious and permanent disablement.

Industries covered.—"Any employment."

Persons compensated.—Any person regularly employed for the purposes of the employer's trade or business whose compensation is less than £250 (\$1,216.63) per annum; but persons engaged in manual labor only are not subject to this limitation.

Government employees.—Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(a) A sum equal to three years' earnings, but not less than £150 (\$729.98) nor more than £300 (\$1,459.95), to those entirely dependent on earnings of deceased.

(b) A sum less than above amount if deceased leaves persons partially dependent on his earnings, amount to be agreed upon by the parties or fixed by arbitration.

(c) Reasonable expenses of medical attendance and burial, but not to exceed £10 (\$48.67) if deceased leaves no dependents.

Compensation for disability:

(a) A weekly payment during incapacity of not more than 30 per cent of employee's average weekly earnings during previous twelve months, but not exceeding £1 (\$4.87) per week; if incapacity lasts less than two weeks no payment is required for the first week.

(b) A weekly payment during partial disability, not exceeding the difference between employee's average weekly earnings before injury and average amount which he is earning or is able to earn after injury.

(c) Minor persons may be allowed full earnings during incapacity, but weekly payments may not exceed 10 shillings (\$2.43).

(d) A sum sufficient to purchase a life annuity through the Post-Office Savings Bank of 75 per cent of annual value of weekly payments may be substituted, on application of the employer, for weekly payments after six months; but other arrangements for redemption of weekly payments may be made by agreement between employer and employee.

Revision of benefits.—Weekly payments may be revised at request of either party, under regulations issued by the secretary of state.

Insurance.—Employers may make contracts with employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the registrar of friendly societies certifies that the scheme is not less favorable to the workmen and their dependents than the provisions of the act, and that a majority of the workmen are favorable to the substitute. The employer is then liable only in accordance with the provisions of the scheme.

Security of payments.—In case of employer's bankruptcy, the amount of compensation due under the act, up to £100 (\$486.65) in any individual case, is classed as a preferred claim; or where an employer has entered into a contract with insurers in respect of any liability under the act to any workman such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

Settlement of disputes.—Questions arising under the law are settled either by a committee representative of the employer and his workmen, by an arbitrator selected by the two parties, or, if the parties can not agree, by the judge of the county court, who may appoint an arbitrator to act in his place.

GREECE.

Date of enactment.—February 21 (March 6), 1901, in effect (retroactively) December 20, 1900 (January 2, 1901).

Injuries compensated.—All injuries by accidents during or because of the employment and causing death or disability lasting more than four days, unless brought on intentionally by the injured person.

Industries covered.—Mines, quarries, and metallurgical establishments.

Persons compensated.—All workmen and subordinate salaried persons.

Government employees.—No mention of government employees is made in the law.

Burden of payment.—Employer carries full burden of payment of indemnities during first three months; after three months, half the payments of pensions are contributed by the miners' fund, which is mainly supported by a tax on the mines and metallurgical establishments, but partly by contributions from the workmen's mutual aid societies in these establishments and some minor sources.

Compensation for death:

(a) If death occurs immediately or within three months: (1) Funeral expenses amounting to 60 drachmas (\$11.58); (2) pensions to heirs aggregating pension paid for total disability.

(b) If death occurs three months after injury or later, pensions to heirs aggregating 75 per cent of pension paid during life of the injured.

(c) All pensions to heirs are distributed as follows: Equal share to widow and children, or, in absence of widow and children, equal share to father and mother.

(d) Pension to widow ceases on her remarriage; to male children at 16 years of age; to female children on their marriage, with payment of one year's pension as a dowry.

(e) If only one heir survives, he is entitled to only one-half of original pension.

Compensation for disability:

(a) Free medical and surgical treatment.

(b) An allowance of 50 per cent of earnings of injured employee during first three months.

(c) If permanently disabled, a pension of 50 per cent of earnings in case of total disability (including loss of a hand or foot); in case of partial disability, a pension of 33½ per cent of earnings, pension payments to begin after end of third month.

(d) Pension may not exceed 100 drachmas (\$19.80) per month plus 25 per cent of the excess of computed pension over 100 drachmas (\$19.80).

(e) In computing pension of apprentices and children, no wage is to be considered less than 2.50 drachmas (48 cents) per day.

Revision of compensation.—Injured employee may present a new petition, or the council of the miners' fund may order a new examination, whenever there is reason to believe that changes have occurred in the degree of disability.

Insurance.—No provision is made by the law for the transfer of the burden of payment of compensation by insurance.

Security of payments.—The miners' fund guarantees payment of pensions and other allowances, and has preferred claim upon employer's assets in cases of dissolution or forced sale of establishment, and also in cases of voluntary transfer, unless the new proprietor assumes the obligations under the law.

Settlement of disputes.—Amount of pension is settled by the council of the miners' fund, and appeals against its decisions may be carried into the ordinary courts.

HUNGARY.

Date of enactment.—April 9, 1907, in effect July 1, 1907.

Injuries compensated.—Injuries by accident in the course of the employment causing death or disability for more than three days. Injuries caused intentionally are not compensated unless fatal.

Industries covered.—All factories subject to inspection, mines, quarries, metallurgical establishments, building trades, lumbering, construction work, shipbuilding, slaughterhouses, pharmacies, sanatoria, theaters, institutes of art and science.

Persons compensated.—All employees in industries enumerated.

Government employees.—Act covers government employees in state, municipal, and communal industries enumerated above.

Burden of payment.—All benefits and cost of treatment for first ten weeks provided by sick funds to which employers and employees contribute equally. Beginning with eleventh week entire cost is defrayed by employers through the accident fund.

Compensation for death:

(a) Funeral benefit of twenty times average daily wages.

(b) Pensions to heirs not exceeding 60 per cent of annual earnings of deceased, as follows—

Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to 60 per cent of annual earnings; or to dependent widower 20 per cent during disability.

Each child 16 years of age or under, 15 per cent if one parent survives, 30 per cent if neither survives; payments to consort and children reduced proportionately if they aggregate more than 60 per cent.

Dependent parents and grandparents if there is a residue after providing for above heirs, 20 per cent or less.

Dependent orphan grandchildren 15 years of age or under, if there is a residue after providing for above heirs, 20 per cent or less.

(c) In computing pensions the excess of annual earnings above 2,400 crowns (\$487.20) is not considered.

Compensation for disability:

(a) Free medical and surgical treatment provided first ten weeks by sick fund, and afterwards by accident fund.

(b) For temporary or permanent total disability, 50 per cent of average daily wages but not exceeding 4 crowns (81 cents) for first ten weeks, provided by sick fund; beginning with eleventh week, 60 per cent of average annual earnings, provided by accident fund.

(c) For complete helplessness necessitating attendance payments may be increased to 100 per cent of annual earnings.

(d) For partial disability a corresponding portion of full pension.

(e) In computing pensions the excess of annual earnings above 2,400 crowns (\$487.20) is not considered.

Revision of compensation.—Whenever a change in condition of injured person occurs the accident fund or the injured person may ask for a revision of the benefits.

Insurance.—Payments are met by a state insurance institution, in which all employees are required to be insured at the expense of employers.

Security of payment.—Guaranteed by the State.

Settlement of disputes.—Disputes are settled by arbitration courts, consisting of a presiding judge and an equal number of representatives of workmen and employers.

ITALY.

Date of enactment.—March 17, 1898, in effect September 17, 1898. Amended June 29, 1903. Promulgated in codified form January 31, 1904.

Injuries compensated.—All injuries sustained by workmen or salaried employees during or on account of labor. If due to willful misconduct, employer may be reimbursed through criminal action.

Industries covered.—Mines, quarries, building trades; light, heat, and power plants; arsenals; maritime construction work; transportation; industries requiring the use of handling of explosives; all industrial or agricultural work in proximity to power machinery; where more than five persons are employed in engineering construction work; operations for protection against landslides, floods, hailstorms; logging and timber rafting, and shipbuilding.

Persons compensated.—All workmen and apprentices and overseers receiving not more than 7 lire (\$1.35) per day and paid at intervals of one month or less.

Government employees.—Act applies to employment in state, provincial, and communal industries enumerated above unless specially provided for, and to work performed for a government institution under contract or concession.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—If within two years after the accident, five times annual wages of deceased workman, with a maximum of 10,000 lire (\$1,930), distributed to—

- (a) Surviving consort two-fifths or indemnity if there are children; one-half of indemnity if there are dependent ascendants; three-fifths of indemnity if only dependent brothers or sisters; entire indemnity in absence of heirs enumerated.
- Children, amounts sufficient to purchase an annuity of equal amount for each child under 12 years of age, and one-half of such annuity for each child from 12 to 18 years of age.

Each dependent parent or grandparent, if there are no children, annuity of equal amount for life.

Dependent brothers or sisters less than 18 years of age or incapable of performing labor by reason of a mental or physical defect, if there are no children or dependent ascendants, annuities distributed upon same principle as in case of children.

- (b) In absence of heirs indemnity is turned into a special fund for immediate aid to injured, payment of indemnities for insolvent employers, and prevention of accidents.

Compensation for disability:

- (a) Cost of first medical and surgical treatment.
- (b) An indemnity in case of permanent disability of six times annual earnings, but not less than 3,000 lire (\$579) if totally disabled, and six times the loss of annual earning capacity if partially disabled, earnings in latter case to be considered as not less than 500 lire (\$96.50).
- (c) A daily allowance in case of temporary disability of one-half the wages of injured workman, payable for not more than three months, if totally disabled, and equal to one-half the reduction in wages occasioned by the injury, if partially disabled.

Revision of compensation.—Both workman and insurer may ask for a revision of compensation within two years after accident.

Insurance.—Employers must insure their employees in (a) the national accident insurance fund, (b) an authorized insurance company, (c) an association of employers for mutual insurance against accidents, or (d) a private employers' insurance fund.

Security of payments.—Payments are guaranteed by State.

Settlement of disputes.—In cases of dispute concerning temporary disability payments, the council of prudhommes or the pretor of the locality in which the accident occurred has authority to sit in final judgment if amount involved does not exceed 200 lire (\$38.60). Disputes involving larger amounts are referred for settlement to the local magistrates.

LUXEMBURG.

Date of enactment.—April 5, 1902, in effect April 15, 1903. Sick insurance law enacted July 31, 1901.

Injuries compensated.—All injuries by accident during or because of the employment, resulting in death or disability for more than three days, unless caused intentionally by the victim or during the commission of an illegal act.

Industries covered.—Mines, quarries, manufactories, metallurgical establishments; gas and electric works; transportation and handling; building and engineering construction, and certain artisans' shops having at least five employees regularly and using mechanical motive power. By administrative order other establishments may become subject to the law if regarded dangerous.

Persons compensated.—Workmen and those supervising and technical officials whose annual earnings are less than 3,000 francs (\$579). Certain other classes of persons may be voluntarily insured.

Government employees.—Act applies to government telegraph and telephone services, public works conducted by public agencies, and other governmental industrial establishments, unless other provisions are made for pensioning employees. Penal institutions are not included.

Burden of payment.—Benefits and cost of treatment first thirteen weeks provided by sick benefit funds, to which employers contribute one-third and employees two-thirds, if injured person is insured against sickness; if not, because employed less than one week, by an accident insurance association supported by contributions of employers; if not insured for other reasons, by the employer direct; all benefits and treatment after thirteen weeks paid by accident insurance association.

Compensation for death:

- (a) Funeral expenses, one-fifteenth of the annual earnings, but not less than 40 francs (\$7.72) nor more than 80 francs (\$15.44).
- (b) Pensions, not to exceed 60 per cent of earnings of deceased, to—
 - Widow 20 per cent until death or remarriage; in the latter case a lump sum equal to 60 per cent; same payment to a dependent widower.
 - Each child 20 per cent until 15 years of age, even if father survives, provided he abandoned them, or the mother who was killed was their main support.
 - Dependent heirs in an ascending line, 20 per cent.
 - Dependent orphan grandchildren, 20 per cent until 15 years of age.
 - Widow and children have the preference over other heirs.
- (c) In computing pensions only one-third of excess of annual earnings over 1,500 francs (\$289.50) is considered.

Compensation for disability:

- (a) Entire cost of medical and surgical treatment.
- (b) For temporary or permanent total disability, from third day to end of fourth week, 50 per cent, and from fifth to end of thirteenth week, 60 per cent of wages of persons similarly employed; after thirteen weeks, 66½ per cent of annual earnings of injured person.
- (c) For partial disability a portion of above (depending upon degree of disability), which may be increased to full amount as long as injured employee is without employment.
- (d) Lump-sum payments may be substituted for pensions when degree of disability is not greater than 20 per cent.
- (e) In computing pensions only one-third of excess of annual earnings over 1,500 francs (\$289.50) is considered.

Revision of compensation.—Demands for change of amount of compensation may be made within three years.

Insurance.—Payments are met by mutual accident insurance association of employers in which all employees must be insured at expense of employers.

Security of payments.—Insurance association conducted under state supervision.

Settlement of disputes.—Appeals from the decisions of the association may be carried within forty days to a justice of the peace, who is required to invite two delegates, representing employer and employee, to assist in an advisory capacity. Further appeals may be taken to the higher courts.

NETHERLANDS.

Date of enactment.—January 2, 1901, in effect June 1, 1901. Other acts February 3 and December 8, 1902, and July 24, 1903.

Injuries compensated.—All injuries caused by accident in the course of the employment and causing death or disability for over two days, unless brought on intentionally. If due to intoxication, compensation is reduced one-half, and if death results no compensation is paid.

Industries covered.—Practically all manufacturing, mining, quarrying, building, engineering construction, and transportation; fishing in internal waters; establishments using mechanical motive power, or explosive or inflammable materials, and mercantile establishments handling such materials.

Persons compensated.—All workmen, including apprentices.

Government employees.—All State, provincial, and communal employees are included when engaged in any of the industries enumerated.

Burden of payment.—The entire expense rests upon the employer.

Compensation for death:

- (a) Funeral benefit of thirty times average daily earnings of deceased.
- (b) Pensions to heirs of not over 60 per cent of earnings of deceased, distributed to—
 - Widow, 30 per cent of earnings, until death or remarriage; in latter case two years' payments as a settlement; or to dependent widower, a pension equal to cost of support, but not over 30 per cent of earnings of deceased.
 - Each child under 16 years of age, 15 per cent if one parent survives and 20 per cent if both are dead.
 - Dependent parents, and in their absence to grandparents, not over 30 per cent.
 - Orphan grandchildren, not over 20 per cent.
 - Dependent parents-in-law, not over 30 per cent.
 - Widow and children to be preferred over all other heirs, and their respective shares to be reduced proportionately when aggregating over 60 per cent.
- (c) In computing pensions, wages higher than 4 florins (\$1.61) per day are to be considered as of that amount.

Compensation for disability:

- (a) Free medical and surgical treatment, or its cost.
- (b) From day after injury until forty-third day, an allowance of 70 per cent of daily earnings, excluding Sundays and holidays.
- (c) From forty-third day a pension of above amount during total disability and a smaller pension in proportion to loss of earning power if partially disabled.
- (d) In computing pensions, wages higher than 4 florins (\$1.61) per day are to be considered as of that amount.

Revision of compensation.—An examination of condition of victim may be made whenever the Royal Insurance Bank so desires.

Insurance.—Employers may insure their employees in the Royal Insurance Bank (a State institution), in a private company or association operating under State supervision, or they may carry the burden themselves. If not insured in the Royal Insurance Bank, a sufficient guaranty must be deposited with the latter. Employers must bear a proportionate share of the expense of administration of the Royal Insurance Bank, whether they insure in it or not.

Security of payments.—Compensation payments are guaranteed by the State.

Settlement of disputes.—Appeals may be taken from decisions of the Royal Insurance Bank to local arbitration councils, in which employers and employees are equally represented, and from them to a central arbitration council whose decisions are final.

NEW ZEALAND.

Date of enactment.—October 18, 1900, to take effect at a date fixed by the governor by order in council. Amended October 3, 1902, November 23, 1903, November 8, 1904, October 31, 1905, and October 29, 1906.

Injuries compensated.—All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, and hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated.—All persons under contract with an employer.

Government employees.—Act applies to work carried on by or on behalf of the Government or any local authority if it would, in case of a private employer, be an employment to which the act applies.

Burden of payment.—Entire cost of compensation rests upon employer; but if there are contractors, then on such contractors and the principal, jointly and severally.

Compensation for death:

- (a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £400 (\$1,946.60), to those wholly dependent upon earnings of deceased.

Compensation for death—Continued.

- (b) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by a magistrate or by the arbitration court.
- (c) Reasonable expenses of medical attendance and burial, not exceeding £30 (\$146), in case deceased leaves no dependents.

Compensation for disability:

- (a) A weekly payment during disability not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, but not to exceed £2 (\$9.73) nor to fall below £1 (\$4.87) where employee's ordinary rate of pay at time of accident was not less than 30 shillings (\$7.30) per week. Total liability of employer is limited to £300 (\$1,459.95). No payment is made for first week if disability does not continue for a longer period than two weeks.
- (b) A lump sum may be substituted for weekly payments for permanent total or partial disability, to be agreed on by the parties or, in default of agreement, determined by the court of arbitration.

Revision of benefits.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the scheme is shown to be not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under this act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge upon the employer's interest in such property and has priority over all charges other than those lawfully existing at the time of the commencement of the act.

Settlement of disputes.—Disputes arising under the act are settled by the court of arbitration under the industrial arbitration act. Where claim for compensation does not exceed £200 (\$973.30) proceedings may be instituted before a magistrate whose decision is final, except that in cases where amount involved does not exceed £50 (\$243.33) either party may, with the consent of the magistrate, and in cases where the claim exceeds £50 (\$243.33), without such consent, appeal from the decision on any point of law.

NORWAY.

Date of enactment.—July 23, 1894, in effect July 1, 1895.

Injuries compensated.—All injuries by industrial accidents, causing death, or disability for more than four weeks, or requiring treatment after that period, unless intentionally brought about by the injured person.

Industries covered.—Practically all factories and workshops using other than hand power; mines and quarries; the handling of ice, explosives, or inflammable wares; building and engineering construction, electric work, transportation, salvage, and diving, chimney sweeping, and fire extinguishing. Employees in other industries may avail themselves of this insurance system.

Persons compensated.—All workmen and overseers.

Government employees.—Act covers employees in government or communal service, when engaged in any of the industries enumerated above, unless at least equal compensation is provided by special regulation.

Burden of payment.—Cost of compensation rests upon employer.

Compensation in case of death:

- (a) Funeral benefit of 50 crowns (\$13.40).
- (b) Pensions to heirs not exceeding 50 per cent of earnings, to be distributed to—
Widow, 20 per cent of earnings, until death or remarriage; in the latter case a lump sum equal to three annual payments; or dependent widower, 20 per cent of annual earnings of deceased while disability lasts.
Each child 15 per cent of annual earnings till age of 15 years if one parent survives, or 20 per cent if neither survives; 15 per cent for each parent to each child when both parents have died as result of injuries.
Dependent relatives in ascending line, if there is a residue after providing for above-mentioned heirs, a pension of 20 per cent of earnings until death or cessation of need, to be divided equally; but living parents exclude grandparents from participation.

- (c) In computing pensions, the excess of annual earnings over 1,200 crowns (\$321.60) is not considered.
- (d) Pension payments are in addition to prior allowances granted for disability.

Compensation for disability:

- (a) Free medical and surgical treatment, or cost of same, after four weeks.
- (b) If employee is totally disabled for more than four weeks an allowance of 60 per cent of the earnings, but not less than 0.50 crown (13 cents) per diem or 150 crowns (\$40.20) per annum; and a proportionate allowance in case of partial disability.
- (c) If injured employee is forced to stay in a hospital, dependents receive allowances during that time equal to the pensions granted in cases of death.
- (d) If injured employee is not a member of a sick insurance fund he is entitled to receive from employer directly sick benefits and free medical treatment from first day of injury.
- (e) In computing allowances the excess of annual earnings over 1,200 crowns (\$321.60) is not considered.

Revision of compensation.—Compensation is subject to revision upon demand of either the beneficiary or the insurance office.

Insurance.—A state central insurance office is established for the entire Kingdom, in which all employees subject to the law must be insured by employer, unless he is, for special reasons, relieved by royal order from the obligation of insurance.

Security of payments.—Insurance office is guaranteed by the State.

Settlement of disputes.—Appeals from decisions of insurance office may be entered within six weeks with the special insurance commission.

QUEENSLAND.

Date of enactment.—December 20, 1905, in effect March 31, 1906.

Injuries compensated.—All injuries by accident, arising out of and in the course of the employment, which cause death or disable a workman

for at least two weeks from earning full wages at the work at which he was employed, except when the injury is directly attributable to his serious and willful misconduct, or when it occurs while proceeding to or from his place of work.

Industries covered.—Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, or hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated.—All persons under contract with an employer. **Government employees.**—Act applies to any work carried on by or on behalf of the Government or any local authority, if it would, in case of a private employer, be an employment to which the act applies.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

- (a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £400 (\$1,946.60), to those wholly dependent upon earnings of deceased; but aged and infirm employees may agree in advance to accept a reduced amount.
- (b) A sum less than above if heirs are only partly dependent.
- (c) Reasonable expenses of medical attendance and burial, not exceeding £30 (\$146), if deceased leaves no dependents.

Compensation for disability:

- (a) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 (\$4.87), and total liability not to exceed £400 (\$1,946.60); except that aged and infirm employees may agree in advance to accept a reduced amount.
- (b) A weekly payment during partial disability after second week, not exceeding one-half of difference between the employee's average weekly earnings before the accident and the average weekly amount which he is earning or able to earn after injury.
- (c) Minors may be allowed full earnings during incapacity, not exceeding 10 shillings (\$2.43) weekly.
- (d) A lump sum may be substituted for weekly payments after three months, on application of employer, the amount to be agreed upon or, in default of agreement, to be determined by a police magistrate.

Revision of compensation.—Weekly payments may be revised by a police magistrate at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance, in place of the provisions of the act if the scheme is officially certified to be not less favorable to the employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a worker under such liability, then in the event of his becoming insolvent, such workman has a first claim upon this sum for the amount so due.

Settlement of disputes.—Disputes arising under the act are heard and determined by a police magistrate, whose decision is final, except that either party may appeal from this decision on any point of law with the latter's leave if the claim does not exceed £50 (\$243.33), or without his leave if it exceeds that amount.

RUSSIA.

Date of enactment.—June 2 (15), 1903, in effect January 1 (14), 1904.

Injuries compensated.—All injuries by accident occasioned by or on account of the work and causing death or disability for more than three days, unless brought on intentionally by the victim or due to gross imprudence.

Industries covered.—Metallurgical and mining establishments and factories and workshops using other than hand power, but exclusive of shops of private railroad and steamship companies and certain rural industrial establishments.

Persons compensated.—Workmen and those technical officials whose annual earnings do not exceed 1,500 rubles (\$772.50).

Government employees.—Act applies to mining, metallurgical, and manufacturing establishments of municipal and zemstvo governments, but not to national government employees, for whom special regulations exist.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death:

- (a) Funeral expenses not exceeding 30 rubles (\$15.45) for an adult and 15 rubles (\$7.73) for a child under 15 years of age.
- (b) Pensions to dependent heirs not exceeding 66⅔ per cent of annual earnings of victim, distributed to—
Widow, 33⅓ per cent until death or remarriage; in the latter case a lump sum equal to three annual payments.
Each child until age of 15 years, 16⅔ per cent if one parent survives and 25 per cent if neither parent survives.
Dependent heirs in ascending line, 16⅔ per cent.
Each dependent orphan brother and sister until 15 years of age, 16⅔ per cent.
Widow and children take precedence over other dependent heirs, who share the remainder in equal parts.
- (c) Pension may, by mutual consent of employer and beneficiary, be replaced by single payment of ten times amount of annual pension and, in case of children, pension multiplied by the number of years remaining for pension payments, but not exceeding ten.

Compensation for disability:

- (a) Free medical and surgical treatment or reimbursement of expense of same.
- (b) If permanently disabled, a pension of 66⅔ per cent of annual earnings of victim in case of total disability, and a pension proportionate to degree of incapacity in case of partial disability, to be paid from time when degree of permanent disability was determined; if amount of pension exceeds that of previous allowance for temporary disability, difference between the two during the period of disability is paid to permanently injured employee.
- (c) Pension may, by mutual consent of employer and beneficiary, be replaced by a single payment of ten times amount of annual pension.
- (d) If temporarily disabled, an allowance of 50 per cent of actual wages of victim from day of accident until complete recovery from disability or the determining of degree of permanent disability.

Revision of compensation.—Demands for revision of payments or to secure a pension previously refused may be made by either party within three years.

Insurance.—Employers may transfer burden of payment of compensation by insuring their employees in authorized insurance companies or societies.

Security of payments.—On retiring from business employer must guarantee payments by insurance or by deposit with a state bank. In case of insolvency, payments constitute a preferred claim.

Settlement of disputes.—Disputes may be carried into courts as other civil cases. Such cases are exempt from court fees, the documents are free from stamp tax, and attorney's fees are fixed by law.

SOUTH AUSTRALIA.

Date of enactment.—December 5, 1900, in effect not earlier than June 1, 1901.

Injuries compensated.—All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Railways, waterworks, tramways, electric-lighting works, factories, mines, quarries, engineering and building work, employments declared by a proclamation of the governor upon addresses from both houses of parliament to be dangerous or injurious to health or dangerous to life or limb, and agricultural pursuits where mechanical motive power is used.

Persons compensated.—All persons engaged in manual labor or otherwise.

Government employees.—Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

- (a) A sum equal to three years' earnings, but not less than £150 (\$729.98) nor more than £300 (\$1,459.95), to those wholly dependent upon earnings of deceased.
- (b) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by arbitration.
- (c) Reasonable expenses of medical attendance and burial not exceeding £50 (\$243.33), if deceased leaves no dependents.

Compensation for disability:

- (a) A weekly payment during disability after first week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 (\$4.87) nor, in case of total incapacity, to be less than 7s. 6d. (\$1.83) per week, and total liability not to exceed £300 (\$1,459.95).
- (b) A weekly payment during partial disability after first week to be fixed with regard to difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after injury.
- (c) A lump sum not exceeding £300 (\$1,459.95) may be substituted for weekly payments, after six months, on application of either party, the amount to be settled by arbitration under the act in default of agreement.

Revision of benefits.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the public actuary certifies that the scheme is on the whole not less favorable to general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum, and any special magistrate may direct its payment into the savings bank to be applied to payment of compensations due.

Settlement of disputes.—Disputes arising under the act are settled by the arbitration of existing committees representative of employers and employees, or, if either party objects, by a single arbitrator agreed on by the parties, or, in absence of agreement, by a special magistrate. An arbitrator appointed by the magistrate has all the powers of a local court.

SPAIN.

Date of enactment.—January 30, 1900, in effect July 28, 1900.

Injuries compensated.—All injuries by accidents to employees in the course of and by reason of the employment causing death or disability. Compensation may be reduced if injured person was engaged in an illegal act.

Industries covered.—Manufacturing, mines, quarries, metallurgical establishments, construction work, industries injurious to health, transportation, gas and electric works, street cleaning, theaters, and agricultural and forestry establishments using power machinery.

Persons compensated.—Workmen performing manual labor, including helpers and apprentices.

Government employees.—Act applies to employees of state factories and other government establishments, to labor accidents in war and naval departments, and to establishments of provincial and communal governments.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—In addition to any prior benefits paid for disability—

- (a) Funeral expenses not exceeding 100 pesetas (\$19.30).
- (b) A lump sum equal to two years' earnings if widow and children or dependent orphan grandchildren under 16 years survive; eighteen months' earnings if only children or orphan grandchildren survive; one year's earnings if only widow survives; ten months' earnings to dependent parents or grandparents over 60 years of age, in absence of widow or children, if two or more survive; seven months' earnings if only one parent or grand parent survives.
- (c) For these lump-sum payments, by mutual consent, the following pensions may be substituted: Forty per cent of annual earnings when widow and children or grandchildren survive; 20 per cent of annual earnings when only widow survives; 10 per cent to each dependent parent or grand parent over

Compensation for death—Continued.

60 years of age, when no widow or children survive, but not over 30 per cent in the aggregate; compensation to widow ceases on her remarriage and to children on their attaining the age of 16 years.

- (d) In these cases the daily earnings to be considered as not less than 1.50 pesetas (29 cents).
- (e) All of these compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

Compensation for disability:

- (a) Free medical and surgical treatment during disability.
- (b) Fifty per cent of daily earnings, including Sundays and holidays, from day of injury to day of recovery from disability, but not over one year, after which case is treated as one of permanent disability.
- (c) In case of permanent disability, in addition to the foregoing, a sum equal to two years' earnings for total disability. Eighteen months' earnings if total disability extends only to former trade.
- (d) One year's earnings in cases of partial permanent disability for usual employment, unless the employer agrees to employ injured workmen at some other work at old rate of wages.
- (e) In these cases the daily earnings to be considered as not less than 1.50 pesetas (29 cents).
- (f) Compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

Revision of compensation.—No special provision is made in the law.

Insurance.—Employers may contract with authorized insurance companies to assume obligations imposed by law.

Security of payment.—No special provision is made in the law.

Settlement of disputes.—Disputes concerning compensation under the law may be carried to special permanent labor tribunals consisting of representatives of the State, employers, and employees.

SWEDEN.

Date of enactment.—Approved July 5, 1901; in effect January 1, 1903; amended June 3, 1904.

Injuries compensated.—Injuries by accidents to workmen resulting from the employment and causing death or disability for more than sixty days, unless due to the willful act or gross negligence of the victim or the willful act of a third person who has neither the supervision nor the direction of the work.

Industries covered.—Practically all establishments engaged in forestry work, mining, quarrying, turf and ice cutting and handling, manufacturing, chimney sweeping, rafting, railway and tramway service, handling goods, building trades, conduit, road, and other construction work, and gas, electricity, and water distribution. Employers in other industries may insure their employees in the State Insurance Institute and thereby be placed under the provisions of the act. Employees in other industries may secure the protection of the act by insuring themselves in the State Insurance Institute.

Persons compensated.—Workmen and foremen.

Government employees.—Act applies to employees in the State and communal services when engaged in any of the industries enumerated above.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—When death results from the injury within two years—

- (a) Funeral benefit of 60 crowns (\$16.08).
- (b) Annual pensions not exceeding in the aggregate 300 crowns (\$80.40), to be distributed to widow, until remarriage 120 crowns (\$32.16); each child under 15 years of age, 60 crowns (\$16.08).

Compensation for disability:

- (a) If permanently disabled annual pension of 300 crowns (\$80.40) in case of total disability and a smaller sum, corresponding to loss of earning power in case of partial disability, pension to begin with sixty-first day of disability, or later if permanent character of the disability was not then established.
- (b) If temporarily disabled for more than sixty days, 1 crown (27 cents) per day, beginning with sixty-first day.

Revision of compensation.—Suit may be brought in a court of first instance by injured employee for a revision of compensation within two years from the date of the fixing of the same.

Insurance.—If an injured person receives an allowance or pension from an organization which is supported entirely or in part by the employer, or if the victim is insured in a private organization by his employer, the amounts received from such a source may be deducted from payments required of employers under the act. Employers may transfer burden of payment of compensation by insuring in the State Insurance Institute, created for this purpose by the act, or in individual cases purchase annuities for pensioners from this institution. Other arrangements may be made between employers and employees if the State Insurance Institute finds upon examination that they are not unfavorable to the employees.

Security of payments.—An employer may be required to furnish adequate security for the payment of the pension to cover the contingency of his neglecting to pay the same, of his retiring from business or leaving the country, or of his becoming insolvent. If he fails to furnish security he may be required to pay a lump sum equal to the capital value of the pension plus the payments and interest due, which amount, in the case of an injured employee, must be invested in the purchase of an annuity from the Royal Insurance Institute.

Settlement of disputes.—Disputes may be settled either by arbitration or by bringing suit in a court of first instance. The demand for arbitration must be made or the suit brought within two years after the accident, or, in case of fatal accidents, within two years after the death of the victim. If the action is against the State Insurance Institute, one year more is allowed.

WESTERN AUSTRALIA.

Date of enactment.—February 19, 1902, in effect on a date fixed by the governor by order in council.

Injuries compensated.—All injuries caused to a workman arising out of and in the course of the employment causing death or disability for at least two weeks, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Railways, waterworks, tramways, electric-light plants, factories, mines, quarries, engineering and building work, and

employments declared by a proclamation of the governor, issued pursuant to addresses from both houses of parliament, to be dangerous or injurious to health or dangerous to life or limb.

Persons compensated.—All persons engaged under contract in any employment.

Government employees.—Act applies to all persons employed under the Crown to whom it would apply if employer were a private person.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(a) A sum equal to three years' earnings, but not less than £200 (\$973.30), nor more than £400 (\$1,946.60), to those wholly dependent upon earnings of deceased.

(b) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by local court.

(c) Reasonable expenses of medical attendance and burial, not to exceed £100 (\$486.65), if deceased leaves no dependents.

Compensation for disability:

(a) A weekly payment during disability after second week, not exceeding 50 per cent of injured person's average weekly earnings during the previous twelve months, such weekly payment not to exceed £2 (\$9.73) and total liability not to exceed £300 (\$1,459.95).

(b) In case of partial disability, regard is to be had to the difference between average weekly earnings before and after the accident and to any payment other than wages made by employer on account of the injury.

(c) A lump sum may be substituted for weekly payments, after six months, on the application of the employer, the amount to be determined by the court in default of agreement.

Revision of benefits.—Weekly payments may be revised by the court at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with this scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first charge upon this sum for the amount so due. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge on the employer's interest in such property.

Settlement of disputes.—Disputes arising under the act are settled by the local court of the district in which the injury is received.

The Democratic Attempt to Compel Legislation in the First Session of the Sixtieth Congress.

SPEECH

OF

HON. HENRY T. RAINEY,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. RAINEY said:

Mr. SPEAKER: Under the general leave to print I desire to submit the following brief review of the attempt by the Hon. JOHN SHARP WILLIAMS, of Mississippi, the Democratic leader in the House of Representatives, to compel the enactment of the legislation demanded by the country at the present time. In his effort to compel the enactment of certain needed legislation Mr. WILLIAMS received the united and active support of the Democratic minority in the House from the moment the movement commenced until the adjournment of Congress.

At the opening of the Sixtieth Congress the following legislation was universally demanded:

1. An employers' liability bill.
2. A bill providing for publicity of campaign contributions.
3. A bill placing wood pulp and print paper on the free list.
4. An anti-injunction bill.

The first session of the Sixtieth Congress commenced at noon, December 2, 1907, and from that time until January 7, when Congress reconvened after the holiday recess, the House was in actual session just fourteen hours and five minutes. During that time the House adjourned for two weeks on account of the holiday recess. Up to the 24th day of March the House was in session ninety days. The average daily length of each session was three hours and sixteen minutes. From the beginning of the session until the 24th day of March only three bills of public importance had been passed, to wit:

An act providing for an immigration station in Philadelphia, and appropriating \$250,000 therefor;

The urgent deficiency appropriation bill; and

The bill to increase the efficiency of the personnel of the Life-Saving Service.

Up to that time only one joint resolution had been passed, to wit, a resolution inviting other countries to send representatives to the International Congress of Tuberculosis.

The above bills and the above joint resolution represent the sum total of the activities of the Sixtieth Congress for the first four months of the session which closes to-day.

There is not much a minority can do to compel legislation on the part of the majority. A minority, however, has certain rights under the Constitution which can not be taken away. Among these rights is a right to demand roll calls, and this right the minority have asserted from the 24th day of March until to-day.

On the 24th day of March, 1908, Mr. WILLIAMS, the minority leader, on behalf of the Democratic minority, demanded the enactment of certain legislation, and in his speech on that occasion he said:

The minority can not exercise much power, but it has some power, and I want to make announcement now that from this moment on to the balance of the session this is not going to be a lie-easy, wait-on-the-enemy campaign [applause on the Democratic side], and that the little parliamentary power the minority has under the rules is going to be exercised. The minority has a right to refuse unanimous consent to legislation. It has a right to call for the yeas and nays upon every affirmative matter of legislation. I now make the announcement that requests for unanimous consent from that side of the aisle, unless it be to adjourn or to take a recess—in which two cases I believe it is not from a parliamentary standpoint necessary to have unanimous consent—will not be granted during the balance of this session until the majority shows that it is alive to the demands of the country sufficiently to report for consideration in this House or to give me satisfactory assurance that they will report for consideration the following bills:

First. An employers' liability bill. [Applause on the Democratic side.] You have been wasting too much time over it. You have been permitting your Judiciary Committee to have hearing upon hearing, and you have been using that bill merely as a buffer in order to prevent hearing upon other essential legislation before that committee, which legislation you hope to evade.

Second. I shall refuse unanimous consent until you report to this House for its consideration some publicity of campaign contributions bill [applause on the Democratic side], whether it be the bill offered by the gentleman from Missouri [Mr. RUCKER] or some other bill. I care not whose name is attached to it, Republican or Democrat.

Third. I shall refuse unanimous consent for any request upon that side of the Chamber until the Ways and Means Committee of this House, in response to the overwhelming demand of the entire newspaper and magazine fraternity of this country, Republican as well as Democrat, shall bring to the consideration of this House a bill for free wood pulp and free print paper. [Applause on the Democratic side.]

Fourth. I shall make the same declination until the Clayton bill, now pending before the Judiciary Committee, or some other bill embodying like provisions, shall have been reported out of that committee for the consideration of this House. What the Clayton bill does is this: It prevents mere ex parte and temporary injunctions, where only one side has been heard from, acting as a supersedeas of a law passed by a sovereign State.

I do not deny the right, upon final hearing of the injunction, when it is made permanent, to set aside a State law if, in the opinion of the Federal court, it violates the Constitution of the United States, but I do deny the right, upon a mere ex parte hearing by means of a temporary injunction without hearing the State's side at all of a subordinate court of the United States to sit in judgment on the constitutionality of the legislation of a sovereign State. [Applause on the Democratic side.] I am reinforced in that opinion by the fact that under the original judicial act the courts had no such power, and for years and years afterwards had no such power, and could not issue an injunction until they had heard both sides, with reasonable notice to both sides. Mr. Chairman, in order that there may be no misunderstanding about that, and how far I am going, I desire to read this Clayton bill, though I do not insist upon this particular bill. Bring in a bill in the name of the chairman of the committee; bring in a bill in the name of a Republican; claim the credit for it; go before the country and get the credit for it—you have a right to do it; that I admit; and I would be glad to see you do it, for I am never better satisfied than at the unusual spectacle of the Republican party serving the country. [Laughter and applause on the Democratic side.]

The Clayton bill is as follows: "Be it enacted, etc., That hereafter it shall be unlawful for any circuit or district court of the United States, or any circuit or district judge of the United States, to issue any injunction or order prohibiting or restraining the execution of any State law in all cases except where final trial has been had and final judgment or final decree has been rendered declaring such State law to be in violation of the Constitution, laws, or treaties of the United States."

"SEC. 2. That hereafter it shall be unlawful for any circuit or district court or any circuit or district judge of the United States to issue any injunction or restraining order prohibiting or restraining any State officer or any persons from executing any State law in all cases, except where final trial has been had and final judgment or final decree has been rendered declaring such State law to be in violation of the Constitution, laws, or treaties of the United States."

The first roll call demanded by Mr. WILLIAMS in pursuance of his announced purpose occurred on March 30, just two months prior to the adjournment date, and the period of the activity of the Sixtieth Congress commenced also on that date. During the remainder of the session following the inauguration of the aggressive campaign of the Democrats, under the leadership of Mr. WILLIAMS, for needed legislation between the 30th day of March and the 30th day of May the House passed thirty-one important public bills and four important public joint resolutions. During that period of time the Committee on Rules exerted its strength against the aggressive policy of the minority

leader and, among other rules, it reported out the following, all of which were passed by a strict party vote:

(P. 4326.) Mr. PAYNE, from the Committee on Rules, reported out an order for the consideration of H. Res. 233 for the distribution of the President's message; and

(P. 4331.) Moves closure of debate.

(P. 4349.) Mr. DALZELL, from the Committee on Rules, brought in a rule the effect of which was to revoke the previous unanimous consent of the House for eight hours of debate on the District appropriation bill, allowing two hours only.

(P. 4368.) A sweeping rule was brought in by Mr. DALZELL, which provided that all Senate amendments to general appropriation bills should be agreed or disagreed to en bloc. The rule also provided that a motion for a recess should be a privileged motion. It also provided for closing debate by motion in the House before going into the Committee of the Whole—the motion not to be subject to debate or amendment. In his speech reporting this rule Mr. DALZELL admitted that the rule was brought in for the purpose of counteracting Mr. WILLIAMS's tactics.

(P. 4505.) A rule was brought in declaring recesses in advance from day to day for the current week. It also provided for the closing of debate on the naval appropriation bill.

(P. 4514.) A rule was reported providing that whenever a general appropriation bill is reported favorably from the committee on the bill it shall be in order to apply to it in the House a motion to suspend the rules under the conditions prescribed in Rule XXVIII, except a vote shall be by a majority instead of two-thirds.

The above are some of the arbitrary rules brought in to counteract the effect of the tactics of the minority leader. More time was consumed in discussing and in voting on the above rules than would have been required to have discussed and to have passed bills on all the matters referred to by Mr. WILLIAMS on the 24th day of March.

On the 26th day of March the President sent to Congress a special message advising, among other things, in substance, the legislation demanded by the minority leader. The Democrats, under the leadership of Mr. WILLIAMS, compelled the adoption of an employers' liability bill, which was approved April 22, 1908, and is known as "Public bill No. 100."

The following is a copy of the bill:

H. R. 20310. An act relating to the liability of common carriers by railroad to their employees in certain cases.

Be it enacted, etc., That every common carrier by railroad, while engaging in commerce between any of the several States or Territories, or between any of the States and Territories, or between the District of Columbia and any of the States or Territories, or between the District of Columbia or any of the States or Territories and any foreign nation or nations, shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and if none, then of such employee's parents; and if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

SEC. 2. That every common carrier by railroad in the Territories, the District of Columbia, the Panama Canal Zone, or other possessions of the United States shall be liable in damages to any person suffering injury while he is employed by such carrier in any of said jurisdictions, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

SEC. 3. That in all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this act to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

SEC. 4. That in any action brought against any common carrier under or by virtue of any of the provisions of this act to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

SEC. 5. That any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this act, shall to that extent be void: *Provided*, That in any action brought against any such common carrier under or by virtue of any of the provisions of this act, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been

paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought.

SEC. 6. That no action shall be maintained under this act unless commenced within two years from the day the cause of action accrued.

SEC. 7. That the term "common carrier" as used in this act shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

SEC. 8. That nothing in this act shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other act or acts of Congress, or to affect the prosecution of any pending proceeding or right of action under the act of Congress entitled "An act relating to liability of common carriers in the District of Columbia and Territories, and to common carriers engaged in commerce between the States and between the States and foreign nations to their employees," approved June 11, 1906.

Approved April 22, 1908.

The other three demands of the minority leader have not been complied with by the Republicans.

PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

The Republican majority, in pretended compliance with the Democratic demands for publicity of campaign contributions, compelled the passage by a strict party vote in the House of Representatives on the 12th day of May, 1908, of the following bill:

An act (H. R. 20112) providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected, prohibiting fraud in registrations and elections, and providing data for the apportionment of Representatives among the States.

Be it enacted, etc., That the term "political committee" under the provisions of this act shall include the national committees of all political parties and the national Congressional campaign committees of all political parties and all committees, associations, or organizations which shall in two or more States influence the result or attempt to influence the result of an election at which Representatives in Congress are to be elected.

SEC. 2. That every political committee as defined in this act shall have a chairman and a treasurer. It shall be the duty of the treasurer to keep a detailed and exact account of all money or its equivalent received by or promised to such committee or any member thereof, or by or to any person acting under its authority or in its behalf, and the name of every person, firm, association, or committee from whom received, and of all expenditures, disbursements, and promises of payment or disbursement made by the committee or any member thereof, or by any person acting under its authority or in its behalf, and to whom paid, distributed, or disbursed. No officer or member of such committee, or other person acting under its authority or in its behalf, shall receive any money or its equivalent, or expend or promise to expend any money on behalf of such committee, until after a chairman and treasurer of such committee shall have been chosen.

SEC. 3. That every payment or disbursement made by a political committee exceeding \$10 in amount be evidenced by a receipted bill stating the particulars of expense, and every such record, voucher, receipt, or account shall be preserved for fifteen months after the election to which it relates.

SEC. 4. That whoever, acting under the authority or in behalf of such political committee, whether as a member thereof or otherwise, receives any contribution, payment, loan, gift, advance, deposit, or promise of money or its equivalent, shall, on demand, and in any event within five days after the receipt of such contribution, payment, loan, gift, advance, deposit, or promise, render to the treasurer of such political committee a detailed account of the same, together with the name and address from whom received, and said treasurer shall forthwith enter the same in a ledger or record to be kept by him for that purpose.

SEC. 5. That the treasurer of every such political committee shall, not more than fifteen days and not less than ten days before an election at which Representatives in Congress are to be elected in two or more States, file in the office of the Clerk of the House of Representatives at Washington, D. C., with said clerk, an itemized detailed statement, sworn to by said treasurer and conforming to the requirements of the following section of this act. It shall also be the duty of said treasurer to file a similar and final statement with said clerk within thirty days after such election, such final statement also to be sworn to by said treasurer and to conform to the requirements of the following section of this act. The statements so filed with the Clerk of the House shall be preserved by him for fifteen months, and shall be a part of the public records of his office, and shall be open to public inspection.

SEC. 6. That the statements required by the preceding section of this act shall state:

First. The name and address of each person, firm, association, or committee who or which has contributed, promised, loaned, or advanced to such political committee, or any officer, member, or agent thereof, either in one or more items, money or its equivalent of the aggregate amount or value of \$100 or more;

Second. The total sum contributed, promised, loaned, or advanced to such political committee, or to any officer, member, or agent thereof, in amounts less than \$100;

Third. The total sum of all contributions, promises, loans, and advances received by such political committee or any officer, member, or agent thereof;

Fourth. The name and address of each person, firm, association, or committee to whom such political committee, or any officer, member, or agent thereof, has disbursed, distributed, contributed, loaned, advanced, or promised any sum of money or its equivalent of the amount or value of \$10 or more, and the purpose thereof;

Fifth. The total sum disbursed, distributed, contributed, loaned, advanced, or promised by such political committee, or any officer, member, or agent thereof, where the amount or value of such disbursement, distribution, loan, advance, or promise to any one person, firm, association, or committee in one or more items is less than \$10;

Sixth. The total sum disbursed, distributed, contributed, loaned, advanced, or promised by such political committee or any officer, member, or agent thereof.

SEC. 7. That every person, firm, association, or committee, except political committees as hereinbefore defined, that shall expend or

promise any sum of money or other thing of value amounting to fifty dollars or more for the purpose of influencing or controlling, in two or more States, the result of an election at which Representatives to the Congress of the United States are elected, unless he or it shall contribute the same to a political committee as hereinbefore defined, shall file the statements of the same under oath as required by section 6 of this act in the office of the Clerk of the House of Representatives, at Washington, D. C., which statements shall be held by said clerk in all respects as required by section 5 of this act.

Sec. 8. That any person may in connection with such election incur and pay from his own private funds for the purpose of influencing or controlling, in two or more States, the result of an election at which Representatives to the Congress of the United States are elected, all personal expenses for his traveling and for purposes incidental to traveling, for stationery and postage, and for telegraph and telephone service, without being subject to the provisions of this act.

Sec. 9. That the foregoing provisions of this act shall not apply to the proprietors and publishers of publications issued at regular intervals in respect to the ordinary conduct of their business, and nothing contained in this act shall limit or affect the right of any person to spend money for proper legal expenses in maintaining or contesting the results of any election.

Sec. 10. That every person willfully violating any of the foregoing provisions of this act shall, upon conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. 11. That if, at any election for Representative or Delegate in Congress, or at any primary election for the nomination of a candidate for Representative or Delegate in Congress held in pursuance of State or Territorial law, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious; or votes more than once at the same election, or primary election, for any candidate for the same office; or votes at a place where he may not be lawfully entitled to vote; or votes without having a lawful right to vote; or does any unlawful act to secure an opportunity to vote for himself, or any other person; or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State or of any Territory from freely exercising the right of suffrage, or by any such means induces any voter to refuse to exercise such right, or compels or induces by any such means any officer of an election or primary election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote, or interferes in any manner with any officer of such election or primary election in the discharge of his duties, or by any such means or other unlawful means induces any officer of an election or primary election, or officer whose duty it is to ascertain, announce, or declare the result of such election or primary election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same, or knowingly receives the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, or aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or omits to do any duty the omission of which is hereby made a crime, or attempts to do so, he shall be punished by a fine of not more than \$500 or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

Sec. 12. That if at any registration of voters for an election for Representative or Delegate in Congress, or for any primary election for the nomination of a candidate for Representative or Delegate in Congress held in pursuance of State or Territorial law, any person knowingly personates and registers, or attempts to register in the name of any other person, whether living, dead, or fictitious, or fraudulently registers or fraudulently attempts to register, not having a lawful right so to do, or does any unlawful act to secure registration for him or any other person, or by force, threat, menace, intimidation, bribery, reward, or offer or promise thereof, or other unlawful means, prevent or hinders any person having a lawful right to register from duly exercising such right, or compels or induces by any of such means, or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interferes in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induces any officer of registration to violate or refuse to comply with his duty or any law regulating the same, or if any such officer knowingly and willfully registers as a voter any person not entitled to be registered, or refuses to so register any person entitled to be registered, or if any such officer or other person who has any duty to perform in relation to such registration or election or primary election, in ascertaining, announcing, or declaring the result thereof, or in giving or making any certificate, document, or evidence in relation thereto, knowingly neglects or refuses to perform any duty required by law, or violates any duty imposed by law, or does any act unauthorized by law relating to or affecting such registration or election or primary election, or the result thereof, or any certificate, document, or evidence in relation thereto, or if any person aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or to omit any act the omission of which is hereby made a crime, every such person shall be punished by a fine of not more than \$500 or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

Every registration made under the laws of any State or Territory for any State or other election, or primary election at which such Representative or Delegate in Congress may be nominated or elected, shall be deemed to be a registration within the meaning of this section, notwithstanding such registration is also made for the purposes of any State, Territorial, or municipal election, or primary election.

Sec. 13. That every officer of an election at which any Representative or Delegate in Congress is voted for, or of any primary election for the nomination of a candidate for Representative or Delegate in Congress, whether such officer of election be appointed or created by or under any law or authority of the United States, or by or under any State, Territorial, district, or municipal law or authority, who neglects or refuses to perform any duty in regard to such election or primary election required of him by any law of the United States, or of any State or Territory thereof, or who violates any duty so imposed, or who knowingly does any acts thereby unauthorized, with intent to affect any such election or primary election or the result thereof, or who fraudulently makes any false certificate of the result of such election or primary election in regard to such Representative or Delegate, or who withholds, conceals, or destroys any certificate of record so required by law respecting the election of any such Representative or Delegate, or primary election for the nomination of a candidate for such Representative or Delegate, or who neglects or refuses to make

and return such certificate as required by law, or who aids, counsels, procures, or advises any voter, person, or officer to do any act by sections 11 or 12 thereof made a crime, or to omit to do any duty the omission of which is by this or any of such sections made a crime, or attempts to do so, shall be punished by a fine of not more than \$500 or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

Sec. 14. That for the purpose of enabling Congress to apportion Representatives among the several States in accordance with the plan provided in the second section of the fourteenth amendment to the Constitution, the Director of the Census, as soon as practicable after the decennial census of population, shall submit to Congress a report of the population by States as shown by such census, which report shall also show the number of male citizens, white and colored, respectively, in each State, 21 years of age and over, the number of such male citizens in each State found to be illiterate, the number of votes cast by male citizens in each Congressional district at the last preceding general election, the number of such male citizens in each State that had not complied with the registration and election laws therein requiring the payment of a poll or property tax as a condition precedent to the right to register or vote, and the number of such male citizens in each State to whom the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial offices of the State or members of the legislature thereof, has been denied or in any way abridged except for participation in crime.

Sec. 15. That all prosecutions under this act shall be commenced within one year after the commission of the offense, and shall be brought in the United States circuit court within the district in which such offenses occurred.

The above measure is a combination of the McCall publicity bill, the Federal election bill, and an effort to take the preliminary steps toward reducing Southern representation in the House of Representatives. It was passed through the House against a protest of the Democrats, and with the knowledge that it could not possibly under any consideration pass the Senate. The country was demanding an act providing for publicity of campaign contributions. The investigations of the life-insurance companies in New York, recently finished, disclosed the necessity of legislation of this character. The tremendous corrupting influences of contributions by the Standard Oil Company, the steel trust, the life-insurance companies, and other great corporations of the Republican campaign funds from 1896 to date discloses the immediate necessity for publicity. This legislation was universally demanded. The bill met its fate in the Senate, as predicted in the House, on the 28th day of May—two days ago. It was impossible to get it through the Senate with the objectionable provisions attached.

I quote from a part of the debate in the Senate on that day on the subject (CONGRESSIONAL RECORD, p. 7105, first session Sixtieth Congress):

Mr. CULBERSON. There is another important matter, Mr. President, which the Senator, I trust, will pardon me for calling his attention to at this time, measures which are pending with reference to the publicity of campaign contributions. I ask the Senator if we may expect any legislation on that subject at this session?

Mr. ALDRICH. I am also without authority to speak for anybody but myself. There is a measure pending in the Committee on Privileges and Elections which comes here from the House of Representatives, and I can only say, as far as I am personally concerned, if the Senator desires a vote on that measure this afternoon or any hour to-day or to-morrow, without further debate, after the pending conference report is disposed of, I certainly shall make no objection to that request.

Mr. CULBERSON. Does the Senator refer to what is known as "the McCall publicity bill?"

Mr. ALDRICH. I refer to the bill which came here on that subject from the House of Representatives, and which is now pending in the Committee on Privileges and Elections.

Mr. CULBERSON. But my inquiry was with reference to a publicity bill pure and simple, unmixed with other political matters.

Mr. ALDRICH. The publicity bill that is before the Senate is associated with other provisions in regard to changes in election laws. The Senate can not disassociate those two items. If the Senator desires legislation upon the subject, of course it must be legislation with the concurrence of the House of Representatives, and those two things can not be separated. Of course, if we should agree to take a vote upon the subject and fix a time and the Senate should disagree to that provision, then the matter would be in conference. But I am quite willing, speaking for myself, to fix a time immediately after the disposition of the pending conference report for a vote upon the House proposition without further amendment.

Mr. CULBERSON. The Senator, then, I assume, so far as he is concerned—and of course we know the extent to which he speaks—is unable to give us any assurance that a publicity bill pure and simple, unmixed with the bill, I will state frankly, concerning representation, will be acted upon at this session and be passed.

Mr. ALDRICH. There is no possible way in which the Senate can bring the matter to a test vote except by taking up the House bill, so far as I can see. If we are to have effective legislation upon the subject, it must be, as I said before, by concurrence of the two Houses; and I shall join with pleasure the Senators upon the other side, if they desire to have a time fixed for a vote upon that proposition, in acceding to their request.

Mr. BACON. With the permission of the Senator from Texas, I desire to make a suggestion to the Senator from Rhode Island in that connection. There are some things in which parties and Senators are at variance. Of course we recognize that there are some things in which there is controversy, some things in which there is a diversity of opinion and of wish. There are other things in which there is, on the part of Senators of both political parties, a profession of unanimity of purpose and of desire.

Now, both parties represented in this Chamber, and those outside of this Chamber who are recognized as the leaders of the parties in the country at large, avow that they are at one upon one subject,

that they are in perfect unison and accord on the subject of the requirement of publicity in connection with campaign funds and contributions.

Mr. ALDRICH. Will the Senator from Georgia state to whom he refers? I would be glad to have the Senator state definitely to whom he refers as the leaders of the two parties.

Mr. BACON. I can only speak of what appeared in the press. I am not speaking otherwise than what has been given out in an informative manner. There are some who in the public press assume to be leaders and express themselves in that way. But I am not speaking of that except simply by way of a side matter. I am speaking about what concerns us in this Chamber, to wit, the profession on the part of Senators on each side of the Chamber that we are in favor of the passage of a law which shall make public the contributions for campaign purposes prior to an election. I suppose there is no Senator here who will rise in his place and say he does not favor that.

Now, that being a matter in which we are professedly in absolute accord, the suggestion I wish to make to the Senator is that if in truth we are in accord, if it is true that in good faith that profession is made, then the matter which is thus without controversy can be easily disposed of without debate and without reference to committees or anything else. We can pass the measure in five minutes if it is limited to the publicity feature, whereas the Senator well knows that to attach to it a matter which is in controversy and about which there is not a concord of sentiment it must necessarily at this time defeat the one about which there is no diversity of opinion.

That being the case, I suppose of course it has occurred to the Senator—but I thought I would take the liberty of suggesting it—that the plain, simple way, if we desire really to carry out our professions relative to requiring publicity of campaign contributions, is to limit our consideration and our action to that matter about which there is professedly no diversity of opinion.

I said I supposed there was no Senator in this Chamber who would rise in his place and say that he did not favor the publicity bill. Then I would ask every Senator to ask himself the question whether it is acting in good faith to attach to that measure relative to publicity another measure which does produce controversy and about which we are disagreed and the inevitable consequence of which must be to defeat that which they profess a desire to accomplish.

If it be true that our profession is sincere on both sides, if it be true that each of us, without exception, favors the enactment of a law which shall require publicity as to contributions for campaign funds, why is it that we can not make good that profession by an act which it is easy for us to accomplish by simply saying that we will pass a bill which shall relate to that and to nothing else?

Mr. CULBERSON. Mr. President, I am obliged to the Senator from Georgia for the suggestion which he has made and to which no reply so far has been made by the Senator from Rhode Island, to whom I yield if he desires to make a reply now. If he does not see proper to reply further, I assume—and if my assumption is not well founded, I hope that I may be corrected—that there is no possibility of passing an anti-injunction bill at this session of Congress, nor is there any probability or any possibility of passing a bill providing for the publication of campaign contributions, pure and simple.

WOOD PULP AND PRINT PAPER.

No attempt was made to pass this legislation so universally demanded by the newspapers of the country. A committee was appointed to investigate the matter. The method usually adopted for the postponing of legislation is by the appointment of committees. The committee met and heard the complaints of the publishers. They are still meeting. The investigation is not over. The Republican leaders are congratulating themselves that they have postponed action on this question until after the election. If another Republican House is elected they can simply say, "Republican policies have been indorsed. It is not necessary now to put wood pulp and print paper on the free list."

THE ANTI-INJUNCTION BILL.

No attempt was made to pass this legislation. The majority leader [Mr. PAYNE], however, introduced the following bill:

A bill (H. R. 21359) relating to injunctions.

Be it enacted, etc., That hereafter no preliminary injunction or restraining order shall be granted by any judge or court without notice to the party sought to be enjoined or restrained, unless it shall appear to the satisfaction of the court or judge to whom application for such injunction or restraining order is made that the immediate issue of such injunction or restraining order is necessary to prevent irreparable damage.

SEC. 2. That any such injunction or restraining order granted shall contain a rule on the opposite party to show cause within five days why such injunction or restraining order shall not be continued.

The above bill may therefore be considered to be the Republican measure relating to injunctions. I submit that if enacted into law it would not afford the slightest relief.

The Democratic minority in the House has done all it could to compel the enactment of the legislation so universally demanded on these questions. We are willing to go to the country on the record we have made. The charge that the Democratic party as represented in Congress will not follow a leader has been answered on all of the above questions. The party was united always and presented a solid front to the enemy.

The only measure passed by the Republicans in response to the universal demands of the people was an employers' liability bill of doubtful constitutionality. If its constitutionality had been clear it probably would not have been by the majority permitted to pass.

The Democratic effort, under the splendid leadership of Mr. WILLIAMS, to compel needed legislation has demonstrated to the country the fact that if legislation is to be had upon these questions it can only be had after the election of a Democratic Congress and a Democratic President.

Currency Bill.

SPEECH

OF

HON. JOHN S. WILLIAMS,
OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. WILLIAMS said:

Mr. SPEAKER: Under the general leave to print until the expiration of five days after the adjournment, which was passed over my protest, I insert in the RECORD the following editorial from the Philadelphia North American of to-day, May 29. I have stricken out some words that seemed to me too bitter:

THE CURRENCY CRIME.

"Dead and damned!" was the epitaph which a famous Democratic editor once wrote at the close of a Democratic Congress which had proved itself the enemy of the common interest and the servant of public enemies.

Are there not three or four Republican Senators big enough, broad enough, far-sighted enough, and sufficiently patriotic to save us the humiliation of being compelled by honesty to repeat that epitaph when this present Congress dies—none too soon?

The Republican party is about to go before the people with the mongrel, hybrid, cheating, swindling thing labeled the Aldrich-Cannon currency bill as its claim to the ballots of American workers and business men, already long-suffering and embittered victims of the gamblers of New York.

It has been whipped through the House, to the shame of the men who have stilled their own convictions and crouched cowards under the lash of the tyrant in the Speaker's chair for fear of his threat to deprive them of their slices from "the pork barrel"—their appropriations in the omnibus building bill.

It will be whipped through the Senate in like fashion, in all likelihood, thanks to the feebleness of the Democratic minority, playing the donkey's role as usual, in their inability to see the chance to gain favor by a filibuster that would be patriotic statesmanship.

Worst of all, we believe that Roosevelt will make the bill a law by signing it. He will hurt his country and his party not because of lack of courage or of good intent. He will do this sin because of lack of understanding.

In grasp of financial questions he is an infant. He trusted Cortelyou. That was excusable. But he continued to trust him after last December. And now again, with the best of motives, he will commit one of those blunders which Talleyrand rightly called "worse than a crime."

Are there not two or three men in the United States Senate not too deaf to hear the stern warning of all the legitimate business interests of America?

Has not Roosevelt enough friends there to save him from himself?

Are there not enough loyal Republicans to keep the party from being rushed into gravest peril by this foisting upon the people at the dictates of Wall street a law immeasurably worse than the one condemned by practically every organized body of business men in the nation?

Even the original Aldrich bill was better than this iniquity. Even the two-headed freakish thing promised by the conference conspirators was not so vicious as the swindle rushed to passage in the House after one hour's debate, before a single Member had a chance to read the bill upon which he voted.

It was only eighteen months or so ago that ALDRICH, on the floor of the Senate, made this declaration regarding municipal and railroad bonds: "In these days they are fluctuating widely, and no prudent banker could afford to buy bonds other than the bonds of the United States."

But that was before he had new orders from 26 Broadway and the National City Bank, and before J. P. Morgan's office boy in Washington received the message that illegal bond issues would be needed for Wall street's convenience, in addition to \$250,000,000 deposits of the people's money.

Those high financiering banks of New York owed outside banks \$410,000,000 just before last fall's panic. From August until December the country could squeeze only 5 per cent of its own money from New York's clutches. And Wall street made a virtue of paying \$20,000,000 of its \$400,000,000 indebtedness to the distressed country during a period when the accommodating Cortelyou increased the Treasury deposits in New York banks \$47,000,000.

But Wall street had bonds in plenty—railroad and municipal bonds unsalable, unacceptable by savings banks, and so speculative and unstable that many of them fluctuated from 10 to 20 per cent within a year.

New York was the defaulter of the nation, with its illegal clearing-house certificates. But there were bonds to build new skyscrapers in Broad street if heaped in bundles, flotation upon flotation.

There were bonds enough when Mr. Cortelyou opened the Treasury doors to them to increase the deposits of railroad and municipal bonds with the Government from \$87,000,000 in October to \$200,000,000 in December. And still Wall street gasped for breath under its load of dubious securities.

It was to dump upon the Government that load that ALDRICH introduced the bill that he did not himself dare defend except as a makeshift. And it was that bill which brought forth an outburst of indignation from every board of trade and commercial body throughout the land.

The protest was so universal that ALDRICH voluntarily withdrew his proposal to accept railroad bonds as security for currency. He did so

in an attempt to forestall LA FOLLETTE's tremendous indictment, of which this was an essential clause:

"For us to pass laws here that lend Government credit to railroad financier schemes that guarantee, in a measure, railroad securities, and adopt railroad securities, good, bad, and indifferent, into the currency system of the country, without either discrimination or investigation, could not be justified under any pretext of serving the public interest."

But on that same March day the Wisconsin Senator warned the country that the vicious proposal had been dropped only temporarily and would be revived. He was right. ALDRICH and his clique even then were preparing to prove themselves tricksters and faith breakers.

The anger of the people was lulled to sleep. The public watched with contemptuous indifference the Senate's passage of the emasculated Aldrich bill and the acceptance by the House of the spineless Vreeland measure, the latter at least having the merit of recognizing in a small way the only true basis of emergency currency—commercial paper.

And now, at the eleventh hour, the conspirators deliver their stab at the commerce of the country. They rush forward a bill well described as "half Senate infamy and half House infamy," embodying every rotten Wall street device that lay in the earlier bills and discarding every amendment for the protection of honest banking and legitimate business.

Commercial paper is mentioned and railroad bonds are not. Oh, the wisdom of these pirates, thinking they can mask their purpose with such word twisting! Just as if the business men of this country would not understand the meaning of "other bonds" and "any securities," including commercial paper.

State, county, and municipal bonds to be accepted at 90 per cent of their market value. "Other bonds" and commercial paper to be taken at 75 per cent only after arranging complicated and elaborate associations feasible only for the New York banks.

And even should such machinery be formed and the entire assets of the banks pledged, they could issue only 30 per cent of the unimpaired capital and surplus on the security of commercial paper, while on "other bonds" the only limitation placed is that the issue, together with the circulation based on United States bonds, must not exceed the aggregate capital and surplus of the issuing bank.

This law will mean the turning over of the Treasury of the United States to the gamblers of the New York Stock Exchange for a period of six years.

It will mean the making of "good times" and "bad times," of "bull" markets and "bear" markets, according to the pleasure of Rogers and Rockefeller in the National City Bank and J. P. Morgan in the National Bank of Commerce.

It will mean not the slow and certain movements of contraction and inflation by the natural laws of commerce, but sharp changes forced at will by the master gamblers.

It will mean the gift to the chief enemies of the nation of the power to issue or retire half a billion of dollars, exciting speculation or compelling disaster according to whichever best suits their betting book.

What the effect will be upon the coming elections we do not know. We do not know what measure of punishment a long-suffering people will inflict upon their betrayers.

It is not the time to think of politics or partisanship. A thing is being done which will affect every employer and every employee in America, every banker, merchant, manufacturer, clerk, and mechanic.

We wish merely to warn one and all. The country will be in the condition of a convalescent to whom drugs that are powerful stimulants but poisonous would be administered.

There will be a boom—a feverish but false activity. The issue of half a billion of fiat greenbacks or 16 to 1 silver would have the same effect. And then, after The North American and the few like us have been mocked at as false prophets and pessimists, pay day will come. And the price will be a bitter one.

Education.

Upon the education of the masses of its people depend the prosperity, happiness, and endurance of a self-governing nation.

SPEECH

OF

HON. RICHMOND P. HOBSON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. HOBSON said:

Mr. SPEAKER: Under the leave to print granted by the House, I desire to have printed in the RECORD the following articles and information bearing upon an important phase of education in America:

INDUSTRIAL EDUCATION IN THE SOUTH.

The deep interest which the people of the United States have always manifested in the cause of public and private education warrants a statement of some of the conditions that exist in the Southern States and which are not generally known or appreciated.

Our people generally are aware of the great number of negro children and the conditions that surround them. The several Southern States, considering their resources, have been liberal in providing for these conditions, and have done much for their improvement. Living largely in and near the towns, where facilities for education are greater than in the strictly rural districts, the negro has received his full proportionate share of the public expenditure. Private benefaction has also contributed large sums for the erection and maintenance of schools and colleges for his exclusive benefit.

It is not generally known that there are immense numbers of white children in the mountain and remote rural districts who have little or no means of education. The principal cause of this is that the proportion of public funds, usually distributed according to population, is too small for the erection of suitable schoolhouses and the maintenance of schools with competent teachers. The better teachers are employed in public schools, where the terms are longer and the salaries greater. In very many localities the people are too poor to supply schools at their own expense.

These people are of the strain that, under favorable conditions, has always taken the lead in the world's progress. The improvement of these conditions is of vital importance to the general welfare.

Everything whatsoever that contributes to good citizenship in any part of our common country contributes to the general progress of our civilization and the maintenance of our institutions. Even where better schools have been maintained in some localities the character of the education given has been such as to lead the more intelligent youth away from their surroundings instead of making them factors in the development of the communities in which they were born and reared.

Prof. Andrew J. Ritchie, who was born in the mountains, was enabled to obtain an education that fitted him to become a professor in a college of a high class in another State, and has been compelled by failing health to return to the mountains, where he is now engaged in educational work. He has made a study of the prevailing conditions and has a complete knowledge of the needs of the mountain districts. In a recent address he said:

"The old education fails to reach the mountain problem, because it is not adapted to mountain conditions. Its practical operation is to educate the brightest material out of the community and leave its social and economic life weakened and impoverished. The kind of education needed is education which shall have a larger bearing upon the life which the people are to lead. The school through which this education is to be provided must establish a practical connection between education and work. Its course of studies must have to do with the industries and environment. It must provide training in habits of industry and thrift, and teach the people to develop their resources. The mountain boy needs to be trained in agriculture, forestry, dairying, and animal husbandry, and in handicrafts in woodwork and other industries for which the materials lie at hand unused. The mountain girl needs to be trained in the art of orderly housekeeping and successful home making, which shall combine with the pure mountain air and water to give these people physical health, which is their birthright.

"The mountain school must also be an evangelizing, spiritual, and moral force. It must do the work which is not being done in the remote mountain districts by the church and the evangelistic preacher. It must set in motion influences which will soften the mountain temper and displace the spirits of the feud. It must banish the evil of whisky and its attendant evils of moral and social degradation. It must impart such a breadth and richness of social life as shall make the mountain community an attractive place in which to live.

"The natural basis for this kind of education is found in the economic condition of the people and in the industries which they must pursue. They must earn their living with the labor of their own hands. Their wealth must come from the soil and the products of the handicrafts. They are their own carpenters, their own blacksmiths, and to a large extent their own weavers. Their household furniture, farming implements, and wearing apparel are largely homemade. Their resources and industrial environment constitute a basis of wealth which, if developed by industrial education, will make them less dependent than any other people upon the outside world for their living."

Intelligent people everywhere are becoming aroused to the importance of industrial education, and coming to the opinion that in connection with the ordinary education of the primary schools it is of prime importance to fit the children of the country for the life work to which the majority are destined by natural aptitude. The great need of the districts mentioned is the promotion of such a system by the establishment of rural schools in which agriculture, horticulture, handicraft, and domestic science may be taught, thereby furnishing practical instruction that will enable the mass of children to become intelligent farmers, mechanics, and housekeepers.

Here and there philanthropic persons have established schools adapted to these conditions and ends. Dependent entirely upon private contributions they are generally poorly endowed, and most of them have a hard struggle for existence.

The problem of educating the children of those regions can not be completely solved by providing even a larger number of such schools supported by philanthropy. But industrial schools may be established and developed to the point of meeting the immediate and pressing needs, and, finally, of rendering them independent of assistance.

Mrs. Martha S. Gielow, of Greensboro, Ala., knowing the conditions and having become deeply impressed with the needs mentioned, undertook in 1906 the organization of a permanent association for the purpose of promoting industrial education. As a result of her efforts the Southern Industrial Educational Association was organized and incorporated under the laws of the District of Columbia in the last week of December, 1906.

The management of the affairs of the association is intrusted to a board of twelve trustees, composed of representative men and women of high character, whose names are a guaranty of efficiency and integrity. The electors—one hundred in number—reside in different States and are selected with care. In annual meetings these elect the trustees, receive reports from the trustees of their administration, and audit the accounts of receipts and expenditures. The funds of the association are derived from the fees of annual and life members and from contributions by patrons who have become interested in its objects.

It has been the purpose of the association to establish model industrial schools as soon as sufficient money can be obtained to insure successful establishment and maintenance. In the meantime it has inspected the private schools of the kind heretofore referred to, and confined its efforts to aiding such as have been found to give efficient instruction along the required lines.

These schools have, in general, been open to children of both sexes, and in proportion to their means have done excellent work. Some have trained students to teach in more remote parts of the mountains and have thereby greatly extended their beneficial influence. Boys have been instructed in the simple mechanical arts and modern agricultural methods. Girls have been taught sewing, cooking, washing, household hygiene, and methods of nursing the sick. Through

these means improvement has been made in the conditions of many homes. As stated in the report made by the president of the association to the annual meeting of the electors, held in Washington, D. C., February 21, 1908: "Assistance to schools has been given in two forms—that is to say, for general and special purposes. Among these special purposes are the purchase of industrial equipments, the employment of trained industrial teachers, and the creation of annual scholarships. In all cases of scholarships contracts have been entered into, and the schools are required to report the names of beneficiaries, and, from time to time, the progress made, together with the character of instruction given."

The office of the association is maintained in the city of Washington, D. C., where contributions are received by the recording secretary, Mrs. C. David White, 1459 Girard street NW.

Attitude of the Democratic and Republican Parties Toward Labor.

SPEECH

OF

HON. HENRY T. RAINEY

OF ILLINOIS, [

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. RAINEY said:

Mr. SPEAKER: At my request the Congressional Information Bureau of Washington, D. C., has made the following compilation, which I now print in the RECORD under the general leave to print heretofore granted:

The sympathies of the Democratic party, as described by the platform, are on the side of the struggling masses who have ever been the foundations of the Democratic party. There are two ideas of government. There are those who believe that if you will only legislate to make the well-to-do prosperous, their prosperity will leak through on those below. The Democratic idea, however, has been that if you legislate to make the masses prosperous, their prosperity will find its way up through every class that rests upon them. (William Jennings Bryan in his speech before the Democratic convention in 1896.)

Extracts from the Madison Square Garden speech of Hon. W. J. Bryan, New York, August 30, 1906.

If I had time to present an argument I would present an argument from three standpoints and tell you that the employer should consent to arbitration, that the employee should consent to arbitration, and that the public should demand arbitration. You cannot turn the employee over to the employer to treat the employee as he will. Sometimes they ask "Has a man not a right to conduct his business as he pleases?" and it is a plausible question; but when, in conducting his business, he attempts to fix conditions under which hundreds and thousands of human beings shall live, I deny that he has the right to deny them the right of arbitration.

Another thought on the labor question. We have a thing called "government by injunction," and its only purpose is to deny to the laboring man the right of trial by jury; and as this is its purpose, it is an attack on the jury system that ought to be resented by every lover of the jury system.

Another thought: The struggle for an eight-hour day is an international struggle, and there is no doubt how that struggle will end. It will end in the victory of the laboring man who asks for his eight-hour day.

My friends, I am convinced that many of those who oppose the eight-hour day do it out of ignorance of conditions rather than because of a lack of sympathy with the laboring man.

They forget that machinery has multiplied sometimes a hundred times the strength of a human arm, and they forget that so far the employer has received too

large a part of the benefit of the machine and the laboring man too small a part.

They forget that, with the growth of cities, the laboring man's home is farther from his workshop; they forget that when labor is removed from the home to the shop, the father is taken away from his wife and children; they forget that the demands of citizenship are more important and imperative on the laboring man than they ever were before.

It is not fair to drive the laboring man like a slave from his couch to his work and from his work back to his couch again. To do this is to deprive his family of his companionship. You deprive society of his help and you deprive politics of his influence. And when it is understood I believe that in this country, where the sense of justice is great, the people will insist that the laboring man shall have a shorter day and shall be invited to full participation in the responsibilities of citizenship and the work of human society.

cars by threats of quitting and by actually quitting their service, thereby inflicting on them great injury, where the relation between him and the companies is mutually profitable and has no effect whatever on the character or reward of the services of the employees so combining, is a boycott and unlawful conspiracy at common law.

A combination to incite the employees of all the railways of the country to suddenly quit their service without any dissatisfaction with the terms of their employment, thus paralyzing utterly all railway traffic, in order to starve the railroad companies and the public into compelling an owner of cars used in operating the roads to pay his employees more wages, they having no lawful right so to compel him, is an unlawful conspiracy by reason of its purpose, whether such purpose is effected by means usually lawful or otherwise.

Such combination, its purpose being to paralyze the interstate commerce of the country, is an unlawful conspiracy within the act of July 2, 1890, declaring illegal every contract, combination, or conspiracy in restraint of trade or commerce among the several States. (U. S. v. Patterson, 55 Fed. 605, disapproved.)

Such combination, where the members intend to stop all mail trains as well as other trains, and do delay many, in violation of Revised Statutes, section 3995, punishing anyone willfully and knowingly obstructing or retarding the passage of the mails, is unlawful conspiracy, although the obstruction is effected by merely quitting employment.

The following are the positions taken in Democratic and Republican platforms on questions of labor:

Democratic.

1868.

Resolved, That this convention sympathize cordially with the workmen of the United States in their efforts to protect the rights and interests of the laboring classes of the country.

1872.

Resolved, That the interests of labor and capital should not be permitted to conflict, but should be harmonized by judicious legislation. While such a conflict continues, labor, which is the parent of wealth, is entitled to paramount consideration.

1876.

Reform is necessary in the sum and modes of Federal taxation to the end that capital may be set free from distrust and labor lightly burdened.

Reform is necessary to correct the omissions of a Republican Congress and the errors of our treaties and our diplomacy, which have stripped our fellow-citizens of foreign birth and kindred race, recrossing the Atlantic, of the shield of American citizenship, and have exposed our brethren of the Pacific coast to the incursions of a race not sprung from the same great parent stock, and in fact now by law denied citizenship through naturalization, as being neither accustomed to the traditions of a progressive civilization nor exercised in liberty under equal laws. We denounce the policy which thus discards the liberty-loving German and tolerates a revival of the coolie trade in Mongolian women imported for immoral purposes, and Mongolian men held to perform

Republican.

1872.

Among the questions which press for attention is that which concerns the relations of capital and labor, and the Republican party recognizes the duty of so shaping legislation as to secure full protection and the amplest field for capital, and for labor, the creator of capital, the largest opportunities and a just share of the mutual profits of these two great servants of civilization.

1876.

The revenue necessary for the current expenditures and the obligations of the public debt must be largely derived from duties upon imports, which, so far as possible, should be adjusted to promote the interests of American labor and advance the prosperity of the whole country.

It is the immediate duty of Congress to fully investigate the effect of the immigration and importation of Mongolians upon the moral and material interests of the country.

servile labor contracts, and demand such modification of the treaty with the Chinese Empire, or such legislation within constitutional limitations, as shall prevent further importation or immigration of the Mongolian race.

1880.

Amendment of the Burlingame treaty: "No more Chinese immigration except for travel, education, and foreign commerce, and therein carefully guarded."

The Democratic party is the friend of labor and the laboring man, and pledges itself to protect him alike against the cormorant and the commune.

1884.

It (the Republican party) professes desire to elevate labor; it has subjected American workmen to the competition of convict and imported contract labor.

It professes the protection of American labor; it has depleted the returns of American agriculture and industry, followed by half of our people. Any change of (tariff) law must be at every step regardless of the labor and capital thus involved.

The necessary reduction and taxation can and must be effected without depriving American labor of the ability to compete successfully with foreign labor.

We believe that labor is best rewarded where it is freest and most enlightened. It should, therefore, be fostered and cherished, restricting the free action of labor and the enactment of laws by which labor organizations may be incorporated and of all such legislation as will tend to enlighten the people as to the true relations of capital and labor.

Instead of the Republican party's discredited scheme and false pretense of friendship for American labor, expressed by imposing taxes, we demand, in behalf of the Democracy, freedom for American labor by reducing taxes, to the end that these United States may compete with unhindered powers for the primacy among nations in all the arts of peace and fruits of liberty.

1888.

A fair and careful revision of our tax laws, with due allowance for the difference between the wages of American and foreign labor must promote and encourage every branch of such industries and enterprises by giving them assurance of an extended market and steady and continuous operations. In the interests of American labor, which should in no event be neglected, the revision of our tax laws contemplated by the Democratic party should promote the advantage of such labor, by cheapening the cost of necessities of life in the home of every workman, and at the same time securing to him steady and remunerative employment.

1880.

We reaffirm the belief avowed in 1876 that the duties levied for the purpose of revenue shall so discriminate as to favor American labor.

Since the authority to regulate immigration and intercourse between the United States and foreign nations rests with the Congress of the United States and the treaty-making powers, the Republican party, regarding the unrestricted immigration of Chinese as a matter of grave concernment under the exercise of both these powers, would limit and restrict that immigration by the enactment of such just, humane, and reasonable laws and treaties as will produce that result.

1884.

We therefore demand that the imposition of duties on foreign imports shall be made not for revenue only, but that in raising the requisite revenues for the Government such duties shall be so levied as to afford security for our diversified industries and protection to the rights and wages of the laborer, to the end that active and intelligent labor as well as capital may have its just reward and the laboring man his full share in the national prosperity. Against the so-called economic system of the Democratic party, which would degrade our laborers to the foreign standard, we enter our earnest protest.

The Republican party pledges itself to correct the inequalities of the tariff and to reduce the surplus not by the vicious and indiscriminate process of horizontal reduction, but by such methods as will relieve the taxpayer without injuring the laborers or the great productive interests of the country.

We favor the establishment of a national bureau of labor, the enforcement of the eight-hour law, a wise and judicious system of general legislation by adequate appropriation from the national revenues, whenever the same is needed.

The Republican party * * * is unalterably opposed to placing our workmen in competition with any form of servile labor whether at home or abroad. In this spirit we denounce the importation of contract labor whether from Europe or Asia, as an offense against the spirit of American institutions; and we pledge ourselves to sustain the present law restricting Chinese immigration and to provide such further legislation as is necessary to carry out its purposes.

1888.

We declare our hostility to the introduction into this country of foreign contract labor and of Chinese labor, alien to our civilization and our Constitution, and we demand the rigid enforcement of the existing laws against it and favor such immediate legislation as will exclude such labor from our shores.

In support of the principles herewith enunciated, we invite the cooperation of patriotic men of all parties, and especially of all workmen whose prosperity is seriously threatened by the free-trade policy of the present Administration.

1892.

Since the McKinley tariff went into operation there have been ten reductions of wages of the laboring man to one increase. We deny that there has been any increase of prosperity to the country since that tariff went into operation, and we point to the dullness and distress, to the wage reductions and strikes in the iron trade as the best possible evidence that no such prosperity has resulted from the McKinley act.

SEC. 5. We recognize in the trusts and combinations, which are designed to enable capital to secure more than its just share of the joint products of capital and labor, a natural consequence of the prohibitive taxes which prevent the free competition which is the life of honest trade; but we believe their worst evils can be abated by law, and we demand the rigid enforcement of the laws made to prevent and control them, together with such further legislation in restraint of their abuses as experience may show to be necessary.

SEC. 12. We heartily approve all legitimate efforts to prevent the United States from being used as the dumping ground for the known criminals and professional paupers of Europe and we demand the rigid enforcement of the laws against Chinese immigration or the importation of foreign labor and lessen its wages; but we condemn and denounce any and all attempts to restrict the immigration of the industrious and worthy of foreign lands.

1896.

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market, and that the value of the home market to our American farmers and artisans is greatly reduced by a vicious system, which depresses the prices of their products below the cost of production and thus deprives them of the means of purchasing the products of our home manufactories, and as labor creates the wealth of the country we demand the passage of such laws as may be necessary to protect it in all its rights.

We are in favor of the arbitration of differences between employers engaged in interstate commerce and their employees, and recommend such legislation as is necessary to carry out this principle.

We denounce arbitrary interference by Federal authorities in local affairs as a violation of the Constitution of the United States and a crime against free institutions, and we especially object to government by injunction as a new and highly dangerous form of oppression, by which Federal judges, in contempt of the laws of the States and the rights of citizens, become at once legislators, judges, and executioners; and we approve the bill passed at the last session of the United States Senate and now pending in the House of Representatives to contempts in the Federal courts and providing for trials by jury in certain cases of contempt.

1900.

We are opposed to government by injunction. We denounce the black list, and favor arbitration as a means of settling disputes between corporations and their employees.

We favor the continuance and strict enforcement of the Chinese exclusion law and its application to the same classes of all Asiatic races.

1904.

We favor the enactment and administration of laws giving labor and capital impartially their just rights. Capital and labor ought

1892.

We favor the enactment of more stringent laws and regulations for the restriction of criminal, pauper, and contract immigration.

1896.

We demand such an equitable tariff on foreign imports which come in competition with American products as will not only furnish adequate revenue for the necessary expenses of the Government, but will protect American labor from degradation to the wage level of other lands.

For the protection of the quality of our American citizenship and of the wages of our workmen against the fatal competition of low-priced labor, we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

We favor the creation of a national board of arbitration to settle and adjust differences which may arise between employers and employees engaged in interstate commerce.

1900.

In the further interest of American workmen we favor a more effective restriction on the immigration of cheap labor from foreign lands, the extension of opportunities of reduction for working children, the raising of the age limit for child labor, the protection of free labor as against contract convict labor, and an effective system of labor insurance.

1904.

We cordially approve the attitude of President Roosevelt and Congress in regard to the exclusion of Chinese labor and promise

not to be enemies. Each is necessary to the other. Each has its rights, but the rights of labor are certainly no less "vested," no less "sacred," and no less inalienable than the rights of capital.

Constitutional guaranties are violated whenever any citizen is denied the right to labor, acquire and enjoy property, or reside where interests or inclinations may determine. Any denial thereof by individuals, organizations, or governments should be summarily rebuked and punished.

We deny the right of any executive to disregard or suspend any constitutional privilege or limitation. Obedience to the laws and respect for their requirements are alike the supreme duty of the citizen and the official.

The military should be used to support and maintain the law. We unqualifiedly condemn its employment for the summary banishment of citizens without trial or for the control of elections.

We approve the measure which passed the United States Senate in 1896, but which a Republican Congress has ever since refused to enact, relating to contempt in Federal courts and providing for trial by jury in cases of indirect contempt.

Thus we see the attitude of the parties toward labor as judged by their expressions since they have been contending against each other for the confidence of the people. A seemingly trivial fact gives the correct idea of their positions. The Democrats nearly always refer to "labor and capital." In almost every case the Republicans refer to "capital and labor." With the Democrats labor comes first. With the Republicans the first place and the first thought is given to capital. The Democratic idea of providing for the capitalist is to make the laboring millions so prosperous that they can buy his goods. The Republican idea of providing for labor is to so swell the wealth of the capitalists as to make them able to pay high wages to their workmen.

The Democratic idea of prosperity begins with the masses and goes up. The Republican idea of prosperity begins with the wealthy few and goes down. Another idea goes through this comparison. Generally speaking the Democratic platforms declared in favor of some movement that would directly benefit labor or opposed to some movement that directly threatened it. The Republicans, generally speaking, declared themselves for nothing that would directly benefit labor and against nothing that would directly injure it. They mentioned labor as an excuse for piling up tariff duties that labor as well as capital would have to pay and giving tariff benefits to capitalists—the owners of tariff protected goods—hypocritically pretending that they were doing this in order that labor would be paid higher wages. Does the tariff directly add one dollar to wages? It only adds to the cost of the goods that labor produces and capital owns, and can only raise the level of wages on the idea that capitalists will pay as high wages as they can afford. Do they do this, or do they pay as high wages as they must? What does labor get without fighting for?

In a word the Republicans prepare a feast for capital pretending not thinking of the food of the men who sit down to the table but of the scraps that labor will get after capital is surfeited. No pretense was ever more palpably a pretense. No hypocrisy was ever more manifestly hypocrisy only. The veiling is so thin that the dimmest eyes can see through. To spread it for concealment is an insult to the working men and women of America who have piled up for others to enjoy a greater wealth than the world ever knew before, or than it knows anywhere else now.

But to come down to particulars: In 1868 the Democrats in convention assembled declared their allegiance to labor. The Republicans did not think to mention it.

In 1872 the Democrats declared the interests of labor "entitled to paramount consideration." The Republicans offered labor only the crumbs from the protectionist table.

In 1876 the Democrats declared themselves opposed to Mongolian immigration. The Republicans thought Congress should investigate the question. They had not made up their minds.

In 1880 the Democrats reiterated their opposition to Chinese immigration and the Republicans, having at last made up their minds, agreed with them, thus indorsing the position the Democrats had unequivocally assumed four years before.

In 1884 the Democrats denounced the Republicans for subjecting American workmen to the competition of convict and imported contract labor. They favored "the enactment of laws by which labor organizations may be incorporated and of all such legislation as will tend to enlighten the people as to the true relations of capital and labor." The Republicans expressed themselves in favor of the establishment of a National Bureau of Labor, which they had not established and the enforcement of the eight-hour law, which they had not enforced, though they had been in complete control of the Government for fourteen years and partial control for ten of the preceding twenty-four years. They expressed opposition to the importation of contract labor, whether from Europe or Asia, which, being in control, they could have stopped instead of denouncing if they had really desired the enforcement of laws in the interests of labor instead of merely bidding for the labor vote.

In 1888 the Democrats advocated a revision of the tariff "with due allowance for the difference between the wages of American and foreign labor," while the Republicans again declared hostility to the introduction of foreign contract labor and of Chinese immigration—a plank from the Democratic platform of twelve years before.

In 1892 both parties again took a stand against criminal, pauper, and contract immigration, and in 1896 they took precisely the same stand in favor of the creation of a board of arbitration to settle differences between employers and employees engaged in interstate commerce. Since that time the Democrats have never controlled any branch of the Government, and have therefore had no opportunity to carry out their pledges. Since that time the Republicans have been in complete and uninterrupted control of the Government in all its branches,

a continuance of the Republican policy in that direction.

Combinations of capital and labor are the results of the economic movement of the age, but neither must be permitted to infringe upon the rights and interests of the people. Such combinations, when lawfully formed for lawful purposes, are alike entitled to the protection of the laws, but both are subject to the laws, and neither can be permitted to break them.

and after twelve years their pledge, standing unfulfilled, brands them with insincerity. They pledged themselves to create a board of arbitration to settle differences between employers and employees engaged in interstate commerce. They have had twelve years of complete and uninterrupted power in which to redeem their pledge and they have not redeemed it. This fact says all that is needed as to their sincerity.

In addition to this declaration, in which both parties joined, but which the Republicans have since ignored, the Democrats condemned government by injunction and approved a bill, then pending in the House, relative to contempt in the Federal courts and providing for trials by jury in certain cases of contempt.

In 1900 the Democrats again opposed government by injunction, denounced the blacklist, and favored arbitration as a means of settling disputes between corporations and their employees, and both parties expressed themselves in favor of the strict enforcement of the Chinese exclusion act.

In 1904 the Republican convention confined its notice of labor to the approval of the attitude of President Roosevelt and Congress in regard to the exclusion of Chinese labor and a platitudinous concern for the rights of labor and capital to combine. On the other hand, the Democrats, among other things, denounced the use of the military for the summary banishment of citizens without trial, and for the control of elections, and again advocated the passage of a measure to regulate contempt in the Federal courts and providing for trial by jury in cases of indirect contempt.

Certain circumstances preceding the meeting of the Democratic convention of 1904 must be noticed in order to understand some of the utterances in the platform that year. The declaration against the use of the military for the summary banishment of citizens, without trial, and for the control of elections was not the announcement of an abstract principle. The matter was horribly concrete. A Republican governor in Colorado had used the troops for these very infamous purposes. Men—workmen—were taken from their homes, were imprisoned without proofs against them, and were escorted beyond the limits of the State by armed soldiers and told not to return on peril of their lives. No grand juries had indicted them. No legal charges had been filed against them. Individually unaccused, they were banished from their homes without a trial, taken from their families and dropped down in the wilderness, where there were no opportunities for them to sustain themselves.

This was the act of a Republican governor. It was the result of a dispute between capital and labor. The military was placed at the disposal of the capitalist side and labor was denied the privilege that the Constitution guarantees to every American citizen. Such a high-handed outrage could not now be perpetrated in Russia. It was perpetrated by a Republican governor in the United States without one word of protest from men high in the national councils of the party.

Later, when two of the labor leaders connected with these men were charged with a crime, the Republican President of the United States attempted to prejudice the jury against them by branding them as "undesirable citizens."

The crime with which they were charged was one of the blackest. The business of the jury was to determine whether these men were implicated in it. They were not charged with the actual deed. The only evidence against them, sufficient to secure the punishment of a dog, was the statement of the confessed murderer—a criminal who confessed that he had for years been a professional murderer. The word of such a man would be worth nothing even if he had no motive to swear falsely, but he had the highest bribe to accuse others that could be offered. He saved his own life by accusing others and he is living to-day because he accused them, while he would have been hanged if he had not accused them.

In spite of the effort of a Republican President to influence the jury against these men, and in spite of every effort that could be made to convict them, the jury promptly returned a verdict of not guilty.

Laboring men on account of their dispute with capital were banished from their homes without a charge by a Republican governor in command of the troops and not one word of protest was uttered by Republican leaders throughout the United States.

Now for a contrast.

A battalion of negro troops were quartered in a southern town. Bad feeling existed between them and the citizens. In the night a large number of shots were fired in the town. Several houses were fired into. Men were killed and wounded. It was found that the bullets fired were from army rifles which were only in the possession of the soldiers. Other evidence showed that the negro soldiers were guilty of this midnight attack. It was not possible to prove what individuals committed the outrage. It could have been proved but for the fact that the participants were shielded by some of their comrades. Failing to get evidence against individuals, and certain they were shielded by their comrades, the President discharged the entire battalion.

What a howl went up from Republicans throughout the land. A negro battalion had in its ranks murderers and others who shielded murderers, but it was possible that some were innocent of complicity in the crime, either as participants or as shielding the participants, and the innocent, if any, were being punished with the guilty, the punishment being the loss of employment and discharge without honor.

While some Republicans sided with the President many denounced his act, and a wave of sympathy went up for these soldiers from all over the land.

But the Western Federation of Miners was accused of crimes, and men belonging to this federation, against whom no charge was made, were banished from their homes, and no Republican in high position had one word to say. Nothing was said about the innocent being punished with the guilty.

Thus stand the two parties so far as platform declarations are concerned. The Democrats have had only two years of complete power in which to carry out their pledges. The Republicans have had twenty-eight years of complete power, and the fact that labor is still clamoring for legislation that should have been passed long ago is an indictment against the Republican party to which its unfulfilled pledges are pleas of guilty.

As for legislation, the following shows the record of the two parties: Mr. Rogers, of New Jersey, a Democrat, offered the first eight-hour bill introduced in the House of Representatives. The House was overwhelmingly Republican. The Republicans in control of the committee to which the bill was referred never reported it.

In the Thirty-ninth Congress another Democrat introduced an eight-hour bill. The Republicans, in control, buried it.

The Rogers eight-hour bill was reintroduced by Mr. Julian, of Indiana, in 1867. It also died in the hands of a Republican committee.

In 1868 an eight-hour law was enacted. Democrats and Republicans voting for it. After its enactment Republican administrations ignored it while Democratic administrations enforced it.

The Democrats have given their hearty support to every statute enacted by Congress for the relief of the "Workingmen of the United States" or "Organized Labor."

In the Fifty-sixth Congress Mr. Ridgely, of Kansas, elected by Democrats and Populists, introduced a bill (H. R. 8917): "To limit the meaning of the word 'conspiracy' and also the use of restricting orders and injunctions as applied to disputes between employers and employees in the District of Columbia and the Territories, or engaged in commerce between the several States, District of Columbia, and Territories, and with foreign nations."

Mr. Ridgely stated that the bill was drawn by the attorneys employed by the united labor organizations of the country "in the belief that it would come within the constitutional limits." It provided:

"That no agreement, combination, or contract by or between two or more persons to do, or procure to be done, or not to do, or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees shall be deemed criminal; nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one persons would not be punishable as a crime (nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce), nor shall any restraining order or injunction be issued with relation thereto."

In committee the Republicans amended this bill until it was unsatisfactory to the labor organizations, and it was defeated. The Republicans on the Judiciary Committee voted for these amendments that were unsatisfactory to labor and the Democrats voted against them.

Mr. Grosvenor introduced a similar bill in the House during the session of the Fifty-seventh Congress. The bill passed the House without a dissenting vote, but was not reported from the Senate Committee on the Judiciary until June 25—near the end of the session—when its consideration was objected to by Senator KEAN (Republican), of New Jersey, and it was indefinitely postponed.

The Republican who introduced the bill and the Republicans who voted for it may have been sincere or they may have been simply parading as the friends of labor, knowing that the bill was doomed to die the death that it died. The only fact that is absolutely certain is that the bill was held by Republican committee majorities until so late in the session that the objection of one Senator would prevent its passage, and one Senator—a Republican Senator—did object and did prevent its passage.

Mr. Grosvenor again introduced this bill in the Fifty-eighth Congress, but it was never reported by the Judiciary Committee of the House, controlled by Republicans.

In the Fifty-ninth Congress, Mr. Little (Democrat), of Arkansas, again introduced this bill. The Administration antagonized it and favored a bill (the Gilbert bill, H. R. 9328), said to have been prepared by the Attorney-General with the President's approval. This bill provided:

"That in cases involving or growing out of labor disputes neither an injunction nor a temporary restraining order shall be granted except upon due notice to the opposite party by the court in term, or by a judge thereof in vacation, after hearing, which may be ex parte if the adverse party does not appear at the time and place ordered: *Provided*, That nothing herein contained shall be held to authorize the issuing of a restraining order or an injunction in any case in which the same is not authorized by existing law."

This bill, as well as the one introduced by Mr. Little, died in the Judiciary Committee. Four others introduced in the House and one in the Senate met the same fate. The Republicans were in complete control.

The present Congress passed a bill regulating child labor in the District of Columbia and an act relating to the liability of common carriers by railroad to their employees injured in their service. Both these measures were supported by the Democrats.

A recent decision of the Supreme Court so construes the Sherman antitrust law as to make it applicable to labor unions. On this and kindred subjects the trade and labor unions of the country prepared a memorial to Congress asking relief. On the question of exemption from the Sherman antitrust law this memorial says:

"We submit for consideration, and trust the same will be enacted, two provisions amendatory of the Sherman antitrust law, which originally were a part of the bill during the stages of its consideration by the Senate and before its final passage, and which are substantially as follows:

"That nothing in said act (Sherman antitrust law) or in this act is intended nor shall any provision thereof hereafter be enforced so as to apply to organizations or associations not for profit and without capital stock, nor to the members of such organizations or associations."

"That nothing in said act (Sherman antitrust law) or in this act is intended nor shall any provision thereof hereafter be enforced so as to apply to any arrangements, agreements, or combinations among persons engaged in agriculture or horticulture, made with a view of enhancing the price of their own agricultural or horticultural products."

On this subject nine bills were introduced. Every one died in committees controlled by Republicans.

The memorial further states:

"In addition, the other most important measures which labor urges are: "The bill to regulate and limit the issuance of injunctions—Pearre bill."

"Employers' Liability bill."

"The bill extending the application of the eight-hour law to all Government employees and those employed upon work for the Government, whether by contractors or subcontractors."

Several bills in addition to the Pearre bill mentioned were introduced to limit the issuance of injunction and to provide for trial by jury of charges of contempt in certain issues. Every one of them died in Republican controlled committees.

A number of bills were introduced extending the application of the eight-hour law to all Government employees and those employed upon work for the Government, whether by contractor or subcontractor. Every one of these bills died in Republican controlled committees. An employers' liability bill was passed, applying to railways and their employees. It had the support of the Democrats as had all legislation in the interest of labor.

The Democratic filibuster was inaugurated to force the consideration of a number of important bills—among them labor bills. But for the determined attitude of the Democrats it is doubtful whether this one demand of the labor unions would have been even partially met.

The Republicans have been in complete and uninterrupted control of all the departments of the Government for eleven years. They could have done all that labor has asked of them. It would certainly be wise for laboring men to unite and drive them from power and give the Democrats an opportunity to legislate on labor questions.

Financial and Industrial Conditions.

SPEECH

OF

HON. JAMES T. LLOYD,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. LLOYD said:

Mr. SPEAKER: Hon. JAMES S. SHERMAN, of New York, took advantage of the leave to print granted by the House to insert in the RECORD what he termed a comparison of the Democratic and Republican averages of the national, financial, and industrial conditions during the Administrations of Presidents Cleveland, McKinley, and Roosevelt.

He is aware, as everyone else would be, that such a comparison does not fairly represent the Democracy, because of the financial panic of 1893.

I submit herewith a statement which shows a comparison between the last ten years of the Democratic administration between 1850 and 1860 and the Republican between 1897 and 1907. This statement is complete as far as I can make it from the statistics furnished by the Government. Several of the items mentioned in this comparative table can not be given in statistical form as early as 1860. In other instances I am obliged to use different periods.

Mr. SHERMAN calls attention to the interest-bearing debt, but he fails to inform the country of the money borrowed and the increased indebtedness since the statement of July 1, 1907. He mentions the increase in money circulation since 1897, but does not call attention to the fact that there was over a fifty million decrease in circulation in the month of May, 1908. He calls attention to the increase in imports prior to 1907, but he fails to mention the decrease since the 1st of July last. The customs receipts for the corresponding period of 1907 were \$616,000,000, compared with \$552,000,000 for the current year.

He mentions the great increase in the excess of imports of gold, but does not give the increased exports since July 1. He might have shown that for the first eleven months of 1907 the excess of receipts over expenditures was over \$67,000,000, while during the corresponding period of 1908 the excess of expenditures over receipts have been more than \$63,000,000.

The table which I submit will explain to anyone, if carefully examined, that the per cent of gain in all lines of industry and commercial enterprise was greater in the last ten years of the Democratic administration than in the last ten years of the Republican rule.

Comparison of Democratic and Republican averages.

	1850.	1860.	Per cent of gain.	1897.	1907.	Per cent of gain.
Deposits in savings banks, million dollars.....	43	149	246	1,983	3,495	76
Bank deposits, total, mil- lion dollars.....	153	407	166	5,000	13,000	160
Depositors in savings banks, thousands.....	251	604	140	5,200	7,700	48
Money in circulation, mil- lion dollars.....	279	435	56	1,640	2,773	68
Bank clearings, New York, billion dollars.....	1854. 5.8	7.2	24	77	95	23
Imports, total, million dollars.....	174	354	103	765	1,434	87
Imports, manufactures of silk, million dollars.....	17.6	32.7	85	25.2	38.7	53
Exports, total, million dollars.....	144	334	132	1,051	1,881	79
Exports to Asia and Oce- ania, million dollars.....	3.3	16.4	397	112	242	116
Coal produced, million tons	6.3	13	106	179	370	106
Cotton, total value, mil- lion dollars.....	62	116	87	333	442	32
Wool products, value, mil- lion dollars.....	49	73.5	50	297	381	28
Farm animals, value, mil- lion dollars.....	544	1,089	100	2,418	2,228	*8
Farms and farm property, billion dollars.....	4	8	100	1890. 16	1900. 20.5	28
Wealth in United States, billion dollars.....	7.1	16.1	126	65	88	35
Tonnage vessels passing through Sault Ste. Ma- rie canal, thousand tons	1855. 106	404	281	1902. 32,000	44,100	37
Post-office receipts, mil- lion dollars.....	5.5	8.5	54	82.6	183.6	122

* Decrease.

NOTE.—From 1850 to 1860 the average price of wheat, per bushel, was \$1.61; corn, \$0.75; oats, \$0.53. From 1897 to 1907 the average price of wheat, per bushel, was \$0.80; corn, \$0.47; oats, \$0.34—a decrease on each item.

Homestead Settlement.

SPEECH

OF

HON. CHARLES N. PRAY,

OF MONTANA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

On (S. 208) releasing a million acres to homestead entry in Montana—

Mr. PRAY said:

Mr. SPEAKER: Because of the importance of the subject and its relevancy to the measure under consideration, I desire to submit a few observations on homestead settlement and the agricultural development of the West, and particularly of that portion of the West with which I am familiar.

During the present session of Congress many letters have come to me from different sections of the country, seeking information as to the steps that are necessary to enable one to acquire title to public land in my State. Some of my correspondents have inquired about the mineral-land laws, others about the timber and stone act, or the desert-land laws, but the greater number by far were desirous of learning about the provisions of the homestead law and the conditions under which a person is permitted to establish a home upon one of the many desirable tracts of land that are now rapidly disappearing from the public domain and passing into the hands of men who, by perseverance and thrift, are providing for themselves and those dependent upon them a never-failing source of supply for the wants and needs common to the average American citizen. Recent years have witnessed an unprecedented growth in the population of the Western States, and the influx of settlers is steadily increasing each year on account of attractive inducements offered to enter lands under irrigation projects constructed by the Government and the possibilities for agricultural development by modern methods of farming of lands heretofore regarded as public ranges suitable only for grazing purposes.

Without consuming further time in preliminary remarks, I would like to direct attention to some of the opportunities that await the coming of the farmer into the State which I have the distinguished honor to represent on the floor of this House.

Montana, known as the "Treasure State," because of the unlimited extent and variety of its mineral resources, the output of the mines amounting to about one hundred millions a year, is the third largest State in the Union, its extreme dimensions being about 600 miles east and west by 300 miles north and south, and comprising 145,776 square miles of land surface, or 93,296,640 acres. I have attempted to make a general classification of this immense acreage, and, with the information available at this time, I should say that the mountains and forests of the State occupy about 25,000,000 acres; grazing lands, about 35,000,000 acres, most of which is probably not susceptible of cultivation, because of the uneven and in many places rocky character of the ground, although for the most part the entire acreage affords excellent pasturage. There are about 30,000,000 acres that, under the present improved methods of farming, I believe ought to be classed as farming lands.

In most places throughout this entire area the soil is rich and exceedingly productive, with irrigation or by application of the new process of dry-land farming, by which the moisture is retained in the soil. During the fiscal year ended June 30, 1907, about a million acres of land were disposed of under all forms of entry through the ten different land offices in the State. The figures compiled by the Bureau of Statistics as to the production of Montana farms during the year 1907 are significant indeed, when one stops to consider that agriculture has received but slight attention in Montana until quite recently. However, it required only a few years of close attention to the cultivation of the soil to make the names of the fertile valleys of the State familiar words in all parts of the country: The Gallatin, the Yellowstone, the Bitter Root, the Flathead, the Sun River, the Milk River—where the lands included in this bill are situated—and hundreds of other places just as fertile, but not so well known to the outside world. For a State that has so recently stepped into line with the great agricultural States of the nation the yield in various crops will stand comparison with the best, both as to quantity and quality.

Ninety thousand bushels of corn were produced in Montana during the past season. There were 4,000 acres under cultivation, and the average yield per acre was 22.5 bushels. The price per bushel December 1 was 68 cents, and the total farm value \$61,000.

Of spring wheat, Montana's farmers produced 4,003,000 bushels from 139,000 acres, the average yield being 28.8 bushels per acre. The price per bushel December 1 was 81 cents and the value on the farms \$3,243,000.

Montana raised a large crop of oats, the production being given at 11,760,000 bushels, the State ranking fifteenth among the other States in quantity produced. The acres under cultivation are given as 240,000 and the average yield per acre as 49 bushels. The price per bushel December 1 was 46 cents, and the farm value \$5,410,000.

The production of barley was also large, amounting to 646,000 bushels, grown from 17,000 acres. The average yield per acre was 38 bushels and the price per bushel 62 cents; farm value, \$400,000.

Forty-five thousand bushels of rye were also the product of Montana farmers in 1907, grown from 4,500 acres, the average yield being 10 bushels an acre. The price per bushel December 1 was \$1, only three other States—South Carolina, Georgia, and Alabama—getting a higher price. The farm value of this crop is given at \$45,000.

Montana was one of eleven States which produced flaxseed last year. The production is given at 436,000 bushels, from 34,000 acres. The yield per acre was 13 bushels, and 81 cents a bushel was the price December 1. Montana ranked sixth among the States in the production of flaxseed, the farm value of which is given at \$353,000.

Two million and seven hundred thousand bushels of Irish potatoes were produced on Montana farms in the 1907 season, 18,000 acres being utilized for the purpose. The average yield per acre was 150 bushels, and the price per bushel December 1 was 50 cents, the lowest of any of the States, with the exception of three. The farm value of the crop is given at \$1,350,000.

From 500,000 acres of land 850,000 tons of hay were produced in Montana, the price per ton of which, December 1, was \$9.50. The average yield per acre was 1.7 tons, and the farm value \$8,075,000.

The figures represent averages in yield per acre and in price, but many special instances have come to my notice where the yield in certain crops was phenomenal, and perhaps greater than in any other State. Probably the finest fruit in the country is raised in the Bitter Root and Flathead valleys; in the former last year one man near the city of Hamilton gathered 1,000 boxes of the McIntosh variety of apples from a single acre of orchard land, and disposed of the same for \$1.75 per box; another in the Yellowstone Valley harvested 600 bushels of potatoes from a single acre of ground and without irrigation. Cases innumerable showing the wonderful results attained by farmers of Montana could be given.

And it must be remembered that the era of agricultural development has only just begun. When the lands described in this bill are finally opened to settlement, after the Indians have received their allotments, a million acres at least will then remain for entry under the homestead law. Land similar in character in the neighborhood of this reservation is being taken so rapidly that public surveys during the past year have not kept pace with settlement. The building of irrigation works by the United States Reclamation Service has done much to attract settlers to the Western States. It is expected that eleven irrigation projects will be opened in 1908. Twenty-eight projects now under construction will, when completed, irrigate 1,910,000 acres in fifteen Western States.

Former Senator Paris Gibson, whose confidence in the future of Montana as a great agricultural State has remained unshaken for twenty-five years, has the following to say about the present outlook:

What will be the future of Montana as an agricultural State? In my opinion, before we have advanced far into the twentieth century, it will take its place agriculturally among the foremost of all the States, and in the quantity and quality of its annual crops of wheat, oats, and barley it will stand the first of all. It is also clear to my mind that the country that lies on the eastern slopes of the Rocky Mountains, extending north from Colorado a distance of 1,500 miles, will become the future wheat granary of this continent. While our irrigable lands will be employed in the highest grade of diversified agriculture known to the world, it will be on the unirrigated tablelands of the Rocky Mountain country that we shall largely depend for the future wheat supply of the continent. But, someone will ask, Where will our Montana farmers find a market for their wheat when the annual crop shall reach millions of bushels? This is the same question that has been asked since farmers first began to push the wheat-growing belt westward from the Great Lakes. But markets and transportation facilities have in the past and will, in the future, keep pace with the westward march of agriculture. The building of great cities on our western coast and the steady enlargement of ocean transportation will always be ample for the future distribution of inland grain crops from this vast Rocky Mountain region. A most important consideration in connection with the wheat markets of our State is the fact that we can grow No. 1 hard wheat on our tablelands and hillsides. This advantage over the soft wheat grown in the humid regions along the Pacific Ocean, should place Montana farmers at least on a plane of equality with the farmers of Washington and Oregon.

If I have correctly stated the future position of Montana from an agricultural standpoint, who can comprehend the extent of our manufacturing industries in the years to come, when the products of our farms and gardens shall be sufficient to meet the wants of a great army of miners and mill men? To supply with farm products the 600,000 people of Pittsburgh and its suburbs, the annual pay roll of whose workmen is \$250,000,000, and also the other industrial centers of Pennsylvania, the farm resources of several States like Pennsylvania are fully taxed.

My contention that Montana must become an important manufacturing State, employing its unsurpassed resources of common minerals in many diversified industries, rests on my belief in a great agricultural future for this region.

No young State in the Union has a brighter outlook to-day than Montana.

One of the clearest expositions of the homestead laws and regulations governing entry, and so forth, that has come to my notice is the letter of March 9, 1908, by Commissioner Dennett of the General Land Office, entitled "Suggestions to homesteaders and persons desiring to make homestead entries," and is as follows:

1. Persons desiring to make homestead entries should first fully inform themselves as to the character and quality of the lands they desire to enter, and should in no case apply to enter until they have visited and fully examined each legal subdivision for which they make application, as satisfactory information as to the character and occupancy of public lands can not be obtained in any other way.

As each applicant is required to swear that he is well acquainted with the character of the land described in his application, and as all entries are made subject to the rights of prior settlers, the applicant can not make the affidavit that he is acquainted with the character of the land, or be sure that the land is not already appropriated by a settler, until after he has actually inspected it.

Information as to whether a particular tract of land is subject to entry may be obtained from the register or receiver of the land district in which the tract is located, either through verbal or written inquiry, but these officers must not be expected to give information as to the character and quality of unentered land or to furnish extended lists of lands subject to entry, except through plats and diagrams which they are authorized to make and sell as follows:

For a township diagram showing entered land only.....	\$1
For a township plat showing form of entries, names of claimants, and character of entries.....	2
For a township plat showing form of entries, names of claimants, character of entry, and number.....	3
For a township plat showing form of entries, names of claimants, character of entry, number, and date of filing or entry, together with topography, etc.....	4

A list showing the general character of all the public lands remaining unentered in the various counties of the public land States on the 30th day of the preceding June may be obtained at any time by addressing "The Commissioner of the General Land Office, Washington, D. C."

All blank forms of affidavits and other papers needed in making application to enter or in making final proofs can be obtained by applicants and entrymen from the land office for the district in which the land lies.

2. Kind of lands subject to homestead entry.—All unappropriated surveyed public lands are subject to homestead entry if they are not mineral or saline in character and are not occupied for the purposes of trade or business and have not been embraced within the limits of any withdrawal, reservation, or incorporated town or city; but homestead entries on lands within certain areas (such as lands in Alaska and lands withdrawn under the reclamation act, certain ceded Indian lands, and lands within abandoned military reservations, etc.) must be entered subject to the particular requirement of the laws under which such lands were opened to entry. None of these particular requirements are set out in these suggestions, but information as to them may be obtained by either verbal or written inquiries addressed to the register and receiver of the land office of the district in which such lands are situated.

HOW CLAIMS UNDER THE HOMESTEAD LAW ORIGINATE.

3. Claims under homestead laws may be initiated either by settlement or surveyed or unsurveyed lands of the kind mentioned in the foregoing paragraph, or by the filing of a soldier's or sailor's declaratory statement, or by the presentation of an application to enter any surveyed lands of that kind.

4. Settlements may be made under the homestead laws by all persons qualified to make either an original or a second homestead entry of the kind mentioned in paragraphs 6 and 13, and in order to make settlement the settler must personally go upon and improve or establish residence on the land he desires. By making settlement in this way the settler gains an exclusive right to enter the lands settled upon as against all other persons, but not as against the Government should the lands be withdrawn by it for other purposes.

A settlement made on any part of a surveyed technical quarter section gives the settler the right to enter all of that quarter section which is then subject to settlement, although he may not place improvements on each 40-acre subdivision; but if the settler desires to initiate a claim to surveyed tracts which form a part of more than one technical quarter section he should perform some act of settlement—that is, make some improvement—on each of the smallest legal subdivisions desired. When settlement is made on unsurveyed lands the settler must plainly mark the boundaries of all the lands claimed by him.

Settlement must be made by the settler in person, and can not be made by his agent, and each settler must, within a reasonable time after making his settlement, establish and thereafter continuously maintain an actual residence on the land, and if he, or his heirs or devisees, fail to do this, or if he, or his heirs or devisees, fail to make entry within three months from the time he first settles on surveyed lands, or within three months from the filing in the local land office of the plat of the survey of unsurveyed lands on which he made settlement, the exclusive right of making entry of the lands settled on will be lost and the lands will become subject to entry by the first qualified applicant.

5. Soldiers' and sailors' declaratory statements may be filed in the land office for the district in which the lands desired are located by any persons who have been honorably discharged after ninety days' service in the Army or Navy of the United States during the war of the rebellion or during the Spanish-American war or the Philippine insurrection. Declaratory statements of this character may be filed

either by the soldier or sailor in person or through his agent acting under a proper power of attorney, but the soldier or sailor must make entry of the land in person, and not through his agent, within six months from the filing of his declaratory statement, or he may make entry in person without first filing a declaratory statement if he so chooses. The application to enter may be presented to the land office through the mails or otherwise, but the declaratory statement must be presented at the land office in person, either by the soldier or sailor or by his agent, and can not be sent through the mails.

BY WHOM HOMESTEAD ENTRIES MAY BE MADE.

6. Homestead entries may be made for a quarter section or less by any person who does not come within either of the following classes:

- (a) Married women, except as hereinafter stated.
- (b) Persons who have already made homestead entry, except as hereinafter stated.
- (c) Foreign-born persons who have not declared their intention to become citizens of the United States.
- (d) Persons who are the owners of more than 160 acres of land in the United States.
- (e) Persons under the age of 21 years, who are not heads of families, except minors who make entry as heirs, as hereinafter mentioned, or who have served in the Army or Navy for at least fourteen days.
- (f) Persons who have acquired title to or are claiming under any of the agricultural public land laws, through settlement or entry made since August 30, 1890, any other lands which, with the lands last applied for, would amount in the aggregate to more than 320 acres.

7. A married woman, who has all of the other qualifications of a homesteader, may make a homestead entry under any one of the following conditions:

- (a) Where she has been actually deserted by her husband.
- (b) Where her husband is incapacitated by disease or otherwise from earning a support for his family and the wife is really the head and main support of the family.
- (c) Where the husband is confined in a penitentiary and she is actually the head of the family.
- (d) Where the married woman is the heir of a settler or contestant who dies before making entry.
- (e) Where a married woman made improvements and resided on the lands applied for before her marriage, she may enter them after marriage if her husband is not holding other lands under an unperfected homestead entry at the time she applies to make entry.

A married woman can not make entry under any of these conditions unless the laws of the State where the lands applied for are situated give her the right to acquire and hold title to lands as a femme sole.

8. If an entryman deserts his wife and abandons the land covered by his entry, his wife then has the exclusive right to contest the entry if she has continued to reside on the land, and on securing its cancellation she may enter the land in her own right, or she may continue her residence and make proof in the name of and as the agent for her husband, and patent will issue to him.

9. If an entryman deserts his minor children and abandons his entry after the death of his wife, the children have the same rights the wife could have exercised had she been deserted during her lifetime.

10. If a husband and wife are each holding an original entry or a second entry at the same time, they must relinquish one of the entries, unless one of them holds an entry as the heir of a former entryman or settler. In cases where they can not hold both entries, they may elect which one they will retain and relinquish the other.

11. The unmarried widows of soldiers and sailors who were honorably discharged after ninety days' actual service during the war of the rebellion, or the Spanish-American war, or the Philippine insurrection may make entry as such widows, if their husbands died without making entry; but a widow may make entry in her own right as an unmarried woman, regardless of the fact that her husband may have made entry, but she can not claim credit for her husband's service.

12. A person serving in the Army or Navy of the United States may make a homestead entry if some member of his family is residing on the lands applied for, and the application and accompanying affidavits may be executed before the officer commanding the branch of the service in which he is engaged.

13. Second homestead entries for a quarter section or a smaller legal subdivision of public lands may be made, under statutes specifically authorizing such entries, by the following classes of persons, if they are otherwise qualified to make entry:

- (a) By a former entryman who commuted his entry prior to June 5, 1900.
- (b) By homestead entryman who, prior to May 17, 1900, paid for lands to which he would have been afterwards entitled to receive a patent without payment, under the "Free homes act."
- (c) By any person who for any cause lost, forfeited, or abandoned his homestead entry before February 8, 1908, of the former entry was not canceled for fraud or relinquished for a valuable consideration.
- (d) Any person who has already made final proof for less than 160 acres under the homestead laws may, if he is otherwise qualified, make a second or additional homestead entry for such an amount of public lands as will, when added to the land for which he has already made proof, not exceed in the aggregate 160 acres.

Any person desiring to make a second entry must first select and inspect the land he intends to enter and then make application therefor on blanks furnished by the register and receiver. Each application must state the date and number of his former entry and the land office at which it was made, or give the section, township, and range in which the land entered was located. Any person mentioned in paragraph (c) above must show, by the oaths of himself and some other person or persons, the time when his former entry was lost, forfeited, or abandoned and that it was not canceled for fraud or abandoned or relinquished for a valuable consideration.

14. An additional homestead entry may be made by a person for such an amount of public lands adjoining lands then held and resided upon by him under his original entry as will, when added to such adjoining lands, not exceed in the aggregate 160 acres. An entry of this kind may be made by any person who has not acquired title to and is not, at the date of his application, claiming under any of the agricultural public land laws, through a settlement or entry made since August 30, 1890, any other lands which, with the lands then applied for, would exceed in the aggregate 320 acres; but the applicant will not be required to show any of the other qualifications of a homestead entryman.

15. An adjoining farm entry may be made for such an amount of public lands lying contiguous to lands owned and resided upon by the

applicant as will not, with the lands so owned and resided upon, exceed in the aggregate 160 acres; but no person will be entitled to make entry of this kind who is not qualified to make an original homestead entry.

HOW HOMESTEAD ENTRIES ARE MADE.

16. A homestead entry may be made by the presentation to the land office of the district in which the desired lands are situated of an application properly prepared on blank forms prescribed for that purpose and sworn to before either the register or the receiver, or before a United States commissioner, or a United States court commissioner, or a judge or a clerk of a court of record, in the county or parish in which the land lies, or before any officer of the classes named who resides in the land district and nearest and most accessible to the land, although he may reside outside of the county in which the land is situated.

17. Each application to enter and the affidavits accompanying it must recite all the facts necessary to show that the applicant is acquainted with the land; that the land is not, to the applicant's knowledge, either saline or mineral in character; that the applicant possesses all of the qualifications of a homestead entryman; that the application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that the applicant will faithfully and honestly endeavor to comply with the requirements of the law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that the applicant is not acting as the agent of any person, persons, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered or any part thereof; that the application is not made for the purpose of speculation, but in good faith to obtain a home for the applicant, and that the applicant has not directly or indirectly made, and will not make, any agreement or contract in any way or manner with any person or persons, corporation, or syndicate whatsoever by which the title he may acquire from the Government to the lands applied for shall inure, in whole or in part, to the benefit of any person except himself.

18. All applications to make second homestead entries must, in addition to the facts specified in the preceding paragraph, show the number and date of the applicant's original entry, the name of the land office where the original entry was made, and the description of the land covered by it, and it should state fully all of the facts which entitle the applicant to make a second entry.

19. All applications by persons claiming as settlers must, in addition to the facts required in paragraph 21, state the date and describe the acts of settlement under which they claim a preferred right of entry, and applications by the widows, devisees, or heirs of settlers must state facts showing the death of the settler and their right to make entry; that the settler was qualified to make entry at the time of his death, and that the heirs or devisees applying to enter are citizens of the United States, or have declared their intentions to become such citizens, but they are not required to state facts showing any other qualifications of a homestead entryman, and the fact that they have made a former entry will not prevent them from making an entry as such heirs or devisees, nor will the fact that a person has made entry as the heir or devisee of the settler prevent him from making an entry in his own individual right, if he is otherwise qualified to do so.

20. All applications by soldiers, sailors, or their widows, or the guardians of their minor children should be accompanied by proper evidence of the soldier's or sailor's service and discharge and of the fact that the soldier or sailor had not, prior to his death, made an entry in his own right. The application of the widow of the soldier or the sailor must also show that she has remained unmarried, and applications for children of soldiers or sailors must show that the father died without having made entry; that the mother died or remarried without making entry, and that the person applying to make entry for them is their legally appointed guardian.

RIGHTS OF HEIRS UNDER THE HOMESTEAD LAWS.

21. If a homestead settler dies before he makes entry, his widow has the exclusive right to enter the lands covered by his settlement, and if there be no widow, then any person to whom he has devised his settlement rights by proper will has the exclusive right to make the entry; but if a settler dies leaving neither widow nor will, then the right to enter the lands covered by his settlement passes to the persons who are named as his heirs by the laws of the State in which the land lies. The persons to whom the settler's right of entry passes must make entry within the time named in paragraph 4 or they will forfeit their right to the next qualified applicant. They may, however, make entry after that time if no other qualified person has applied to enter the lands.

22. If a homestead entryman dies before making final proof, his rights under his entry will pass to his widow; but if there be no widow and the entryman's children are all minors, the right to a patent vests at once in them, or the lands may be sold for their benefit in the manner in which other lands belonging to minors are sold under the laws of the State or Territory in which the lands are located.

If the children of a deceased entryman are not all minors and his wife is dead, his rights under his entry pass to the person to whom such rights were devised by the entryman's will, but if an entryman dies without leaving either a widow or a will and his children are not all minors, his rights under his entry will pass to the persons who are his heirs under the laws of the State or Territory where the lands are situated.

23. If a contestant dies after having secured the cancellation of an entry of any kind, his right as a successful contestant to make entry passes to his heirs; but if a contestant dies before he has secured the cancellation of the entry he has contested, his heirs may continue the prosecution of his contest and make entry if they succeed in securing the cancellation of the entry contested.

No foreign-born person can claim rights as heirs under the homestead laws unless they have become citizens of the United States, except that aliens who have declared their intentions to become citizens may make entry as the heirs or devisees of settlers or contestants.

24. Minor children of soldiers or sailors who have been honorably discharged after ninety days' actual services during the war of the rebellion, the Spanish-American war, or the Philippine insurrection may make a joint entry, through their guardian, if their fathers failed to make homestead entry and their mothers have died or remarried without making entry after their father's death.

RESIDENCE AND CULTIVATION.

25. The residence and cultivation required by the homestead law means a continuous maintenance of an actual home on the land entered to the exclusion of a home elsewhere, and continuous annual cultivation

of some portion of the land. A mere temporary sojourn on the land, followed by occasional visits to it once in six months or oftener, will not satisfy the requirements of the homestead law, and may result in the cancellation of the entry.

26. No specified amount of either cultivation or improvements is required, but there must in all cases be such continuous improvement and such actual cultivation as will show the good faith of the entryman. Lands covered by homestead entry may be used for grazing purposes if they are more valuable for pasture than for cultivation to crops. When lands of this character are used in good faith for pasturage actual grazing will be accepted in lieu of actual cultivation. The fact that lands covered by homestead entries are of such a character that they can not be profitable cultivated or pastured will not be accepted as an excuse for failure to either cultivate or graze them.

27. Actual residence on the lands entered must begin within six months from the date of all homestead entries, except additional entries and adjoining farm entries of the character mentioned in paragraphs 14 and 15, and residence, with improvements and annual cultivation, must continue until the entry is five years old, except in cases hereafter mentioned; but all entrymen who actually resided upon and cultivated lands entered by them prior to making such entries may make final proof at any time after entry when they can show five years' residence and cultivation.

Under certain circumstances leaves of absence may be granted in the manner pointed out in paragraph 36 of these suggestions, but the entryman can not claim credit for residence during the time he is absent under such leave.

28. Residence and cultivation by soldiers and sailors of the classes mentioned in paragraph 5 must begin within six months from the time they file their declaratory statements regardless of the time when they make entry under such statement, but if they make entry without filing a declaratory statement they must begin their residence within six months from the date of such entry, and residence thus established must continue in good faith, with improvements and annual cultivation for at least one year, but after one year's residence and cultivation the soldier or sailor is entitled to credit on the remainder of the five-year period for the term of his actual naval or military service, or if he was discharged from the Army or Navy because of wounds received or disabilities incurred in the line of duty he is entitled to credit for the whole term of his enlistment.

29. A soldier or sailor making entry during his enlistment in time of peace is not required to reside personally on the land, but may receive patent if his family maintain the necessary residence and cultivation until the entry is five years old or until it has been commuted, but a soldier or sailor is not entitled to credit on account of his military service in time of peace.

30. Widows and minor orphan children of soldiers and sailors who make entry as such widows and children must begin their residence and cultivation on the lands entered by them within six months from the dates of their entries, or the filing of declaratory statement, and thereafter continue both residence and cultivation for such period as will, when added to the time of their husbands' or fathers' military or naval service, amount to five years from the date of the entry, and if the husbands or fathers either died in the service or were discharged on account of wounds or disabilities incurred in the line of duty, credit for the whole term of their enlistment, not to exceed four years, may be taken, but no patent will issue to such widows or children until there has been residence and cultivation by them for at least one year.

31. Persons who make entry as heirs of settlers are not required to both reside upon and cultivate the land entered by them, but they must within six months from the dates of their entries begin, and thereafter continuously maintain either residence or cultivation on the land entered by them for the required five-year period, unless their entries are sooner commuted.

32. The widow, heirs, or devisees of a homestead entryman who dies before he earns patent are not required to both reside upon and cultivate the lands covered by his entry, but they must, within six months after the death of the entryman, begin either residence or cultivation on the land covered by the entry, and thereafter continuously maintain their residence or cultivation for such a period of time as will, when added to the time during which the entryman complied with the law, amount in the aggregate to the required five years, unless they sooner commute the entry.

33. Homestead entrymen who have been elected or appointed to either a Federal, State, or county office after they have made entry and established an actual residence on the land covered by their entries are not required to continue such residence during their term of office, if the discharge of their bona fide official duties necessarily requires them to reside elsewhere than upon the land; but they must continue their cultivation and improvements for the required length of time.

A person who makes entry after he has been elected or appointed to office is not excused from maintaining residence, but must comply with the law in the same manner as though he had not been elected or appointed.

34. Neither residence nor cultivation is required on lands covered by an adjoining farm entry, or an additional entry of the kinds mentioned in paragraphs 14 and 15; but a person who makes an adjoining farm entry is not entitled to a patent until he has continued his residence and cultivation for the full five years on the adjoining lands owned by him at the time he made entry or on the lands entered by him, unless he sooner commutes his entry after fourteen months' residence on either the entered lands or the adjoining lands owned by him. A person who has made an additional entry for lands adjoining his original entry is not entitled to a patent to the lands so entered until he has earned a patent to the adjacent lands embraced in his original homestead entry, but if he has earned a patent under his original entry at the time he makes his additional homestead entry he is entitled at once to a patent under the additional entry.

35. Neither residence nor cultivation by an insane homestead entryman is necessary if such entryman made entry before he became insane and complied with the requirements of the law up to the time his insanity began.

LEAVES OF ABSENCE.

36. Leaves of absence for one year or less may be granted to entrymen who have established actual residence on the lands entered by them in all cases where total or partial failure or destruction of crops, sickness, or other unavoidable casualty has prevented the entryman from supporting himself and those dependent upon him by a cultivation of the land.

Applications for leaves of absence should be addressed to the register and receiver of the land office where the entry was made and should be sworn to by the applicant and some other disinterested person before such register and receiver or before some officer in the land

district using a seal and authorized to administer oaths, except in cases where through age, sickness, or extreme poverty the entryman is unable to visit the district for that purpose, when the oath may be made outside of the land district. All applications of this kind should clearly set forth:

(a) The number and date of the entry, a description of the lands entered, the date of the establishment of his residence on the land, and the extent and character of the improvements and cultivation made by the applicant.

(b) The kind of crops which failed or were destroyed and the cause and extent of such failure or destruction.

(c) The kind and extent of the sickness, disease, or injury assigned, and the extent to which the entryman was prevented from continuing his residence upon the land, and, if practicable, a certificate, signed by a reliable physician, as to such sickness, disease, or injury should be furnished.

(d) The character, cause, and extent of any unavoidable casualty which may be made the basis of the application.

(e) The dates from which and to which the leave of absence is requested.

COMMUTATION OF HOMESTEAD ENTRIES.

37. All original, second, and additional homestead and adjoining farm entries may be commuted, except such entries as are made under particular laws which forbid their commutation.

When actual residence was established within six months from the date of any entry made before November 1, 1907, and thereafter continuously maintained with improvements and cultivation until the expiration of fourteen months from the date of the entry and in cases where there has been at least fourteen months' actual and continuous residence and cultivation on any land covered by any entry made after November 1, 1907, the entryman or his widow, heirs, or devisees may obtain patent by proving such residence and cultivation and paying the cost of such proof, the land office fees, and the price of the land, which is \$1.25 per acre outside of the limits of railroad grants and \$2.50 per acre for land within the granted limits, except as to certain lands which were opened under statutes requiring payment of a price different from that here mentioned.

HOMESTEAD FINAL AND COMMUTATION PROOF.

38. Either final or commutation proof may be made at any time when it can be shown that residence and cultivation have been maintained in good faith for the required length of time, but if final proof is not made within seven years from the date of a homestead entry the entry will be canceled unless some good excuse for the failure to make the proof within the seven years is given with satisfactory final proof as to the required residence and cultivation made after the expiration of the seven years.

39. By whom proof may be offered.—Final proof must be made by the entrymen themselves, or by their widows, heirs, or devisees, and can not be made by their agents, attorneys in fact, administrators, or executors, except in the following cases:

(a) If an entryman becomes insane after making his entry, patent will issue to the entryman on proof by his guardian, or other legal representative, that the entryman had complied with the law up to the time his insanity began.

(b) If a person has made a homestead entry and afterwards died while he was serving as a soldier or a sailor during the Spanish-American war or the Philippine insurrection, patent will issue upon proof made by his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, or his, her, or their legal representatives.

(c) Where entries have been made for minor orphan children of soldiers or sailors, proof may be offered by their guardian, if any, if the children are still minors at the time the proof should be made.

(d) When an entryman has abandoned the land covered by his entry, and deserted his wife, she may make final or commutation proof as his agent, or, if his wife be dead and the entryman has deserted his minor children, they may make the same proof as his agent, and patent will issue in the name of the entryman.

(e) When an entryman dies leaving children, all of whom are minors, and both parents are dead, the executor or administrator of the entryman, or the guardian of the children, may, at any time within two years after the death of the surviving parent, sell the land for the benefit of the children by proper proceedings in the proper local court, and patent will issue to the purchaser; but if the land is not so sold patent will issue to the minors upon proof of death, heirship, and minority being made by such administrator or guardian.

40. How proofs may be made.—Final or commutation proofs may be made before any of the officers mentioned in paragraph 16 as being authorized to administer oaths to applicants.

Any persons desiring to make homestead proof should first forward a written notice of his desire to the register and receiver of the land office, giving his post-office address, the number of his entry, the name and official title of the officer before whom he desires to make proof, the place at which the proof is to be made, and the name and post-office addresses of at least four of his neighbors who can testify from their own knowledge as to facts which will show that he has in good faith complied with all the requirements of the law.

41. Publication fees.—The entryman should, at the time he informs the register of his desire to make final proof, forward to the receiver sufficient money to pay the newspaper for publishing the notice, which fees will not exceed the fees provided by the State laws for the publication of legal notices of a similar kind. If the entryman does not forward the money to pay these fees, he may forward a statement from the publisher of the paper, in which the notice is to be published, showing that he has arranged with the publisher for the payment of the fees.

42. Duty of officers before whom proofs are made.—On receipt of the notice mentioned in the preceding paragraph, the register will issue a notice naming the time, place, and officer before whom the proof is to be made and cause the same to be published once a week for five consecutive weeks in a newspaper of established character and general circulation published nearest the land, and also post a copy of the notice in a conspicuous place in his office.

On the day named in the notice the entryman must appear before the officer designated to take proof with at least two of the witnesses named in the notice; but if for any reason the entryman and his witnesses are unable to appear on the date named, the officer should continue the case from day to day until the expiration of ten days, and, if necessary, are unable to appear on the date named, the officer should continue the proof may be taken on any day within that time when the entryman and his witnesses appear, but they should, if it is at all possible to do so, appear on the day mentioned in the notice. Entrymen are

advised that they should, whenever it is possible to do so, offer their proofs before the register or receiver, as it may be found necessary to refer all proofs made before other officers to a special agent for investigation and report before patent can issue, while, if the proofs are made before the register or receiver, there is less likelihood of this being done, and there is less probability of the proofs being incorrectly taken. By making proof before the register or receiver the entrymen will also save the fees which they are required to pay other officers, as they will be required under the law to pay the register and receiver the same amount of fees in each case, regardless of the fact that the proof may have been taken before some other officer.

Entrymen are cautioned against improvidently and improperly commuting their entries, and are warned that any false statement made in either their commutation or final proof may result in their indictment and punishment for the crime of perjury.

43. Fees and commissions.—When a homesteader applies to make entry he must pay in cash to the receiver a fee of \$5 if his entry is for 80 acres or less, or \$10 if he enters more than 80 acres, and in addition to this fee he must pay, both at the time he makes entry and final proof, a commission of \$1 for each 40-acre tract entered outside of the limits of a railroad grant and \$2 for each 40-acre tract entered within such limits. On all final proofs made before either the register or the receiver, or before any other officer authorized to take proofs, the register and receiver are entitled to receive 15 cents for each 100 words reduced to writing, and no proof can be accepted or approved until all fees have been paid.

In all cases where lands are entered under the homestead laws in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming the commission due to the register and receiver on entries and final proofs, and the testimony fees under final proofs, are 50 per cent more than those above specified, but the entry fee of \$5 or \$10, as the case may be, remains the same in all the States.

United States commissioners, United States court commissioners, judges, and clerks are not entitled to receive a greater sum than 25 cents for each oath administered by them, except that they are entitled to receive \$1 for administering the oath to each entryman and each final proof witness to final proof testimony, which has been reduced to writing by them.

Taxation.

SPEECH

OF

HON. JOHN G. McHENRY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. McHENRY said:

Mr. SPEAKER: I take this opportunity of addressing the House and the country upon the question of taxation.

I have learned to look upon the administration of our Government as a business proposition of vast proportions, and to which we, as Representatives, should endeavor to bring the highest type of executive and conservative management in the performance of our official duties.

Acting as the spokesman for the people of my district, I want to call your attention to the enormous expenditures of the Government and the methods of raising money to meet these expenses. The various appropriations, needed and otherwise, authorized by Congress at this session exceeds the astonishing total of \$1,000,000,000. This, Mr. President, is an almost inconceivable sum of money, and it all must come from the pockets of the people, and, in round figures, means an annual tax for every man, woman and child of \$12 each person.

This does not include the State, county, municipal, road, school, poor tax, and so forth. All of which means in total a very much greater burden than the national tax. In the original scheme of government the land values of the country represented practically the only medium of taxation. Of later years vast corporate enterprises have been built and supported by the energy of our people, but have not contributed a due proportion, in many instances, to their just share of the burden of taxation. Even to this late day the entire burden of taxation falls almost wholly upon the farmer and home owner and consumer.

Our Government has but three direct sources of revenue, namely: The internal-revenue tax upon spirituous and malt liquors and tobacco; the import duty under our tariff law which levies a tax upon the importation of various articles. That is, when certain articles of foreign manufacture and production which are included in the tariff schedule are imported into the United States from foreign countries, the import duty is collected by the Government.

This means, of course, that in turn the people of the United States must pay a correspondingly higher price for said articles, and in this way the tariff revenue is collected from our American people.

Another source of revenue is the post-office receipts, which for the past several years have undergone a steady deficit. Last

year the post-office receipts were about \$7,000,000 less than the post-office expenditures. Up to this time no additional plan of taxation has been successfully inaugurated. The Democratic party has time and again tried the imposition of an income tax, and Mr. Roosevelt, I understand, is also in favor of the income tax. An income tax means that, when a man receives a yearly income, say, of \$5,000 or more, he should be compelled to pay a special tax to the National Government for the reason that he is not only better able to share his full proportion of taxation than the majority of his neighbors, but under the present scheme of taxation he ordinarily does not own much land nor can he consume more than the average individual, yet his income is perhaps a hundred times greater than the average citizen.

So from a standpoint of equity, an income tax which is not based upon direct human energy, which I would always oppose, would be the very essence of human equity in the adjustment of the tax burden. But it is most difficult to get Members of Congress to agree upon a proposition of this kind, especially when they draw a fair salary themselves and in addition to that receive some income from their various businesses or pursuits which they have been following prior to their entry upon Congressional life.

Such a bill did pass Congress, however, but the Supreme Court finally decided that it was unconstitutional. The time will come some day when we will have an income tax, but until that time does come we ought to make a particular effort to relieve the real-estate owners and the laborer, who is the next largest taxpayer, because of his usual large family and therefore a large consuming capacity, from the excessive burden of taxation which he must bear and in many instances not well able to bear, by shifting a portion of the burden to other shoulders who, by every reason of right and equity, ought to be willing to assume their share, and that to within constitutional limits.

The Constitution of the United States gives Congress full powers of taxation, making one proviso, that said taxation must be uniform with equal fairness throughout the entire United States. Since my election to Congress, Mr. Speaker, I have felt that I had a higher duty to perform to my constituents and my country than the mere clerical one of answering letters, looking after pension claims, and departmental affairs as they may arise, all of which are but incidents to the office and should have immediate and prompt attention and which I have faithfully tried to give them.

But with the accomplishment of these details a Congressman's work is not complete. He is employed by the people of his district as their Representative and as such he becomes an integral part in the affairs of our Government. So it becomes his sacred duty to contribute whatever executive and business ability which he may have to his Government. His Government has a right to his best thought and all his physical energy. Having this in mind, I have entered upon my work with a spirit of sincere Americanism—entirely free from any partisan duty.

After all, Mr. Speaker, this great Government of ours is a Government for all the people. There are so many things of universal usefulness to our people and which are entirely divorced from partisanship, and of these many nonpartisan questions taxation is one of the greatest importance.

I have spent several months, Mr. Speaker, in the preparation of the bill which I have presented and will ask unanimous consent to print in full in the Record:

A bill to prevent the sale of fraudulent mining stock; to provide additional revenue; to meet United States Treasury deficit; to equalize the distribution of the burden of taxation; to provide additional moneys to meet the demands for public improvements within the United States.

Be it enacted, etc., That on and after the approval of this act all corporations engaged in the mining of asphalt, copper, gas, gold, graphite, iron, lead, oil, radium, silver, tin, or zinc, or corporations organized for the purpose of mining or producing those minerals, and offering the stock of such corporations for sale, either in commercial exchanges, boards of trade, or by private subscription and solicitation, shall pay into the Treasury of the United States a tax of one-tenth of 1 per cent upon the market value, not reckoned below par, of the authorized capital stock of such corporations.

SEC. 2. That it shall be the duty of the Bureau of Internal Revenue to ascertain the name and the capitalization of every corporation engaged in mining or producing asphalt, copper, gas, gold, graphite, iron, lead, oil, radium, tin, or zinc, operating or offering shares of stock for sale, within the territory of the United States or elsewhere, to make a list of such corporations and assess said tax of one-tenth of 1 per cent upon the capital stock as above provided.

SEC. 3. That it shall be the duty of every corporation liable to tax under the provisions of this act, on or before July 31 in each year, to make a list or return, verified by oath or affirmation of the president and secretary of such corporation, to the collector or deputy collector of the district in which such corporation operates or proposes to operate, of the amount of property, condition of development, and the number and par value of shares authorized to be issued by such corporation, which list or return shall be filed in the Bureau of

Internal Revenue, according to such forms and regulations as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

SEC. 4. That if any corporation liable to tax under the provisions of this act shall fail to make such list or return as is required by this act, then, and in that case, it shall be the duty of such collector or deputy collector to make such list or return upon the best information attainable, under oath as to the facts, which return shall be received as the return of such corporation required by the provisions of this act.

SEC. 5. That in case no annual list or return has been made by any corporation subject to tax under the provisions of this act by such corporation to the collector or deputy collector as required by this act, and the persons whose duty it shall be to make such return shall be absent from their places of residence or business at the time the collector or deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such places of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post-office a note or memorandum addressed to such persons requiring them to send to such collector or deputy collector the list or return required by law within ten days of the date of such note or memorandum, verified by oath or affirmation.

SEC. 6. That any person on being notified and required as aforesaid shall refuse or neglect to render such list or return within the time required, or whenever any person who is required to make return of property subject to tax under the provisions of this act, or delivers any return which, in the opinion of the collector, is false and fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person or any other person or persons having possession, custody, or care of books of accounts containing entries relating to the capitalization, property, and development of the operations of such corporation, or any person he may believe to possess information as to the facts, to appear before him and produce such books at a time and place named in the summons, and require him to give testimony or answer interrogatories under oath respecting any corporation liable to tax under the provisions of this act or the returns thereof.

SEC. 7. That the collector may summon any person residing or found within the State in which his district lies, and when the person intended to be summoned does not reside and can not be found within such State he may enter any collection district where such person may be found, and there make the examination authorized in the sixth section of this act, and to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

SEC. 8. That the making of any false or fraudulent return, undervaluation, or understatement or the failure or refusal to make a return for the purpose of evading the provisions of this act shall be deemed a misdemeanor, and any officer of any corporation whose duty it is to make such return convicted of making a false or fraudulent return, or of failing or refusing to make a return, shall be fined not less than \$1,000, or imprisoned not less than one year, or either, or both, at the discretion of the court.

SEC. 9. That the Commissioner of Internal Revenue is authorized to call upon the Bureau of Mines and Mining whenever exigencies require it to make a physical examination of the property of any corporation which comes within the provisions of this law, and make a report thereof to said Commissioner of Internal Revenue; said report shall be accessible to the general public or to any person who may make application for a copy.

I have no hope of securing any action upon this measure at this session, but I want it brought before the country for full consideration, and will insist that the bill be called up for such amendments as may be deemed wise, and to be voted upon.

The object of this bill may be found in two distinct purposes:

First. To protect the public against the fraudulent sale of wild-cat mining stock.

Second. To provide money to meet the continued increasing demand for public improvements and to help equalize the burden of taxation.

OUR SOURCE OF GREAT PUBLIC LOSS.

Perhaps one of the greatest economic losses to the American people may be found in the losses due to unwise investment, and in the item we find the mining and oil company stocks to be the most prolific of evil results.

It may safely be said that there is not a town or village so remote in the United States as to have escaped the wiles of the mining-stock promoter. This is due both to the ignorance of the investors and the utter laxity of our laws. The education of the investor is both a matter of time and most costly to him. But that there can and should be remedial legislation for the protection of the innocent investor as against misrepresentation and dishonest management, I think we are all agreed.

MINERAL WEALTH SHOULD BELONG TO ALL THE PEOPLE.

I believe that the Creator placed the mineral wealth in the bowels of the earth for the benefit of all the people and not for the exclusive benefit of a few.

There are three natural sources of productive wealth from which all the wealth of our nation has come and must continue to come, viz:

Our mineral and oil deposits.

Our forests.

Our farm products.

Of these the great financial interests of the country have formed mighty corporations for the purpose of controlling the output of the forests and mines and then regulating prices to suit their needs.

The farm products can not be cornered, and the margin of profits between the cost of production and the amount received

from the sale of the farm products is so small and so much labor required in its collection that the proposition becomes too gigantic and the remuneration too small to invite the attention of the capitalist; so he is content to confine his energies to mines, and timber, and oil wells, provided the farmers and home owners pay all the tax.

The Constitution of the United States gives to all men equal security in life and property, and under our system of human law if a man finds a body of mineral or a deposit of oil and complies with the laws of the State in acquiring possession it lawfully becomes his property, regardless of what may have been the intention of the divine law of the Creator.

Thus far we have no desire nor right to interfere with the constitutional rights of the individual mine or oil-well owner, so long as he proceeds and continues to operate by his own energy or by the use of his own capital in the employment of other physical energy than his own. But when, in addition to absorbing all this wealth to himself, he asks for and uses public money procured from other individuals, then it becomes the legitimate functions of government to assume such degree of supervision as shall insure to the greatest degree of public good.

In the collection of this tax which I propose it becomes in a way an insurance to the people against the ultimate destruction of this source of natural and national wealth, which by every reason of moral equity rightfully belongs to all the people. In time the mineral wealth of our country will be entirely destroyed, for the minerals of the earth can not be replenished like our forests and the renewal of fertility of our fields. So it becomes the duty of our Government to both conserve our mineral wealth and the individual wealth of our citizens, for when this value is once destroyed the struggle for existence upon the part of the wage-earner will be still more fierce than it is to-day, and the conservation of our national resources in the interest of our whole people is a duty so plain that all can understand it. Aside, however, from the natural losses to the people there is not a source of artificial loss through the modern methods of capitalizing mining and oil-well corporations.

For purpose of illustration, a man will locate a trace of a mineral and immediately stake out a mining claim under the laws of the United States, without restriction or supervision whatever procure a State charter, rush to the printing office and have a few basketsful of stock certificates printed, with the capital stock issue usually at \$1,000,000 and the par value of \$1 per share. Now, it may be that all he has is a naked claim with a little surface development to show a trace of mineral. His prospectus is sent out. The newspapers are freely used—and in this respect are a party to the crime of fraud which is constantly being played upon the people—and shares of stock in this prospective mining is sold in exchange for the people's money.

An honest effort may or may not be made to develop the property. The investor finally wants information and probably the promoter is gone and nobody knows anything about it. Not only is his money gone, but with the loss of his money comes the loss of confidence in humanity and self-dependency, which is infinitely more harmful to our citizenship than even the loss of money. If this bill which I propose becomes a law, the promoter will first have to pay to the United States Treasury 1 per cent of his total capitalization. So if he wants to capitalize his company for \$1,000,000 he will be obliged to pay a Government tax of \$10,000 per year. This tax serves the Government and the people two specific purposes:

First. In the course of a hundred years the corporation will have to return to the Government and to the people the full amount of its valuation as a partial reimbursement for the loss of the mineral to the Government.

Second. It will provide a large sum of money annually, which can be used to help meet the growing Government deficit and to help pay for some of our great internal improvements which the public are now demanding. Furthermore, if a man buys a share of mining stock under this bill he will be in a position to procure authentic Government reports, both as to what has been done with the money spent and what the actual value of the property is and what the prospective chances are for future profits.

WILL AID LEGITIMATE MINING.

The mining business is just as legitimate as any other form of business and one of the most useful industries of our country. It brings to the surface the hidden wealth of the earth, whence it circulates for the benefit of all mankind. It seems to have become a most fertile field for dishonest promotion. I believe it is claimed by one of the leading mine owners and operators in the world that not 1 mine in 500 ever pays dividends. So it would seem that when a person buys mining stocks he takes

a gamble of 1 chance out of 500 of ever receiving any dividends, much less the return of the original investment. So a law can be framed in which the Government will have the power to give accurate and honest reports, the legitimate mining industries of the country will receive a very great boom, while the dishonest mining corporations will be wiped entirely out of existence. If one man or a few men want to take a mineral out themselves or use their own credit or money in a private partnership affair or a closed corporation this law will do them no harm, because their operation will not come within the jurisdiction of this law. But if they want to use the people's money to operate and exploit what could properly be termed "people's property," then the Government has the right to act in this intermediary capacity.

I have been unable to procure any exact data at this time of the mining and oil wealth of the United States, but it is estimated that this tax will provide an annual fund approximating \$50,000,000 per year. Up to this time, Mr. Speaker, in the present fiscal year our Government deficit already amounts to \$66,000,000, and if the present business depression keeps up for another ten months our Government will again be selling bonds to provide money to meet the running expenses of our Government. The sale of Government bonds always means a first mortgage against all our homes. This means that not only must we compromise in governmental expenditures, but that we must seek new avenues of taxation, for the farmer and laborer of the country are already assuming more than their share and more than they can afford.

ENORMOUS TAX FUND COLLECTED FROM THE PEOPLE IN TEN YEARS.

During the ten fiscal years, from 1898 to 1907, the receipts of the United States Government from customs and internal revenues and other sources amounted to \$6,843,603,206, a sum more than twice as much as the total money in circulation of the country; a sum equal to 6 per cent upon the total wealth of the United States. Thus the Government collected from the people in these ten years an amount equal to over \$86 for every man, woman, and child in the country. During the same time the expenditures amounted to \$6,622,800,814. Thus in these ten years the Government collected in excess of its expenditures \$202,802,392. In four of the ten years, however, there were deficits in the revenues, two of these being due to the extraordinary expenditures of the Spanish war.

The ideal financial condition of a government is one in which the revenues from taxation amount to only a little more than the expenditures. A deficit is always bad for a government, as it is for a corporation or a business house; but a large surplus also is unsound government finance, inasmuch as it means excessive taxation, and under our Treasury system it leads to the absorption into the Treasury of sums of money which could be used to better purposes in the channel of trade.

The following shows the Government receipts and expenditures in each year from 1898 to 1907:

Year.	Receipts.	Expenditures.	Surplus or deficit.
1898.....	\$494,333,954	\$532,381,201	*\$38,047,247
1899.....	610,982,004	700,093,564	*89,111,560
1900.....	639,595,431	590,068,371	⁂79,527,060
1901.....	639,316,531	621,598,546	⁂77,717,985
1902.....	684,326,280	593,038,103	⁂91,287,377
1903.....	694,621,118	640,323,450	⁂54,297,668
1904.....	681,214,373	725,981,946	*44,770,573
1905.....	697,101,270	720,105,498	*23,004,228
1906.....	762,386,905	736,717,582	⁂25,669,323
1907.....	846,725,340	762,483,753	⁂84,236,587
Total.....	6,843,603,206	6,622,800,814	⁂202,802,392

* Deficit.

⁂ Surplus.

While these figures are familiar to us, it is well for an occasional recapitulation that we may keep in mind what the collection of this enormous fund from the people and its expenditure mean. Instead of growing less the governmental expenditures are increasing at an alarming rate, in addition to our regular expenditures. We face the public demand and need for national appropriations for waterway construction and for building permanent public highways, but we can give no consideration to these important questions until we can provide a means of payment by an equitable and fair distribution of the burden.

Under the provision of this bill I wish to call attention to the fact that coal mines are not included, as a tax upon coal to this extent would be a tax upon both production and consumption. The other mining and oil corporations which I have named produce an annual wealth approximating \$5,000,000,000, or nearly as great as the farm production wealth. Our farms bear nearly all the burden of taxation, while the industries I have named, producing almost as much wealth, and infinitely more profitable than farming, contribute practically nothing toward our national taxation.

OUR PUBLIC HIGHWAYS.

As railways are important and necessary to the development of our country, of still greater importance to our whole people is the construction of permanent highways. At the present time

we have over 2,000,000 miles of public roads. The enormous burden of their construction and their maintenance has fallen almost exclusively upon the farmers. It is not fair that he should be compelled to assume all this burden. We are all dependent upon the farmer for our living, for our comforts, for our prosperity, for our government. He represents the central base around which and upon which all else depends. When he is prosperous his prosperity is shared by all classes of business men and workers. Everything of economic value radiates from him. It is the law of nature as well as the law of trade.

So again it becomes the function of our central Government to exercise its full rights under the Constitution to aid in bringing about a greater uniformity in our national taxation in the interests of all the people. Closely and inseparably interwoven in this great question of taxation is the question of the tariff, which I shall take up at another time and prove beyond all doubt that the tariff can be so revised as to not only provide greater revenue, but greater protection to American labor and greater individual prosperity to our people. When our people once learn, Mr. Speaker, how they are being robbed, not for the benefit of our Government or American workmen, but for the benefit of criminal trusts, the demand for equal taxation and equal opportunities will be such that Congress will heed.

I think they have already learned the lesson and that the Sixty-first Congress will be a Congress of the people, for the people, and by the people. The time is here for a square deal in practice, not alone in theory. This bill which I propose is fair and right and just, bringing good to all and harm to none, except, perhaps, the dishonest mine or oil well promoter.

Compensation Bill.

SPEECH

OF

HON. ADOLPH J. SABATH,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. SABATH said:

Mr. SPEAKER: Owing to lack of opportunity to deliver my views on my compensation bill, H. R. 16739, printed in its present form February 10, 1908, and to the inability to obtain the floor of the House for the purpose of considering my bill I avail myself of this opportunity to present to the American people, under the privilege of leave to print, the remarks which follow.

The vast importance of the subject, its novelty as applied to the employees of all carriers of all interstate railroads, require a certain elaboration of this, the first general compensation bill.

The vitally important subject of the general compensation bill has been approved in principle by President Roosevelt, and it is proper that the attention of the people should be called to the general provisions of my general American compensation bill H. R. 16739, which may be found printed in the course of these remarks.

In the course of an experience of over twelve years on the bench in Chicago, one of the greatest cities in the world, every kind and class of cases were brought before me. My duty not only consisted in enforcing the laws, but in attempting to alleviate the misery and the damages caused by our modern economic system. This last function was impressed on me by the horrible cases of breaking up of families, degradation of the widows, and ruin of the daughters, caused by the loss of the father's or brother's earning power. Years and years of litigation, appeals, new trials, and all the necessary steps of our modern procedure brought it about that the results of the litigation were wasted, and social degradation of the family, without any fault of their own, ensued. Gradually the idea became stronger and stronger in my mind that some method must be found whereby this can be changed.

Inquiry into the circumstances which had induced foreign governments to investigate all phases of the industrial situation abroad and enact adequate remedial legislation for the specific instances disclosed as requiring further official regulation, convinced me of the similar necessity resting upon us here to take up the problem and bring about some form of relief.

The object of my compensation bill (H. R. 16739), as of all compensation acts, is to correct what heretofore has amounted to a denial of justice.

Everyone of us is sworn to support the Constitution of the United States and, by inference, to afford to the people, our constituents and our fellow-citizens, due process of law. The Constitution is a growing and living organism and entity. It has protected commerce from the canal boat and the post rider to the steam railroad, electric traction, telegraph, and telephone; and there is no reason why the persons employed in interstate commerce should be left to remedies which were thought adequate at a time when the simple relation between master and servant were not interfered with by colossal machinery and a complicated system of industrial organization.

INADEQUACY OF THE AMERICAN SYSTEM OF DAMAGES.

The theory of American law is that the contract between the employer and his employee, called at common law "his servant," is ample to take care of the person who is injured by reason of the contract. The law furthermore proceeds on the theory that the damages may be sought primarily against the wrongdoer. As a matter of fact, the injured person in the complicated system inherent in our modern industrial conditions has no redress, because the person who primarily caused the wrong is financially unable to respond in damages. The law then allows an action against the master at common law on formal proof, with burden upon the person injured to show negligence, and puts the burden, as it should in all actions, upon the injured employee or widow, to sustain the cause of action against the master.

The reason for the rule has changed so entirely and the exceptions which have been ingrafted by the courts have become so noxious that the social problem has been overlooked or pushed aside for the benefit of legal jugglery and hair-splitting distinctions by great judges. The administration of the law has become so refined, delicate, and neat, for the purpose of maintaining the rights of the possessing classes or corporations, that the more important question, the human question, the question of humanity and of social justice of the complainant, is utterly forgotten in the defense of vested rights.

I do not go as far as Lewis, who states that vested rights may always be called intrenched wrongs; but I do claim that the maintenance of a rule which was harsh when it was started, which has become unjust in its operation, which under the totally changed industrial conditions under which great operations of manufacturing, of commerce, and of interstate commerce must be carried on, becomes a pernicious and dangerous form, because under the guise of exercising the law it brings about a denial of justice, and induces a feeling of distrust for the courts which it is hard to overcome.

When it is remembered that we hold all our property, in the last instance, through the forbearance and self-control of the vast class of persons who are at risk day by day, and who, were they united, could rend and tear not only our possessions, but our very bodies, it is surprising to see the dense carelessness of the possessing community before this great—I had almost said class; but there are no classes in America; at least it is so claimed.

But, Mr. Speaker, the method which has been pursued by the courts in enforcing the strict letter of the law has brought about a feeling that injustice is done to the employee in nearly every instance, which injustice is due not to the administration of the law, but to the inherent injustice of the theory and its perverse construction. The litigation which is necessary to enforce the rights of these persons at common law brings out the extreme of the law, which is always injustice.

The suitors in these cases are our maimed fellow-citizens, or, in the event of his death, his widow or the guardian ad litem for his orphans. In no case do they stand before the court equally prepared with a great corporation which defends the action. It is absurd on the part of any person who has ever practiced even a few years in any court to say that the poor man can hire a great lawyer. His social and economic condition, his lack of relation to the great leaders of the bar, his very maimed condition or the depressed position, through the loss of the father, all prevent him or them having access to any except the ordinary persons who take these cases on contingent fees. That is the average rule. But let us assume that the widow or the injured person has the very best counsel, that they have counsel who are so impressed with their duty to the public and to the court and so carried along by the desire to do justice that, although they have been defeated in one court, they will appeal and appeal, and follow their first victory from the lower courts to the Supreme Court of the United States, until the law ultimately says that the corporation must pay damages.

In the course of these remarks I shall have to submit so many series of statistics that I shall not burden the Record with any un-

necessary material, but a careful investigation has convinced me that the pluckiest and quickest litigants never get a final determination under four years, and that cases have been in the circuit court of appeals (*Erie Rwy. Co. v. Kane*) four times (118 F. R., 223; 142 F. R., 682; 155 F. R., 118), and the litigation has lasted ten years. The accident to Kane occurred December 17, 1897; the circuit court of appeals handed down its opinion June 26, 1907. In cases of great historical importance, such as *Johnson v. Southern Pacific Company*, the injury took place within four days after the safety-appliance act went into effect, in August, 1900. The action was finally decided by the Supreme Court on December 19, 1904 (196 U. S., 1), and finally, in May, 1908, eight years after his injury, Johnson has received a slight sum by way of settlement with the company.

In the *Schlemmer* case the injury occurred within a day or two after the safety-appliance act went into effect; the case was decided by the Supreme Court on March 4, 1907 (205 U. S., 1), in favor of *Schlemmer's* widow, who on the second trial obtained a verdict against the carrier recently, and the action is now on its indeterminable route of delay to the higher State courts, and possibly will again return to the Supreme Court of the United States. Now, what do you think, Mr. Speaker, becomes of the widow in the interim? What care is taken of the children, and what has the State done to relieve itself of the duty which it owes to *Schlemmer* and to *Johnson* and to thousands and thousands of railway employees similarly situated all over the country? The litigation which these people are forced to undertake under the process of our common law, even if successful, is inefficacious. The fruits of the litigation are wasted in attorney's fees, printing cases, and costs, and to the repayment of debts necessary to maintain the family. The social standard of the survivors has been lowered or else the family has gone to pieces; the maimed man, if he has not died of his injuries, has become a tramp; the children have been taken from school; the families have been split up and separated perhaps forever.

Or let us take the case of a woman who was injured through the violation of the master in not guarding his machinery. *St. Louis Cordage Company v. Miller* (126 F. R., 495) is a case in which *Walter Sanborn, C. J.*, of the circuit court of appeals for the eighth circuit, wrote a very painstaking, carefully thought out, and exquisitely inhuman opinion. The woman, after having had her hand mashed in a cog, was thrown out of court. The judge writing the opinion of the court claimed that, although the factory act of Missouri protected her, yet she assumed the risk of her employment and must go forth without damages. Now, what can a factory hand do who has had a right hand or arm mashed? The probabilities are that she is unfit for domestic employment; her tastes, her habits have been fixed; the court throws her out. If there is any method for that woman to earn her living except to go on the streets, it is not due to any care that the State has taken to protect her from the prospective evils; and surely the State owes these people some kind of a fair chance. These are our fellow-citizens; these are people whose places may be taken in two or three generations from among the children of those sitting in this Chamber. In this country it is three generations from shirt sleeves to shirt sleeves, and the very thing we may overlook in the case of others may happen to our grandchildren or to their children, caught by and dragged down in the maelstrom of industrial coercion.

The courts will say that the laborer is free; that he chooses his occupation; that if he takes up a dangerous occupation he takes the risk—he does it with his eyes open; he is compensated for it, and that his wages in part may be used, if properly employed, toward buying insurance in some industrial or accident corporation to compensate him for the risk which he is bound to take. Is it not a truism, which must only be stated to be understood, that the choice or freedom of the laborers is entirely illusory; that they have no choice; that the fiction which claims to treat them as free persons is overcome by the actualities of their conditions, which make wage slaves of them all; that the wages are always so small and purchase so little, thanks to the protective system and to the trusts, that adequate self-insurance is impossible, and that very, very few of them have any insurance which will, under the present régime, keep their families out of the poorhouse?

Let us briefly consider the financial burden imposed upon railroad employees by the casualties which are an incident of their calling. It is well known that employees in railroad train service are unable to procure insurance in any of the old line companies except at rates that are practically prohibitive, while most of the companies absolutely refuse to accept such risks

under any consideration. Certain of the companies will write five, ten, and fifteen year endowment policies for switchmen—a small portion of the employees under consideration—at premiums based upon a twenty-year advance in age; thus, for instance, a switchman aged 25 years may obtain such a policy by paying the 45-year endowment premium rate. Inasmuch as insurance premium rates are based upon broad observation and are always the result of careful and accurate consideration, this fact is vastly significant. It means that the man who embraces the occupation of railroad switchman thereby at once cuts twenty years off his reasonable expectancy of life. If there is any compensating advantage in this occupation to offset the horror of this grim fact, I have failed to discover it in more than twenty years' close observation of the conditions of railway labor.

Being denied the benefits of ordinary insurance, railroad employees have been compelled to establish and maintain insurance societies of their own. Those societies are *never* called upon to pay death claims as a result of old age. Their payments, however, on account of railroad accidents are surprisingly large and in most of the organizations represent a major portion of the total claims paid. In the year 1906 the Brotherhood of Railroad Trainmen, with a membership of 82,537, composed of conductors, brakemen, switchmen, and baggagemen, paid 1,350 claims, amounting to a total of \$1,671,548.96.

More than two-thirds of these claims, or 927 of the whole number, representing a cash total of considerably more than a million dollars, were paid as a result of deaths and disabilities caused by railroad accidents. During the year ending June 30, 1907, the Brotherhood of Locomotive Firemen and Enginemen, with a membership of about 63,000 engineers and firemen, paid 663 death and disability claims, amounting to \$947,100. More than 51 per cent of these claims, or 340 of the whole number, representing a cash payment of \$489,500, were paid on account of deaths and disabilities caused by railroad accidents. The Switchmen's Union of North America is a comparatively small organization, with membership confined to switchmen employed in railroad-yard service. That year (1906) this organization paid 179 death and disability claims. Three-fourths of these claims, or 128 of the whole number, were paid for deaths or disabilities incurred by members while in the ordinary discharge of their vocation.

Why should this enormous toll of life and treasure be exacted from railroad employees? Does the efficient operation of the nation's splendid transportation system require that this great burden should remain where it now lies? Suppose we admit that the terrible sacrifice of lives and limbs is a necessary concomitant of railroad operation. Suppose we resign ourselves with oriental fatalism to the belief that our transportation juggernaut must continue to crush out the lives of its operatives without abatement. Even then, can we excuse ourselves for saddling upon those operatives the financial burden of providing for the needs of their widows and orphans, made such by the very exigencies of the industry itself? Is it not more to the point and more akin to justice that this burden should be assumed by the transportation industry and, through it, by society as a whole?

DANGERS INHERENT IN ALL GREAT ENTERPRISES.

At the time when the law of master and servant received the form which we are now contending is utterly unjust, the industries were just beginning to receive the beneficent effect of the application of steam to machinery theretofore driven by human hands. The great decisions upon which the law of master and servant is based were rendered in the early thirties of the last century. They were rendered by men who had reached the place of chief justice long after the conditions under which the old theory of master and servant had developed—Ellenbrough in England and Chief Justice Shaw in Massachusetts. In laying down the law of fellow-servants, as applied to railroads, they were but expounding the law as they had learned it when economic conditions were simple, when the master knew every person employed by him, and when the employee had a chance to say to his employer: "This man is a reckless and dangerous fellow, regardless of the rights of his fellow-men, and I refuse to work with him. You have the choice between keeping me or discharging him." The mere statement of this rule, applied to modern conditions, shows that it is impossible of application.

LACK OF IMAGINATION.

Lombroso, one of the great psychologists in criminology, has well stated that great crimes—and certainly mass crimes—

never can be committed unless there is a dullness of imagination or lack of nervous sentience on the part of the perpetrator.

Probably the greatest railroad man this country has had, a man as careful as conditions allowed him to be of the welfare of his employees—Mr. Cassatt, of the Pennsylvania—would have shuddered at the idea of becoming personally responsible for the existence and the choice of men in the thousand and one different branches of the enterprises in which the Pennsylvania companies were involved. The machinery has become so colossal that the master can not inspect, can not supervise, and himself becomes a part of the carelessness induced by the modern forms of corporate management. The unavoidable requirement of specialization necessitates their devoting their intelligence and energy to one definite thing. No one man is therefore deliberately accountable for the horrors which follow the administration of the antiquated system of master and servant's law; each man can shift the responsibility upon that great entity created and sanctioned by the State or Federal governments, the corporation, and say: "We are not responsible. We are paid to do a definite amount of work, and as long as we do that work society at large—the State—should bear the burden." Were it possible to bring these men into one room with the victims and show to them the consequences of their hiding behind the forms of corporate coldness of heart, I believe that many of them would resign their places rather than resist the enactment of a humane compensation act which would avert crushing misery and a lowering of the social standard of the persons involved, if not total degradation of their fellow-citizens.

The accidents which occur in all industries involving dangerous machinery, such as factories, steel mills, coal mines, quartz mines, and other extractive industries, in their widest scope, are not subjects over which the Congress of the United States has jurisdiction directly, and do not concern us in the present discussion.

Limiting the discussion to railroads engaged in interstate commerce and to such other carriers as are subject to the power of Congress, I propose to show, principally from the statistics based on returns furnished by the carriers themselves, in accordance with law compiled by the Interstate Commerce Commission, that railroads require a regular percentage of life, limbs, and health of our fellow-citizens; that the number of men killed and injured in a regularly recurring number; that this number constantly increases, but is in regular proportion with the mileage operated; that a certain proportion of the manhood of this country is slaughtered every minute of the twenty-four hours of every day; that a regularly recurring number of our young men is each year thrown aside as "scrap," and, as far as the present system of administration of the law of master and servant is concerned, as far as prompt and effective compensation goes, is as valueless to the community at large as the rotten ties which we see moldering along the tracks of every railway in these great United States.

This is a startling statement to make, were it not proven to the hilt by statistics. These statistics cover a period of nineteen years and are taken from the figures accessible to every man, published by the Interstate Commerce Commission, pursuant to the great law of its organization.

SUMMARY A.—Comparative statement of accidents to railway employees for the years named.

[Compiled from figures shown in the Annual Reports of Statistics of Railways in the United States, issued by the Interstate Commerce Commission.]

Year ending June 30—	Employees killed.		Employees injured.		Total employees killed or injured.	
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
1906.....	3,929	8.10	76,701	10.59	80,630	10.41
1905.....	3,361	6.93	66,833	9.22	70,194	9.08
1904.....	3,632	7.49	67,067	9.26	70,699	9.15
1903.....	3,606	7.43	60,481	8.35	64,087	8.29
1902.....	2,969	6.13	50,524	6.97	53,493	6.92
1901.....	2,675	5.51	41,142	5.68	43,817	5.67
1900.....	2,550	5.26	39,643	5.47	42,193	5.46
1899.....	2,210	4.56	34,923	4.82	37,133	4.80
1898.....	1,958	4.04	31,761	4.38	33,719	4.36
1897.....	1,693	3.49	27,667	3.82	29,360	3.80
1896.....	1,861	3.84	29,969	4.14	31,830	4.12
1895.....	1,811	3.73	25,696	3.55	27,507	3.66
1894.....	1,823	3.76	23,422	3.23	25,245	3.26
1893.....	2,727	5.62	31,729	4.38	34,456	4.46
1892.....	2,554	5.26	28,267	3.90	30,821	3.99
1891.....	2,690	5.48	26,140	3.61	28,800	3.72
1890.....	2,451	5.05	22,396	3.09	24,847	3.21
1889.....	1,972	4.06	20,028	2.76	22,000	2.85
1888.....	2,070	4.27	20,148	2.78	22,218	2.87
Total.....	48,512	100.00	724,537	100.00	773,049	100.00

SUMMARY B.—Comparative statement showing number of railway employees in service and the per cent killed or injured for the years named.

[Compiled from figures shown in the annual reports of Statistics of Railways in the United States, issued by the Interstate Commerce Commission.]

Year ending June 30—	Employees in service.	Employees killed.		Employees injured.		Total employees killed or injured.	
		Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
1906.....	1,521,355	3,929	0.26	76,701	5.04	80,630	5.30
1905.....	1,382,193	3,361	.24	66,833	4.84	70,194	5.08
1904.....	1,296,121	3,632	.28	67,067	5.17	70,699	5.45
1903.....	1,312,537	3,606	.27	60,481	4.61	64,087	4.88
1902.....	1,189,315	2,969	.25	50,524	4.25	53,493	4.50
1901.....	1,071,169	2,675	.25	41,142	3.84	43,817	4.09
1900.....	1,017,653	2,550	.25	39,643	3.90	42,193	4.15
1899.....	928,924	2,210	.24	34,923	3.76	37,133	4.00
1898.....	874,559	1,958	.22	31,761	3.63	33,719	3.85
1897.....	823,476	1,693	.21	27,667	3.36	29,360	3.57
1896.....	826,620	1,861	.23	29,969	3.62	31,830	3.85
1895.....	785,034	1,811	.23	25,696	3.27	27,507	3.50
1894.....	779,608	1,823	.23	23,422	3.01	25,245	3.24
1893.....	773,602	2,727	.31	31,729	3.63	34,456	3.94
1892.....	821,415	2,554	.31	28,267	3.44	30,821	3.75
1891.....	784,285	2,690	.34	26,140	3.33	28,800	3.67
1890.....	749,301	2,451	.33	22,396	2.99	24,847	3.32
1889.....	704,743	1,972	.28	20,028	2.84	22,000	3.12
1888.....	(*)	2,070	(*)	20,148	(*)	22,218	(*)

* Figures not available.

SUMMARY C.—Comparative statement showing mileage operated and accidents to railway employees per 100 miles of line for the years named.

[Compiled from figures shown in the Annual Reports of Statistics of Railways in the United States, issued by the Interstate Commerce Commission.]

Year ending June 30—	Mileage operated (single track).	Employees killed.		Employees injured.		Total employees killed or injured.	
		Number.	Per 100 miles of line.	Number.	Per 100 miles of line.	Number.	Per 100 miles of line.
1906.....	222,340	3,929	2	76,701	34	80,630	36
1905.....	216,974	3,361	1	66,833	31	70,194	32
1904.....	212,243	3,632	2	67,067	31	70,699	33
1903.....	205,314	3,606	2	60,481	29	64,087	31
1902.....	200,155	2,969	1	50,524	25	53,493	26
1901.....	195,562	2,675	1	41,142	21	43,817	22
1900.....	192,550	2,550	1	39,643	20	42,193	21
1899.....	187,535	2,210	1	34,923	19	37,133	20
1898.....	184,648	1,958	1	31,761	17	33,719	18
1897.....	183,284	1,693	1	27,667	15	29,360	16
1896.....	181,963	1,861	1	29,969	16	31,830	17
1895.....	177,746	1,811	1	25,696	14	27,507	15
1894.....	175,691	1,823	1	23,422	13	25,245	14
1893.....	169,780	2,727	1	31,729	19	34,456	20
1892.....	162,397	2,554	2	28,267	17	30,821	19
1891.....	161,275	2,690	1	26,140	16	28,800	17
1890.....	156,404	2,451	1	22,396	14	24,847	15
1889.....	153,385	1,972	1	20,028	13	22,000	14
1888.....	136,884	2,070	1	20,148	15	22,218	16

SUMMARY D.—Comparative statement of accidents to railway employees showing the number of minutes elapsing for one employee killed or injured, and the average number employees killed or injured per day, for the years named.

[Compiled from figures shown in the annual reports of Statistics of Railways in the United States, issued by the Interstate Commerce Commission.]

Year ending June 30—	Employees killed.			Employees injured.			Total employees killed or injured.		
	Number.	Number minutes elapsing for one killed.	Average per day.	Number.	Number minutes elapsing for one injured.	Average per day.	Number.	Number minutes elapsing for one killed or injured.	Average per day.
1906.....	3,929	134	11	76,701	7	210	80,630	7	221
1905.....	3,361	150	9	66,833	8	183	70,194	7	192
1904.....	3,632	145	10	67,067	8	183	70,699	7	193
1903.....	3,606	146	10	60,481	9	166	64,087	8	176
1902.....	2,969	177	8	50,524	10	138	53,493	10	146
1901.....	2,675	196	7	41,142	13	113	43,817	12	119
1900.....	2,550	207	7	39,643	13	108	42,193	12	115
1899.....	2,210	238	6	34,923	15	96	37,133	14	102
1898.....	1,958	268	5	31,761	17	87	33,719	16	92
1897.....	1,693	310	5	27,667	19	76	29,360	18	81
1896.....	1,861	283	5	29,969	18	82	31,830	17	87
1895.....	1,811	290	5	25,696	21	70	27,507	19	75
1894.....	1,823	288	5	23,422	22	64	25,245	21	69
1893.....	2,727	193	7	31,729	17	87	34,456	16	94
1892.....	2,554	206	7	28,267	19	77	30,821	17	84
1891.....	2,690	198	7	26,140	20	72	28,800	18	79
1890.....	2,451	214	7	22,396	23	61	24,847	21	68
1889.....	1,972	266	5	20,028	26	55	22,000	24	60
1888.....	2,070	255	6	20,148	26	55	22,218	24	61
Total.....	48,512	206	7	724,537	14	104	773,049	13	111

ANALYSIS OF SUMMARIES.

Summary A.—The first summary presented shows the number of railway employees killed, the number injured, and the total casualties for nineteen years from 1888, the first year after the establishment of the Interstate Commerce Commission, to 1906, inclusive. During this period nearly 50,000 employees lost their lives at the post of duty and nearly three-quarters of a million employees were either maimed or crippled. The total casualties numbered 773,049, an average for the nineteen years covered of over 40,000 a year. The per cent column is introduced to facilitate comparison of the years given with the total figures for the entire period.

Summary B.—The next summary shows the number of employees in service and the proportion killed and injured. The falling off in the number employed, as indicated by the figures for the years 1894 to 1898, was due to the panic of 1893, and reflects one of the economies introduced by the railway managements during the hard times following this financial crisis. The per cent. column for employees killed clearly indicates the constant recurring death risk of the railway employee. There is hardly any perceptible fluctuation of this ratio for the years shown, and means approximately that 1 employee out of every 400 in service was killed each year. The proportion of injured has gradually increased each year until for 1906, the last year covered, the 5.04 per cent given indicates that one employee out of every twenty in service is injured, or that an employee in the service of a railway for ten years has an even chance of being injured.

Summary C.—This summary, showing the mileage operated and the number of employees killed and injured per 100 miles of line, reflects from another angle the constant recurring death risk year after year. The number injured increases each year in a greater ratio than the mileage operated, and apparently substantiates the results shown by the injured column of Summary B.

Summary D.—The last summary presented shows the number of minutes elapsing for each casualty and the average number of casualties per day. Approximately in every seven minutes of every hour of every day for the last three years named 1 employee was killed or injured. During the nineteen years covered the average was 1 killed or injured for every thirteen minutes of this entire period. The average killed each day for the whole period covered was 7 and the average injured 104.

Compare these figures with the returns of some battles in the civil war, and remember that among the men who are not employed to fight but to move the daily traffic of the nation there are no returns for "missing."

[Figures made up in Pension Office.]

Shiloh, or Pittsburg Landing, Tenn., April 6-7, 1862:

	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
Union loss.....	1,754	8,408	2,885	13,047	10,162
Confederate loss.....	1,723	8,012	959	10,694	9,735
Total.....	3,477	16,420	3,844	23,741	19,897

Union victory.

Gettysburg, Pa., July 1-3, 1863:

	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
Union loss.....	3,070	14,497	5,434	23,001	17,567

Union victory.

Antietam, September 17, 1862:

	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
Union loss.....	2,108	9,549	753	12,410	11,657

Union victory.

It is said that more men were killed on the above date than on any other one day during the civil war.

Wilderness, Va., May 5-7, 1864:

	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
Union loss.....	2,246	12,037	3,583	17,866	14,283

Confederate victory.

Malvern Hill, Va., July 1, 1862:

	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
Union loss.....	397	2,092	725	3,214	2,489
Confederate loss, killed, wounded, and missing.....				5,355	
Total.....				8,569	

Vicksburg, Miss.:

Union loss.					
	Killed.	Wounded.	Missing.	Total.	Killed and wounded.
May 19, 1863.....	157	777	8	942	934
May 22, 1863.....	502	2,550	147	3,199	3,052

Confederate victory.
The siege of Vicksburg continued until July 4, 1863, when it was surrendered to the Union forces.

Atlanta, Ga., 1864:

Union loss.					
	Killed.	Wounded.	Missing.	Total.	
Campaign May 5 to 31.....	1,458	7,436	405	9,299	
Campaign during June.....	1,125	5,740	665	7,530	
Campaign of July.....	1,110	5,915	2,694	9,719	
Campaign during August.....	453	2,318	466	3,237	
September 1.....	277	1,413	212	1,902	

Making a grand total of 4,423 killed, 22,822 wounded, and 4,442 missing during the campaigns of these months.

In the above are included numerous battles, amongst others Rocky Face Ridge, May 5-9; Resaca, May 13-15; New Hope Church, May 25; Dallas, May 28-31 and June 1-4; Kenesaw Mountain, June 20-30; assault on Kenesaw, June 27; Peach Tree Creek, July 20, etc.

First Bull Run, or Manassas, Va., July 21, 1861:

	Killed.	Wounded.	Missing.	Total.
Union loss.....	470	1,071	1,768	3,309
Confederate loss.....	387	1,582	13	1,982
Total.....	857	2,653	1,806	5,316

Confederate victory.

Second Bull Run:

	Killed.	Wounded.	Missing.	Total.
Union loss (Aug. 16-31, 1862).....	1,747	8,452	4,263	14,462
Confederate loss (Aug. 21 to Sept. 2, 1862).....	1,481	7,627	89	9,197
Total.....	3,228	16,079	4,352	23,659

The above includes engagements at Rappahannock, Chantilly, and Bristoe Station.

Confederate victory.

At the battle of Fredericksburg, Va., December 11-15, 1862:

	Killed.	Wounded.	Missing.	Total.
Union loss.....	1,284	9,600	1,769	12,653
Confederate loss.....	596	4,068	651	5,315
Total.....	1,880	13,668	2,420	17,968

Confederate victory.

EQUIPMENT MORE VALUABLE THAN HUMAN LIVES!

The necessary factors of railroad operation are sentient and insentient—human beings and the tools and materials with which they work. Both are subjected to wear and tear; both are wasted in the performance of their functions. The railroads bear the expense of repairing and replacing the waste of their insentient instruments of operation—the wear and tear of road-bed and track, bridges and buildings, locomotives and cars—but for their sentient instruments of operation they have no concern. The waste of human life and limb, the wear and tear of that active, intelligent army of human beings whose labor alone makes their operation possible is not a necessary item in the expense account of railroads.

Acting under the authority conferred by section 20 of the act to regulate commerce, the Interstate Commerce Commission promulgated a classification of operating accounts to be kept by carriers by rail. Possibly the most important method introduced were the depreciation accounts, created for the purpose of providing a fund for the replacement of equipment when retired from service. These depreciation accounts are maintained by making monthly charges direct to operating expenses based on the average life of the several classes of equipment affected and crediting these amounts to a replacement fund.

The carriers maintain a fund for the replacement of the insistent factors of operation that are worn out or wrecked and have to be consigned to the scrap heap. But the human being, our fellow-citizen, of whom one risks being killed or injured every time seven minutes of the day or night elapse, if wrecked, as a consequence of his professional risk, so as to make him unfit for further service, is cast aside, and the carrier assumes no responsibility whatever for his condition. He must assume his own risk, must bear his own damage, as though it occurred by reason of his fault or his negligence, when, as a matter of fact, his damage is as much the result of the operation of the property as is the damage to locomotives and cars, bridges and buildings, roadway and track, for all of which the carrier provides without question. As was said by Professor Bushnell in a recent thought-provoking article calling attention to the alarming increase in the number of abnormal dependents in the United States:

Soldiers suffer because they are professional destroyers, but members of this great industrial army are struck down every year in this country because they are producers. This is the price they have to pay for the privilege of earning their bread in serving civilization.

It is to the credit of President Roosevelt that he has perceived the essential injustice of this situation and has earnestly endeavored to correct it, not alone by advocating the passage of employers' liability and workmen's compensation acts, but by insisting upon a rigid enforcement of Federal statutes calculated to reduce the number of accidents, as well as pointing out the need of strengthening or supplementing such legislation in the interest of greater safety.

The most commendable feature of the Roosevelt Administration, the fact that stands out most prominently as entitling it to popular approval, is the consistent effort that has been made to awaken the public conscience in industrial matters and secure justice for wage-earners. The keynote of this effort was struck by the President in his Georgia day speech at Jamestown, on June 10, when, in discussing the question of industrial accidents, he said:

Legislation should be had, alike from the nation and from the States, not only to guard against the needless multiplication of these accidents, but to relieve the financial suffering due to them. * * * It is neither just, expedient, nor humane, it is revolting to judgment and sentiment alike, that the financial burden of accidents occurring because of the necessary exigencies of their daily occupation should be thrust upon those sufferers who are least able to bear it, and that such remedy as is theirs should only be obtained by litigation which now burdens our courts.

The couplers which keep the trains together and make the vast commerce of the country possible are inspected by the carriers and in part by the Government. Skilled employees are required to make this movement possible, without whose aid, without whose intelligence, and without whose energy and watchfulness the entire commerce of the country would lie stagnant and become impossible, bringing about starvation and misery. Yet these employees, when injured through no fault of their own, through a regularly recurring risk, which is an incident of the employment, are cast aside and no effort is required by law of the carriers to heal or repair them, these men are abandoned and are left without compensation. When broken in body, maimed, and injured, they are forced, under the most disadvantageous circumstances imaginable, to combat the carriers whose commerce they have been pushing through the country.

Every statement herein made can be confirmed. The professional risk, that is, the inherent liability, of any person employed in railway traffic being killed or injured is a permanent and continuous risk. It is a risk which the man can not shift, as is shown by the above tables of the steady recurring numbers of men killed. In the case of death by a railroad accident no question of the employees' inattention, stupidity, carelessness, or similar defenses urged by the defenders of corporate selfishness can well be urged. It is as much a part of the business of the carrier to pay for the injury of the person who handles the traffic as it is to replace the various items of inanimate transportation which I have heretofore mentioned.

I have referred to the safety-appliance acts. I have shown that the Government inspects couplers. The statistics of the Interstate Commerce Commission, in pursuance of the execu-

tion of this law, show that the accidents from that particular cause of casualties has decreased. Yet, in spite of this decrease from this particular source, the slaughter goes on and has increased in other forms of railway activity, showing that the palliative influence of the safety-appliance law, or of all similar laws, is not sufficient to compensate our fellow-citizens who are engaged in handling this great commerce of the country from the risks which they are bound to bear. To state it in another form, where a regularly recurring per cent of our fellow-citizens is maimed and killed, it is the duty of the nation to force the enterprise itself to bear the expenses involved therein. I may say at the outset that I do not care whether the railways recoup themselves for the additional expense involved in paying compensation to their employees by raising the rates or by charging extra passenger fares, or by decreasing the amount of free baggage that they haul.

Directly, this would affect a very small portion of the community. The freight charges might affect a still larger portion of the community, but, at all events, it is proper that the community which indirectly causes the railways to be so inhuman to the fellow-citizens of us all should permit a recoupment, because in the last instance the people at large pay for the maimed and injured. They do this by taking care of those survivors of those thousands of railroad men whose families have fallen in the scale of life, who therefore will breed inferior children who in some form or other contribute to the asylums and the jails, because there is no hope for the unfit and the injured. The vast army of hoboes and tramps, in many instances, is recruited from persons who have been blacklisted because they testified against the railway company on the trial for a fellow-servant or have dared to raise their voices for the betterment of their and their fellow-workers' conditions. (*Adair v. United States*, 208 U. S., 161.)

Coxey's army, ridiculous in its way, was a silent and peaceful protest which some day may become of entirely a different character unless the persons who compose the hobo army are decreased. These hoboes, in part, were persons who were blacklisted by the corporations because of various things which they had done which affected the carriers; and nothing offends the carriers so much as to have a man go on the stand and bear witness against what they consider their rights in favor of an injured fellow-employee.

INTERSTATE COMMERCE—ITS REGULATION.

It is characteristic of the workings of a democracy that no coherent plan of regulation is carried out in the beautiful unitary way characteristic of bureaucracies. To some extent this is to be regretted, but it is more important that people should be free and make their mistakes than that they should be well governed and simply the slaves of their own servants.

Heretofore our attempts at the regulation of interstate commerce have been principally in the direction of reducing the inequalities of service; attempting to enforce just rates and giving localities an opportunity to protest against discrimination and manifest favoritism. The attempts of the Government to pass an employers' liability bill have been stricken down by the Supreme Court of the United States, and it does not become me, who has once administered justice, to criticize the action of our Supreme Court.

The object of my bill (H. R. 16739), printed hereinafter, is to do away with the necessity or the possibility of any such construction as has been put upon the acts of Congress in the case of *Howard v. The Illinois Central and Brooks v. The Southern Pacific*, commonly called the "employers' liability act decision." It is a curious fact that the property rights of the carriers are protected; that in the *Debs* case the Supreme Court found warrant to preserve the movement of postal cars, freight trains, and passenger coaches; that in *Lennon's* case a man was put in jail for refusing to haul an empty car lying on a side track, although it was claimed to be a part of the interstate commerce of the country, while in the *Johnson* case below (117 F. R., 462) Judge Sanborn—of the same circuit court of appeals which decided the *Cordage* case against *Miller*—held that a dining car lying at a way station in Utah not equipped in accordance with the safety-appliance act was not subject to the safety-appliance act. The Supreme Court remedied the construction of the law in that particular case, but could afford no proper justice, for *Johnson* has not received any damages as a consequence of eight years of litigation, and finally was paid a small sum by way of settlement. Whenever a strike is threatened the carrier invokes the Federal character of the commerce and the persons involved go to jail (re *Debs*); when a receivership is asked for and a strike is threatened, the Federal character of the court having jurisdiction protects the commerce, and the person inciting to a strike is fined for contempt (re *Phelan*).

RECURRENCE OF INJURY.

This is in exceptional cases. Strikes do not take place every day. Riots, such as were claimed by the railways to have been caused by the American Railway Union in Chicago, are not of daily occurrence, but the movement of freight trains and of passenger equipment is of hourly and daily occurrence to an extent undreamed of by a person who has not watched it, and when in this regularly recurring series of movements of trains one man is killed or injured every seven minutes of every hour of every day and night, his children are left to starve; his widow may be forced to sell all she possesses; the standard of life of four to six people is lowered and an American family is put on the "bum" while the courts for eight or ten years are blocked with wrangle of counsel and the pounding out of new distinctions of a law which is antiquated, which was unfair when created, and which has become disastrously reactionary when enforced at the present time under modern industrial conditions. The systematized injustice, the denial of justice caused by the enforcement of old-fashioned laws—laws which the English, who originated them, have long since discarded as inept, as dangerous to their commercial progress—are retained by us as bulwarks of corporate resistance to social betterment.

We talk of the enlightenment of the American. We find it necessary to support missionary societies to carry the Gospel to heathen countries. We send thousands of school-teachers to the Philippine Islands; we send battle ships to Asia Minor to protect American colleges against the outrages of the Turk, when it is a fact that America and Turkey stand preeminent in this, that no Federal or national compensation acts prevail in either Turkey or the United States, and that on the rest of the Continent the theory which formerly prevailed in England and which now prevails in these United States has been utterly discarded, abolished, and cast aside as antiquated and unfair, as antisocial, as un-Christian, and as dangerous to the modern industrial state.

The tendency of modern civilization in standardizing all things that are in daily use, in fixing the thread on the screw so that the screw that is turned out in Manchester or in Pittsburgh will fit; that the bolts which are put in the bridge at the bridge works in Pittsburgh will fit when laid down on the great bridges across the Nile at Atbara, require such close calculation that commercial progress and national efficiency in the last instance depend upon the perfection of the ways of communication. The country whose railroads, canals, and waterways are most efficient will ultimately win. The size of the country and its resources are nothing as compared with its efficiency. Its efficiency depends directly upon the ease with which the forces necessary to handling the commerce are recruited. Consequently, in a country so vast as ours, where in many instances the only highway known to two generations has been the railway, success depends directly upon the efficiency of this method of communication.

When, therefore, whole classes of citizens have been crushed out, thrown aside as scrap, the feeling of resentment against the carrier harms its efficiency and thereby hurts the national thrust forward in international commerce. For every pensioner that the United States Government maintains in every hamlet and wayside station, we may be assured that the broken families and wrecked men and the memories of some uncompensated loss feed an undying dislike, hatred, or malignant hostility to the great and necessary railways of the country, and indirectly against the country that has permitted 773,049 men killed or injured to be cast aside as scrap without prompt, permanent, and just compensation. The excuse has been the country was growing and we had no time to regard these problems.

A democracy can only take up one or two things in a generation and settle them, but the time has come, Mr. Speaker, when it becomes necessary for us to seriously weigh the danger of permitting corporate cupidity to continue a system of licensed butchery and murder, of permissive breaking up of families, of degrading the standard of American citizenship, infinitely worse than the slavery which was broken up forty years ago, because that was confined to a small group, which inevitably was bound to come to encounter the economic progress of the rest of the world, restricted in area, whereas our present system, if continued, will inevitably lead to a growth of a feeling that a class, comprising a million and a half of men, consequently seven and a half million of American citizens, is being discriminated against, while the freight that they move and the passengers that they haul are to obtain the most favorable consideration at the hands of this body.

Should my bill (H. R. 16739) be passed, the persons who are injured have their choice of remedies. They can either sue in the courts as heretofore, bearing the burden of the proof, or else

they can take the compensation which this act will provide for their relief.

The countries that have progressed most materially within the last generation have been those countries which have cast aside the reactionary and antiquated forms of compelling the workingman to sue, or compelling their citizens or subjects to go to law for damages, when compensation should have been paid to them by the enterprise which caused the injury, as a necessary professional risk.

Germany, and in Germany preeminently Prussia, blazed the way. Germany was followed by England, New Zealand, and Bohemia. The social legislation of these countries stands forth as a great step forward against the antisocial theories with which we are still burdened. Their progress has in no small degree been caused by the efficiency of their workmen, and this, again, is the consequence of the compensation acts, in all their various forms and developments, which these countries have forced upon the Continent. They have forced this upon the Continent, not by the force of arms. The "blood and iron" policy of Bismarck ended when he had thrown France prostrate, and he turned his huge energy to the building up and repairing the ravages of war and making a fact that which the constitution of 1871 had held out to the various German tribes—a unified Germany. Politically this was accomplished very soon; economically the Germans, after the French war, were little better than their ancestors in the thirties or forties in this country; and the modern development of Germany has been caused in no indirect measure by the hearty cooperation of master and servants in every industry. This cooperation is due directly to the necessity of master and servants working together, and this working together was brought about by the necessary machinery called forth in the various compensation acts.

Based on the statistical material obtained from very large and thousands of small cities, Dr. Richard Freund, president of the Invalid and Old Age Insurance Company, of Berlin, in 1895 published a summary on an investigation of the question as to what manner the modern social legislation has affected the problems of poor legislation and the care of the poor. This was published in the Twenty-first Book of the German Society for Poor Relief and Beneficence. It is based on exhaustive statistical material and specially prepared interrogatories. Any Member who cares to read it can obtain it from the Library of Congress, and can find on page 83 the following summary of this statistical publication. He says:

Even if the time within which the effectiveness of the labor insurance laws has been under observation has been much too short to permit a statement that the influence thereof upon public care of the poor should have completely shown its effect (especially since very unfortunate economic conditions in the last year have disturbed the statistical problem), still we may say that now there is a mighty effect to be recognized, and this although in many cases the organizations charged with administering the laws have not given the attention which is required to work out the statistical effects.

The administration of care of the poor has been relieved in an important measure from the necessity of taking care of all by labor insurance. The labor insurance laws have in a great measure relieved the laboring population from the necessity of applying for poor relief.

Labor insurance has done more than this. It has raised the standard of life of the lower classes of population in this short time, and has exercised such a mighty influence that the poor relief, bound to take cognizance of these facts, could use the resulting savings through strengthening and expansion of its services, nay, was forced to expend moneys beyond that.

In a summary of Fifteen Years of Social Legislation the president of the federal insurance office of the German Empire (twenty-eighth volume, Year Book for Legislation, 1904, published by Schmoller), beginning on page 529, in an article on the progress of the German labor insurance in the last fifteen years, states, on page 553, that 10.3 million persons were protected by sick insurance; 19.1 million persons were protected by accident insurance; 13.04 million persons were protected by invalidity insurance, for which purpose annually over 550,000,000 marks (over \$131,000,000) were collected, and for whom up to the close of 1903 over 4,000,000,000 marks (nearly \$1,000,000,000) were expended; a capital of 1,500,000,000 marks (nearly \$400,000,000) were gathered and nearly 400,000,000 marks (nearly \$100,000,000) were loaned out by the invalidity insurance associations of their employees, for building and loan associations, farmers' banks, erection of hospitals, sanatoria, tuberculosis homes, and other public and quasi-public institutions, for the purpose of raising and improving the conditions of the German working classes.

In this connection I shall incorporate only a few figures from the Atlas and Statistics of the German Labor Insurance, by Dr. G. A. Klein. It was published as part of that wonderful showing made by the German Government for the World's Fair in St. Louis (1904), and of course does not claim to be up to date. The hurry in which these data were collected must also be taken into account. These figures are from page 19. Volume III, "Income, expenses, and capital."

Accident insurance of German Empire.

Year.	Income.			Expenditures.					
	Income, total.	Contributions of employers.	Interest and other income.	Total expenditures.	Indemnities, total of.	Process of restoring to health. ¹	Payments, etc., during time of waiting. ²	Hospitals and sanitariums. ³	Annuity to family. ⁴
1885	\$239,015	\$234,761	\$4,254	\$239,015	\$4,762	\$5			
1890	10,121,561	9,233,756	887,808	6,336,433	4,843,637	194,935	\$8,591	\$221,621	\$67,821
1895	17,556,011	15,285,635	2,270,367	14,398,515	12,005,229	313,529	75,292	570,485	146,519
1900	25,098,039	21,844,484	3,253,555	24,008,647	20,789,671	483,434	166,984	797,342	199,191
1901	30,158,889	26,654,186	3,504,703	27,129,855	23,633,669	548,006	177,373	887,894	234,947
1902	33,651,804	29,907,868	3,743,936	29,701,662	25,735,679	599,778	164,167	969,139	268,247
1895-1902	278,614,331	246,231,383	32,382,949	231,206,097	19,338,374	5,233,979	1,262,251	8,254,516	2,682,472

[For every \$100 income and expenses each column is proportioned in per cent.]

	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
1886	100.00	96.76	3.94	100.00	37.44	2.29		2.14	1.07
1891	100.00	90.51	9.49	100.00	78.32	3.06	0.13	3.58	1.06
1901	100.00	88.38	11.62	100.00	87.11	2.02	.65	3.27	.87

Year.	Expenditures.						Total expenses for administration.	Capital on hand.
	Payments for injuries.							
	Annuities.	Cash pay-ments (German sub-jects). ⁵	Death or burial moneys.	Annuities for sur-vivors.	Cash pay-ments to widows in lieu of annuities. ⁶	Cash pay-ments in lieu of annuities for for-eigners. ⁷		
1885	\$35		\$2,610	\$2,112			\$234,252	\$1,897,098
1890	3,222,175		66,602	974,372	\$57,834	\$29,750	1,492,736	15,663,732
1895	8,402,882		75,972	2,281,230	97,818	41,412	2,336,328	34,128,248
1900	15,048,155	\$15,729	116,967	3,748,500	137,564	75,684	3,218,950	40,429,060
1901	16,951,697	379,841	138,350	4,108,594	158,508	48,552	3,496,220	43,458,086
1902	18,653,488	330,339	128,877	4,422,040	160,174	48,270	3,966,032	47,408,172
1895-1902	136,613,254	725,909	1,364,168	35,641,690	1,487,262	603,830	37,822,246	47,408,172

[For every \$100 expenditure each column is proportioned in per cent.]

	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
1886	20.41		2.46	8.17	0.17	0.13	62.56		
1891	53.31		.91	15.65	.76	.36	21.18		
1901	62.48	1.40	.51	15.14	.59	.18	12.89		

¹ Free medical treatment, medicines, and other remedies outside of hospital treatment, as well as crutches, braces, and like appliances.² During the first thirteen weeks after the accident, during which time he is taken care of under sick-insurance laws.³ In place of free medical treatment and annuity payments the injured person may be taken care of in a sanitarium.⁴ The family of an injured person placed in a sanitarium receives same annuity as though he had been killed.⁵ If incapacity to earn living is 15 per cent or less, the annuity charge may be paid in one anticipated payment (since October 1, 1900).⁶ On remarriage.⁷ Injured foreigners giving up their domicile in the German Empire may, on their motion, be paid off in full by threefold amount of annual annuity.

Table showing professional risk of railroad employees and workmen, Prussian-Hessian State railways. (From Archiv für Eisenbahnwesen for 1908, pages 104, 105, and 108.)

Injuries (or death).	1906.	Number for every 1,000 persons insured.								
		1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.	1905.
Transitory incapacity to earn livelihood	812	1.48	1.47	1.68	1.86	2.06	2.31	2.31	2.22	3.11
Permanent limited incapacity	1,012	3.51	3.68	3.87	3.84	4.06	4.10	4.27	4.14	3.59
Complete incapacity	177	.75	.62	.75	.73	.68	.70	.81	.76	.66
Followed by death	400	1.43	1.67	1.47	1.58	1.48	1.48	1.39	1.39	1.44
Total	2,404	7.17	7.44	7.77	8.01	8.30	8.59	8.78	8.51	8.80
The following industrial associations had for every 1,000 employees insured the following killed and injured:										
Northwest Iron and Steel Industrial Association		9.30	9.13	10.13	10.08	10.11	11.61	11.06	11.48	11.48
North German Lumber Industrial Association		11.01	11.43	12.17	11.73	12.23	11.56	11.52	11.28	11.35
Millers' Industrial Association		11.77	13.27	14.30	13.70	14.37	14.85	15.67	16.18	16.24
Wagon and Transport Industrial Association		17.51	17.81	15.87	14.81	20.82	19.00	22.75	21.31	23.77
Mining Industrial Association		12.09	12.77	12.10	12.19	13.06	13.63	14.59	15.46	15.53
Rhein Westphalian Mine and Mills Industrial Association		10.25	10.92	12.03	12.82	12.95	13.89	14.52	15.54	14.60
Brewing and Malting Industrial Association		12.01	12.11	12.31	13.67	13.46	13.32	14.43	14.86	14.61

In 1906, 31,088 persons received \$1,492,736 compensation within a few weeks of their injuries, payable from the earnings of the Prussian-Hessian State railways on a mileage of 20,848 miles.

Is there a doubt in the mind of anyone of those to whom my words are addressed that the English were forced to give up the barbarous and archaic jurisprudence based upon the common-law system of master and servant by the stress of German competition? Their trades unions, their system of allowing men's savings to be robbed by speculators, their intense effort to better this by the Friendly Societies Acts and Registration Acts and the Companies Acts, all show the futility of applying the theory of laissez-faire in the modern industrial state, in which the employee with his muscles and intel-

ligence stood opposed to the great masses of capital organized in heartless and necessarily efficient corporations.

The Continent followed the Prussian and German system of social legislation, because it found that the betterment, while not directly quantitative, proved to be an absolute qualitative betterment and showed itself in the efficiency of those persons for whom social care was provided by the State.

In the convention of New York, in 1821, William L. Marcy, afterwards Secretary of State, said, in speaking of the growth of the idea of popular franchise, which was growing toward

universal manhood franchise, that "Once having been granted, it could never be taken away, save by the force of bayonets."

And so the conditions of the modern workingman, who reads his paper, who sees that in times of prosperity inordinate profits are reaped from the movement of commerce of the country by those who control a very small majority of a still smaller holding company of a great system of railways; that his condition is no better than that of a wage slave, because the wages are paid to him in not sufficient quantity nor with sufficient regularity to allow him to take a share and lay it aside for labor insurance, or care of himself or his family in his old age; this man, I say, Mr. Speaker, is bound to ask us, his representatives, why it is that the Germans, English, French, Austrians, Spaniards, Italians, in their native land, are taken care of by governments which we are taught to look down upon as monarchical, as bureaucratic, as inefficient, while in this country—the country of the free, the only true freedom—an injured workman has to "sue his company and be damned."

Sooner or later, Mr. Speaker, the railway employees will demand not that something be done for them by the Nation, but that their employers be directly forced to give them the compensation sought to be enacted in this bill. I am not afraid of the charge that this is an entering wedge into the entire system of labor conditions. I want it to be an entering wedge.

The Congress of the United States can not legislate for coal mines in Utah, Pennsylvania, or West Virginia, for silver mines in Arizona, for the salt works in New York, or for the numerous trust-owned steel mills of Pittsburg and Chicago; these are within the police powers of the respective States; but the commerce of this country—which is protected by the decision of the Supreme Court in the Debs case and all similar cases wherever the workmen struck to better their conditions and where hoboes and rowdies burned cars and impeded the progress of the mails—has been taken charge of as being within the regulative power of Congress, and it is our duty not only to protect the commerce, but the human beings, our fellows, who make it move; it is our duty to pass all legislation which makes for its efficiency and which will keep us abreast of the times. The times are changing. The conditions which possibly were fair when seventeen railways handled the freight from New York City to Buffalo have become unfair when the traffic from New York to Chicago, a distance of 996 miles, is handled under unit control. The master can have no idea of the details, is not responsible, as a matter of fact, for the employment, and can not exercise any supervision or selection of the employees in handling this traffic; and yet an employee running a locomotive for forty years, careful and experienced, diligent and honest, faithful and loyal to his company, if wrecked through the stupidity of a telegraph operator or the untoward accident over which he had no possible control, is put to the proof of showing that he was free from negligence. If he is killed, his widow has the burden of the proof to show that the engineer who ran into an open switch or whose locomotive was wrecked in a smash-up with a freight train, over which the engineer had no control, and was without any blame, yet under prevailing conditions she should have no effective compensation except after eight to ten years' wrangle, trickery, and litigation, while the railway mail clerks in the postal cars, the persons in the sleepers, or passengers who are behind the locomotive obtain fair compensation for their injuries.

On a troop train rushed forward under the requirement of the act to regulate commerce, which provides (sec. 6, lines 8-13, p. 12)—

That in time of war or threatened war preference and precedence shall, upon the demand of the President of the United States, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic—

the only persons not compensated in a fatal wreck would be the trainmen, engineers, and firemen, who are doing the work, while the taxpayers would pay pensions or compensation to every officer, soldier, and other military person enlisted to destroy and wreck property.

For a period of years the Government, to its credit, be it said, has authorized the payment of a small sum (\$1,000) for every railway mail service employee killed or dying of injuries contracted in the service within one year.

In other words, we have recognized the inevitable and constantly recurring danger, and have taken the initial step in the right direction of compensation. The Government has to that extent, in carrying out the recommendations of the President in respect to this bill (H. R. 21696, a bill granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment), only extended the operation of former acts.

A combination of conditions such as I have sketched out, and which are within the knowledge of every Member in this House, can not but lead to a decrease of national efficiency. And this national efficiency, as I have tried to show, affects the international standing of the community. The maimed and killed, their widows, their declassified children, must be taken care of by societies or almshouses or by the community at large in an inefficient manner, when the direct burden which they had assumed is our burden and we should bear it as a necessity. Ultimately we must bear it in some form. Is it not better and more honest to bear it directly and to make that enterprise as an entity which causes these injuries—crippled and maimed and killed, American citizens all—pay proper and timely compensation for the damage fully and as fairly as they pay for repairs to locomotives, headlights to their engines, new equipment, and general replacement?

The Republican party has been in control of the Government for forty years. A very small period of this time excepted, it has controlled the Presidency, the Senate, and this House. In all that period of time the argument has been used that the burdens of the protective tariff were proper and necessary for the purpose of affording to the American workman a higher standard of living and more just compensation. I do not take any credit for not using the present condition of economic slowing down as a weapon for pointing out to the majority of this House the unfairness in not having given compensation to the employees. The solution of the problem is new. We have had other problems to deal with heretofore, and, as I have said, it is characteristic to solve one problem at a time.

I shall on another occasion insert as part of my remarks certain portions of W. J. Ashley's book on the progress of the German working classes in the last quarter of a century (1904), which show that Bismarck's commercial and social policy raised the standard of living and increased the efficiency of the German working classes to an immense degree and made possible the tremendous economic progress of Germany throughout this period as a consideration for the burdens and injustice of a moderate protective tariff.

THE LEGALITY OF THE PROPOSED LEGISLATION.

At the outset of this argument I stated that the system under which employees are bound to sue for damages virtually amounts to a denial of justice.

The greatest draftsman that England ever produced—the cardinal legate, Stephen Langton—forced the King to promise that he and his successors would no longer sell or deny justice to any man, and that the law of the land should be applied to each man's grievances.

Our Constitution forbids the Congress to do certain things in the first eight amendments. The fourteenth amendment forbids the States abridging the rights of citizens or denying them the benefit of due process of law. The leading case, in which all the previous decisions were reviewed, *Holden v. Hardy* (169 U. S., 380), summarizes the decisions so clearly that all I shall do is to briefly refer to it.

In the courts of England, Mr. Justice Brown said:

While the cardinal principles of justice are immutable, the methods by which justice is administered are subject to constant fluctuation, and that the Constitution of the United States, which is necessarily and to a large extent inflexible and exceedingly difficult of amendment, should not be so construed as to deprive the States of the power to so amend their laws as to make them to conform to the wishes of the citizens as they may deem best for the public welfare, without bringing them into conflict with the supreme law of the land.

Of course, it is impossible to forecast the character or extent of these changes, but in view of the fact that from the day the "Magna Charta" was signed to the present moment, amendments to the structure of the law have been made with increasing frequency, it is impossible to suppose that they will not continue, and the law be forced to adapt itself to new conditions of society, and, particularly to new relations between employers and employees as they arise.

Although this case affected the mining laws of the State of Utah, yet its reasoning is, I believe, apt to this discussion, when we remember that under power to regulate commerce, Congress is absolutely supreme, in so far as the power is sought to affect the relation of the carrier and its employees who are engaged solely in interstate commerce establishing and maintaining post routes.

Very little attention has been given to the power of the Government to refuse to contract for the carriage of the mail with any carrier who might refuse to abide by the provisions of an act like my bill (H. R. 16739). But if the people demand some form of a railroad men's compensation act, its terms could be embodied in every contract for handling and hauling the United States mail, and the protection afforded by the Revised Statutes withdrawn from any carrier who refused to accept and abide by its provisions.

On page 390 the court states:

"Recognizing the difficulty in defining with exactness the phrase 'due process of law,' it is certain that these words imply a conformity with natural and inherent principles of justice and forbid that one man's property or right to property shall be taken with any other, or for the benefit of the State, without compensation, and that no one shall be condemned in his person or property without an opportunity of being heard in his own defense."

On page 392 the court quotes, with approval, the following extract from the opinion of Chief Justice Shaw, in *Commonwealth v. Alger*, 7 Cushing, page 53, at page 84:

Rights of property, like all other social and conventional rights, are subject to such reasonable limitations in their enjoyment as shall prevent them from being injurious and to such reasonable restraints and regulations established by law as the legislature under the governing and controlling power vested in them by the Constitution may think necessary and expedient.

The court states that the power to regulate dangerous industries is necessarily inherent in every form of government, although prior to the adoption of the Constitution but sparingly used in this country:

As we were even then almost purely an agricultural country, the occasion for any special protection to a particular class did not exist. Certain profitable employments, such as lotteries and the sale of intoxicating liquors, which were then considered to be legitimate, have since fallen under the ban of public opinion and are now almost altogether prohibited or made subject to stringent police regulations.

But in the vast proportion in which these industries (the business of mining coal and manufacturing iron) have since assumed, it has been found that they can no longer be carried on with due regard to the safety and health of those engaged in them without special protection against the dangers necessarily incident in these employments. In consequence of this, laws have been enacted in most of the States designed to meet these exigencies and secure safety to persons peculiarly exposed to these dangers.

The court then instances ordinances and regulations of various kinds guarding hatches, stairways, elevator shafts, and employment of sanitary appliances, protecting persons against fire in theaters, hotels, factories, and other large buildings, and in the case of the mining industry stating the special provisions made for the shoring up of dangerous wheels, ventilation shafts, signaling to the surface, supplying fresh air, and the elimination as far as possible of dangerous gases, limiting the number of persons permitted to enter the cage, the covering of the cages, and the provision for fences and gates around the top of the shaft, besides other similar precautions.

These statutes, one and all, have been held constitutional within the various States, although imposing on the various industries necessary burdens, on the theory that the State at large was the guardian of those who industrially were unable to contract for their own safety, and that it was necessary to provide against their own greed, as well as the exploitation of their masters or employers.

In this great case the Supreme Court well said, in speaking of the argument that the freedom of the laborer to contract had been infringed upon (p. 397):

The argument would certainly come with better grace and greater cogency from the latter class, but the fact that both parties are of full age and competent to contract does not necessarily deprive the State of the power to interfere where the parties do not stand upon an equality, or where the public health demands that one party to the contract shall be protected against himself. [My italics.]

The State still retains an interest in his welfare, however reckless he may be. The whole is no greater than the sum of all the parts, and when the individual health, safety, and welfare are sacrificed or neglected, the State must suffer.

It might be assumed that this argument should apply with stronger cogency to the enactment of an employers' liability bill than it would to the remarks which I am addressing to this House in the matter of the compensation act.

The sad experience of every person who has studied the enforcement of employers' liability acts, factory acts, or safety-appliance acts, of every form of palliative legislation except a compensation bill, forces one by a system of exclusion to rely upon the enactment of the compensation act as the only method whereby adequate relief can be given to those who have heretofore been judicially disinherited and have been made to feel the strong arm of the law in a peculiarly atrocious method of whittling away the rights sought to be conferred upon them by State or national legislation. I take the credit for my bill (H. R. 16739) as the first Federal general-compensation bill. It is set out herein so that all may understand the scope and my proposed method of correcting some of the antisocial evils of our present-day methods.

[TEXT OF THE COMPENSATION BILL.]

A bill (H. R. 16739) to provide compensation for injuries to employees solely engaged in interstate and foreign commerce, to which the regulative power of Congress extends under the Constitution of the United States, and to create a Commission of Injury Awards, and granting powers to said Commission. (Introduced February 10, 1908, by A. J. Sabath, of Illinois.)

Be it enacted, etc., That the provisions of this act shall apply to each and every common carrier subject to the provisions of an act entitled "An act to regulate commerce," approved February 4, 1887, as amended by an act approved March 2, 1889, and by an act approved

February 10, 1891, and by an act approved February 8, 1895, and by an act approved June 29, 1906, and all other acts supplementary, to or amendatory thereof, as well as any acts which are or may be passed at the present session of Congress, to which the regulative power of Congress extends under the Constitution of the United States, said common carrier shall be liable in respect to the employment subject as aforesaid to such of its employees as are engaged solely in the movement of handling, storing, dispatching, moving of interstate traffic or commerce to which said regulative power of Congress may or does extend.

SEC. 2. That any such employee while so engaged solely in carrying on interstate commerce, who in the course of his work, employment, and occupation is injured and suffers injuries which result in disability, either temporary or permanent, shall be paid by said employing carrier as indemnity and compensation for such injury, or if the said injuries result in the death of such employee, then to the executor or administrator of the estate of such deceased employee, for the exclusive benefit of the surviving widow and next of kin of such deceased employee, a sum or sums of money, in accordance with the following condition and scale of compensation: *Provided, That—*

(a) The employer shall not be liable under this act for injuries sustained by the employee which do not disable and incapacitate the employee for at least one week.

(b) The employer shall not be liable to pay an indemnity and compensation to an employee where the injury is caused by the wanton and willful misconduct of the employee so injured.

(c) Where the injury to the employee is caused by the negligence or willful act on the part of the employer, or on the part of some person for whose act the employer is responsible and accountable, nothing in this act shall affect any civil liability whatsoever of the employer. But in case the employee, or if the injury results in the death of such injured employee, the executor or administrator of the estate of such deceased employee may, at his option and election, either claim indemnity and compensation under this act or maintain an action at law to recover damages in respect thereof independently of this act, but in no case can the employee so injured, or in case of death of such injured employee, the executor or administrator of the estate of such deceased employee, claim indemnity and compensation under this act and maintain an action at law to recover damages for injuries to the employee, causing his death.

SEC. 3. That if an action is brought to recover damages, not based on any provision or provisions of this act, for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay indemnity and compensation under the provisions of this act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so elect, proceed to award such sum or sums of money to which the plaintiff is entitled under and in accordance with the scale of indemnity and compensation hereinafter provided under this act, but may deduct from such sum or sums any and all costs incurred by the plaintiff in bringing the action instead of proceeding under this act. In any proceeding under this act, where the court awards such sum or sums of money under and in accordance with the scale of indemnity and compensation hereinafter provided under this act, after deducting any and all costs of the proceeding, shall cause the clerk of said court to issue and enter upon record a certified order of the sum or sums of money so awarded to the plaintiff, as indemnity and compensation, and such certified order shall have the force and effect of an award under this act.

SEC. 4. That proceedings for the recovery under this act of compensation for an injury shall not be maintainable, unless notice of the accident has been given as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured, and unless the claim for indemnity and compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or in case of death within one year from the time of death: *Provided always, That—*

(a) The want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings. If it is found in the proceedings hereinafter authorized for settling the claim that the employer is not, or would not, if a notice or amended notice were then given and the hearing postponed, be prejudiced in his defense by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United States, or other reasonable cause; and,

(b) The failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceeding if it is found that the failure was occasioned by mistake, absence from the United States, or other reasonable cause.

(c) Notice in respect of an injury under this act shall give the name and address of the person injured, shall state in ordinary language the cause of the injury and the date thereof.

(d) The notice may be served by delivering the same at or sending it by post in a registered letter addressed to the office or place of business of the employer on whom it is to be served, or, if there be more than one office, any one of the offices of such employer.

SEC. 5. That whenever any common carrier subject to this act, more particularly described in section 1 hereof (in this section referred to as the principal), while engaged in the pursuit and carrying on interstate commerce hereinbefore mentioned, contracts with any other person or persons, partnership firm, limited or otherwise, company, or corporation (in this section referred to as the contractor), for the execution by or under the contractor of the whole or any part of any work pertaining to and in the course of interstate commerce undertaken by the principal, the principal shall be liable to pay such employee solely engaged in interstate commerce as hereinbefore set forth any indemnity and compensation under this act, which he would have been liable to pay if that employee had been directly in its or his employ whenever the indemnity and compensation is claimed from, or proceedings are taken against the principal, then, in the application of this act, references to the principal shall be substituted for references to the employer, except that the amount of indemnity and compensation shall be calculated with reference to the wages and earnings of the employee under the employer by whom he is immediately employed: *Provided, That—*

(a) Where the principal is liable to pay indemnity and compensation under this section, he or it shall be entitled to be indemnified by any person who would have been liable to pay indemnity and compensation to the employee, independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by the Commission of Injury Awards hereinafter provided.

(b) Nothing in this section shall be construed as preventing an employee from electing to recover indemnity and compensation under this act from the contractor instead of from the principal.

(c) This section shall not apply in any case where the accident or injury occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work, or which are otherwise under his control or management.

SEC. 6. That where the injury for which the indemnity and compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(a) The employee may take proceedings both against that person to recover damages and against any person liable to pay indemnity and compensation under this act for such indemnity and compensation, but shall not be entitled to recover both damages and indemnity and compensation; and,

(b) If the employee shall have recovered indemnity and compensation under this act, the person by whom the indemnity or compensation was paid, and any person who has been called on to pay an indemnity under the section of this act relating to subcontracting, shall be entitled to be reimbursed by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by the commission of injury awards as hereinafter provided.

SCALE AND CONDITIONS OF COMPENSATION.

SEC. 7. That whenever injury or death results from such injury incurred in the course of such employment said employee or his surviving next of kin dependent on his earnings shall be entitled to a sum equal to three hundred and twelve times his weekly earnings or the yearly average of the last three years during which he worked, whichever is the greater, at the time of the accident that caused his death, but not less than \$3,000 nor more than \$10,000 in each case. Such sums to be paid directly to such next of kin or to a duly appointed representative of the estate of the deceased employee or such annuity charge to be assumed by the said common carrier or employer as equals the above scale of payment or the provision hereinafter set forth. The exact amount of such payment or annuity charges to be determined by the injury award commission. In case there are no next of kin dependent on such deceased employee only the medical, surgical, and burial expenses in connection with the injuries are to be paid. For total disability of a period not exceeding six months one-half of the injured employee's wages, based on the maximum monthly earning for six months previous to said injury, and hospital and medical attendance shall be paid. For disability beyond six months the following proportion of his weekly earnings as next hereinafter set forth shall be paid. Whenever beyond said period of six months the earning capacity of said employee in such employment is totally destroyed he shall be paid two-thirds of his earnings, when said earning capacity is materially impaired one-half of his earnings, when said earning capacity is impaired one-third of his earnings, when said earning capacity is slightly impaired one-fourth of his earnings, based on his weekly or monthly earnings, as the case may be, during the period of the said impairment or injury: *Provided*, That the impairment or injury hereinafter mentioned shall not be of a character covered exclusively by the injury as set forth in the following scale of percentages of such employee's earnings. In all cases in which the scale hereinafter set forth applies, the employee shall receive not less than a sum based on the following scale of percentage of his earnings to be paid for the impairment or injury in respect to the loss or total impairment of the use of—

Loss of one eye, 40 per cent; loss of both eyes, 75 per cent; loss of sight of one eye, 30 per cent; loss of sight of both eyes, 75 per cent; loss of hand, 40 per cent; loss of right hand, 60 per cent; loss of both hands, 75 per cent; total disability in one hand, 30 per cent; total disability in right hand, 50 per cent; total disability in both hands, 65 per cent; loss of one foot, 40 per cent to 50 per cent; loss of both feet, 65 per cent; total disability in one foot, 25 per cent; total disability in both feet, 60 per cent; loss of one hand and one foot, 50 per cent to 70 per cent; total disability in one hand and one foot, 50 per cent; loss of an arm at or above the elbow or leg at or above the knee, 45 per cent to 60 per cent; total disability in one arm or leg, 35 per cent to 45 per cent; loss of either a leg at the hip joint, or an arm at the shoulder joint, or so near as to prevent the use of an artificial limb, 40 per cent to 60 per cent; ankylosis of shoulder, 30 per cent; ankylosis of elbow, 25 per cent; ankylosis of knee, 25 per cent; ankylosis of ankle, 20 per cent; ankylosis of wrist, 20 per cent; total deafness of one ear, 25 per cent; total deafness of both ears, 50 per cent; total deafness of one ear and severe of the other, 35 per cent; severe deafness of both ears, 30 per cent; loss of palm of hand and all the fingers, the thumb remaining 25 per cent; loss of palm of right hand and all the fingers, the thumb remaining, 40 per cent; loss of thumb, index, middle, and ring fingers, 25 per cent; loss of thumb, index, middle, and ring fingers of right hand, 40 per cent; loss of thumb, index, and middle fingers, 25 per cent; loss of thumb, index, and middle fingers of right hand, 37½ per cent; loss of thumb and index finger, 20 per cent; loss of thumb and index finger on right hand, 33 per cent; loss of thumb and little finger on right hand, 20 per cent; loss of thumb and little finger on right hand, 35 per cent; loss of thumb, index, and little fingers, 23 per cent; loss of thumb, index, and little fingers on right hand, 37½ per cent; loss of thumb, 20 per cent; loss of thumb on right hand, 25 per cent; loss of thumb and metacarpal bone, 25 per cent; loss of thumb and metacarpal bone of right hand, 30 per cent; loss of all the fingers, thumb and palm remaining, 35 per cent; loss of all the fingers of right hand, thumb and palm remaining, 45 per cent; loss of index, middle, and ring fingers, 20 per cent; loss of index, middle, and ring fingers of right hand, 30 per cent; loss of middle, ring, and little fingers, 18 per cent; loss of middle, ring, and little fingers of right hand, 25 per cent; loss of index and middle fingers, 15 per cent; loss of index and middle fingers of right hand, 25 per cent; loss of little and middle fingers of right hand, 25 per cent; loss of little and ring fingers, 10 per cent; loss of little and ring fingers of right hand, 18 per cent; loss of ring and middle fingers, 8 per cent; loss of ring and middle fingers of right hand, 15 per cent; loss of index and little fingers, 8 per cent; loss of index and little fingers of right hand, 15 per cent; loss of index finger, 6 per cent; loss of index finger of right hand, 10 per cent; loss of any finger without complications, 4 per cent; loss of any finger of right hand without complications, 8 per cent; loss of all the toes of one foot, 15 per cent; loss of great, second, and third toes, 12 per cent; loss of great toe and metatarsal, 12 per cent; loss of great and second toes, 10 per cent; loss of great toe, 8 per cent; loss of any other toe and metatarsal, 8 per cent; loss of any other toe, 5 per cent; hernia, 20 per cent to 50 per cent.

The above percentages shall be deemed and construed to have been reversed whenever the injured person is left-handed, so that the word

left as used in this scale is to be understood as being placed instead of the word right.

SEC. 8. That in all cases in which the carrier subject to the provisions of this act (as set forth in section 1 hereof) shall be the subject of a receiver or trusteeship before any payments are made on account of the debts due the holders of any bonds or other obligations except taxes, it shall be the duty of said receiver or trustee to provide funds for the payment of all claims due or owing in respect to any proceedings brought under this act. Such funds or claims shall be a lien or charge on the property subject only to taxes.

SEC. 9. That for the purpose of carrying into effect the provisions of this act a commission is hereby created and established, to be known as the "commission of injury awards," to be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 10. That the commission first appointed under this act shall continue in office for the term of one, two, three, four, and five years, respectively, from the 1st day of July A. D. 1908, the term of each to be designated by the President; but the successor of each of them shall be appointed for a term of four years, except that a person chosen to fill a vacancy shall be appointed only to fill the unexpired term of the commissioner he shall succeed. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the commissioners shall be appointed from the same political party.

SEC. 11. That no person on the pay roll of, employed by, or holding any official relation to any common carrier subject to the provisions of this act, or owning stocks or bonds thereof, or in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office nor be employed by said commission. Said commissioners shall not engage in any other vocation or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The principal office of the commission shall be in the city of Washington, D. C., where its general sessions shall be held. Whenever the convenience of the parties may be promoted or delay or expense prevented thereby the commission may hold its sessions in any part of the United States.

SEC. 12. That the commission may by one or more of the commissioners prosecute any inquiry necessary to its duties in the United States into any matter or thing pertaining to or subject to this act. The commission may conduct its proceedings in such manner as will best conduce to a proper dispatch of business and to the end of justice. A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any proceedings or hearing in which he has or has had any pecuniary interest. Said commission shall have power to make from time to time or amend general rules, regulations, or orders for the purpose of carrying into effect the provisions of any section of this act, including all details of procedure before it. Any party may appear before said commission and be heard in person or by attorney. Every vote and official act of the commission shall be entered of record, and all its proceedings shall be public. Said commission shall have an official seal which shall be judicially noticed. Any member of the commission may administer oaths and affirmations, sign orders and subpoenas. Each commissioner shall receive an annual salary of \$6,000, payable monthly.

SEC. 13. That the commission shall have the power to appoint a secretary, who shall receive an annual salary of \$3,600, payable monthly. The commission may appoint, for such terms as it shall determine, deputy commissioners, who shall receive an annual salary of \$2,400, payable monthly. Said deputy commissioners may administer oaths and affirmations and require the production of such books and papers in the custody of any person subject to this act as they may deem proper. The commission shall have authority to employ and fix the compensation of such other employees as it may find necessary for the proper performance of its duties and the enforcement of this act. Until otherwise provided by law said commission may hire suitable offices for its use and have authority to procure all necessary office supplies. The commission shall on or before the 1st day of January of each year make a report to Congress, and copies thereof shall be distributed as are all other reports transmitted to Congress.

SEC. 14. That said reports shall contain such information as may be considered of value in the determination of questions connected with the enforcement of this act, together with such recommendations as to additional legislation relating thereto as the commission may deem necessary, as well as the names and compensation of the persons employed by said commission.

SEC. 15. That the sum of \$350,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act.

SEC. 16. That said commission is hereby directed, authorized, and empowered to make all necessary rules, regulations, and orders necessary and proper to carry into effect the provisions of this act. Jurisdiction is hereby conferred on any district or circuit court of the United States in which the said common carrier operates its line to hear and determine any proceedings brought by said commission to enforce any rule or order so made. Any rule, regulation, or order made by said commission enforcing or carrying out any provisions of this act shall be published in such form as said commission shall deem proper.

SEC. 17. That whenever any common carrier subject to this act as employer refuses or neglects to pay any award, or neglects to obey any lawful order of said commission as created by this act, it shall be lawful for said commission, or, on the relation of any person interested in such order, to apply in a summary way by petition to any circuit court of the United States for the judicial district in which the employer carries on his business or in which the employee resides, alleging such failure or noncompliance, as the case may be. Said court shall have the power to hear and determine the matter on short notice, as the court may deem reasonable. Said court shall hear and determine the matter as a court of equity speedily and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to this end said court shall have the power to direct an inquiry to carry this act into effect.

SEC. 18. That on such hearing the findings of fact in the report of said commission shall be prima facie evidence of the matters therein stated. If it be made to appear to such court on said report or hearing that the lawful order or requirement of said commission has been disobeyed, said court shall issue any proper process, mandatory or injunctive, to compel obedience to such order or requirement of said commission. Said court may in the proper case order any employer subject to this act and disobeying any order or process to pay such sum of money not exceeding \$1,000. Said sum shall be payable as the court may direct, either to the party complaining or into court to abide

the ultimate decision of the court. Payment thereof may be enforced by any process of the court.

SEC. 19. That when any such petition shall be filed by the commission, it shall be the duty of any district attorney of the United States under the direction of the Attorney-General to prosecute. If the judgment of the court shall be in favor of the employee, he shall be entitled to recover court costs and expenses connected with said proceedings, to be determined by the court, and collectible as part of the costs in the case. For the purpose of this act the circuit court of the United States shall be deemed to be always in session.

SEC. 20. That the said commission shall on the demand of any claimant dissatisfied with the award made by said commission bring or cause to be brought an action in the nature of a bill of review in any said circuit court of the United States. Any expenses connected with such proceedings, including a reasonable counsel fee to the prevailing party, shall be paid out of its appropriation.

SEC. 21. That the provisions of the act to regulate commerce, as amended as said amendments have been set forth in section 1 hereof, as well as an act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893 (27 Stat. L., p. 443), as well as an act defining the right of immunity of witnesses, approved February 11, 1893, as amended by an act approved June 30, 1906, Public Law No. 389, relating to witnesses, and all other matters of administrative detail, shall, as far as applicable to this act, be deemed to have been reenacted herein as fully as though set forth at length.

SEC. 22. That whenever this act requires any document to be served by post, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter by registered mail containing the document or notice, and unless the contrary is proven to be effected at the time at which the letter would be delivered in the ordinary course of registered mail.

SEC. 23. That in this act, unless the contrary intention appears, words denoting or importing the masculine gender shall include females, and words in singular shall include the plural and words in the plural shall include singular.

SEC. 24. That, unless the context otherwise requires, the word "employer" shall be deemed to include any common carrier engaged in interstate commerce as set forth in the act to regulate commerce, or any act amendatory thereof (more particularly set forth in section 1 hereof), or any receiver, trustee, or holding company by whatever scheme or device said common carrier shall exercise its functions. The word "employer" shall also be deemed to include any common carrier engaged in foreign commerce in respect to any employee subject to the navigation or shipping laws of the United States. The personal representatives or next of kin shall be held to mean the persons who by the law of any State, Territory, the District of Columbia, or by the laws of any foreign country or state, shall be entitled to the proceeds of the estate of the deceased.

SEC. 25. That no contract, agreement, or device relating to the employment or reengagement consequent to the injury of any employee subject to this act, to waive any of the provisions of this act or to contract out from any of its provisions or from any rule, regulation, or order made by said Commission in relation thereto shall be valid or enforceable.

SEC. 26. That this act shall be in force from and after its passage.

"LIBERTY OF THE MAGNATES AND FREEDOM OF CONTRACT."

It is a subject of legitimate pride to us that Mr. W. J. Ghent can with truth, Mr. Speaker—and herein lies the sting—can with truth say of us:

The percentage of reversals on appeal in master and servant cases of this kind, when the verdict of the juries in the courts below had been in plaintiffs' favor, is perhaps larger than in any other branch of litigation.

Mr. George W. Alger, in an article on "The courts and factory legislation," in the American Journal of Sociology for November, 1900, gives the following careful and temperately worded summary of recent reversals in employers' liability cases in New York State:

The percentage of reversals on appeal in master and servant cases of this kind, when the verdict of the juries in the courts below had been in plaintiffs' favor, is perhaps larger than in any other branch of litigation. In New York, for example, an examination of thirty volumes of the court of appeals reports (126-156 N. Y.) shows written opinions in thirty-seven such cases. Of these (1) in three cases the juries in the lower court had found for defendant, and plaintiff was the appellant; (2) in four cases the court below had dismissed plaintiff's case as insufficient, without requiring defendant to introduce any testimony; (3) in thirty cases the juries below had found for plaintiff with substantial damages. The court of appeals in class 1 affirmed all of the cases where plaintiff was defeated below. In class 2 it reversed the four cases where plaintiff had been summarily nonsuited and sent the cases back to trial courts to hear defendant's testimony, a partial victory at most for plaintiff. In class 3, where plaintiff had actually received a verdict, of the thirty cases twenty-eight were reversed. These statistics are interesting as showing how complete is the lack of harmony between the courts, at least in New York, and the moral sense of the people by whom the courts were created in regard to these cases. Twice in thirty times do the opinions of the learned judges of New York's highest court coincide with the opinions of juries of citizens as to the requirements of justice.

The language of the leading work on one phase of this subject, Shearman and Redfield's "A treatise on the law of negligence," sums up the matter in a few words:

It has become quite common for judges to state as the ground of decisions the necessity of restricting litigation. Reduced to plain English, this means the necessity of compelling the great majority of men and women to submit to injustice in order to relieve judges from the labor of awarding justice. The stubborn resistance of business corporations, common carriers, and mill owners to the enforcement of the most moderate laws for the protection of human beings from injury, and their utter failure to provide such protection of their own accord, ought to satisfy any impartial judge that true justice demands a constant expansion of the law in the direction of increased responsibility for negligence. (Quoted from William J. Ghent's "Our benevolent feudalism.")

If we pass an employers' liability bill, the courts will be full of litigation. The Germans, whose progress I have shown in no

small degree is due to their more efficient workmen and their system of paying compensation to persons killed and injured in the course of railway operation, have long ago found the danger incident to an employers' liability bill, and for that reason, if no other, pushed it aside as an archaic and dangerous appliance in a modern, civilized, industrial state. As an example there is printed herewith a summary of Bavarian results in effecting a prompt settlement with widows of killed and to injured railway laborers. Employees of the State railways are compensated even faster than this, as no elaborate calculations of their average wages are required.

Table showing the time elapsing between injury or death and payment of first definite compensation to workmen on the Bavarian State Railways.

File No.—	Date of injury.	Date of definite compensation payable (liable to increase on subsequent rehearing).	Provided by sick insurance for thirteen weeks, beginning of fourteenth week.
3088.	July 29, 1903	Nov. 29, 1903	Oct. 29, 1903
5590.	May 18, 1903	Sept. 21, 1903	Aug. 18, 1903
5208.	Nov. 18, 1901	Mar. 23, 1902	Feb. 18, 1902
10538.	Apr. 20, 1904	Aug. 2, 1904	July 21, 1904
132.	Oct. 2, 1901	Feb. 4, 1902	Jan. 2, 1902
12454.	Apr. 8, 1903	July 26, 1903	July 9, 1903
5070.	Sept. 5, 1902	Dec. 31, 1902	Dec. 6, 1902
3288.	July 12, 1904	Sept. 21, 1904	July 13, 1904
7808.	July 23, 1904	Sept. 16, 1904	July 23, 1904
6768.	July 11, 1904	Aug. 28, 1904	July 11, 1904

* Died of injuries received.

* Payments relate back to date of death.

Prepared under the direction of Ministerialrat Karl Voelcker and of Regierungsrat Dr. Klaus Serrat, Bavarian Ministry of Communications, Munich, October 9, 1905.

Every one of our employers' liability acts, past and present, is based on the theory of contract, that sacred freedom of contract which permitted the exploitation of human beings, degraded them to an extent undreamed of by the ancient slavery, and which was mitigated to a very limited degree by factory legislation and by safety-appliance acts. Under them all the entire theory is that of contract and freedom of contract, which permits in some form or other the contracting out from the terms of the act in favor of the master and against the employee.

In every instance litigation of this character brings about a reaction which forces the courts, the interpreters of the law, trained as they are to conserve on behalf of their clients and on behalf of the public whom they claim to represent, by narrow construction, and to fritter away the benefits sought to be conferred by this legislation upon the class which is economically weak, and which, as I have said, has been judicially disinherited. That this term is not too strong is shown by the fact that men writing of the entire attitude of the courts to the workingman say:

A fact more curious yet to the unlegal mind is the judicial contention that statutory provisions for the safeguarding of machinery may be waived by the workman. Evidently his burden of risk, like the Hindoo's caste, is born with him, and can not be laid aside or escaped.

THE ULTIMATE VALIDITY OF THE PROPOSED ACT.

It would be futile for me, Mr. Speaker, to have entered on this discussion were I not convinced that ultimately some legislation such as my bill (H. R. 16739) proposes to enact will become the law of this land, and that those who now scoff at its provisions will be the most earnest upholders of the new industrial conditions, of the social betterment and improved civilization, of which it, in its incipency, is the forerunner. The act to regulate commerce was enacted in 1887, yet people are apt to forget that as far back as 1871 a bill of like character was introduced, and that the first step toward an attempt to force the carriers engaged in interstate commerce to submit to Federal legislation was introduced by Senator Sumner, of Massachusetts, in 1865. Progress in a country like ours is necessarily slow. Besides overcoming the natural timidity of capital, we must convince the Supreme Court of the United States that in the last instance it is a proper, lawful, and civilizing effort to raise the conditions of the persons who may be living in this great country under and pursuant to the Constitution.

The employers' liability act was declared unconstitutional by a majority of one. Five judges were in favor of declaring its provisions repugnant to the Constitution; four judges, on various grounds, dissented. When in the last analysis a statute is held unconstitutional on so narrow a margin, and when its advocacy and framing has had the benefit of the best legal talent in this House and in the other Chamber, it is proper to refer with respect to an opinion handed down by one judge below, whose opinion was not directly appealed from in the

cases before the Supreme Court and whose reasoning has never been assailed in any court whatsoever. In the circuit court of the United States for the eastern division of the southern district of Georgia, Hon. Emory Spear decided on the 25th of March, 1907, the case of Lucy Snead, administratrix, v. Central of Georgia Railway Company. In the course of his opinion that eminent judge said:

The steamboats plying the lower river were thus forbidden access to its wharves. The National Government since its organization had been silent. It finally thought proper to act. The railroads were then informed that unless suitable drawbridges were constructed so that steamers might pass through unimpeded their bridges would be removed. In other words, the dormant power of the Constitution was aroused, and the railroads, the creatures of the State, whose action had been theretofore lawful, turned the listening ear and caught the words of that mandate and swiftly obeyed. [My italics.]

The creation of the Interstate Commerce Commission, the enactment against arbitrary and discriminating rates, of the antitrust law forbidding combinations in restraint of trade, held directly applicable to railroads, even though chartered by the States, the law denouncing rebates and forbidding passes in interstate traffic, the law forbidding a railroad engaged in such commerce from dealing in commodities like coal, which it transports (Railroad v. I. C. C., 200 U. S., 361)—all such legislation culminating in the power exercised by the most recent enactment, intrusting the Commission, which is the agent of Congress, with the power to fix rates, and the bill to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon, enacted in the closing hours of the last session, are familiar illustrations of the exercise of the right and power of Congress to control such commerce. It is not difficult to foresee that this power may speedily be extended to reach and to paralyze the action of those daring financiers who water the stock of corporations engaged in interstate traffic, and who by this perilous expedient not only compel the public to pay interest upon evidences of fictitious values thus created, but endanger the stability of all business by the panics they engender and the calamities they threaten. In the meaning of the commerce clause, it is thus made clear that the words "to regulate" impart the right and power to enact laws, and not merely to make rules and regulations. The necessity for such right and such power, more than all things else, contributed to the very establishment of the Government of the United States itself.

Although argument in that case was specifically directed to the contention that the interference by courts was unlawful in so far as it tried to establish a liability in favor of employees against their employers, and that it might affect in a contingent or casual way the relation of intrastate carriage, yet in the wider scope which this bill proposes to enact it seems to me that it enforces the general arguments to a very great degree.

Judge Spear well says, speaking of the employers' liability act:

The law itself deserves the approbation of the entire country. Its incentive to carefulness on the part of those who control railways will be immeasurable. It will bring to many an honest, fearless heart the consciousness that he and his loved ones are insured against the folly and negligence of his fellows, whom he can not control. Had it been of force in the past, thousands of our countrymen who are sleeping in untimely and tragic graves, might now be leading useful lives, and many additional thousands who now spend the interval of life which remains to them in the mortification of mutilation and in its incurable suffering might now be happy and well. Surely at a period when every day brings its story of crashing and murderous collisions, of derailed and shattered trains, the long catalogue of the slain, the mangled, and dismembered, such efforts on the part of Government to extend its protecting care around its people, employed in its mightiest interest, should not be lightly discredited. The philanthropy and statesmanship which prompted it are not undeserving of such a eulogium as that pronounced by Macaulay on the philosophy of Bacon:

"It has lengthened life; it has mitigated pain; it has extinguished diseases; it has increased the fertility of the soil; it has given new securities to the mariner; it has furnished new arms to the warrior; it has spanned great rivers and estuaries with bridges of form unknown to our fathers; it has guided the thunderbolt innocuously from heaven to earth; it has lighted up the night with the splendor of the day; it has extended the range of the human vision; it has multiplied the power of the human muscles; it has accelerated motion; it has annihilated distance; it has facilitated intercourse, correspondence, all friendly offices, all dispatch of business; it has enabled man to descend to the depths of the sea, to soar into the air, to penetrate securely into the noxious recesses of the earth. * * * These are but a part of the fruits, and of its first fruits. For it is a philosophy which never rests, which has never attained, which is never perfect. Its law is progress. The point which yesterday was invisible is its goal to-day and will be its starting post to-morrow."

The Supreme Court of the United States on May 18, 1908, handed down its decision in *St. Louis, Iron Mountain and Southern Railway Company v. May Taylor*, as administratrix of George W. Taylor.

The case had been tried twice in the State courts, and eight years after Taylor's death the Supreme Court reversed the judgment obtained against the carrier; but the court laid down in its opinion a salutary rule, which is applicable to the principle of my compensation bill (H. R. 16739). Here is what the court said (my italics and small capitals) in that case which, with *Holden v. Hardy* (cit. ut supra), gives my bill (H. R. 16739) its constitutional justification:

In deciding the questions thus raised, upon which the courts have differed (158 Fed., 331), we need not enter into the wilderness of cases upon the common-law duty of the employer to use reasonable care to furnish his employee reasonably safe tools, machinery, and appliances, or consider when and how far that duty may be performed by delegating it to suitable persons for whose default the employer is not responsible. In the case before us the liability of the defendant does not grow out of the common-law duty of master to servant. The Congress, not satisfied with the common-law duty and its resulting liability, has

prescribed and defined the duty by statute. We have nothing to do but to ascertain and declare the meaning of a few simple words in which the duty is described. It is enacted that "no cars, either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard." There is no escape from the meaning of these words. Explanation can not clarify them and ought not to be employed to confuse them or lessen their significance. The obvious purpose of the legislature was to supplant the qualified duty of the common law with an absolute duty deemed by it more just. If the railroad does, in point of fact, use cars which do not comply with the standard, it violates the plain prohibitions of the law, and there arises from that violation the liability to make compensation to one who is injured by it. It is urged that this is a harsh construction.

To this we reply that, if it be the true construction, its harshness is no concern of the courts. They have no responsibility for the justice or wisdom of legislation, and no duty except to enforce the law as it is written, unless it is clearly beyond the constitutional power of the lawmaking body. It is said that the liability under the statute, as thus construed, imposes so great a hardship upon the railroads that it ought not to be supposed that Congress intended it. Certainly the statute ought not to be given an absurd or utterly unreasonable interpretation leading to hardship and injustice, if any other interpretation is reasonably possible. But this argument is a dangerous one, and never should be heeded where the hardship would be occasional and exceptional. It would be better, it was once said by Lord Eldon, to look hardship in the face rather than break down the rules of law. But when applied to the case at bar the argument of hardship is plausible only when the attention is directed to the material interest of the employer to the exclusion of the interests of the employee and of the public. Where an injury happens through the absence of a safe draught there must be hardship. Such an injury must be an irreparable misfortune to some one. If it must be borne entirely by him who suffers it, that is a hardship to him. If its burden is transferred, as far as it is capable of transfer, to the employer, it is a hardship to him. IT IS QUITE CONCEIVABLE THAT CONGRESS, CONTEMPLATING THE INEVITABLE HARDSHIP OF SUCH INJURIES, AND HOPING TO DIMINISH THE ECONOMIC LOSS TO THE COMMUNITY RESULTING FROM THEM, SHOULD DEEM IT WISE TO IMPOSE THEIR BURDENS UPON THOSE WHO COULD MEASURABLY CONTROL THEIR CAUSES, INSTEAD OF UPON THOSE WHO ARE IN THE MAIN HELPLESS IN THAT REGARD. SUCH A POLICY WOULD BE INTELLIGIBLE, AND, TO SAY THE LEAST, NOT SO UNREASONABLE AS TO REQUIRE US TO DOUBT THAT IT WAS INTENDED, AND TO SEEK SOME UNNATURAL INTERPRETATION OF COMMON WORDS. We see no error in this part of the case. But for the reasons before given the judgment must be reversed.

Labor Will Exercise Its Political Influence as Long as There Is a Wrong to Be Righted or a Right to Be Defended.

SPEECH

OF

HON. WILLIAM B. WILSON,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. WILSON of Pennsylvania said:

Mr. SPEAKER: A false impression has gone abroad and has been persistently cultivated by those whose interest it is to do so, that the labor unions and farmers' organizations have been seeking from Congress class legislation and special privileges contrary to our Constitution and the spirit of our form of government. Organizations of farmers and wage-workers ask no special favors from Congress; they seek no immunity from the laws of the land; they desire nothing more than a fair field, devoid of favoritism, and insist that their rights and liberties, which means the rights and liberties of all the people, shall not be destroyed by legislation granting special privileges to other classes of our citizens or placing unjust burdens and restrictions upon themselves. There is not a right or privilege exercised by any corporation that is not a law-created and law-protected right.

There is not a corporation anywhere legally doing business either in interstate or intrastate commerce that does not derive all its rights, powers, privileges, and prerogatives from the municipal, State, and Federal governments; there is not a power properly exercised by any of our courts that has not its foundation in the constitutional, statutory, or common law. So when wage-workers and farmers come knocking at the doors of Congress for relief from the oppression of gigantic corporations that have grown so powerful that they can dictate the prices that are to be paid to productive labor on the farm, in the mines, and the mill, and in the same breath name the rates that must be paid by the consumer in general, or when they seek legislation that will prevent the courts from abusing the use of the beneficent writ of injunction and declaring that labor unions and farmers' organizations are, under the Sherman antitrust law, conspiracies in restraint of trade, they are not seeking special legislation, but asking that laws that bear unjustly upon them be amended or repealed. Laboring men in all parts of the country have been insistent that legislation of this character should be passed.

Petitions of citizens from every State in the Union have been

sent to Members of Congress urging the immediate necessity of amending the Sherman antitrust law, and modifying the power of the courts to issue injunctions in labor disputes; but no attention has been paid to the pleadings of the petitioners, further than to refer them to the Judiciary Committee, noted as the "cemetery" of such measures as the majority has decided to kill.

It can not be contended that lack of time is responsible for the failure to consider these measures. Many hours have been wasted in the closing days of this session by useless recesses, during which many measures of importance to the people could have been considered and passed upon.

There is no constitutional reason why we could not remain in session longer than has been decided upon. With the limited debate which the rules of the House allow, these measures could have been considered and passed within two days at the most. Matters of far less importance to the people in general have been taken up and disposed of, and there is no doubt that the measure asked for by the organized wage-workers and farmers could have been brought to a vote if the majority side of the House had desired their consideration, notwithstanding the fact that the committee having the bills in charge persistently sat upon the lid, as is clearly demonstrated by the definite statements of the majority leaders at various times. On May 9 the gentleman from New York [Mr. PAYNE], the majority leader on the floor of the House, said:

We are doing this business; we are legislating; we are responsible for what we do, and we are responsible for what we do not do, and we propose to assume the responsibility for it from beginning to end.

The gentleman from Pennsylvania [Mr. DALZELL] made the following statement to the House on April 3:

I think we will be able to demonstrate from this time out not only that the minority shall not enact any legislation, but that the legislation of the majority shall be such as the majority desires to pass in its own way, and at its own time, by exercise of the rules of the House.

On April 8 the gentleman from New York [Mr. SHERMAN], amid thunderous applause on the Republican side, proclaimed that—

The Republican party in this House, the Republican party in this nation, is prepared to-day to accept full responsibility not only for everything that is done, but for that which is not done in the way of legislation and administration.

The responsibility for the failure to legislate on these important questions is clear, and there is no way to avoid it. The recent decision of the United States Supreme Court in the case of *Loewe et al. v. Lawler et al.*, generally known as the "Danbury hat case," brings the labor unions and farmers' organizations clearly within the scope of the Sherman antitrust law. It was not intended by those who framed and passed the measure, nor was it believed by the American people, that the Sherman antitrust law should apply to organizations of workmen, including farmers, yet that construction has been placed upon it by the Supreme Court, and the construction must stand as the law of the land until remedial legislation has been secured. I quote the following from the decision of the court:

The averments here are that there was an existing interstate traffic between plaintiffs and citizens of other States, and that for the direct purpose of destroying such interstate traffic defendants combined, not merely to prevent plaintiffs from manufacturing articles then and there intended for transportation beyond the State, but also to prevent the vendees from reselling the hats which they had imported from Connecticut or from further negotiating with plaintiffs for the purchase and intertransportation of such hats from Connecticut to the various places of destination. So that, although some of the means whereby the interstate traffic was to be destroyed were acts within a State and some of them were in themselves as a part of their obvious purpose and effect beyond the scope of Federal authority, still, as we have seen, the acts must be considered as a whole, and the plan is open to condemnation, notwithstanding a negligible amount of intrastate business might be affected in carrying it out. If the purposes of the combination were, as alleged, to prevent any interstate transportation at all, the fact that the means operated at one end before physical transportation commenced and, at the other end, after the physical transportation ended was immaterial.

Nor can the act in question be held inapplicable because defendants were not themselves engaged in interstate commerce. The act made no distinction between classes. It provided that "every contract, combination, or conspiracy in restraint of trade was illegal. The records of Congress show that several efforts were made to exempt by legislation organizations of farmers and laborers from the operation of the act and that all these efforts failed, so that the act remained as we have it before us."

The original purpose of the so-called "Sherman antitrust law" was to prevent combinations in restraint of trade that resulted in taking exorbitant profits out of the people. Labor organizations are not organizations for profit; they have no capital stock; they declare no dividends. Not being organizations for profit, then they could not possibly be a conspiracy in restraint of trade for the purpose of extorting exorbitant profits out of the people. In addition to that, the working people of the country and the farmers of the country combined constitute the great bulk of the people. It would be practically

impossible for the wage-workers as a whole, and the farmers as a whole, to so combine that they would injuriously restrain trade to the injury of the community. They constitute the vast majority of the community and are entitled to the highest consideration which for many years they have not received. The farmers have considerable interest in this proposition, because of the fact that purchasing agents of great trusts and combinations have been going out into the farming regions and buying up their cattle, their cotton, and their corn, naming the price at which the farmers must sell, if he sells at all, and then taking that product and putting it on the market, practically naming the rates which the consumer must pay to secure the product. Farmers have organized, particularly in the West, for the purpose of protecting themselves against the purchasing agents of these great corporations, so that they may be able to secure a portion of the fair market price of the products of the farm. Under the decisions of the Supreme Court in several cases those organizations of farmers, organized for a good purpose, organized for the purpose of protecting themselves against the unfair encroachment of the power of the purchasing agents for the trusts or the combinations, are prohibited from organizing for that purpose, and they have a great interest in legislation of this kind, seeking to remove their organizations from the operation of the Sherman antitrust law.

I do not assert of my own knowledge that such a combination exists, and I believe it would be difficult for anyone to demonstrate that such combinations exist, and that is one of the difficulties in the situation at the present time. Half a dozen men may sit in the city of Chicago and determine the buying and selling price of beef, and yet it would be a difficult proposition to demonstrate that that is the case, because none of the six men could be placed upon the stand in connection with it to testify against themselves. Six or eight men can sit in the city of New York and determine the selling price of anthracite coal, and yet it would be a difficult proposition to be able to demonstrate to a court of law that those six or eight men did sit there and determine what the selling price of anthracite coal would be. But when it comes to a question of millions of farmers and millions of workmen undertaking to determine what they will do, it is an easy proposition to get evidence. The one is protected by the smallness of their numbers, and the others do their work openly and aboveboard, and it makes a very different proposition.

And because of the fact that it is necessary that there should be these combinations of farmers and wage-workers to protect themselves not merely against illegal combinations, but to protect themselves from combinations that are recognized by law, we believe that this remedial legislation should be given. The law itself recognizes the right of capital to combine. There are many corporations organized under our Federal laws, and multitudes of them that are organized under our various State laws, and every one of these corporations is simply an organization of capital and, being recognized by law, can act without coming under any regulations relative to conspiracy.

The laws of the land have invariably distinguished between a man dealing in his own product and a man dealing in the products of others. That is true in almost every State in the Union, if not all, with regard to laws relative to peddling. A man who buys and sells is required to take out a license, but the man who sells the products of his own labor is not required to take out a license in order to peddle it from house to house or from place to place. So the laws, as they exist at the present time and have existed, make the distinction—a very distinct difference—between the man who is dealing in his own product and the man who is dealing in the products of others; between the trader and the man who is a workman.

What is true of the products of labor would be naturally true when it comes to the case of a man purchasing for his own consumption, for consumption in his own home. Men naturally have the right to determine what things they will purchase and what things they will not purchase for their own use, and, having that right, have the right to agree amongst themselves what things they will purchase and what things they will not purchase. Take, for instance, a case where an article is produced in accordance with the laws of the State where child labor of very tender years is employed, the laws of the State not prohibiting the employment of that child labor in that particular factory or anywhere within that State. I take it that any citizen of the United States, any citizen of that State or any other State, would have the right to refuse to purchase the product of that factory or that plant as long as child labor was employed in it; that any citizen would have the right to agree with his neighbors collectively that they would not purchase any of the product of that plant while child labor was employed. Labor might be employed within the laws of the State in which

an article is produced in sweat shops, under sweat-shop conditions, and any citizen of that State, or any other State, would have a perfect right to refuse to purchase the product of that sweat shop and to agree with his neighbors not to purchase the product of that sweat shop, although it was produced completely within the limits of the law of the State in which it was manufactured.

It may be taken for granted that everybody who believes in government believes in organization, and that laws that are passed to prevent certain organizations are passed for the reason that either the purpose or the methods of the organization are injurious to the community at large. The Sherman antitrust act was passed for the purpose of preventing certain organizations or combinations from so conducting their business as to extort unreasonable profits from the people. Labor organizations are not organizations for profit. They can not be classed with that kind of organizations. They have no capital stock of any kind whatsoever. They are not engaged in interstate commerce of any kind. Their members have nothing for sale that goes into interstate commerce. The only thing that they have for sale is their labor power. That they have for sale, and the labor power of members of labor organizations is not a commodity that can be used in interstate commerce. In addition to that there is a rule in equity that two parties to a contract must be of equal power or else the contract will not be equitable, except through the generosity of the stronger party. Labor organizations are the natural and direct result of our industrial development, a direct result of copartnerships and corporations that are recognized and formed under our laws. A corporation is but an organization of men to carry on a given business or to arrive at a given purpose. So that the law recognizes organization in the formation of corporations.

A corporation like the United States Steel Corporation, for instance, employing 200,000 men, under the direction of one man at the head, acts as a unit in dealing with all trade matters, with its employees, and acting as a unit has greater power in dealing with its employees, or with any one of its employees, than that employee could possibly have. One employee seeking to make a wage contract, a contract concerning the terms of employment, would have absolutely no power except to either accept the terms of the corporation or to refuse to accept them, and if there was a refusal, then the employee would be out of its employment for all time to come, because there would be 199,999 men still continuing on at work, producing the material that the steel corporation desired to have produced. In order to be anywhere near equal in power with that organization in making a contract for wages and terms of employment, the employees, too, must act as a unit as well as those who are members of the corporation who act as a unit through their management. And so, so far as the moral phase of it is concerned, it is absolutely necessary that there should be labor organizations.

The welfare of our country requires that the laboring man and the farmer shall have the right to organize and control their producing powers and consuming capacity. Any other course would leave them absolutely at the mercy of great combinations of capital. Their right to earn a living and therefore the right to live itself, without violating the laws against theft, would be completely under the control of the management of great corporations. No free people can silently submit to a condition of that kind. The position of the organized wage-workers and farmers concerning legislation is clearly set forth in a memorial to Congress dated March 18, 1908, which I here-with submit for your consideration.

LABOR'S PROTEST TO CONGRESS.

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 19, 1908.

We, the official representatives of the national and international trade and labor unions and organization of farmers, in national conference assembled, in the District of Columbia, for the purpose of considering and taking action deemed necessary to meet the situation in which the working people of our country are placed by recent decisions of the courts, now appear before Congress to voice the earnest and emphatic protest of the workers of the country against the indifference, if not actual hostility, which Congress has shown toward the reasonable and righteous measures proposed by the workers for the safeguarding of their rights and interests.

In the name of labor we now urge upon Congress the necessity for immediate action for relief from the most grave and momentous situation which has ever confronted the working people of this country. This crisis has been brought about by the application by the Supreme Court of the United States of the Sherman antitrust law to the workers, both organized and in their individual capacity.

Labor and the people generally look askance at the invasion of the court upon the prerogatives of the lawmaking and executive departments of our Government.

The workers feel that Congress itself must share our chagrin and sense of injustice when the courts exhibit an utter disregard for the

real intent and purpose of laws enacted to safeguard and protect the workers in the exercise of their normal activities. There is something ominous in the ironic manner in which the courts guarantee to workers:

The "right" to be maimed and killed without liability to the employer;

The "right" to be discharged for belonging to a union;

The "right" to work as many hours as employers please and under any conditions which they may impose.

Labor is justly indignant at the bestowal or guaranteeing of these worthless and academic "rights" by the courts, which in the same breath deny and forbid to the workers the practical and necessary protection of laws which define and safeguard their rights and liberties and the exercise of them individually or in association.

The most recent perversion of the intent of a law by the judiciary has been the Supreme Court decision in the Hatters' case, by which the Sherman antitrust law has been made to apply to labor, although it was an accepted fact that Congress did not intend the law to so apply and might even have specifically exempted labor but for the fear that the Supreme Court might construe such an affirmative provision to be unconstitutional.

The workers earnestly urge Congress to cooperate with them in the upbuilding and educating of a public sentiment which will confine the judiciary to its proper function, which is certainly not that of placing a construction upon a law the very opposite of the plain intent of Congress, thus rendering worthless even the very moderate efforts which Congress has so far put forth to define the status of the most important, numerous, and patriotic of our people—the wage-workers, the producers of all wealth.

We contend that equity power and jurisdiction—discretionary government by the judiciary for well-defined purposes and within specific limitations—granted to the courts by the Constitution has been so extended that it is invading the field of government by law and endangering individual liberty.

As government by equity, personal government, advances, republican government, government by law, recedes.

We favor the enactment of laws which shall restrict the jurisdiction of courts of equity to property and property rights and shall so define property and property rights that neither directly nor indirectly shall there be held to be any property or property rights in the labor or labor power of any person or persons.

The feeling of restless apprehension with which the workers view the apathy of Congress is accentuated by the recent decision of the Supreme Court.

By the wrongful application of the injunction by the lower courts the workers have been forbidden the right of free press and free speech, and the Supreme Court in the Hatters' case, while not directly prohibiting the exercise of these rights, yet so applies the Sherman law to labor that acts involving the use of free press and free speech, and hitherto assumed to be lawful, now become evidence upon which triple damages may be collected and fine and imprisonment added as a part of the penalty.

Indeed, the decision goes so far as to hold the agreements of unions with employers, to maintain industrial peace, to be "conspiracies" and the evidence of unlawful combinations in restraint of trade and commerce, thus effectually throttling labor by penalizing as criminal the exercise of its normal, peaceful rights and activities. The fact that these acts are in reality making for the benefit and the betterment of civilization as a whole does not seem to be understood or appreciated by the courts. The workers hope for a broader and more intelligent appreciation from Congress.

It is not necessary here to enter into a detailed review of this decision.

The workers ask from Congress the relief which it alone can give from the injustice which will surely result from the literal enforcement of the Sherman antitrust law as interpreted by this decision. The speedy enactment of labor's proposed amendment to the Sherman antitrust law will do much to restore the rights from which the toilers have been shorn.

We submit for consideration, and trust the same will be enacted, two provisions amendatory of the Sherman antitrust law, which originally were a part of the bill during the stages of its consideration by the Senate and before its final passage, and which are substantially as follows:

That nothing in said act (Sherman antitrust law) or in this act is intended nor shall any provision thereof hereafter be enforced so as to apply to organizations or associations not for profit and without capital stock, nor to the members of such organizations or associations.

That nothing in said act (Sherman antitrust law) or in this act is intended nor shall any provision thereof hereafter be enforced so as to apply to any arrangements, agreements, or combinations among persons engaged in agriculture, or horticulture, made with a view of enhancing the price of their own agricultural or horticultural products.

It is clearly an unwarranted assumption on the part of the courts or others to place the voluntary associations of the workers in the same category as trusts and corporations owning stock and organized for profit.

On the one hand we have the trusts and corporations dealing with purely material things, and mostly with the inanimate products of labor. On the other hand there are the workers whose labor power is part of their very lives and beings, and which can not be differentiated from their ownership in and of themselves.

The effort to categorically place the workers in the same position as those who deal in the products of labor of others is the failure to discern between things and man.

It is often flippantly averred that labor is a commodity, but modern civilization has clearly and sharply drawn the line between a bushel of coal, a side of pork, and the soul of a human, breathing, living man.

The enactment of the legislation which we ask will tend to so define and safeguard the rights of the workers of to-day and those who will come after them that they may hope to continue to enjoy the blessings of a free country as intended by the founders of our Government.

In the relief asked for in the proposed amendment to the Sherman antitrust law which we present to Congress labor asks for no special privileges and no exemption from the treatment which any law-abiding citizen might hope to receive in a free country.

Indeed, the present Parliament of Great Britain at its session in December, 1906, enacted into law what is known as the "trades dispute act." It is brief, and we therefore quote its provisions in full.

"1. It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the fol-

lowing purposes at or near a house or place where a person resides or works, or carries on his business, or happens to be—

"(1) For the purpose of peacefully obtaining or communicating information;

"(2) For the purpose of peacefully persuading any person to work or abstain from working.

"3. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be ground for an action if such act when committed by one person would not be ground for an action.

"4. An action shall not be brought against a trade union or other association aforesaid for the recovery of damages sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid."

We submit that if such relief from the onerous conditions brought about by the Taff-Vale decision of the highest court of Great Britain can be enacted by a monarchical government, there ought to be no hesitancy in conceding it in our own Republic.

The unions of labor aim to improve the standard of life; to uproot ignorance and foster education; to instill character, manhood, and an independent spirit among our people; to bring about a recognition of the interdependence of man upon his fellow-man. We aim to establish a normal workday; to take the children from the factory and workshop and give them the opportunity of the schools, the home, and the playground. In a word, our unions strive to lighten toil, educate their members, make their homes more cheerful, and in every way contribute an earnest effort toward making life the better worth living. To achieve these praiseworthy ends, we believe that all honorable and lawful means are justifiable and commendable and should receive the sympathetic support of every right-thinking American.

Labor asks only for justice. It asks that it be not victimized and penalized under laws never intended to apply to it.

We hope for a prompt recognition on the part of Congress of the wage-workers' very reasonable and moderate insistence in this important matter.

In addition, the other most important measures which labor urges are:

The bill to regulate and limit the issuance of injunctions—"Pearre bill."

Employers' liability bill.

The bill extending the application of the eight-hour law to all Government employees and those employed upon work for the Government, whether by contractors or subcontractors.

There are other measures pending which we regard as important, but we feel especially justified in urging the passage of these mentioned, because they have been before Congress for several sessions, and upon which extended hearings have been had before committees, every interest concerned having had ample opportunity to present arguments, and there is no good reason why action should longer be deferred by Congress.

We come to Congress hoping for a prompt and adequate remedy for the grievances of which we justly complain. The psychological moment has arrived for a total change of governmental policy toward the workers; to permit it to pass may be to invite disaster even to our national life.

In this frank statement of its grievances the attitude of labor should not be misinterpreted, nor should it be held as wanting in respect for our highest lawmaking body.

That the workers, while smarting under a most keen sense of injustice and neglect, turn first to Congress for a remedy, shows how greatly they still trust in the power and willingness of this branch of the Government to restore, safeguard, and protect their rights.

Labor proposes to aid in this work by exercising its utmost political and industrial activity, its moral and social influence, in order that the interests of the masses may be represented in Congress by those who are pledged to do justice to labor and to all our people, not to promote the special interests of those who would injure the whole body politic by crippling and enslaving the toilers.

Labor is most hopeful that Congress will appreciate the gravity of the situation which we have endeavored to present. The workers trust that Congress will shake off the apathy which has heretofore characterized it on this subject and perform a beneficent social service for the whole people by enacting such legislation as will restore confidence among the workers that their needs as law-abiding citizens will be heeded.

Only by such action will a crisis be averted. There must be something more substantial than fair promises. The present feeling of widespread apprehension among the workers of our country becomes more acute every day. The desire for decisive action becomes more intense.

While it is true that there is no legal appeal from a Supreme Court decision, yet we believe Congress can and should enact such further legislation as will more clearly define the rights and liberties of the workers.

Should labor's petition for the righting of the wrongs which have been imposed upon it and the remedying of injustice done to it pass unheeded by Congress and those who administer the affairs of our Government—then upon those who have failed to do their duty, and not upon the workers, will rest the responsibility.

The labor union is a natural, rational, and inevitable outgrowth of our modern industrial conditions. To outlaw the union in the exercise of its normal activities for the protection and advancement of labor and the advancement of society in general is to do a tremendous injury to all people.

The repression of right and natural activities is bound to finally break forth in violent form of protest, especially among the more ignorant of the people, who will feel great bitterness if denied the consideration they have a right to expect at the hands of Congress.

As the authorized representatives of the organized wage-earners of our country, we present to you in the most conservative and earnest manner that protest against the wrongs which they have to endure and some of the rights and relief to which they are justly entitled. There is not a wrong for which we seek redress, or a right to which we aspire, which does not or will not be equally shared by all the workers—by all the people.

While no Member of Congress or party can evade or avoid his or their own individual or party share of responsibility, we aver that the party in power must and will by labor and its sympathizers be held primarily responsible for the failure to give the prompt, full, and effective Congressional relief we know to be within its power.

We come to you not as political partisans, whether Republican, Democratic, or other, but as representatives of the wage-workers of our country, whose rights, interests, and welfare have been jeopardized and flagrantly, woefully disregarded and neglected. We come to you because

you are responsible for legislation or the failure of legislation. If these, or new questions, are unsettled, and any other political party becomes responsible for legislation, we shall press home upon its representatives and hold them responsible, equally as we now must hold you.

SAM'L GOMPERS,
W. R. FAIRLEY,
JOS. F. VALENTINE,
T. C. PARSONS,
F. J. MCARDLE,
C. M. BARNETT,
W. D. MAHON,

Committee.

Samuel Gompers, president; James Duncan, first vice-president; John Mitchell, second vice-president; James O'Connell, third vice-president; Max Morris, fourth vice-president; D. A. Hayes, fifth vice-president; Daniel J. Keefe, sixth vice-president; Wm. D. Huber, seventh vice-president; Joseph F. Valentine, eighth vice-president; Frank Morrison, secretary, and John B. Lennon, treasurer, executive council American Federation of Labor.

George L. Berry, Norman C. Sprague, International Printing Pressmen's Union.

John P. Frey, Iron Molders' Union of North America.

G. M. Huddleston, International Slate and Tile Roofers' Union.

James Wilson, Pattern Makers' League of North America.

Richard Braunschweig, Amalgamated Wood Workers' International Union.

Charles R. Atherton, A. B. Grout, Metal Polishers, Buffers, Platers, and Brass Workers' Union.

Jere L. Sullivan, Hotel and Restaurant Employees' International Alliance.

W. R. Fairley, Thomas Haggerty, United Mine Workers' Union of North America.

A. McAndrews, E. Lewis Evans, Tobacco Workers' International Union.

James J. Freely, International Stereotypers and Electrotypers' Union.

W. F. Costello, H. T. Rogers, International Steam and Hot Water Fitters and Helpers' Union.

James O'Connell, Arthur E. Holder, A. McGilray, International Association of Machinists.

M. O'Sullivan, Thomas F. Ryan, Amalgamated Sheet Metal Workers' International Alliance.

J. E. Pritchard, International Pavers and Rammermen.

Thomas T. Maher, Amalgamated Sheet Metal Workers' International Alliance.

J. L. Feeney, International Brotherhood of Bookbinders.

C. M. Barnett, O. D. Pauley, American Society of Equity.

Timothy Healy, International Brotherhood of Stationary Firemen.

Rezin Orr, W. D. Mahon, Amalgamated Street and Electric Railway Employees.

John A. Moffitt, Martin Lawlor, United Hatters of America.

J. W. Kline, H. G. Poulesland, J. M. Cox, International Brotherhood of Blacksmiths and Helpers.

F. M. Ryan, Bridge and Structural Iron Workers' International Association.

Wm. J. Barry, Pilots' Association.

A. B. Lowe, International Brotherhood of Maintenance of Way Employees.

W. W. Beattie, Wesley Russell, Percy Thomas, Commercial Telegraphers' International Union of America.

J. E. Davenport, A. B. Wilson, International Brotherhood of Maintenance of Way Employees.

M. J. Shea, International Stereotypers and Electrotypers' Union.

James L. Gernon, Pattern Makers' League of North America.

J. M. McElroy, Brush Makers' International Union.

T. A. Rickert, B. A. Larger, United Garment Workers of America.

M. Zuckerman, H. Hinder, United Cloth Hat and Cap Makers of North America.

H. B. Perham, A. T. McDaniel, W. J. Gregory, Order of Railroad Telegraphers.

Jas. F. Spiers, Thos. C. Nolan, Wm. Grant, Brotherhood of Boiler Makers and Iron Shipbuilders.

F. J. Kelly, International Photo-Engravers' Union.

Wm. D. Huber, James Kirby, United Brotherhood of Carpenters and Joiners.

Samuel Gompers, G. W. Perkins, Thos. F. Tracy, Cigarmakers' International Union.

J. T. Carey, International Brotherhood of Paper Makers of North America.

J. B. Espey, M. J. Kelly, International Brotherhood of Bookbinders.

Jno. F. Breen, Hod Carriers and Building Laborers' International Union.

Max Morris, J. A. Anderson, Herman Robinson, D. F. Manning, Retail Clerks' International Protective Association.

Jno. F. Tobin, Jno. P. Murphy, Boot and Shoe Workers' Union.

Wm. Silver, Granite Cutters' International Association.

W. A. James, F. M. Nurse, International Brotherhood of Stationary Firemen.

J. C. Balhorn, Brotherhood of Painters, Decorators, and Paperhangers of America.

Chas. C. Bradley, E. E. Desmond, American Wire Weavers' Protective Association.

Jno. A. Dyche, International Ladies' Garment Workers' Union.

Wm. J. Spencer, United Association of Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers.

Joseph N. Weber, American Federation of Musicians.

T. J. Sullivan, Hotel and Restaurant Employees' International Alliance.

J. H. Williams, Order of Railway Telegraphers.

F. L. Mahan, Ed. L. Schrack, International Plate Printers.

John J. Hanrahan, A. P. Kelly, H. Brosmer, Brotherhood of Locomotive Firemen and Engineers.

John Manning, Shirt Waist and Laundry Workers' International Union.

C. A. Laffin, Brotherhood of Locomotive Firemen and Engineers.

Wm. H. Frazier, International Seamen's Union.

T. J. Duffy, Frank H. Hutchens, Ed. Menge, International Brotherhood of Operative Potters.

V. A. Olander, International Seamen's Union.

Frank L. Ronemus, Brotherhood of Railway Car Men of America.

George C. Griffin, United Brotherhood of Carpenters and Joiners of America.

Louis Kemper, A. J. Kugler, William Hellmuth, International Union of Brewery Workers of America.

T. C. Parsons, George G. Seibold, International Typographical Union.
 D. A. Hayes, William Launer, James J. Dunn, F. H. Williams, Glass-Bottle Blowers' Association.
 James McHugh, Journeyman Stone Cutters' Association.
 Daniel J. Keefe, Thomas Gallagher, International Longshoremen's Association.
 T. A. Rickert, United Garment Workers of America.
 J. J. Flynn, P. J. Flannery, Interior Freight Handlers and Warehousemen's Union.
 W. J. McSorley, R. V. Brandt, Wood, Wire and Metal Lathers' International Union.
 P. J. McArdle, John Williams, Amalgamated Association of Iron and Steel Workers.
 Jacob Fischer, Frank K. Noschang, Journeymen Barbers' International Union.
 John Golden, Albert Hibbert, United Textile Workers of America.
 Daniel J. Tobin, International Brotherhood of Teamsters.
 Matt Comerford, International Union of Steam Engineers.
 F. A. Didsbury, Pocketknife-Blade Grinders and Finishers' National Union.
 Edward W. Potter, Homer D. Call, H. L. Eichelberger, A. L. Webb, Amalgamated Meat Cutters and Butcher Workers of North America.
 Frank Gehring, Lithographers' International Protective and Beneficial Association.
 J. F. Murphy, International Union of Elevator Constructors.
 Frederick Benson, International Seamen's Union.
 John H. Brinkman, Carriage and Wagon Workers' International Union.
 P. F. Richardson, International Car Workers.
 Joseph Reilly, United Brotherhood of Carpenters.
 I. B. Kuhn, Cigarmakers' International Union.
 Thomas McGilton, Brotherhood of Painters, Decorators and Paper-hangers.
 John Weber, Bakery and Confectionery Workers' International Union.
 James J. McCracken, International Union of Steam Engineers.
 James H. Hatch, Upholsterers' International Union.
 J. F. McCarthy, Hotel and Restaurant Employees' International Alliance.

The following statement, issued by the American Federation of Labor two years ago, is of more than passing interest at this time, when the question of the issuance of injunctions has been keenly accentuated by the Federal courts, through the recent promulgation of restraining orders by Judge Dayton and others striking at the fundamental principles of human liberty and the personal rights of our people:

HISTORY OF INJUNCTIONS.

It may be well to have a brief history as to injunctions and their origin.

In a recent book by Henry George, jr., entitled "The Menace of Privilege," the following appears:

"Our practice of applying injunctions to labor disputes originated in a case in England in 1868. The English case is known as the Springhead Spinning Company v. Riley. In that case members of a labor union were restrained from issuing placards which requested 'all well-wishers of the union not to apply for employment from that company until the dispute was settled.' A temporary injunction was granted on the ground of 'threats and intimidation' rendering it impossible for the plaintiff to obtain workmen, without whose assistance the property became utterly valueless for the purpose of their trade, but the vice-chancellor who issued this injunction, which was only temporary, stated that he had some doubts as to whether it would stand on subsequent hearing should argument be made for making the order permanent; for no precedent for such action existed. A year later another temporary injunction of the same kind was issued, but neither of these cases were appealed to a higher court.

"In 1875 a third case was under consideration, and on being taken to a higher court, that tribunal deliberately and unanimously repudiated the action of the lower court. In reviewing the action of the lower court, Lord Chancellor Cairns, Lord Justice James, and Lord Justice Mellish all agreed that the lower court exaggerated their 'functions and jurisdiction,' and that it was at variance with the settled practice and principle of the chancery court, and that the lower court had no authority and the action no foundation in principle. The first injunction of this character in the United States was the case of P. P. Sherry, a shoe manufacturer of Lynn, Mass., v. Lasters' Protective Union, of that city. It happened in 1888, or thirteen years after that injunction's repudiation by the English chancery court of appeals.

"Notwithstanding that the higher court in England had taken a decided position, the Massachusetts court, in the case of Sherry v. Lasters, took the action of the lower court in England as a precedent for the issuing of a similar restraining order. This was the beginning of the long line of injunctions in labor disputes in the United States. Thus, while attorneys now 'quote' a perfect cloud of American and English injunction authorities, the facts are that they all sprang up in America since 1888, and in England and America they came from a single temporary injunction issued by the English vice-chancellor in 1868, who had some doubt of his jurisdiction, which jurisdiction was subsequently declared by the highest equity court in England not to exist.

The question of injunctions is one that interests the organized workers more than any that has confronted them for years. We contend that there is no authority in law for the issuance of injunctions in labor disputes. Never do we hear of these injunctions being issued except where differences exist between the employees and their employers. We contend that if overt acts are committed during the period of an industrial conflict and these acts in themselves are of a criminal nature, there is sufficient law now in the criminal statutes to punish them, but it is evident that the sole purpose of many employers engaged in a dispute with their employees as to wages, hours of labor, or conditions in applying for a restraining order against those with whom they are having the difficulty is to break the strike and compel the men to return to work under conditions unfavorable to them. In many instances men entirely within their rights, and whose demands for a change of conditions were absolutely correct, have been defeated through the issuance of one of these restraining orders.

We further contend that the courts in equity have no authority under existing law to issue such injunctions; that they are in violation of the thirteenth amendment to the Constitution, which guarantees to every citizen the right of "life, liberty, and the pursuit of happiness." Numerous cases could be cited of men who have unwarrantedly been

deprived of their liberty for violation of these restraining orders when they were entirely within their statutory and constitutional rights.

The position of the American Federation of Labor is clearly set forth in the following extracts of arguments made before the House Committee on the Judiciary in the several Congresses by President Gompers, of the American Federation of Labor, and Andrew Furuseth, secretary of the Pacific Coast Seamen's Union:

"Mr. GOMPERS. There are times when we have tried to have injunctions modified; in some instances our requests were granted, but very few. As a rule the hearings were set for so long a time after the issuance of injunctions that we have always accepted it that that was the first time we had an opportunity of being heard in the matter at all. Then, as I have said in the opening of my remarks, the thing upon which these injunctions might be modified would be the exercise of those rights which we have the perfect lawful right to exercise, and the things which would not be modified are already covered by existing laws, for they are alleged crimes.

"I say as a layman, but with the consciousness of the responsibility which goes with it, that there is not a man who will assert that there is one law upon the statute books of the United States upon which these injunctions are based. You can not quote a law which gives the authority for the issuance of these injunctions in these disputes. One gentleman drew the fine line between what is unlawful and what is a crime. Truly, all that is a crime is unlawful; all that is unlawful is not criminal. But the alleged charges upon which these injunctions are based are crimes, alleged crimes, and the others are neither crimes nor are they unlawful.

"We have been told that the bill if enacted would be unconstitutional. Well, that has been the last cry of the opposition about every reform bill that has ever been passed by Congress. Now, if the gentlemen who oppose this bill believe that it would be unconstitutional, why exercise themselves so much about it?

"Our opponents, of course, agree that it is lawful to strike, to strike as an individual or collectively. It is perfectly lawful, perfectly lawful now. It was not always lawful, and the predecessors of the gentlemen who now oppose this bill occupied exactly the same position that they now do when we sought the modification of the laws of conspiracy, so far as they apply to strikes, the right to strike, to quit work, to seek a new employer, to seek better conditions. It is not so long ago when it was a conspiracy to strike; it was not so long ago when it was unlawful.

"I think it almost superfluous to say that the charge that the leaders of organized labor either teach or encourage the commission of violence or crime is a base fabrication and unworthy even of the gentlemen who oppose this bill. The men who form largely the employers of labor of the country know that that is not true, and the gentlemen who have given vent to that utterance know in their hearts of hearts that that is not true, and that the men who are so-called leaders of labor either in their respective trades or in the general labor movement have done and are doing their best to prevent any violence of any sort, either by an individual man or by any number of men, union or nonunion.

"The insinuation that the labor leaders do not represent the rank and file of the organized workmen is upon its surface simply a preposterous statement. One of the gentlemen said he represents the workmen of the country. Yes, I think he does; very much like the lion represented the lamb after he had eaten him.

"We are fully persuaded that this bill is for the right. It is for justice; it is in the interest of right and in the interest of justice. It is in the line of the evolutionary progress of the social development and the economic development of our country.

"The American organized workmen realize the conditions by which they are surrounded and confronted. They understand the great concentrations of industry and combinations of wealth. They have realized the fact that individually they have no opportunity either to defend their own rights, to redress a grievance, or to attain an improvement in their condition.

"They understand that if they expect amelioration to-day or tomorrow and for the time to come, to preserve their manhood and integrity and independence and sovereignty, they must organize and unite and federate. I know that there are some men who answer that the organized labor movement, with its 3,000,000 members (I am including those who are not directly affiliated with the American Federation of Labor), do not represent the majority of the laborers of the country. I agree that we do not represent a majority of the workmen of our country. But I venture to say that we represent the most intelligent and the most skillful and the most manly of the workmen of our country, and this, too, without any reflection upon any nonunion man.

"That there is a legal remedy for some of the things which an injunction can enjoin goes without saying; but it is the purpose of the opponents of our legislation on this subject to get rid of the trial by jury in the regular process of the law. Their purpose is to make the judge who issues the injunction, the judge, the jury, and the executioner, and indeed to take away from the workmen enjoined the constitutional rights of being tried before a jury of their peers for any crime or offense with which they may be charged.

"Gentlemen of the committee, labor asks for nothing but what she believes she is entitled to, and organized labor is simply expressing it, because we have intelligence enough to organize and discuss these things, and out of it all has come a unanimity of judgment that this bill is necessary to the interests of peace and good will and success and progress.

"I trust, in fact I have no hesitancy in believing, that the committee will report this bill favorably to the House, and that it may pass with an overwhelming vote before the adjournment of the Congress, and may become part of the laws of our land."

Before the Committee on Judiciary of the Fifty-ninth Congress he stated as follows:

"Mr. GOMPERS. I commend to the attention of the members of the committee the injunctions that are incorporated in the report already printed, and which I have referred, and I want to say that the subsequent injunctions that have been issued by both Federal and State courts have simply gone step by step, reaching to greater lengths, and dealing with things that are the most ordinary affairs of man. Trespass, unlawful acts, criminal acts; no one can defend them, and claim honest citizenship in our country.

"But the doing, as I say, of the most ordinary things that men do in their everyday lives are more and more coming to be touched upon by injunctions. One injunction was issued—or, rather, many injunctions were issued—prohibiting persuasion, and not even designating what kind of persuasion. We can understand that there is such a thing as persuasion glibly used by the tongue and a club held in the hand; and no one can at all justify such persuasion as that. But even so, in such a case the injunction should not lie, because such an attempt is a threatened assault upon the person, for which there is a

law to prevent, to apprehend, to try, and to convict and to punish. But there is a persuasion—that persuasion which is commonly understood in our language—which no man can deny the right to exercise by another.

"And then comes the inhibition of a man or a number of men from weaning away from an employer those who are in his employ. 'Weaning away!' Is there any unlawful conduct if you, in your own interest, can wean away from me a man employed by me? Weaning away from me a man who is valuable to me in my business. By what? By bribes? By payment of money? By promises of reward, by advancement, by advantage? Is not that your right? If it is your right, is it not mine?"

"Take a case in point. A strike occurs. Men leave the employment of a certain firm because they ask for a high wage, or protest against a cutting of their wage, and another man or men take the places made vacant by the strikers. The strikers, having had experience, have accumulated certain funds, and they approach the men who have taken their places and say to them, 'John, or 'Gentlemen, or 'Men, you are taking our places. You have taken our places, and you are doing yourselves as well as us an injury, for if we are defeated in our effort the wages will be reduced and stay reduced, or our efforts to increase wages will not succeed, and you will have been the instruments to our defeat and to your own defeat and disadvantage."

"Come with us. Make common cause with us. We have accumulated funds, and we will pay you from what we receive from our associated efforts and our accumulated funds, either as much as you can earn, as much as we get, or we will pay you more than what you are now earning; quit the employment of that firm, and by reason of our common concert of action make that impression upon the firm that it will be required to yield and to withdraw the offer of the reduction of wages, or to concede the increase."

"I hold that the workmen have the right to go to any workmen employed by anybody, whether in a strike-bound establishment or otherwise, and offer this man to quit his employment and go to work with them in some other establishment, or not to work at all, for the time being. They have the right to 'lure away' and 'wean away' from an employer a workman, and to offer him money inducements, so that he may quit that employment and work for another, or to go idle for a period, in order that a certain lawful, honorable purpose may be achieved. And yet the injunction is issued against workmen for doing that very thing, and for doing it after the injunction has been issued they have been sent to jail."

"MR. ANDREW FURSETH, FIFTY-EIGHTH CONGRESS."

"We thus come back to the one fundamental question, 'Is there going along with the ownership of the mine, factory, or means of transportation a vested right in so much labor as is needed to make it profitable?'"

"If such right exists, whence is it obtained? It surely is contrary to the thirteenth amendment of the Constitution. If any such right runs against us as a class, upon what members of the class can it be enforced?"

"The employers and business men who come here in good faith and make this claim of vested right in our labor and our patronage are perhaps not much to be blamed. They find this idea expressing itself in the capitalization of the earning power of great enterprises; they have possibly paid good money for stocks and bonds, which are nothing but a mortgage upon the labor of the future. We learn from our industrial superiors, they from their financial principals. But that some of their attorneys should take the same position is a matter of some surprise and apprehension, to me at least."

"Can it be possible that these attorneys hold such contention to be sound? Through all the testimony and arguments there seems to run this idea of vested right in so much labor power as will run the plant, except in the argument of Mr. Bond, who recognizes that such right does not exist, and who mourns that fact."

"They urge with apparent sincerity the bill be not passed, because it will put a blot upon the judiciary, while they in the same breath claim that the whole machinery for the administration of justice and keeping the peace has broken down."

"They say that the police will not arrest, and when they do the police judge will not convict, or if he will convict, the accused will ask for a jury, and on it will be one or two members of the unions; conviction failing, and you have your labor for your pains."

"According to this, the citizen is, by his occupation as a wage-earner, so warped in judgment and tainted morally, that he can not be trusted as a juror, if one of his own class is to be tried. As this unfitness is based on moral turpitude, it follows that his testimony as a witness is of no value, and must therefore be rejected. This is entirely consistent with the claim that he is property. The slave never could testify against his owner, nor against the owner's equals. His evidence could be and was taken by the master against a fellow serf or slave, and so it is now with the wage-earner. The employing corporation goes into court and, to quote from the petition of the coal company already mentioned, says 'that the remainder of the miners and employees engaged as such * * * are willing to work and continue their employment; * * * that they are idle now for the reason that they are intimidated and in fear; that all of the miners at its said mines are very desirous of being permitted to continue their said work at the present rate of wages, and will do, as your orator is advised, and so alleges, if not interfered with and disturbed as hereinafter alleged.'"

"The petitioner then alleges that a confederation, combination, and association of men have gone among the miners and other laborers for the purpose of inducing or persuading them to quit work, and by threats, menaces, inflammatory speeches and demonstrations, and that if this continues those now at work will quit, and thus cause the 'said coal plant to lie idle and deteriorate in value.'"

"It is submitted that if the men at work and the men idle were free men entitled to the protection of the bill of rights there was nothing in these facts or allegations which could in any way justify the use of the writ of injunction. It is alleged that they used threats. What kind of threats? That is a question of fact, and under the 'bill of rights' they were entitled to a jury if they were threats within the meaning of the criminal law."

"We are told that the jurisdiction conferred on our court of equity was such as existed in England at the time of the founding of our Republic, and that it went to the protection of vested rights. If this be true, then either there is a vested right in the laborer going with the ownership of the mine, or the use of the writ was a gross usurpation. If it is the first, we ask of you to abolish it as inconsistent with the thirteenth amendment; if the second, then we pray that you stop the usurpation by the passage of this bill. In either case it is a

symptom of that growing 'industrial absolutism' which is gradually depriving us of our freedom as men, and which is digging from under our form of government its very foundation."

"MR. ANDREW FURSETH, FIFTY-NINTH CONGRESS."

"Like other parts of our judicial system, we have our injunctions from England. The King, by virtue of his absolute power, legislative, judicial, and executive, would be appealed to when some one was about to do something not forbidden by the law, yet which if done would cause great injury. Something needed to be protected; the law was insufficient, and by virtue of his absolute power the King could and did supply the remedy. Addressed to one subject, it was a royal command; if to many, a royal proclamation. In the first instance it was intended to protect the individual, and in the second the community."

"As the law became more complete, the need for such proclamation became less imperative, their places being taken by statute law or usage accepted as law; but law and usage being general in their application, serious injury might happen to individuals, hence the royal power was more and more restricted to individual instances of injustice or injury."

"The King, being too busy to sit in court to exercise his power, delegated it to his chancellor, and it grew apace until it came into serious conflict with the common law and the jury system. Its purpose being to prevent great wrong by forbidding the action which would cause such wrongs, the penalty necessarily had to be swift and certain, and, violation being a disobedience of the King's command—contempt of the King—and the facts being easily ascertained, punishment was immediate in operation and severe in kind. The royal power being irresponsible and absolute, it was necessarily misused by the individuals intrusted with its execution and their friends and had to be curtailed, circumscribed, and carefully guarded."

"There was a time when the court of star chamber was used in England as our courts are now being used, to forbid the doing and then punish disobedience without trial by jury in any and every direction. Personal liberty was at the whim and caprice of this court, but the English people would not long tolerate any such use of the royal power. The people abolished the court of star chamber and compelled the King to sign the bill of rights."

"It became the fundamental principles of chancery or equity that:
"1. It was to be exercised for the protection of property rights only.
"2. 'He who would seek its aid must come with clean hands.'
"3. 'There must be no adequate remedy at law.'
"4. It must never be used to curtail personal rights.
"5. It must not be used to punish crime."

"It was substantially in this shape that it was accepted by this country, engrafted in our Constitution, and the power of its administration conferred upon our courts."

"Equity law and jurisdiction at that time had a specific meaning, and any extension in jurisdiction, any enlargement of scope, must come from the people through an amendment to the Constitution, or there is judicial usurpation."

"If injunctions, which nowadays are issued in disputes between employers and employees, can stand the test of these principles, our complaint should be against the law. If they can not, then we have a just complaint against the judges who, either from ignorance or mistaken zeal for public order and cheap labor, misuse their power—act as a sovereign issuing his proclamations."

"The fundamental principle of American law as we understand it is that there shall be no property rights in man. A man's labor power is part of him; it fluctuates with his health, decreases when he grows old, and ceases at his death. It can not be divorced from man, and therefore under our system can not be property. Property may be bought, sold, or destroyed without destroying the possessor thereof; it is the product of labor or of nature. Labor is an attribute of life, and through no system of legitimate reasoning can it be treated or denominated as property."

"Injunctions—proclamations—used contrary to and destructive of constitutional guaranties of individual freedom, are usurpation, whether they take place in a monarchy by the king or in a republic by a judge. The power is the same, its results are the same, and a people that will endure become serfs, will deteriorate and die."

"You have had this bill before you during several Congresses. You have had hearings on it, and so far as has appeared at those hearings this bill would, if enacted into law, put a stop to the use of injunctions in labor disputes. That the relations between laborers and their employers are personal relations as distinct from property relations; that the rights of either party are personal rights, as distinct from property rights, it will hardly be seriously disputed."

"If these are the true relations, then there is no occasion for the equity power to step in. We maintain that it is pure usurpation on the part of the judge to so extend the powers granted to him as to cover labor disputes. We believe that by passing this bill you stop the usurpation and bring the law and the judges back to where it and they belong. Labor will be content with nothing less. Anything short of this robs the laborer, because he is a laborer, of his rights as a citizen."

"That the contention of the American Federation of Labor is absolutely correct is shown by the citation of the following authorities. We submit extracts from an address made by the Hon. John W. Akin, in 1898, at the convention of the Georgia Bar Association, held in Atlanta, Ga., Mr. Akin being president of the association at that time. We commend it to all for careful perusal, for it is one of the strongest arguments against the abuses of the courts in granting injunctions in labor disputes that has come to our notice."

"It need hardly be said that a glance at the whole field, even in the perspective, in which the modern exercise of this power displays itself would require discussion far beyond the proprieties of this hour. It is my purpose to notice only the most striking illustrations of the present development of this power. These illustrations involve the latest application of the writ of injunction by Federal courts to criminal offenses, to interstate commerce, to municipal and State government, and to contempt proceedings affecting the personal liberty of the citizen. Only a few representative cases will be referred to, but from them the drift may be clearly seen."

"INJUNCTION AGAINST CRIMINAL OFFENSES."

"Nothing in the history of our country's jurisprudence is more remarkable than the growth of what may be termed in a sense 'judge-made law.' In no department of judge-made law has the growth been wider or more rapid than in the law of injunctions as promulgated by the Federal judiciary. For instance, it is an ancient principle of equity jurisprudence that an injunction will never issue to restrain the commission of a criminal offense. Yet this fundamental principle has been

qualified and modified, if not to some extent overruled; but not by statute. In this, as in other instances of the enlargement of judicial in the direction of governmental power, the enlargement comes principally from the Federal courts.

"A recent case contains an exhaustive opinion arguing the right and power of the court to enjoin the sale by 'scalpers' of round-trip railway tickets to the Tennessee Centennial Exposition. The last head-note states one of the latest expressions of judicial amendment to this ancient rule of decision thus: 'It is not an objection to the jurisdiction of a court of equity to grant an injunction to protect property rights if the act sought to be enjoined is also a violation of the criminal law; nor that it might properly be made the subject of criminal legislation which the legislature has not seen fit to provide.'

"There are few criminal offenses which do not affect property rights. The husband has a property right in the life of the wife outraged and murdered. The landowner has a property right in the buildings fired by the incendiary's torch. The banker has a property right in the money stolen by the safe blower. If an injunction can be granted against the commission of any criminal offense on the ground that thereby property rights are violated, why may it not for the same reason be granted against the commission of every other criminal offense? And if this be the law, is not the ancient rule that no man shall be held judicially guilty of a crime until his twelve peers have so declared him virtually annulled in favor of a tribunal which, in effect, pronounces upon the guilt of the accused by the judgment of one man upon ex parte proof without the privilege of cross-examining witnesses or being confronted by them? Will not a little greater stretching, a little further enlargement, of this doctrine annul one of those constitutional privileges guaranteed by Magna Charta and embodied in the constitution of each one of these sovereign States?

"FEDERAL INJUNCTION INFRINGING PERSONAL LIBERTY AND FREEDOM OF SPEECH.

"The Federal cases which have caused most popular discussion and aroused most popular feeling have been those in which what is now commonly known as government by injunction was applied to personal liberty and freedom of speech. They vary in extent and application, but are the same in principle. What are known as the 'Chicago omnibus bills' during the great strikes are most conspicuous.

"In one a Federal court enjoined 'the officers, agents, and employees' of the receivers of the Northern Pacific Railway Company, 'and the engineers, firemen, trainmen, train dispatchers, telegraphers, conductors, switchmen, and all other employees' of said receivers, 'and each and every one of you, and all persons, associations, and combinations, voluntary or otherwise, whether employees of said receivers or not, and all persons generally, and each and every one of you, * * * from interfering in any manner, by force, threats, or otherwise [italics mine], with men who desire to continue in the service of said receivers, and from interfering in any manner, by force, threats, or otherwise, with men employed by said receivers to take the place of those who quit the service of said receivers, * * * and from combining and conspiring to quit, with or without notice, the service of said receivers, with the object and intent of crippling the property in their custody, or embarrassing the operations of said railroad, and from so quitting the service of said railroad, with or without notice, as to cripple the property, or prevent or hinder the operation of said railroad.' Later, they were enjoined 'from combining or conspiring together, or with others, either jointly or severally, or as committees, or as officers of any so-called 'labor organization,' with the design or purpose of causing a strike upon the lines of railroad operated by said receivers, and from ordering, recommending, approving, or advising others to quit the service of the receivers of the Northern Pacific Railway Company on January 1, 1894, or at any other time; and from ordering, recommending, advising, or approving, by communication or instruction, or otherwise, the employees of said receivers, or any of them, or of said Northern Pacific Railway Company, to join in a strike on January 1, 1894, or at any other time, and from ordering, recommending, or advising any committee, or committees, or class or classes of employees of said receivers to strike or join in a strike on January 1, 1894, or at any other time.'

"Only a portion is expressed in this quotation. In fact language is apparently exhausted in the effort to transform railroad employees, their friends, sympathizers, and advisers into mere dumb work creatures. They were allowed to breathe, but they could not safely talk. And this was done without a hearing.

"In the mass of verbiage two things are clear, and they are the salient points in this far-reaching decision: The employees could not quit work by any concert, no matter how badly treated or how poorly paid; and they could not strike. In the first respect, this decision made these employees slaves in so far as they could not voluntarily cease to labor. Is it not pathetic that the first court in the world to compel even involuntary servitude by a free man is a court of that Republic whose founders fondly believed they were establishing an asylum for the oppressed throughout all generations? In the second respect, the famous 'strike' is judicially condemned, and prevented under penalty of imprisonment, at the pleasure of one man, who holds this vast power, not by the choice of the people over whose destinies he presides with such stupendous authority. In how many cases have Federal courts or any other courts enjoined the employer from discharging, at his pleasure, employees who undertake service for no fixed period?

"A reason assigned for such rulings, in this and in similar decisions, is the public character of the service rendered by a railroad corporation, and, through it, by its employees. I will not undertake to forecast the ultimate conclusion of such a ruling, and I need not remind this thoughtful assemblage of the almost boundless sea of legal absolutism on which such judicial reasoning may launch us.

"SAFEGUARDS OF JUSTICE SWEEPED AWAY.

"The coal-miners' strike of last year was the occasion of the further exercise of sweeping and arbitrary powers by injunction, following precedents set by Federal courts and elsewhere alluded to herein. For instance, the United Mine Workers, a number of individuals and strikers, 'and others associated or operating with them, * * * and each of them' were enjoined, without a hearing, 'from inducing any of the employees or miners to quit their work. The Springfield Republican, a journal published in a Massachusetts wealth center, and whose editorials are unusually fair and able, commenting upon the grant of injunctions against the future commission of unlawful acts inciting or aiding a strike, says:

"The result of this is that if the acts are committed the prisoner is taken away from the ordinary ministers and processes of the law and, as in contempt of court, is tried by the judge alone and sentenced to prison for any length of time he may see fit to choose. Thus the

judge of his own motion becomes prosecutor, jury, and judge, and all the usual machinery and safeguards of justice are swept away. What would be said of an equity judge who should enjoin all people from committing any unlawful acts? Then unlawful acts would first become contempt of court and the victims would be subject to prosecution, trial, and punishment by the judge alone. The enormity of such a proceeding is palpable, but it is precisely the nature of Judge Jackson's proceeding.

"MODERN STRANGLING OF AN ANCIENT RIGHT.

"But the Federal courts have not stopped at enjoining the parties to a case. In one case the injunction was directed not only against the defendants and all persons combining and conspiring with them, but against 'all other persons whomsoever'; and everybody who might counsel or advise the strike—whether friend, attorney, or editor of a newspaper—was liable to be committed to jail at discretion and without jury trial, though they were not named in the bill and never heard of the case, provided these 'unknown defendants' and 'all other persons whomsoever' had been, in legal contemplation and as provided in the order, served 'by publication thereof by posting or printing.' It is unnecessary to comment upon this modern strangling of the right of freedom of speech.

"DRAGON'S TEETH AND REVOLUTION.

"The Chicago Times-Herald of September 19, 1897, published a four-page symposium on the subject of injunction in labor disputes. This symposium consisted of the opinions of fifteen judges on the bench and fourteen opinions of other jurists and prominent laymen. The Springfield Republican, published at a point far removed from the local coloring inseparable to such controversies, analyzing these answers, declares that only six unqualifiedly indorse the recent extension of the injunction power to labor troubles; seven were, in the main, noncommittal, while fifteen were outspoken in their hostile criticism. Fifteen judges returned replies, and we find that of these only two were unqualifiedly for what is popularly known as 'government by injunction,' six were noncommittal, while seven were more or less emphatic in denouncing or criticising the recent extension of the injunction power. Judge Gibbons, of the circuit court of Illinois, declares that 'in their efforts to regulate or restrain strikes by injunction, they are sowing dragon's teeth and blazing the path of revolution.' The chief justice of the Illinois court of appeals predicts that 'unless this usurpation of power by the courts is promptly checked, we shall within a few years see elections—and a Presidential one, perhaps—carried by a court's writ of injunction, backed by armed deputies or Federal soldiers.' Is the prediction of the chief justice too extravagant?

"A HUMILIATING PRECEDENT.

"The Ann Arbor and North Michigan Railroad broke its contract with its employees respecting wages and work hours. They struck. To aid them, the workmen on connecting lines, refusing to handle the cars of the Ann Arbor, quit work. United States Judge Ricks thereupon, on the application of these connecting railroads, enjoined the railroad employees from quitting service. Some who resigned were attached for contempt. Chief Arthur, of the Brotherhood of Locomotive Engineers, was also arrested for consenting to such action. He escaped punishment because the evidence did not show that he had sanctioned such action. All the engineers but one proved that they resigned before the injunction was granted. This one, however, quit work after being notified of the injunction. The Federal judge fined him \$50 and costs, and announced that the fine was only nominal, but that thereafter both fine and imprisonment would be the punishment for a similar offense.

"Here the laborers did the only thing they could do to make the railroad keep its contract. It will be noted that this Federal court, within whose jurisdiction lived both the workmen and these corporations, made not the slightest effort to prevent the corporation from breaking its contract and working the men longer hours and for less pay than they had contracted for. But the same court, which thus shut its eyes and folded its arms at the lawlessness of the corporation, took the helpless workman by the throat, and, under penalty of jailing him indefinitely without a jury trial, compelled him to do a thing which he had not contracted to do, and deprived him of freedom of speech in the discussion of what he conceived to be the relative rights of capital and labor.

"It will be observed in nearly all cases where Federal courts have attached for contempt workmen and their sympathizers that the injunctions were granted on ex parte applications. So that American citizens, not even charged with crime, have been jailed along with common felons by the arbitrary will of one man, who gave them no opportunity to question the propriety or legality of the omnibus injunction which deprived them of action and freedom of speech.

"THE GERM OF DISSOLUTION.

"I have noticed only a few of the comparatively recent Federal court decisions involving the conflict of interests between the public and the great corporations. These cases are but a few of the many forms in which this conflict expresses itself. No doubt this conflict is sometimes aggravated by demagogues. But it is equally true that many thoughtful and farseeing patriots have spoken to this question in terms of self-deserving wisdom, and who, because they foresaw danger in the trend of Federal court decisions, have been unjustly called demagogues. When Jefferson, with the clear vision of a philosopher, recognized and declared the conflict between federalism and republicanism, oligarchy of wealth and a democracy of all the people, between absolutism and individualism, he was called both demagogue and anarchist. But he was a seer as well as a leader, and to-day his political philosophy is accepted without question in this great Republic's heart of hearts. Standing, as this generation does to-day, in the shadow of a line of Federal decisions which are certainly innovations, and which many good and wise men believe to be usurpations of a dangerous power, we are reminded of Jefferson's prophecy. Said he:

"It has long been my opinion that the germ of dissolution of our Federal Government is in the constitution of the Federal judiciary, an irresponsible body, working, like gravity, by day and by night, gaining a little to-day and a little to-morrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped."

"Nothing said by others compares in comprehensive severity with this terrible indictment. And yet, if what Jefferson said was true then, its truth is multiplied tenfold now. Looking around us and about us; surveying the field of Federal jurisdiction as it exists in practice to-day; seeing States and municipalities stripped of their powers; beholding the new and direful engine of oppression and repression into which the ancient writ of injunction has been converted; observing how the toiler and the laborer have felt the maled hand of the Federal judge so often and so hardly, while the great trusts and monopolies of the

country have oppressed the poor, cheated justice, and defied the law with hardly so much as a rebuke from that same Federal judge, how can we be silent?"

We also submit extracts from addresses made by eminent jurists and statesmen on this subject.

Chief Justice McCabe, of the supreme court of Indiana, in writing on the subject of injunctions, in the Chicago Times-Herald, September 19, 1897, said:

"* * * Yes; I am inclined to believe that the use of the power interferes with the constitutional right of trial by jury, and in so far as it does this it endangers the highest and most sacred safeguard of the people."

Judge John Gibbons, of the circuit court of Illinois, in the same paper, said:

"* * * I desire to say that, in my opinion, there is a danger today threatening the very existence of the Republic as gigantic as that which precipitated the rebellion and well-nigh wrought the ruin of our Union. Now it comes, as ever, in the seductive guise of the law and under the solemn authority of the court. In their efforts to regulate or restrain strikes by injunction they are sowing dragons' teeth and blazing the path of revolution."

Judge M. F. Tuley, of the appellate court of Illinois, gave expression in the same paper to these words:

"* * * Such use of the right of injunction by the courts is judicial tyranny, which endangers not only the right of trial by jury, but all the rights and liberties of the citizens. If Congress has the power it should promptly put an end to 'government by injunction' by defining and limiting the power of the Federal courts in the use of the writ."

During the coal miners' strike in 1897 on the question of injunctions Governor Sadler, of Nevada, expressed himself as follows:

"* * * The tendency at present is to have committees make the laws, and to have the courts enforce them by injunction, both of which methods, in my opinion, are subversive of good government and the liberties of the people."

On the same question Governor Jones, of Arkansas, said:

"* * * Freedom of speech and of the press is inviolable in this Government, and we should not tolerate for a moment any encroachment upon this sacred right. Judge Jackson's order is revolutionary, and if upheld by the Federal Supreme Court and submitted to by the people will overturn our system of government and destroy our liberties. It is not only illegal and unadvisable, but is such an act as calls for his impeachment and removal from his office."

Governor Pingree, of Michigan, expressed himself in these words:

"* * * I consider government by injunction, unless stopped, the beginning of the end of liberty. Tyranny on the bench is as objectionable as tyranny on the throne. It is even more dangerous, because judges claim immunity from criticism, and foolish people acquiesce in their claims. To enjoin people from assembling peaceably to discuss their wrongs is a violation of first principles."

During October, 1897, Hon. W. H. Moody, now Attorney-General of the United States, in speaking to a large meeting said in part as follows:

"I believe in recent years the courts of the United States, as well as the courts of our own Commonwealth, have gone to the very verge of danger in applying the process of the writ of injunction in disputes between labor and capital."

In his annual address as president of the American Bar Association, in August, 1894, Thomas M. Cooley said:

"Courts with their injunctions, if they heed the fundamental law of the land, can no more hold men to involuntary servitude for even a single hour than can overseers with the whip."

In an address before the Grafton and Coos Bar Association, January 28, 1898, on the question of governing by injunction, J. H. Benton, Jr., a prominent attorney of Boston, said:

"The courts have gone too far. It is impossible for them to go on in the course they have taken and retain the confidence of the people or preserve their own powers."

"It is idle to say that the popular complaint on this subject means nothing, or that, as one judge has said, 'Nobody objects to government by injunction except those who object to any government at all.'"

"It does mean much. It means that the courts have, in the judgment of many of the most intelligent and thoughtful citizens, and of Congress, exceeded their just powers; that they have by the so-called exercise of the equity power, practically assumed to create and to punish offenses upon trial by themselves without a jury, and with penalties imposed at their discretion. And this means that if the courts continue in this course their power to enforce their orders by proceedings for contempt will be limited by legislation. The people will not, and they ought not to, submit to decisions like those in the Northern Pacific and Ann Arbor cases."

A careful perusal of these expressions from such eminent authorities clearly bears out the position taken by the organized workers of our country. That the courts have exceeded their authority in the granting of injunctions in labor disputes is beyond question. In asking Congress for the passage of the Pearre anti-injunction law, we are asking for relief from an obnoxious condition of affairs that has been read into our jurisprudence, in many instances, by judges who are outspoken in their unfriendliness to organized labor. We ask for the passage of this law in the interest of human as well as personal liberty, being fully convinced that in so doing we are within our rights, and that our convictions have been amply borne out by many other legal authorities, which space prohibits us from quoting at this time.

Attempts have been made to have passed into law the bill which would relieve us from these unfair and unjust injunctions that are granted in labor disputes. The matter was called to the attention of the delegates of the thirteenth annual convention of the American Federation of Labor, held in Chicago, Ill., December, 1893, resulting from injunctions that had been issued against the striking printers at Pittsburgh and the United Garment Workers of New York City. That convention instructed the executive council to have a bill drafted and presented to Congress dealing with this evil. Several bills were drafted and introduced in Congress, and extended hearings were given thereon, but with no result.

In 1901, however, the bill that was framed by the attorneys for the American Federation of Labor and referred to the House Judiciary Committee was considered for a considerable period of time by the House Judiciary Committee and was reported from that committee with amendments that practically made it a pro-injunction bill rather than an anti-injunction bill. Notwithstanding that the bill as amended with the pernicious provisions referred to had the prestige of the favorable report of the committee and the advocacy of the most conspicuous leaders of the majority of the House, we opposed its passage. Our position was communicated to the leading representatives of the mi-

nority, and after being stated on the floor of the House the bill as amended was defeated by a vote of yeas 54, nays 145.

In 1902 this bill was again submitted to Congress and was passed by the House of Representatives in its original form. The Senate Judiciary Committee first reported the bill in the manner in which it was passed by the House, but it was subsequently referred back to that committee and amendments made to it which again made it a pro-injunction bill. We opposed the passage of the bill with the amendments and asked that the bill be passed as it originally passed the House, but the late Senator Platt, of Connecticut, was obdurate, and the bill died on the Senate Calendar.

In 1904 the bill was again introduced and extended hearings were given thereon. The same interests that had been opposing the eight-hour bill also appeared in opposition to this bill and scoured the country high and low to bring witnesses in opposition to it. In this Congress the committee failed to take action on the bill and no report was made on it.

In the Fifty-ninth Congress numerous bills on the subject of injunctions were introduced, and the American Federation of Labor endorsed the bill introduced by Representative PEARRE, of Maryland. Another bill was introduced by Representative Little, which, instead of prohibiting the use of injunctions in labor disputes, attempted to regulate the matter by legalizing these injunctions. Both these bills are now pending before the House Committee on the Judiciary, no action having been taken during the last session of Congress.

It is now some thirteen years since this matter has been drawn to the attention of Congress and relief asked for, but up to the present time nothing has been done.

The American Federation of Labor favors the bill as drafted by our attorneys and introduced into Congress by Representative PEARRE, of Maryland, and is decidedly opposed to the bill now pending before the committee known as the "Little" or "Administration bill." The difference between the two bills is tersely stated in the editorial comments of President Gompers as published in the September issue of the American Federationist, and are as follows:

"If the courts are the most important factors in our Government for the preservation, rights, and liberties of the people, is not that rather a reflection upon Congress? Labor asks and insists upon a constitutional guaranty of the laborer's equity before the law, with other citizens, because it has found by experience that it is often discriminated against. Injunctions against which labor protests are those issued against them as a class, and our bill (PEARRE) to limit the power of the courts in issuing the injunctions will obviate the abuses to which Mr. CRUMPACKER refers and restore the principle of equality before the law."

"In labor disputes the issuance of injunctions is an invasion of personal liberty and freedom. There is not now in any of the statutes of the United States any provision authorizing the issuance of injunctions in such cases, and the bill introduced in the last Congress, known as the 'Little' or 'Administration bill,' if enacted into law, would be the first statutory provision authorizing the issuance of injunctions in labor disputes."

The following correspondence between Mr. Samuel Gompers, president of the American Federation of Labor, and Hon. CHARLES N. BRUMM, a Representative from Pennsylvania, demonstrates that the workingmen are wide awake and will hold that party responsible for the failure to pass remedial legislation which, having a majority and therefore the power to pass any measure it desired, failed to give workingmen and farmers the legislation they asked for and were entitled to.

I quote the correspondence:

WASHINGTON, D. C., April 30, 1908.

MR. SAMUEL GOMPERS,
Briggs House, Chicago, Ill.

DEAR SIR: Referring to the suggestion by you as to the status of legislation, I wish to say that I solemnly protest against the proposed early adjournment of Congress, as it will be impossible to act upon and pass such legislation as is demanded by the people and asked for by the President.

I will be willing to join with others to insist upon the several bills being brought out of the committees and acted upon promptly.

There is no disguising the fact that Speaker CANNON intended to prevent legislation on these lines by referring the President's message and other bills to the Congressional crematory, known as the "Judiciary Committee."

Very truly, yours,

C. N. BRUMM, M. C.,
Twelfth District, Pennsylvania.

CHICAGO, ILL., May 2, 1908.

HON. CHAS. N. BRUMM,
Member of Congress, Twelfth District of Pennsylvania,
House of Representatives, Washington, D. C.

DEAR SIR: Having business of importance in this city and vicinity for a few days, your favor of April 30 was forwarded to me here, the receipt of which I gladly acknowledge, and perused it with the greatest interest.

It is because I know you are concerned in the necessary legislation in the interest not only of labor, but of all our people, that I asked you as to the status of legislation in Congress. Your answer justifies the position which, together with others, I took before the election of Mr. CANNON to the Speakership of the present Congress and since. Mr. CANNON is the embodiment, and in himself represents all that is antagonistic to the protection and reformatory legislation demanded by the people of our country.

You will remember that an effort was made to arouse the Republican Members of this Congress to elect another than Mr. CANNON as Speaker; you have not forgotten the gusto with which they "unanimously" nominated and then elected him to show "that man Gompers" that "Uncle JOE" CANNON has the entire confidence of "all" the Republican Members of Congress. These Republican Congressmen and the newspapers which belabored and derided me because I knew the "genial Uncle JOE" and "the interests" for which he stood can now realize the position in which labor and the people generally are placed by Speaker CANNON and his small coterie of beneficiaries; how he packs the committees and blocks the passage of legislation which even Republicans, the newspapers, and labor—aye, the people generally—require even for their ordinary, as well as imperative, needs.

It is gratifying to know that you are willing to join with others to insist upon the several important measures being brought out of the committees and promptly acted upon by the House. There is no

doubt in my mind that it is the duty of those Members who believe with you to at least make the effort to crystallize that thought into action.

From my knowledge of the Members of the House I am fully persuaded that there are enough Members of the majority who would act with the minority Members on the necessary bills to secure their passage and have them go over for the Senate's action before the adjournment of this session of Congress.

Aye, with you I join in protest against adjournment of Congress before these measures are enacted. There is no reason for adjournment before legislation for the protection and restoration of natural human rights of the toilers and of the people, of which they have been shorn by the interpretation by the courts of the Sherman antitrust law; by the abuse of the beneficent writ of injunction denying to the workers the constitutional right of equity before the law—unless the Members of the House, responsible for legislation or failure of legislation, are more concerned with "the interests," with politics, than with broad and enlightened statesmanship to conserve human liberty and freedom to maintain for all time the underlying principles which form the theory and basis of our Republic.

Surely no one will be fooled should Congress adjourn early to avoid the passage of the important measures which are awaiting consideration and action. Those Members who are responsible for legislation or its failure, who vote for adjournment before the enactment of these measures, may imagine themselves in a fool's paradise, but I am quite confident that the people will hold them responsible for the vote to adjourn equally as though they had voted against the measures to which I refer. In the name of labor, in the interest of all our people, we urge and must insist upon the enactment of—

The Wilson bill (H. R. 20584) amending the Sherman antitrust law; The Pearre bill (H. R. 94) regulating the issuing of the injunctive writ to its original and beneficent purpose;

The extension of the eight-hour law to all Government employees and to employees of contractors or subcontractors performing work for the Government; and

A general employers' liability law applicable to all workers, so far as the Federal jurisdiction extends.

The above measures are specifically mentioned because they are some of the most important to the needs of the workers of our country, the workers who by their very numbers and the service they render to society are the most important, necessary, and patriotic citizens of our Republic and upon whom in the last analysis must devolve the mission to secure, maintain, and perpetuate true freedom for all our people, now and for all time to come.

You know I speak neither as a Republican, a Democrat, nor as a member of any other political party, but rather as the representative of the organized wage-workers of America. And it may, perhaps, not be amiss to add that to a very large extent the organized labor movement represents the hopes and aspirations of even the unorganized men and women of labor. Nor is it out of place to state that there is a constantly growing conviction among a large part of the thinking men of our country that the demands which labor makes upon Congress, and upon society as a whole, forms the cogent, reasonable, evolutionary movement for justice, right, and progress.

The wage-workers and the farmers' organizations, as well as masses of other right-thinking Americans, now have their eyes and thoughts directed to Congress as perhaps never before. They are not likely to take fair Congressional promises for the future in the place of refusal to perform peremptory and plain duty now.

The toiling masses of our country and their friends are thinking and propose to act more independently, industrially, and politically than at any time in the past. They propose to stand by their friends and advocates and elect them; to oppose those who are indifferent or hostile to their interests, rights, and welfare, and defeat them. And this independent thinking and acting applies not only to candidates for Congress, but to all who aspire to public preferment, from candidates for the great office of President, down.

Very truly, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

The following documents and circulars issued by the American Federation of Labor show clearly that labor is aroused and active, and will insist upon its political rights with all the energy it possesses:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 18, 1908.

ADDRESS TO WORKERS.

TO ORGANIZED LABOR AND FARMERS' ASSOCIATIONS, GREETING:

The "protest conference" of the representatives of the workers of our country assembled in Washington, D. C., on March 18, 1908, will probably go down in history as the greatest gathering ever held to solemnly voice the protest of the people against the denial of the rights of the workers by the judiciary. This conference will be memorable also for the declaration and action looking toward the upholding and defending of the rights of all our people.

There were gathered in this conference the responsible executive officers of 118 national and international trade unions; assembled with them in hearty agreement were representatives of the Farmers' American Society of Equity and also officers of railway brotherhoods. No more representative and responsible gathering of the men of labor, we believe, was ever brought together in the effort to voice the just protest and laudable aspirations of the workers of our country.

The deliberations of our conference, which occupied two full days, were preceded by a two days' session of the executive council of the American Federation of Labor. The proceedings were marked by the utmost harmony. There was indeed the intensity of feeling which so grave a situation must evoke; there was also an unbounded enthusiasm, a grim earnestness of purpose, and a firm determination that the work initiated by this conference should not cease until the wrongs from which the workers suffer shall be righted and their liberties which have been imperiled shall be restored and forever safeguarded.

Our consideration of the circumstances which made this conference imperative was characterized by the utmost freedom of expression. It was felt that in the consensus of opinion and feeling brought forth by the representatives of so many trades and callings from all sections of the country there could not fail to be much that would be helpful in guiding our deliberations and of service to our fellow-workers. It is our hope that every worker and every friend of the workers will realize and feel as we do the seriousness of the crisis which we now

face and that all will be animated by the earnestness, the loyalty, and enthusiasm which was so marked among the representatives assembled.

While the Supreme Court or other institutions may be able to temporarily retard and seriously embarrass the growth and action of our movement, we boldly assert that no power on earth can destroy, successfully outlaw, or disrupt the trade-union movement.

Meetings have been held in various parts of the country and resolutions adopted and forwarded to American Federation of Labor headquarters urging prompt and vigorous action. The suggestions submitted were various in detail, but all characterized by the earnest desire that labor should take steps at once to exercise its fullest activities in every possible direction in order that relief may be obtained from the present intolerable situation.

In this conference we, your representatives, realized the serious responsibility resting upon us, not only to voice adequately the feeling of outraged indignation on the part of the workers at the deprivation of their rights and liberties involved in the law as interpreted by recent court decision, but the even more important task of initiating and aiding in carrying toward a successful fulfillment the constructive and active work which shall deliver the workers from the present and impending danger and insure them the restoration of their rights and liberties and secure enjoyment in the future of the inalienable rights guaranteed by our Constitution.

A large part of our deliberations were naturally devoted to a discussion of the Supreme Court's action in applying the Sherman antitrust law to labor.

All agreed upon the necessity of immediate Congressional action if the serious consequences and threatened dangers to labor and the wealth producers of our country are to be averted.

The following amendment to the Sherman antitrust law had already been drawn up and agreed upon by the executive council, acting with the legal advisors of the American Federation of Labor. This is designed to relieve labor from the harmful operation of the Sherman antitrust law which never intended to apply to it.

"That nothing in said act (Sherman antitrust law), or in this act, is intended, nor shall any provision thereof hereafter be enforced so as to apply to organizations or associations not for profit and without capital stock, nor to the members of such organizations or associations."

"That nothing in said act (Sherman antitrust law), or in this act, is intended, nor shall any provision thereof hereafter be enforced so as to apply to any arrangements, agreements, or combinations among persons engaged in agriculture or horticulture made with a view of enhancing the price of their own agricultural or horticultural products."

This amendment was carefully considered in conference and met with enthusiastic, hearty, and unanimous approval.

It was the unanimous feeling that some special steps should be taken to impress upon Congress the necessity of prompt action upon the Sherman antitrust law amendment and upon other important labor legislation now pending, namely:

"The bill to regulate and limit the issuance of injunctions—" Pearre bill."

Employers' liability bill.

The bill extending the application of the eight-hour law to all Government employees, and those employed upon work for the Government, whether by contractors or subcontractors.

Your representatives prepared the protest which you will find accompanying this, and delivered the same to Speaker CANNON of the House, and Vice-President FAIRBANKS, President of the Senate.

As to the effect of our solemn protest representing the desires and needs of our fellow-workers and their friends, we can not at this time state, but we believe that Congress appreciates the gravity of the situation. In our protest we endeavored, while preserving a courteous and dignified form of address, to make it entirely clear to Congress that organized labor is in no mood to be trifled with. It means business. We truly believe that in this protest we stated very conservatively to Congress the intense feeling of anxiety and apprehension which agitates the workers of the country and their sympathizers.

Without doubt the presentation of labor's protest by our accredited representatives did much to convince the country at large that labor expects of Congress the relief which is within the power of the law-making department of Government, and expects it from this session of the present Congress.

The Supreme Court decision applying the Sherman law to labor makes the crisis an especially grave one, for under that decision every normal, peaceful, and helpful activity of the workers, whether exercised individually or in association, may be construed as a "conspiracy" or a combination in restraint of trade and commerce, and punished by fine and imprisonment, or both, and damages may be inflicted to the extent of each individual's possessions.

Every legitimate pressure must now be brought to bear upon Congress in the effort to secure the passage of our amendment to the Sherman law.

Hold mass meetings in every city and town in the United States on the evening of the third Sunday or Monday in April, 19 or 20, and at that meeting voice fully and unmistakably labor's protest against the Supreme Court decision which strips labor of the rights and liberties which we had supposed were guaranteed by the Constitution. Resolutions should be adopted urging upon the present Congress the passage of the amendment to the Sherman law and warning Congress that it will be held responsible for failure to enact such legislation.

Labor should spare no activity to impress upon Congress its insistent demand for the passage of this amendment.

In addition to the holding of the mass meeting of April 19 or 20, and on such other dates as may be fixed in future, and the forwarding of resolutions expressing labor's protest and determination, every member of organized labor should write a personal letter to the Congressman of his district and to the two United States Senators of his State, insisting that they use their efforts and cast their vote for the passage of our amendment to the Sherman law and other legislation mentioned in labor's protest, and warning them that labor and its friends will hold them responsible; that labor proposes to be represented in Congress by men who will do justice to the workers and all the people; that it proposes to exercise every political and industrial activity to this end; that upon the record of this Congress will be based the workers' decision as to a candidate's future desirability as a Member of Congress.

Get every friend of labor to write a personal letter of this character. Let it be brief, but to the point, and keep a record of the resolutions and letters forwarded.

We hope most earnestly for the passage of the measures we have urged; but should Congress fail to do its duty we will, by following this method, be able to place the responsibility upon those who have failed to do justice to labor when it lay within their power.

We deem it essential for the successful accomplishment of the plan set forth in the foregoing that local unions, city, central, and State federations, follow closely the line of action outlined by this conference and such further plans as may be promulgated by the executive council or by future conferences, so that our strength and influence may not be frittered away by different lines of action.

We have appealed to Congress for the necessary relief we deem essential to safeguard the interests and rights of the toilers.

We now call upon the workers of our common country to stand faithfully by our friends,

Oppose and defeat our enemies, whether they be Candidates for President,

For Congress, or other offices, whether Executive, legislative, or judicial.

Each candidate should be questioned and pledged as to his attitude upon all subjects of importance to the toilers, whether in factory, farm, field, shop, or mine.

We again renew and hereby declare our complete and abiding faith in the trade-union movement to successfully accomplish the amelioration of economic conditions befitting all of our people. The historical past of our movement, its splendid achievements in labor's behalf, and magnificent present standing warrants the assertion and justifies our prediction for its future success.

We, the representatives of the national and international trade unions and farmers' organizations, represented in this conference, call upon the executive council and upon all labor to use every possible legitimate effort to secure for the workers their inalienable liberties and their proper recognition as a vital portion of the fabric of our civilization. We pledge ourselves to use every lawful and honorable effort to carry out the policy agreed upon at this conference. We pledge our industrial, political, financial, and moral support to our own members and to our friends wherever found, not only for the present time, but for the continuous effort which may be necessary for success. We pledge ourselves to carry on this work until every industrial and political activity of the workers is guaranteed its permanent place and usefulness in the progress of our country.

Let labor not falter for one instant; the most grave and momentous crisis ever faced by the wage-workers of our country is now upon us.

Our industrial rights have been shorn from us and our liberties are threatened.

It rests with each of us to make the most earnest, impressive, and law-abiding effort that lies within our power to restore these liberties and safeguard our rights for the future if we are to save the workers and mayhap even the nation itself from threatened disaster.

This is not a time for idle fear.

Let every man be up and doing. Action consistent, action persistent, action insistent is the watchword.

REPRESENTATIVES OF NATIONAL AND INTERNATIONAL UNIONS AND FARMERS' ORGANIZATIONS WHO INDORSED AND SIGNED THE ABOVE PROTEST.

Samuel Gompers, president; James Duncan, first vice-president; John Mitchell, second vice-president; James O'Connell, third vice-president; Max Morris, fourth vice-president; D. A. Hayes, fifth vice-president; Daniel J. Keefe, sixth vice-president; William D. Huber, seventh vice-president; Joseph F. Valentine, eighth vice-president; Frank Morrison, secretary; John B. Lennon, treasurer—executive council American Federation of Labor.

George L. Berry, Norman C. Sprague, International Printing Pressmen's Union.

Joseph F. Valentine, John P. Frey, Iron Molders' Union of North America.

G. M. Huddleston, International Slate and Tile Roofers' Union.

Richard Braunschweig, Amalgamated Wood Workers' International Union.

Charles R. Atherton, A. B. Grout, Metal Polishers, Buffers, Platers, and Brass Workers' Union.

Jere L. Sullivan, J. F. McCarthy, T. J. Sullivan, Hotel and Restaurant Employees' International Alliance.

W. R. Fairley, Thomas Haggerty, United Mine Workers' of America.

A. McAndrews, E. Lewis Evans, Tobacco Workers' International Union.

W. F. Costello, H. T. Rogers, International Steam and Hot Water Fitters and Helpers' Union.

James O'Connell, Arthur E. Holder, A. McGilray, International Association of Machinists.

M. O'Sullivan, Thomas F. Ryan, Amalgamated Sheet Metal Workers' International Alliance.

J. E. Pritchard, International Pavers and Rammer Men.

Thomas T. Maher, Amalgamated Sheet Metal Workers' International Alliance.

J. L. Feeney, J. B. Espey, M. J. Kelly, International Brotherhood of Bookbinders.

C. M. Bennett, O. D. Pauley, American Society of Equity.

Timothy Healy, N. A. James, F. M. Nourse, International Brotherhood of Stationary Firemen.

Rezin Orr, W. D. Mahon, Amalgamated Street and Electric Railway Employees.

John A. Moffitt, Martin Lawlor, United Hatters of North America.

J. W. Kline, H. G. Poulesland, J. M. Cox, International Brotherhood of Blacksmiths and Helpers.

F. M. Ryan, Bridge and Structural Iron Workers' International Association.

William J. Barry, Pilots' Association.

W. W. Beattie, Wesley Russell, Percy Thomas, Commercial Telegraphers' International Union of America.

A. B. Lowe, J. E. Davenport, A. B. Wilson, International Brotherhood of Maintenance of Way Employees.

M. J. Shea, James J. Freel, International Stereotypers and Electrotypers' Union.

James L. Gernon, James Wilson, Pattern Makers' League of North America.

J. M. McElroy, Brush Makers' International Union.

T. A. Rickert, B. A. Larger, United Garment Workers of America.

M. Zuckerman, H. Hinder, United Cloth Hat and Cap Makers of North America.

H. B. Perham, A. T. McDaniel, W. J. Gregory, J. H. Williams, Order of Railroad Telegraphers.

James F. Speirs, Thomas C. Nolan, William Grant, Brotherhood of Boiler Makers and Iron Ship Builders.

F. J. Kelly, International Photo-Engravers' Union.

William D. Huber, James Kirby, George G. Griffin, Joseph Reilly, United Brotherhood of Carpenters and Joiners.

G. W. Perkins, Samuel Gompers, Thomas F. Tracy, I. B. Kuhn, Cigar Makers' International Union.

J. T. Carey, International Brotherhood of Paper Makers of North America.

John F. Breen, Hod Carriers and Building Laborers' International Union.

Max Morris, J. A. Anderson, Herman Robinson, D. F. Manning, Retail Clerks' International Protective Association.

John F. Tobin, John P. Murphy, Boot and Shoe Workers' Union.

William Silver, Granite Cutters' International Association.

J. C. Balhorn, Thomas McGilton, Brotherhood of Painters, Decorators, and Paper Hangers of America.

Charles C. Bradley, E. E. Desmond, American Wire Weavers' Protective Association.

John A. Dyche, International Ladies' Garment Workers' Union.

William J. Spencer, United Association Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers.

Joseph N. Weber, American Federation of Musicians.

T. L. Mahan, Ed. L. Schrack, International Plate Printers.

John Manning, Shirt Waist and Laundry Workers' International Union.

William H. Frazier, V. A. Olander, Frederick Benson, International Seamen's Union.

T. J. Duffy, Frank H. Hutchens, Ed. Menge, International Brotherhood of Operative Potters.

Frank L. Ronemus, Brotherhood of Railway Car Men of America.

Louis Kemper, A. J. Kugler, William Hellmuth, International Union of Brewery Workers of America.

T. C. Parsons, George G. Seibold, International Typographical Union.

D. A. Hayes, William Launer, James J. Dunn, F. H. Williams, Glass-Bottle Blowers' Association.

James F. McHugh, Journeymen Stone Cutters' Association.

Daniel J. Keefe, Thomas Gallagher, International Longshoremen's Association.

J. J. Flynn, P. J. Flannery, Interior Freight Handlers and Warehousemen's Union.

W. J. McSorley, R. V. Brandt, Wood, Wire, and Metal Lathers' International Union.

P. J. McArdle, John Williams, Amalgamated Association of Iron and Steel Workers.

Jacob Fischer, Frank K. Noschang, Journeymen Barbers' International Union.

John Golden, Albert Hibbert, United Textile Workers of America.

Daniel J. Tobin, International Brotherhood of Teamsters.

Matt Comerford, James J. McCracken, International Union of Steam Engineers.

F. A. Didsbury, Pocket-Knife Blade Grinders and Finishers' National Union.

Edward W. Potter, Homer D. Call, H. L. Eichelberger, A. L. Webb, Amalgamated Meat Cutters and Butcher Workers of North America.

Frank Gehring, Lithographers' International Protective and Beneficial Association.

J. F. Murphy, International Union of Elevator Constructors.

John H. Brinkman, Carriage and Wagon Workers' International Union.

P. F. Richardson, International Car Workers.

John Weber, Bakery and Confectionery Workers' International Union.

James H. Hatch, Upholsterers' International Union.

AMERICAN FEDERATION OF LABOR ENDEAVORS TO UNITE ALL CLASSES OF WAGE-WORKERS UNDER ONE HEAD THROUGH THEIR SEVERAL ORGANIZATIONS TO THE END—

1. That class, race, creed, political, and trade prejudices may be abolished.

2. That support, moral and financial, may be given to each other.

It is composed of international, national, State, central, and local unions, representing the great bulk of organized labor in the United States and Canada.

It gives to any organization joining its ranks recognition in the labor field in all its phases.

It secures in cases of boycotts, strikes, lockouts attentive hearing before all affiliated bodies, and it renders financial aid to the extent of its ability.

It is not a moneyed institution. It allows each organization to control its own funds; to establish and expend its own benefits without let or hindrance.

It aims to allow—in the light of experience—the utmost liberty to each organization in the conduct of its own affairs consistent with the generally understood principles of labor.

It establishes intercommunication, creates agitation, and is in direct and constant correspondence with a corps of representative organizers throughout the country.

It watches the interests of the workers in National Congress; it indorses and protests in the name of labor, and has secured vast relief from burdensome laws and Government officials.

It is in communication with reformers and sympathizers in almost all classes, giving information and enlisting their cooperation.

It assembles once a year all classes of wage-earners in convention to exchange ideas and methods, to cultivate mutual interest, to secure united action, to speak for labor, to announce to the world the burdens, aims, and hopes of the workers.

It asks—yea, demands—the cooperation of all wage-workers who believe in the principle of unity, and that there is something better in life than long hours, low wages, lack of employment, and all that these imply.

ITS EXISTENCE IS BASED UPON ECONOMIC LAW, TO WIT—

That no particular trade can long maintain wages above the common level.

That to maintain high wages all trades and callings must be organized.

That lack of organization among the unskilled vitally affects the organized skilled.

That general organization of skilled and unskilled can only be accomplished by united action. Therefore federation.

AGAIN—

That no one particular locality can long maintain high wages above that of others.

That to maintain high wages all localities must be organized.

That this can best be done by the maintenance of national and international unions.

That any local union which refuses to so affiliate is inconsistent, nonunion, and should be "let alone."

That each national or international union must be protected in its particular field against rivals and seceders. Therefore federation. That the history of the labor movement demonstrates the necessity of a union of individuals, and that logic implies a union of unions—federation.

It is now generally admitted by all really educated and honest men that a thorough organization of the entire working class, to render employment and the means of subsistence less precarious, by securing an equitable share of the fruits of their toil, is the most vital necessity of the present day.

To meet this urgent necessity, and to achieve this most desirable result, efforts have been made too numerous to specify and too divergent to admit of more than the most general classification. Suffice it to say that those attempts at organization which admitted to membership the largest proportion of others than wage-workers were those which went the most speedily to the limbo of movements that won't move; while, of the surviving experiments, those which started with the most elaborate and exhaustive platforms of abstract principles were those which got the soonest into fatal complications and soonest became exhausted.

In the face of so many disastrous failures to supply the undoubtedly existing popular demand for a practical means of solving the great problem, the question naturally suggests itself to many: "Which is the best form of organization for the people, the workers?"

We unhesitatingly answer: "The organization of the working people, by the working people, for the working people—that is, the trade unions."

The trade unions are the natural growth of natural laws, and from the very nature of their being have stood the test of time and experience. The development of the trade unions, regarded both from the standpoint of numerical expansion and that of practical working, has been marvelously rapid. The trade unions have demonstrated their ability to cope with every emergency—economical or political—as it arises.

It is true that single trade unions have been often beaten in pitched battles against superior forces of united capital, but such defeats are by no means disastrous. On the contrary, they are useful in calling the attention of the workers to the necessity of thorough organization, of the inevitable obligation of bringing the yet unorganized workers into the union, of uniting the hitherto disconnected local unions into national unions, and of effecting a yet higher unity by the affiliation of all national and international unions in one grand federation, in which each and all trade organizations would be as distinct as the billows, yet one as the sea.

In the work of the organization of labor, the most energetic, wisest, and devoted, when working individually, can not hope to be successful, but by combining efforts, all may. And the combined action of all the unions when exerted in favor of any one union will certainly be more efficacious than the action of any one union, no matter how powerful it may be, if exerted in favor of an unorganized or a partially organized mass.

We assert that it is the duty, as it is also the plain interest, of all working people to organize as such, meet in council, and take practical steps to effect the unity of the working class, as an indispensable preliminary to any successful attempt to eliminate the evils of which we, as a class, so bitterly and justly complain. That this much-desired unity has never been achieved is owing in a great measure to the non-recognition of the autonomy, or the right of self-government, of the several trades. The American Federation of Labor, however, avoids the fatal rock on which previous organizations, having similar aims, have split, by simply keeping in view this fundamental principle as a landmark, which none but the most infatuated would have ever lost sight of.

AMERICAN FEDERATION OF LABOR—A FEW OF ITS DECLARATIONS UPON WHICH IT APPEALS TO ALL WORKING PEOPLE TO ORGANIZE, UNITE, FEDERATE, AND CEMENT THE BONDS OF FRATERNITY.

The abolition of all forms of involuntary servitude, except as a punishment for crime.

Amending the Sherman antitrust law to rescure to the workers the lawful right to personal freedom and the right to unite to protect and promote their personal freedom.

Free schools, free text-books, and compulsory education.

Unrelenting protest against the issuance and abuse of injunction process in labor disputes.

A workday of not more than eight hours in the twenty-four hour day.

A strict recognition of not over eight hours per day on all Federal, State, or municipal work and at not less than the prevailing per diem wage rate of the class of employment in the vicinity where the work is performed.

Release from employment one day in seven.

The abolition of the contract system on public work.

The municipal ownership of public utilities.

The abolition of the sweat-shop system.

Sanitary inspection of factory, workshop, mine and home.

Liability of employers, for injury to body or loss of life.

The nationalization of telegraph and telephone.

The passage of anti-child labor laws in States where they do not exist and rigid defense of them where they have been enacted into law.

Woman suffrage coequal with man suffrage.

Suitable and plentiful playgrounds for children in all cities.

The initiative and referendum and the imperative mandate and right of recall.

Continued agitation for the public-bath system in all cities.

Qualifications in permits to build, of all cities and towns, that there shall be bathrooms and bathroom attachments in all houses or compartments used for habitation.

We favor a system of finance whereby money shall be issued exclusively by the Government, with such regulations and restrictions as will protect it from manipulation by the banking interests for their own private gain.

We favor a system of United States Government postal savings banks. The above is a partial statement of the demands which organized labor, in the interest of the workers—aye, of all the people of our country—makes upon modern society.

Higher wages, shorter workday, better labor conditions, better homes, better and safer workshops, factories, mills, and mines. In a word, a better, higher, and noble life.

Conscious of the justice, wisdom, and nobility of our cause, the American Federation of Labor appeals to all men and women of labor to join with us in the great movement for its achievement.

More than two million wage-earners who have reaped the advantages of organization and federation appeal to their brothers and sisters of

toll to unite with them and participate in the glorious movement with its attendant benefits.

There are affiliated to the American Federation of Labor 118 international trade unions with their 27,000 local unions, 36 State federations, 537 city central bodies, and 650 local trade and Federal labor unions having no internationals.

We have nearly 1,000 volunteer and special organizers, as well as the officers of the unions and of the American Federation of Labor itself, always willing and anxious to aid their fellow-workmen to organize and in every other way better their conditions.

For information all are invited to write to the American Federation of Labor headquarters at Washington, D. C.

Wage-workers of America, unite!

TRADE UNIONS.

Foster education and uproot ignorance.

Shorten hours and lengthen life.

Raise wages and lower usury.

Increase independence and decrease dependence.

Develop manhood and balk tyranny.

Establish fraternity and discourage selfishness.

Reduce prejudice and induce liberality.

Enlarge society and eliminate classes.

Create rights and abolish wrongs.

Lighten toil and brighten man.

Cheer the home and fireside and

MAKE THE WORLD BETTER.

All wageworkers should be union men. Their progress is limited only by them who hold aloof. Get together, agitate, educate, and do.

Don't wait until to-morrow; to-morrow never comes.

Don't wait for some one else to start; start it yourself.

Don't hearken to the indifferent; wake them up.

Don't think it impossible; 2,000,000 organized workers prove different.

Don't weaken; persistence wins.

Workers, citizens generally, do your duty in this crisis, in this struggle for human liberty. Vote for those candidates who stand, and will stand firmly for H. R. 20584 (Wilson bill), H. R. 94 (Pearre anti-injunction bill), eight-hour law extension to workmen employed by contractors or subcontractors doing work for the Federal Government, and the general employers' liability bill. Vote against and defeat those candidates who, by their past course or present attitude, are opposed to these measures and their essential features.

Nothing is more important in this campaign for all our people than the above measures, to secure for all time the freedom of the laborer.

In the liberty of the workers is involved the freedom of the people.

Hail to labor! Organize and stand together! (Wendell Phillips.)

WISACRE FINDINGS—CANDID THOUGHTS OF EXPERIENCED MEN ON THE TRADE UNIONS.

Thank God we have a system of labor where there can be a strike. Whatever the pressure, there is a point where the workingman may stop. (President Lincoln in a speech at Hartford, 1860, referring to the New England shoeworkers' great strike.)

Toilers, organize. Let us carry on the good work, and in a few more revolutions of the earth upon its axis we shall have a better world—a better mankind. Waiting will not accomplish it; deferring till another time will not secure it. Now is the time for the workers of America to come to the standard of their unions and to organize as thoroughly, completely, and compactly as is possible. Let each worker bear in mind the words of Longfellow:

"In the world's broad field of battle,
In the bivouac of life,
Be not like dumb, driven cattle!
Be a hero in the strife!"

"I look to the trade unions as the principal means for benefiting the condition of the working classes." (Thorold Rogers, Professor of Political Economy, University of Oxford.)

Organized labor is wielding an influence upon every public question never attained before. The world's thinkers are now beginning to appreciate the fact that the demands of labor mean more than appears on the surface. They see that the demand for work is not alone one for the preservation of life in the individual, but is a human, innate right; that the movement to reduce the hours of labor is not sought to shirk the duty to toil, but the humane means by which the workless workers may find the road to employment; and that the millions of hours of increased leisure to the overtasked workers signify millions of golden opportunities for lightening the burdens of the masses, to make the homes more cheerful, the hearts of the people lighter, their hopes and aspirations nobler and broader.

"Capital is the fruit of labor, and could not exist if labor had not first existed. Labor, therefore, deserves much the higher consideration." (Abraham Lincoln.)

Let us concentrate our efforts to organize all the forces of wage labor and, within the ranks, contest fairly and openly for the different views which may be entertained upon the different steps to be taken to move the grand army of labor onward and forward. In no organization on earth is there such toleration, so great a scope, and so free a forum as inside the ranks of the American Federation of Labor, and nowhere is there such a fair opportunity afforded for the advocacy of a new or brighter thought.

"I rejoice at every effort workingmen make to organize. * * * I hail the labor movement. It is my only hope for democracy. * * * Organize and stand together. Let the nation hear a united demand from the laboring voice." (Wendell Phillips.)

The trade unions are the reflects in organized, crystallized form of the best thought, activity, and hopes of the wage-workers. They represent the aggregate expression of discontent of labor with existing economic, social, and political misrule. The trade unions are exactly what the wage-workers are, and can be made exactly what they please to make them. Active or sluggish; keen or dull; narrow or broad gauged—just as the members are intellectual or otherwise. But, represent as they may either of these alternatives, the trades union is the best form of organization for the toilers to protect their present interests, as well as to work out their salvation from all wrong.

In politics we shall be as we always have been, independent. Independent of all parties, regardless under which name they may be known. The only interest we shall have in either is their real, not merely their avowed, attitude toward labor. We shall endeavor to aid in exposing the folly of being a union man three hundred and

sixty-four days in the year and failing to remember the union man's duty on election day. But we shall unqualifiedly oppose the attempt to impress the thought upon the workmen that so long as they "vote right" on one day in the year they may be remiss in their membership and all their other duties every other day in the year.

It is clear that the working people of the State (New York) have reaped innumerable benefits through the influence of the associations devoted to their interests. Wages have been increased, working time has been reduced, the membership rolls have been largely augmented, distressed members have received pecuniary relief, general conditions have been improved, and labor has been elevated to a high position in the social scale. (Commissioner Dowling in report from Bureau of Labor Statistics.)

To-day, in the midst of an appalling amount of enforced idleness and misery among the organized forces of labor in the industrial centers of the world, the first rumblings can be heard of the rallying cry, "eight hours for work, eight hours for rest, eight hours for what we will."

To-day we repeat what we have claimed in good and bad times, that the simplest condition by which the social order can be maintained is by a systematic regulation of the workday to insure to each and all an opportunity to labor.

"For ten years," said Potter Palmer, of Chicago, "I made as desperate a fight against organized labor as was ever made by mortal man. It cost me considerably more than a million dollars to learn that there is no labor so skilled, so intelligent, so faithful as that which is governed by an organization whose officials are well-balanced, level-headed men. * * * I now employ none but organized labor, and never have the least trouble, each believing that the one has no right to oppress the other."

Labor is capital. Labor has the same right to protect itself by trade unions, etc., as any other form of capital might claim for itself. (Cardinal Manning.)

That the American Federation of Labor most firmly and unequivocally favors the independent use of the ballot by the trade-unionists and workmen, united regardless of party, that we may elect men from our own ranks to make new laws and administer them along the lines laid down in the legislative demand of the American Federation of Labor, and at the same time secure an impartial judiciary that will not govern us by arbitrary injunctions of the courts, nor act as the plant tools of corporate wealth.

That as our efforts are centered against all forms of industrial slavery and economic wrong, we must also direct our utmost energies to remove all forms of political servitude and party slavery, to the end that the working people may act as a unit at the polls of every election. (Political action—Declaration convention American Federation of Labor.)

We reaffirm as one of the cardinal principles of the trade-union movement that the working people must unite and organize, irrespective of creed, color, sex, nationality, or politics. (Thorough unity—Declaration convention American Federation of Labor.)

It is eminently dangerous and destructive to the best interests of the individual wageworker to proceed as if there were no other wage-workers; and infinitely to his advantage to seek for and adopt measures by which he may move so as not to jar and perhaps overturn himself as well as others. * * * We declare that not only are organizations of workmen right and proper, but that they have the elements, if wisely administered, of positive advantage and benefit to the employer. (National Association of Builders.)

To speak of a union as "the union," meaning something apart from ourselves, is a misnomer. "Our union" is more to the point. It is as we make it, and it can not rise higher than its units. But yet we have fashioned it fairly well. Our union, like any other human agency, occasionally makes mistakes, but in comparison it will show advantageously with any institution of the kind, either benevolent, religious, or social. Its road has been a rocky one, but it has grown all the stronger and healthier for the knocks it has received. In its early days, derided by press and pulpit, persecuted by monopoly, laughed at by politicians and buffeted now by panicky gales or bayoneted again by militia, our union has marched serenely on, bringing down its tormentors, making supplicants of its enemies. In the past decade, thanks to the veterans who have gone on before, unwritten and unsung, our union has seen a mighty change. The columns of the press thrown open, searching, competing for its doings; academicians, science, art, espousing its cause, the church rapping at the door for admission; popular magazines, dramatists, novelists adopting its rôle, courting its favor. Our union to-day is a determining factor in all social functions, a main artery of the pulse of trade, of commerce, of society. It raises wages, prevents reductions, and checks strikes and lockouts from the mere fact that it is. It promotes fraternity, sociability; it fosters temperance and liberality. Above all, it is an educational force. Our union is out on sectionalism; it is the embodiment of democracy; it knows no creed, rank, nor title. It scoffs at the cheap snobbery of wealth and rejects its charity; for the self-styled "sets" and "upper tens" it has a healthy contempt, and upon the tinsel and brass of their striped defenders it bestows its scorn. Our union is of the people. We glory in its achievements, and we love its principles.

Organization, coordination, cooperation, are the right of every body of men whose aims are worthy and equitable; and must needs be the resource of those who, individually, are unable to persuade their fellow-men to recognize the justice of their claims and principles. If employed within lawful and peaceful limits, it may rightly hope to be a means of educating society in a spirit of fairness and practical brotherhood. (Bishop Potter.)

The trades union! That takes the individual, oftentimes careless of his obligations to his fellow-man, ignorant of the very causes of the evils under which he labors, and works within him a revolution; fans to life the good that lies dormant in his nature, that moral sense which all possess; that makes of him an enthusiast—a man—with new views, greater aspirations, and nobler desires; a loftier purpose, a grander conception of society and life; that shows things in a different light, and awakens him to the fact that no matter what his occupation, how low his station, he is entitled to an opportunity to earn an honest livelihood, and no man can justly call himself master, notwithstanding wealth, gifts of birth—a generated spirit of independence and self-reliance that is the trade-union's pride and honor and which is the hope and safeguard of all civilization. True patriotism, not that hybrid brand too often sung to-day by the very class that persecuted the patriots of old, who would make slaves of free-men here. The trade union is right, and it is this sense of right that has defied the decrees of kings and priests in the past and which, while suffering, defies the rulings of courts, judges, and blacklisting corporations to-day. It lives both because of and in spite of them, and it will continue to live when its enemies sleep. Justice is its

goal, and it seeks not a definition of that holy word in musty statutes and befogged legal opinions. It opens its eyes and sees the word written on the very face of things, so that he who runs may read, and it decorates the thought in becoming, simple attire, truth in terms, fair play in action, "Do unto others as you would be done by."

Trade unions are the bulwarks of modern democracies. (W. E. Gladstone.)

If the labor unions did nothing else than call attention to the misery that abounds, their existence would be justifiable; but they have done more. They have not only called attention to the effects; they have shown the causes. They have done more still; they have produced remedies, upon the merits and demerits of which professors, editors, and ministers now discuss and advocate. Labor unions have produced thinkers and educators from out their own ranks, and have drawn students and teachers from the wealthy and professional. And more yet; while doing this, they have bettered the condition of thousands of families by securing higher wages, shorter hours, and greater independence, individually and collectively. The result is something to be proud of. The carpenter, the printer, cigarmaker, clerk, shoemaker, tailor, working long hours on short rations, have stepped boldly to the front and worked revolution in American thought. It is a fact beyond cavil.

No wage-earner is doing his full duty if he fails to identify his own interests with those of his fellow-workmen. The obvious way to make common cause with them is to join a trade union, and thus secure a position from which to strengthen organized labor and influence it for the better. (Ernest Howard Crosby, president Social Reform Club, New York.)

Attacked and denounced as scarcely any other institution ever has been, the unions have thriven and grown in the face of opposition. This healthy vitality has been due to the fact that they were a genuine product of social needs—indispensable as a protest and a struggle against the abuses of industrial government, and inevitable as a consequence of that consciousness of strength inspired by the concentration of numbers under the new conditions of industry. They have been, as is now admitted by almost all candid minds, instruments of progress. Not to speak of the material advantages they have gained for workingmen, they have developed powerful sympathies among them and taught them the lesson of self-sacrifice in the interest of their brethren, and, still more, of their successors. They have infused a new spirit of independence and self-respect. They have brought some of the best men to the front and given them the ascendancy due to their personal qualities and desirable in the interests of society. (John J. Ingram, LL. D.)

A principle in the economy of our lives must be established, and that is a living wage, below which the wage-workers should not permit themselves to be driven. The living wage must be the first consideration either in the cost or sale of an article, the product of labor.

There are many "isms" advanced for the solution of the labor problem, the appellations of which, if not the substance, are familiar to all localities, excepting, perhaps, along the outskirts of civilization and within the countingrooms of some large and very influential newspapers. While the advocates of each are inspired by the same noble purpose—the abolition of poverty, its criminal sequences, and the substitution of liberty, happiness, prosperity, and health—yet there is no practical unanimity, no "get-togetherism," discernible from out the economic chaos. In fact, if the truth must be admitted, paradoxical as it may appear, each school looks upon the other as an enemy. While the end sought is the same, the means used and the basic principles are widely divergent.

One advocates the Karl Marxian idea—direction, control, an elaborate extension of State functions; another the Jeffersonian—less government, but yet government; while another, the followers of Proudhon and Josiah Warren, believes purely and simply in the sovereignty of the individual, unfettered by statutes or judicial coercion. And each has its subordinate coterie of unconscious supporters—of ownership of telegraph and railroads, municipalization, minor legislative measures, freedom of land, etc. The discussion, so far as adherents count, proportionately, is yet in its infancy, and the outcome, which evidently will be decided by the relative number, the ascendancy of one of these particular schools, is not as yet even dimly foreseen in the distance.

Now, none of us know it all! We live in an age of doubt, uncertainty, and inquiry, and while our great minds wrestle with the economic elephant, while this lack of harmony exists and we await the questionable outcome, is there any one practical means of mutual self-protection upon which the workers can unite?

This question is answered in the union label. It is not a cure-all. It was not discovered by any profound thinker of ancient or modern times—in fact, its author is unknown. But we do know it originated in the fertile brain of some live trade unionist. Some unselfish and thoughtful individual, who, perhaps, while you and I were sporting, was harassing his overworked brain to benefit his fellowman.

Here are some of its advantages: It rests on no long-spun theory; it is simple; it is practical, and it has no enemies.

It can be adopted by all vocations, the skilled and unskilled alike. The printer can use it on his printing. The cigar maker can use it on his box. The hatter underneath his hat band. The tailor on his vest strap. The shoemaker on his shoe. The barber in his window. The blacksmith on his horseshoe. The molder on his stoves and hollow ware. The cooper on his barrels. The baker on his loaves. The wagon maker on his carriages. The fisherman on his can. Each can demand the union product of all.

The product of the union mulespinner from the mammoth dry goods houses, linen and underwear from the haberdasher—all to be passed over the counter by union clerks with the union button in their coat lapels.

Demand it.

[Editorial from the American Federationist, January, 1908. By Samuel Gompers.]

SPEAKER CANNON—LEST WE FORGET.

So Hon. JOSEPH G. CANNON has been elected Speaker of the House of Representatives of the Sixtieth Congress; elected by the "unanimous" vote of his party associates, in spite of "Dictator Gompers," as his coterie of beneficiaries have declared. And therefore and thereby

jubilation reigns in the House of CANNON. Labor has been given a "slap in the face," for when we say labor, particularly in this instance, we refer not only to the great rank and file of the American Federation of Labor, but also to the membership of the brotherhoods of railway employees. These organizations issued an identical circular on the same date as the one issued by the executive council of our federation reciting the record of Hon. JOSEPH G. CANNON on legislation for a "square deal" for labor, and therefore the slap in the face is just as ceremoniously and flagrantly administered to them.

Of course, pains were taken to make it appear that the "rebuke" was administered to us personally, but no one will be deceived. All realize that we have never asked a personal favor or personal consideration for ourselves, either from Mr. CANNON, other public official, or private employer. The consideration we have asked and insisted upon has been for the relief or for justice to the men and women of labor; for the protection of the young and innocent children from greedy and inhuman exploitation. There is not anything in the gift of official, politician, or any institution, other than the labor movement, which, if offered, would be accepted by us personally or officially. Those concerned know this, yet despite this knowledge they endeavor to hoodwink the uninformed of the public that it is the thirst for personal power and not the interest of labor and the general public which prompted and prompts us to expose the subtle and contemptible hostility of Mr. CANNON (and other Cannons by different names) to any of the reasonable demands which labor makes upon the lawmaking bodies and upon modern society.

It may not be amiss to say that if the true feeling of a large number of the Members of the House was expressed (as it has been expressed frequently to us), the election of Hon. JOSEPH G. CANNON to the Speakership would fall far short of a "unanimous" vote of his party associates. But be this as it may, we deem it our duty to place before our readers part of Mr. CANNON's labor record on measures upon which he has delivered himself, and upon which he has bestowed his distinguished consideration. Here it is:

"SPEAKER CANNON'S LABOR RECORD."

"During the Fifty-sixth Congress a pretense was made to secure amendments to the Sherman antitrust law. The representatives of labor were apprehensive that the purpose of the amendment to that law would be to afford no relief to labor, and therefore suggested an amendment which it had drafted. Labor's amendment came before the House for a vote, and was adopted by a vote of 259 to 9. The conspicuous member of the nine voting against it was Mr. CANNON. (Daily CONGRESSIONAL RECORD, June 2, 1900, p. 6994.)

"Labor secured the passage of a law to save the lives and limbs of employees on railroads, commonly known as the 'safety-appliance law.' This law provided for uniform, automatic car couplers and power brakes on railroad trains. In the Fifty-seventh Congress the enemies of that humane law made strenuous efforts to fritter away its safeguards by authorizing a reduction of the number of air brakes to be used on trains. The parliamentary situation was such that the only way to prevent the passage of such a provision was to secure from the House the passage of a motion instructing its conferees with the Senate committee to recede from it. Such a motion was made and passed, but the Hon. JOSEPH G. CANNON voted against the interests of labor and humanity. (Daily CONGRESSIONAL RECORD, February 23, 1903, p. 2704.)

"All interests of an important character, other than labor, are represented in the government of our country by separate Departments, each with its chief executive officer, a Secretary, who is a member of the President's Cabinet. Labor has, therefore, for years sought the creation of a Department of Labor, with a Secretary who, in the President's Cabinet, could represent and speak in the name of the vast interests of labor.

"During the Fifty-seventh Congress a bill was introduced to create a new Department of Commerce and Industries and to absorb the Department of Labor. If we could not secure a separate Department of Labor, organized labor was opposed to the Department of Labor being made a subordinate bureau in the then proposed new Department, and we asked that the Department of Labor be left free and independent until such time as Congress might see the wisdom and necessity of making that Department executive in character, and that its chief officer should be a member of the President's Cabinet. When the bill was under consideration in the House a Member, one of labor's friends, moved to recommit the bill with instructions to report a bill to retain the Department of Labor as a separate and independent department, with a Cabinet officer at its head, but the Hon. JOSEPH G. CANNON voted against this proposition. (Daily CONGRESSIONAL RECORD, January 17, 1903, p. 958.)

"In the Fifty-eighth Congress Mr. CANNON was elected Speaker, and made up his committees (before which labor legislation would come) in such a manner as to practically make it impossible for such legislation to be reported or enacted.

"Prior to the Fifty-ninth Congress Mr. CANNON was communicated with and respectfully petitioned that in his appointment of the committees before which labor legislation should come he might so constitute these committees as that they would give labor legislation a fairer hearing, consideration, and action. These petitions he utterly ignored, and accentuated his hostile attitude by the appointment of Members, if possible, still more antagonistic.

"During the Fifty-ninth Congress the committee having in charge the employers' liability bill amended it so as to require the parents of the unmarried employee who was killed to prove their dependency upon him before they could recover damages for his death. Labor's objection to this unfair amendment was made known to Speaker CANNON, and an opportunity was asked to correct it when the bill was up for consideration in the House. Speaker CANNON declined to grant this request; aye, before he would agree to recognize the Member of the House having the bill in charge for the purpose of moving its passage, he exacted a promise from him that he would not offer an amendment to correct the defect referred to, and by reason of the critical parliamentary situation thus created by the Speaker we were compelled to permit the bill to go through the House with the objectionable provision retained.

"Labor and other reform forces have for years endeavored to secure the passage by Congress of a law restricting immigration. Immense numbers—more than a million and a quarter—now come to our country within a year. One of the effectual means to secure this was an educational test, and this was incorporated in the bill before the Fifty-ninth Congress, the United States Senate having adopted it in a bill which passed that body. It was clear that a majority of the Mem-

bers of the House of Representatives were in favor of this bill, including the educational test, but Speaker CANNON not only used the vast power and influence of his office to defeat it, but he left the exalted position of the Speaker, went upon the floor of the House, and by force pulled Members out of their seats, and by threats and intimidation made enough of them go between the official tellers of the House and vote against the proposition. As a result of his high-handed actions the educational test was defeated and stricken from the bill.

"In the Fifty-eighth Congress the majority of Speaker CANNON's Committee on Labor adopted a series of resolutions containing inquiries which were incapable of intelligent answers. This course was adopted to avoid a record vote against labor's eight-hour bill.

"In the Fifty-ninth Congress Speaker CANNON's Committee on Labor was practically forbidden to report labor's eight-hour bill. The committee sought to prolong the hearings to prevent a report on the bill. At one session a peculiar situation was created. There were seven members present, three of the majority party and four of the minority party, and by a vote of four to three the chairman of the committee was instructed to report the eight-hour bill to the House with a favorable recommendation that it pass. After the report was made to the House Speaker CANNON positively refused to recognize any Member of the House for the purpose of calling up the bill for consideration by the House; and thus, through Speaker CANNON's opposition and manipulation, the bill failed of passage.

"In the Fifty-seventh Congress the House of Representatives passed labor's bill to limit the issuance of injunctions and the prevention of their abuses. In the Fifty-eighth Congress Speaker CANNON's Judiciary Committee prolonged the hearings in order to prevent reporting the bill. In the Fifty-ninth Congress Speaker CANNON's Judiciary Committee had hearings upon the subject of the injunction abuse and appointed a subcommittee to investigate a phase of the proposition. The subcommittee in its report cited the very abuses of which labor complains in opposition to labor's contention. The committee printed the subcommittee's report as a House document and refused to print labor's reply exposing the fallacy of the subcommittee's report.

"During the Fifty-ninth Congress, Speaker CANNON used his influence to force through the House, without giving labor an opportunity to be heard, an act repealing the operation of the eight-hour law, so far as it applies to alien labor in the construction of the Panama Canal. It was stated in justification that this action applies only to alien laborers, but though this is true in so far as the act itself is concerned, yet the result has been that the men working on the Panama Canal construction, whether Americans or aliens, are working more than eight hours.

"Even so far back as in the Forty-sixth Congress, on April 21, 1879, a Member of the House offered a resolution to enforce the eight-hour law. On May 7, 1879, it was favorably reported to the House. Mr. CANNON opposed the resolution, and in reply to a question whether the proclamation of President Grant did not declare that there should be 'no reduction in the wages of workmen on account of a reduction in the hours of labor,' Mr. CANNON said: 'I do not now recollect, but it is not material. The fact is, the law as now executed is this: If they work ten hours they get ten hours' pay, and if they only work eight hours, they get only eight hours' pay. That is the manner in which the law is now being executed, and so far as I am concerned, it will go on in that way, proclamation or no proclamation.' And on Mr. CANNON's motion, the resolution to enforce the eight-hour law was laid on the table."

But Hon. JOSEPH G. CANNON was not to rest satisfied with his unenviable "unanimous" election; he must needs take advantage of the awful straits in which a number of men and women find themselves to deliver himself of his accumulated spleen, to take another drive at labor over the head of "Dictator Gompers."

A committee of plate printers of Washington called upon Speaker CANNON on December 7, 1907, and asked his support of a bill for a new building in which the 1,500 employees, men and women (white and colored), in the Bureau of Printing and Engraving might have the opportunity of performing their work with less likelihood of ill health and death resulting therefrom, as is the case in the building now occupied by them.

It must be remembered that when Hon. Leslie M. Shaw was Secretary of the Treasury he officially reported to Hon. JOSEPH G. CANNON, Speaker of the House of Representatives, that the Bureau of Printing and Engraving was the worst sweat shop existing in private or public employment in the country. The present Secretary of the Treasury, Hon. George B. Cortelyou, fully and officially repeated the indictment of this governmental sweat shop.

It was the occasion of the plate printers' appeal for a place to work where they would be relieved from the present health and life destroying atmosphere, that Hon. JOSEPH G. CANNON must needs deliver a lecture to them not to be dictated to by "that man Gompers," etc. Would it be interesting to Hon. JOSEPH G. CANNON to know that, recognizing the awful fetid atmosphere in which the men and women in the Bureau were working for the Government, that "that man Gompers;" that "Dictator Gompers" advised the committee to call on him (CANNON) and try an appeal to his better nature, that perhaps he might be moved to take some action by which so large a number of hard-working, deserving Government employees might be saved from having their health impaired and their lives destroyed.

Taking advantage of the straits in which the plate printers' representatives found themselves in their mission of mercy, Hon. JOSEPH G. CANNON must needs attempt to overawe and humiliate them by attacking one in whom they have confidence and for whom they entertain the highest respect. He could not, however, stifle their protest and their declaration of loyalty to the great cause and movement of organized labor. It might be additionally interesting to Hon. JOSEPH G. CANNON to know to what a degree his fulmination has "endeared" him to all the men of labor throughout the country, aye, even to the committee of plate printers whom he so outrageously treated.

It is the policy of the trickster politician to pretend that the chosen spokesman of labor has his own personal interests to advance, his own views to exploit, his own power to extend or intrench. It is impossible for the politician of the CANNON stripe to conceive that there are some, yes, a large and constantly growing number of men, who, true to a principle, true to a cause, true to their fellows, would scorn to stoop to a dishonest or dishonorable act, or any act but which would redound to the interest and progress of the workers. But how can one expect such a conception of a man's conduct from Hon. JOSEPH G. CANNON, whose arrogance and whose antagonism to labor and the best interests of the people is universal knowledge?

These facts are recorded, "Uncle Joe," lest we forget.

[Editorial from the American Federationist, February, 1908, by Samuel Gompers.]

SPEAKER CANNON—"LEST WE FORGET."

So "Uncle Joe" CANNON had his man Friday take up the cudgels in attempting a reply to our editorial criticism of his conduct contained in the January issue of the American Federationist. Perhaps Hon. JOSEPH G. CANNON imagines that we are unaware of the "frame-up" by his satellites by which the plate printers' committee's credulity was imposed upon and the "resolutions of thanks" tendered him.

Under the rules of the House, engineered by Speaker CANNON and his few Congressional beneficiaries, no measure can be brought before the consideration of the House that he does not, in advance, sanction and approve. And thus any measures of real relief for the wage-workers of our country or for that of the common people have been stifled in committees.

The Committees on Labor in the Fifty-eighth, Fifty-ninth, and now in the Sixtieth Congress have been appointed with the one specific purpose of preventing any bona fide measure of genuine relief from being reported to the House for consideration. The Judiciary Committee of the last three Congresses have been appointed with the same intent and purpose.

What about Mr. Speaker CANNON's punishment of Congressman PEARRE by refusing to reappoint that gentleman upon the House Judiciary Committee, a committee in which he rendered conspicuous and able service in the last two Congresses? The punishment was meted out by "Uncle Joe" because Mr. PEARRE had convictions of his own as to what constituted his duty to his fellow-citizens, and particularly to his constituents. He had the temerity to introduce and stand for labor's bill limiting the abuse of the injunction process and thus defend and safeguard individual liberty and equality before the law.

For a "genial" old gentleman "Uncle Joe" CANNON is the most vindictive man of power who ever undertook to politically kill a Congressman who has convictions and conceptions of his own in regard to right and justice which a politician of the CANNON stripe can not be expected to understand or tolerate.

LABOR'S POLITICAL CAMPAIGN—WORKERS AND FRIENDS AROUSED TO THE NECESSITY OF UNITED AND DETERMINED ACTION—TABULATION OF CONGRESSIONAL VOTE OF 1906 SHOWS WHAT REMARKABLE RESULTS WERE ACCOMPLISHED IN THAT FIRST AND ALMOST UNPREPARED EFFORT—SPLENDID PROSPECT OF LABOR'S SUCCESS IN 1908.

[By Samuel Gompers.]

The question of the most effective use of the political and industrial power of the workers during the coming Congressional campaign was the most important subject considered by the protest conference of the workers and their sympathizers held in Washington on March 18-19 to consider the situation in which they found themselves as a result of recent Supreme Court decisions and the apathy of Congress toward their interests.

One of the most important contributions to the deliberations of the conference was the presentation of the tabulated statistics of the vote cast for Congressional candidates in 1904 and 1906. These figures acquired additional importance from the fact that in 1906 labor, for the first time, made a strong effort to elect its friends to Congress and defeat its enemies.

That the dominant majority in Congress was cut from 112 to 56 by labor's efforts in the campaign of 1906 is a fact which has been sedulously ignored by the partisan press of the country, yet this, a most remarkable and encouraging result, grew out of a campaign entered upon very late by the workers, without adequate means to carry on the work in Congressional districts scattered throughout the country. The statistics of the Congressional vote cast in 1904 and 1906, with the comparison of relative pluralities, were carefully compiled by Mr. Thomas F. Tracy and Mr. Arthur E. Holder, the legislative committee of the American Federation of Labor. They were presented to the protest conference and are herewith published for information of all.

The results of the Congressional elections as shown in the tables are worthy of the careful study of the members and friends of labor. The figures are absolutely authentic and were obtained from the secretaries of state in the various States. The increases or decreases in pluralities demonstrate beyond doubt the practicability and influence of the American Federation of Labor plan of campaign, and should be an incentive to all ardent, active unionists and their friends to give renewed activity to this movement this year when so much is at stake.

In a perusal of the tables it will be noticed that a number of States are omitted, the most noticeable being the Southern States. The explanation is that it is almost invariably the rule in that section of the country to make nominations in the primaries, rather than by nominating conventions. The result of the primary vote is equivalent to an election, and it is impossible to get any information from the results of these primaries, as they are not made a matter of State record; therefore the results of Congressional elections in those States can not be ascertained in a form suitable for tabulation.

In presenting these tables, showing the enormous reductions in pluralities of some of the candidates who were not friendly to labor's interests, and the defeat of others, either for renomination or election, there is no desire to antagonize, but it is only fair to record this history for the encouragement of our members and friends in the future.

The efforts of the workers in 1906 to elect their friends and defeat their enemies yielded results that are rich in suggestion as to what may be accomplished in the future by a still more united effort.

The comparison of the increase and decreased pluralities is a most interesting study. It will be especially valuable to the voters in the respective districts, because they are able to judge for themselves what were the influences which decided the vote in 1906, and they alone can carry into full effect the determination of the people of the country to protect and defend the natural and inherent rights of the workers.

Everyone must realize that in a campaign of this kind funds are necessary to pay the legitimate expenses, such as hall rent, printing, and postage. When it is considered that our total income for carrying on this work in 1906 was only \$8,225.94, all of which was donated by local unions and friends, and in view of the fact that recently the press of the country has been exposing the enormous amounts of money that were raised from corporations or their representatives for corruption purposes, the American Federation of Labor, its members and friends, may well be proud of its achievements in the past and may hope for a far greater measure of success in the future.

The campaign as conducted was on clean, honest, nonpartisan lines in every particular, and was a credit to those who had it in charge. An itemized statement of every penny of income and expenditure has

been printed and given full publicity, something that has never been done before in the history of a political party or movement.

The same course will be pursued in the impending campaign.

We have every reason to believe that in view of the serious crisis which confronts the workers, there will be far greater political activity this year than ever before. Our campaign work will still be dependent upon voluntary contributions from friends and sympathizers, but we have no fear whatever of the result, for our cause is just and righteous.

While no distinct effort was made to form labor parties per se in 1906, the policy was followed of electing men who had paid-up union cards in their pockets where the opportunity presented itself. In many States this proved successful to a degree. When it was not possible to do this, candidates for office were questioned and their records noted, and where they expressed themselves favorable to labor's measures, regardless of party, they received the support of labor. The action of every Member of the Sixtieth Congress in regard to labor's measures and interests has been carefully noted, and this information will be available in every district for campaign purposes.

In addition to the efforts made in the Congressional campaign in 1906, the results accomplished in the various States in the elections of our friends to the State legislatures, as well as to municipal offices, should not be lost sight of. We will publish later some statistics on that point.

The policy advocated by the American Federation of Labor was effectively carried out by the State and central labor bodies—in many instances successfully in 1906—and they will be prepared this year to profit by that experience and accomplish still greater results.

The practicability of our political movement has demonstrated itself in the action of the Sixtieth Congress. Members of that body who, prior to the last election, imagined that labor measures were something with which to play the game of "battledore and shuttlecock," and who were either hostile or indifferent, have now realized that even where they were not defeated, yet by the enormous reductions in the pluralities, a stinging rebuke had been administered them, and their record will be made the basis for future action at the hands of the workers. Already can be seen the handwriting on the wall and without fear of contradiction it can be said that labor will guard its interests and make its political power felt to a greater degree in the next Congress than in former ones, and better results will be obtained.

One of the greatest difficulties that has to be overcome in the utilization of our political power is the adherence to party organization by a large number of workers who can give no logical reason for their action. Indeed, it is a fact that in innumerable instances a large number of our citizens for years have gone on blindly voting for either one of the two great parties, and could give no other reason for doing so except that their father or grandfather had voted that way and they continued in their practices. Times have changed since then and new circumstances demand a new use of the voting power.

It is against this sort of action that the American Federation of Labor has been carrying on an agitation for years, advising its members to discontinue this procedure. It has endeavored to inspire them to think and act politically for themselves, rather than have the party boss dictate for them. Our men of labor should realize that principle is far more important than party domination. The results, so far, of our independent action have surprised and in many instances created consternation among party machines and party dictators. At no time in the history of our movement was there so much independent voting as there was in the last campaign. The spirit is growing rapidly; there will be far better results this year.

Party machines and bosses can readily cope with organized rivals, always knowing their strength and their weakness, and can easily cause dissension among the latter to the confusion and ultimate disruption of the rival movement. Party leaders appreciate the potency of the independent voting power. It causes them much loss of sleep and trouble. They fear the growth of this spirit of independent voting more than anything else, as they realize that it means their ultimate destruction as dictators.

The policy of independent voting will be continued with a renewed vigor. It is already deeply impressed upon the minds of the workers that for them to be absolutely free from party domination and political slavery they should always and ever bear in mind that "they who would be free must first strike the blow."

The American workman is fast shaking off the coils of the party boss and dictator, and in the future will continue to assert himself a free man politically.

Yes, after all is said and done, the last campaign, from the viewpoint of the American Federation of Labor, was a success, and there is every reason to hope that the impending campaign will be a greater one. Labor will continue to exercise its political activity to protect its rights and defend them, not only for the present, but for the future.

Tabulation of Congressional vote 1904 and 1906.

CALIFORNIA.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
J. N. Gillett	Republican	1st	21,602	—	5,896	—	—
W. F. Englebright	do	1st	—	18,934	—	4,970	— 836
D. E. McKinlay	do	2d	22,973	23,411	1,233	3,149	+1,916
J. R. Knowland	do	3d	24,637	21,510	17,427	13,794	—3,633
Julius Kahn	do	4th	20,012	5,678	7,200	2,662	—4,538
E. A. Hayes	do	5th	23,701	22,590	5,676	4,605	—1,071
J. Needham	do	6th	18,828	18,928	5,754	6,060	—1,694
J. McLachlan	do	7th	31,091	22,328	20,832	11,141	—9,691
S. C. Smith	do	8th	22,683	22,548	10,822	8,556	—2,266

COLORADO.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
F. E. Brooks	Republican	At large	121,236	—	18,833	—	—
G. E. Cook	do	At large	—	102,426	—	25,597	+ 3,744
R. W. Bonyng	do	1st	55,940	47,439	5,918	16,521	+10,603
H. M. Hogg	do	2d	68,101	—	9,547	—	—
W. A. Haggott	do	2d	—	54,869	—	7,902	—1,645

+ Increase.

— Decrease.

Tabulation of Congressional vote 1904 and 1906—Continued.

CONNECTICUT.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
G. L. Lilley.....	Republican.	At large..	108,918	88,115	33,700	20,368	-13,338
E. S. Henry.....	do	1st.....	26,363	21,605	8,145	6,566	-1,579
N. D. Sperry.....	do	2d.....	36,832	29,058	12,163	5,301	-6,862
F. B. Brandegee..	do	3d.....	15,481	.....	5,823	.....	.....
E. N. Higgins.....	do	3d.....	.....	12,391	.....	3,558	-2,265
E. J. Hill.....	do	4th.....	31,822	26,484	11,062	7,515	-3,457

DELAWARE.

H. R. Burton.....	Republican.	At large..	23,512	20,210	2,900	3,092	+132
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INDIANA.

J. H. Foster.....	Republican.	1st.....	15,423	20,278	1,011	1,319	+ 308
J. C. Chaney.....	do	2d.....	25,143	22,259	1,473	410	-1,063
W. T. Zenor.....	Democrat	3d.....	22,708	.....	3,579	.....	.....
W. E. Cox.....	do	3d.....	.....	18,006	.....	455	-3,124
L. Dixon.....	do	4th.....	23,541	20,049	2,025	1,808	- 157
E. S. Holliday.....	Republican.	5th.....	28,192	22,532	5,081	953	-4,128
J. E. Watson.....	do	6th.....	29,089	22,315	7,043	1,506	-5,537
J. Overstreet.....	do	7th.....	34,128	28,020	10,794	4,786	-6,008
J. W. Cromer.....	do	8th.....	29,462	.....	7,365	.....	.....
J. A. M. Adair.....	Democrat	8th.....	.....	24,027	.....	4,244	.....
C. B. Landis.....	Republican.	9th.....	29,492	23,865	6,225	2,232	-3,963
E. D. Crumpacker..	do	10th.....	31,583	24,695	10,132	4,623	-5,509
Fred Landis.....	do	11th.....	29,591	.....	8,185	.....	.....
G. W. Rauch.....	Democrat	11th.....	.....	22,988	.....	3,155	.....
N. W. Gilbert.....	Republican.	12th.....	23,203	.....	1,881	.....	.....
C. C. Gilhams.....	do	12th.....	.....	19,695	.....	350	-1,531
A. L. Brick.....	do	13th.....	29,361	23,360	6,907	207	-6,700

ILLINOIS.

M. B. Madden.....	Republican.	1st.....	24,097	17,015	14,931	10,000	- 4,931
J. R. Mann.....	do	2d.....	29,010	20,660	18,789	12,095	-6,694
W. W. Wilson.....	do	3d.....	22,710	14,130	13,861	7,561	-6,301
C. S. Wharton.....	do	4th.....	18,841	.....	4,531	.....	.....
J. T. McDermott..	Democrat	4th.....	.....	9,977	.....	1,620	.....
A. Michalek.....	Republican.	5th.....	12,904	.....	885	.....	.....
A. J. Sabath.....	Democrat	5th.....	.....	9,945	.....	911	.....
W. Lorimer.....	Republican.	6th.....	21,824	18,153	9,507	7,419	-2,088
P. Knopf.....	do	7th.....	29,100	18,595	6,510	7,212	-9,398
C. McGavin.....	do	8th.....	20,107	11,421	6,882	85	-6,797
H. S. Boutell.....	do	9th.....	22,144	15,316	8,619	6,812	-1,807
G. E. Foss.....	do	10th.....	27,096	18,896	10,853	11,288	-5,565
H. M. Snapp.....	do	11th.....	31,019	18,569	21,695	9,465	-12,230
C. E. Fuller.....	do	12th.....	53,898	19,463	43,180	17,500	-25,680
R. R. Hitt.....	do	13th.....	26,454	.....	16,405	.....	.....
F. O. Lowden.....	do	13th.....	.....	16,500	.....	1,843	-14,562
J. McKinney.....	do	14th.....	12,356	18,583	5,040	5,605	+ 565
G. W. Prince.....	do	15th.....	29,792	19,975	14,633	5,784	-8,849
J. V. Graff.....	do	16th.....	25,806	16,983	12,026	6,107	-5,919
J. A. Sterling.....	do	17th.....	23,414	16,804	10,436	5,427	-5,009
J. G. Cannon.....	do	18th.....	30,920	22,804	15,752	10,027	-5,725
W. B. McKinley.....	do	19th.....	30,574	23,662	10,643	4,415	-6,228
H. T. Rainey.....	Democrat	20th.....	19,981	19,578	1,642	4,933	+ 3,291
Z. J. Rives.....	Republican.	21st.....	21,330	.....	98	.....	.....
B. F. Caldwell.....	Democrat	21st.....	.....	22,429	.....	5,133	.....
W. A. Rodenberg..	Republican.	22d.....	25,770	23,138	6,276	7,767	+ 1,491
F. S. Dickson.....	do	23d.....	21,931	.....	808	.....	.....
M. D. Foster.....	Democrat	23d.....	.....	21,680	.....	1,319	.....
P. T. Chapman.....	Republican.	24th.....	20,556	18,020	1,892	1,779	- 113
G. W. Smith.....	do	25th.....	22,527	17,835	7,859	3,595	-4,264

IOWA.

T. Hedge.....	Republican.	1st.....	19,929	.....	5,033	.....	.....
C. A. Kennedy.....	do	1st.....	.....	16,145	.....	270	-4,763
A. F. Dawson.....	do	2d.....	22,116	20,112	133	1,592	+1,406
B. P. Birdsall.....	do	3d.....	29,293	22,315	15,093	7,292	-7,891
G. N. Haugen.....	do	4th.....	26,390	20,731	12,996	7,992	-5,094
R. G. Cousins.....	do	5th.....	25,513	19,076	10,294	4,464	-5,820
J. F. Lacey.....	do	6th.....	23,213	.....	9,373	.....	.....
D. W. Hamilton.....	Democrat	6th.....	.....	18,987	.....	2,274	.....

+ Increase. —Decrease.

* Cromer (Republican), elected in 1904 with 7,365 plurality, was defeated in 1906 by Adair (Democrat) by a plurality of 4,244.

* Landis (F.) (Republican), elected in 1904 with 8,185 plurality, was defeated in 1906 by Rauch (Democrat) by a plurality of 3,155.

* Wharton (Republican), elected in 1904 with a plurality of 4,531, was defeated by McDermott (Democrat), and a member of the Commercial Telegraphers' Union, in 1906, by a plurality of 1,620.

* Michalek (Republican), elected in 1904 with a plurality of 885, was defeated by Sabath (Democrat), in 1906, by a plurality of 911.

* Rives (Republican), elected in 1904 with a plurality of 98, was defeated in 1906 by Caldwell (Democrat), pledged to labor's interest, by a plurality of 5,133.

* Dickson (Republican), elected in 1904 with a plurality of 808, was defeated by Foster (Democrat), in 1906 by a plurality of 1,319.

* Lacey (Republican), elected in 1904 with a plurality of 9,373, was defeated in 1906 by Hamilton (Democrat), pledged to labor's interest, by a plurality of 2,274.

Tabulation of Congressional vote 1904 and 1906—Continued.

IOWA—continued.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
J. A. T. Hull.....	Republican.	7th.....	27,637	19,617	15,501	8,153	-7,438
W. P. Hepburn.....	do	8th.....	23,003	19,516	11,485	3,442	-8,043
W. I. Smith.....	do	9th.....	27,214	21,833	13,307	8,613	-4,694
J. P. Conner.....	do	10th.....	34,977	26,017	20,446	10,700	-9,746
E. H. Hubbard.....	do	11th.....	32,562	20,238	19,040	5,343	-13,607

IDAHO.

B. L. French.....	Republican.	At large..	44,813	42,134	24,667	18,316	-6,351
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KANSAS.

C. F. Scott.....	Republican.	At large..	187,983	82,504	(e)
O. Curtis.....	do	1st.....	25,376	22,790	7,588	6,754	-814
J. D. Bowersock..	do	2d.....	26,443	.....	6,135	.....	.....
C. F. Scott.....	do	2d.....	.....	23,515	.....	3,863	-2,272
P. P. Campbell.....	do	3d.....	29,998	25,689	14,323	5,862	-8,464
J. M. Miller.....	do	4th.....	24,182	17,393	9,853	3,080	-6,776
W. A. Calderhead..	do	5th.....	22,076	18,183	10,251	3,622	-6,629
W. A. Reeder.....	do	6th.....	21,808	21,212	8,534	4,096	-4,438
V. Murdock.....	do	7th.....	35,498	.....	15,930	.....	.....
E. H. Madison.....	do	7th.....	.....	21,580	.....	5,967	-9,993
V. Murdock.....	do	8th.....	.....	14,832	.....	4,435	(b)

MAINE.

A. L. Allen.....	Republican.	1st.....	18,301	16,903	4,989	1,649	-3,340
C. E. Littlefield..	do	2d.....	19,206	18,708	5,449	1,362	-4,057
E. O. Burleigh.....	do	3d.....	18,541	16,727	6,863	1,881	-4,982
L. Powers.....	do	4th.....	20,501	17,279	8,901	3,574	-5,327

MARYLAND.

T. A. Smith.....	Democrat	1st.....	17,582	.....	410	.....	(e)
W. H. Jackson.....	Republican.	1st.....	.....	18,567	.....	2,243	.....
J. F. C. Talbott.....	Democrat	2d.....	18,922	17,870	2,188	1,252	-936
F. O. Wachter.....	Republican.	3d.....	17,405	.....	2,032	.....	(d)
H. B. Wolf.....	Democrat	3d.....	.....	15,725	.....	884	.....
J. Gill, jr.....	do	4th.....	18,464	18,010	1,710	1,704	- 6
S. E. Mudd.....	Republican.	5th.....	16,896	16,798	3,134	3,393	+259
G. A. Pearre.....	do	6th.....	19,131	16,136	3,954	4,904	+950

MASSACHUSETTS.

G. F. Lawrence.....	Republican.	1st.....	17,217	15,622	6,100	6,004	- 96
F. H. Gillett.....	do	2d.....	17,611	15,783	9,619	7,461	-2,158
R. Hoar.....	do	3d.....	17,796	.....	7,179	.....	.....
C. G. Washburn.....	do	3d.....	.....	15,686	.....	5,271	-1,908
C. Q. Tirrell.....	do	4th.....	18,982	20,759	9,494	15,249	+ 5,755
B. Ames.....	do	5th.....	16,287	15,778	3,630	2,807	- 733
A. P. Gardner.....	do	6th.....	18,157	19,300	9,277	4,235	-5,042
E. W. Roberts.....	do	7th.....	20,821	21,752	10,655	11,936	+ 1,281
S. W. McCall.....	do	8th.....	21,611	17,592	18,883	6,202	-12,686
J. A. Keiher.....	do	9th.....	17,003	15,997	10,108	9,241	- 837
W. S. McNary.....	do	10th.....	19,211	.....	6,471	.....	.....
J. P. O'Connell.....	do	10th.....	.....	18,979	.....	4,358	-2,113
J. A. Sullivan.....	do	11th.....	18,045	.....	2,055	.....	.....
A. J. Peters.....	do	11th.....	.....	18,009	.....	3,429	+ 1,374
J. W. Weeks.....	do	12th.....	19,312	18,948	8,490	8,337	- 142
W. S. Greene.....	do	13th.....	19,631	14,236	11,567	7,633	-3,934
W. C. Lovering.....	do	14th.....	18,415	18,002	11,315	11,185	- 130

MISSOURI.

J. T. Lloyd.....	Democrat	1st.....	20,216	19,796	1,085	3,141	+ 2,056
W. W. Rucker.....	do	2d.....	21,639	20,676	3,043	19,089	+16,046
F. B. Klepper.....	Republican.	3d.....	19,068	.....	297	.....	.....
J. W. Alexander.....	Democrat	3d.....	.....	18,609	.....	2,053	(e)
F. B. Fulkerson.....	Republican.	4th.....	19,831	.....	1,300	.....	(f)
C. F. Booher.....	Democrat	4th.....	.....	18,604	.....	1,146	.....
E. O. Ellis.....	Republican.	5th.....	23,873	21,496	961	1,786	+ 825
D. A. De Armond..	Democrat	6th.....	17,678	17,574	1,041	1,995	+ 954
J. Welborn.....	Republican.	7th.....	23,682	.....	1,478	.....	(g)
C. W. Hamlin.....	Democrat	7th.....	.....	22,248	.....	1,751	.....
D. W. Shackelford..	do	8th.....	16,059	16,245	968	2,039	+ 1,091
Champ Clark.....	do	9th.....	21,508	21,364	1,571	3,292	+ 1,821
R. Bartholdt.....	Republican.	10th.....	34,254	31,639	12,983	15,308	+ 2,320

+ Increase. —Decrease.

* Since the year 1904 Kansas has been redistricted and a new district, No. 8, formed, therefore no candidate was named in 1906 for Congressman at large.

* New district in 1906.

* Smith (Democrat), elected in 1904, plurality 410; defeated by Jackson (Republican) in 1906 with a plurality of 2,243.

* Wachter (Republican), not a candidate for reelection. Wolf (Democrat), pledged to labor's interest, elected in 1906 by 884 plurality.

* Klepper (Rep.) elected in 1904; plurality, 297. Alexander (Dem.) defeated him in 1906 by plurality of 2,053.

* Fulkerson (Rep.) elected in 1904; plurality, 1,300. Defeated by Booher (Dem.) in 1906 by plurality of 1,146.

* Welborn (Rep.) elected in 1904; plurality, 1,478. Hamlin (Dem.) defeated him in 1906; plurality, 1,751.

Tabulation of Congressional vote 1904 and 1906—Continued.

MISSOURI—continued.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
J. T. Hunt.	Democrat	11th.	17,018		602		(*)
H. S. Caulfield.	Republican	11th.		13,171		38	
E. E. Wood.	Democrat	12th.	15,134		957		(*)
H. M. Coudrey.	Republican	13th.		11,281		530	
M. E. Rhodes.	do	13th.	16,166		378		(*)
M. R. Smith.	Democrat	13th.		16,056		428	
W. T. Tyndall.	Republican	14th.	23,401		2,528		(*)
J. J. Russell.	Democrat	14th.		24,288		1,489	
C. M. Shartell.	Republican	15th.	21,654		2,008		(*)
T. Hackney.	Democrat	15th.		20,667		275	
A. P. Murphy.	Republican	16th.	15,159		36		(*)
R. Lamar.	Democrat	16th.		15,306		427	

MICHIGAN.

E. Denby.	Republican	1st.	28,874	23,741	8,304	6,706	-1,598*
C. E. Townsend.	do	2d.	28,797	28,397	9,923	22,473	(*)
W. Gardner.	do	3d.	28,089	16,821	14,554	6,433	-8,121
E. L. Hamilton.	do	4th.	28,066	18,553	12,922	6,992	-6,030
W. A. Smith.	do	5th.	30,169	18,457	17,916	16,185	(*)
S. W. Smith.	do	6th.	31,403	24,001	13,179	9,641	-3,538
M. McMorran.	do	7th.	25,562	17,100	12,943	6,072	-6,871
J. W. Fordney.	do	8th.	24,417	16,849	12,624	16,029	(*)
B. P. Bishop.	do	9th.	22,463		15,387		(*)
J. C. McLaughlin.	do	9th.		14,374		9,086	-6,301
G. A. Loud.	do	10th.	27,187	18,958	16,707	18,431	(*)
A. B. Darragh.	do	11th.	31,661	18,110	21,022	10,593	-10,429
H. O. Young.	do	12th.	30,695	22,271	23,750	15,966	-12,794

MINNESOTA.

J. A. Tawney.	Republican	1st.	22,188	17,352	8,418	3,676	-4,742
J. T. McCleary.	do	2d.	19,246		9,059		(*)
W. S. Hammond.	Democrat	2d.		13,596		60	
C. R. Davis.	Republican	3d.	30,116	19,461	9,732	(*)	
F. C. Stevens.	do	4th.	25,631	19,300	23,631	10,121	-15,510
L. Fletcher.	do	5th.	21,933		6,010		(*)
F. M. Nye.	do	5th.		23,742		7,294	+1,284
O. R. Buckman.	do	6th.	19,309		2,879		(*)
O. A. Lindbergh.	do	6th.		16,752		3,637	+758
A. J. Volstead.	do	7th.	27,000	21,491	26,719	(*)	
J. A. Bede.	do	8th.	22,095	18,640	5,469	12,615	+7,146
H. Steenerson.	do	9th.	27,061	22,145	3,534	16,655	+13,121

MONTANA.

J. M. Dixon.	Republican	At large.	32,957		6,266		
O. N. Pray.	do	do		28,368		5,474	-792

NEW HAMPSHIRE.

O. Sullivan.	Republican	1st.	25,364	22,701	8,498	7,100	-1,398
F. D. Currier.	do	2d.	26,478	23,073	10,286	7,404	-2,882

NEBRASKA.

E. M. Pollard.	Republican	1st.	8,322	14,771	2,580	2,901	+312
J. L. Kennedy.	do	2d.	14,417		789		(*)
G. M. Hitchcock.	Democrat	2d.		11,644		518	
J. J. McCarthy.	Republican	3d.	24,151		2,941		(*)
J. F. Boyd.	do	3d.		18,837		291	-2,650
E. H. Hinshaw.	do	4th.	23,407	19,032	7,705	8,281	-4,424
G. W. Norris.	do	5th.	19,645	16,450	5,814	2,419	-3,395
M. P. Kinkaid.	do	6th.	22,580	18,677	8,755	5,520	-3,235

+ Increase. — Decrease.

* Hunt (Dem.) and member of Stonecutters' Union, not a candidate. Neville (Dem.) defeated by Caulfield (Rep.) by a plurality of 38.

* Wood (Dem.) elected in 1904; plurality, 957. Coudrey (Rep.) defeated him in 1906; plurality, 530.

* Rhodes (Rep.) elected in 1904; plurality, 378. Smith (Dem.) defeated him in 1906; plurality, 428.

* Tyndall (Rep.) elected in 1904; plurality, 2,528. Russell (Dem.) defeated him in 1906; plurality, 1,489.

* Shartell (Rep.) elected in 1904; plurality, 2,008. Defeated by Hackney (Dem.) in 1906; plurality, 275.

* Murphy (Rep.) elected in 1904; plurality, 36. Defeated by Lamar (Dem.) in 1906; plurality, 427.

* Practically no opposition in 1906.

* McCleary (Rep.) elected in 1904; plurality, 9,059. Hammond (Dem.) defeated him in 1906, with a plurality of 60.

* No opposition in 1906.

* Kennedy (Rep.) elected in 1904; plurality, 789; defeated by Hitchcock (Dem.) in 1906; plurality, 518.

Tabulation of Congressional vote 1904 and 1906—Continued.

NEW YORK.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
W. W. Cocks.	Republican	1st.	25,481	22,569	6,810	8,151	+1,332
G. H. Lindsay.	Democrat	2d.	18,562	11,420	5,698	3,829	-1,864
C. T. Dunwell.	Republican	3d.	21,208	16,546	3,637	5,839	+2,202
G. B. Law.	do	4th.	19,418	17,079	1,734	4,935	+3,201
G. E. Waldo.	do	5th.	21,299	19,882	2,410	7,837	+5,427
W. M. Calder.	do	6th.	22,109	21,185	2,670	4,063	+2,414
J. J. Fitzgerald.	Democrat	7th.	23,463	15,055	10,181	6,622	+4,559
T. D. Sullivan.	do	8th.	17,240		9,594		(*)
D. J. Egan.	do	8th.		21,340		10,708	+1,114
H. M. Goldfogle.	do	9th.	5,982	7,276	215	3,600	+2,475
W. Sulzer.	do	10th.	13,381	15,962	3,968	11,119	+7,121
W. R. Hearst.	do	11th.	26,255		9,601		(*)
O. V. Fornes.	do	11th.		26,511		15,871	+6,210
W. B. Cockran.	do	12th.	20,792	20,481	10,292	13,071	+2,779
H. Parsons.	Republican	13th.	18,700	16,381	2,662	6,500	+3,838
C. A. Towne.	Democrat	14th.	21,027		8,963		(*)
W. Willett, jr.	do	14th.		17,666		7,659	+1,304
J. V. Olcott.	Republican	15th.	16,925	16,210	1,726	3,037	+1,361
J. Ruppert, jr.	Democrat	16th.	15,049		3,837		(*)
P. B. Harrison.	do	16th.		16,954		9,892	+6,035
W. S. Bennet.	Republican	17th.	25,655	27,151	2,623	3,867	+1,241
J. A. Goulden.	Democrat	18th.	32,266	28,339	11,660	10,396	-1,264
J. E. Andrus.	Republican	19th.	24,199	23,356	5,129	4,138	-981
T. W. Bradley.	do	20th.	23,224	21,191	6,662	5,080	-1,582
J. H. Ketcham.	do	21st.	24,721		24,000	(*)	
S. McMillan.	do	21st.		20,717		972	-23,018
W. H. Draper.	do	22d.	25,755	22,344	9,494	5,156	-4,338
G. N. Southwick.	do	23d.	33,763	29,099	8,145	1,755	-6,390
F. J. LeFevre.	do	24th.	30,980		25,000	(*)	
G. W. Fairchild.	do	24th.		24,474		1,259	-23,741
L. N. Littauer.	do	25th.	33,564		13,073		(*)
C. Durey.	do	25th.		25,041		6,656	-6,417
W. H. Flack.	do	26th.	33,564		18,763		(*)
G. R. Malby.	do	26th.		26,209		15,278	-3,486
J. S. Sherman.	do	27th.	26,657	24,027	5,765	4,270	-1,495
C. L. Knapp.	do	28th.	27,357	23,451	11,540	10,878	-671
M. E. Driscoll.	do	29th.	33,738	30,350	15,414	12,965	-2,449
J. W. Dwight.	do	30th.	32,272	27,009	13,429	10,800	-2,626
S. E. Payne.	do	31st.	29,760	25,475	12,181	11,325	-859
J. B. Perkins.	do	32d.	30,091	25,243	12,709	8,850	-3,859
J. S. Fasset.	do	33d.	36,276	21,235	8,231	6,352	-1,889
J. W. Wadsworth.	do	34th.	32,364		13,035		(*)
P. A. Porter.	Democrat	34th.		25,837		5,002	(*)
W. H. Ryan.	do	35th.	20,840	22,140	897	5,646	+4,749
D. S. Alexander.	Republican	36th.	29,958	24,457	12,389	8,248	-4,141
E. B. Vreeland.	do	37th.	33,573	25,468	20,344	13,906	-6,436

NEW JERSEY.

H. C. Loudenslager.	Republican	1st.	26,169	20,674	10,804	11,396	+562
J. J. Gardner.	do	2d.	26,296	19,637	13,261	10,716	-2,545
B. F. Howell.	do	3d.	24,565	20,472	6,708	3,834	-2,899
I. W. Wood.	do	4th.	32,580	17,497	5,671	3,508	-2,163
C. N. Fowler.	do	5th.	24,488	19,760	5,234	552	-4,682
H. C. Allen.	do	6th.	26,612		510		(*)
W. J. Hughes.	Democrat	6th.		25,438		2,103	(*)
R. W. Parker.	Republican	7th.	25,578	16,493	11,231	610	-10,721
W. H. Wiley.	do	8th.	24,148		12,507		(*)
L. G. Pratt.	Democrat	8th.		18,334		5,874	(*)
M. Van Winkle.	Republican	9th.	19,824		2,425		(*)
E. W. Leake.	Democrat	9th.		18,367		5,739	(*)
A. L. McDermott.	do	10th.	21,293		5,334		(*)
J. A. Hamill.	do	10th.		22,882		13,577	+8,243

OHIO.

N. Longworth.	Republican	1st.	32,105	25,161	10,474	7,157	-3,317
H. P. Goebel.	do	2d.	31,873	23,219	17,658	1,961	-15,697
R. M. Nevin.	do	3d.	31,613		6,022		(*)
J. E. Harding.	do	3d.		24,567		1,730	-4,292
H. C. Garber.	Democrat	4th.	20,663		1,795		(*)
W. E. Tou Velle.	do	4th.		17,468		4,648	+2,833
W. W. Campbell.	Republican	5th.	19,727		344		(*)
T. T. Ansberry.	Democrat	5th.		17,256		1,015	(*)
T. E. Scroggy.	Republican	6th.	21,625		2,377		(*)
M. R. Denver.	Democrat	6th.		17,471		1,180	(*)
J. W. Keifer.	Republican	7th.	25,245	15,975	9,279	3,588	-5,691
R. D. Cole.	do	8th.	27,523	21,524	11,266	5,128	-6,138

+ Increase. — Decrease.

* No opposition in 1904.

* Wadsworth (Rep.) elected in 1904; plurality, 13,036; defeated by Porter (Dem.) in 1906; plurality, 5,902.

* Allen (Republican) elected in 1904; plurality, 510; defeated by Hughes (Democrat), formerly a textile worker and pledged to labor's interest, by a plurality of 2,103.

* Wiley (Republican) elected in 1904; plurality, 12,507; defeated for renomination in Republican Congressional convention by Gottlob, a member of the International Typographical Union. Gottlob, Republican nominee in 1906, defeated by Pratt (Democrat) by a plurality of 5,874.

It is claimed that disgruntled friends of Wiley voted for the Democrat in opposition to Gottlob because of his well-known trade-union activity.

* Van Winkle (Republican) elected in 1904; plurality, 2,425; defeated by Leake (Democrat) in 1906; plurality, 5,739.

* Campbell (Republican) elected in 1904; plurality, 344; defeated by Ansberry (Democrat) in 1906; plurality, 1,015.

* Scroggy (Republican) elected in 1904; plurality, 2,377; not a candidate for reelection. Hildebrandt (Republican) defeated by Denver (Democrat) in 1906; plurality, 1,180.

Tabulation of Congressional vote 1904 and 1906—Continued.

OHIO—continued.

Names.	Party.	District.	Elections—total vote.		Pluralities.		Result in pluralities.
			1904.	1906.	1904.	1906.	
J. H. Southard.....	Republican.	9th.....	35,128	18,411	18,640	41	(*)
I. R. Sherwood.....	Democrat.	9th.....	18,411	17,949	11,781	3,298	- 8,488
H. Bannon.....	Republican.	10th.....	25,097	29,415	9,914	1,333	- 8,581
C. H. Grosvenor.....	do	11th.....	21,247	25,178	19,629	7,379	- 1,101
H. Douglas.....	do	12th.....	25,054	20,736	1,050	273	- 777
E. L. Taylor, jr.....	do	13th.....	19,305	20,962	9,982	2,519	- 7,462
A. R. Webber.....	do	14th.....	20,763	18,364	562	1,419	+ 837
J. F. Laning.....	do	15th.....	23,365	14,712	9,589	3,365	- 6,224
B. G. Dawes.....	do	16th.....	23,847	19,982	2,276	485	(*)
C. L. Weems.....	do	17th.....	26,689	19,681	9,897	1,844	- 8,053
M. L. Smyser.....	Democrat.	18th.....	35,676	20,341	23,732	9,415	- 14,317
W. A. Ashbrook.....	Republican.	19th.....	29,475	12,369			
J. Kennedy.....	do	20th.....	19,459	2,475			- 9,806
W. A. Thomas.....	do	21st.....	33,390	20,836	27,000	19,450	- 7,550

OREGON.

Names.	Party.	District.	1904.	1906.	Pluralities.	Result in pluralities.
B. Hermann.....	Republican.	1st.....	23,970	23,120	6,811	- 3,880
W. C. Hawley.....	do	1st.....	27,128	14,353	16,164	+ 1,811
J. N. Williamson.....	do	2d.....				
W. B. Ellis.....	do	2d.....				

PENNSYLVANIA.

Names.	Party.	District.	1904.	1906.	Pluralities.	Result in pluralities.
H. H. Bingham.....	Republican.	1st.....	42,228	19,605	34,605	13,283
R. Adams.....	do	2d.....	41,724	34,624		- 20,322
G. E. Reyburn.....	do	2d.....	28,140	20,337	31,884	- 10,746
J. H. Moore.....	do	3d.....	25,610	20,289	20,360	9,107
R. O. Moon.....	do	4th.....	28,140	21,622	22,296	+ 1,936
E. D. V. Morrell.....	do	5th.....	29,390	25,538	25,538	+ 3,771
W. W. Foulkrod.....	do	6th.....	34,984	38,280	26,275	+ 5,609
G. D. McCreary.....	do	7th.....	26,145	19,653	19,675	- 8,248
T. S. Butler.....	do	8th.....	26,099	22,416	10,232	- 6,067
I. P. Wanger.....	do	9th.....	17,685	18,903	6,159	+ 9,896
H. B. Cassel.....	do	10th.....	15,003	2,320		+ 3,717
T. H. Dale.....	Democrat.	10th.....	18,937	9,100	6,241	(*)
T. D. Nicholls.....	Republican.	11th.....	23,324	16,176	9,100	(*)
H. W. Palmer.....	Democrat.	11th.....	16,176	15,652	6,549	(*)
J. T. Lenahan.....	Republican.	12th.....	25,711	21,885	5,897	(*)
C. N. Brumm.....	Democrat.	13th.....	15,568	12,091	803	(*)
N. C. L. Cline.....	Republican.	14th.....	19,807	14,582	7,846	(*)
J. H. Rothermel.....	Democrat.	15th.....	14,969	14,707	1,778	(*)
M. A. Lilley.....	Republican.	16th.....	22,890	17,130	9,523	(*)
G. W. Kipp.....	Democrat.	17th.....	26,996	22,447	15,303	3,094
E. Deemer.....	do	18th.....	23,164	17,521	4,068	7,990
W. B. Wilson.....	do	19th.....	19,088	15,653	4,306	7,872
E. W. Samuel.....	do	20th.....	18,281	8,722		449
J. G. McHenry.....	do	21st.....	13,701	11,723	4,638	- 4,084
T. M. Mahon.....	do	22d.....	21,547	15,924	7,609	6,277
B. K. Foelt.....	do	23d.....	18,206	15,008	7,609	4,690
M. E. Olmsted.....	do	24th.....	23,131	15,490	14,891	2,910
J. M. Reynolds.....	do	25th.....	17,271	13,562	9,189	1,827
D. P. Lefean.....	do	26th.....	14,703	14,941	1,808	5,453
S. R. Dresser.....	do	27th.....	18,697	14,646	11,344	5,445
C. F. Barclay.....	do	28th.....	19,861	16,550	9,210	5,899
G. F. Huff.....	do	29th.....	18,400	17,284	15,063	6,117
A. F. Cooper.....	do	30th.....	17,322	13,440	13,992	1,205
E. F. Acheson.....	do	31st.....	18,403	13,364	13,114	7,532
A. L. Bates.....	do	32d.....	19,384	14,525	14,420	7,024
G. A. Schneebeil.....	do					10,417
J. D. Brodhead.....	do					- 4,003

+ Increase. — Decrease.

(*) Southard (Republican) elected in 1904; plurality, 18,640; defeated for renomination. McClelland (Republican) defeated by Sherwood (Democrat) in 1906; plurality, 41.

(*) Smyser (Republican) elected in 1904; plurality, 2,276; defeated by Ashbrook (Democrat), pledged to labor's interests, in 1906; plurality, 485.

(*) Dale (Republican) elected in 1904; plurality, 2,320; defeated by T. D. Nicholls (Democrat), district president of the United Mine Workers of America, in 1906; plurality, 6,241.

(*) Palmer (Republican) elected in 1904; plurality, 9,100; defeated by Lenahan (Democrat) in 1906; plurality, 6,549.

(*) Vacancy.

(*) Lilley (Republican) elected in 1904; plurality, 6,872; defeated by Kipp (Democrat) in 1906; plurality, 803.

(*) Deemer (Republican) elected in 1904; plurality, 7,846; defeated by W. B. Wilson (Democrat), secretary-treasurer United Mine Workers of America; plurality, 381.

(*) Samuel (Republican) elected in 1904; plurality, 1,778; defeated by McHenry (Democrat), president of the Pennsylvania Patrons of Husbandry, and pledged to labor's interest, in 1906; plurality, 2,476.

(*) Schneebeil (Republican) elected in 1904; plurality, 1,868; defeated by Brodhead (Democrat) in 1906; plurality, 2,944.

Tabulation of Congressional vote 1904 and 1906—Continued.

RHODE ISLAND.

Names.	Party.	District.	1904.	1906.	Pluralities.	Result in pluralities.
D. L. D. Granger.....	Democrat.	1st.....	15,583	16,846	133	816
A. B. Capron.....	Republican.	2d.....	18,212	16,979	4,934	2,886

WEST VIRGINIA.

Names.	Party.	District.	1904.	1906.	Pluralities.	Result in pluralities.
B. B. Dovener.....	Republican.	1st.....	27,459	6,759		- 2,712
W. P. Hubbard.....	do	1st.....	19,362		4,047	- 2,712
T. B. Davis.....	Democrat.	2d.....	18,561	915		(*)
G. C. Sturgiss.....	Republican.	2d.....	20,834		3,632	(*)
J. H. Gaines.....	do	3d.....	26,236	19,888	4,111	4,605
H. O. Woodyard.....	do	4th.....	22,942	16,310	4,030	2,673
J. A. Hughes.....	do	5th.....	27,593	22,395	6,317	6,424

WISCONSIN.

Names.	Party.	District.	1904.	1906.	Pluralities.	Result in pluralities.
H. A. Cooper.....	Republican.	1st.....	25,125	16,226	11,745	7,418
H. C. Adams.....	do	2d.....	22,773	7,508		- 4,828
J. M. Nelson.....	do	2d.....	14,808		1,827	- 5,681
J. W. Babcock.....	do	3d.....	19,047	385		(*)
J. W. Murphy.....	Democrat.	3d.....	14,701	1,011		(*)
T. Otjen.....	Republican.	4th.....	17,582	5,179		(*)
W. J. Cary.....	do	4th.....	12,231	3,472		1,707
W. H. Stafford.....	do	5th.....	17,231	13,948	7,253	5,078
C. H. Weisse.....	Democrat.	6th.....	20,665	19,444	2,978	8,932
J. J. Esch.....	Republican.	7th.....	25,506	18,042	14,234	11,243
J. H. Davidson.....	do	8th.....	25,233	16,986	12,344	7,392
E. S. Minor.....	do	9th.....	19,704	6,640		- 1,200
G. Klistermann.....	do	9th.....	14,080	5,391		- 1,200
W. E. Brown.....	do	10th.....	29,492	15,371		9,570
E. A. Morse.....	do	10th.....	20,228		9,570	- 5,801
J. J. Jenkins.....	do	11th.....	31,275	19,002	22,638	13,856

+ Increase. — Decrease.

(*) Davis (Democrat), elected in 1904; plurality, 915; not a candidate for reelection. Dent (Democrat) defeated by Sturgiss (Republican) in 1906; plurality, 3,632.

(*) Babcock (Republican) elected in 1904; plurality, 385; defeated by Murphy (Democrat) in 1906; plurality, 1,011.

(*) Otjen (Republican) elected in 1904; plurality, 5,179; defeated for renomination by Cary (Republican), a member of the Railway Telegraphers' Union. Cary was elected in 1906 with a plurality of 3,472.

While the above tables show that the majority of the dominant party was cut in two—that is, reduced from 112 to 56—it is also interesting to note that had the policy of the American Federation of Labor been fully carried out the results would have been more remarkable.

The following table shows instances where the majority of the dominant party would have been reduced 15 more had the American Federation of Labor's policy been fully carried out:

LABOR'S POLITICAL CAMPAIGN.

Name.	Party.	District.	State.	Vote, 1906.	Opposing vote.
Charles T. Dunwell.....	Republican.	3d.....	New York.	16,546	* 10,707 * 8,089 * 914
Total.....					19,710
Charles B. Law.....	Republican.	4th.....	New York.	17,079	* 12,114 * 10,590 * 1,502
Total.....					24,206
George E. Waldo.....	Republican.	5th.....	New York.	19,882	* 11,995 * 10,575 * 465
Total.....					23,035
Herman P. Goebel.....	Republican.	2d.....	Ohio.....	23,219	* 21,238 * 2,259 * 1,437
Total.....					24,956
John E. Harding.....	Republican.	3d.....	Ohio.....	24,567	* 22,837 * 1,896
Total.....					24,733
Grant E. Mouser.....	Republican.	13th.....	Ohio.....	20,736	* 20,463 * 605
Total.....					21,068
Charles McGavin.....	Republican.	8th.....	Illinois.....	11,421	* 11,336 * 8,128 * 2,664
Total.....					17,128

* Democrat.

* Independent.

* Socialist.

LABOR'S POLITICAL CAMPAIGN—continued.

Name.	Party.	District.	State.	Vote, 1906.	Opposing vote.
John C. Chaney.....	Republican	2d.....	Indiana	22,229	*21,889 b781
Total.....					22,670
Clarence C. Gilhams.....	Republican	12th.....	Indiana	19,695	*19,345 b451
Total.....					19,796
Abraham L. Brick.....	Republican	13th.....	Indiana	23,360	*23,153 b724
Total.....					23,877
Charles A. Kennedy.....	Republican	1st.....	Iowa	16,145	*15,875 b427
Total.....					16,302
Henry S. Caulfield.....	Republican	11th.....	Missouri	13,171	*13,133 b1,265
Total.....					14,398
John F. Boyd.....	Republican	3d.....	Nebraska	18,837	*18,546 b297
Total.....					18,843
Charles N. Fowler.....	Republican	5th.....	New Jersey	19,760	*19,208 b1,004
Total.....					20,212
Richard W. Parker.....	Republican	7th.....	New Jersey	16,493	*15,943 b173 b547
Total.....					16,663

* Democrat. b Socialist. c Independent.

In the above instances it will be noted that the elected candidate really received less than a majority of the total vote cast. Had the opposition united its forces the choice of the voters would have found more adequate expression.

Removal of Restrictions from Part of the Lands of Allottees of the Five Civilized Tribes.

REMARKS

OF

HON. CHARLES D. CARTER,
OF OKLAHOMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. CARTER said:

Mr. SPEAKER: Under the general leave to print for five days I will insert the following history of the removal of restrictions, properly arranged, commencing January 29, 1908, and ending when the bill was signed by the President:

[H. R. 15641, Sixtieth Congress, first session.]

In the House of Representatives, January 29, 1908.

Mr. McGUIRE introduced the following bill; which was referred to the Committee on Indian Affairs and ordered to be printed.

A bill for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions, but all sales or incumbrance of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior. All lands, including homesteads, of said allottees enrolled as of less than half Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood and all allotted lands of enrolled living full-bloods shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance until April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act.

SEC. 2. That all land allotted to allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or in the case of minors as provided in section 6 hereof, for periods not exceeding five years without the privilege of renewal, except that oil, gas, or other mineral leases for any period of time, and other leases if made for more than five years, of any such restricted lands, whether of adults or minors, may be made with the approval of the Secretary of the Interior and not otherwise.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior and the enrollment records connected therewith shall be conclusive evidence as to the age and the quantum of Indian blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act.

SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes. The land of allottees enrolled as freedmen shall be subject to taxation from and after sixty days from the passage of this act.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes, except as otherwise specifically provided by law, shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern district of Oklahoma as he may deem necessary to care for the allotted restricted land of allottees, whether adults or minors of the Five Civilized Tribes, including, when the supervision of the Secretary of the Interior is authorized by law, the sale or leasing of such lands and the disposal, for the benefit of the Indians, of the proceeds of such sales or leases. Said appointed representatives shall, without charge except necessary court fees, if any, care for the restricted allotted land of minor allottees of the Five Civilized Tribes, and shall annually account concerning such restricted land, both to the Secretary of the Interior and to the respective probate judges having jurisdiction of the persons and property of such minors. The probate judge may appoint the representative of the Secretary of the Interior having charge of the restricted land of any such minor to act as guardian for such minor without fee or charge, except necessary court charges and expenses incurred under order of the court. Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under direction of the Secretary of the Interior.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by substituting for the words "a United States commissioner," at the end of said section, the words "a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions from the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said estate.

[H. R. 16735, Sixtieth Congress, first session.]

In the House of Representatives. February 10, 1908.

Mr. SHERMAN introduced the following bill; which was referred to the Committee on Indian Affairs and ordered to be printed.

A bill in relation to the affairs and property of the Five Civilized Tribes, etc.

Be it enacted, etc., That the Attorney-General is hereby authorized to bring suit, when requested by the Secretary of the Interior, in the name of the United States, or of any other appropriate complainants or plaintiffs, for the use and benefit and on behalf of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, or any enrolled member of either thereof, before or after the dissolution of the tribal government upon any matter or cause of action arising before or after such dissolution, for the following purposes: To recover any moneys, lands, town lots, funds, or any other property claimed by, or belonging to, any of said tribes, or any enrolled member thereof, received in the distribution of the land or moneys of said tribes, or rents and profits arising therefrom, to which, in the judgment of the Secretary of the Interior, such tribes or members may be entitled; to cancel and annul any conveyance, deed, or patent to any lands or town lots and to recover such property or its value wherever such conveyance, deed, or patent was made or procured in any manner contrary to the provisions of existing law authorizing the conveying, patenting, or alienation of same; to cancel or reform any lease, power of attorney, or other instrument in writing, affecting the lands or moneys of any of said tribes or any enrolled member thereof under which any adverse or hostile claim or right is or may be asserted against such tribe or member, made or procured without authority of law or in violation of the provisions of any law or regulation of the Department of the Interior applicable in such cases; to remove a cloud or encumbrance from the title of any lands allotted to any enrolled member of any of said tribes which may now or hereafter exist by reason of any conveyance or attempted conveyance, encumbrance or attempted encumbrance thereof, or any instrument of writing affecting the same, executed by or procured from any such member in person or through power of attorney prior to the removal of restrictions upon the alienation of such lands; for any other cause or causes, not herein enumerated, by appropriate action, through which, in the judgment of the Secretary of the Interior, any substantial right or interest of any such tribe or member may be protected, restored, or recovered.

SEC. 2. That any suit or suits provided for in this act may be instituted in any court of the State of Oklahoma where jurisdiction over

the subject-matter and person may be had according to the laws of said State, or in the circuit court of the United States for the eastern district of Oklahoma; and the said circuit court of the United States is hereby given jurisdiction, concurrent with the courts of said State, in any and all of the suits and proceedings authorized by this act, without regard to the amount in controversy.

SEC. 3. That the Secretary of the Interior is hereby authorized to pay from the funds of the tribe interested any costs, counsel fees, and necessary expenses incurred in maintaining and prosecuting any suit under this act affecting such tribe or any enrolled member thereof, including the fees of any special counsel employed by the Attorney-General to assist in the prosecution of such suits, which special counsel the Attorney-General is hereby authorized to employ in his discretion, and likewise to fix the compensation of such counsel: *Provided*, That the expenses incurred in maintaining and prosecuting any suit on behalf of any enrolled member of said tribe or tribes, or to determine any question common to the interests of any number of such members, shall be first paid from the funds of the tribe or tribes of which he or they are members and charged against the property of such member or members: *And provided*, That for any moneys so expended such tribe or tribes shall be reimbursed, under regulations to be prescribed by the Secretary of the Interior, from funds due or to become due, or any property of said member or members, such expense to be pro rata among the persons interested in the proceedings in such proportion as the Secretary may deem equitable.

SEC. 4. That nothing in this act contained shall authorize the commencement or prosecution of any suit in the interests of any member of any of said tribes upon any cause of action which accrued, or may accrue, subsequent to the removal of restrictions upon the alienation of the lands of such member, connected with or relating to such lands, unless upon the joint recommendation of the Attorney-General and the Secretary of the Interior and the approval of such recommendation by the President.

SEC. 5. That in any suit now pending or which may hereafter be brought in any court in the State of Oklahoma involving or concerning any of the matters, causes of action, property, or interests mentioned in this act, the United States, acting through the Attorney-General, upon the request of the Secretary of the Interior, may intervene on behalf of any such tribe or member and become a party to such suit; and any suit now pending or hereafter brought in any of the courts of the State of Oklahoma involving or concerning any of the matters, causes of action, property, or interests mentioned in this act, in which the United States, suing for the use and on behalf of either of the tribes mentioned in this act or any enrolled member thereof, is a party thereto in such capacity, including all suits instituted prior to November 16, 1907, by the Secretary of the Interior, under authority of the act of Congress approved April 26, 1906 (United States Statutes at Large, vol. 34, p. 137), or in which the United States acting in such capacity may become a party as herein provided, shall, on application now pending or made by either or any party thereto at any time before the trial of said cause, be transferred from such State court to the circuit court of the United States for the eastern district of Oklahoma; and the papers and files in said cause, or copies thereof if required, together with a transcript of all journal, docket, and record entries made therein, shall be furnished for such purpose on the payment or tender of legal fees therefor, and the records in all suits or causes so transferred shall be filed and docketed in the said circuit court of the United States at or before the next term thereof commencing after such application and such cause shall be there proceeded with as if originally commenced therein; and whenever the application herein provided for shall be filed and presented in open court, the jurisdiction of said State court over said cause and the parties thereto shall cease and the jurisdiction of all matters and parties therein shall immediately vest in the said circuit court of the United States: *Provided*, That any application for removal as herein provided which states facts showing that the cause is one coming within the provisions and contemplation of this act shall be sufficient, and no bond shall be required from the applicant.

SEC. 6. That if the clerk of the State court in which any such cause shall be pending shall refuse to any of the parties or persons applying to remove the same the papers, files, and transcript as provided for in this act or copy of same or any thereof when required, after tender of legal fees for same, said clerk so offending shall be deemed guilty of a misdemeanor and on conviction thereof in the circuit court of the United States to which said action or proceeding was removed as herein provided shall be punished by imprisonment not more than one year or by fine not exceeding \$1,000, or both, in the discretion of the court; and the circuit court to which said cause shall be removable under this act shall have power to issue a writ of certiorari to said State court commanding said State court to make return of the record in any such cause removed as aforesaid or in which any one or more of the plaintiffs or defendants have complied with the provisions of this act for the removal of same, and enforce said writ according to law; and the said circuit court may enforce any of the provisions of section 7, chapter 137, of the act of Congress of March 3, 1875, not in conflict herewith, which may be applicable and necessary to carry into effect the provisions and purposes of this act.

REMOVAL OF RESTRICTIONS ON INDIAN LANDS IN OKLAHOMA.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, February 25, 1908.

The subcommittee met at 2 o'clock p. m., Hon. PHILIP P. CAMPBELL in the chair. The committee was made up as follows: Hon. JAMES S. SHERMAN, Hon. PHILIP P. CAMPBELL, Hon. BIRD MCQUIRE, Hon. JOHN H. STEPHENS, Hon. CHARLES D. CARTER, Hon. EDWARD W. SAUNDERS.

The following gentlemen who were present announced their desire to be heard before the subcommittee: Mr. J. C. JOHNSON, representing the freedmen citizens of the Creek Nation; Mr. M. L. MOTT, representing the chief and council of the Creek Nation; Mr. W. W. HASTINGS, on behalf of the Cherokee Nation; Mr. P. J. HUDSON, special delegate for the Choctaws; Mr. Frank J. Boudinot, representing the full-blood Choctaws, and Mr. Webster Ballinger, representing certain members of the Choctaw and Chickasaw nations.

Mr. CAMPBELL. I think it is important that we should also have some understanding as to the time, so that there shall be no abuse of time, and that everyone can be heard as they may expect.

Mr. SAUNDERS. Suppose we get these gentlemen to indicate how much time they want, respectively, and then apportion it if it is too much.

Mr. CAMPBELL. Mr. JOHNSON, about how much time do you want to occupy?

Mr. JOHNSON. I think twenty minutes will give me sufficient time.

Mr. CAMPBELL. Mr. Mott, how much time will you want?

Mr. MOTT. I will want very little, not more than twenty minutes; not that much, I think.

Mr. CAMPBELL. Mr. Hastings, how much time do you want?

Mr. HASTINGS. I want half an hour if I can be allowed that much, or, if not, you can cut me down. I really prefer to speak a little later. I represent the Cherokee Nation, and I do not know whether all these gentlemen are going to speak directly about this bill, or whether they are going to offer some suggestions I want to combat; and if so, I would prefer to be permitted to come in later, so that I could answer those suggestions.

Mr. CAMPBELL. Do you think you could get along with twenty minutes?

Mr. HASTINGS. Yes, sir; I will be satisfied with that.

Mr. CAMPBELL. Mr. Hudson?

Mr. HUDSON. Twenty minutes.

Mr. CAMPBELL. Mr. Boudinot?

Mr. BOUDINOT. Not more than ten minutes.

Mr. CAMPBELL. Mr. Ballinger?

Mr. BALLINGER. Twenty minutes will be ample time.

Mr. CAMPBELL. I think we can give every man all the time he wants, as indicated. Now, there are before the committee H. R. 16735, in relation to the affairs and property of the Five Civilized Tribes, and H. R. 12900, H. R. 14402, H. R. 15641, H. R. 15331, H. R. 16495, H. R. 16962. These bills relate largely to the same subject-matter, and I assume that gentleman addressing the committee will come within the scope of the bills here referred to.

Mr. MOTT. Mr. Chairman, I will make this request of the committee. We have a large Creek delegation here, the chief and three delegates, together with myself, the attorney for the nation, and the gentlemen who represent the Creek Association, and I want to ask you, Mr. Chairman, as I wish to speak for the nation as a whole, for the chief, who is here present, to be permitted to address this committee at the close of the hearing.

Mr. CAMPBELL. Mr. JOHNSON, we will hear you now.

Statement of Mr. J. C. JOHNSON, representing the freedmen citizens of the Creek Nation.

Mr. JOHNSON. In order to consume no considerable portion of your time, gentlemen, I have prepared our objections on behalf of the freedmen of the Creek and the Seminole nations in the form of a short brief.

I beg leave to submit to you this brief on behalf of the freedmen citizens of the Five Civilized Tribes of Indians in the State of Oklahoma, and especially on behalf of the freedmen of the Creek and Seminole tribes of Indians, protesting against bills entitled H. R. 15641 and S. 5586.

These bills contemplate the removal of the restrictions from the lands allotted to citizens of the Five Civilized Tribes, not of Indian blood, and directly affects the so-called freedmen citizens of the said tribes:

"Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions, but all sales or incumbrance of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior."

The freedmen were made citizens of the above-named tribes, the Creeks and Seminoles, by the terms of the treaty made and entered into between the United States and the said Creek and Seminole tribes of Indians, in the year 1866:

"ART. 2. The Creeks hereby covenant and agree that henceforth neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted in accordance with laws applicable to all members of said tribe, shall stipulated that hereafter these persons lawfully residing in said Creek many persons of African descent, who have no interest in the soil, it is stipulated that hereafter these persons lawfully residing in said Creek country under their laws and usages, or to have been thus residing in said country, and may return within one year from the ratification of this treaty, and their descendants and such others of the same race as may be permitted by the laws of the said nation to settle within the limits of the jurisdiction of the Creek Nation as citizens (thereof) shall have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national funds, and the laws of said nation shall be equally binding upon and give equal protection to all such persons and all others of whatever race or color who may be adopted as citizens or members of said tribe."

Again from article 2 of the treaty made and concluded between the United States Government and the Seminole tribe of Indians at Washington, D. C., March 21, 1866, we beg leave to quote the following:

"ART. 2. The Seminole Nation covenant that henceforth in said nation slavery shall not exist, nor involuntary servitude, except for and in punishment of crime whereof the offending party shall first have been duly convicted in accordance with the law, applicable to all the members of said nation. And inasmuch as there are among the Seminoles many persons of African descent and blood, who have no interest or property in the soil, and no recognized civil rights, it is stipulated that hereafter these persons and their descendants, and such others of the same race as shall be permitted by said nation to settle there, shall have and enjoy all the rights of native citizens, and the laws of said nation shall be equally binding upon all persons of whatever race or color who may be adopted as citizens or members of said tribe."

These treaties giving and granting to these people citizenship were voluntary acts on the part of the Indians. They had been slaves formerly among them, and out of gratitude for services formerly rendered them this citizenship was granted. Since the granting of citizenship to these people they have demeaned themselves in a manner worthy of the esteem of their benefactors. As a further evidence of this good feeling that existed between the races, I beg leave to cite you from the agreement made and concluded between the Creeks and the United States Government, entitled "An act to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and other purposes," approved March 1, 1901, and confirmed by the general council of the Creek Nation on the 25th day of May, 1901:

"ART. 3. All lands of said tribe, except as herein provided, shall be allotted among the citizens of the tribe by said commission so as to give an equal share of the whole in value, as nearly as may be, in manner following: There shall be allotted to each citizen 160 acres of land—boundaries to conform to the Government survey—which may be selected by him so as to include improvements which belong to him. One hundred and sixty acres of land, valued at \$6.50 per acre, shall constitute the standard value of an allotment, and shall be the measure for the equalization of values; and any allottee receiving land of less than such standard value may, at any time, select other lands which, at their appraised value, are sufficient to make his allotment equal in value to the standard so fixed."

This is the agreement under which Creek citizens took their allotments, and it is provided that each citizen of the Creek Nation shall receive 160 acres of land. In all of these agreements up to and including the last agreement made between these tribes and the United States the right of citizenship and the full and free participation of these people in the estate and funds of the tribe have been recognized. In not one single instance has there been any act on the part of the Indians to restrict the citizenship heretofore granted to these people in any manner whatsoever, and so far as I know the Indians have made no complaint that would justify the action contemplated in these bills of Congress. The freedmen of the Creek and Seminole tribes accepted the allotments along with the other citizens of the tribe and were willing to abide by any general laws made for the benefit of the whole tribe, and felt secure in the fact that they would be accorded the same protection as to other citizens. I beg leave to quote from section 7 of the act of 1901:

"Each citizen shall select from this allotment 40 acres of land as a homestead, which shall be nontaxable and inalienable and free from any incumbrance whatever for twenty-one years, for which he shall have a separate deed, conditioned as above."

In that connection I would like to say that I know of several instances there in the Seminole Nation where they parted with their lands for not over \$100. They knew nothing of the value of the lands.

Mr. CARTER. Mr. JOHNSON, do you not know also of instances where they have sold their land ten or twelve times?

Mr. JOHNSON. Certainly; yes, sir; and I will explain that by saying this, that these people were unaccustomed to all this; they knew nothing about the conditions of contract. That is one of the best arguments why I think the freedmen should be restrained; and what is true of them is also true of the full-blooded Indian down there. The simple fact is that they do not understand the nature of a contract, and they have always been given to understand that the United States Government would protect them from loss, and they regarded the man who came to them offering to buy their land from them as a mere speculator.

Mr. CARTER. He was skinning the white man, in other words?

Mr. JOHNSON. That is what I am trying to say; yes, sir.

Mr. MOTT. In numerous cases they never got over \$5 or \$10.

Mr. JOHNSON. I was going to say that the consideration for these lands never in any one case exceeds \$5. I know of one man who has given seven deeds against his land, and in no single instance has he gotten over \$5.

Mr. MOTT. If he keeps on he will get what it is worth.

Mr. SAUNDERS. What is land worth there?

Mr. JOHNSON. The land is worth about \$15 an acre.

Mr. McGUIRE. That man has managed to sell more than 1 acre, then?

Mr. JOHNSON. Yes; you will observe that the homestead of each citizen is made nontaxable and inalienable for a period of twenty-one years. At this point, gentlemen, permit me to state that in the year 1904 the Congress of the United States passed an act, known as the "Curtis bill," removing restrictions upon the alienation of lands allotted to citizens of either of the Five Civilized Tribes, who were not of Indian blood. This was the first blow aimed at the freedmen citizens of the Five Civilized Tribes. No collection of freedmen had ever petitioned Congress to have their restrictions thus removed, and the result of this wholesale removal of restrictions was that the freedmen, not being accustomed to handling real estate, and knowing nothing of the values of lands, were induced to part with their surplus for a very small consideration, and in many instances no consideration at all was given. In support of this, were I given the time, I would cite you innumerable instances where deeds have been procured by fraud and no adequate consideration given to allottees for the allotments.

In that connection, in the Creek Nation as well as in the Seminole Nation, we know of instances where such transactions have occurred. This wholesale transfer of land has been mainly by the younger members of the freedmen part of the tribe. The older citizens have some regard for their contracts, and understand the value of trying to keep their homes, and in those instances they have been very reluctant about selling their land, and I know of one man in the neighborhood of Muskogee who had refused to sell his land, and a lot of these land grafters found that he was away from home, and on that day there was a deed recorded against his entire 120 acres. That has gone into the courts, and they are trying to clear his title.

They produced witnesses to swear that this man was in their office on that day and signed the deed, and he has never received anything for his land. It has been contended by those who have been most benefited by the removal of these restrictions that the freedman was capable of caring for his allotment, and that he did not need the protection of the Government, as contemplated by these agreements. This, gentlemen, I deny as being absolutely false. The freedmen citizens of the Indian Territory have never been thrown into association with people who are familiar with land values, and they, of themselves, had no means of acquiring this knowledge, for the reason that they lived in a country where, up to the time of the allotment, there were no land values.

What is true of the full-blood Indian is also true of the average freedman—that is to say, he is incapable of managing his estate.

I want to call your attention further to the fact, gentlemen, that some time during the session of 1907 Congress saw fit to pass an enabling act, whereby the Indian and Oklahoma Territories would be admitted as the State of Oklahoma. The Indians were opposed to this union of the two Territories, and brought all the pressure possible to bear on Congress to defeat this bill. They even went so far as to prepare a constitution for the Five Civilized Tribes, to be known as the "State of Sequoyia" and asked its confirmation at your hands. This was denied them. The supporters of the joint statehood movement were loud in their praises of the resources of the State to be Oklahoma. They boasted of its untold wealth and the progress made by its citizens in the short space of seventeen years. They knew at the time of asking for its admission that the terms of these agreements were in operation in the Indian Territory, and that there was no considerable land available for taxation. I am reliably informed that their attention was called to this fact by the Members of Congress and persons living in the Indian Territory who opposed this joint statehood movement, yet

they declared that if they were granted statehood they were able to take care of themselves. It seems strange to me, gentlemen, that these people have discovered in less than ninety days from the admission of this State that they were short on taxable real estate, and they come to you now asking that you violate your solemn treaty obligations in order that they might be better able to maintain a State government that before its inauguration was boasted of as being the richest State in the Union.

The proposed bill or bills, if enacted into a law, not only removes the restrictions from the homesteads of adult freedmen, but includes the minors as well, and makes all of their property taxable.

In relation to the minors of the freedmen there, the freedmen as well as the Indians are very reluctant to go into the courts for any matter. In fact they sometimes lose their rights from the very fact that they are timid to start with, and, not being familiar with the form of courts that are in operation in that country now, they naturally do not go about the courts, and I know of many instances down there where white men have come in and made application and have been appointed as guardians of minor children. If these restrictions are removed from the homesteads of these freedmen down there, it will of course also include the minors, and while this may be a mere suggestion, and I do not say it will occur, there is a large chance that such thing should occur down there. Such things have happened. The guardian will go into court and ask to be permitted to sell the minor's allotment for the support of the ward. I know of two or three instances where Creek citizens have died leaving minor children, and white men have been appointed guardians of their estates and have squandered the estate and the minors are receiving no support. In one instance the guardian has asked that the estate be sold, and I believe premission has been granted, and the minor lives 50 or 60 miles away, and the guardian never goes there; and yet when it comes to the matter of making reports, he has an attorney who can go into court and make his report for him, and naturally that is as far as the investigation on the part of the court goes.

See section 4, page 3, H. R. 15461:

"SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes. The land of allottees enrolled as freedmen shall be subject to taxation from and after sixty days from the passage of this act."

I want to submit that if this is done, these minors on reaching their majority will find that their estates are already heavily encumbered by taxes; that is, if they have an estate left, and will be forced to start off in life with a debt against their property, and from which they have received no benefits.

Permit me to make a further suggestion, and I want to be understood as saying that this is a mere suggestion, that these minors shall have guardians appointed by the courts, and it is within the range of possibilities that the guardians might see fit to ask for an order of sale for their wards' real estate for the support of the wards. Such things have been done, gentlemen; whether or not the minor will be benefited by such a course, I leave you to determine.

The citizens of the Five Civilized Tribes, not only freedmen, but Indians as well, are opposed to the removal of restrictions from any class of homesteads. At the last session of the general council of the Creek Nation the delegations selected to represent the said nation at Washington were especially instructed to oppose all legislation looking to the removal of restrictions of homesteads of any of the citizens of the said tribe.

In conclusion I desire to state that this homestead is all that has been left to the poor freedman. If the restrictions are removed, it will be but a question of a few days until he will be homeless. The rights of no citizen of the State of Oklahoma are being encroached upon by reason of the fact that there is a restriction upon the alienation of homesteads by former Indian citizens, nor does it work a hardship upon the United States Government to let the provisions of these treaties remain intact. No good can possibly come to the people who are most to be affected by this, and I can not understand why Congress should lend itself to becoming a party to doing an injustice to these people. It has generally been supposed by the citizens, regardless of race or color, among the Creeks and Seminoles, that it was the wish of Congress that these citizens should become self-supporting, and eventually be worthy members of the great citizenship of the United States. I ask, what encouragement, what inducement, is offered these people, and especially the freedmen, notwithstanding the fact that their Indian friends tried to benefit them, and at no expense to the United States, to strive for a higher citizenship, when the very power to which they should naturally look for protection seeks to wrest their homes from them for the benefit of the few designing people who plead the inefficiency of taxable property to maintain a government that the freedmen never approved of?

Mr. CAMPBELL. You object to the removal of the restrictions from all Creek freedmen?

Mr. JOHNSON. Freedmen; yes, sir.

Mr. MOTT. That is homesteads, you mean?

Mr. CAMPBELL. Of course, that only applies to the homesteads?

Mr. JOHNSON. Yes, sir.

Mr. CAMPBELL. Now, would you object to having the homestead taxed in Oklahoma as belonging to the freedmen, as it is in Iowa or Kansas and Nebraska?

Mr. JOHNSON. I think so; yes, sir; for this reason, Mr. Chairman. The Government has agreed by our treaty stipulation that this land should remain nontaxable for a period of twenty-one years, and with all due deference I want to submit to the committee that the Government has violated those treaties often enough. They have broken them in several instances, and I think the time has come when it should stop. The taxing of the property places an incumbrance on that property, and if they are not prepared to pay the taxes, the taxes are charged up to the land, and it is in contradiction to the agreement.

Mr. STEPHENS. Mr. JOHNSON, would there be any objection to selling the surplus lands to the highest bidder and letting the profits go into a fund?

Mr. JOHNSON. That is all gone, so far as the freedmen are concerned.

Mr. STEPHENS. The freedmen have disposed of their surplus?

Mr. JOHNSON. That is already taxable, as I understand. You have reference to the unallotted lands?

Mr. STEPHENS. Yes.

Mr. JOHNSON. There would be no objection. For the purpose of equalizing allotments—the lands were classified and some received first-class allotments and others got allotments valued as low as 50 cents an acre—and in order to give each citizen an equal share in value, it was provided in the agreements that lands remaining after

the allotment was completed should be sold and used for the purpose of equalizing the allotments. There is no objection on the part of the citizens to the sale of this unallotted land.

Mr. CARTER. There is not much of it?

Mr. JOHNSON. About 87,000 acres.

Mr. STEPHENS. It would bring quite a sum, would it not, if sold in 80-acre blocks?

Mr. JOHNSON. It is usually sold in 160-acre blocks.

Mr. STEPHENS. What is that—good land or the best of land?

Mr. JOHNSON. I do not think it is the best of land. It is land that is left.

Mr. STEPHENS. Was it the best land in the country or the worst?

Mr. JOHNSON. No; I would think that it was land left after the selections were made, and naturally where one selected land for himself he would try to get the best.

Mr. MCGUIRE. Have you an allotment?

Mr. JOHNSON. I have; yes, sir.

Mr. MCGUIRE. Have you a homestead?

Mr. JOHNSON. Yes.

Mr. MCGUIRE. Have you any surplus allotted to you?

Mr. JOHNSON. Yes, sir; I have.

Mr. MCGUIRE. You still have your homestead and your surplus?

Mr. JOHNSON. And my surplus; yes, sir.

Mr. MCGUIRE. So far as you are individually concerned, would you object to having the privilege of alienation granted to you?

Mr. JOHNSON. None whatever, so far as myself is concerned.

Mr. MCGUIRE. How about your homestead?

Mr. JOHNSON. I do not know about that. I do not think I would want that.

Mr. MCGUIRE. Would you object to having your land taxed, both surplus and homestead?

Mr. JOHNSON. I would not object to the surplus being taxed, but I do object to having my homestead taxed.

Mr. MCGUIRE. How are you, relatively, compared with other parties down there; about a fair average, are you, of the citizens down there?

Mr. JOHNSON. No, sir; no, sir.

Mr. MCGUIRE. I suppose you have some advantages that the others have not had?

Mr. JOHNSON. Yes, sir.

Mr. CAMPBELL. Tell the committee, Johnson, very briefly how these freedmen handle their personal property.

Mr. JOHNSON. Well, up to the opening of the Oklahoma country we had some freedmen down there who were considered wealthy; they owned a large number of cattle and horses and their herds grazed all over the country and they were doing well; but since the opening up of the country there, and since whisky was brought in there, like the Indian, his neighbor, the freedman can not stand the temptation of whisky, and their property has drifted from them. Most of them are very, very poor.

Mr. CAMPBELL. They trifle their personal property away just as you say they would their land?

Mr. JOHNSON. Yes, sir.

Mr. MCGUIRE. You do not mean to say that they became less capable?

Mr. JOHNSON. No, sir.

Mr. MCGUIRE. You do not mean to say that there was no whisky there before Oklahoma became a State?

Mr. JOHNSON. No, sir; of course there was bootlegging, but of course the Government did not permit whisky there.

Mr. MCGUIRE. That is exactly what has been going on ever since?

Mr. JOHNSON. Yes, sir.

Mr. CARTER. Where were you educated?

Mr. JOHNSON. In Chester County, Pa.

Mr. CARTER. You are not a native-bord freedman?

Mr. JOHNSON. Yes, sir.

Mr. CARTER. You came back to Pennsylvania and were educated there?

Mr. JOHNSON. Yes, sir.

Mr. CARTER. Are the freedmen of the Creek Nation educated at all?

Mr. JOHNSON. Yes, sir; some of them.

Mr. CARTER. They have had the same privileges that the Creeks had?

Mr. JOHNSON. Yes, sir.

Mr. CARTER. And in those schools they charge for tuition, books, and medical attention?

Mr. JOHNSON. No; in the Creek schools—and in fact that is true of the Seminoles—there was a fund set apart by the terms of their several agreements that was used for the purpose of a school fund.

Mr. CARTER. They have the benefit of that for board and in some instances for their clothing?

Mr. JOHNSON. Yes, sir.

Mr. CARTER. Have they not had the benefit of that for about eighty years?

Mr. JOHNSON. Oh, no.

Mr. CARTER. Eighty years, ever since they moved to that country?

Mr. JOHNSON. Probably fifty years is as long as it has been going on.

Mr. CARTER. What do you think of the freedmen as educated in those schools? Do you think they are educated as well in the Creek Nation as they are in the surrounding States?

Mr. JOHNSON. No, sir; I do not.

Mr. CARTER. Notwithstanding that they have had all these advantages?

Mr. JOHNSON. Notwithstanding they have had some advantages, they are not as well educated. I do not think they are educated as well as they are in the surrounding States; no, sir.

Mr. SAUNDERS. I understand you claim the right not to have your homestead taxed, by virtue of treaty agreement?

Mr. JOHNSON. By virtue of treaty agreement; yes, sir.

Mr. SAUNDERS. That is, you claim that you have that right, and you do not care to give it up?

Mr. JOHNSON. We do not care to give it up.

Mr. SAUNDERS. Yes; because it is a treaty provision and stipulation?

Mr. JOHNSON. Yes. Now, gentlemen, I would like to say, before I close here, that it was contended in 1907, I believe, or possibly it was in 1906, by several corporations down there who were represented by their attorneys before the Senate committee, that the restriction should be removed from these homesteads in order to give the citizens of the new State more taxable land, and they cited that in a good many instances this land would be purchased by farmers—a farming class of people—and that the whole people would be benefited by it. They brought numerous instances to show where the Indians and freedmen were not doing anything with the lands and the lands were lying idle, and they said that if it was put on the market so that it could be sold, homesteaders would come in and buy that land. I hardly think that is true, and for this reason: When the restrictions were removed in 1904 I think it is safe to say that out of all the lands that were sold down

in that country not 10 per cent of them went into the hands of the farming class. Farmers did not get a chance to buy that land. It was bought up by speculators, and those are the men who are here to-day asking Congress to remove the restrictions from those lands.

Mr. CARTER. How were they sold?

Mr. JOHNSON. I will tell you; those real estate firms—

Mr. CARTER. I mean what procedure did the Department go through?

Mr. JOHNSON. When they were sold under the Department?

Mr. CARTER. Yes.

Mr. JOHNSON. The Department would advertise the land for sixty days under sealed bids. You had a right to submit your bid and deposit a certain per cent of your bid, and the lands were awarded to the highest bidder.

Mr. MOTT. That was not the case in the case of the freedmen. The restrictions on the freedmen's allotments were removed without any such restrictions. They sold them themselves.

Mr. JOHNSON. Yes; that is true.

Mr. SAUNDERS. How many of these homesteads are there; can you give me any idea about them?

Mr. JOHNSON. There were about 8,000.

Mr. SAUNDERS. How much acreage; 160 acres each?

Mr. JOHNSON. Forty acres each only. Gentlemen, I am much obliged to you for your attention.

Statement of Mr. Frank J. Boudinot.

Mr. BOUDINOT. Mr. Chairman and gentlemen, I have only two suggestions to offer; one is a suggestion of an amendment to section 1. I have here the Senate bill No. 4644.

Mr. CAMPBELL. That is the Platt bill?

Mr. MCGUIRE. It is the same as House bill 15641.

Mr. BOUDINOT. I know what the object of this proposed legislation is. It is for the protection of the people down there who ought to be protected. If there is any mistake made in protecting people who do not want to be protected, I know that that will not be the fault of this committee or of Congress. They are after protecting people who actually need protection, and the only danger is that you will protect some people down there against their will—overprotect them. However, I have not gotten to that yet. The amendment that I want to suggest to section 1 of his bill is in line 11 on the first page. After the word "there," in line 11, and before the word "prior," strike out the word "lands" and insert in lieu thereof the word "homesteads."

Mr. MCGUIRE. Then how would it read?

Mr. BOUDINOT. It would then read this way:

"All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions, but all sales or incumbrance of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior."

Now, there is another correction that ought to be made to that clause. It should read "all lands, including homesteads, of said allottees enrolled as freedmen, except minors of allottees," and so forth. I would suggest that those two words "except minors" go in there.

Mr. CARTER. You would insert the words "except minors" after the word "freedmen"?

Mr. BOUDINOT. Yes, sir.

Mr. CARTER. What line is that in?

Mr. BOUDINOT. In line 9, on page 1.

Mr. CAMPBELL. I suggest that you reduce your proposed amendments to writing and leave them in the form of a memorandum for the stenographer.

Mr. BOUDINOT. I will do so. I had reduced all but that. I had this other in writing.

Gentlemen, the reason for this suggestion is that a great many lands, nearly all the allotted lands of freedmen, surplus allotted lands, have been sold since 1904, when the restriction was removed by act of Congress from the lands of freedmen. This bill, as it stands now, would permit these freedmen to come in and contest the validity of all prior sales. Some of that land was bought at a reasonable price, from \$300 to \$800 or \$900 for an allotment in the Cherokee Nation. They averaged 50 acres, and it may be said that the freedmen as a general thing, gentlemen, had the land. Somebody would come to the freedman and say: "I have a piece of land. I will let you allot it if you will sell it." And he would file on it, and they would buy it. Since then the land values have increased ten thousandfold in some instances, and under the bill as it is now there would be all sorts of suits instituted by the freedmen and people advising them that were not in good faith; suits instituted just to see if they could get a compromise.

The other amendment is an amendment of section 6. I agree with the idea of this section 6, to protect the people who ought to be protected. There are thousands of people down there in my nation, the Cherokee Nation, full bloods, first, who will not try to handle their own land, who do not want allotments, and who could not handle it if they tried, and who are uneducated and can not talk English. There are thousands of minor allottees of the Cherokee Nation for whom no guardians have been appointed, who have allotments; and they ought to be protected. I do not believe that it is fair to the other thousands more than these I have just mentioned, who are intelligent and able to take care of their allotments, to protect them against their will, and I do not think it is a good idea, either, to have two guardians. If there is a guardian under bond, acting under authority of the proper court down there, of a minor or other incompetent person, I do not believe that it is right to give the Secretary of the Interior authority to supervise all these contracts that have been approved by the courts.

Along this line the best argument I could make to you, the best illustration I could give you, would be my own case. I am guardian of my child. He has no allotment of land. I am under bond. I make a report to the court. I can only report the facts. In last December the Indian agent down there was paid \$112.50 for my child. I had an opportunity to invest the money for him. I went to the court and got an order, which I have in my pocket, directing anybody, an officer of the United States or anybody else who had money or anything of value coming to my boy, to pay it to me as his guardian. I went to the agent and presented the order, and he said that he had the check there but that he could not give it to me; that under the rules of the court he would have to put that money in some United States depository, and then he would notify me afterwards where it was. That was in December, and I have been waiting ever since, and I have not received any notice. I have had the same experience before, where he waited six months after the money was paid in before telling me where it was. Then when he put it in the bank, according to the rules of the court, he would notify the bank not to pay that out until a new order of court was granted. That takes time and it costs money. If there were large amounts of money it would not

count so much, but it costs just as much to get \$25 out of a bank coming to a minor under court proceedings as it does to get \$2,000.

I have an amendment to suggest to that section 6 which I believe would cover what I believe is a serious objection to that as covering the minors who have bonded guardians under the order of court.

Mr. STEPHENS. Where does that come in?

Mr. BOUDINOT. After the word "leases," on line 13 of page 4, and before the word "said," insert the words "in cases where there are no duly qualified and acting guardians under authority of a proper State or county court." That amendment would leave the representatives of the Interior Department there with all the authority they have now.

Mr. CARTER. Look over the bill and see if you do not think the elimination of these words would cure any objection: In the second line, beginning with the word "except," strike out down to and including the word "law" in the third line?

Mr. BOUDINOT. Yes, sir.

Mr. CARTER. Do you not think that would cure it?

Mr. BOUDINOT. Yes; I think that would be a good amendment.

Mr. CARTER. Strike out the words "except as otherwise specifically provided by law."

Mr. BOUDINOT. Yes, sir. I think, though, that the other suggestion would make it clearer.

Mr. CARTER. That would cut out all attempts at probate jurisdiction.

Mr. STEPHENS. What do you think of the policy of selling all this land at public outcry, going to the minors, in 40 or 80 acre blocks, so that the proceeds would go into a fund for their benefit, so that the lands might be distributed to settlers and the country might be opened up and settled at once? Would not that be better than this proceeding, which would finally eat up all the value of these lands, so as to let the money be held by the probate courts of the country instead of the land?

Mr. BOUDINOT. I have given some thought to the subject, and I would say that that would be a better plan. I think it would be the best plan.

Mr. STEPHENS. I think it is the solution of the question.

Mr. BOUDINOT. There are two sides to the question. On the first side, as suggested by the first speaker, are the people who want to stand pat. Changes have come down there, and we have a State government that gives us all the benefits that come under a good State government, and so far as I am concerned, I want to pay my taxes on my surplus and homestead. I want to take that burden as a citizen of the State of Oklahoma. At the same time, nobody can object to holding the Government to their contract, which said that they could not be taxed. But the idea of the gentleman as to the selling of the surplus lands and putting the land into the hands of farmers is the best suggestion. I believe it is the best way of educating the people down there. The suggestion you have made is a good one in regard to the land, that it shall be put into the hands of settlers. There is the objection in regard to that that all that land down there was bought up by speculators.

Mr. STEPHENS. It would go, under this, right from the hands of the Indians into the hands of a man who would take his plow and proceed to cultivate the land and make a home for himself.

Mr. CARTER. We might have a provision prohibiting a man from buying more than a certain number of acres.

Mr. CAMPBELL. Now, Mr. Hudson, we will hear you.

Statement of Mr. P. J. Hudson.

Mr. HUDSON. I will take but very little time to say what I want to say. I have been here two or three weeks and have been loaded down with treaties and papers and everything, and I just put them all away to-day. I did not know when you were going to meet; and now you catch me here without any papers.

Mr. CARTER. That is my fault, Peter. I ought to have notified you.

Mr. HUDSON. I can not tell you which bill it is, but I read one, and I found an objection to it, from our standpoint, in taxing minors' allotments. In that bill, in the first section, where you classify Indians by saying "Indians less than half Indian blood," you provide that their homestead and surplus shall be taxed, and you include minors. The next class is Indians of half or more Indian blood. Their surplus you provide shall be taxed; that is, when the restrictions are removed. You include in that classification also minors. Now, I object to taxing minors' allotments if there is any way to get around it. One great objection to that is that we have enrolled those known as "new born;" we have them enrolled twice, and these new born who are enrolled twice are allotted raw lands, not improved. Why? Because the best land, improved, has already been taken up by those allotted first, so that the hardship under that provision would be thrown on these little ones, 2 or 3 year old children, and the parents of those minors would have to stand a double hardship, probably a treble hardship, in paying not only the tax on their own lands, but their wives' lands and others, and it would be a hardship.

Mr. CAMPBELL. Could that land be leased so as to make it pay the expenses of taxes?

Mr. HUDSON. Well, yes; it can be leased when there is a demand for it. You know we have so much land that a great many of these lands there is no demand for, and you can not lease them. Many of the lands are located in parts of the country where you can not lease them at all.

Mr. STEPHENS. Would your people have any objection to the sale of these lands of the minors at public auction, so as to bring the highest price possible for them?

Mr. HUDSON. I think that would be a better plan, and I think the people would be very willing to do that. I have good reasons for that. I acted as guardian in quite a number of cases, and there came up a bit of timber land, and the timber was destroyed by a storm, and the court ordered us at once to dispose of the down timber, and in looking over the land I determined that I could not handle the down timber unless I disposed of the standing timber also, and I reported to the court, and they ordered me to sell all of the timber. There were 5,000,000 feet in all belonging to ten minors. While we were handling these lands, selling them to the highest bidders, the oldest child came of age, and a timber buyer went over there and bought that land by paying \$1 a thousand, and at the sale we offered this land, and this man objected and let it be known that he had bought it, and no one would buy it because it was at his own risk. We got \$2.06 a thousand for the pine.

Mr. STEPHENS. You think that the same thing would work with reference to the lands?

Mr. HUDSON. Yes, sir; with reference to the lands. Now, considerable of the pine allotment belongs to the minors down there now, and my opinion is that they will have more for their pine timber by selling it privately.

Mr. CAMPBELL. Is there much surplus land belonging to the minors in the Choctaw Nation?

Mr. HUDSON. I will explain that and answer for the others at the same time—the other Indians. The full-blooded Indians and a great many of these minors have allotted their surplus lands in the Chickasaw Nation. Their surplus lands in a majority of cases are away from where they live—100, or 150, or maybe 200 miles away from where they live. I am speaking of the majority of the full-blood allotments. The same is true of the minors. Does that answer your question?

Mr. CAMPBELL. Yes.

Mr. HUDSON. Now, I leave that point of the objection to taxing the minors' allotments.

Mr. CAMPBELL. Do you object to having your homestead taxed, or the homesteads of the Choctaws except minors?

Mr. HUDSON. That is what I am coming to now. I do not believe any of us are hunting around to pay taxes. [Laughter.] That is the next thing I want to speak of, and that is this: The first agreement we made was the main agreement, and the next agreement is the supplementary agreement. We would never have adopted those agreements unless the Indians had been promised that their land should not be taxed for twenty-one years. As long as the allotments remained in their possession the agreement was that they should not be taxed for twenty-one years. That is the only reason we adopted those agreements.

Mr. MOTT. That is the case with all of them.

Mr. HUDSON. Yes, sir. The next thing is that our full-blood Choctaws went into the Chickasaw Nation guided by the supplementary agreement. The supplementary agreement provides that they would have been out of it themselves in five years, the first, third, and fifth year. According to those provisions the full-blood Indians guided themselves that in order to avoid this taxation—they did not want to pay taxes—they should be able to allot their surplus lands anywhere and everywhere, in order to sell as soon as possible, and that is when they went to the Chickasaw Nation. The gratters paid their railroad fare and their board bills and prepared the plat, and the full-blood Indian walked into the land office and acquired the land. So I say that in order to avoid this taxation, that will come in five years according to the supplementary agreement, the full-blood Indians have allotted land everywhere and anywhere to men that wanted to buy.

Mr. CAMPBELL. What degree of blood would you be willing to have the restrictions removed from?

Mr. HUDSON. I think what you have agreed is good enough.

Mr. CARTER. Except that you object to the provision as to minors?

Mr. HUDSON. I object to that as to minors; yes, sir.

Mr. CARTER. Now, Peter, it is not the removal of restrictions or the right to alienate the land that you object to, but it is the taxation of the land that you object to, is it not?

Mr. HUDSON. Which class do you refer to now?

Mr. CARTER. I was speaking of all classes. Do you object to having the lands of the minors subject to alienation if they were not taxed?

Mr. HUDSON. If they were not to be taxed, that would be all right. That is what we all are afraid of.

Mr. CARTER. You do not object to having the restrictions removed on the surplus lands of all adults, do you?

Mr. HUDSON. Subject to taxation?

Mr. CARTER. And subject to taxation; the surplus lands of all adult Indians?

Mr. SAUNDERS. What is the homestead there?

Mr. HUDSON. One-half of 160 acres.

Mr. SAUNDERS. And 160 acres you call the surplus?

Mr. CARTER. Yes.

Mr. HUDSON. We would have no objection.

Mr. MOTT. Done under rules and regulations.

Mr. HUDSON. Yes.

Mr. CARTER. Wait a minute, Mr. Mott; let me ask the gentleman these questions. You do not care if the restrictions are absolutely removed and if the fellow is allowed to do as he pleases with his surplus land so long as he is protected in his homestead? I mean the adults, now; I am not speaking of minors.

Mr. HUDSON. When the restrictions are removed they would be taxed?

Mr. CARTER. Yes.

Mr. HUDSON. No, sir; I do not want that.

Mr. CARTER. You object to the taxation, but not the the alienation?

Mr. HUDSON. Yes.

Mr. CARTER. You would not object to the restrictions being removed so that he could sell the land if it was not taxed?

Mr. HUDSON. Yes; under the rules and regulations of the Secretary of the Interior.

Mr. CARTER. You want the Secretary to supervise that?

Mr. HUDSON. Yes.

Mr. CARTER. And sell the lands?

Mr. HUDSON. Yes.

Mr. CARTER. If it was for sale you would want the Secretary to come down and sell it?

Mr. HUDSON. Yes. Now, the pine land that the full blood is allotted, there is no restriction on that, and to-day the Indian has not got the timber, not only the pine timber but the hard-wood timber. The Indians did not know that they had sold the hard timber, but they proceeded after the sale of the timber, and that is all gone, and that is the way they have done down there now. That is the timber of the allotments that there is no restriction on. If the land is not restricted and they are not protected in the sale of their land, where will they be?

Mr. CAMPBELL. What does the more than half-blood Indian and the full-blood Indian do with his land now? What does he expect to do with it? He can not sell it.

Mr. HUDSON. Well, we lease them out. We have them improved as fast as we can.

Mr. CAMPBELL. For what purposes are they leased?

Mr. HUDSON. We lease them out for five years for improvement, for improving the place.

Mr. CAMPBELL. Do others take them and improve them on a five-year lease?

Mr. HUDSON. Yes, sir.

Mr. CARTER. A full blood can not lease his allotment now without permission from the Secretary of the Interior?

Mr. HUDSON. That is as to the mixed blood.

Mr. CARTER. Is not that true?

Mr. HUDSON. Yes; the full blood can not lease his land.

Mr. MOTT. For one year.

Mr. CAMPBELL. What do they get for 160 acres for a year?

Mr. HUDSON. We call them gratters, those people that carried these full-blood Indians out west to the Chickasaw country and located, paid all their expenses, and then got a lease on these lands that they selected or located the Indians on, for five years, by paying not over

\$25 to \$50 per allotment. That will be about 15 cents or 20 cents an acre.

Mr. CAMPBELL. Now, will that support an Indian?

Mr. HUDSON. No.

Mr. CAMPBELL. Is he getting the value of his land out of a lease of that kind?

Mr. HUDSON. No; but in a great many cases the lease of this nature is made on account of improvement, the land being improved. There may be houses on a certain piece of land, and that means they have selected this land for the Indians, promised to turn the property over to the Indians at the end of five years, and that is a reason for not paying the Indians so much. However, while we are on that point I want to tell this committee that hundreds of these leases will turn out to be sales when five years is up. The governor wrote me a letter a few days ago saying that an Indian named Kober leased his land to a person named Sawyer for five years, and Sawyer has sold the land to some other person and gone over into Texas. Now, Kober comes and demands possession of his land at the end of five years, and this man says it is a sale, and he has two witnesses. Kober denied signing his name to this bill of sale, but there were two witnesses on the bill of sale, and the Indian just simply gave it up.

Mr. MCGUIRE. Do you know of any more than that one case?

Mr. HUDSON. No; that is the only one that the governor wrote me about. There are cases like that, and later on there will be more cases like that begin to show up.

Mr. CAMPBELL. You are not objecting to the provisions of this bill except as you have stated here in your remarks?

Mr. HUDSON. About the minors' land?

Mr. CAMPBELL. Yes.

Mr. HUDSON. That is the only point I brought up. These old Indians, you have to be very careful in legislating for them. It seems to me if it can be done it will be better to sell those surplus allotments for those full bloods right out.

Mr. STEPHENS. There would be no objection to that?

Mr. HUDSON. I have no objection to that. I think it is the best plan, if it can be done.

Mr. CARTER. I would like to be clear on one thing. I understood you to say a while ago that you thought all Indians, including the mixed-blood Indians, ought not to be allowed to sell any of their surplus lands except under the direction of the Secretary of the Interior; is that correct? Do you not think that any Indian ought to be allowed to sell any of his land unless the Secretary of the Interior sells it for him?

Mr. HUDSON. I do not understand your question. In the bill I thought you had already classified the mixed bloods out.

Mr. CARTER. I am speaking irrespective of the bill now. Suppose any mixed-blood Indian, say yourself or myself, wanted to sell his land, do you think that we ought to go to the Secretary of the Interior and get permission before we are allowed to sell our surplus lands, and do you think after we get that permission we ought not to be allowed to sell it, but that the Secretary ought to sell it for us?

Mr. HUDSON. I do not believe I catch your question.

Mr. CARTER. I want to sell my land, and I am a mixed-blood Indian. Do you think I ought to be allowed to sell that land or do you think my restrictions ought to be removed so that I can sell that land without asking permission of anybody, or ought I to have to go to the Secretary and get him to sell it for me?

Mr. HUDSON. Well, I will say that a person who is able to handle his property ought to be allowed to handle his own property.

Mr. CARTER. That is what I wanted to understand exactly. Now, of course, you and I both understand thoroughly those leases, how they are made; but do you not know that it is a fact that a great amount of those lands were leased purely for grazing purposes of the full-blood Indians, and there is no improvement being put upon those lands at the present time?

Mr. HUDSON. Yes; in many cases.

Mr. CARTER. In the great majority of cases that is true now?

Mr. HUDSON. Yes.

Mr. MCGUIRE. Those are the 15 and 20 cent lands you spoke about?

Mr. HUDSON. That covers both the pasture leases and improvement leases. You know, the full bloods got the best land in the whole country. The full bloods got the best land.

Mr. MCGUIRE. Why is that?

Mr. HUDSON. These people that lived in the Chickasaw Nation knew about that.

Mr. MCGUIRE. They were allotted the best lands?

Mr. HUDSON. Yes, sir.

Mr. MCGUIRE. It was not the grafters who did that?

Mr. HUDSON. No.

Mr. MCGUIRE. That was a pretty good thing, was it not?

Mr. HUDSON. Yes, sir.

Mr. CAMPBELL. The grafters were really the friends of the Indians, were they not?

Mr. HUDSON. Yes, sir; they paid the railroad fare of the Indians and paid their board bills, and hired a hack and took them out and sold them a piece of land and brought them back to town and fixed the plat.

Mr. MCGUIRE. That was because they wanted the best land, as a matter of fact?

Mr. HUDSON. Yes; they figured to buy that piece of land from the full-blood Indian in five years after the supplementary agreement, which will be out after a few months.

Mr. MOTT. I would like to ask the gentleman a question for information.

Mr. CAMPBELL. Very well.

Mr. MOTT. Mr. Hudson, the question was asked you whether you were in favor of yourself and Mr. Carter selling your lands without going to the Secretary of the Interior. This bill provides that the surplus lands of all full-bloods shall be sold under rules and regulations prescribed by the Secretary of the Interior. Now, what is meant by that is that the Secretary can say to you under the rule that you can take your property and sell it if you are competent, or he can say to Mr. Carter: "If you are competent to make sale of your property, you do not have to sell it through the agency. I do not want to do anything with it. You are a competent citizen, and under the rule you can dispose of your own property in your own way," and if that were not the case, then those who were not competent would have no means in the world of protection, aside from the rules and regulations provided by the Secretary of the Interior, and therefore they all have to come under that class, and in order to protect the incompetent ones you are willing to have him say that you are competent, and then let you sell, yourself, are you, without selling it through the agent?

Mr. HUDSON. Yes, sir.

Mr. MOTT. But if the removal of that restriction gives you power to sell it without your competency being passed upon or the competency of any of those who are to sell, you want the Secretary of the Interior to pass upon the rules and regulations as to how and when you shall sell it?

Mr. HUDSON. Yes, sir. I had my restriction removed a few years ago, and I have not sold my land yet, except a small piece of it.

Mr. CARTER. What blood are you?

Mr. HUDSON. Three-quarters blood.

Statement of Mr. Webster Ballinger.

Mr. BALLINGER. May I inquire whether the hearing this morning relates to the restrictions or to the judiciary bill?

Mr. CAMPBELL. It has been confined very largely to the restrictions.

Mr. BALLINGER. I am opposed to this bill, and I enter a protest against this bill (H. R. 15641), which is the restriction bill, and I enter this protest for and on behalf of 8,000 persons admittedly of Choctaw and Chickasaw Indian blood who have been denied their rights in this tribal property by error of law, fraud, and gross mistake of fact committed by administrative officers. These persons are blood relatives of those who are on the tribal rolls; in some instances brothers and sisters, in other instances the children of those who are on the tribal rolls. In some instances they are the children of the signers of the treaty of 1830 under which this grant was made to the Choctaws. They have been denied their rights as members of the tribe. Those people are in actual possession of their lands down there. They have held possession notwithstanding the decisions of the Department and are in possession of their lands to-day in many cases. By the removal of restrictions the lands which they are actually in possession of and which they are entitled to under the treaties and the laws with these people and which have been allotted to other persons who thereby had the legal title and whose names appear on the tribal rolls, these persons holding the legal title can then sell these lands to innocent purchasers to the irreparable injury of claimants.

Mr. CAMPBELL. Are these people enrolled?

Mr. BALLINGER. No, sir; they are not enrolled.

Mr. CAMPBELL. In either the Choctaw or Chickasaw nation?

Mr. BALLINGER. Not on the finally approved rolls, approved by the Secretary.

Mr. CAMPBELL. Were they ever enrolled?

Mr. BALLINGER. They were members of the Choctaw and Chickasaw community. Mr. Carter, a member of this committee, has relatives down there who are recognized as members of these tribes who have been denied their right to enrollment on the finally approved tribal rolls.

Mr. SAUNDERS. Who has denied these people their rights?

Mr. BALLINGER. The Commission to the Five Civilized Tribes, the Commissioner of Indian Affairs, and the Secretary of the Interior. The Secretary of the Interior acted upon reports made by the Commission to the Five Civilized Tribes, which were false and misleading, and in many instances the actual facts were suppressed, which is shown by the evidence I have in my possession, denied them enrollment.

Mr. CAMPBELL. What were the reasons for denying the people these rights?

Mr. BALLINGER. There was no reason assigned; but the work done there was the most notoriously incomplete work ever done by any officer of the Government.

Mr. MCGUIRE. What material fact do you refer to?

Mr. BALLINGER. I will narrate briefly, although my time is so limited that I can hardly go into a thing of that kind.

Mr. MCGUIRE. Did anybody represent the nation there?

Mr. BALLINGER. When the Government commenced to administer upon the estate of the Choctaw and Chickasaw nations certain persons were employed to represent the nation and to defeat the rights of claimants. Those persons were paid upon the basis of the number of claims defeated and upon the proportion of the amount of property saved to the nation. Those attorneys defeated the rights of persons, because it was to their interest to defeat them, who were honestly entitled to this land; and, further than that, an officer of the Commission to the Five Civilized Tribes, holding an official position under the Commission, walked into the office of Mansfield, McMurray & Cornish, attorneys for the nations, and there briefed and prepared cases against the applicants, and then passed back to the Commission and in the name of the Commission and of the United States adjudicated and finally passed upon the rights of these parties. That is the way these rolls have been made of the Choctaw and Chickasaw people.

Mr. MCGUIRE. What is the name of the man who was guilty of that?

Mr. BALLINGER. William D. Beall. I personally filed charges against him and upon an official investigation made by William Dudley Foulke he was removed; and also Tams Bixby.

Mr. CARTER. Was he removed upon your charges?

Mr. BALLINGER. He was removed upon my charges.

Mr. CAMPBELL. Mr. Beall was?

Mr. BALLINGER. Yes; both Beall and Bixby were removed as a result of those charges.

Mr. STEPHENS. Was the work undone?

Mr. BALLINGER. There was never anything so notoriously incomplete as that work. Records of the United States showing the Indian blood of those people were suppressed and held in the office of the Commission and never transmitted to the Department; and, lastly, in the last week that the Secretary had jurisdiction to hear and determine the rights of these parties, in less than seven days the Secretary passed upon and decided the rights of 10,000 persons. That is the way this work has been done; and, gentlemen of this committee, it can not stand, because the courts will not permit it to stand, if Congress will not afford these people relief. These people are holding the actual possession of this property. The Government will never remove these people from that land unless it removes them in their coffins.

Mr. STEPHENS. About how many are in that situation?

Mr. BALLINGER. There are 12,000 people legally, equitably, and in good conscience entitled to share in the tribal property of the Choctaws and Chickasaws. There are probably 7,000 of them who are holding homes down there that will be dispossessed under this bill, because the legal title will be passed to the allottee who has never been in possession of it.

Mr. FERRIS. You come here with a startling statement that you are in possession of proof of the charges you have made against this Commission, and you offer as a reason for the faith that is in you that some 8,000 or 12,000 people have been left off of these rolls, grossly irregularly. Now, I do not desire to address my remarks or anything I might say to that phase of the situation at all, but why does it nec-

essarily defeat the purposes of this bill, and why does it conflict with that contention until some disposition is made of the surplus land?

Mr. BALLINGER. I will answer your question; because there is in law no restriction upon this property to-day, they exist only theoretically. The Government can not place restrictions upon it.

Mr. FERRIS. I agree with you, but Congress does not. Mr. CAMPBELL. I do not care about Congress. Congress should not complicate this estate to such an extent that we will have to bore through a hundred statutes on the books when we get into the courts. Let us fight this matter out in the courts. We are in the courts now.

Mr. CAMPBELL. Are you in the courts on this? Mr. BALLINGER. On the very nature of this title, and I will convince every member that you can not place a restriction on that land down there, in a few moments. The Choctaw and Chickasaw nations hold as perfect a title in fee simple as the sun ever shone on. The treaty of 1830, article 2, with the Choctaws provides:

"The United States, under a grant specially to be made by the President of the United States, shall cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River, in fee simple to them and their descendants, to inure to them while they shall exist as a nation and live on it."

That is as absolute and perfect a conveyance to the Choctaw Nation in trust for the exclusive use and benefit of the persons who comprised the nation in 1830 and their descendants, as it was possible to make.

Mr. STEPHENS. Was that followed by a deed? Mr. BALLINGER. The patent issued to these people in 1842, in conformity with article 2 of the treaty of 1830, provided:

"Now know ye that the United States, in consideration of the premises and in execution of the agreement and stipulation in the aforesaid treaty, have given and granted, and by these presents do give and grant, unto the said Choctaw Nation the aforesaid tract of country west of the Mississippi, to have and to hold the same, with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as intended 'to be conveyed' by the aforesaid article, 'in fee simple to them and their descendants, to inure to them while they shall exist as a nation and live on it.'"

The nations holding a perfect legal title in fee simple, passed the legal title in fee to the beneficial, or equitable owner, the allottee when it issued a patent to the allottee for his or her allotment. These deeds are all the same, the granting clause reading as follows:

"Now, therefore, we, the undersigned, the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, by virtue of the power and authority vested in us by the twenty-ninth section of the act of Congress of the United States approved June 23, 1898 (30 Stats., 495), have granted and conveyed, and by these presents do grant and convey, unto ——— all the right, title, and interest of the Choctaw and Chickasaw nations, and of all other persons in said nations, in and to the following-described lands."

Now, what restriction can you put upon that, particularly where the allottee is a citizen of the United States and of the State of Oklahoma?

Mr. STEPHENS. Is that what you call an allotment?

Mr. BALLINGER. That is a patent issued by the Choctaw Nation.

Mr. CAMPBELL. To the individual?

Mr. BALLINGER. Yes; to the individual.

Mr. FERRIS. I asked you a question, and I agree with you heartily on that legal proposition. I made quite a thorough investigation of the situation you have in hand, and I made copies of these papers. I am interested in properties down there very materially. I represent some of those people, and I want to know why it is that you can not thrash out your contention with reference to the disputes and those that you claim are improperly excluded—why can you not thrash out that proposition before we begin to deal with the surplus and unallotted lands, and let this bill go ahead?

Mr. BALLINGER. Because it is impossible to take the restrictions off of part of it until all the legal beneficiaries are known and the land has been equitably and legally divided.

Mr. FERRIS. You say there is no restriction now.

Mr. CAMPBELL. You say there is now no restraint to owning the property title in fee simple.

Mr. BALLINGER. Yes, sir.

Mr. CAMPBELL. In what way would the removal of restrictions from land that is restrained affect it?

Mr. BALLINGER. Because, Mr. Chairman, you can not take trust property and give my property to my brother.

Mr. CAMPBELL. But we do not propose to do that.

Mr. BALLINGER. Just a moment; I am coming to the principal question you are aiming at. You can not take my property and give it to my brother. You can not take my father's property and give it to his brother, and then remove the restrictions on those who have received more than their share, or have received part of the property to which I was entitled, and permit them to sell the land.

Mr. FERRIS. You do not propose that any of these parties that you claim are improperly excluded shall come in and take any of the property of the present allottees?

Mr. BALLINGER. Why, this property is the property of these people—Mr. FERRIS. So that the record will be straight, let me ask you this: You do not propose to divest the titles of any of the present allottees and give that property to those who are excluded?

Mr. BALLINGER. If we have a prior right to that property, if it is the home of some of those who are excluded, certainly we have that right, and will enforce it in the courts.

Mr. FERRIS. Let me ask you again; then you are contending that these parties, 8,000 or 12,000 of them, have not only the right to take hold of surplus and unallotted land and reach the lands that have already been allotted. Is that right?

Mr. BALLINGER. Under the law the land was to be allotted to the people who were actually in possession of the land and had improved it. The lands that have been in the possession of these people and have been improved by them for seventy-five years have been taken and given to some outsider.

Mr. FERRIS. I would like to have a plain answer to my question.

Mr. BALLINGER. I will answer your question as specifically as it is possible for me to do so. If these claimants have a prior right to a particular piece of land, we expect to assert that right; and we do not want you to attempt by legislation to transfer the legal title to somebody else, which you will do if you pass this bill. These restrictions are worthless, but they serve as a scarecrow to keep out innocent purchasers. That is all the good they are doing now, and by the time that scare ceases to permeate that country we will be back there with judgments of the Supreme Court that will prevent any persons who propose to buy this land from doing so and setting up a claim that he is a purchaser without notice.

Mr. CAMPBELL. You only have about five minutes more, Mr. Ballinger, and I will protect you from further interruption if you do not desire to be interrupted.

Mr. BALLINGER. If it is not the desire of the committee that I be interrupted, I will proceed.

Mr. STEPHENS. I understand, as a matter of fact and not as a conclusion of law, that there are people, according to your statement, now in possession of allotted lands of allottees?

Mr. BALLINGER. Yes, sir.

Mr. STEPHENS. When, as a matter of fact, there are others, and those others represented by you, who ought to have been allotted either that particular allotment or some proportion of it?

Mr. BALLINGER. Yes, sir; and that is what the Secretary of the Interior in his last report says. He says:

"Without doubt there are persons on the rolls who are not entitled to be there."

Now, how are you going to correct those abuses, if those rolls can not be purged and this property erroneously allotted recovered back to the nation? The Secretary says:

"Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls who should be there."

There is what the Secretary of the Interior says in an official communication. Now, this bill contains this further provision:

"SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes, approved by the Secretary of the Interior, and the enrollment records connected therewith shall be conclusive evidence as to the age and the quantum of Indian blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act."

You can not make evidence conclusive in a court, and here is an attempt by legislative enactment to make something conclusive that you can not make conclusive, and particularly records that are so notoriously inaccurate as those records. You declare by this provision that if a full-blooded Indian who is entitled to 320 acres of average land has been enrolled as a negro, and thereby given 40 acres of the average land, that that record shall be conclusive evidence that that Indian is a negro. You can not make an Indian a negro by legislation and prevent a court from inquiring into his Indian blood.

With reference to the judiciary bill, it is utterly impossible to go into it, but my objections to this bill are as follows: This bill was evidently drafted without any knowledge or conception of the nature of the title with which it proposes to deal. It should not be placed upon the statute books because the inevitable result will not be to correct abuses, to right wrongs inflicted, suffered, and endured, to do equity, or to secure justice; but it will, if held to be valid, consummate and render final the culpable and notorious destruction of vested rights, abuses, wrongs inflicted, and deprivation of property rights accomplished through bribery, maladministration, and notorious incompetency by and on the part of administrative officers charged by the law with the administration of these trust estates, which have resulted in thousands of honest Indians, clothed with all the rights, privileges, and immunities of American citizens, being robbed and despoiled of their home and property rights.

Its real effect is to ultimately create positions for a horde of Federal officers, whose duty it will be to interfere in private controversies between citizens of the United States, to be compensated therefor out of the trust funds of these people, and to make a veritable political football out of these estates, to be dalled with when political exigencies arise, thus precluding the possibility of an equitable adjudication of any right, claim, or cause arising thereunder.

It is the rankest kind of class legislation, proposing as it does to prohibit the regular, ordinary constitutional courts of the sovereign State of Oklahoma from affording relief and protection through its courts to a class of its own citizens, compelling this class of citizens to seek redress and relief not in the ordinary, regular constitutional courts of justice, but exclusively in the Federal courts. It proposes to use the name of the United States in practically every case that can be brought under this act, solely for the purpose of litigating private claims and controversies between citizens of the State of Oklahoma and who are also citizens of the United States, and thus under color of law claim an interest in the controversy in which the United States has no real interest, immediate or remote, directly or indirectly.

Its provisions are in violation of the fundamental and most sacred guarantees contained in the Federal Constitution for the protection of life, liberty, and property.

EFFECT OF BILL IS NOT TO CORRECT ABUSES.

Let us subject this proposed legislative enactment to the searchlight of impartial analysis and examination.

Section 1 in substance authorizes the Attorney-General, when requested by the Secretary of the Interior, to bring suit in the name of the United States or any other appropriate complainants or plaintiffs to recover for either of the Five Civilized Tribes, or any enrolled member thereof, any moneys, lands, town lots, or any other property claimed by, or belonging to, either of said tribes, or any enrolled member thereof, and to set aside, cancel, and annul any conveyance, deed, or patent, which, in the opinion of the Secretary of the Interior, was secured either by fraud or without adequate consideration, and to cancel or reform any lease, power of attorney, or other instrument in writing affecting the lands or moneys of either of said tribes or any enrolled member thereof.

Will this provision permit the institution of a suit by the administrative officers having charge of the administration of these trust estates to correct the real abuses, injustices, and wrongs that have been inflicted upon persons having unquestioned rights in these trust properties, but who have been denied their share of the property by administrative officers, admittedly through error of law, fraud, and gross mistake of fact occurring and committed in the adjudication of their cases? Will this section permit the Attorney-General of the United States, upon the request of the Secretary of the Interior, to institute a suit to determine the legal rights of any one of the 10,000 people who have been denied their vested rights in the common trust property of the Choctaws and Chickasaws? The author of this proposed legislation in his official report for the fiscal year ending June 30, 1907, says:

"Requests have been presented and doubtless efforts will be made to reopen some, if not all, of these rolls, but it is to be hoped that such action will not be taken. Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there, but after the years of painstaking inquiry and determination made by the citizenship court, by the Com-

missioner to the Five Civilized Tribes, and, finally, by the Secretary of the Interior, it is believed that the cases of injustice or mistake are too few to justify an action that would surely result in thousands of claims being presented for readjudication."

What is this the Secretary says: "Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there," and then adds: "But after the years of painstaking inquiry and determination made by the citizenship court," which court it is alleged and generally believed was composed of at least two of the most corrupt scoundrels that ever sat as members of any court or commission and whose infamy was known to the Secretary when this report was written; and then he adds: "By the Commission to the Five Civilized Tribes," the members of which ignored and disregarded both the mandate of the statute and the instructions of the Department in order to defeat the rights of honest claimants and permitted its officials to accept employment from the firm of attorneys employed to defeat the rights of honest claimants while actually in the employ of the Government, and who, while in the employ of that firm of attorneys, briefed cases against applicants and then returned to the Commission and passed upon, in an official capacity, the very cases he had prepared and briefed while in the employ of said attorneys, and who, in order to defeat the rights of honest claimants, suppressed the records in their cases, covered up the evidence of their rights and deceived applicants by false and misleading representations, all of which facts were matters of public record and well known to the Secretary when this report was written; and, lastly, the Secretary adds: "And finally by the Secretary of the Interior," evidently overlooking the official reports to the Senate wherein his predecessor advised the Senate that between February 25 and March 4, 1907—exactly one week—the Secretary examined and decided 2,023 cases, involving the rights of upward of 10,000 claimants, and then the Secretary adds: "It is believed that the cases of injustice or mistake are too few to justify an examination that would result in thousands of claims being presented for readjudication."

Is this not a remarkable statement? Is it not upon its face so inconsistent, contradictory, and illogical that the recommendation can not be accepted or followed?

This "painstaking inquiry and determination made by the citizenship court," by the Commissioner to the Five Civilized Tribes, and finally by the Secretary of the Interior, which the Secretary assigns as a valid reason why these claimants should not be heard (for they have never in reality ever had their cases heard and determined) undoubtedly relates to the pains taken by the Commission to the Five Civilized Tribes not to make a record of the actual testimony taken in any case while it was in the field examining claimants in 1898 and 1899; to the adjudication and determination of the rights of claimants under provisions of bills pending in Congress which were not then and never became laws; to the pains taken by the Commission to suppress the records in the cases of claimants in order to prevent the true facts from becoming known to the Secretary of the Interior; to the pains taken by the citizenship court to defeat the rights of honest claimants in order to enhance the individual fortunes of members of that court; to the pains taken by the Secretary of the Interior when passing upon these cases finally, when more than 2,000 cases were examined and decided by him in less than one week, involving the rights of more than 10,000 claimants.

In substance the Secretary says in this official document that to purge the rolls of fraudulent names, or to permit rightful claimants who have been denied their property rights to present their claims in open court and have them adjudicated by a judicial tribunal, will involve so much labor and be so much trouble that he prefers that their claims should not be heard, although it is well known that claimants have never in fact had any hearing and have been deprived of their property through deception and fraud.

Would not an administrator of an estate who would dare make such a report to a court be summarily removed? Would any court in this land tolerate such brazen, culpable neglect of duty? Will Congress permit these people to be denied their property because of the corruption and criminal negligence of its agents and officers? Could anything be more binding upon the United States Government than an impartial, fair, and equitable distribution of these trust properties among the legal and equitable beneficiaries? Is it not a sacred duty which the National Government owes to these people to see that each and every one of them is given his share of the property? Can any reason be assigned why those who have been erroneously denied their rights by administrative officers should not have an opportunity to have their claims heard and determined by a competent tribunal? Is the Secretary of the Interior—charged by law with the administration of these estates—relieved of responsibility because the outrages perpetrated upon these people by administrative officers occurred under the administration of his predecessor? Is not Secretary Garfield the residuary legatee of all the errors committed and the wrongs inflicted upon these people under the administration of his predecessor? By what known rule of law or principle of equity can he now, as administrator of these estates, oppose, resist, or refuse a reexamination into every case of every person who claims to have been deprived of his rights through errors of law, fraud, or gross mistake of fact committed by administrative officers in the past?

These estates are now practically intact. Every fraudulent allotment made can now be canceled and every rightful claimant given his share of the property. In the Choctaw and Chickasaw nations there still remain unallotted 4,525,739 acres of land, including the 1,386,720 acres withdrawn by order of the Secretary of the Interior, contrary to law, for the purpose of establishing a forest or game preserve.

But no provision is found in this bill to correct any of these shameful abuses which are a stench in the nostrils of decent men.

EFFECT OF BILL IS TO CREATE HORDES OF FEDERAL OFFICEHOLDERS.

The inevitable result of the proposed legislation will be to overrun the eastern district of Oklahoma with a horde of Federal officers, whose duty it will be under this proposed enactment to interfere in the name of the United States in private controversies between citizens of the eastern district of Oklahoma with a horde of Federal officers, and expenses in maintaining the large number of suits which it is proposed to be brought under this proposed law are to be paid out of the trust funds of these people, who are to have no voice in the bringing of the suits or in the conduct of said suits after they are instituted.

Section 3 provides:

"That the Secretary of the Interior is hereby authorized to pay from the funds of the tribe interested any counsel fees, costs, and necessary expenses incurred in maintaining and prosecuting any suit under this act affecting such tribe or any enrolled member thereof, including the fees of any special counsel employed by the Attorney-General to assist in the prosecution of such suits, which special counsel the Attorney-

General is hereby authorized to employ in his discretion and likewise to fix the compensation of such counsel: *Provided*, That the expenses incurred in maintaining and prosecuting any suit on behalf of any enrolled member of said tribe or tribes, or to determine any question common to the interests of any number of such members, shall be first paid from the funds of the tribe or tribes of which he or they are members and charged against the property of such member or members: *And provided*, That for any moneys so expended such tribe or tribes shall be reimbursed under regulations to be prescribed by the Secretary of the Interior from funds due or to become due, or any property of said member or members, such expense to be pro rata among the persons interested in the proceedings, in such proportion as the Secretary may deem equitable."

Under this provision attorneys, agents, or employees without limit can be employed by the Attorney-General, who alone can fix their salaries and allow them such amounts for expenses as he may elect, and the Secretary of the Interior is to pay all such salaries and expenses out of the trust funds of these people. Who can predict with any degree of certainty that unless the Attorney-General and the Secretary of the Interior give this matter their personal consideration and attention, which would be a physical impossibility, that fees similar to the fee of \$750,000 previously allowed attorneys for the beneficent work of—as is alleged and apparently well founded—bribing public officers and resorting to all kinds of sharp practice in order to defeat the rights of honest claimants, and to be paid out of the trust funds of these people, will not be allowed these proposed attorneys, agents, and employees? Are these trust funds to be squandered and looted at will? If so, in common fairness declare a confiscation of this property and put an end to this shameful transaction.

The only person authorized to bring an action under this proposed enactment is the Attorney-General of the United States, and he can only act, no matter how equitable or meritorious the claim presented to him may be, or urgent the need for such action, when the Secretary of the Interior, upon the information furnished him by his subordinates, recommends the institution of the proceedings.

Why deny the right of the claimant or injured party at interest to bring such action in his own name? Or if it is essential that the Attorney-General bring the action, why not make it compulsory upon that officer to bring any action for any person when facts are presented by a claimant sufficient to justify the institution of such proceedings either for the protection of rights or for the recovery of rights which have been denied any claimant? Why attempt to make by law the vested rights of individual citizens of the United States recoverable only upon the recommendation of some departmental officer? Does any sane person believe that the Secretary of the Interior will personally examine into a single case or submit an official recommendation to the Attorney-General in any case where he has personally examined all the papers and is personally conversant with all the facts? Such an idea is an absurdity. With the multiplicity of duties which the Secretary of the Interior has to perform under existing law, he will not and can not know anything about the merits or demerits of any particular claim, but he must rely exclusively upon the recommendation of his subordinates. The subordinates being anxious to perpetuate their jobs will, if we can judge the future by the past, find excuse and justification for the bringing of thousands of suits, not so much in the interest of either the tribe or the individual, but because such litigation will prolong their employment. Unless the appointment of persons to conduct this litigation shall prove different from the past, broken-down political hacks with nothing but their past political record to commend them will be selected. Litigation will run riot and will continue until either these estates are completely squandered or until the courts place the exterminating heel of justice upon such proceedings or Congress as a result of an outraged public sentiment terminates the existence of this proposed law.

The Secretary being unable to give his personal attention to these matters, some bureau, division, or commission officer must act in his stead. This means that the rights of all this class of persons are to be put back in the hands of the same men who have shown themselves to be notoriously incompetent without any capacity to deal with ordinary practical questions coming before them for solution. These men are not lawyers, and some of them in the past have openly and notoriously asserted, in the face of the legal opinions of the Attorney-General's office, that they would not recognize the legal rights of certain claimants unless compelled to do so by the mandate of a court.

CLASS LEGISLATION.

This bill was artistically drawn, and upon casual examination would appear to confer jurisdiction upon the regularly constituted courts of Oklahoma, both State and Federal, to hear and determine the causes of action which it is proposed to bring thereunder. Section 2 provides:

"That any suit or suits provided for in this act may be instituted in any court of the State of Oklahoma where jurisdiction over the subject-matter and person may be had according to the laws of said State, or in the circuit court of the United States for the eastern district of Oklahoma; and the said circuit court of the United States is hereby given jurisdiction, concurrent with the courts of said State, in any and all of the suits and proceedings authorized by this act without regard to the amount in controversy."

All the force and effect of section 2, as above set out, is destroyed by sections 5 and 6. These sections contain the real life and venomous effects of this bill. Section 5 provides that any of the suits instituted under the provisions of this bill, or any suits now pending in the State courts in the eastern district of Oklahoma, shall on application now pending, or made by any party thereto at any time before the trial of said cause, be transferred from said State court to the circuit court of the United States for the eastern district of Oklahoma, and that "any application for removal as herein provided which states facts showing that the cause is one coming within the provisions and contemplation of this act shall be sufficient, and no bond shall be required from the applicant."

Section 6 makes it a misdemeanor for any clerk of a State court to refuse to certify the papers, files, and transcript of the case to the United States circuit court upon such motion being filed.

The fifth amendment to the Constitution provides: "No person shall be deprived of life, liberty, or property without due process of law."

This amendment prohibits the Government of the United States from imposing such obnoxious provisions as are proposed by this bill while the fourteenth amendment to the Federal Constitution imposes a like prohibition upon the States.

What is property? In defining a property right Mr. Justice Bradley in the case of *Campbell v. Holt* (115 U. S., 620; 29 L. Ed., 487) said: "That clause of the amendment which declared that 'No State shall

deprive any person of life, liberty, or property without due process of law," was intended to protect every valuable right which a man has.

"The words 'life, liberty, and property' are constitutional terms, and are to be taken in their broadest sense. They indicate the three great subdivisions of all civil right. The term 'property' in this clause embraces all valuable interests which a man may possess outside of himself—that is to say, outside of his life and liberty. It is not confined to mere tangible property, but extends to every species of vested right. In my judgment, it would be a very narrow and technical construction to hold otherwise. In an advanced civilization like ours a very large proportion of the property of individuals is not visible and tangible, but consists in rights and claims against others or against the Government itself."

What is due process of law? In the case of *Hurtado v. People of California*, Mr. Justice Matthews, delivering the opinion of the court, defines "due process of law," and his reasoning therein has been adopted by the Supreme Court of the United States and embodied in its decisions in almost every case involving this question that has come before the court from that day to the present. He says (110 U. S., pp. 516, 558; 28 L. Ed., p. 238):

"Due process of law in the latter (fifth amendment) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law. In the fourteenth amendment, by parity of reason, it refers to that law of the land in each State which derives its authority from the inherent and reserved powers of the State, exerted within the limits of those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and the greatest security for which resides in the right of the people to make their own laws and alter them at their pleasure."

"But it is not to be supposed that these legislative powers are absolute and despotic, and that the amendment prescribing due process of law is too vague and indefinite to operate as a practical restraint. It is not every act legislative in form that is law. Law is something more than mere will exerted as an act of power. It must be not a special rule for a particular person or a particular case, but, in the language of Mr. Webster, in his familiar definition, 'The general law, a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial,' so 'that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society,' and thus excluding as not due process of law acts of attainder, bills of pains and penalties, acts of confiscation, acts reversing judgments, and acts directly transferring one man's estate to another, legislative judgments and decrees, and other similar special, partial, and arbitrary exertions of power under the forms of legislation. Arbitrary power, enforcing the edicts to the injury of the persons and property of its subjects, is not law, whether manifested as the decree of a personal monarch or of an impersonal multitude. And the limitations imposed by our constitutional law upon the action of the governments, both State and national, are essential to the preservation of public and private rights, notwithstanding the representative character of our political institutions. The enforcement of these limitations by judicial process is the device of self-governing communities to protect the rights of individuals and minorities, as well against the power of numbers as against the violence of public agents transcending the limits of lawful authority, even when acting in the name and wielding the force of the Government."

Is an enactment that denies to an American citizen the right to bring or have brought in his own name an action for the recovery of his property, as is proposed by this bill, due process of law?

Is an act which permits suit to be brought for the benefit of one person or many persons who are of a definite class and denies the right to other persons admittedly of the same class to have suits brought for the recovery of their property due process of law?

Is an enactment that provides that citizens of a State and of the United States shall not bring a suit for the recovery of their property, except upon the recommendation of an administrative officer and upon the institution of the action by another administrative officer, as is proposed in this bill, due process of law?

Is an enactment that denies to a citizen of a sovereign State and of the United States the right to have his claim to property located exclusively in the limits of the State determined not by the regularly constituted courts of justice of that State, but solely in particular Federal courts, as is proposed in this bill, due process of law?

Congress can give no validity to such an enactment because it violates the guaranties contained in the Federal Constitution, which instrument, thank God, is above the power of Congress to impair.

GOVERNMENT NOT THE REAL PARTY IN INTEREST.

The ruthless disregard of law, the fraud practiced by administrative officers, which resulted in the denial to thousands of Indians and American citizens of their property rights, is of so little consequence to the administrative officer charged by law with the proper administration of these trust estates that he prefers, as appears from his annual report, that these thousands of legal beneficiaries should not be given an opportunity to be heard in open court, and there, with notice to the world, submit their claims and proof and receive judgments entitling them to their property.

The discovery, however, that title to a few town lots has been fraudulently acquired by a few grafters and that a few profligate Indians have sold their lands to white men without securing therefor adequate consideration arouses this officer to indignant action. The clarion call to arms is found in this bill, and the Interior Department vibrates with the shock of these frightful crimes. And what is the remedy? The Government proposes by the first section of this bill to thrust its name and mighty influence in between private claimants over these town lots and in a controversy to which it is a complete and absolute stranger.

The members of the Five Civilized Tribes are all citizens of the United States and of the State of Oklahoma. They are in their personal and civil rights in no sense under the chaperonage, control, or supervision of the Secretary of the Interior or any other administrative officer of the Government of the United States. The Government is concerned with this trust property only in fiduciary capacity, and that duty ceases and terminates when the member of the tribe receives his individual share of the trust estate, the conveyance to the nation being in fee simple and the conveyance by the nation to the allottee of all its right, title, and interest in and to the property lodged an absolute fee in the allottee. The allottee being seized in fee of the land, he could, the same as any other citizen of the United States, sell, convey, or encumber his property as he might see fit. He alone can raise the question of the adequacy of the consideration, and he alone can maintain an action to set aside a conveyance procured by fraud or imposi-

tion. The Government of the United States would be a stranger to such a transaction and could have no standing in a court.

The Constitution of the United States (Art. III, sec. 2) provides:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made under their authority; to controversies to which the United States shall be a party."

The jurisdiction of the United States courts extends to all cases to which the United States is a party. In order that the United States may prosecute or defend in a court, it must establish a case and show an interest.

What is a "case?"

Chief Justice Marshall, in the case of *Cohen v. Virginia* (6 Wheat., 264-405, 5 L. Ed., 257-291), says a "case" is "the prosecution by a party of some claim, demand, or request in a court of justice for the purpose of being put in possession of a right claimed by him and of which he was deprived."

That definition has been adopted by the Supreme Court of the United States in practically every decision from that day to the present, and was particularly relied upon by the court in the case of *La Abra Silver Mining Company v. The United States* (175 U. S., 44 L. Ed., p. 235), wherein the court says:

"Of like import was the judgment in *Smith v. Adams* (130 U. S., 167, 173, 32 L. Ed., 895, 897, 9 Sup. Ct. Rep., 566), in which this court said that the terms "cases" and "controversies" in the Constitution embraced "the claims or contentions of litigants brought before the courts for adjudication by regular proceedings established for the protection or enforcement of rights or the prevention, redress, or punishment of wrongs."

In the case of the *United States v. Henderlong* (102 Fed., 4) the court says:

"In order that the United States shall become plaintiff in a case or controversy in a judicial tribunal they must have some interest in the matter at issue. * * * The term 'parties' includes all persons who are directly interested in the subject-matter at issue who have the right to make defense and control the proceedings, or appeal from the judgment. Strangers to the suit are persons who do not possess these rights." (Hunt v. Haven, 52 N. H., 162.)

The Government of the United States alone has the power to bring a suit to cancel, vacate, and annul a patent issue by the Government in a case where such an instrument, if permitted to stand, would work serious injury to the United States and prejudice its interests, and then only where it has been obtained by fraud, imposture, or mistake. In the case of the *United States v. San Jacinto Tin Company* (125 U. S., 273-309, 31 L. Ed., 751), the court says:

"But we are of opinion that since the right of the Government of the United States to institute such a suit depends upon the same general principles which would authorize a private citizen to apply to a court of justice for relief against an instrument obtained from him by fraud or deceit, or any of those other practices which are admitted to justify a court in granting relief, the Government must show that, like the private individual, it has such an interest in the relief sought as entitles it to move in the matter. * * * If it be a question of fraud, which would render the instrument void, the fraud must operate to the prejudice of the United States; and if it is apparent that the suit is brought for the benefit of some third party, and that the United States has no pecuniary interest in the remedy sought, and is under no obligation to the party who will be benefited to sustain an action for his use; in short, if there does not appear any obligation on the part of the United States to the public, or to any individual, or any interest of its own, it can no more sustain such an action than any private person could under similar circumstances. * * * The interest or duty of the United States must exist as the foundation of the right of action."

Within the last sixty days the district court, eighth judicial district of Oklahoma, has dismissed a large number of cases instituted in the name of the Government to cancel and set aside leases made by allottees of their allotments, on the ground that the United States had no pecuniary interest therein; that it was a stranger to the proceedings and could not maintain such an action.

The real party in interest—the allottee—must be heard in his own defense and direct the proceedings, otherwise it is no adjudication of his claim or right. In the case of *Sabariego v. Maverick* (124 U. S., 261-301, 31 L. Ed., 442) the court says:

"Whenever one is assailed in his person or his property," said this court in *Windsor v. McVeigh* (93 U. S., 274, 277, 23 L. Ed., 914, 915), "there he may defend, for the liability and the right are inseparable. This is a principle of natural justice, recognized as such by the common intelligence and conscience of all nations. A sentence of a court pronounced against a party, without hearing him or giving him an opportunity to be heard, is not a judicial determination of his rights, and is not entitled to respect in any other tribunal."

The Government of the United States can not institute and maintain in its own name an action in which it has no pecuniary interest exclusively for the benefit of some third party. In the case of *The United States v. Sheridan* (119 Fed., 236) the Federal Government instituted an action against an insurance company on its bond for damages sustained by an individual engaged in construction work for which the bond was given. The evident purpose of the use of the name of the Government of the United States was to circumvent the statutory provision providing that in all suits brought in the circuit courts the amount in controversy must be \$2,000 or more. In deciding the case the court said:

"While the petition shows that this action is literally brought in the name of the 'United States as plaintiff,' is this true in the sense of that phrase as used in the judicial acts? Does the United States in fact 'sue' at all in the proper and actual sense of that word? Is the United States an actor in the pending litigation? Could the United States in any wise control it? Does not the United States merely permit the use of its name for the benefit of another, and is not the only connection of the Government with the case merely passive and formal? The answer to all these questions should probably depend upon the test of whether the United States is actually a party in interest in the litigation, or is merely a formal party under the permission of an act of Congress, in order that there may not be a technical 'violation' growing out of the fact that the bond sued upon is made to the United States alone as the party of the first part, the Salem Bedford Stone Company not being named in it. While time out of mind the official bonds of public officers and executors, administrators, guardians, and the like have been executed to the State or the Commonwealth, still any individual aggrieved by any wrongful act of such officer or personal representative could, without the permission of the State, sue upon the bonds, though, for technical reasons now well-nigh

obsolete, such person must use the name of the State ex relatione. But neither the United States in the one case nor the State in the other could recover in its own name for any wrong due to a mere individual, because it would itself have no cause of action."

Accordingly, the demurrer was sustained and the case dismissed for the want of jurisdiction.

The power of the legislature by such enactment as is here proposed to abridge the rights of citizens of the States and of the United States has been previously determined by the courts to be unconstitutional, null, and void. In the case of *Wally's Heirs v. Kennedy* (24 American Decisions, 512), the court says:

"The act of 1827 is a partial law, applying only to suits then brought or which might thereafter be brought in the name of any Indian reserve, to recover lands under the provisions of the treaties of 1817 and 1819 between the United States and the Cherokee Nation of Indians.

"The treaties secured to the reserves the right of citizenship. Of course, in 1827 they held the same relation to the body politic and were entitled to the same measure of constitutional protection as the citizens of Tennessee."

Mr. McGUIRE. Did I understand you to say a while ago that there was a firm of attorneys employed on a contract giving them a certain per cent of something? Now, what was that per cent?

Mr. BALLINGER. There was a firm of attorneys employed by the nations, their compensation to be fixed, and it was fixed, and the payment was made upon a basis of the value of the property that they took away from these people who had previously been enrolled, by judgment of the United States district courts, which judgments had been affirmed by the Supreme Court of the United States, and the source, the medium, through which this was consummated was a legislative commission that is believed to have been the most notoriously corrupt institution that was ever organized.

Mr. McGUIRE. If you have been correctly informed as to the facts, it would be the same thing as a firm of attorneys being employed to keep them off at so much a head.

Mr. BALLINGER. Yes.

Mr. McGUIRE. How much was it a head?

Mr. BALLINGER. They paid them a fee of \$750,000; but that firm of attorneys received as compensation for their services in keeping people off upward of \$1,300,000 in ten years, while the poor devil who had his farm taken away from him was compelled to mortgage his home, his farming utensils, and everything in this world he could borrow a penny on and was thereby reduced to absolute poverty.

Mr. STEPHENS. You do not know anything about an indictment being dismissed?

Mr. BALLINGER. Gentlemen of this committee, an indictment was returned against those men for criminal conspiracy for robbing the Chickasaw Nation. That indictment was never prosecuted. On the contrary, the United States attorney who attempted to prosecute these people was summarily removed from office, and by order of the Attorney-General of the United States—which telegram I saw myself—on the 14th day of November, 1907, the United States attorney at Ardmore was directed to dismiss those indictments, and the telegram read to "be sure and see that the indictments against Mansfield, McMurray, and Cornish were dismissed before the territorial courts passed out of existence and the new State came into being." And they were dismissed, and no attempt has ever been made to punish those men.

Mr. STEPHENS. Would this money have belonged to the Indians?

Mr. BALLINGER. This money would have belonged to this trust estate, and if there was ever a duty imposed on the Federal Government, there was a duty in this case to deal honestly with these people and give them their rights. It is because of this that I enter a protest here to-day. I do not want to protest against proper regulations, but I do want to protest against this sort of conduct on the part of administrative officers. It is not my say so, it is the sworn testimony of these men themselves which proves what I say. We yanked them before a select committee of the Senate and made them admit their infamy.

Mr. STEPHENS. I have a certified copy of the indictment.

Mr. BALLINGER. I am very much obliged to you, gentlemen, for this hearing.

Mr. SAUNDERS. As I understand you, the Choctaw and Chickasaw people engaged in litigation with these excluded people? There must have been some form of contention with the excluded people.

Mr. BALLINGER. There was contention with reference to everybody down there. Everybody's rights were disputed.

Mr. SAUNDERS. But they got on the rolls, you say, through judgments of the courts.

Mr. BALLINGER. Those on the rolls are not in the class of beneficiaries, many of them. There are two or three white people who have not one drop of Indian blood in their veins on those rolls. If you take off these restrictions those persons can transfer their property and you never can recover it in the world.

Statement of Mr. W. W. Hastings.

Mr. HASTINGS. Mr. Chairman and gentlemen of the committee, if there is any place where I feel at home, and if there is any subject with which I claim familiarity, it is in a discussion of the question of citizenship, particularly citizenship in the Cherokee Nation, because I have represented that nation in part on all questions relating to citizenship for the last ten years. I am not called upon to defend the members of the Commission to the Five Civilized Tribes, or the Commissioner to the Five Civilized Tribes, but I believe that I would be doing injustice to myself if I were to sit here silent and listen to the attacks which have to-day been made upon their personal integrity and not say before this committee what deep down in my heart I know, believe, and feel, and that is that more honest men have never administered the laws over an Indian people nor made or attempted to make a roll of citizens of any Indian tribe than the members of the Commission or Commissioner to the Five Civilized Tribes.

Mr. STEPHENS. Will you permit me to ask you one question?

Mr. HASTINGS. Yes, sir.

Mr. STEPHENS. Is it not a fact in all these nations that there are instances where there is one member of a family on the roll and another off, a father on and a mother off, and families are divided up in that way?

Mr. HASTINGS. Yes, sir; but I will come to that in a moment, and I will attempt to show this committee why that is right.

Mr. CAMPBELL. That is what we want to know.

Mr. HASTINGS. Let me show you why that happens. Under the treaties under which these Indians removed from the Eastern States to the Indian Territory, each to his respective nation, some of the individual members of a family removed West and some of them remained at home in the Eastern States. And now, if a brother, for example, went to and remained in one of the nations—I will use the

Cherokee Nation as an illustration—if he remained in the Cherokee Nation, I know of no instance where both brothers went under the same law and both remained in that nation all the time where both are not on the roll; that is, where they have remained there continuously.

Mr. STEPHENS. I can give you one instance right in the Cherokee Nation; that is the instance of W. R. Wayburn, who lives at Pryor Creek.

Mr. HASTINGS. No, sir; I say that I know personally that that man forfeited his right to citizenship by leaving the Cherokee country, and he was gone from it for a number of years.

Mr. STEPHENS. He was gone for twelve months, according to his affidavit.

Mr. HASTINGS. I am not talking about affidavits. You can prove anything you want to by affidavits. I have not the slightest respect for an affidavit in an Indian citizenship case.

Mr. STEPHENS. He had his father with him and went to Texas, and his father died there.

Mr. HASTINGS. That is not the fact. The fact was that he was away from there for years. He abjured his citizenship under the constitution of the Cherokee Nation and the laws of the United States.

Mr. STEPHENS. Is it not true that he had property there, and he lost that property?

Mr. HASTINGS. It may be that since he abjured his citizenship after his return he went out on the public domain and made an improvement in violation of law, and we may not have been able to have gotten him removed; but he has had ample opportunity to adjudicate honestly and fairly and fully and completely his rights to citizenship in the Cherokee Nation.

Mr. STEPHENS. His father became ill and died in Texas.

Mr. HASTINGS. Oh, this man Wayburn was out of the Cherokee Nation for a number of years, and he forfeited his right of citizenship. It does not make any difference what these applicants say; I am here to say that their statements are untrue.

Mr. STEPHENS. I know that he had a number of brothers and sisters there on the roll.

Mr. HASTINGS. They may be on the roll, but under the constitution of the Cherokee Nation, section 2, article 1, where you remove out of the nation you lose your citizenship in it, and therefore a member may be constitutionally and legally on the roll and his father or brother or sister may not be legally entitled to be on the roll. Now, that is a question to be determined under the testimony in each particular case.

Mr. STEPHENS. But under the ruling of the Interior Department that man has been thrown off of the roll, and he is losing his property there, which is worth thousands, almost.

Mr. HASTINGS. What I have been trying to explain to you and to this committee is that it is not a question of blood alone that entitles one to be enrolled under the law as a citizen of the Cherokee Nation. It depends not only upon blood, but upon residence there in the Cherokee Nation. That has been decided by every court in the country, and by the Supreme Court of the United States, in any number of cases, and among them, the Cherokee Trust Fund case (117 United States, 288) and the Stephens case (174 United States, 445), and in a number of other cases wherein the provision of the Cherokee constitution and the various acts of Congress requiring residence in the Cherokee Nation in order to retain a member's citizenship therein was upheld. The United States court for the northern district of the Indian Territory in the citizenship cases, heard upon appeal under the act of June 10, 1896 (29 Stat., 339), upon this point held:

"That blood alone is not the test of citizenship in the Cherokee Nation; that those Cherokees and their descendants who have separated themselves from the nation and have removed their effects from it and taken up their residence in any of the States in the Union have ceased to be citizens of the Cherokee Nation, and further, that bona fide residence in the nation is essential to citizenship."

This decision was affirmed by the Supreme Court of the United States in the Stephens case above referred to. Section 21 of the act of Congress approved June 28, 1898, commonly known as the "Curtis Act," in part provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

The Cherokee agreement ratified by the Cherokee people on August 7, 1902, contained a provision in section 27 that, in so far as the question of residence was concerned, the Cherokee roll should be made in strict compliance with section 21 of the act of Congress approved June 28, 1898, a part of which I have just quoted.

The entire constitutionality of the act of June 28, 1898, was sustained by a decision of the Supreme Court in the Stephens case.

Suppose we had all done like Wayburn. Under the conditions of the patent our land would have reverted back to the United States, and there would not have been a foot of land left to those Cherokees residing down there now, because there is a condition in the Cherokee patent that the land shall revert to the United States if the Cherokee tribe becomes extinct or abandons the same. Hence the necessity for our incorporating into the Cherokee constitution, as early as 1839, the provision found in section 2, article 1, providing for forfeiture of citizenship upon removal from the Cherokee country.

Mr. STEPHENS. Let me ask you this: Were you not acting as an attorney down there and paid at so much a head to keep those people off?

Mr. HASTINGS. No, sir; I was not. I was paid a salary averaging less than \$2,000 per annum.

Mr. STEPHENS. Do you think a contract of that kind would be a corrupt bargain if it was made?

Mr. HASTINGS. That kind of a contract was not made with the Cherokee Nation, and I do not know the details of the work done by the firm of attorneys to which you evidently refer, but I understood that that firm had a contract with the nations they represented and that that contract was presented to a court and that this court created by an act of Congress all citizens of the United States, passed upon the amount of compensation to be paid; but, as above observed, I do not claim to be familiar with the services performed. However, in the Cherokee Nation I may say that that kind of a contract was not made, and the attorneys representing the Cherokee Nation were paid the very ungenerous salary of something less upon an average than \$2,000 per annum. Now, I quit the question of citizenship with this general statement. Under the act of Congress approved June 10, 1896, applicants had a right to apply to the Commission to the Five Civilized Tribes for admission to citizenship in any of the five nations; they had the right of appeal to the United States court given them, and afterwards the right of appeal to the Supreme Court of the United States was given them; under the act of June 28, 1898, the Dawes Commission was instructed and directed to make a complete and final

roll of all persons recognized as being entitled to citizenship in the respective nations, and from June 28, 1896, practically up to March 4, 1907, for nine long years, that Commission heard testimony pro and con, passed upon these cases, prepared written opinions, the applicants were permitted to be represented both in person and by attorneys where their interests could be well protected; they had a right and an opportunity was given to introduce all of the testimony they desired to in their own behalf, and the decisions in all rejected cases were first forwarded to the Commissioner of Indian Affairs for approval, and from the Commissioner of Indian Affairs to the Secretary of the Interior, and these applicants had all of these opportunities to thoroughly present their cases, and I for one believe that the question of citizenship down there ought to be forever closed.

It is true that we have 41,798 Cherokees, and you may here and there in the decision of over 41,000 cases find some little injustice done; perhaps you will find a few names on the roll that ought not to be there and you may find a few that ought to be there who are not upon the roll. But was there ever a human court established that tried as many as 41,000 cases in the course of ten or twelve years, many of them poorly represented, but what some injustice was done, and will not more injustice be done, and does not the Secretary of the Interior in that very report from which extracts have been read in your hearing, if you read the next three or four lines in it, say that more injustice would be done to our people if we opened up this question of enrollment, and does he not therefore advise that it be closed and no more legislation enacted looking to the opening up of the rolls? He says:

"Requests have been presented and doubtless efforts will be made to reopen some if not all of these rolls, but it is to be hoped that such action will not be taken. Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there, but after the years of painstaking inquiry and determinations made by the citizenship court, by the Commissioner to the Five Civilized Tribes, and finally, by the Secretary of the Interior, it is believed that the cases of injustice or mistake are too few to justify an action that would surely result in thousands of claims being presented for readjudication."

Now, as to the question of the removal of restrictions, my time is limited by the committee. I want to say, gentlemen of the committee, that no one is stronger in favor of protecting the real Indian than myself. I appear here in his behalf. But when I appear for the real Indian, I mean by that the ward of the nation, the full-blood Indian, and I am willing to say that I go as far as any member of this committee, I go as far as Congress will go, as far as the Department will go, in the protection of the full-blood Indian, and I believe that this bill that is prepared and introduced here is designed to and does protect the full-blood Indian.

Mr. McGUIRE. Is that bill No. 15641?

Mr. HASTINGS. Yes, sir.

Mr. McGUIRE. Is that bill reasonably satisfactory to you?

Mr. HASTINGS. It is reasonably satisfactory to me. There are some little changes in phraseology, perhaps some little differences in wording along in it that I would have changed, but taking it as a whole, yes.

Mr. McGUIRE. You heard the amendments suggested to the bill by Mr. Boudinot and others?

Mr. HASTINGS. Yes, sir; with those I agree in part. This bill removes restrictions from all citizens, all members of the tribes, or all allottees of less than half Indian blood, and from the surplus lands of all allottees of Indian blood less than the full blood, and from all of the lands of the intermarried white citizens and of freedmen, and gives the Secretary of the Interior jurisdiction to remove the restrictions from all restricted land, including all of the lands of full-blood Indians. I desire to say that for seventy-five years the Cherokees have had a constitutional government, and that they have had one of the best school systems that any State in the Union has had. We have had colleges in which our people have been educated conducted under the supervision and operated at the expense of the tribe, and besides a great number of mission schools and colleges independent of tribal control have been doing a great work educating the Indian people, so that now I want to say that we have some 250 or 300 union neighborhood schools, attended by whites and Cherokees, scattered throughout the Cherokee Nation, and two-thirds of the teachers in those schools are of Cherokee blood. In the late constitutional convention, which framed the organic law of the new State of Oklahoma, a number of the delegates were Cherokees by blood, and you have one here on this committee [referring to Mr. CARTER], one Member of Congress of Cherokee-Chickasaw blood, and in the United States Senate we have another distinguished member of Cherokee blood [referring to Mr. OWEN].

Mr. McGUIRE. Are you of Cherokee blood?

Mr. HASTINGS. Yes, sir; I am about one-thirty-second Cherokee blood. I want to add that a great many members of the present legislature of the State of Oklahoma are Indians by blood, and over in those counties where there is a reasonable percentage of Indians (and in no county are there more Indians than whites, but in those where there is anything like a large percentage of Indians) a great majority of the officers are Cherokees by blood. I only mention this to show you the degree of intelligence our people have attained down there and why I believe they are sufficiently protected by this bill. The full blood is protected against the sale of his land; he is protected against the leasing of it for oil or mineral purposes; sufficient safeguards are thrown around his devising his land; full-blood heirs can only sell inherited land with the approval of the probate court having jurisdiction over the estate, and by the terms of this bill he is allowed to lease his land for agricultural purposes for a period not longer than five years.

Before passing to section 6, I want to suggest an amendment to section 3. I have before me Senate bill No. 5586, but these bills are identically the same. In line 5, on page 3, I think the words, "and the enrollment records connected therewith" ought to be eliminated, for the reason that the rolls are printed, and these rolls now show the ages, brought up to certain dates, and they also show the degree of blood, and therefore I think the words, "and the enrollment records connected therewith," should be eliminated, so that these printed rolls or published rolls, those that are circulating around and are placed in the recording offices everywhere, should be the absolute and conclusive guide, and in lieu of those words I would insert the words "and printed under his direction," referring, of course, to the direction of the Secretary of the Interior.

Mr. STEPHENS. Do you think that the word "conclusive" ought to come out of the sixth line?

Mr. HASTINGS. No, sir; I think it ought to remain in there. If you do not leave it there, one day an allottee would sell his land, if you pass this bill, and let us suppose that he is less than half Indian blood, and the next day he might sell it to another man, and to another, and another, claiming in each case a different age or degree of Indian

blood, and I think it is too great a temptation to the Indian to commit fraud, and for that reason I think it is better to have these rolls to be made conclusive, and then the Indian knows what is the guide, and the purchaser knows what is the guide. The Indian should be taught to be honest rather than induced by legislation to be dishonest. I would have the Indian taught business integrity and personal honor. Let my race continue to be one of high ideals.

Mr. STEPHENS. As a matter of law, do you think Congress has any right to deprive a man of property rights by any such language as this in the bill?

Mr. HASTINGS. I do not believe that it deprives him of property rights. You are giving the right to alienate to some and to some you are not by affording better protection. That is the proposition.

Mr. BALLINGER. May I ask you one question?

Mr. HASTINGS. I have no objection.

Mr. BALLINGER. Does that prescribe the rule of evidence? Does that prescribe what shall be evidence?

Mr. HASTINGS. It does prescribe the rule of evidence.

Mr. STEPHENS. In an act of April 26 you said that these rolls should be conclusive as to the quantum of Indian blood. What would you do with Wayburn? He was on two or three rolls and was thrown off of those, and one of those was approved by the Dawes Commission and that was recalled in some way and he was thrown off of the rolls. What would he do? He would be suspended between heaven and earth.

Mr. HASTINGS. I beg your pardon, but the trouble with you is that you have got one isolated case out of 41,798 people. Will you pick out that one isolated case and stop the whole administration of affairs just because you claim that some injustice has been done some single individual and the only evidence you have of that is his ex parte affidavit contradicted by the record?

Mr. STEPHENS. If the Government can rob one man it can rob hundreds.

Mr. HASTINGS. But if we are going to hold up a final settlement of our affairs every time a man presents an affidavit that he is entitled to redress, nothing would ever be done, no settlement would be reached.

Mr. STEPHENS. But if that affidavit is right—

Mr. HASTINGS. An applicant may not be entitled under the law because of the provision of forfeiture contained in the Cherokee constitution, because of the act of Congress requiring residence in the nation in which he claims citizenship. He may not be legally entitled to be enrolled.

Mr. STEPHENS. How is a man to forfeit his heirship?

Mr. HASTINGS. That has been determined by the Supreme Court of the United States, that that is constitutional, in a number of cases, as I have already heretofore stated.

Now, I want to briefly discuss the question of taxation. I want to say, gentlemen of the committee, that I am going to disagree with my brother Indians, and I do not speak for them on this subject; I only speak for the Cherokees. And I regret that I have to come to the parting of the ways with the other representatives of the other tribes on this proposition. So far as I am concerned, my judgment is that you ought to protect the real Indian, "the domestic, dependent alien," the man who is really the ward of the Government, the man that you are charged with the duty to protect, the man that deserves protection, and the man whom the Government is in honor bound to protect.

Mr. STEPHENS. Would you say the full blood?

Mr. HASTINGS. I am talking about the full blood; and I also include the homestead of the mixed bloods, those of half or more than half Indian blood as provided here in this bill. I believe that the rest of that land ought to be taxed. I am not sure that any should be exempt from taxation but the land of the full blood.

Mr. CAMPBELL. Except the homestead of the full blood?

Mr. HASTINGS. Except the land of the full bloods. All the land except the land of the full blood is reserved here, and the homestead of the half and more than half Indian blood is protected from taxation. Now, I believe that all the rest of these lands ought to be taxed. If my lands are enhanced in value by reason of the State government being thrown around them, by reason of the fact that my neighbor is permitted to sell his land, by reason of the fact that better farmers get into possession of it, and by reason of the fact that they develop that land adjoining mine, which makes it more valuable and enhances it in value, then I believe that as a matter of right, as a matter of principle, I ought to help to pay for that government that enhances the value of that land.

Now, a serious question arises as to whether the lands of minors should be taxed. Let us consider that, gentlemen of the committee. You have got to raise so much taxes in a State and county, have you not? Now, suppose there is a family of two adults, the father and mother, and they have two minor children. You will either have to place double taxation on the land of the father and mother or equalize it upon all, will you not?

If that land belongs to the children, and that land is enhanced in value, what reason is there that it should not help pay for that?

Another reason might be urged. The children go to school. A large percentage of this tax is for educational purposes. The more good schools you have in every neighborhood, the more churches you build, the better class of tenants you will have, and it will add value to the land, and therefore the land of the children is enhanced in value, is it not? Now, if the land of the minors is enhanced in value, why should not that land pay its pro rata share of the burden?

Again, another reason why I think it ought to be taxed is this: The line otherwise of demarcation between the Indian and the white man is obliterated. If you go down in the Indian Territory, now Oklahoma, there is no such line. They never ask whether a man is a white man or whether he is an Indian, and I want to say that as long as you keep up these laws making a line of distinction, throwing the Indian over on one side of the line and exempting him from taxation, you place a ban on the Indian and he never can rise up under it. You create a prejudice against him that he never can overcome, and that will destroy him. I want to tell you right now that the Indian is walking right along side by side with the white man. You take all those offices down there, and you will find that the Indian is represented in all the different offices through that country, and if you enact this class legislation, if you go to exempting him from taxes and throwing him into a separate court, you will create a prejudice against the Indian, and the Indian being in the minority—there being about 100,000 over on the Indian Territory side as compared with 600,000 whites, and the whites increasing in greater proportion than the Indians—the ultimate result will be that the prejudice against the Indian will absolutely destroy him. What I would like to see is this prejudice wiped out and prevented. Have your union schools continued like you have them now.

Mr. MOTT. Is there any prejudice between the whites and Indians on the score of race?

Mr. HASTINGS. There is absolutely, to-day in the Cherokee Nation, not the slightest evidence of prejudice existing between them; but one race is being assimilated right along by the other.

Mr. CARTER. There has not been any demand for the payment of taxes?

Mr. HASTINGS. There has been no demand for the payment of taxes; no.

Mr. CARTER. From the whites or Indians of the Indian Territory?

Mr. HASTINGS. No, sir; not outside of the cities and towns.

Mr. CARTER. That prejudice probably would not spring up, then, until that demand was made?

Mr. HASTINGS. No; but I was going to add, suppose you exempt about three-fourths of this land from taxation; how are you ever going to alienate any part of it? Will it have any value? Are you ever going to get a farmer on the outside to come in and purchase any of that land? He will say, "I will be taxed to death." The Oklahoma constitution provides a maximum rate of taxation, but it doesn't say what maximum value shall be placed on the land, and therefore they will have to value the land high enough so as to make it yield a certain amount of taxes. So far as I am concerned, I believe you ought to protect the full-blood Indian until he is declared by law or the Department or some competent tribunal to be competent to commercially compete with his white neighbors. Many of them are now, and doubtless the Secretary of the Interior would so hold upon presentation of their individual applications.

So far as section 6 is concerned, I do not believe that that section applies to anything but restricted land. I think Mr. Boudinot and some of the other gentlemen here are honestly mistaken about it. That is my judgment, that it only refers to restricted land. I have no objection, if the Secretary of the Interior and the Government of the United States want to generously appropriate \$90,000 and send us, free, attorneys down there to assist our people in caring for their allotments; I have no objection to that. I do not believe in interfering with the probate courts. I believe, if a man is the guardian of his minor children, that this representative of the Department should come down there and give him advice free; but I do not believe in interfering with the guardian; but in the event he is appointed guardian, he must make annual reports to the Secretary of the Interior and also report to the probate court.

Mr. STEPHENS. Would there be any objection to selling the surplus land belonging to the minors to the highest bidder?

Mr. HASTINGS. I have a decided objection to that.

Mr. STEPHENS. Would you have any objection to this proposition? Of course you would for the sale of your own children's land.

Mr. HASTINGS. I would not begin to hear to it.

Mr. STEPHENS. But suppose the land of the minors was sold and the money put in the Treasury, so that the land could be taken up by white farmers.

Mr. HASTINGS. Do you refer to full bloods or half-breeds?

Mr. STEPHENS. Any of them.

Mr. HASTINGS. My answer might be different.

Mr. STEPHENS. Both ways.

Mr. HASTINGS. I want to say here that I am opposed to the sale of minors' lands except where there is a legally appointed guardian and where he applies to the probate court, and they are sold after appraisal and advertisement in accordance with law.

Mr. STEPHENS. But where it is sold to the highest bidder—

Mr. HASTINGS. Under the law out there it has to be appraised and sold to the highest bidder, but not sold except in each individual case, and that sale must be approved by the court.

Mr. STEPHENS. Should not that apply to all the surplus lands of the full-blood Indians?

Mr. HASTINGS. There is a provision in the bill under which the restrictions might be removed from the land of full bloods. I expect I am responsible in part for the insertion of that clause. That refers to homesteads as well as surplus land. I will tell you why that was incorporated—because some people are quite old and infirm, and they ought to have the right under the direction of the Secretary of the Interior to sell their lands; others are invalids; and, then, sometimes the homestead is not as valuable as the surplus, and under this provision the Secretary of the Interior would perhaps give them a right to sell the homestead instead of the surplus. Again, the homestead might be more valuable than the surplus, but the homestead may be a distance away from the rest of the land of the family, and it might be more desirable on account of its location to sell the homestead than the surplus. I think in some cases of minors, where there is a legally appointed guardian and it has been investigated by the Secretary and the guardian reports that it is for the best interest of the ward, for instance, for educational purposes, say in some individual cases, the full-blood minors' surplus should be permitted to be sold; but as a general proposition I would be opposed to it.

The next question is as to this jurisdictional bill. You find it incorporated in Senate bill No. 5586. I want to say, gentlemen of the committee, I think that bill is entirely too broad. I believe that section 6 of this bill gives the Secretary of the Interior jurisdiction and ample authority and gives him plenty of money, and section 5, which immediately precedes it, in specific language declares all sales, deeds, contracts, powers of attorney, or other incumbrances made or attempted to be made in violation of law absolutely null and void. I think, therefore, that section 6 gives him plenty of authority to protect those people down there, but I am very much afraid that there are many provisions in this jurisdictional bill that I would not agree to.

Mr. CAMPBELL. What is the number of that bill?

Mr. HASTINGS. It is Senate bill No. 5586. They have the two bills combined in that one. It permits any kind of a suit to be brought, either in the name of the United States or the individual, either with or without his consent, and in some cases it is to be brought either before restrictions are removed or after. Now, you know that this last financial panic was largely caused by the people being scared more than anything else. If this bill is passed, let me indicate to you the result of it. How are you ever going to sell any lands down in that country? Suppose you go to the recording office and get an abstract, and you see that the title is clear, how are you going to get an honest farmer from Illinois or Kansas to come out there with this bill, this threat, hanging over the land; how are you going to get him to come down there and invest in a foot of that land? He doesn't know but what the next day there is going to be a suit brought to cancel that original patent, and the result will be that instead of the honest farmer coming down there to buy that land it will be bought up by the speculator, who will take a chance at it.

Another objection that I have is that it takes money out of the tribal

funds, and after a certain time the funds, when the allotments are equalized, are to be individualized and the expenses of the suit or suits are charged up to the individuals. Now, we are trying to wind up our affairs down there, and that means a postponement of a final settlement, does it not? I believe that the Government of the United States is charged with the duty and responsibility, as you provided in section 6, of caring for those who should be cared for—that is, the real Indian down there in that country, and at the expense of the Government of the United States.

I am not opposed, gentlemen of the committee, to the Secretary of the Interior bringing these suits in the name and on behalf of the real Indian before the removal of restrictions, and at his request. Let him have the title unclouded before his restrictions are removed, and then the Indian can go into the open market and get the most for his land. But I am opposed to holding this bill over unrestricted land as a threat against it, so as to reduce the price of the land and keep out the honest investor in that country.

Mr. MOTT. Does not this bill provide that the Secretary of the Interior can not file any suit on this land where the rights of suit accrued after the removal of the restriction?

Mr. HASTINGS. No, sir; it does not.

Mr. CARTER. No; it does not.

Mr. BOUDINOT. Would you not favor this, or do you not believe that the guardians of minor allottees down there, acting under authority of the courts, should be free from the supervision of the Secretary?

Mr. HASTINGS. I do not believe that the guardians should be interfered with, nor do I believe that he should be superseded by the representative of the Secretary. I agree with you as to that, and I believe that section 6 contemplates the appointment of a representative of the Secretary who will act in an advisory capacity to this legal guardian, and would not supersede him at all.

Mr. CARTER. That was the intention.

Mr. HASTINGS. That was the intention. I am frank to say that I think section 6 is a little too loosely drawn, and I think it ought to be tightened up a little bit.

Now, a word more as to the jurisdictional features of the bill. Concurrent jurisdiction, as provided for in Senate bill 5586, means that the representatives of a government provided for in section 6 will urge the institution of all suits in the Federal courts and the transfer of all cases from the State to the Federal courts. To that I can not assent, because—

First, I think it unnecessary. Some test suits to determine all legal questions will have to be brought and those suits will be appealed either through the State courts, and, there being a Federal question involved, to the Supreme Court of the United States, or through the Federal courts to the Supreme Court of the United States.

Second, The State courts should not be divested of their jurisdiction. While some of the decisions reported to have been made by the judges of the State courts may be erroneous and indefensible, and probably are, it must be remembered that the judges are new and many complicated questions are being presented, sometimes indifferently, not to say poorly, but conditions will soon settle down, and I prefer to trust the property interest of our people to the judges of the courts which they themselves helped to elect. In the end the ballot is their only sure and safe weapon of defense.

Third, If you provide free attorneys for the less intelligent of our people their rights can and I am sure will be protected. If not, in the lower courts, upon appeal.

Fourth, Most allottees have other property interests to protect, and if they invoke the jurisdiction of Federal courts upon questions involving their restricted land, then the State courts and the juries will unquestionably be prejudiced against them in the trial of suits involving unrestricted land or other property interests or their liberty.

Fifth, This and all previous legislation, agreements, and treaties contemplated that all these Indians would at some time be emancipated from Federal control, and my honest judgment is that it is best for them to begin now. Let the incompetent Indians have the advice and assistance of the representative of the Government so long as Congress shall think it necessary.

Sixth, There is a serious question as to the right of Congress to enact the jurisdictional features of this bill. We have had too much doubtful legislation. The courts have had to construe every law enacted for that country, and every treaty or agreement made with the Indian people has been the subject of a lawsuit. I trust that the intention of Congress will be clearly and explicitly expressed in this bill, and that it will be free from doubt as to its constitutionality. All doubtful legislation in any way affecting the title to lands in our country will have the effect of clouding the title more or less, and will result to the detriment of the grantor, the Indian.

Seventh, Our present governor—and his term of office will not expire for three years, and by that time conditions will settle down in our new State—is a strong friend of the Indians, and I am sure if the representatives of the Government find any judge of a State court corrupt or unwilling to do his duty that he would not hesitate to remove him if the proper charges were filed.

Eighth, I think our people should be encouraged to have respect for and confidence in our local courts and in our State government and institutions rather than have instilled into them the spirit of suspicion and distrust. Teach the Indian self-reliance; develop him as rapidly as possible. Aid and protect him with the ultimate purpose of the Government always in view, and that is to make him a citizen of the United States in fact as well as in law.

If I know myself, I love and cherish every Indian sentiment. I owe the Cherokee people much—probably more than I can ever repay, although I have given them my best services for fifteen years in attempting to assist them as best I could; but I warn this committee now that, my judgment is, the surest means of destroying the Indians is to enact legislation that will result in arousing racial prejudice against them, now buried, as I trust, forever.

I have already trespassed upon the time allowed me. I am certainly very much obliged to the committee.

Statement of Mr. M. L. Mott.

Mr. MOTT. I did not know at the time you asked me how much time I would want that the committee was going to take under advisement this judiciary bill.

Mr. CAMPBELL. We are considering them all together.

Mr. MOTT. I do not believe there has been a great deal said about the judiciary bill, or that the objections offered necessitate my going into it very extensively, and to prevent consuming the time of the committee, as this would take more than I am willing to ask for, even if I knew that the committee was willing to concede it, I want to present to the committee here a brief. I have a brief here that I had

directed to the chairman of this committee which deals exclusively with the jurisdictional bill, the right of Congress to pass this legislation, and I will hand that to you. I had addressed it to Mr. Sherman, the chairman of the committee.

Mr. CAMPBELL. This will be for the use of the committee in the redrafting of the bill.

Mr. MOTT. Yes; and it might be embodied in the record. There has been a great deal of time given to the preparation of that paper, and it might be that in the discussion of this question, before it is finally concluded, the discussion might grow quite serious upon the question of the jurisdictional bill, because I know there is strenuous opposition to it upon the idea that it is interfering with the State courts, and that the Congress will be attempting to take away prerogatives belonging to that independent sovereign, which is something that it has not been in the habit of doing. A careful reading of that brief, which embodies all the authorities, will show that Congress is assuming no more than it has done in other cases, and in several of the States, and so long as the Indian lands are under restrictions the United States has reserved to itself the right of administering that trust through its own courts, and it is not a restriction upon the State of Oklahoma, nor is it a discrimination, and it has been so held in every decision from the time John Marshall handed down that famous one on the Cherokees in Georgia, and the provisions have been in entire harmony, and there is no doubt but what the opinions run along on all fours on this question.

Mr. CAMPBELL. Do you know of any other tribes except the Five Tribes in the Indian Territory who were granted a fee simple title in their land?

Mr. MOTT. I heard Mr. Ballinger read the provisions of those treaties. Mr. CAMPBELL. Do you know of any other case of that kind?

Mr. MOTT. No, sir; I do not.

Mr. CAMPBELL. Then it could not be res adjudicata.

Mr. MOTT. Well, I am not familiar with the matters there. My recollection is that the Choctaw and Chickasaw nations entered into an agreement afterwards with the United States Government by which certain limitations were imposed upon their rights. I do not think there is any question but what you have the power and the right to do that.

Now, Mr. Chairman, I want to say this: These matters have been discussed before the Interior Department at great length, not only at this session, but last session, and during all the time that the Government has been allotting these lands down there. The Interior Department understands this question, the agents and representatives of the Government understand this question, as it would be impossible for you gentlemen or any committee appointed to gather the conditions as they exist and have existed, if you sat here for twelve months. My confidence in the integrity of the Government is supreme, and the officers who administer the law in the affairs of these tribes. So far as the Interior Department and the Commissioner of Indian Affairs are concerned, I think they have done it solely and singly with the idea of the good of the Indians, and for their protection and preservation. That Department has recommended both of these bills—this restriction bill and this judiciary bill. They have done it actuated by what they believed was right, with a complete, full knowledge of the situation, and it is their business to know the situation.

Mr. CARTER. Are you in favor of the removal of the restrictions?

Mr. MOTT. No, sir. I am, under rules and regulations.

Mr. STEPHENS. Would not that prevent restrictions from being removed almost entirely?

Mr. MOTT. Oh, no. Why, they are so slow to act here. Have you ever had any business with this Department?

Mr. CARTER. Then your confidence in the Secretary is not so great if he has recommended this legislation?

Mr. MOTT. Which?

Mr. CARTER. For the removal of the restrictions.

Mr. MOTT. I advised him very forcibly on that, as I thought, and I impressed him sufficiently about it to excite some action, I think, although I differed with him in only one or two minor particulars. I am opposed to restrictions upon the homesteads of any of the citizens of the Five Civilized Tribes. I am not opposed to it because I am an Indian. I am not an Indian. I am a North Carolinian. I went out there and was appointed by the chief of the Cherokee Nation, with the approval of the President, and I have been there four years. I am opposed to the removal of the restrictions upon these homesteads, because there was a solemn agreement between these people and the United States that their land should be nonalienable and nontaxable for a period of twenty-one years. That is a solemn agreement in writing, signed by the President of the United States on the part of the Government of the United States, and by the representatives of the Indian tribes who ratified it.

Mr. CARTER. But you do not object to the removal of the restrictions on the surplus lands?

Mr. MOTT. That is not in conflict with any agreement with the Indians.

Mr. CARTER. You do not object to that?

Mr. MOTT. No; not under regulations.

Mr. CARTER. Do you not believe that they ought to have the right to sell their own lands?

Mr. MOTT. Yes; those that are capable of it, and I am in favor of the Secretary saying that the restriction should be removed. But because you are capable of selling your own land, I am not in favor of having the restrictions removed from the land of all those Indians so that a crowd of grafters can buy those lands for whatever the Indians will sell them for.

Mr. CARTER. I have a cousin who is a college graduate, and as bright a young man as there is in the Chickasaw Nation, and it took eighteen months, with three lawyers, for him to get his restrictions removed. That is an absolute fact, and I had finally to write Mr. Kelsey myself, and I told him that I had written him three or four letters before, and I wanted him to give this his personal attention; and when he did that, at the end of eighteen months, this young man got his restrictions removed.

Mr. MOTT. Mr. Carter, that is no argument against the principle. You are simply arguing against the method of procedure.

Mr. CARTER. The method of procedure would be the same. We have no guaranty that it will be different.

Mr. MOTT. The Secretary proposes to make regulations so that you can have the restrictions removed without coming to Washington. I will ask you a question, as a member of this committee.

Mr. CARTER. I will be very glad to answer it.

Mr. MOTT. Do you think that all the citizens in the Creek Nation are capable of having their restrictions removed and disposing of their

property, and do you think that they should be given the right to alienate and sell their property?

Mr. CARTER. I think that every Indian in the Indian Territory of mixed blood is as competent as, on an average, are the white men who surround him, and I think that he ought to be more competent, because he has had better educational facilities and he is better educated.

Mr. MOTT. Now, I want to answer every question that is put to me, but I do want to get before this committee certain things before I conclude. I want to make this statement before I proceed any further. I do not want to assault the Indian Territory nor Oklahoma, and I do not do it; but I do say that if the same conditions existed, if the same number of men—incompetent, incapable of attending to their affairs—lived in the District of Columbia, and owned all the property in the District of Columbia, that the same conditions would exist in the District of Columbia that exist in the Indian Territory. I say that matters here under those circumstances would be just as disreputable as they are down there, and I do say that the conditions down there are such as to justify this Congress in taking care of the Indians; because if this Congress does not do it, then the Indian will be swept literally off the face of the earth.

I say that as a man, and I say it as an individual, and I say it as an attorney for these people whom I represent. And I say that any man who understands the conditions and has lived there knows that the only absolute safety to the property rights of those people is through the legislation of this Congress, and the man who says that they do not need this protection is either woefully ignorant, or he is not the best friend of the Indian. There is no politics in the Indian Territory when it comes to getting hold of an Indian's land. I am a Republican, but when it comes to getting possession of the Indian's land and getting hold of it, there is absolutely no politics in it. The Democratic party and the Republican party stand shoulder to shoulder on that question. I make that assertion here without fear of successful contradiction. I do not mean as a party, I mean as individuals; I do not mean all the Democrats nor all the Republicans; I do not mean that, but I mean this: There are honest Republicans there and honest Democrats there, as there are in every part of the country, but I do not want to make the impression here that there is any party matter in this, or that there is any politics in it, but I do want to make the impression on this committee that the only safety for the Indians of the Five Civilized Tribes is through the strong arm of this Congress.

The restrictions were removed as to these freedmen citizens in 1904. The removal of those restrictions was a calamity, a misfortune, as I know, because I got there in fifteen days after that law went into effect; and of all the disreputable methods, unjustifiable, unwarranted, that could be imagined, they were in use. Every species of trickery, every species of device and fraud was resorted to to get the land from these people, and in seven out of ten cases the land went without any valuable consideration, Mr. Chairman.

Mr. STEPHENS. There were some development companies out there about this time that bought a good deal of this land?

Mr. MOTT. I do not care who bought the lands—what I say is true.

Mr. STEPHENS. Were not one or two development companies incorporated there about that time, five or six years ago, that made it a business to buy up that land?

Mr. MOTT. Yes, sir.

Mr. STEPHENS. And were not some of this Dawes Commission found red-handed in those companies?

Mr. MOTT. You refer to Mr. Bixby?

Mr. STEPHENS. He was one.

Mr. MOTT. Yes; and I came here and fought him to the last ditch for that reason, whether I succeeded or not.

Mr. STEPHENS. I am glad you did.

Mr. MOTT. And I am on record in the Department of the Interior as making that fight. He was removed, or rather he resigned. I do not know why he resigned. Mr. Ballinger says that he had him removed. There is just this about it: If you take off the restrictions from the lands of these people they will lose them. I am opposed to the removal of the restrictions. Here sits the chief of the Creek Nation. Here sits a delegate, and there is another, and there is another; there sit some citizens over there; and they are all opposed unqualifiedly to the removal of the restrictions from the homesteads of any mixed-blood citizens below the half blood, or from the land of any freedmen citizens.

Mr. CAMPBELL. About how many of the Cherokees are there?

Mr. MOTT. Seven thousand full blood, 8,000 freedmen, and 8,000 mixed blood.

Mr. CAMPBELL. Is there any Indian blood in the freedmen?

Mr. MOTT. Yes; but they were all on the rolls.

Mr. CAMPBELL. How are they on the rolls?

Mr. MOTT. They are all on the rolls as freedmen.

Mr. CAMPBELL. Do you know why that distinction was made; do you know why they are put on as freedmen instead of as Indians, when they have Indian blood in them?

Mr. MOTT. That was done by the Dawes Commission. Unless there was a very apparent, strong evidence of the blood, as they were named, and unless they said they were half blood, they were put down as full blood; and if they had one-half Indian blood and one-half negro blood, if they said they were full blood, they were put down as full blood; and if they said they were white and Indian, when they were negro and Indian, or if they said they were negro and white, they were put down that way. That was almost always determined by the answer of the applicant for citizenship.

As to that last question, when you had this question up, upon the removal of restrictions from the homesteads of freedmen, they believed then that it was going to be done without any doubt, and there were hundreds and hundreds of deeds signed to freedmen's homesteads before Congress reached the question, and if you remove any restriction down there the same thing will occur again. Those people do not know, most of them. Those men are prepared for this work, these disreputable men, and, as I say, the same conditions would exist right here; the same class of men would do the same thing. It is no disgrace to them, but they have got it organized right now, and if it was known that the bill was signed by the President removing the restrictions from the sale of that property apart from rules and regulations, hundreds of those homesteads and any amount of that property would be signed up before sunup next morning, even if they lived 20, 30, or 40 miles from any town.

Mr. CAMPBELL. Is there any hope that any time will ever come when these restrictions could be removed from the land?

Mr. MOTT. Remove them under the twenty-one years' clause, under the agreement.

Mr. CAMPBELL. Would it not be just as bad then?

Mr. MOTT. No, sir; I do not think so.

Mr. CAMPBELL. Or would it?

Mr. MOTT. I do not think so, Mr. Chairman. Consider the contact and association out there. The Indian does not live in the town. The development that has gone on there for the last twelve years has resulted in little change to the Indian and the freedman. They live out on the hills, to themselves, and they do not come in contact with the whites, and as the country is settled up these farms are bought up by people who actually improve them.

Mr. CAMPBELL. Can you get men to go down there and take up those farms and improve them without giving them the right to acquire them?

Mr. MOTT. No, sir; but do it under rules and regulations.

Mr. CAMPBELL. They have an opportunity to do so now, do they not?

Mr. MCGUIRE. Not in the Five Civilized Tribes.

Mr. CARTER. The mixed breed has a right to alienate his surplus?

Mr. CAMPBELL. That is my idea.

Mr. MOTT. This bill removes the restrictions on the surplus lands of 7,000 full-blood Indians, the adults, under rules and regulations; and if the Secretary, as he proposed doing, adopts new rules and puts a man there to represent him, then the actual farmer and settler will buy the land and settle it and cultivate it. If it is not done that way the grafters will have it to-morrow without giving any value for it, and they will be the only purchasers and the only bidders. The land sold under the freedman's regulations has not been developed. They have had a chance to develop that since 1904.

Mr. CAMPBELL. What has been done with that?

Mr. MOTT. Some of it has been sold by the grafters. All of it has gone out of the hands of the freedmen.

Mr. CAMPBELL. Very little of it is improved?

Mr. MOTT. Very little of it is improved.

Mr. MCGUIRE. Have you been there long enough to make up your mind as to whether, comparatively speaking, the freedmen or the colored people there are on an average in intelligence with colored people elsewhere?

Mr. MOTT. No, sir; they are not, those that belong to the Indians. Here was the custom among the Indians and the freedmen. The freedmen had the same ideas about things that the Indians had. Of course those that live about the towns are more intelligent. They are as capable and as intelligent as any class of negro citizens anywhere. But in the main the freedmen citizens of the Creek Nation are not as intelligent as negroes elsewhere. They do not know anything of the value of their property, and they are not capable of handling it.

Mr. CAMPBELL. Do they handle their personal property?

Mr. MOTT. They never have any, that I know of, since I have been there, to amount to anything; any more than the ordinary Indian and freedman Creek citizen does have.

Mr. CAMPBELL. Does an Indian know how to trade his pony and take care of himself in a pony trade—a Creek?

Mr. MOTT. I do not know whether they know anything about that. They might know something about the exchange of ponies or cattle.

Mr. CAMPBELL. Can they be swindled out of their ponies the same as they could be out of their lands?

Mr. MOTT. No, sir; I think a full-blood Indian, unintelligent in other matters, does know more about those things than he does about other matters.

Mr. STEPHENS. I understand your contention is that if the restriction was removed the land would fall into the hands of men who would keep the country undeveloped, as it is now, as was the case with the land of the freedmen. Now, suppose the land was segregated and sold to the highest bidder by the Government itself, and the money was kept in lieu of the lands, would not the Indians then be safe, with the money in the hands of the Secretary of the Interior?

Mr. MOTT. Oh, yes.

Mr. STEPHENS. And then would not the country be developed by selling this land to the highest bidder, and would not the land go into the hands of the farmers who would go there and get a good title from the United States Government, and in that way would you not have the solution of this whole matter?

Mr. MOTT. That would be under rules and regulations, the Secretary of the Interior handling the money and conducting the sales to the highest bidder. That is exactly what I stand for, whether the sale is by sealed bids or to the highest bidder.

Mr. STEPHENS. Then the farmers would get the lands and the grafter would be cut out and a man could buy a little tract of land and cultivate it himself.

Mr. MOTT. Yes.

Mr. MCGUIRE. Do you not think in that country, from what you have seen of it, that it would be a very, very slow process to leave this entirely in the hands of the Secretary of the Interior?

Mr. MOTT. I think it would be a great mistake to take the sale of this property out from the control of the Secretary, but I think it would be very much simplified by the Secretary putting representatives there where there would be no delay about the confirmation of sales.

Mr. MCGUIRE. I agree with you that some of them will squander their substance.

Mr. MOTT. Yes.

Mr. MCGUIRE. But you take a family of a half dozen boys who have had a guardian, and they come into possession of an estate. It has always been your experience that a per cent of those boys will squander what they have immediately?

Mr. MOTT. Of course.

Mr. MCGUIRE. Now, it would be foolish to say that that situation does not prevail and that it would not prevail in Oklahoma in case this bill goes through. But you think, do you not, that we should legislate for the greatest good to the greatest number; that that should be our purpose?

Mr. MOTT. Unquestionably.

Mr. MCGUIRE. There would be some isolated cases, and perhaps not entirely isolated here; but would you object to legislation of this kind simply because some man or some number of men who have never received that education which comes with responsibility would at the first time that property comes into their possession destroy it; would you kill this legislation for that reason, because a goodly number of those people would squander their money and their substance?

Mr. MOTT. I think that the trouble can be obviated just with a little amendment there.

Mr. CAMPBELL. Will you suggest the amendment?

Mr. MOTT. If you are going to take the restriction off of the homesteads of the Indians of less than the half-blood, and off of the freedmen, it should be done under rules and regulations. That is the amendment I would suggest.

Mr. CARTER. But you do not object to allowing a man to sell his surplus?

Mr. CARTER. No; not under rules and regulations.

Mr. CARTER. Then why interpose this matter about the homesteads?

Mr. MOTT. If you are going to sell it, I am opposed to the restriction on any class of homesteads, that is all. But if the Secretary's recommendation is followed by this committee and by Congress, that the restrictions be removed upon the homesteads of the Indians of less than half blood and on the freedmen's homesteads, instead of it being done as the Secretary recommends and as this bill provides for, I want it amended so that it will be done by the Secretary under rules and regulations, so that the land will be sold by the Secretary under rules and regulations. You will see there that the section applying to the freedmen's homesteads does put it under rules and regulations as to the adequacy of price.

Mr. MCGUIRE. It puts all the full bloods under rules and regulations?

Mr. MOTT. Yes; but then the mixed bloods and less than half bloods, it does not give them the advantage even of removing them after a year under rules and regulations, but it does it summarily.

Mr. FERRIS. Do you not think, they being more than half of white blood, that quantum of blood of itself renders them more nearly able to take care of their property than the other Indians?

Mr. MOTT. In the main it does; but as to the Creek Nation, here sits the chief and here are the delegates, and they will tell you that there is a large per cent of the mixed bloods that are as unqualified to protect themselves as the full bloods.

Mr. FERRIS. Are they more than half white?

Mr. MOTT. I do not know. Those that are on the rolls.

Mr. MCGUIRE. Merely for the purpose of making an observation, I would say that I have been with the Indians for twenty-seven years in my country. The most industrious, the richest, and most healthful tribe of Indians we have to-day in Oklahoma are the Ponca Indians. Fifteen years ago they were not working; they were not tilling their farms. You never saw them with a team. You saw their women doing the work. Their annuities became exhausted. It became with those Indians, full bloods and all, a question of "root, hog, or die." To-day every Ponca Indian, I think, has a team, and is working his allotment, is working his farm, is raising wheat and corn, a condition that would not have existed had he been put upon a pension for fifty years more, as had been pensioned for the previous twenty-five years.

Mr. MOTT. You have been living there twenty-five years?

Mr. MCGUIRE. Yes.

Mr. MOTT. He has had your association that long. [Laughter.]

Mr. MCGUIRE. Oh, no—

Mr. MOTT. And otherwise, the Creeks have not had any yet?

Mr. MCGUIRE. They have had your association, there. [Laughter.]

But, to be serious now, without any joking, the Poncas within the last few years—I do not know how long it has been since they were left in that situation, but not a great number of years, and it is true that they are surrounded by white people, but no more than the people in the Cherokee Nation or the Creek Nation or any other nation in Oklahoma—have worked out their own salvation. There is only one thing to attribute their success to, and that is that their annuities were exhausted and they were put upon their own resources and responsibilities. Many times they were hungry. Many times the young fellows would spend their last 50 cents for a pint of whisky, and when they were drunk they were put in the calaboose; but when they were let out, these young fellows, like white men, went to work and worked out their own salvation. And I say to you that the white man or the negro or any other nationality or race do better when they are put upon their own resources entirely, and when they are not continually pensioned.

Mr. MOTT. That is not an analogous situation. The Creek Nation are not begging for anything; they are not suppliants for charity. They are simply asking Congress to protect them and allow them to hold what they have, and then if they starve, let them starve.

Mr. CARTER. That agreement only relates to the homestead.

Mr. MOTT. Only to the homestead, and for twenty-one years; and it reaches your tribe, too.

Before I conclude I want to present this view of it, because I think it is having a great weight here. Of course I am very glad to have any member of the committee interrupt me and ask me questions, and I am glad to give any information that I can, but I do not want to be prevented from presenting this view of the matter, which is the strongest one here, and has more weight than any other, and that is this, the question of taxation. You have given them a State down there, and they come up to Congress and say: "You have given us a State down there, and now you want to deprive us of the means whereby we can properly conduct our State government by denying us the right to tax certain property." Now, that is not fair. They came up here and asked you for statehood, and I know how much you were interested in giving it to them, Mr. CAMPBELL. I know what a champion you were for it, and I know how they gave you credit for it at that time. They never once said a word to you, but I call upon you to deny it, if any man from the Indian Territory ever said to you: "Mr. CAMPBELL, you must take the restrictions off of this property and give us the right to tax, and then we are ready for statehood." No, sir; they never said that to you or to this Congress; they never said it anywhere. They did not then say it at home. But the very moment they stood here and told you they were ready for it, what was the result? All this property was untaxed. They came here and said they were ready for statehood, that you had kept them out of it for ten years, and that they were the richest and most powerful Territory in the United States, and that no objection could be presented by anybody that would carry any weight wherein they were not entitled to statehood. It was questioned by a great many people here. You accepted their statements and gave them statehood.

They never offered you one excuse that they were not ready. In less than ninety days they came back here and threw it in the teeth of this committee and of this Congress; they said: "You have gone to work and given us statehood down there, and given us all this responsibility upon us. Who has done it? Congress has done it. The President of the United States and the United States Senate and the House of Representatives have given us statehood, and now you want to deny us the exercise of the rights whereby we can tax property to properly conduct our State government." They ought to have said that then. There is not a man in Oklahoma that would have said it then, because they were not ready for it, if what they say now is so. Yet they told you they were ready for it. Now, they have brought about that condition, and they came back here, and it is the only strength and the single argument they have made, and it is all taxation, and not a man has been called upon yet to pay a dollar of taxes. I admit that the representative gentlemen, men of ability, like Mr. CARTER and other Members of Congress who are here, realize the importance of it, that actuates them, no doubt, in regard to the question of the removal of re-

strictions down there, and that clamor that is made about it is not upon the question of taxation, it is on the question of getting these irresponsible people, who do not know the value of land or of a dollar, out of the power of these men who are disreputable, and giving them no opportunity to get to them and make them sign away their property for comparatively nothing, and make paupers of them.

Now, let me tell you something else. You are Members of this Congress. There you are, Mr. McGuire. You take the restrictions off of those lands, except under rules and regulations, and impoverish these people of the State of Oklahoma, and in less than five years the same delegations that were in Congress then, that are in it now, will be back here saying to you: "You took the restrictions off of these Indians' lands, and you put them where they lost their property, when they were incapable of taking care of themselves. Now they are paupers. The moral duty does not rest on the State to take care of them; the moral responsibility rests upon the United States Government;" and you will be asked to appropriate \$1,000,000 to colonize them somewhere and clothe them and take care of them; it is as inevitable as that the sun will set to-night and rise to-morrow—the conditions exist—just as they come here and ask that things be done, and you, gentlemen, not seeing the situation, go ahead and do them, and they continue to bring to you one condition after another; and they are going to bring about the worst situation that has ever been brought about before they get done. Then Congress's work of humanity has just begun. They will say to you: "These are the wards of the nation; you are the trustee and the guardian. You had the right to protect them in your wisdom and discretion, and you failed to do it, and now there are 50,000 paupers, hungry and cold."

Mr. HASTINGS. Do you mean to say that those of less than half Indian blood in some years to come will come here asking to be colonized or are you referring to the full-bloods?

Mr. MOTT. I am referring to the class of citizens that the Government agreed to protect under the restrictions, and said that the restrictions should not be removed; the class that can not take care of themselves. I know that it is funny; I know that it is amusing; but it has been done. Every time you come back here, at every Congress. I tell you, if you take off these restrictions from these lands, if you take off this protection, they will be back here as sure as fate.

Mr. CARTER. You state there will be 50,000 paupers, I believe?

Mr. MOTT. If there are that many.

Mr. CARTER. There are 75,000 Indians in that part of Oklahoma, I believe. There are 75,000 Indians, as I understand, on the Indian rolls of the Five Civilized Tribes. Now, you say there will be 50,000 of these people who will be paupers. Do you contend that 50,000 of the mixed-breed Indians, or less than half of the Indian people, are not capable of managing their own affairs?

Mr. MOTT. Three thousand out of the 18,000—

Mr. CARTER. This does not remove all the restrictions on 50,000 people.

Mr. MOTT. It is removing the restrictions on an incompetent class.

Mr. CARTER. I can understand Mr. Mott's argument. He said something about what actuated this delegation. He is morally conscious that the majority of these people are as able to take care of themselves as Mr. McGuire, myself, or Mr. Hastings.

Mr. MOTT. Here are three full-blooded Indians sitting here, and if they do not agree to my statement and disagree with yours—

Mr. CAMPBELL. You do not understand that the proposition is to remove the restrictions from the full-bloods?

Mr. MOTT. Oh, no. I am not objecting to that feature in the bill as applied to the full-bloods. The only thing I do object to is this: I am opposed to the removal of the restrictions from the homesteads of any class of citizens. That bill provides for a removal of the restrictions from the homesteads of those of less than half blood, and of the freedom, apart from rules and regulations, except that freedmen are under rules and regulations for twelve months. Now, we are not opposed to it at all; but if it is done at all we do at least ask this Congress to see that they get fair and adequate prices, and that is all.

Mr. STEPHENS. Would it not be satisfactory if the land was sold at auction?

Mr. MOTT. Certainly; if you are going to remove the restrictions anyhow, your proposition is as good as any.

Mr. STEPHENS. I do not see any objection to that. They would have the money instead of the land. If the land could not be divided, the property would be sold and the money would be divided. That is what ought to be done here.

Mr. MOTT. There is a great deal that could be said about the matter, and, as I say, I am very glad you gentlemen have asked me so many questions, but it has probably precluded me from saying a great deal that I would have said.

Statement of Chief Moty Tiger of the Creek Nation.

(Chief Moty Tiger was examined through an interpreter.)

Mr. Chairman and gentlemen of the committee, if I understood what was being said here, I have got plenty that I might say along with those who have talked, but as I understood nothing that was said I can not refer to what any of the gentlemen said, because I know nothing that has been said. I can, however, give you a few ideas of my own. I realize the fact that I am here before you, and you represent a nation such as no other nation, and your strength is almost limitless. You have a great nation; you are rich and strong. No other nation, probably, is so strong, and what you do in many instances seems good work. The Great Spirit above alone has power greater than yours, and if He would withhold His help both you and myself, and all of us, would disappear, would be destroyed. Therefore, you having that great power, I look upon you very much as the Great Spirit, with His great power. If He were to withhold His power and mercy you would be destroyed. So also you have been watching over us and taking care of us for years and years with your strong arm, and to-day, if you withhold that care, we would be destroyed.

If you gentlemen were to go down in the Creek Nation, the Muskogee Nation, and see our citizens there, the citizens whom we are here to-day speaking for, you would think it was exceedingly strange. You are thinking and studying here how you might protect us down there, and one method of extending that protection, you seem to think—and we do also—is the retaining of the restriction on our lands down there; but if you should wish to remove that, there are persons here in this city who will touch the wires all over this town, and the information will be down there in our country in a moment's time, and the people who are down there ready to rob our people, as it may be said, of their lands, would have the lands already signed away to them in a few hours' time. We have both full-blood and mixed-blooded people down in our country; but unfortunately for us, a mere infusion of white or

some other blood with the Creek does not always make capable business men of them. For that reason we have very many that are mixed-blooded Creek citizens who would in a very short time be dispossessed of their homesteads if the restrictions were removed from them. If you remove the restrictions from the Indian's lands, that will be the end of the Indian. You have museums here where you take care of wild birds and wild animals, zoos and the like, and you have large reserves out in the far West where you take care of the wild beasts of the forest and the plains. That is very good; but can you not do as much for the Indian?

Mr. CAMPBELL. I should like to ask the chief a question, and then the committee will have to arise. Are you in favor of removing restrictions from less than half-blood Indians on their lands?

Chief TIGER. No.

Mr. MCGUIRE. Are you in favor of removing restrictions on more than half blood—white?

Chief TIGER. I have just said that an infusion of white blood into the Creek does not always make him a good business man, and for that reason I would not wish that the restrictions should be removed from their homesteads. We have a great many people who are mixed bloods, but they are not educated.

Mr. MCGUIRE. What is your blood?

Chief TIGER. About one-quarter.

Mr. MCGUIRE. One-quarter white?

Chief TIGER. One-quarter white. But these people who have no education are not able to take care of their property or their homesteads any better than I am or the people of the full blood.

Mr. CARTER. Do you represent the views of the majority of the people of Creek blood?

Chief TIGER. I do.

Mr. CARTER. I want to say for your information that I have a petition, which came to me voluntarily—several petitions, in fact, two or three—stating that the chief and the delegation did not represent the views of the mixed-breed Creek Indians. Some of them have been second chiefs, and more of them belonged to the council in the past, and I know some of them. I have a petition from some of those fellows. Those petitions state that you do not represent the will of the majority of the Creek citizens. They state that they are the friends of the chief, and have nothing against him personally, but that he is taking the course which is not for the best interest of the tribe; that the chief is not at this time a representative of the sentiment as it exists to-day, because he is perpetuated in power by the Secretary of the Interior—I mean by laws passed sometime ago—and he was not elected recently, but succeeded Chief Porter recently by order of succession, and they can not have an election down there. They say that he does represent the Indian of twenty years ago, but not the Indian of to-day. I tell you this for your information, because I want you to know what the people are saying, and not because I want to embarrass you in any way.

Chief TIGER. We who are public men, especially the gentleman who has just asked me the question, know that there is no man that gets into office but who is attacked by somebody, from some quarter. [Laughter.]

Mr. CARTER. The petitions do not attack you at all; they say they are friendly to the chief, but the chief does not represent their views. That is the point they make.

Chief TIGER. The Secretary of the Interior never appointed me as chief, and I have not come into the principal chieftaincy by election, but this man you call Roosevelt, living up here, is the man that put me in, and I regard myself as being chief of the Creek Nation. [Laughter.]

Mr. CARTER. They do not discredit you as chief.

Mr. CAMPBELL. I think that is all. The committee is certainly obliged to you gentlemen for the hearing and for the information you have given us.

Chief TIGER. I am anxious to say to the committee that I am here in exact accordance with the ordinance of the Creek national council, of which many of these people who have written here and made petitions are members, and those people are not representing things just as they ought to be.

Mr. CARTER. Maybe they have changed their minds.

At 5.10 o'clock p. m. the committee adjourned.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, March 20, 1908.

The subcommittee met at 1.30 o'clock p. m., Hon. James S. Sherman (chairman) in the chair.

Statement of Mr. George W. Woodruff, Assistant Attorney-General for the Interior Department.

Mr. WOODRUFF. The Department is in favor of the bill (15641) as it stands. There has been introduced, also, a jurisdictional measure, and the Department believes that some provision for jurisdiction should be passed with the other bill for these reasons, briefly, that if it is not necessary it can do no damage; there may be many who say it is not necessary. I will not take more than a minute on that point. The reason for the importance of the bill is shown by the actual happenings since the admission of the State, the concrete happenings. The courts of the State have attempted to take such action as this, to authorize the sale of full-blood minor lands where it is claimed by the Department that the law of the United States forbids the sale of those, whether acted upon by a probate court or not; that as far as the status of those lands of minors is concerned, we do not wish to say that the probate court has not jurisdiction, but as far as their being full bloods is concerned, we believe that whether the Department would feel otherwise or not, that the law as it stands to-day absolutely precludes any action by the probate court of the State to alienate the minor lands.

There has been action taken by the courts of the State to quiet title in cases where deeds or other conveyances were taken from Indians for restricted lands prior to the removal of the restrictions. These things have resulted frequently in the service of notice upon the Indian, the restrictions having been removed, that the case will be heard by the State court, and the Indian, being childlike and simple, thinks it is a wise thing for him not to come within the reach of the courts, and he stays away. The result is that unless the United States could step in and protect him to the extent of the attempt to cloud the title or defraud him of the restricted land, such action having been taken before the removal of the restrictions, there is great danger that there will be a decree quieting the title to the person who, contrary to law,

secured the deed or other incumbrance prior to the removal of the restrictions.

There is another particular case, which is typical of the class, in which the State court issued an injunction to restrain a Federal officer from ejecting a person who was not upon the rolls and who had arbitrarily taken an allotment upon the traveled land and had cut and sold timber from that land as though it were actually her allotment. The court, taking cognizance of that, issued the injunction against ejecting her from the land which she claimed to hold against the tribe, also against the seizing and sale of the timber.

Mr. CAMPBELL. Was that a temporary order or a permanent order?

Mr. WOODRUFF. It was a temporary order and has not as yet been heard. The claim of the Department is that in a case of that kind it ought to be possible, if it is deemed wise, to remove the case to the United States court.

Mr. CARTER. What case is that, and where was it, do you remember?

Mr. WOODRUFF. It was the case of a woman. This particular case was brought with the direct intention of bringing before the courts the question as to whether a certain class of people ought to have been on the rolls or not, but nevertheless the tribal property was cut, the timber was sold as ties to a street railway company. The Federal agent seized this timber under direct instructions from the Commissioner to the Five Civilized Tribes, and the court has issued an order against his disposing of that timber for the benefit of the tribe. That as yet has not been tried, but still stands in the courts.

There is just one other class that I spoke of, which is acute just at present. There is a certain class of tribal land in the Choctaw Nation known as the "segregated coal area," which I suppose you know about, and it has been by act of Congress set apart not only from the rest of the United States, which was not necessary, but also from the Indians themselves. There is a certain number of intruders, purely trespassers, who have gone upon this land and are attempting to get such a foothold there as to apparently attempt to establish equities which may be recognized by Congress. They have been warned by the Department, and properly, I believe, that they can get no real equities by mere trespass and intrusion upon that land. Federal officials, under direction, have been sent there to tell them they must either leave the land or pay rent. In many cases they have acceded to this and paid the rent; I think in no cases have they left.

Recently one of them refused to pay the rent. The Federal officials attempted to eject him and the Federal officials have been arrested under an order of a justice of the peace, and there is an action pending in the State court to restrain the Federal officials from either ejecting these intruders upon the tribal property or collecting rent from them as a recognition of their temporary right to remain there, which has not been argued as yet. That is one of the concrete cases which I bring up to show you that if we have not the power to take those cases into the Federal courts, then we ought to have the power. If we have the power, which is denied by many people in the State, including the State judges, then no damage could be done by making it clear that the Federal Government has the power to enforce its own laws to protect the tribal property of these Indians and to protect the allotments so far as any action is taken before the restrictions are removed from the allotments, and beyond that the Department does not for a moment ask that action should be taken.

Just one word more. The Department feels that if the restrictions bill should be passed separately, that there would be no possible chance, perhaps, of getting this other bill, because the term is approaching its end and it is very difficult to get legislation when there is any direct active opposition to it. That being the history of such efforts, it is the feeling of the Department that the two should be passed together.

The jurisdictional feature, by the way, could in all probability be boiled down to what would be less than that page, perhaps, and still be entirely satisfactory.

The CHAIRMAN. Have you boiled it down?

Mr. WOODRUFF. I had intended to bring it, but Mr. Ward has a copy, I believe, and if that could be accepted it would be satisfactory.

Mr. CAMPBELL. Conceding everything that is charged up to the State courts here, do you think it necessary that there should be additional legislation to give the Federal courts jurisdiction over property that is under the control and jurisdiction of the Federal Government?

Mr. WOODRUFF. It is claimed, and has been claimed definitely to me by several gentlemen here present, that the Federal courts have no jurisdiction in those matters.

Mr. CAMPBELL. In the case of a full-blood Indian, would the Federal court be denied the right to exercise jurisdiction?

Mr. WOODRUFF. It is so claimed. I will state frankly that I do not believe it is so, but I want to make once more that point, that if it is not necessary no harm is done.

Mr. CAMPBELL. You are speaking as a law officer of the Department of Interior?

Mr. WOODRUFF. Yes, sir.

Mr. CAMPBELL. What is your opinion upon the proposition?

Mr. WOODRUFF. My opinion is that we could take all the cases I have mentioned here, and any other cases that we would want to take, into the Federal courts, unless, perhaps, it were for one question, and that is the amount involved.

Mr. CAMPBELL. Without additional legislation?

Mr. WOODRUFF. Without additional legislation, but I am anxious—and I am speaking for the Secretary when I say this—that these Indians, to the extent that Congress has seen fit to make any restrictions upon their property, and the tribes, to the extent that they remain as tribes, should be protected. I am anxious to make a certainty out of what seems to me a surety.

Mr. CAMPBELL. The only thing I had in mind was that it seemed useless to duplicate the authority of the Department to go into the court. If it already has the authority, as at first blush I would probably say it has, in the kind of cases you have mentioned here, it would seem wholly unnecessary to repeat that authority.

Mr. WOODRUFF. Except that it is claimed in open speeches by officials of the State that it is not so; and there is also another feature of the jurisdictional bill—that is, the giving out of concurrent jurisdiction—because I do not believe that the Department would want to bring many of these cases in the Federal courts. It would only be when it was found necessary. There is one other class I did not mention. There were some cases which were brought directly under the law of the United States giving the Secretary the power to bring cases to set aside leases which were obtained fraudulently, which are known as the Ex rel cases. They were transferred on November 16, by the enabling act, into the State courts. There was an application made for their retransfer, under the same enabling act, to the Federal courts, but the

State district judge refused to grant the petition for retransfer and took them up himself and dismissed them all out of hand.

Mr. CAMPBELL. Do you recall upon what ground he held jurisdiction? The amount involved?

Mr. WOODRUFF. I have never seen his decision. It was somewhat recent, and although I have written for it it has not reached me yet.

Mr. CAMPBELL. What judge was that?

Mr. WOODRUFF. I can not say. I know these minor cases are in the Seminole Nation, and it is the judge of Seminole County who is going to hear those cases on the 30th of this month.

Mr. DAVENPORT. Mr. West is the district judge who holds court in Seminole County.

Mr. WOODRUFF. The only point is that there may be some doubts. The Department is very anxious to use the State courts if it is possible, irrespective of the amount involved, and only in cases which involve tribal property acquired through fraudulent means, or restricted allotted lands, restricted or clouded contrary to law, to go into the Federal courts.

Mr. CAMPBELL. What is the practice in Montana, South Dakota, Nebraska, or Kansas wherever there are Indian lands and Indians yet under the control of the Department of the Interior?

Mr. WOODRUFF. Mr. Ward, I think, could tell you a little surer than I could on that.

Mr. WARD. We go into the United States court, and as a rule the State courts hold that they have no jurisdiction.

Mr. CAMPBELL. Do they refuse to take jurisdiction?

Mr. WARD. They do, as a general rule; and that is especially true in Wisconsin and Minnesota.

Mr. CAMPBELL. Is that true under the general law?

Mr. WARD. The law of the State.

Mr. CAMPBELL. I mean, do you go into the Federal courts now under the Federal statutes?

Mr. WARD. Oh, yes; we go in under the Federal statutes.

Mr. CAMPBELL. Would not the same statutes apply in Oklahoma?

Mr. WARD. No, sir; all the laws relating to Oklahoma are special laws; that is, to the old Indian Territory, and are not applicable anywhere else. As a rule the Five Civilized Tribes were excepted from the general laws relating to Indians.

Mr. CARTER. Mr. Woodruff, you say it is your opinion at present that the United States courts have jurisdiction?

Mr. WOODRUFF. Yes.

Mr. CARTER. You are not of opinion that the State courts have any jurisdiction at all; the jurisdiction is not concurrent at all at present, is it?

Mr. WOODRUFF. It is very probable that in some of the instances, such as when the amount is less than \$2,000, and cases like that, and in the case of minor Indians, if the action is taken in the State courts, concerning restricted minor lands, in the probate courts, the United States could go into the State courts to protect the minor Indians.

Mr. FULTON. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly, Mr. Fulton.

Mr. FULTON. As I understand this jurisdictional bill, it is just made applicable to the Federal courts in the State of Oklahoma.

Mr. WOODRUFF. Yes; but we see no objection to making it generally applicable.

Mr. FULTON. But it is not made applicable, is it?

Mr. WOODRUFF. No; but it could be.

Mr. FULTON. Do you think it possible for Congress to enact a law that would simply be applicable to the Federal courts in one State?

Mr. WOODRUFF. Yes; I believe it could.

Mr. FULTON. You do? You think you could give a Federal court in one State a different jurisdiction than in another State?

Mr. WOODRUFF. I do not believe it would be giving them different jurisdictions.

Mr. FULTON. Then why do they need this?

Mr. WOODRUFF. To make it certain, and for the reason Mr. Ward has brought out, namely, one of the great uncertainties is because of the special nature of the laws.

Mr. FULTON. That might be true, might it not, as regards certain special provisions affecting the treaties between our Government and the Five Civilized Tribes, but when they became a State all the laws of the United States went into force over the State of Oklahoma exactly as over any other State?

Mr. WOODRUFF. Even in the enabling act there were special exceptions made concerning Oklahoma, and I would like to say that I do not think what we ask is any reduction upon the State of Oklahoma or the judges of the State of Oklahoma at all, any more than it is a reduction upon the State of New York that there are Federal courts in that State.

Mr. FULTON. The point I want to make is this, that as a legal proposition if this law were applicable simply to the State of Oklahoma, and gave the Federal courts there jurisdiction which the Federal courts in other States did not have, whether we have the power to do it or not; and, in the second place, no matter what the treaties may have been with the Five Civilized Tribes, all the laws of the United States and the jurisdiction given to all the Federal courts in the United States apply in Oklahoma the same as in any other State. So, why should we need any more legislation to cloud it? And, further, does not this appeal to you, that there is apt to be possibly a conflict between the jurisdictions down there, as you find in every jurisdiction?

Mr. WOODRUFF. No more or less than in the other States. At the present time it is rather acute, and I think this would cure the trouble, because the Federal courts would immediately take jurisdiction.

Mr. CAMPBELL. Suppose you take one of these cases that you mentioned here now and go into the Federal court on it, do you not think that would have the effect that passing a law here would have?

Mr. WOODRUFF. I believe thoroughly that it would, but I do not believe that it is safe to risk it.

Mr. CAMPBELL. Would it not be better, then, to enforce the laws as they now exist than to repeat, practically, the law giving the same power?

Mr. WOODRUFF. I think that that would be true if you let the restrictions stay as they are now while we are testing it. It is for the sake of the State of Oklahoma that this is suggested, in order that by making this thing certain there is nothing that shall stand in the way of affording that relief in the matter of taxable land, increase of population, etc., coming to the State. But I would like to answer Mr. Fulton's question by the Yankee method of a counter question, and that is to say, that if it is true that the Federal courts have the jurisdiction, what possible harm could it be to pass the law?

Mr. FULTON. It would have this harm—I am just speaking for my-

self—that it encumbers the book with laws along the same line, and yet might be conflicting, and in addition that it is a law which I am certain would not be taken very well by the people of the State and would cause a great deal of feeling in that regard. So it would cause harm and no good.

Mr. WOODRUFF. Is it not true that at the time your State accepted statehood under the enabling act they frankly and freely left to the United States the right to pass such laws as deemed wise to Congress concerning the Indians?

Mr. FULTON. There is no doubt about that.

Mr. CARTER. We are perfectly willing to leave that jurisdiction just as it is.

Mr. WOODRUFF. I would like to ask Mr. Carter a question. Do you believe, Mr. Carter, that all the classes of cases which I have brought up can be transferred to the Federal court?

Mr. CARTER. I do not know; I am not lawyer enough to discuss that.

Mr. WOODRUFF. Do you not think they should be transferred to the Federal courts by the United States, in its position of trustee or guardian to the Indians, to the extent that Congress has retained that?

Mr. CARTER. I do not know that I do, Mr. Woodruff; I think that the Interior Department and the Indian would have just as good a show in the State courts as they would in the Federal courts.

Mr. WOODRUFF. How about these concrete cases I have brought up?

Mr. CARTER. I will tell you why, Mr. Woodruff. In many instances you are taking the jurisdiction out of the hands of people who are actual Indians, because some of those judges are Indians.

Mr. WOODRUFF. That certainly would be very fair to the people who have acted contrary to the law in dealing with the property of Indians, and with the tribal property of the country; it would be very fair, would it not, to take it out of the hands of the Indian judges?

Mr. CARTER. I do not know that it would be any better for either class; I think both would get as fair a show with the Indian judges as with the white man.

Mr. FERRIS. You find in the enabling-act recitals that "We leave you and clothe you as a representative of the Government of the United States with all the authority that you originally had;" do you not find those recitals?

Mr. WOODRUFF. Yes.

Mr. FERRIS. And that has since been approved by a popular vote of the people in the form of being a part of our constitution of the State of Oklahoma; that is all true. Now, if you have the same authority that you always have had when we were in a Territorial form and as a Territory, we are a little sensitive about having you come in now and heap burdens on us which you did not impose on us when we were a Territory, and with the enabling act as your barrier and your supporter it leaves you in the same attitude that you were in before, and with all the vested rights that you had before, both as to jurisdiction and everything else. Then it seems to me that the time for the Government of the United States to complain would be when we, as an organized State, were trying to get out from under some of the Federal control, rather than to heap additional Federal control on us, which you have reserved to yourselves in the enabling act since we have become a State.

Mr. WOODRUFF. It seems no burden to me.

Mr. FERRIS. It seems so to us, for this reason, that we have become a State; we have organized local self-government; we have no objection—I have not as one of the Representatives of the State—to the United States reserving to themselves all that was necessary during our territoryhood, and you did that, whether I objected to it or not, in the enabling act, and we accepted that by a popular vote of the people, and a large majority ratified it; but I do, as a Representative of that State and having a little pride in our local self-government and in the jurisdiction of our local courts, object to having you, as a representative of the Government, come and ask for more than it was necessary to have while we were a Territory and more than it is necessary to encumber other States with. If this were made a general bill and brought out on the floor of the House, the objections that would come to that bill would be from Representatives of every State in this Union, irrespective of the aisle, as I believe, because I do not believe there is a Representative in Congress from any State in the Union who would want to come up voluntarily and surrender the jurisdiction of the State courts over to the Federal courts. First, if there were no jealousy existing between them, which of course there is, even then the Federal courts would be inadequate, and it would be a physical impossibility for them to come down and give those people the benefit of a trial, a speedy trial, as the law contemplates, and the result would be that the Federal courts would be courts of injustice rather than courts of justice, by reason of the fact that they would be swamped and business piled up until they could not take care of all the business in that territory at all. Those are my views.

Mr. WOODRUFF. I think it all comes back to just the one point, that the granting of the jurisdiction by a bill of this kind, the concurrent jurisdiction, to avoid that objection of heaping up the work as far as possible, is suggested by those who have the affairs of the Indians not only in their hands, but imposed on them by Congress; that it is asked in order to try to be sure to carry out the duty placed upon the Department by Congress, not with any idea of casting reflections upon the State or its courts; there is no more reflection against the State or its courts than there is because there are Federal courts in the State of New York upon the State of New York, and that the request is not to go one jot or tittle beyond the protection of that particular property over which the United States has seen fit, through its Congress, to maintain a trusteeship. What I claim is that the United States is in fact, if it should not be in name, the litigant in these cases, and that being the litigant it has given to it only what it has in every other State, to make sure that it can go into the Federal courts, if there seems to be any necessity. That is really all I could say about it.

Mr. FERRIS. Is this not true? Do not these recitals in the enabling act, which specifically retained to you the authority, power, and jurisdiction which you originally had, leave you just as favorably situated as you were while we were a Territory, and does that not leave you the general law in general application which applies to all the other States just as it stands? What occasion is there for a recital of that?

The CHAIRMAN. Let me ask you, Mr. Ferris, if you are right, what harm can come from a reenactment?

Mr. FERRIS. I do not know; I confess I do not know all the harm that might come.

The CHAIRMAN. I do not see any possibility of harm if you are right in your contention that this proposition is to give to the National Government, or its officials, only such right as they expressly reserved to themselves in the enabling act.

Mr. FERRIS. I do not say that is true, because I do not know that

that is true. This may do more. I think, perhaps, and my fears are that it puts Oklahoma on a different status from the other States, and I think I must be right in the opinion that as we now stand with those positive reservations in the enabling act, adopted by a popular vote of the people directly, we must be in the same attitude as other States.

Statement of Mr. George A. Ward.

Mr. WARD. While we are talking about the enabling act, there is considerable doubt as to whether the United States court now in the Indian Territory has jurisdiction in new cases, cases that have been brought since the 16th of November. The question is, Is the United States an interested party in these cases when we bring suits to set aside deeds? In answer to your question of a few minutes ago, Mr. Fulton, there is no question at all about the power of Congress to enact this law and about its constitutionality. Why? Because Congress reserved to itself in the enabling act the power to pass any law touching the property of an Indian or the Indian himself that it would have been competent for Congress to have passed had this act never passed. Those are the words of the act.

Take the Seminole Nation alone; there has not a title to a foot of land in the Seminole Nation passed, not a foot, because there has not been a deed recorded; there has not been a deed signed by the Secretary of the Interior in the Seminole Nation. Yet they have gone in there and bought 1,357 tracts from the Seminole Indians. We want to go to some court where we can have those deeds set aside. What did Mr. West do with those 49 cases Mr. Woodruff mentioned? We asked to have them taken to the United States court. Mr. West is the district judge for Seminole County, and he said: "The United States court has not any jurisdiction in these cases," and he refused to certify them, dismissed the cases, and now what have we to do? We have to go to the expense of having a transcript of all that record made and bring those cases in the Federal court. There were 349 in one bunch.

Mr. MCGUIRE. One case would settle all those.

Mr. WARD. What harm is this act going to do?

Mr. MCGUIRE. I do not see any harm.

Mr. WARD. It gives us the option; we can go where we want to; we can go into the district court of a State or we can go into the Federal court, and, so far as the Indian Territory is concerned, we are asking for just exactly what we did have.

Mr. CAMPBELL. Can you go into the State courts now?

Mr. WARD. Yes, sir; we can go into the State courts, but we want to go into the United States court; we want the cases transferred, and that is the proposition. That is my own opinion, that the United States court has jurisdiction of any case that was instituted prior to statehood, and that it is the duty of the judge on the application of the United States attorney to certify that case to the United States court, but I will say frankly that I am very much in doubt whether the United States court has jurisdiction of the cases that we now want to bring.

Mr. WOODRUFF. Just one word. The reason why I say it is my opinion that there are is because I am not willing to place myself on record anywhere otherwise, because we will strenuously attempt to maintain the position that we can go into the United States courts if we do not get the jurisdiction, and for that reason, as law officer, I would not be warranted in saying anything else.

Mr. WARD. Take the Creek Nation; we instructed the Commissioner to the Five Civilized Tribes to make an investigation of the records and find out how many full-blood tracts had been sold. We have just received his report—753 in that Creek Nation alone, in the face of the McCumber amendment. They have been sold and the deeds placed on record. We want to bring suits to quiet those titles; we want to purge the record of those deeds.

Mr. MCGUIRE. Suppose that a case now pending—I understand that there are some pending—that will be decided by a higher court probably in the very near future, settles definitely the question of the citizenship of those Indians down there; if the court decides that under the enabling act and under statehood they are citizens as you or I are citizens, it is all settled anyway; the full blood can dispose of his land regardless of what Congress may do here, as I see it.

Mr. WOODRUFF. That is true.

Mr. MCGUIRE. Now, then, if the Supreme Court holds that the Government still has jurisdiction, do you not think that any man would be very foolish to go and take a deed from a full-blood Indian and put it on record? That party would have to be a party to a suit, and whatever wrongful act he might do he would have to pay for out of his own pocket by way of costs of the case. Anybody can commence a case. I could commence a case against you to-day, no matter how ridiculous the allegation of the petition, but I would in the end be the sufferer. The man who takes the deed from a full-blood Indian, provided the United States Supreme Court decides he is not a citizen in the full sense of the word and can not alienate his land, has a deed which amounts to nothing, and it seems to me in passing upon the title that one of those deeds would not be considered of sufficient force even to cloud the title.

Mr. WARD. Oh, yes; it would be a cloud on the title.

Mr. MCGUIRE. It would not be if I wanted to buy.

Mr. WARD. There is not a loan company that would loan money until that deed was out of the way.

Mr. MCGUIRE. Loan companies do not regard as serious things of that kind.

The CHAIRMAN. I disagree with you. My experience is that loan companies regard those with great apprehension. Unless your situation is entirely different from what it is in the East, that would be a cloud on the title with us; it would prevent absolutely your obtaining a loan from the loan company.

Mr. MCGUIRE. Mr. Chairman, how could there be any cloud on the title unless there was some authority of law?

The CHAIRMAN. It does not make any difference; you can not go to a savings bank in the State of New York and find a quitclaim deed on a piece of property given by a person who had no right to give it, but what the savings bank would insist that that must be removed from the record before they would loan.

Mr. MCGUIRE. You do not pretend to say that there would be any authority of law for such a deed?

The CHAIRMAN. Certainly not; but I say it would be a cloud on the title, which any savings bank in the State of New York would insist must be removed before they would loan on it.

Mr. MCGUIRE. It might in this way; they might question the blood of the Indian, but it is simply a case of a person absolutely incompetent making a deed.

The CHAIRMAN. I understand all that.

Mr. WARD. Let me ask you a question that I think will illustrate it. Suppose I were to forge a mortgage to a piece of property owned

by you, place it of record, and you wanted to get a loan, do you think a loan company would lend you money?

Mr. MCGUIRE. That is different proposition; that is a question of fact, and I was speaking of a question of law; they are not parallel cases.

Mr. WARD. I think they are parallel cases.

Mr. ZEVELY. Does not the law prevent the full-blood allottee from encumbering as well as selling?

Mr. WARD. It does.

Mr. ZEVELY. Then, how could he mortgage?

Mr. WARD. He has; it is like the man in jail, he has done so.

Mr. ZEVELY. You do not understand me. You say he has sold it and got the money for it. If he would apply to some savings bank or some loan company for a loan on that land there would be a prior cloud there to the one in the deed which he could not remove at all, and there is an act of Congress which says that any effort to encumber, sell, or transfer shall be an absolutely void conveyance?

Mr. WARD. That is true.

Mr. ZEVELY. Then he can not borrow any money on it, can he?

Mr. WARD. But that is not the exact wording of the language; "shall not be void for," something about before removal of restrictions. If that is the case, they have bought the land, there is a cloud on it, and let us say that the Supreme Court of the United States says, just for the sake of argument, that the McCumber amendment is unconstitutional. Along comes Mr. Indian and he wants to sell his land to somebody else. I bob up and say, "No, you don't; I have a deed to this land;" and the Supreme Court says, "You had no right to sell it when you did." We want to get the land back for him so that he will own it. What is the consideration? The usual consideration recited in deeds—of course, the correct consideration can be proven—\$1.

Mr. MOTT. Have these lands down there not all been bought upon the recommendation of half the legal fraternity that the titles were good?

Mr. WARD. I do not know about that.

Mr. MOTT. By the advice of attorneys that the titles were good; is that not a fact? Have not the attorneys in the Indian Territory generally advised that these titles were good?

Mr. WARD. I understand that many of them have, but I can not say it is general.

Mr. MCGUIRE. If they did, it was upon the theory that the Indians have full citizenship; this would not cure that or affect it one way or the other. All you are seeking is the question of jurisdiction.

Mr. WARD. This would not cure it or affect it one way or the other, but we want to get the man's title back for him and we are asking, Mr. McGuire, just exactly what we had before statehood; no more, no less. We had our United States courts there then in the Indian Territory; there was not a court there that had jurisdiction, except the Indian courts, other than a United States court, and we are not going as far as we went; we are saying, "Give us the privilege of going in either court." If we find that a district judge is going to give us a fair shake, we will go into the State court every time; but if we get into a district where he is going to throw the harpoon into us every time, we will go into the United States court.

Mr. MCGUIRE. The mere fact that I was asking the question did not mean that I had any objection to this amendment. As far as I am concerned, I do not care. I think that ultimately it will work out anyway; I think whatever the law is, these questions will soon all be settled, regardless of whether we have this amendment or not. This will simply emphasize the law, possibly, and enlarge slightly the jurisdiction. The maximum now is \$2,000, and you give the concurrent jurisdiction. I never much liked the idea of too much concurrent jurisdiction, but I say I do not care, as far as I am concerned, one way or the other. The shortest way to daylight is what I am looking for.

Mr. WARD. The position of the Indian Office is favorable to the restriction clause. I understand that is the position of the Department, but we want the jurisdictional bill with it; we do not want the restriction bill unless we have the jurisdictional bill at this time.

Mr. CARTER. You mean you want this entire jurisdictional bill?

Mr. WARD. No; you can boll it down; just simply to give us a chance to go into a United States court if it is necessary. For instance, in King's court, what did they do? I was just told by Mr. Woodruff that they served notice on the Indian; he stays away from court—that is, the more ignorant—the suit was to quiet title. What else did they do?

Mr. CAMPBELL. They quieted the title in the purchaser.

Mr. WARD. And Mr. Indian has never had his day in court. Another thing we want in this restriction bill is the control of the leasing of the minor's land for mineral purposes. That is the part which is restricted, where you restrain restrictions on the land; we want to see that that Indian minor gets the proper protection.

Mr. CAMPBELL. That is in the restriction bill now?

Mr. WARD. I saw one where it had been stricken out, and that is why I mentioned it. It is in this bill I have here before me.

While I confined myself to the Creek or Seminole nations, I want to say that the same things apply to the other nations, but we have not received the papers and the investigation is being made in the other nations.

Mr. WOODRUFF. We know in one case where the report has not been received where it runs away up above a thousand in the Cherokee Nation.

Statement of Mr. Silas A. Cole, of the Choctaw Nation.

Mr. COLE. Mr. Chairman, I am here to represent the Choctaw and Chickasaw full bloods. The Choctaws and Chickasaws had a meeting in Hugo on December 3 and 4, 1907. About seventy-two delegates met there and a committee was appointed by that meeting. They had a meeting at Antlers on December 17 and 18, and prepared a memorial to the effect that the full-blood people are against the restrictions.

The CHAIRMAN. Against the removal of the restrictions?

Mr. COLE. Yes, sir. The full bloods are not asking for any statehood, are not asking the removal of any restrictions upon their land. I am a full blood, and I represent a full-blood people—that is, the Choctaw and the Chickasaw people. I have brought the memorial, and have presented one copy to President Roosevelt, one to the Secretary, one to Commissioner Leupp, and one to the Attorney-General, and I presented one to a member of the committee, Senator CURTIS. We want to get help from the Government, because we, the full bloods, are ignorant people; we do not know how to make a treaty with the white people, and we do not know anything about the white man's law and the court.

This is the reason we ask the Government not to remove our restrictions, because I understand that some were here asking for the removal of restrictions, but we, the full-blood people, are not asking for the removal of any restrictions at all, because our young people are selling their lands pretty fast; some of them get \$40 for one-fourth

of the allotment; some of them \$30. The claims are bought by chance; the young Indian is given small money to sign a deed, so that if the restrictions are removed our full-blood young people have nothing, no money and nothing. I am a full blood and I am a representative of a full-blood people. I think this is all I can say. I thank you for your attention.

Mr. CARTER. Mr. Cole, when did you come here?

Mr. COLE. I have been here about two weeks.

Mr. CARTER. You say they had a meeting; where was the first meeting held?

Mr. COLE. At Hugo.

Mr. CARTER. And then they had a meeting at Antlers?

Mr. COLE. At Antlers, the 17th or 18th of December.

Mr. CARTER. What is your business?

Mr. COLE. My business is preaching; I am a Presbyterian preacher.

Mr. CARTER. And you have not been buying any Choctaw land yourself?

Mr. COLE. No; I have never bought any.

Mr. CARTER. You have no lease business at all?

Mr. COLE. No.

Mr. CARTER. That is all.

Statement of Mr. J. W. Zevely, representing the Mid-Continent Oil and Gas Producers' Association, of Tulsa, Okla.

Mr. DAVENPORT. Mr. Zevely said he had some amendments he would like to suggest, which I might like to discuss in connection with the other matters, so I yield for him to make those amendments so that I may say something about them and not be repeating myself.

The CHAIRMAN. Do you want to make a speech in advocacy of the bill, Mr. Zevely?

Mr. ZEVELY. I want primarily to suggest some amendments to the bill.

The CHAIRMAN. Very well, we will hear you.

Mr. ZEVELY. Mr. Chairman, the first suggestion I desire to make is the insertion of the word "adult" between the words "to" and "allottees" where those words occur in the first line of section 2 on page 2 of the bill 15641.

The CHAIRMAN (reading). "That all land allotted to adult allottees;" is that your proposition?

Mr. ZEVELY. Yes, sir.

The CHAIRMAN. Why do you make that suggestion?

Mr. ZEVELY. The next one is covered by the same point, so I will get both down and then give my reasons. The next amendment I would suggest would be, in line 21, to strike out the words commencing with the word "or," after the word "allottees," in the third line in section 2, "or in the case of minors as provided in section 6 hereof." And further, in the same section, in line 25, at the bottom of page 2, strike out the word "whether," being the last word on that page, and the words "of adults or minors," where they occur in the first line on the third page. The point about that is this, that under the act of April 26, 1906, and commonly known as the "Curtis Act," the Congress conferred upon the proper courts of the then Indian Territory, now the State of Oklahoma, jurisdiction of the estates of minors without reference to their degree of blood. The circuit court of appeals for the eighth circuit in construing that section has held that jurisdiction resides in the probate courts in that State, and that jurisdiction is not in the Secretary of the Interior. The practical result of that, so far as the persons whom I represent here are concerned, is this, that in taking oil and gas mining leases, the only necessary steps are to get the authority of the probate court for the guardian to lease the property of his ward, and after that authority is obtained, to make such a lease as will meet with the approval of the courts, as provided by law, and when that is done the matter is settled.

If these words are reinserted here, our notion is that it was the intention of the Interior Department to take back the jurisdiction of certain of these minors and the control and management of their estates, in so far as leasing for mineral purposes is concerned. This we desire to avoid, if possible, for the reason that getting leases through the Interior Department is a tedious and frequently a long drawn-out process, and for the further and graver reason that the Department insists upon placing in the leases which they authorize persons to make, who are under their authority, terms of uncertainty as to the royalty the lessee must pay to the lessor, very harsh terms with reference to the rental he must pay for gas wells which may be found upon properties rented under the authority of the Department, and the further provision by the Secretary to the effect that while the lease may run for a certain period of years, yet he reserves the authority to revoke the lease at any time he may see fit upon ten days' notice, and makes the lessee obligate and bind himself not to resist the action of termination in the courts of the country.

That is a further burden, the great difficulty of making transfers when it is sought to do so, and for all these reasons the persons who are engaged in the oil and gas business down there are extremely anxious that the methods pursued in the other oil regions of the country should obtain there, and as little harm come to them as possible in the way of excessive cost in the matter of procuring leases and the uncertainty as to the royalties after they are procured. Of course we have this feeling, that the probate courts of the State of Oklahoma are quite as honest and quite as capable as the Interior Department would be or is in the matter of attending to the business of these minors; that the probate courts of that State would probably do that as well and as effectually as could the Department of the Interior through its various officers and subordinates. However, later along there is another amendment which we desire to suggest, which authorizes the Interior Department to have representatives down there in Oklahoma with a view to looking into the methods and the manner of procedure of guardians, to make reports to the probate courts in that State and to the Secretary of the Interior, and make those records public records.

The next amendment which I desire to suggest, Mr. Chairman, is in section 3, in line 5, on page 3. I desire to strike out after the word "Interior" the following words: "and the enrollment records connected therewith."

The purpose of that is this: Section 3 seeks to make conclusive as to the degree of blood and the age of enrolled citizens of the Five Tribes, and in the matter of establishing the degree of blood; instead of simply letting the roll itself be the conclusive evidence, they add to it the words which I have suggested to strike out, "and the enrollment records connected therewith." I understand the fact to be that you will not infrequently find that the age given on the enrollment and the age which appears by the testimony taken in connection with it are at variance, so that you would not be any nearer to conclusive evidence as to the age of the allottee than you now are if you take both of these grounds as necessary to constitute conclusive evidence

of the fact; since that is an arbitrary position on the part of Congress anyhow, and that either one or the other will answer it, it seems to me that the two are not necessary and that the more uncertain ought to be taken out and that the more certain and more conclusive means ought to be the one determined on.

The CHAIRMAN. Let me ask Mr. Woodruff right there, why is not Mr. Zevely's contention correct in respect to that?

Mr. WOODRUFF. In the second place?

The CHAIRMAN. Yes.

Mr. WOODRUFF. There is merit in his contention, not that it should be stricken out, but that it should be made clear that the enrollment records, in addition to the rolls themselves, should be effective with regard to age. The words "and the enrollment records connected therewith" have to do only with the matter of age, and that might very well be corrected to show that it has to do with age only.

The CHAIRMAN. Why is it not better just as it is, that the roll of citizenship—which, as I understand, is made up by the Secretary—now states the quantum of blood, the age, and so forth?

Mr. WOODRUFF. That is the trouble; it does not state the age.

Mr. ZEVELY. Oh, yes.

Mr. WARD. It shows this—the age, sex, and quantum of blood.

Mr. ZEVELY. The rolls themselves.

The CHAIRMAN. Then why is it necessary to have these words?

Mr. WOODRUFF. The age as it appears upon the roll is not clear as of what date. We find at the time this was inserted it was inserted for that reason, whereas the enrollment card sets out clearly the age as to the date. Therefore the card is very much more conclusive as to the age than the roll itself, whereas the roll itself should be absolutely conclusive as to the quantum of blood, and that should be changed, therefore, probably, in order to show that it applies to age only.

Mr. CARTER. If we allow the enrollment records to go in, Mr. Woodruff, almost every man will be trying to prove by those records, not that he is a full-blood Indian, but that he has enough white blood in him to sell those lands.

Mr. WARD. That is the reason the Department wants that in. For instance, an application was made in 1902 and the testimony taken at that time, and the case not decided, say, until 1905. The parent gave the age of the child at that time, 1902, and in some cases they put his age on the roll as of 1902 and in others they changed the age to make him three years older than he was in 1905 when enrolled.

Mr. WOODRUFF. Therefore the roll itself is not very good evidence as to the age, but the card is.

The CHAIRMAN. What makes the card better?

Mr. WOODRUFF. Because it shows the age of the very date of the application of his enrollment.

The CHAIRMAN. As I understand, then, the rolls, for instance, say that Mr. Ward is an Indian with seven-eighths Cherokee blood, 21 years of age. Now, the card says Mr. Ward was 21 years of age on the 17th of April, 1902?

Mr. WOODRUFF. Yes, sir.

The CHAIRMAN. I see your point.

Mr. ZEVELY. My point about it is this: Take one or the other, I do not care whether it is an enrollment or the record, but one or the other, because where they are in confusion it is very readily to be seen that you are establishing an arbitrary rule.

The CHAIRMAN. Then let me prosecute the inquiry a little bit further. Does the card show everything that the roll shows?

Mr. WOODRUFF. The card shows everything that the roll shows, but it shows the age a little more conclusively.

The CHAIRMAN. Then why is not Mr. Zevely correct in suggesting that we take the card instead of the roll?

Mr. WOODRUFF. Because the roll is so much more accessible for general use, in the case of the oil operator who wishes to take the lease and wishes to assure himself. He would much prefer to take the rolls which are now printed and which he can turn right to and discover the true state of affairs.

Mr. ZEVELY. If both of these things were essential to determine the age of the allottee, a prudent man would not content himself with examining one or the other; he would examine both. If they vary, he has to take whichever one he chooses, then.

The CHAIRMAN. I think Mr. Zevely is right about this, Judge Woodruff; I do not think you want to put in the law a proposition that leaves it uncertain.

Mr. WOODRUFF. And for that reason I suggested it should be changed to make the rolls conclusive as to the quantum of blood, and the enrollment cards conclusive as to the age. Thereby you assume just one record for each.

The CHAIRMAN. I see your idea.

Mr. WOODRUFF. That is my idea.

Mr. ZEVELY. Mr. Chairman, the next suggestion is, in line 7, on page 3, in section 3, strike out the word "Indian" where it occurs between the words "of" and "blood." The proposition here is there shall be conclusive evidence as to the age and the quantity of Indian blood. If you strike out the word it simply makes you establish the blood of any Indian.

Mr. DAVENPORT. There is no blood on the roll given but the Indian, the white intermarried, and the freedmen; there is no attempt to give the blood, the degree of blood.

The CHAIRMAN. The quantum of blood is 100 per cent of blood in each person.

Mr. ZEVELY. Except that this quantum means the quantum of Indian blood or the quantum of white blood or the quantum of negro blood. However, if Mr. DAVENPORT's suggestion is correct, that those rolls only show the Indian blood, there is no occasion for that amendment.

Mr. DAVENPORT. That is true.

Mr. ZEVELY. We suggest that there be added a new section, to be known as section 3a to follow section 3, which shall read as follows:

"SEC. 3a. That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior, shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and

acknowledgment of deeds, and the same shall be recorded in the county where the land is situate."

The first provision in that suggested section, Mr. Chairman, goes to this effect, that there are many leases pending; at least, there have been up to this time, several hundred or several thousand leases in the Indian agent's office, in the inspector's office, and in the office of the Secretary of the Interior. Our contention is this, that if this proposed bill should pass and there should be a lot of these leases pending in these various stages of transit, when finally some of them got here, having been entered into, the condition being that the Secretary of the Interior should approve them, and the restrictions had been removed from the land, the Secretary would probably say: "I have no further authority about this; the land has the restrictions removed from it, and this man has the right to make this lease himself." The consequence would be that your contract would be a nullity; you would have to go back and get another lease. This simply authorizes the Secretary to carry those contracts into effect the same as if the act had not passed.

The other provision is to this effect, that after restrictions are removed, an allottee who has, prior even to now, entered into a lease of oil or gas lands, because the restrictions are subsequently removed, he and his lessee may get away from the provisions of this lease by entering into another lease themselves or abandoning this one and notifying the Secretary of the Interior of the fact so that his records may be closed as to that matter. That provision, as I remember it, was put in there on the suggestion of the Secretary himself when we were discussing it with him.

Mr. WOODRUFF. That is, I believe, practically true, that he has said that with great reluctance, because it is foreseen that in many instances this power will be taken advantage of by the lessors and lessees in order merely to hand over a lease for some very low amount, and it exemplifies the attitude of the Department toward the authority of the State courts, that when once the restrictions are removed the Department feels that it ought to be relieved from the necessity of further following up the nonrestricted Indians, and therefore that, although we concede that there will be a great money loss to the Indians under that, it is impossible, when we let them loose, to prevent them from giving away what they have for practically nothing.

Mr. ZEVELY. You have no control over them when the restrictions are removed.

Mr. WOODRUFF. That is what I say.

Mr. ZEVELY. I desire to suggest further, with reference to the desirability of having this last feature of the amendment I have suggested incorporated into the law, that, as it is now, the delay is very considerable on the part of the lessor before he can obtain his royalty or his rental which has to come through the Indian agent, and he has to pay 3 per cent.

Mr. WOODRUFF. He no longer is obliged to do that.

Mr. ZEVELY. When did you abandon that?

Mr. WARD. December 8 or January 8.

Mr. WOODRUFF. And at our request the committee has left it out of next year's Indian appropriation bill.

Mr. FULTON. Would not the same thing be true of all other contracts which the Indians may have entered into that required approval by the Secretary?

Mr. ZEVELY. After the restrictions were removed?

Mr. FULTON. Yes; could you not read that amendment so as to cover all those contracts, and not confine it to one class?

Mr. ZEVELY. Yes, sir; I think we could.

Mr. FULTON. Would it not be better?

Mr. ZEVELY. I think so, but there are very few of those; they are so few that we did not think it necessary.

Mr. FULTON. There are quite a number over on my side, the farm leases and things of that kind.

Mr. ZEVELY. The next suggestion, Mr. Chairman, is to strike out section 6 as it appears in the bill 15641, and I will have to read that section:

"SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes, except as otherwise specifically provided by law, shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives of the eastern district of Oklahoma as he may deem necessary to care for the allotted restricted land of allottees, whether adults or minors of the Five Civilized Tribes, including, when the supervision of the Secretary of the Interior is authorized by law, the sale or leasing of such lands and the disposal, for the benefit of the Indians, of the proceeds of such sale or leases. Said appointed representatives shall, without charge except necessary court fees if any, care for the restricted allotted land of minor allottees of the Five Civilized Tribes, and shall annually account concerning such restricted land, both to the Secretary of the Interior and to the respective probate judges having jurisdiction of the persons and property of such minors. The probate judge may appoint the representative of the Secretary of the Interior having charge of the restricted land of any such minor to act as guardian for such minor without fee or charge, except necessary court charges and expenses incurred under order of the court. Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under direction of the Secretary of the Interior."

My objection to that section is this, primarily, that it takes the jurisdiction of the minor allottees of the Five Tribes from under the proper courts of the Indian Territory, where the circuit court of appeals for that circuit has said in the decision to which I referred before that jurisdiction properly belongs and where it was conferred by this act of April 26, 1906.

Mr. WOODRUFF. Do you think it does?

Mr. ZEVELY. I think it does.

Mr. WOODRUFF. Did you ever read that first language?

Mr. ZEVELY. Here is the language: "The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern district of Oklahoma as he may deem necessary to care for the allotted restricted land of allottees, whether adults or minors."—He can not care for it unless he has control over it. You will find it goes on further to talk about that—"including, when the supervision of the Secretary of the Interior is authorized by law, the sale or leasing of such lands and the disposal, for the benefit of the Indians, of the proceeds of such sale or leases."

You have a clear conflict between the representatives of the Secre-

tary of the Interior—whom you sent there to care for these lands, who could dispose of these lands—and the guardians and the probate courts of the State of Oklahoma, both having the same authority.

Mr. WOODRUFF. There could be no conflict, because in giving the probate courts clearly that jurisdiction over the restricted Indians, concerning which there might now be some dispute, it says here, "except as otherwise specifically provided by law," and the "otherwise specifically provided by law" is this very provision.

Mr. ZEVELY. It gives the representatives of the Secretary the care of these minors. How can they have the care of the property if they do not have it?

Mr. WOODRUFF. It is very clear to me; I do not want to take the time to argue it.

The CHAIRMAN. It seems to me that you can have the care of property, Mr. Zevely, under a court; you do not necessarily take it out from the control of the court because you have the care of it.

Mr. ZEVELY. It seems to me to give that authority here—"restricted land of allottees, whether adults or minors, of the Five Civilized Tribes, including, when the supervision of the Secretary of the Interior is authorized by law, the sale or leasing of such lands and the disposal, for the benefit of the Indians, of the proceeds of such sales or leases." If that is not giving him control of that land, through his representatives, I do not know what the English language expresses.

Mr. WOODRUFF. It does, but it does not give control of the minor.

Mr. ZEVELY. I am talking about the property.

Mr. WARD. It gives them authority, because the probate courts say that it gives them jurisdiction.

Mr. ZEVELY. That is exactly what I say; you have a conflict of jurisdiction there.

Mr. WOODRUFF. Not at all.

Mr. ZEVELY. Suppose a probate court should appoint a guardian of a minor down there, and he seeks to take charge of his estate.

Mr. WOODRUFF. He can not do it.

Mr. ZEVELY. You take it here; the Secretary of the Interior takes it; that is what we want to avoid.

Mr. MOTT. Under what court does the Secretary take it?

Mr. ZEVELY. Under the probate court.

Mr. MOTT. Of the State?

Mr. ZEVELY. Yes.

Mr. MOTT. And the probate judge is confined only to the probate laws of the State, because there are no Federal laws under which he can act. Therefore there can be no conflict.

Mr. ZEVELY. We have suggested this in lieu of that section, if I may read it:

"SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian and curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minors, without fee or charge."

That leaves the jurisdiction of the property of the minors in the hands of the persons appointed by the probate court of the State of Oklahoma, where, according to our notion, it properly belongs, but by this provision which you make, by these representatives whom the Secretary may send there, the guardian is pledged to keep a constant watch upon what is becoming of the property of the minors in the States, but the power to control is in the proper court, namely, the probate court of the State of Oklahoma, and there is no danger of any conflict of authority about that if this suggestion is adopted.

Mr. Chairman, just one word on the question of the jurisdictional bill, as to the authority of the Secretary to proceed in the Federal courts on behalf of the allottees as to whose restricted land there may be some difficulty, some fraud, suggested. We have made this draft, which is a further part of this section 6, which I have just read:

"And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands."

"Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That the homesteads of minors shall not be sold or encumbered by order of the court or otherwise until such minor arrives at the age of 21 years, except as to leases authorized by law."

Those are the only suggestions I have to make, Mr. Chairman, and I believe that under that last provision the Department's desire for supervision of these affairs, in its zeal to see that the allottees may

not be despoiled of their heritage, may be fulfilled and they will find ample authority in this act to enforce the law and see that they are not robbed of their property.

Statement of Hon. James S. Davenport, a Representative in Congress from the State of Oklahoma.

Mr. DAVENPORT. Mr. Chairman and gentlemen of the committee, in the outset I want to say that I am in favor of the removal of the restrictions as provided by what is known as the "McGuire bill." However, I want to be understood as saying that I do not believe that that bill goes far enough or gives to the people down there what they really need, but it is a step in the right direction, and does not retard their present condition in the way of laws or does not enjoin upon them any additional burdens to prevent them from going forward. In order that I may be perfectly understood in that connection, I can say, from personal experience for seventeen years in that country, that 80 per cent of the Indians by blood in the Seminole, Creek, and Cherokee nations are as competent to manage their own affairs as 80 per cent of the people in my native State—which the chairman kindly referred to a while ago—Alabama, or of any class of people.

I care not where you go and find them, taking them in the aggregate, you are going to find a certain per cent of that class of people as incompetent to acquire, or to hold after they have acquired, property without any questions as regards to nationality or citizenship. In the Indian Territory, and especially in those three tribes that I have more knowledge about, there are some of their citizens who are not competent and would not to-day, if their property were loose, retain it as would some of their brothers who live across the line from them, because it is not in the nature of things that all people should retain their property. There is a class down there known as the "full-blood class," and a portion of that class would not retain their property because they have not had the experience that their brothers of less degree of blood have had. I believe that the present bill ought to become a law, but I believe that it ought to be amended where it says "half blood or more." After having considered that, I believe that the restriction should be held upon the homestead of the half blood or more than half blood.

I believe that the half blood ought to have the restriction removed from his land and let it read that where they were more than half blood the restrictions upon the homestead should be retained, because about 30 per cent or more are half-blood Indians of those tribes, and as a rule the half-blood Indian is as competent to take care of his property as the man who has not more than one-eighth or one-eleventh of Indian blood. I know there are varied opinions as to whether the restrictions should be removed upon any class down there, but I am going to say to you as one of the Representatives from there, as a citizen of the Cherokee Nation and a man who lived among those Indians from my infancy, so to speak, that if you take the Indian population in that country, 90 per cent of the Indians by blood in either one of those tribes would say to remove it from everything, and I speak upon my responsibility, and I am willing to go to any one of those tribes and submit it to any authority and pay half of the expenses of an election, and if any of them does not vote to remove the restrictions I will pay all the expenses. I am not in favor of removing the restrictions from the full blood's homestead, but I am in favor of him being placed in a position so that he can handle his lands the same as my children, who have only one-sixteenth of Indian blood in them.

In the Cherokee Nation, in round numbers, there are about 34,000 Indians by blood. In round numbers, there are six or seven thousand of those who are full-blood Indians. Those people are land rich, but paupers when it comes to doing anything with it. There are families who are full bloods, in my nation, who have acres and acres of land, and they have not one dollar to pay for the improvement of it. Under the present condition of the laws they can not lease if for more than a year at the time—that is my recollection—and no man who desires to go into farming or agricultural pursuits will go on a piece of land and take a lease for so short a time for the purpose of cultivating and putting it in an improved condition. The practices in different tribes are different, but I think the full blood's homestead should be reserved to him, as the present law is, but that he should have the right, under the direction of the Secretary of the Interior, to make application to the Secretary, and let the Secretary, through his representative, investigate as to the intelligence of that Indian and as to his needs, and if, after that investigation, it is found that he needs to have a part of that land turned loose so that he and his family may live or have something to eat while they are living, it ought to be granted to him. I know of a few cases in the Cherokee Nation, and I speak of them because I know more about them than of the other tribes, where there are to-day aged persons, full bloods, without any means of support, practically, and they have good land, but can not do anything with it to get any money. That kind of a condition, I believe, ought to be relieved.

Mr. CAMPBELL. What would be your suggestion to relieve that condition?

Mr. DAVENPORT. I would relieve that in this way, I would give the Secretary of the Interior power to examine cases of that kind where applications were made to him, and if he thought they needed some money to live upon, where they were aged or infirm, or that they should sell some land of their homestead to remove the restrictions upon that portion of the full blood's surplus land. I am carrying out the line of that provision.

The provision in this present bill, gentlemen, after due deliberation, was practically agreed to by all the representatives of Oklahoma, as well as the gentlemen of the Department of the Interior. It was not, I say frankly, what either party wanted, but, as I said in starting out, it was a step in the right direction. There has been opposition raised against the removal of restrictions in that country, and I want to be placed in this position so that all who are present may know, I have maintained from the time I had any knowledge of that country that by degrees the Indian ought to have some responsibility thrown upon him in order that he might make a useful man among his brothers in that country, and I have found from observation of the Confederate Tribes around my tribe that Indians who had been maintained upon a reservation by the Government, when they were relieved of that maintenance and placed upon their own resources, with practically nothing to go upon, turned loose the same as any other American citizen, they are to-day useful men and women and earning their living the same as any other class of citizens around that country. Several of the Confederate Tribes have been opened up since I went there. You take the Pawnees and a number of those tribes, the Sac and Fox, and the Pottawatomies, several of those tribes have been opened up, and you find those people to-day, a great per cent of them, progressive citizens, following the pursuits

of agriculture and teaching, the practice of medicine, the practice of law, and engaged in other pursuits the same as United States citizens in that country who have always been free to act as they please.

Mr. CAMPBELL. Do those conditions extend to the freedmen?

Mr. DAVENPORT. They extend to all of them. When they were first opened a certain amount of them were held for homestead purposes, but the point I was making is that they were turned loose without any annuity and without any restriction by the Government as to their action. They were no more wards of the Government, but must go out and act for themselves. I believe that it will not only have a tendency to place a responsibility upon the Indians in that country, but I believe that it will make them better men and women. Of course some may say that there are people in that country who will rob them of their property, and I will concede that; I will concede you that to-day, if the property was turned loose in the Indian Territory, the same as any other State in the Union, there are men who would trade and traffic with them and, if possible, get it away from them, but the average Indian in my section of the country is as competent to battle with the American trader as any man anywhere, and if you do not believe it, one of you gentlemen go down there and try to drive a bargain with him, and see the condition of things. The trouble has been that the conditions in that country have been such that the fellow who had a special interest to serve would object to this being done; a man who had a special interest in another line would object to that, and that is what brought a conflict of opinion upon that question.

Mr. FULTON. Is it not a fact that it is frequently the case down there, and is it not almost entirely true that the full bloods know that they can not sell their lands, and that when they do sell them they are simply working the white man for what they are getting out of it?

Mr. DAVENPORT. I do not think there is a full blood living to-day, whether he talks English or not, in what is known as the Five Civilized Tribes, who is not as conversant with every treaty down there as any man living in that country. I do not believe that there is a full blood who does not know that there is a prohibition made on his sale, and that when he makes a sale he knows the law imposes a restriction upon him.

Mr. FULTON. And is it not true that he sells the same tracts to four or five different people?

Mr. DAVENPORT. I have understood that was true.

Mr. WOODRUFF. And is it not equally true that those four or five different people buy it from him when they know it is restricted?

Mr. DAVENPORT. I do not want to misrepresent anybody down there. I and my family were American-born citizens, and we are all now legislated United States citizens. We occupy a twofold position, and we occupy the same position down there—that Mr. Indian will skin a white man if he can and a white man will skin an Indian if he can.

Mr. MCGUIRE. Or each other?

Mr. DAVENPORT. Each other; you know it, indeed. You can keep them in that position for twenty-five years longer, and the last day of the twenty-five years that same condition will exist, and my candid opinion is that the quicker they are thrown on their own responsibility—taught that they are United States citizens and have assumed all the responsibility of citizenship—the more quickly they will assume it, and the more quickly you will see that they bring up their part of that Government and show they are competent to manage their affairs.

Along the line that there are differences of opinion, I want to ask that there be incorporated in this record a petition that I received from the Creek Nation. The governor of the Creek Nation is here, its representative is here, and its delegates are here. I know not from whom this emanated, but it bears the signatures of a number of representative Creek people, to my knowledge. In this they protest against the action of their delegation and against their attorney in coming here and resisting legislation which they say they were not sent for. This is signed by a number of people, but I know nothing about it except that I received it through the mail. It reads as follows:

"PROTEST AND MEMORIAL TO CONGRESS BY THE CREEK CITIZENS OF THE STATE OF OKLAHOMA.

"We, the undersigned citizens of the Creek tribe of Indians of the State of Oklahoma in mass meeting assembled in the town of Enfield, Okla., on this 16th day of March, 1908, do hereby protest against and repudiate the action of the Creek delegation headed by Chief Moty Tiger and the Creek national attorney, now in Washington City, for the reason that their said action is against all treaty obligations made between the Creek Nation and the United States Government, and against their positive instructions given them at the time of their appointment by the Creeks as assembled at Okmulgee at October session of Creek council in 1907, and against the wishes of a large majority of the Creek people, the first breach of trust being their seeking to have such legislation enacted into law by the United States Congress that would place all litigation respecting our landed interests under the jurisdiction of the Federal courts instead of the State courts of the State of Oklahoma, where said matters rightfully belong.

"Second. We most earnestly protest against the continuation of Moty Tiger as principal chief, and against the appointment of a national attorney, and against the appointment of a national interpreter.

"We also most earnestly protest against any legislation that might be passed looking to the bringing of suits by the Creek Nation or tribe for the benefit of different individual Indians of said nation and protest against the employment of attorneys to fight such litigation and against the payment of such fees and expenses out of the Creek tribal funds or moneys.

"Third. We most earnestly ask that all of the moneys and funds now on hand to the credit of the Creek Nation be paid out at once in the equalization of the allotments of the Creek Indian as provided for in treaty obligations between the United States and the Creek people.

"To this end we demand as a matter of right under our treaties with the Government that no payments be made nor moneys be paid out by the Government until all allotments are equalized as called for in said treaty, and that after all allotments are equalized we then consent that any balance, if any, remaining to the credit of the Creek Nation be paid out per capita.

"We hereby ask that a copy of this memorial be sent to each Member of Congress and Senators from the State of Oklahoma and to the Secretary of the Interior and Commissioner of Indian Affairs.

"Respectfully submitted,

"Roley McIntosh, ex-second chief Creek Nation; Geo. W. Stidham, member national council; R. L. Simpson, merchant, Enfield, Okla.; E. H. Walker, ex-member national council; S. J. Logan, member national council; Bunnie McIntosh, member national council; Freeland McIntosh, ex-member national council; Choctaw Glivens, ex-member

national council; Simmer, ex-member national council; James Barnett, ex-member national council; James Hill, member of Creek national council; Joe Sauger; Jack Stidham; Thomas McIntosh; L. G. McIntosh, county superintendent of schools; A. E. Ralford; W. S. Coody, clerk; Charles Gibson, county commissioner McIntosh County; Bosie Scott, ex-Creek attorney; Thomas Doyle; W. P. McCombs, salesman; John McIntosh; J. M. Depriest, constable; Cleve Whitlow; Henry McIntosh; L. G. Stidham; C. S. Smith; Shiah Gray; Job McIntosh; Sam H. Doyle; Albert McKinney; Daniel N. Bard; Cub McIntosh, ex-judge; Henry McDermott; Art Asbell, postmaster Checotah, Okla.; John McKinney; F. C. Coon; Jim Bea Scott; W. B. Rogers, sr.; W. B. Rogers, jr.; R. Y. Audd; F. R. Audd; C. L. Audd; J. M. Jones; G. W. Odom; John Barnwell; I. S. Warrior, member Creek national council; R. L. Watson; Van Allen McIntosh; Cheesie McIntosh; Fred Farrell; H. C. Fisher, ex-auditor M. N.; Jack Thompson, merchant, Checotah, Okla.; Van Grayson; John Murray; George McGilbry; John C. Wise; Euel F. Walthall, druggist, Checotah, Okla.; Rob. Gentry; Geo. W. Scott, farmer."

The CHAIRMAN. Now, Mr. Davenport, what have you there; is that the paper you received?

Mr. DAVENPORT. Yes, sir.

The CHAIRMAN. That is merely a typewritten copy; it does not purport to be signed by anybody?

Mr. DAVENPORT. They sent it to all of the representatives, as they say.

The CHAIRMAN. You never have seen the original of that paper?

Mr. DAVENPORT. No, sir.

The CHAIRMAN. Do you vouch for it?

Mr. DAVENPORT. Only as I stated, that I received it through the mail. I do recall now that there was a letter signed by Mr. George W. Stidham and Mr. S. J. Logan.

Mr. MOTT. Do you know Mr. Stidham?

Mr. DAVENPORT. Yes, sir; I have known him seventeen years. If you want me to tell you, I can tell you, and I can connect some other people with him.

The CHAIRMAN. We will not confuse those things with this.

Mr. DAVENPORT. Now, then, Mr. Chairman, that is the condition as it exists down there. There are different parties holding different views upon that question, and for that reason I have filed those papers which are sent to me, and I want to say this, that since I came here from the 2d day of December up to this date, not a single record of a man or a woman of either of the tribes I have the honor to represent, to my knowledge, or that I have ever had any acquaintance with until I came here, has ever written me a line to work against the removal of restrictions, and I have had, I suppose, 200 letters from citizens of each of the tribes I have known for years, and in every instance they asked for the removal of restrictions from a part of the allotments. None of them have asked that the restrictions be removed entirely from the full-blood Indians, but the mixed breeds have asked that it be removed entirely, so that is the position I am in from my personal knowledge of conditions down there; it is the position I am in, everybody asking for action upon it as to a part of the allotments, but no one asking that it be not done upon a portion of it. I would not advocate for one moment the removal of restrictions upon the full-blood lands, because I do not think it should be done.

There are two other classes of citizens down there, one of which is the intermarried citizens. I want to preface that by saying that the intermarried citizen never was a ward of the Government, and that if he was once a citizen of the United States he was always a citizen of the United States. While he was taken along in the wake of the legislation, rightfully under the law he should not have been, because he was not entitled and did not need any protection against the United States. He assumed that responsibility when he came into the world, to be subject to its laws, and he did not need any of its protection. But in the legislation down there, and in drafting the legislation, they just carried the intermarried citizen and freedman along that line. The homestead of the intermarried citizen should be removed at one stroke, because he is not a ward of the Government and never was; he had no right to the protection; he got what he got by the grace of God and the freedom to go down there and marry one of the nation's citizens.

As to the freedmen in that country, there is some diversity of opinion upon that proposition, but I will say to you that the freedman never was a ward of the Government within the meaning of the Indian wards. He knew before he acquired any right that the first man who acquired any rights in the country was the United States citizen; when he acquired those rights, he acquired them as a United States citizen by treaty stipulation, and I do not believe that he ought to have any protection down there any more than the white man. I am just like old Stick Ross, a negro who was in the Cherokee council. They elected him from one of the districts just for fun, and his old boss, who used to be with him before the war, Mr. Rodgers, said to him, "Stick, what are you going to do about this intermarried white man business?" He said, "Mr. Rodgers, I am in favor of making the white man as good as the nigger." And I am in favor of making the negro as good as the white man in this proposition. We ought to have the restrictions removed, as they are American citizens and have been for years, and ought to be placed upon an equal footing with other citizens. I think if you will question the freedmen in that country that 90 per cent of them will say that they want it done, and 90 per cent of them down there are just as capable of taking care of themselves as 90 per cent of the negroes in Washington are capable of taking care of themselves. There are other nationalities—and the American is not excluded—who are not competent to take care of their property.

I want to speak of two other things in connection with the competency of the Creeks and Cherokees down there to take care of themselves. They have been a people who have always educated. From the superintendent of schools in that country you will find that they had about 180 day schools in the Creek Nation upon the 1st of January of this year, and those schools had been maintained for years back. They had their boarding schools and other schools which had been maintained, and they have been a people who attended to educating the children of their tribe, and the records of the educational department will show that the Cherokees have always been a people who educated. The Cherokees built and maintained, and have maintained ever since 1846, with the exception of about three years during the late lamentable war, a high school, or what would be termed a college, in the State. They had 350 day schools, or public schools, throughout

their nation on the 1st day of January of this year, and the exact number of children can be ascertained by the report of Mr. Benedict, of the Indian Office.

But they have been not only educating in the last few years, but those two tribes, to my knowledge, have been educating for almost half a century, since they have been located in the Western country, and to-day I make this statement, that you can go into the Seminole, into the Creek, and the Cherokee nations and take the young men and the young women of those three tribes between the ages of 18 and 30 years and, according to the per cent of that age, you can go into any State in the Union and compare the population according to the population there, and you will find as many girls and boys of those three tribes of high school education according to the number as you will find in any State in the Union. I do not think there are 10 per cent of the Cherokee boys and girls between those ages who have not a high school education, and there are 40 per cent of them who have a college education in the Cherokee Nation between those ages. They are as well equipped, to take them in their entirety, for statehood and for American citizenship, as any other State in the Union according to population, and I most earnestly urge that if the committee, after giving due consideration to all the questions that have been brought before it, can believe that those people down there are not American citizens with sufficient intelligence and competence to manage their affairs, that you do not pass any law giving them that right; but, on the other hand, after you have investigated these conditions, if you find that they are placed in a position where they are at least as competent to manage their affairs as the average American citizen in the State, that you accord them that right, and I say to you, with all due candor and due deference to the gentlemen who may disagree with me, that they are as competent to manage their affairs as the people of any State in the Union according to population.

Mr. MOTT. Is it not a fact that 25,000 members of the Cherokee Nation have about one thirty-second of Indian blood in them? I heard Mr. Hastings make that statement in the Department.

Mr. DAVENPORT. There are only about between 6,000 and 7,000 full bloods of an approximate number of 34,000 by blood.

Mr. MOTT. Twenty-five thousand one thirty-second of blood.

Mr. DAVENPORT. I can not say that. I will say to you that 25,000 are practically white men and women, and a nobler class never breathed the breath of life.

Mr. MURCHISON. Mr. Chairman—

The CHAIRMAN. One moment. Whom do you represent, Mr. Murchison?

Mr. MURCHISON. I represent the Keetoowah Society.

The CHAIRMAN. What is that?

Mr. MURCHISON. They are a society authorized by the Cherokee Nation.

The CHAIRMAN. If you wish to be heard, we will hear you in due time.

Mr. MURCHISON. Mr. Diefendorf telephoned me, and I did not know until twenty minutes ago that this hearing was on, when Mr. Diefendorf telephoned me that if I came here I would probably be heard.

The CHAIRMAN. Very well.

Mr. MCGUIRE. You made the statement, Mr. DAVENPORT, that you thought 90 per cent of all persons of Indian blood, and the people in general, were favorable to the provisions of this bill now, after consideration?

Mr. DAVENPORT. Yes, sir; and I think if they had an opportunity to express themselves they would so express themselves.

Mr. MCGUIRE. What I wanted to ascertain was your opportunity for information. Has this been a matter of general discussion through the press and on the stump and elsewhere?

Mr. DAVENPORT. It has been discussed, I will say, before our tribal relations were disposed of. The last struggle we had for the governor, the chief in the Cherokee Nation, both political parties—the Keetoowah, whom Mr. Murchison represents, and the Downing party, which I helped to support—carried it in their platforms, recommending the removal of those things, and placing them upon equal footing with other citizens.

Mr. MCGUIRE. And, in your judgment, are not the white people and all other classes of people there just as considerate of the welfare of the Indian, the full blood, as you or anyone?

Mr. DAVENPORT. I have always found the white men there to be in favor of making the Indian there as he is anywhere else.

Mr. CAMPBELL. What is the answer to that proposition, that the Indians are in favor of the removal of restrictions? Is that the proposition that the minors, who would gladly assume control of their property before they arrive at the age of maturity, and that they are incompetent to judge as to whether or not their restrictions ought to be removed, are wards?

Mr. DAVENPORT. You want to know what the answer is?

Mr. CAMPBELL. Yes; what is the answer to the suggestion that they are mere wards and must remain so? I think legal steps have been taken to remove that wardship.

Mr. DAVENPORT. I can not answer that except to give my own opinion. I can say to you from the observation of the people that since 1901 the wards of the Government were wards only to the extent of their property rights; that they were United States citizens to all intents and purposes other than that provision, that limited provision held upon their property right; they claimed and asked that, having been legislated United States citizens, they be placed in the same position as other United States citizens in that country who buy land, have the restrictions removed, and if a farm springs up by their side that they may be allowed to have their own spring up with it. In other words, that they may assume all the conditions and all the burdens of it, and that their children, as they go out, will have their property, and have it so they can handle it the same as any citizen can in your State or in any State where no restrictions were imposed. In other words, gentlemen, it seems to me that while some of those people ought to have the restrictions gradually removed, that it is a very peculiar condition of affairs surrounded by the States that are as prosperous as we are, that the lands of those citizens who are seeking their own advancement peacefully, should be withheld from them when, as has been suggested, 25,000 or 30,000 are white people.

Mr. MOTT. Permit me one more question, if you will.

The CHAIRMAN. Wait a minute. There has been too much of this miscellaneous jumping in and asking questions. We are a committee conducting this hearing, and I shall insist that this shall not proceed any further. Everybody who ought to be heard will be given an opportunity to be heard, but those outside of the committee must not interrupt a gentleman who has the floor and is speaking.

Mr. DAVENPORT. In connection with the full-blood proposition, the chairman will remember last year, or the latter part of the year before,

I believe it was, Senator LONG and Senator TELLER and a number of gentlemen who were known as a special committee—

Mr. CARTER. A select committee.

Mr. DAVENPORT (continuing). A select committee, were sent through there by the Senate to have special hearings and to ascertain what the sentiment of the people was upon that question. I undertook to-day to go through that and get some statements that were made by full-blood Indians. Their report was published in two volumes and is a matter of record in the files here, but in running through that I came across the statement of a full-blood Indian whom I know and have known for a number of years, Richard Glory, and I tore this out of the volume of the full hearing and want to incorporate his statement. He goes into the question thoroughly. He is a full blood. He is a gentleman who has had considerable experience in education, and he answers fully all the questions they put to him.

Mr. Walker appeared and gave a short statement, which I want to incorporate, showing the tendency of the different degrees of bloods. It shows the tendencies and the different feelings. Richard Glory testified as a full blood, and they came there voluntarily, too, because there was nobody to solicit them. The days and places were fixed.

(For statements of Walker and Glory see Appendix X.)

Mr. CAMPBELL. I would like to know, for my own satisfaction, about how many Indians this bill, which has been prepared and is now before the committee, would have the restrictions removed from.

Mr. DAVENPORT. I can not tell you the number of Indians, but it would remove in the Cherokee Nation nearly one-half of them, at least, or probably more, taking it from half blood up.

Mr. CARTER. I have report from the Interior Department, the Indian Office.

Mr. CAMPBELL. I would like that in the record.

Mr. DAVENPORT. It would remove at least half of the Indians of the Cherokee Nation. In the Seminole and Creek nations it would not remove quite as great a per cent of the population, because there are more full bloods according to the number of the population than we have in the Cherokee Nation.

STATEMENT OF LAND CONDITIONS IN THE STATE OF OKLAHOMA.

[Prepared and submitted by C. D. CARTER.]

Tribal enrollment showing degree of blood of Indians in Indian Territory.

ADULTS.	
Full bloods:	
Choctaws	4,141
Chickasaws	690
Creeks	3,556
Cherokees	3,020
Seminoles	750
Total	12,157
More than half:	
Choctaws	583
Chickasaws	249
Creeks	653
Cherokees	1,234
Seminoles	173
Total	2,892
One-half:	
Choctaws	956
Chickasaws	545
Creeks	664
Cherokees	1,372
Seminoles	211
Total	3,748
Less than one-half:	
Choctaws	6,379
Chickasaws	2,226
Creeks	2,399
Cherokees	17,719
Seminoles	155
Total	18,878
Intermarried:	
Choctaws	1,585
Chickasaws	635
Cherokees	286
Total	2,506
Freedmen:	
Choctaws	5,994
Chickasaws	4,670
Creeks	6,807
Cherokees	4,925
Seminoles	986
Total	23,382
MINORS.	
Full bloods:	
Choctaws	4,178
Chickasaws	848
Creeks	3,256
Cherokees	3,581
Seminoles	649
Total	12,512
Registered Delawares	126
More than one-half:	
Choctaws	390
Chickasaws	135
Creeks	243
Cherokees	819
Seminoles	7
Total	1,594
Registered Delawares	16

One-half:	
Choctaws	678
Chickasaws	279
Creeks	475
Cherokees	1,556
Seminoles	183
Total	3,171
Registered Delawares	27
Less than one-half:	
Choctaws	1,731
Chickasaws	712
Creeks	649
Cherokees	7,089
Seminoles	10
Total	10,191
Registered Delawares	28

STATE OF LAND CONDITIONS IN THE STATE OF OKLAHOMA.
Enrollment as to class and acreage of each tribe.

	Total enrollment.	Acreage.
Chickasaws by blood	5,558	
Chickasaws by intermarriage	623	
Chickasaw freedmen	4,730	4,708,108.05
Choctaws by blood	17,329	
Choctaws by intermarriage	1,550	
Mississippi Choctaws	1,856	
Choctaw freedmen	20,435	
Creeks by blood	5,378	6,050,043.66
Creek freedmen	2,065	
Seminole by blood	13,146	3,072,831.16
Seminole freedmen	2,132	
Cherokees	8,108	365,854.39
Cherokee Delawares	32,803	
Cherokee freedmen	196	
	4,112	
Total Five Civilized Tribes	37,111	4,420,070.13
Seneca agency	89,089	19,511,889.39
	1,730	176,190.13
Total	90,819	19,688,079.52

According to letter of Commissioner to the Five Civilized Tribes, the number of acres subject to alienation and taxation on December 24, 1907, follows:

	Acreage.
Choctaw and Chickasaw nations	998,158.58
Creek Nation	1,457,509.00
Seminole Nation	1,379.00
Cherokee Nation	571,150.00
Total	3,028,196.58

Leaving a residue of 16,659,872.94 acres inalienable and nontaxable.

STATEMENT OF LAND CONDITIONS IN THE STATE OF OKLAHOMA.
Tribal enrollment and acreage in Oklahoma Territory.

	Enrollment.	Acreage, allotted and reserved.
Cheyenne and Arapaho	2,779	793,854.54
Iowa	88	8,705.30
Kansas-Kaw	207	100,137.00
Kickapoo	240	23,008.87
Kiowa	1,219	
Comanche	1,408	
Caddo	551	
Apache	453	
	8,631	539,691.44
Wichita	441	157,142.00
Oto and Missouri	890	129,071.22
Pawnee	649	12,699.84
Ponca and Tonkawa	617	101,574.31
Sauk and Fox	508	88,483.64
Shawnee	474	
Potawatomi	1,740	286,081.52
Oakland Reservation		11,434.29
Total	11,764	2,252,783.97
Osage	1,994	1,470,058.00
	13,758	3,722,841.97
Sales, inherited lands	169,581.53	
Sales, other lands	163,533.33	
Patents in fee	44,930.99	
		378,075.90
Total inalienable and nontaxable lands in Oklahoma Territory		3,344,766.07
Total inalienable and nontaxable lands in Indian Territory		16,659,872.94
Total inalienable and nontaxable lands in State of Oklahoma		20,004,639.01

Respectfully submitted for the information of the House Committee on Indian Affairs.

C. D. CARTER.

(Thereupon, at 4 o'clock p. m., the subcommittee adjourned until tomorrow, Saturday, March 21, 1908, at 2 o'clock p. m.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Saturday, March 21, 1908.

The committee met at 2 o'clock p. m., Hon. PHILIP P. CAMPBELL in the chair.

Mr. CAMPBELL. The committee will resume the hearings, pursuant to the adjournment until 2 o'clock this afternoon.

Statement of Hon. Scott Ferris, a Representative in Congress from the State of Oklahoma.

Mr. FERRIS. Mr. Chairman and gentlemen of the committee, I do not know that it would be necessary for me to appear before the committee at this time except for the fact that I will not have time when the matter is reported and comes onto the floor of the House, or even when it is before the full committee, to present some observations that I have made. Therefore I avail myself of this opportunity.

I want to take the matter up in fairly an elementary way, which, of course, will do some members of this committee no good, because they are acquainted with the situation; but other members of the committee may get some facts with which they are unacquainted, and for the benefit of those who may read or refer to these hearings I am satisfied that what I am going to say would be of importance.

I want to give this committee some idea of what chance I have had to make observations with reference to conditions in Oklahoma, and with reference to the conditions of the Five Civilized Tribes. I was born 15 miles from the northeast corner of the Indian Territory, in the edge of Missouri, and I lived there all my life until seven years ago, when I moved to the southwest corner of Oklahoma and engaged in the practice of law. During all that time and since that time I have had an intimate acquaintance with the Indian situation, with the Indian people, with the character of their lands and their methods of holding them and dealing with reference to them, and I want to say in the beginning, having the high regard that I should have for them as a Representative of those people, and based on my knowledge and acquaintance with them, that in my judgment the interest of the Indian and the interest of the white citizen in the development and growth of the State, having in mind both Indians and white citizens, would be subserved better, I think and I am sure, if the restrictions were all removed save and except that on the homestead of the full blood. I am not going to insist that my position be borne out, because at a time prior to this I have thought best, and have been forced, to recede from that position. The Oklahoma delegation, consisting of five Members of the House and two Senators, began at the beginning of this Congress to try and procure some legislation that would relieve the conditions in Oklahoma.

Having in mind the wide experience and knowledge that the Department had, we at once began a series of consultations with the Interior Department and the Indian Office; and I might say that those meetings were all well attended and careful attention was paid in every particular to what was said and done, and I might say that perhaps the Department yielded some. I am sure the delegation yielded a good deal. The result of day after day and meeting after meeting in those conferences, attended by members of the Indian Office, by the Secretary himself, by attorneys of the Indian Office and attorneys of the Interior Department, and by five Members of Congress from Oklahoma and two United States Senators from Oklahoma, comprising the whole delegation, was that we came to an agreement on H. R. 15641, introduced by Mr. McGUIRE on January 29, 1908. This bill has a good many things within its columns that I do not really like; it has a good many things in it that I would like to have changed, if my personal views were allowed to govern. But as the result of those conferences and as the result of a unanimous and positive agreement by the Indian Office, by the Interior Department, and by every Representative from the State of Oklahoma, including the United States Senators, we agreed upon this bill.

I want to say that from now on I desire to deal strictly with this bill, H. R. 15641. There is no use talking about what my inclinations might be, or what my ideas of what might be passed might be, for I may be frank enough to say that my inclination would be to go further than this bill in the removal of the restrictions. This bill starts out by a division of those Indian people into four distinct classes, namely, the freedmen, of whom there are 23,382, as shown by the Government rolls; the intermarried, of whom there are 2,506; the mixed bloods, of whom there are 50,670, and the full bloods, of whom there are 24,669. Those comprise the four classes of Indians that are embraced in the Five Civilized Tribes. I want to say at the beginning that those tribes stand, as an Indian situation, separate, apart, and alone from every other Indian situation in the United States. I have within my Congressional district five and a half counties made up from the Chickasaw Nation, which is one of the Five Civilized Tribes. The remaining portion of my district is in old Oklahoma, and is inhabited by the Kiowa, Apache, and Comanche Indians. Those Indians occupy a status very foreign to that of the Five Civilized Tribes. They are not entitled to the legislation that this bill affords them, and I would not advocate it for them, because they are Indians in the true sense of the word.

These Indians of the Five Civilized Tribes have owned their lands from time immemorial almost, by grants from the Government, and I might say that in my judgment they have owned the lands in fee, aside from a couple of limitations, namely, the condition that they should remain there, and one other condition that I will not refer to now. Going back to the division of those Five Civilized Tribes into four distinct classes above mentioned, this bill first, by its provisions, takes off all restrictions from the lands of that class enrolled, called and designated as intermarried citizens. That class of people, gentlemen, I think it will be apparent, need no protection from the Government; they need no assistance from the Government. They are not entitled to have their lands remain free from taxation and the other burdens. They do not expect them to be left free from taxation and the other burdens. They do not want the Government to longer curtail their estates. They are white citizens the same as you and I; they are citizens who have had the benefit of education the same as you and I; they merely occupy a place on that roll by reason of the marriage relation, and not by reason of any necessity for the present restriction. Therefore I take it that the position of this committee would certainly be to be for the McGuire bill, as far as that one class is concerned. Now let us pass to the next class. This reads:

"All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions, but all sales or incumbrance of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior."

Freedmen are the class that were originally slaves of the Indian people of the Five Civilized Tribes before they were emancipated, which was more than fifty years ago, and since that time have resided with the Indians in the Indian Territory, now Oklahoma. My view is that those freedmen, who were emancipated more than fifty years ago, have been indeed very fortunate to occupy a place and retain an interest in that landed estate, that valuable estate, along beside the Indians in Oklahoma; and I do not believe that that particularly advantageous position that they occupy entitles them to any protection whatever, and except for the fact that I feel it my duty to keep faith with the Indian Office, to keep faith with the Secretary of the Interior, and keep faith with the other members of the delegation, I certainly should feel that that last clause in which their lands are subjected to departmental supervision for one year after the others are turned loose, was objectionable, and I would certainly feel it my duty to object to it. At the time that was considered the Secretary of the Interior himself evidently doubted the advisability of inserting that clause, and if I am not mistaken it was the second or third conference before he was willing himself to put that tail to the kite in favor of the freedmen. But it is there, and we have agreed to support it, and I am ready to support it; and surely there can be no disposition on the part of this committee to object, or say that Congress was going too far in the removal of restrictions as to those lands.

Now let us go a little further. Each of these clauses deals with a specific class. The third clause in the bill deals with the mixed bloods. It reads:

"All lands, including homesteads, of said allottees enrolled as of less than half Indian blood shall be free from all restrictions."

Gentlemen, think of this class that we are dealing with. There are only 50,670 mixed bloods. Some of them are half and more, some of them are less than half, of the white blood. This bill only seeks to remove the restrictions from those who are less than half Indian blood, and I submit to this committee, and I submit to every fair-minded man who is acquainted with the Indian situation at all, that they are not going too far, and I must refer to my own judgment and say they are not going far enough, when they remove the restrictions as to that particular class. It ought to be at least three-fourths, in my judgment. I feel that Congress would more nearly do its duty if it took the restrictions off of those of three-quarters blood than if it took them off of those of half blood or less. I would first take the restrictions off of the half blood and then off of the three-quarters blood, and leave the full bloods and perhaps those of three-quarters blood or more under the restriction, if they think wise, so far as the homesteads go.

But surely there can be no objection to taking it off where the Indian blood is not half but less than half. That class of citizens are at the head of banking institutions, are attorneys and Members of Congress, are in mercantile business, and are engaged in every other business in Oklahoma that any member of this committee might mention; honorable, upright, intelligent, educated men, made citizens by the enabling act in positive terms, capable of holding the highest office in the land, capable of enjoying the rights, benefits, and immunities of American citizens in every respect except in regard to the alienation of their lands. I submit that this Congress surely ought not to have any hesitation in taking the restrictions off of the lands of that class; you can not be doing wrong; you are bound to be doing right. It can result in but one thing, and that is to make better men of them, and enable that State to be settled by good citizens who will buy the land and build homes on that land that is not being used for other purposes.

We come next to the fourth clause, which reads as follows:

"All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood and all allotted lands of enrolled living full bloods shall not be subject to alienation, contract to sell, power of attorney, or any other encumbrance until April 26, 1931."

Now, I do not desire to make any reference to that, because that was intended to be in keeping with the McCumber amendment; on that older class the Department—the Secretary—thought it ought to be withheld. I do not agree with that, but we have agreed on this bill, and I am going to support it.

In regard to the other phases of the bill, I am not going to try to go into that part of it, because I have not the time. There has been some talk of injecting into this bill a Federal court jurisdiction bill. I am free to say that I have not taken the pains and the trouble to go into that bill as fully as I think it ought to be gone into before it is given any serious consideration, and the reason I have not given it serious consideration is that at the conferences with the Secretary and with the Indian Office, when every member of the delegation was present, they agreed and we agreed to leave out of this bill things that were objectionable to us, and that we would leave in the bill things that were objectionable to us but approved by them, and to that extent this bill is a product of that agreement. So I had hoped that it would not be the disposition of the Department to ask that anything that was objectionable to the entire delegation be incorporated in this bill, and I have not thought it necessary to prepare myself to defend ourselves or fortify ourselves against that measure.

The enabling act, as was before said, makes every Indian of the Indian Territory, irrespective of quantum of blood, a full citizen of the United States. The welfare of the State should be considered. This committee has a dual duty resting on its shoulders, to preserve the right of the Indian citizen and to preserve the rights of the State. I want to say to you that in the Indian Territory, with a population composed of 101,000 Indians, according to the latest report, about 16,000,000 acres of land is tied up and not subject to taxation. About 3,000,000 acres have been removed by departmental rulings and by act of Congress from that condition; 3,000,000 out of 19,000,000 acres in all. This bill which the Department asks you to make law will remove 6,980,000 acres more of that land distributed around through the State. This bill will give us some relief; but it will still leave in round numbers 10,000,000 acres of the land of the Five Civilized Tribes, which comprises almost the entire eastern half of the State, yet tied up hand and foot.

One more observation. I will try not to go beyond my time. Citizens who think of the situation think, "Why, each man has perhaps only 160 acres or perhaps 320 acres; some of them have more and some of them less." But when you stop to think of the proposition, it is not only the heads of families who have that, but each wife, each child, has that amount of land, and it makes a family of ten people, at the rate of 160 acres of land apiece, own 1,600 acres of land. The experience of Congress and the experience of Representatives in this body has been that land should not be held tied up in large tracts. One family can not utilize 1,600 acres of valuable land in Oklahoma; they can not use it to advantage as far as they are concerned, and the result is that the country is held back and they are land poor. They have land, and they have not money with which to cultivate it; they

have land which they have no means to operate and control. The result is that great tracts of land are lying idle, keeping the price of land back and holding it down, and denying to those people schools and churches, roads on the section lines, and bridges, and all the other advantages that come with modern civilization. One point more.

I am going to say that it will do the Indian more good than anybody else to have the restrictions removed. Why? Because until you do remove the restrictions you will have a class of tenants in the Indian Territory and a class of people in the Indian Territory who can not own their own homes and who will not take a pride equal to that of the home owner in building up the Territory and making it what it should be; but if you will remove the restrictions, so that an individual family of ten, say, holding 1,600 acres of land, can sell their surplus down to a point where they can control and own and cultivate what they have left, you will put the Indian side by side in his conditions with other thrifty home owners, and that will make the Indian a better and more upright and worthy man. You have something to contribute to the welfare of the Indian as well as to the State.

I had a few more things that I wanted to say, but I can not ask leave to extend very well. I thank you, Mr. Chairman.

Statement of Mr. Kenneth S. Murchison.

Mr. MURCHISON. I do not advocate any particular bill, Mr. Chairman, or any particular method of removal of restrictions. What I am here for is to ask that Congress shall pass some legislation, whatever it may be, so that the Indians in Oklahoma will know what rights they have. We have down there to-day quite a conflict of opinion as to whether or not a title can be granted by the Indian or not. As a consequence, the Indians make contracts with speculators in lands, and because they say there is a doubt as to the title, they will not pay what the lands are worth. Therefore the Cherokees, whom I represent, are very anxious for some action to be taken by Congress which would fix beyond any question just exactly what rights they have as to alienation, if any, and so that there will be no question about that, and the Indians will not suffer by reason of these speculators acting as I have suggested. That is all that I have to say. The full-blood Cherokees, who have been my clients for some time, are rather indifferent about the question of removal of restrictions, but they want to know just what rights they have, so that they can get the price for their lands, the price that they are worth. That is all I wish to say.

Statement of Mr. E. P. Hill, representing the Choctaw Nation.

Mr. HILL. Mr. Chairman and gentlemen of the committee, I would not trespass upon the time of the committee to any extent but for the fact that I feel it is my duty, as attorney for the Choctaw Nation, employed by them, especially in view of what has been said, Mr. Chairman, with reference to the Indians in the Five Civilized Tribes, to present the views of my people with reference to these questions; and I want to say to the committee frankly, Mr. Chairman, that the Indians feel that there is a necessity to have somebody as their representative to appear before the committees in Congress, in order that their views upon these matters of legislation may be presented. I had not intended to refer to the restriction feature of the bill, but to make a few remarks as to why I considered the judicial part of it not only desirable, but absolutely necessary. I know, Mr. Chairman, we have heard a good deal about the business capacity and the business experience and intelligence of the Indian in that country. If you could select the competent man, the competent Indian, the man who is in fact capable of transacting his own business in dealing with his more intelligent neighbor, if you could select him and take the restrictions off of his property and leave it unhampered, it might be all right; but when you do that, if you pass a general bill with the idea, Mr. Chairman, that you are benefiting a few men of intelligence and a few men of capacity, where you will benefit one man in that situation you are legislating to the detriment of ten other men who are not so competent and who are not so capable.

Mr. Chairman, I have wished that Congress might investigate conditions in the Indian Territory as they are, and that then its legislation with reference to those people down there might be based upon what a committee of Congress could learn as to that condition; and I want to say to you that the man who appears before a committee of Congress and tells you that the Indians of the Five Civilized Tribes as a rule are competent to attend to their own business, and that Congress should remove the restrictions from their property and leave them in a position to deal with it as they please, makes a mistake. I have been in contact with those Indians. I have no interest in the world in this matter, except as their attorney, to present this matter to the committee, and, Mr. Chairman, there is one thing that is lost sight of in this discussion, and that is the obligation that the Government owes to those people down there under its treaties and under its agreements with them. The Federal Government not only, Mr. Chairman, has a legal right, as has been decided time and again by the Supreme Court of the United States, to legislate with reference to the property of the Indians down there, but the Federal Government is under strong, deep, moral obligation to protect them in their property rights. It is a sacred relation, between the Indian and the Government; that of guardian and ward—not guardian of his person, but guardian of his property.

I have been particularly struck with the statements that have been made with so much confidence, that the Indian is now a citizen, and that he has been vested with all the rights, privileges, and immunities of other citizens, and I confess, Mr. Chairman, that for a while I shared that opinion, because I believed that probably the amendment which Senator OWEN says he had the honor to write in 1901, an amendment to the act of 1887, conferred that right upon the Indian; but when I examined that amendment and when I examined that act and found that the act itself specially excepts the Choctaws and Chickasaws, Creeks, and Seminoles, I doubted very much if his amendment made them citizens of the United States.

Mr. CAMPBELL. May I ask you a question?

Mr. HILL. Certainly, Mr. Chairman.

Mr. CAMPBELL. To what extent did the Indians of the Five Civilized Tribes vote at the general election that has just been held in Oklahoma?

Mr. HILL. Mr. Chairman, I will give you my observation, and I think it is correct, because I have been brought in contact with the Indians in my section of the country all over the Choctaw Nation; I have traveled in every part of that nation as their attorney, and my observation is that the Indian as a rule is not fixed in his political convictions, and that a great many of them took no interest in the elections which we have held, for that reason, so far.

Mr. CAMPBELL. My question was not what interest he took, but did

the full bloods have the right and did they exercise the right to vote down there?

Mr. HILL. A great majority of them, as I am informed, did not vote. Of course they have the right to vote, you understand, and they understood that they had the privilege to vote.

Mr. CAMPBELL. They understood that they had that right?

Mr. HILL. Oh, yes; they understood that; but, Mr. Chairman, I want to say this to you, and I am expressing to you what I believe to be the sentiment of the Indian: The Indian looks to the Federal Government to protect him in the enjoyment of his property rights. Whether he is justified in that or not is not for me to say, but I know that he looks to the Federal Government in that particular. Now, so far as the government of the Choctaw Nation is concerned, just before I came up here I had a talk with Governor McCurtain of the Choctaw Nation, a man who has the confidence of his people and who has been their chief for a number of years. They are willing that the restrictions should be removed from the surplus lands, but they are not willing for the restrictions to be removed from the homestead lands of any Indian by blood.

Mr. CARTER. You understand that this bill does not remove the restrictions from the lands of full bloods?

Mr. HILL. Not on the surplus.

Mr. CARTER. No; not on the full bloods' lands at all and not on the surplus lands of any Indian of half or more than half Indian blood.

Mr. HILL. As I said, Mr. Chairman, I had not intended to antagonize this feature of the bill as to the removal of the restrictions, because the Department of the Interior after hearing all parties interested has agreed, as I understand, on the bill which has been submitted by Mr. McGUIRE; and having done that, it was not my purpose to object to that bill in any particular as to the removal of the restrictions spoken of, but it is my purpose to insist, as a matter of simple justice to those Indians down there, that the judicial feature of the bill shall be added. And, Mr. Chairman, for the life of me I am unable to see how any man can object to the Secretary of the Interior having authority to go down there into the courts of the country and recover for those people there the lands which have been taken from them by fraud and in violation of law. I say I am unable to see how, in common justice, any objections can be urged to that.

Mr. CAMPBELL. Let me ask you this: Do you think that the Indian would have the right to go into court now for that purpose?

Mr. HILL. Certainly he would, Mr. Chairman. It would not take an act of Congress to give the individual Indian that right.

Mr. CAMPBELL. That is what I was going to ask you.

Mr. HILL. No; it would not take an act of Congress. Of course this is given to the Department here because Congress has supervision over the property. It would not take an act of Congress to give the Indian the right to go into court to recover property taken from him by fraud or in violation of law. The law would give him that right. But remember this, many of these people have neither the intelligence nor the means to do that; and unless you provide a bill of this character that will give the Department the authority to go in there for them and recover their property, there are hundreds and hundreds of Indians in that country who never will see some of the allotments that have been given to them by the Government.

Mr. CAMPBELL. They have authority now to hire attorneys, have they not?

Mr. HILL. They could, of course, like any other man, hire an attorney.

Mr. CAMPBELL. You say you are the attorney for the Choctaws?

Mr. HILL. Yes.

Mr. CAMPBELL. You were employed while they were still sustaining their tribal relations?

Mr. HILL. Yes; their tribal relations still exist.

Mr. CAMPBELL. I am simply asking these questions for information.

Mr. HILL. Certainly; I am glad to answer any question.

Mr. CAMPBELL. Why can not your relation to the Choctaws go right on, and you represent them and bring actions in the courts under the law as it now exists?

Mr. HILL. Because we do not represent individual members, you understand, of the Choctaw Nation. There are some 25,000 or 30,000 Choctaws, I believe. We are attorneys for the Choctaw government, which still exists. They still have their governor and their executive officers and their council, which is their legislature, and we are attorneys for the government. It would be impossible, Mr. Chairman, anyhow, for any one firm of attorneys to handle the large number of cases that would necessarily arise. As it is now there are 3,000 cases on the probate court dockets down there of minors alone. These cases will probably average three minors to the case, and some 8,000 or 9,000 minors' allotments are now in the probate court of the courts embraced within the Choctaw Nation alone.

Mr. CAMPBELL. Some suggestion was made here yesterday as to the appointment of agents to represent the Department of the Interior. Would those appointments cover the question that you have in mind?

Mr. HILL. Mr. Chairman, I think this. I think that the amendment which I saw here yesterday and which Judge Woodruff, of the Interior Department, had is a good one. I do not know whether it is intended as an amendment or not.

Mr. CAMPBELL. You have it here.

Mr. HILL. I think if that were passed—and I do not see how the gentleman from Oklahoma can object to that—it would give relief, and that would authorize the Department to investigate and bring cases down there for the recovery of property that had been taken from the Indians in violation of law. I can not see how any man can object to that. I heard one gentleman suggest here yesterday that that would be an encroachment upon the rights of the State if the Department of the Interior was authorized to do that. Why, Mr. Chairman, if the Department of the Interior is authorized to do that, the Federal Government is simply exercising its proper functions under the law. The Federal court, as it is, has jurisdiction down there in cases involving an Indian allotment, and if the State courts are given concurrent jurisdiction, as I understand they are by this bill, the State has greater power than it has now, and instead of this being an invasion of the rights of the State, you are giving to the State a privilege which it does not now exercise under the law. It is true, if the amount involved is under \$2,000 you could not remove the case; if the case would have to originate in the State court, and you could not remove it to the Federal court on petition. Yet after it gets through the State courts, a Federal law being involved, and the construction of it being involved, the case would finally come to the Supreme Court of the United States.

And another thing: If the suits which have been authorized by Congress against those Indians down there time after time, or if the investigation which has been made down there fixing the value of these allotments, is any criterion to go by, there is hardly one allotment in that country that is not worth \$2,000 and more. In an investigation down there to determine the amount of the fee to be paid for some

litigation in behalf of the Choctaw Nation, the fact was disclosed at the hearing that the allotments averaged \$1,800 in value in that country; and if you will examine that hearing I do not believe that you will find that any man disputed that. If you will take the suits which have been brought down there against Indians to recover from them fees for services, you will find the value of their allotments is put generally at \$5,000. Those cases have gone through the Court of Claims, and nobody has denied that; and I doubt that there would be a suit brought down there for the recovery of one of those allotments under this bill that would not properly originate in the Federal court, or which, if filed in a State court, could not be removed on petition to the Federal court.

I believe that the members of this committee know something of the conditions of those people and their environment; but let me say to you in behalf of those helpless and unlettered people—and there are thousands of them who are so—that there are hundreds of Indians in that country who are not now in possession of their property which has been partitioned to them. There are hundreds and hundreds of Indians, especially minors, in that country who are not in possession of their allotments and who never will see them unless some provision is made by which somebody can take hold of this matter for them and restore to them their property; and I want to say to you that instead of the people of Oklahoma opposing a provision of this sort the whole moral force of our country will sustain it, because it is a matter of simple justice to a helpless people.

Mr. CAMPBELL. Is there no provision, either in law or method of executing the law, by which those people who have had land allotted to them can be put in possession of it?

Mr. HILL. The only thing in the world that could be done would be for the individual Indian to hire a lawyer and put up the money to pay the costs. As it is he can not make any contract to employ a lawyer that would be binding on his property. This bill provides that the Secretary of the Interior may go ahead and do this and furnish the money for the expenses and then deduct it from the Indian's share of those tribal funds that are coming to him.

Mr. CAMPBELL. Is there any considerable amount of land that has been allotted to individual Indians who are now denied the possession of that allotment?

Mr. HILL. There are many cases, Mr. Chairman, where the Indian does not know even where his property is.

Mr. DAVENPORT. There is a district court and a probate court clothed with full jurisdiction to bring about an investigation any day that he applies for it.

Mr. HILL. If you will furnish the means that can be done, and that is the object and purpose of this; and Mr. DAVENPORT, if I may be permitted to ask you, what objection would there be to this procedure on behalf of these people? It does not authorize him to recover property from anybody except where it has been taken in violation of law or through fraud, and what objection could there be to that?

Mr. DAVENPORT. I did not mention that yesterday. My answer to that, as the question was addressed to me, is this: That when the time is terminated no living man can say that there will be any funds of either of the tribes to apportion these expenses from. It would take a court of equity, after the Secretary of the Interior had gone down there and brought these suits, to find out where the fund would come from; and in the second place, as a citizen of the Cherokee Nation in Oklahoma, as a lawyer in Oklahoma, as a Representative from that part of Oklahoma, I say there is a court there clothed with full jurisdiction to attend to those things, and I will answer it further to the committee and say that I will put up the funds if Mr. Hill will call my attention to any such case in the third judicial district, and I will go into the court as a lawyer and furnish the costs to prosecute the case until the man who holds that land is dispossessed and the minor is in possession.

Mr. HILL. I might call Mr. DAVENPORT's attention to cases in his own country where the land of the full-blood Indian has been conveyed by him without a proper consideration. However, Mr. Chairman, I am speaking with reference to my own people, the people I represent. I wish I had my correspondence here in order that I might show you cases where Indians went and leased their lands, or supposed that they were leasing them, or supposed that they were making some contract with reference to them without a conveyance, and it afterwards developed that that contract was a deed to the property. Now, there are not only a few cases, but there are hundreds of cases of that sort in that country.

Mr. FERRIS. Some of those Indians have given anywhere from two to a dozen deeds to their property, have they not?

Mr. HILL. That may be true in a few cases.

Mr. FERRIS. Is not that true in your knowledge in that country?

Mr. HILL. No. There may be a few of those cases.

Mr. FERRIS. Do you not think that the Indians knew in each case that that was an absolute nullity, and that they were gaining the only advantage to be gained?

Mr. HILL. That has been urged here, and has been said before, and I want to say in defense of the Indian that in a great majority of the cases where he has parted with his property he has done so at a grossly inadequate consideration.

Mr. CARTER. He has not parted with it.

Mr. FERRIS. He has never parted with it.

The CHAIRMAN. Let us proceed in order.

Mr. CARTER. I want to ask Mr. Hill a question. You say that the trouble now is that the Indian has not the funds to conduct these cases?

Mr. HILL. Yes, sir.

Mr. CARTER. Have you noticed the amount appropriated in the McGuire bill for taking care of the Indian's property?

Mr. HILL. I do not understand that there is any provision made in the bill—

Mr. CARTER. Yes; the amount is \$90,000.

Mr. HILL (continuing). Except to appoint representatives there who have a sort of general supervision and control. But you can not file a petition in that country unless you deposit the costs with the clerk; you have got to deposit the money there. And if you leave it to the Indian, he does not know anything about our courts. These people who have lost their property have not become accustomed to the changed conditions down there, and you can not with one sweep of the pen make them as competent and as able as we are to attend to their own affairs.

Mr. CARTER. Is it your idea that the State courts would not give the Indians justice?

Mr. HILL. Not at all; and I say by this bill you are giving the State courts more power than they have. You are giving them concurrent jurisdiction with the Federal court. And right now, with the law as

it is, if an Indian comes into the State court down there, or, rather, if an Indian brings suit to recover his land, and it is over \$2,000, he can take it into the Federal court. It does not take any legislation to give him that right.

Mr. CARTER. That is what we think.

Mr. HILL. But this bill gives to the State court greater jurisdiction than it now has, because it can exercise a greater jurisdiction in all these cases.

Mr. CARTER. You are in favor of giving the State court more jurisdiction than it has now?

Mr. HILL. I am in favor of this bill; I am in favor of this jurisdiction. I am in favor of it because it will be a matter of justice to those people. Unless Congress provides some method by which this property can be recovered for them, I believe they will lose it, and that their patrimony which has been given to them by the Government will be lost. This is especially desirable for the children. There are many children of the full-blood Indians who have got to grow up and be educated with these new environments, and it may be, by the time they reach their majority, they will be competent and able to take care of their own affairs; but it seems to me, as a matter of simple justice, that the Federal Government ought to vest the Secretary with power, if he sees proper to do it, to go out there and recover the property that has been taken from them unlawfully.

Mr. CARTER. Do you not think he has that power now?

Mr. HILL. I do not know whether he has or not.

Mr. CARTER. Do you know anything about the Boyd case, which has been decided by the court of appeals?

Mr. HILL. The Boyd case? From one of the Carolinas?

Mr. CARTER. Yes. Was it not decided in that case that the Secretary had a right to bring suit for the recovery of an Indian's property?

Mr. HILL. I do not know. It might be that under the administrative control which, you understand, the Department has over the Indian's property generally, the Secretary might exercise some such authority; but the Department has not done it and the Department is here now asking that this authority be given to it; and what objection can there be, gentlemen, to recover property from a man for an Indian where it has been taken away from him by fraud?

Mr. CARTER. We are all in accord on this, that we want the title straightened out.

Mr. HILL. This bill does not cloud the title. It is not the authority given to the Secretary of the Interior that clouds the title, but it is because of the transfer that has been made of record down there. That clouds the title.

Mr. CARTER. You do not mean to say that the original jurisdiction bill would not cloud the title?

Mr. HILL. I mean to say that if you pass this bill it does not cloud the title.

Mr. CARTER. Do you mean the original jurisdiction bill introduced by Mr. SHERMAN?

Mr. HILL. I do not know just exactly what it is, but I mean the authority given to the Secretary of the Interior to bring suit to recover land which has been fraudulently taken will not cloud the title, because if it has been lawfully taken, there will be no occasion for a suit.

Mr. CARTER. What we want is to get concretely at your views on the matter. As I understand it, the principal thing that you complain of now is that the Indians have not the funds and have not the initiative character to bring these suits. You think that somebody ought to be allowed to bring those suits for them and that funds ought to be allowed for the bringing of those suits. Is that about your idea?

Mr. HILL. I mean this: That the Government is the guardian of the Indian and his funds, and this money of the Indian which the Government has is practically all held for him, and there should be given to the Secretary of the Interior authority to appropriate those funds for the purpose of bringing these suits where it is thought necessary in order to restore to the Indians that which belonged to them, and that which has been taken away from them in violation of the law. That is all this bill does.

Mr. CARTER. You want the funds to bring the suits with?

Mr. HILL. This bill does not fail to recognize the State courts, but provides that in the exercise of this purpose to restore this property to these people who have not the intelligence or the means to do it for themselves, the State courts shall have concurrent jurisdiction.

Mr. FERRIS. Will you yield for a question?

Mr. HILL. Yes, sir.

Mr. FERRIS. You say to recover the property of these Indians. Do you intend to convey to this committee the idea that you, as a lawyer, believe that those Indians conveyed any title whatever to the restricted property?

Mr. HILL. No, sir.

Mr. FERRIS. Is it your position that you are in favor of passing a bill that will let the Secretary of the Interior, with or without the consent of the Indians, bring a suit for any purpose for which he may see fit, and that the Indian fund will be subjected to the payment of that expense? Is that your position?

Mr. HILL. I am perfectly willing that the suit shall be brought at the discretion of the Secretary of the Interior. While it is true that the execution of this deed to a piece of restricted land by the Indian would not convey title, at the same time it would be a cloud upon the title, and nobody would buy it except some speculator like those who have already gotten these lands from the Indians; and if a bona fide purchaser should come along and should want to settle there and make a home upon it, he would not buy it. But if the title is cleared by the Interior Department, by reason of this suit, then a bona fide purchaser would buy it.

Mr. FERRIS. Another legal question I would like to ask you as attorney for the Choctaw Nation. Do you not think that to vest the Secretary of the Interior with power to bring suits with or without the consent of the individual Indian, using his funds for the expenses of carrying on that suit, would in itself throw a greater cloud over the title than these deeds, which are admitted by everybody to be absolute nullities so far as legality, justice, and everything else is concerned? The first bill introduced provides that that suit may be brought either before or after the removal of the restriction.

Mr. HILL. I think the Federal Government as the guardian of the Indian ought to take whatever steps it thinks necessary and proper to protect its ward. The relation existing between the Federal Government and the Indian is just as sacred as that between a guardian and ward in regard to a child's property, the property of some helpless minor, or at least there is a relation of dependency that is recognized and that is the only power that the Secretary of the Interior is asking for in this matter. Certainly a recognition of this well-established right would not cloud title.

Mr. CAMPBELL. I should like to ask you a question about something which I think no one has referred to. Do you think it proper for the tribal fund belonging to the Choctaws to be appropriated in the way indicated, to recover property or to quiet the title to the possession of the property of some particular Indian who has alienated whatever title he thought he had for a consideration?

Mr. HILL. The bill provides, Mr. Chairman, that the expense of any suit is to be charged against the Indian's pro rata share of the tribal funds.

Mr. CAMPBELL. I understand he is to stand a pro rata share, but do you understand that the ninety-nine Indians who have not endeavored to alienate their property, and have done nothing to cause any expense in relation to it, ought to have their funds used in order to protect the Indian who did use his ingenuity to get rid of his property, and now is endeavoring to use the tribal funds in order to get it back?

Mr. HILL. As for the other ninety-nine Indians, it does not cost them anything.

Mr. CAMPBELL. The tribal fund is not to be used, then?

Mr. HILL. Every Indian has an interest in that fund.

Mr. CAMPBELL. Yes.

Mr. HILL. Let us say A, B, and C, Indians, have an interest in the fund. A brings a suit and the expense of that suit is taken out of the fund belonging to A, B, and C, and it is charged up against A, and he pays from his part. B and C do not pay anything.

Mr. CAMPBELL. There is no part of the costs in the suit against A taken out of the fund belonging to B and C?

Mr. HILL. No, sir.

Mr. FERRIS. Is that your understanding of this?

Mr. WOODRUFF. It is true, providing there is a fund of which A has a share.

Mr. HILL. If there is no fund, he does not bring the suit.

Mr. CARTER. What are you going to do about the Creeks? The Creeks have no funds and the Federal Government has agreed to give them \$4,000,000 more than what is due them. When you bring suit on behalf of one of those individuals, where are you going to get the funds to bring his suit?

Mr. HILL. It strikes me you are not looking after the interests of the tribes in this thing.

Mr. CARTER. I think I am, and I submit that I am interested with them about as much as any man in the room.

Mr. HILL. I am willing to trust all that to the Secretary of the Interior. He is not going ahead to bring these suits unless there is something on hand to pay the expense of bringing them.

Mr. CARTER. There is nothing on hand in the Creek Nation, because they already have a claim for equalizing their allotments of \$7,000,000 when they have only \$3,000,000.

Mr. HILL. That is true.

Mr. WOODRUFF. It is true if that law should transpire in the shape in which it stands that the expense of the suits in the Creek Nation would come out of the tribal fund, inasmuch as A, in whose interest the suit is brought, has no interest in the fund, because the fund will all be exhausted in other ways than by distribution in which A would share. In the Choctaw Nation and the Chickasaw Nation, unless there was a great expense run up, that could not happen.

Mr. CAMPBELL. A would have enough pro rata to pay his expenses?

Mr. WOODRUFF. Yes.

Mr. CARTER. I want to give notice that I am going to insist, as a member of the Chickasaw tribe, that no funds be used for any individual in excess of his pro rata share.

Mr. SAUNDERS. These deeds were made by people who had no right to make them?

Mr. HILL. Yes, sir.

Mr. SAUNDERS. People who had no right to make them except by virtue of the general law?

Mr. HILL. Yes.

Mr. WOODRUFF. One more remark. If the provision suggested by Mr. CARTER—which prima facie is very just—is inserted, then I think there should be a further proviso that where the tribal fund is not available the Secretary of the Interior should be authorized to use the funds of his Department; that where the individual Indian has not a share in the tribal funds available for that purpose the United States will stand the expense. I am not the least bit afraid that these expenses will run so high that there will be any loss to the tribe, unless it were in the Creek Nation.

Mr. CAMPBELL. What is your estimate of what the expense would be to quiet the title, or put an Indian in possession of his allotment, in a given case?

Mr. WOODRUFF. If we had to bring the cases separately, the expense of each case would be multiplied by the number of cases brought. I am confident that it will not be necessary to bring a great number of suits of this kind, or that if it is, I am sure they will go pro forma after the test cases have been tried. As to the expense in an individual case, I have not attempted to figure it, but I had taken it for granted that the Attorney-General would be allowed to use his own force. If that would not follow as a matter of course, that provision should be put in there, that he should use his own employees as far as he could spare them; and by using his own employees there would be no attorneys' fees whatever. The court fees certainly would not run very high if each suit had to be brought by itself, and if, as I believe verily, each suit will not have to be brought by itself, the prorating of the expense will bring it down to a nominal sum, something below \$10.

Mr. CAMPBELL. Would there be a publication, or the service of summons?

Mr. WOODRUFF. There would be a service.

Mr. CAMPBELL. Probably both, in each case?

Mr. WOODRUFF. There would be no occasion for a publication if you could get service.

Mr. CAMPBELL. There might be if there were summons sent out.

Mr. WOODRUFF. Yes; we might have to make service.

Mr. CAMPBELL. The publication cost alone would not be less than \$10.

Mr. HILL. Yes; it would; it is \$2.50 in our county.

Mr. CAMPBELL. As low as that?

Mr. HILL. Yes. The publication would cost very little, and of course that would be only in the case of a nonresident.

Mr. FERRIS. Of course if a man was solvent, you could recover the costs out of him, if you could find him.

Mr. WOODRUFF. If he is solvent and you can find him. I think the cost per capita would be almost negligible.

Mr. CARTER. I want to ask you if it is not a fact that almost all those deeds are given by full-blood Indians?

Mr. HILL. I think most all of them are, and I want to tell you it was not the Indian that solicited the trade, but you will find there are many companies that are organized down there who have sent

their representatives out into the mountains, and where these Indians live, in order to secure their signatures on these documents.

Mr. CARTER. That was the very reason we made the lands of these full-blood Indians inalienable. Have you read this McGuire bill, and do you know what the character of it is?

Mr. HILL. Yes; I think I do.

Mr. CARTER. It does not remove the restrictions completely from the lands of any of these people except those who are less than half Indian blood. Now, do you not think that that class of Indians of less than half Indian blood are as competent as the other citizens around over the State?

Mr. HILL. Of less than half Indian blood?

Mr. CARTER. Yes; not even the half blood, but less than half Indian blood.

Mr. HILL. There are many competent Indians; but to say they are competent in the same proportion as the white man is going too far. I doubt it.

Mr. CARTER. Have you ever thought what it takes to constitute a less than half-blood Indian? It is absolutely necessary for that child to have two parents with white blood in them; and I think you will admit that it is a fact that no child with a parent of less than half blood, or with two parents of less than half blood, has been raised in any manner as an Indian.

Mr. HILL. Here is what brought about this necessity for this legislation: It is, as I told you, that speculators and companies—individuals and companies—

Mr. CAMPBELL. I think we have been over that.

Mr. HILL (continuing). Have gone and secured these contracts, and they have secured them by means of imposition upon the Indians.

Mr. CARTER. What contracts are those?

Mr. HILL. These deeds that have been put upon record.

Mr. CARTER. There is nobody who has any sympathy with those at all.

Mr. HILL. That is all this bill is seeking to do.

Statement of Chief Moty Tiger, of the Creek Nation.

(Chief Tiger testified through an interpreter.)

Chief TIGER. Mr. Chairman and gentlemen of the committee, you permitted me to speak to you some few days ago, and I am very glad you have given me another opportunity. I regard myself in this light: You take up a criminal and put him in jail, and finally you take him out and try his case and bring in a verdict of guilty, and he is to be hung, but before you hang him you bring him up and ask him why he should not be hung. I feel somewhat in that situation. [Laughter.] I have heard a good deal of talk here, but I do not understand English, and I do not know exactly what you have been talking about, but I have heard this English word "restrictions" and the phrase "removal of restrictions" all the while, and I have absolutely got so that I understand that much, and I am going to address myself to that particular subject.

Mr. CARTER. My understanding was that the chief wanted to address himself to the petition that was filed asking for his removal.

Mr. CAMPBELL. He can occupy his time as he sees fit.

Chief TIGER. In the first place I am opposed to the removal of restrictions, and I am going to address my talk to that subject. I have been born and reared in the Creek Nation, among the Indians, and I have an idea that I know pretty well the desires and wants of those people, of the full-blood Indians. Not very many months ago my predecessor, who was chief of our nation, called an extraordinary session of the Creek council, some time in the latter part of July or the first part of August, to consider whether or not they were in favor of what was known as the "McCumber bill," and it was pretty well understood by the Indians that that protected them from the sale and incumbrance of their lands. The matter was taken up—that is, the question as to whether or not the Creek council indorsed the McCumber Act that was supposed to protect the Indians from the sale of their lands for twenty-five years was taken up—and of course in such a large council as that you could hardly expect all to think one way.

So this matter was taken up and thoroughly discussed by the members of the Creek council. During the discussion of that question by the Creek council, people gathered to the council from all parts of the nation, especially from the little towns, the various towns in the nation, and they came there and argued on the outside with the members not to agree, or not to indorse this McCumber Act, and in doing so they even brought intoxicating drinks and endeavored to work upon the members of the council in that way in order to get them to decline or refuse to indorse the McCumber amendment. But these people who went there in order to get the council to say nothing, to have nothing to do with this McCumber amendment, failed completely, and a very large majority of the Creek council indorsed what we call the McCumber amendment, which, as we understand, protects the Indians from the sale and incumbrance of their land for twenty-five years, and after the action of the Creek council indorsing the McCumber amendment, those who were working on the outside—and then we had some members in the council who favored having nothing to do with this McCumber amendment—that small minority were very much displeased; and I would say here, too, that a large proportion of these people were white people from the various towns in the nation. They went away displeased and discontented, and I wish to say, too, in reference to the paper that was read here the other day as a protest by some Creek citizens against the work of the delegation here, a large proportion of those who signed that paper were among those people who went to that council for the express purpose of seeing that the council did not take the action that it did take. The people who opposed the McCumber amendment at that time were not people who were friendly to what we conceive to be the best interest of the Indians proper of the Creek Nation, and many of those whose names we saw signed to a paper here the other day are some of the same people who operated with those grafters at that time. I did not wish to say anything about these citizens of mine; I do not think it is a thing that I ought to talk about; but as I go on with my subject it naturally comes to these people, and I just make that passing remark about those citizens of the country.

I was asked here the other day by the committee, "Do you think you are speaking for the majority of your people?" and I said I did, and I still think I am now representing the interests and the desires of the majority of my people, and I will explain why I think so. The Creek people have had a constitution and laws for a great many years. Their constitution provides how an election of the head of the nation shall be held, and I ran some years ago as second to the chief now deceased, and I got more votes from my people than anybody else who ran during that general election. Our constitution provides that when the chief shall become unable to carry on the work of the chief of the nation his

second shall come into power; and you yourselves also made a law whereby your chief, the President, should appoint a chief down in that country in the event that the chief acting is not able to carry on the work of his office. Our chief died, and in consonance with our constitution and in consonance with the laws, the President of the United States appointed me, and I have been endeavoring to carry on the work of the United States, with such little power as we have got, as best I can, up to the present time, and this makes me know that, having gotten more votes than any of the other people who ran for office at that time, I am here representing the large majority of our people.

As to the matter of law, I am not a lawyer and not accustomed to appearing before juries and people and talking law, nor am I versed in statistics and things of that sort, but if you would care to interrogate me on any point that I am conversant with, I will be glad to give you whatever information I can.

Mr. McGUIRE. Have you had read to you H. R. 15641—that is the bill under discussion—or have you heard it? That bill provides only as to the mixed-blood Indians, and makes no provision for the alienation of the land of the full blood except in the discretion of the Secretary of the Interior. Is that provision, if it is there, satisfactory?

Chief TIGER. What blood do you speak of? We have got a lot of niggers down there, and we have got people mixed with the white blood.

Mr. McGUIRE. When I speak of those not interfered with, and left entirely to the discretion of the Secretary of the Interior as to whether any restriction shall be removed, I refer to what is known as the full-blood Indians.

Chief TIGER. That is just the thing we want. We want our full-blood Indians not interfered with at all—for the present, at any rate.

Mr. McGUIRE. That is just what this bill provides. Would that be satisfactory to you?

Chief TIGER. We have an agreement with you whereby you have promised us protection, and we claim that protection. We want that protection continued, and if now your bill does that for the full-blood Indians, we can not object to it.

Mr. MOTT. Might I ask this, Mr. McGUIRE? I want to know if the chief understood, that is all. I know the chief. I do not want the chief to be taken advantage of. It might be pleasant to some, but not to Mr. McGUIRE or myself. [Laughter.]

Mr. CAMPBELL. We will give you an opportunity after the interpreter and the chief are through.

Chief TIGER. I do not see anything to laugh about in this matter. I say that I want no restrictions removed from the full-blood Indians' lands, and if that is what my interpreter has told you, I see nothing very funny about it.

Mr. CARTER. We were laughing at Mr. Mott, and not at the chief.

Chief TIGER. Of course the Members from the State are here, and they have expressed their wishes and desires in this respect, and we understand that. When we build a home, a house, after having built it we find very many other things we need to furnish to make this house habitable. These Members of Congress from Oklahoma have built a home down there; they have built a State, and having gotten that State in readiness for occupancy, they find they are needing a great deal more, and in order to make it habitable they are trying to get something out of these Indians in order to make their home habitable and pleasant.

Mr. McGUIRE. We think you have been misinformed.

Chief TIGER. I do not think I am. I think I know what I am talking about. Now, having gotten the State down there, you want to remove the restrictions from the property of the full blood and other Indian citizens down there, in order that you may tax it, and there-with run your State government, and that is what we are not wanting.

Mr. CAMPBELL. Have you been informed that this bill, or that this committee, was proposing to remove restrictions from full-blood Indians?

Chief TIGER. I have so understood.

Mr. CAMPBELL. Did you learn that after you came here or before you came?

Chief TIGER. I have known that for quite a number of months, since quite a while ago.

Mr. McGUIRE. Do you know when the bill was introduced, and did you know that when the bill was introduced?

Chief TIGER. Why, I understood that that was the object, in this way. When the gentlemen were running for Congress in that country it was told me that they promised the voters that they would see to it that this Congress removed the restrictions from the Indians' lands, and that is how I came to believe that that was the object of some of the people there, before I came here.

Mr. CAMPBELL. Have you asked anyone who was in a position to find out, since you have been here, if this bill did not protect the full-blood Indian?

Chief TIGER. I am probably at some disadvantage in that particular case. I do not think I have had that particular bill read and interpreted to me.

Mr. CARTER. Of all those fellows who ran for Congress on a platform of removal of all restrictions, including the full-blood Indians' homestead allotment, was a single one elected? Do you know of anyone elected to Congress or the United States Senate, who advocated the removal of restrictions on the full-blood Indians' homestead?

Chief TIGER. I do not.

Mr. CARTER. As a matter of fact, I may state that there were several fellows who ran on that ticket, but none of them was elected.

Chief TIGER. A drowning man will even grasp at a straw, and I wrote to my brother, John Brown, the Seminole chief, and he answered me, and I would like to have his answer read at this time. The Creeks have made their statement as to their beliefs and their desires in this matter, and I would like to have this incorporated in the report of the committee, if it be proper.

The letter referred to, which was written in English, was read aloud by Mr. Grayson, as follows:

SASAKWA, IND. T., March 18, 1908.

HON. MOTY TIGER,
Chief Creek Nation, Washington, D. C.

DEAR FRIEND AND BROTHER: I beg to acknowledge receipt of yours of the 14th instant, just received. I greatly appreciate the gravity of the situation and the strenuous efforts being put forth by the Oklahoma delegation in Congress for the removal of restrictions on Indian lands, in which those of Indian blood are the most active, if that be possible, but I hope they will be compelled to accept much less than they would like. I have lately supplemented my efforts made in Washington before the Department with letters to Secretary Garfield and Senator CURTIS, and have satisfactory acknowledgments. I am assured that my representations will be made known to the committee in charge of the matter, before whom I felt sure my ideas and representa-

tions would be in consonance with those made by you and your delegation for the Creek people. I know that our appeals have gone unheeded for generations. It is a cry now from the graves of helpless thousands and ought to excite some pity; enough, I hope, to stay the executioner for a day at least.

Anything, Chief, that you can and will say to me at any time along this line will meet a sympathetic chord, ready response, and hearty cooperation in any way yet open to us. You are most welcome. The word "intrusion" finds no place in my heart.

Your friend and brother,

JOHN F. BROWN,
Chief of Seminole Nation.

Mr. McGUIRE. Is Chief Brown, who wrote this, a full-blood Indian?

Chief TIGER. I do not know.

Mr. McGUIRE. Do you not think a man who can write a letter like that is capable of transacting his own business?

(The question was not answered.)

Mr. MOTT. Now, before the chief takes his seat I would like to say a word. He can not understand me any better than he can any member of the committee. I know him well, and I just wanted him to get right on the record, and I am sure the chief, if it is explained to him after it is over, will be very much dissatisfied that it was left in the record that he was not entirely and clearly understood. Mr. McGUIRE asked him a question, whether this bill was satisfactory, and it does not matter whether it is satisfactory to me or not, the attorney of the nation, but he understood, when he was answering, that it was satisfactory as to the full bloods. He did not mean nor want to be understood that it was satisfactory as to the whole bill.

Mr. CAMPBELL. The committee heard just what he said, and heard both the question and the answer.

Mr. MOTT. Will you put a question to him at my request?

Mr. CAMPBELL. What is the question?

Mr. CARTER. I want to ask him a question before that.

Mr. MOTT. I want to ask if he wants the restrictions removed from the homesteads of any class of the citizens.

Mr. CAMPBELL. That question was asked two weeks ago. I remember very well he said that he did not.

Mr. CARTER. I want to ask the chief if has been told that this committee was at this time considering any bill for the removal of any restrictions upon full-blood Indians?

Chief TIGER. I have not been told that the committee at this time was endeavoring to remove any restrictions from the full-blooded Indians, and I did not have reference to anything of that sort.

Mr. CARTER. I would like very much to know how the chief got the idea that we were considering any such thing.

Mr. JOHNSON TIGER. Pardon me for interrupting, Mr. Chairman. I would just like to say a word in explanation of what the chief has said. I am the son of the chief. On the 13th of March Mr. CARTER introduced a bill proposing the removal of restrictions on all lands of the Five Civilized Tribes except the homesteads of full bloods, and the chief was under the impression that in the consideration of the committee of these bills this bill of Mr. CARTER was a part of what was under consideration.

Mr. CARTER. He did not say that, Johnson. I asked him, and he did not say that.

Mr. JOHNSON TIGER. He had read the bill removing all the restrictions on all lands except the lands of the full bloods, and I think he understood that it was under consideration before the committee here.

Mr. CARTER. That bill has never been considered here at all.

Chief TIGER. My time is up now, I presume. There are some things I could say, but if my time has expired I will cease.

Mr. CAMPBELL. Is there anyone else who has not been heard who has something that he wants to say particularly? If so, we can take a few moments more. Otherwise I assume that we shall regard these hearings as concluded at the adjournment of the committee this evening.

Mr. WOODRUFF. Mr. Chairman, I think this has been touched on enough, but two things were said. One was, why attempt by this legislation to remove the cloud as to the titles of the full bloods, inasmuch as their lands are not to be opened up for sale. The other was that there seemed to be some kind of an understanding in that jurisdictional bill as to continuing to follow them up after the restrictions were removed. I presume those things were clear to the committee.

Mr. CARTER. The original jurisdiction bill, if you will remember, allowed suits to be brought on the lands on deeds given after the restrictions were removed.

Mr. FERRIS. That was the first bill. I have not seen that since this bill was brought up.

Mr. WOODRUFF. In regard to the removal of the cloud from the full bloods' lands, there are two reasons that occur to the Department. One is this very fact that the State courts are entertaining, even in the case of full bloods, suits to quiet title brought by those that have the deeds or conveyances, and the full bloods, not being able to know what is going on, do not come to defend, or get anybody to defend them, and the first thing you know the cloud is made apparently heavier and thicker and harder to remove, because a State judge has passed a decree fixing the title in the man who obtained the deed before the removal of the restrictions. That was the first point. The second point is that the restriction bill—and I hope that Chief Tiger did not misunderstand entirely about that—does give a way of removing restrictions from full bloods which seems to the Department very proper and necessary. That is, there are old, aged, infirm Indians who must be taken care of.

The Oklahoma delegation all saw these things and urged them. Those old Indians are land poor. They have wild and uncultivated lands, and they wish to sell those lands. If at the time they sell these lands this cloud is there, it will make it extremely difficult to remove the cloud and give the relief necessary. Not only the aged and infirm, but those who are land poor, and who have a surplus of 160 acres and have a hovel there, and no cattle or horses or other proper means of supporting themselves, must have relief. The thought is not so much to remove the restrictions as to heap up the restrictions on the other land by selling a part of the land and adding the proceeds to the land left by the way of improvements, allowing the Indians to carry on the negotiations for the building of their houses, and all that kind of thing. I was anxious that we should have the power, therefore, to go after that.

The only other thing was on the point raised by Mr. FERRIS, and I think properly. The Attorney-General, when the restriction bill was sent up to him to look over, added a paragraph providing that when the Secretary of the Interior, the Attorney-General, and the President should concur in the opinion that there had been gross fraud committed

against an unrestricted member of the Five Civilized Tribes, even if it occurred after his restrictions were removed, on the concurrence of the three of them, the Attorney-General might represent that Indian in an effort to set him right. Without any doubt that the Attorney-General was doing it for the very best, it seemed to the Department as going further than was proper. When Congress sees fit to remove the restrictions, it should remove them so that from that time on that Indian, so far as his unrestricted land is concerned, should depend upon the action of the State courts and his own good sense as to whether he should or should not abide by the contract he has made; and this bill has left any such thought out of it.

Mr. FERRIS. This land bill has not been introduced yet.

Mr. WOODRUFF. No; just this little short clause I refer to.

Mr. FERRIS. I have not seen that. My remarks were addressed to the former bill.

Mr. WOODRUFF. One thing more. Mr. Zevely asked, as far as minors are concerned in leasing, which amounts to an alienation in regard to oil and minerals, that should be left to the probate courts of the State. Now, an explanation of why the Department believes it should not be left to the probate courts of the State is—with apologies to the State courts and not claiming that they will not do their fair share—that it is something that the United States has kept in its own hands; it is something for which the United States is responsible; it is something which will make it necessary for the United States to bring suits and act, because this often results, even at the best that can be done by anybody, in a way in leaving out of account the minor element of the restricted. Now, while the Federal court was a probate court it may have been proper for the Federal court to have entire jurisdiction of that, because it was then the United States acting; but now that the State court is to have the probate power, it would seem proper that the United States, through the Department, should have the right to see that this restricted land which has mineral in it should not be wasted, and that the proceeds may go and be done with as the State judge in the best exercise of his judicial conscience may see fit to allow it to be used.

Mr. WARD. Mr. Chairman, I want to approve of one part of the amendment; that is the part allowing the Secretary to approve these leases which are on file when the bill becomes law, whether they be in our offices or in the Indian Territory. We concur in that amendment.

The CHAIRMAN. You approve of that amendment here?

Mr. WARD. To that extent; just that very first part of it.

Mr. ZEVELY. Respecting what the Attorney-General has said about the jurisdiction of the probate courts, I want to call attention to the nature of the act of Congress. The act of Congress did not say, as they are ordinarily designated, "the courts in the Indian Territory" or "United States courts in the Indian Territory," but it said "the proper courts," apparently having in contemplation the very thing which happened—statehood and the creation of probate courts there to take care of the property of minors, as they will continue to do unless this Congress or some subsequent one sees fit to repeal the act of 1906.

The CHAIRMAN. If there is nothing else, the committee will stand adjourned.

At 4.30 o'clock p. m. the committee adjourned.

APPENDIX.

Statement of Richard Glory.

By the Chairman:

Q. What is your name?—A. Richard Glory.

Q. Where do you reside?—A. I live on Spring Creek, out here in the country.

Q. In what nation is that?—A. The Cherokee Nation.

Q. What is your blood?—A. Full blood.

Q. You are a full-blood Cherokee?—A. Yes, sir.

Q. Now, kindly go right on and make such a statement as you care to make to the committee in regard to the matters in which you are interested or desire to speak of to the committee—that is, such matters as in your opinion your people are interested in.—A. Gentlemen, I don't come before you as the Pharisees did, but I do come before you as the publican did, and I do not wish to talk with you or detain you any longer than is absolutely necessary; therefore I believe that with a very few words I will be through. I am here before you, gentlemen, representing the full-blood element of my people, and what I shall say upon this subject will be based upon experience and observation as to the feeling and condition of my people.

I wish to impress upon you gentlemen composing this special Senate committee that you are down here on a mission the chief purpose of which is to hear the different opinions of the people. You are here for the purpose of receiving these views, and I am here before you now for the purpose of presenting my views and the views of the people I represent. In the original agreement that was made there was a provision in that agreement that we could sell our land within five years from the adoption of that agreement. Only the surplus land could be sold, of course, and the homestead was reserved. Only last winter the Congress of the United States enacted laws to the effect that they prevented us from selling our surplus land on any terms for the term of twenty-five years—that is, the laws enacted last winter prevented us from selling or disposing of any of our land, surplus or homestead, for the term of twenty-five years.

Senator LONG. That is, a full-blood Cherokee could sell his land in five years from the date of the first patent, or from the date of the agreement?

Mr. GLORY. From the date of the adoption of the agreement.

Senator LONG. From the date of the issuance of the patent?

Mr. GLORY. Yes, sir.

Senator LONG. He could sell in five years from the date of the patent?

Mr. GLORY. Yes, sir; I think it was on the 7th day of August that the agreement was made.

Senator LONG. Yes, sir; but it was from the date of the patent that the restrictions extended, and they extended only five years from that date, and that did not apply to the homestead. After five years he could sell his surplus land.

Mr. GLORY. Yes, sir; and the homestead should be reserved, of course.

Senator LONG. And it was reserved under that treaty?

Mr. GLORY. Yes, sir. Now, I think, or have the opinion, and that opinion is based upon my experience and observation of my own people—I am of the opinion if the Indians are given a chance to dispose of some of their surplus land they would have money with which to improve their homestead, and that, I think, would be an advantage

to them, for it is plain that if they are not allowed to do this the majority of them will not do anything toward improving their homesteads. An Indian is not like a white man. I am one of them myself, and I know. They are not as industrious as a white man usually is, and they are handicapped by having a lot of land that they can't do anything with, for they haven't any start, and they won't get a start unless they can dispose of their surplus land, or enough of it to get some money to make improvements on their homesteads. If they could do this they would have a start and something to live on. Another thing: I think that the condition of some of the Indians should be taken into consideration. Some of my own people are getting very old and helpless; they are very mature in years, and they won't be here very much longer. They are getting helpless and they can't work any more, and for that reason I believe it is nothing but right that Congress should act upon that question of sale of surplus lands and let these old people sell it and get money to make them so they would enjoy the few days they have to remain here. I want to emphasize these facts, for the reason that the full-blood Indians—in fact, all of them, but particularly the full bloods—are in a more critical condition than ever before.

There is no doubt in my mind, or in the mind of the more intelligent of my people, that Congress, when they were enacting that law, thought that they were doing a great and good thing for the Indians. I admit it; but still there was a great majority of them that did not know the real condition of the people and their needs, and for that reason I believe that there should be a remedy provided by this coming session of Congress. I believe that if we were to dispose of our surplus lands that it would be a good thing and would do more to relieve the condition of my people than anything else. We are rich in land and poor in everything else. If we could eat the land it would be all right, but we can not. There is three-fifths of my people taking their allotments, and the land is lying idle, for they can not even rent it. If they want to rent some of that land, you have surrounded the attempt to do so with so many complications, for you say that it has to go before the Interior Department—

The CHAIRMAN. Is it your opinion that if Congress were to rescind the action of last winter and stand upon the agreement that was made between the tribes and the Government of the United States that the surplus land should be salable after five years, would that meet the difficulty that you speak of—would it meet that difficulty now—going back to the last agreement between the tribes and Congress that gave the right to sell the surplus land at any time after five years—that is, five years after the delivery of the patent? Would that meet the difficulty, or would you consider that more ample legislation was necessary to provide the relief necessary?

Mr. GLOXY. Well, I would prefer that Congress should make some legislation in regard to that.

The CHAIRMAN. Well, in regard to what? What I am speaking of is this: If the legislation by Congress at the last winter's session was wiped out, if you went back to the agreement that allowed the Indian to sell his surplus land five years—after five years from the date of his patent—would that be sufficient legislation to meet the difficulty you now speak of, or would it require still more liberal legislation?

Mr. GLOXY. Well, I believe that still more liberal legislation would be required. That would do if we could not get better; but if we could get something more liberal, it would be better.

Senator BRANDEGEE. How do you think it ought to be done?

Mr. GLOXY. Well, that is for you gentlemen to say.

Senator BRANDEGEE. Well, that may be so, but my question is what you think about it? I want to know how you think it ought to be fixed?

Mr. GLOXY. Well, I don't know that Congress would take my advice.

Senator BRANDEGEE. Well, we might take it. You don't know—anyway we would like to know what your opinion is about how it ought to be fixed?

Mr. GLOXY. Well, since you insist on it, I'll tell you that I think that you ought to make it so these restrictions would be removed—remove the restrictions at once on the surplus lands of the full bloods. I believe that the restrictions should be removed as a whole from the full bloods of all Indian Territory.

Senator BRANDEGEE. So you think the restrictions should be removed as soon as possible on the surplus lands of full bloods?

Mr. GLOXY. Yes, sir.

Senator BRANDEGEE. Well, how about the homesteads?

Mr. GLOXY. No; not the homesteads.

Senator BRANDEGEE. How?

Mr. GLOXY. Not the homesteads.

Senator BRANDEGEE. You mean that you don't think the restrictions should be removed on the full-blood homesteads?

Mr. GLOXY. That's it. The restrictions should be left on the homesteads.

Senator LONG. Then you believe that the restrictions should be removed from the surplus lands only?

Mr. GLOXY. Yes, sir. I don't believe it would be wise to remove them from the homesteads. If they were removed from the surplus lands so we could dispose of them it would enable many of us to get something to go on and improve our homesteads.

The CHAIRMAN. What is your occupation or employment or profession now? In other words, what do you do for a living now?

Mr. GLOXY. My occupation at the present time is clerk in a store.

The CHAIRMAN. Your occupation at the present time gives you an opportunity to observe very closely the condition of the full-blood Indians in your tribe?

Mr. GLOXY. Yes, sir.

The CHAIRMAN. So your occupation now and at other times has furnished you with ample opportunity to observe and become very thoroughly acquainted with the sentiment of the Cherokee people on this and all other subjects that interest them?

Mr. GLOXY. Yes, sir. I was born and raised with them, and I come in contact with them every day.

Senator LONG. You think, then, that the extension of time from five years to twenty-five years was a mistake in the Curtis Act of last winter?

Mr. GLOXY. Yes, sir.

Senator LONG. When we extended the time from five years to twenty-five years you complained of that?

Mr. GLOXY. Yes, sir; I think it is subject to criticism.

Senator LONG. And you think it ought not to have been done?

Mr. GLOXY. Yes, sir; I think that ought not to have been done, and the rest of my people think so, too. It is done, though, and they want it remedied in some other way so that they can dispose of their surplus land as soon as possible—not that all of them want to dispose of it, but we want it fixed so we can dispose of it if we want to and in that way get money with which to go ahead and improve our homesteads. An Indian is not a white man, you understand; on the average he is

not, but I have seen Indians that would average up fairly with white men when it comes to doing things; but, as I say, on the average they don't come up to white men. They are not as capable of starting without anything as a white man is, and making a farm out of the wilderness, but if they could get a start I believe that lots of them would average up well with the white man; but, as I said before, the only way they can get that start the way they are situated is to make the law so they can dispose of their surplus land or whatever part of it they want to dispose of, and use the money they get in that way for improving their homesteads. If they do that, I believe lots of them will get along just about as well as the average white. We would then have something to go on to make a living.

Some of our people are getting very old and feeble, as I stated, and their land is lying idle, and there they are old and feeble and very poor and wanting for the ordinary necessities of life, to say nothing of the comforts, and all the time they are rich in land that they can't sell; and I am sure that you will agree with me when I say that the restrictions ought to be removed from their land so that they could sell it and get something that would be of use to them in their lifetime.

The CHAIRMAN. Well, I am inclined to agree with you, for I think that would be a very good thing to do.

Mr. GLOXY. That is my opinion.

The CHAIRMAN. But as to the homestead, you would not be in favor of taking the restrictions from that? You think the homestead would furnish enough land to furnish a living even if the surplus land was sold?

Mr. GLOXY. Yes, sir; for the Indians, as a general thing, it does. I don't know of one that the homestead would not be all and more than he would want. Of course you understand that all of them who have taken their allotments have both homesteads and surplus lands—children and all.

The CHAIRMAN. Yes, sir; I understand. The full-blood Indians hardly ever make use of more than the homestead?

Mr. GLOXY. No, sir; I don't know of any of them using all of that. It is more than the great majority want or ever will need. An Indian don't hardly know what the value of land is, and in disposing of it they should be held under some kind of supervision to see that they get what it is worth; but that is a subject that you gentlemen can easily solve.

The CHAIRMAN. Well, we would like to have your solution of it.

Mr. GLOXY. Well, I don't know that I could fix it right, but I think that somebody ought to have charge of it; the agent or some court or committee should have the looking after it and see that it is sold for what it is worth. An Indian thinks a great deal of his homestead—his home—and they are much attached to it, but they don't care for anything more than is sufficient to supply their simple needs.

Senator TELLER. So they hardly ever make any use of anything more than the homestead?

Mr. GLOXY. No, sir; and no more of that than they can handle.

Now I am speaking of the full bloods, you understand, all the time. Of course, you take the mixed bloods, there is lots of them would want more than the homestead. I expect there is lots of the mixed bloods that would need more than the homesteads, but the full bloods, they don't need or want any more than the homesteads, and very often they can't use all of that. They don't inclose their land and don't think of doing so only with the little bit they have under cultivation. It has always been customary for them to have under inclosure say 5 or 10 or 15 or 20 acres, and perhaps some of them might have 30 acres, but it would be few of them that would have that much and the homestead is 80 acres, so you see that they don't need even all of the homestead—40 acres might be enough for a homestead—it is now, but they might get so in the future that they would cultivate more, so I think it advisable to keep the whole 80 acres as a homestead.

Q. In effect, their surplus land is so much dead capital, and can't be utilized for any useful or beneficial purpose?—A. Yes, sir.

Q. And so they don't get any revenue from it?—A. No, sir; not at the present time.

Senator LONG. Do you know of many full bloods who have refused to take their allotments, or have refused to select their allotments?

Mr. GLOXY. Well, there is a considerable number of them that have failed or refused to do so.

Q. The Commission in that case selected their allotments for them?—A. Yes, sir.

Q. And arbitrarily awarded them?—A. Yes, sir.

Q. And in doing this the Commission generally allowed them to remain where they were?—A. Yes, sir.

Q. Selected that as their homestead for them?—A. Yes, sir; they selected their homesteads there—the Daves Commission did—but of course they selected their surplus land at different places scattered around the country within the limits of the tribal lands. They are scattered around at one place and another.

By Senator BRANDEGEE:

Q. I understood you to say that the full-blood Indians, or some of them, refuse to take their allotments?—A. Yes, sir.

Q. Do you understand or know the cause or reason for these full-blood Indians refusing to take their allotments either of homesteads or surplus land?—A. Well, of course I have devoted a good deal of study and attention to that subject. I know them very well and go around among them, and I hear them talking about it; and I have come to the conclusion the reason they don't do it is because they expect that they are going to get their old laws and old treaties back again, and that all the land will come back again to be held by the tribe; and I mean by that that they expect that conditions will revert back to what they were in the old days when all the land was held in common.

Q. What do you mean by "getting the old laws back"?—A. The old conditions that were there. I have not studied this thing in the way of specially and particularly studying it, but I know enough about it to know that that is what they expect.

Q. Well, that is too indefinite. You say the old laws. Do you mean the old treaty of 1832, or the one establishing the homestead?—A. No, sir; I mean the old conditions that were here prior to the passage of the last law.

By Senator TELLER:

Q. Do you mean the act of 1866?—A. I mean the laws that were here before the abolishment of the tribal government that they used to have.

Q. Oh, I see. They want the tribal government back.—A. Yes, sir.

By the Chairman:

Q. They are hoping that the time will come again when all this land will be held in common?—A. Yes, sir.

Q. Just as it was before they voted on the agreement to abolish

tribal government and agreed to take their land in severalty?—A. Yes, sir.

Q. That is what they are hoping for?—A. Yes, sir.
Q. Well, it is a vain hope, a hope that will never be realized.—A. I know it, but you can't make them realize that.

By Senator LONG:

Q. That is the reason they won't take their allotments or accept anything, for they fear that if they do so it will prevent the return of this time which they are looking forward to, when all the land will be held in common as it was in the old days?—A. Yes, sir.

Q. Are there few or many of the full bloods that hold that view?—A. Well, there are a good many of them.

Q. How many?—A. I could not say; but there are quite a few of them.

Q. Don't think the majority of them hold that view of the matter?—A. No, sir; I think not.

Q. Then you think that the majority of the full bloods have taken their allotments?—A. Yes, sir.

Q. How about the mixed bloods?—A. They have taken them.

Q. So the majority of the full bloods and all of the mixed bloods have taken their allotments?—A. Yes, sir.

By Senator BRANDEGEE:

Q. You are appearing here for a part of the people of the Cherokee Nation?—A. Yes, sir; I am appearing here only for the Cherokee people, or that part of them who have requested me to do so.

Q. And there are how many full bloods in the Cherokee Nation?—A. There is about 7,000, I believe. I won't be positive, but I understand that is the number.

Q. Well, I believe that is the number that is reported officially—about 7,000 full bloods and about 26,000 mixed bloods. That is about correct, is it not?—A. I suppose that is about right. They have been enrolled, and I suppose the enrollment is about correct.

Q. And you say that all of the mixed bloods took their allotments?—A. Yes, sir; that is my understanding.

By Senator LONG:

Q. And you don't think the majority of the full bloods refused to take their allotments?—A. No, sir; I don't think they did.

Q. Well, do you mean that they did or did not?—A. I think the majority of the full bloods took their allotments.

Q. And as to those of the full bloods who refused to take or select their allotments, the Commission went ahead and selected them for them? Is that right?—A. Yes, sir.

Q. And left them in the places where they were and had been living?—A. Yes, sir.

Q. I mean that the Commission in selecting arbitrarily for them selected the place where they were residing and allotted it to them?—A. As a rule, they did.

Q. And where that was not done it was because of the fact that inasmuch as they had refused to claim it as an allotment, some one else had come in and filed on it?—A. Yes, sir.

By Senator TELLER:

Q. Are there many of your people, I mean your Indian people, who believe it is a crime to divide land and hold it in severalty?—A. No, sir; I believe not.

Q. Well, some tribes do hold such a belief.—A. I suppose, of course, there is some that do; but I don't know of any. If they held such a belief they haven't said anything to me about it.

Q. You do not hear that advanced as a cause or reason for their refusing to take their allotments?—A. No, sir; only, as I said before, that they think they will ultimately return to the old original conditions.

By Senator LONG:

Q. You are a full-blood Cherokee?—A. Yes, sir.

Q. How old are you?—A. 37.

Q. You speak good English?—A. Yes, sir; fair.

Q. Well, I think you speak excellent English. I suppose you were educated?—A. Yes, sir.

Q. Where were you educated?—A. I went to school in the States.

Q. What school did you go to?—A. In the State of Ohio.

Q. I don't like to interfere with the tenor of your statement here, but I would like to have you tell me something about the schools here in the Territory, so far as they apply to your people. I would like to have you tell us about that, if it doesn't interfere with your statement here. What we particularly want to get at is the extent that the children down here go to school, and the extent and character of the school facilities. That is something that I am sure every member of this committee is profoundly interested in.—A. Well, I was going to bring that out in my talk later on.

Q. Well, just go right ahead, then, and make your statement in your own way.—A. The circumstances and conditions in our country down here are such that if the matter is not settled definitely and on some fixed basis very soon there will be a season of great disaster. It is bad enough now, but this is nothing to what it will be later. No one knows what the result will be. The land question is a very perplexing one, and it will require all your patience and wisdom, gentlemen, to find out the truth about it and devise a remedy; but we believe you are equal to it, and the way to find out is the way you have taken—come down here and listen and see for yourselves. The great bulk of the land all through the Indian Territory is lying idle and unproductive, and especially is that true of the land held by my people; and of course nearly all of it is held that way. As I stated, the Indians are not capable of cultivating it, and they can not dispose of any part of it to people who know how to cultivate it; and the result of that is that nothing is done with it.

This is very bad. The biggest portion of it—of that part of it that is comprised in the holdings of the full-blood Indians—is absolutely unproductive, and, as I have stated, if the full blood was permitted to dispose of his surplus land or a part of it, as the case may be, as I said, he would be able to realize a little capital with which to improve his homestead, or a part of it, and that would be the first step in his advancement. Now, I want to say that Indians, especially the full bloods, are just about like children. They must be taught, and taught intelligently, and if you get them started right they will very often advance and become good, useful citizens. I am one of them, and I know just how they feel about it. It is hard to make them understand a thing, but when they understand it no one knows it better than they do. Of course, the homestead should always be theirs. They should not be allowed to get rid of that at all. They might squander their surplus—it is well worth while letting them make a try at it—but the homestead ought to be kept as their home always—forever, if possible.

By the Chairman:

Q. About how many acres are there in a homestead in your nation?—A. Well, it varies; some are larger than others. It is owing to the valuation of the land they select or the grade of the land. Now, I say if these privileges were granted to us—that is, to dispose of our surplus lands—it would enable a place for the good citizens of the United States to come among us and settle among us—people who know how to farm and how to live, and you can depend on it that their presence and example would have a very stimulating effect on the Indians. They would be our neighbors, and they would be all among us, and that is what the Cherokees want. The presence of these white citizens would be of the greatest benefit in every way, for it would have a tendency to persuade the Cherokees, and this I believe would apply to every Indian tribe in the Territory. It would have a tendency to persuade them to go to church and to school—to send their children to school. I know this from my own personal history, for had it not been for this influence I would probably be just as they are. They are honest and true and loyal. They want to be citizens, good citizens, but they don't know how to set about it. The presence of these white citizens would stimulate them in every way. They would have their example held up daily before them, and they would try to live as they live and emulate their example. This is the most important thing in my opinion in the whole situation—the matter I might almost say, of supreme importance. Now, I will say that all my people don't think on this as I do, but I know that the result would be as I have put it. I know it by my own case and numerous others I have seen. There could be no other result. My people would drop their old habits and customs insensibly and by degrees and constantly live more and more like their white neighbors. Our children would go to the same school and we would attend the same church, and the civilizing influence could not be resisted. I am looking to the future, and I believe that we should all look to the future and should not be bound by any desire to get a temporary advantage, for it is what the future holds for my people that counts. When children go to school and play together and go to church together and are together in all things there can be no result other than the advancement of the race inferior in the scale of civilization; therefore I believe that an all-wise God has intended we should finally be the beneficiaries of the civilization which is sweeping the world and that my people can no more escape it than they can escape anything else that is inevitable.

I don't think it would be wise to let them go off by themselves and live as they always have lived. If the white man in large numbers could come among us and get this land they would set out their trees, their orchards, and vineyards, and finally the Indian would be impelled to follow their example and do likewise. I have no other object than the upbuilding and benefit of my race. I am not ashamed of my blood or lineage—not by any means—I want my race and the future children of that race to go on and up in the path of civilization until at length they would stand side by side with their white brothers on equal terms in every respect. Now, these are the propositions that I have wished to present to you, gentlemen, and I have done so to the best of my ability. I hope you will take into account my limitations and understand just what I am attempting to point out, and take into your fullest consideration and act on them to the best of your knowledge; and I am in hopes that the session of Congress about to convene will look into these matters carefully and conscientiously and enact such laws as will do away to as great an extent as possible with the evils that at present oppress this country and its people, which are shown to exist by the testimonies which have been laid before you. That is all, gentlemen, unless you wish to question me.

Q. Well, what is the present conditions of the schools?—A. Oh, yes, I overlooked that. Of course we have a very good system of schools. This system of schools was devised, worked out, and carried into effect by the Indians all through the Territory many years ago under the tribal form of government, and now that the United States has taken charge of these schools, I can't say that they have been benefited any, nor would I say that they have been damaged, but the fact is that we Indians had devised and put in operation what we considered to be a good system, and this was the opinion of competent whites who examined them; but there are some of my own people who are holding back from them, but they are ones that don't believe in the advancement of civilization.

Q. Have you a claim in that country?—A. Yes, sir.

Q. Do the children of the full bloods attend these schools?—A. Well, quite a number of them attend these schools.

Q. But all of them don't attend them?—A. No, sir; but a great many of them do. It is a matter that I am satisfied will adjust itself in time, like all things adjust themselves. Now, gentlemen, I wish to point out that the great evil in connection with the educational system here is that it is not compulsory—there is no such a thing here as compulsory education.

By Senator TELLER:

Q. I guess that is what you need. It is a good thing anywhere, and it would no doubt be good here.—A. There can be no question about that. Some of our people live back in the woods and away from school facilities, but of course as schools are established in greater number, the school facilities will be available to more and more of our people, and they send their children to school or not, just as they please. There is nothing regular about the attendance. One day they will go to school, and the next day, if they see fit they will remain away, and this system is demoralizing on account of the lack of regularity. They should be compelled to send the children during stated terms to school every day. This is brought about of course by the fact that their parents don't take much interest in education. Now, this is not universal by any means, for there are some few parents—well, quite a number of them—more than you would probably imagine, who take a very great interest in schools, and are intensely anxious that their children should receive a good education, and use every effort in seeing that they do get it. There are a great many people who take a great deal of interest—full-blood Indians at that—in the building of schools and churches.

By Senator LONG:

Q. What about your restrictions—have you ever had them removed?—A. Yes, sir.

Q. By the Secretary?—A. Yes, sir.

Q. How did you get them removed?—A. Through the Indian agent. Q. You made your application to have your restrictions removed, and the Indian agent investigated your case and found or decided that you were capable of managing your own affairs, and he recommended

that your restrictions should be removed and the Secretary removed them?—A. Yes, sir.

Q. When was that done?—A. In 1905.

Q. In 1905, a year ago?—A. Yes, sir. Now, I wish to say that the majority of my people are capable at least of handling their own affairs if they are given a show or the privilege was extended to them. I believe that the majority are just as capable of doing so as I am.

Q. Well, do you think—really think—that you are capable of managing your own affairs?—A. Yes, sir. Now, of course, you will find people now and then that are reckless, but that is not a condition that is peculiar to the Indians, for you will find lots of white people who are not capable of managing their business. I have known white men that were not.

Q. So have I—lots of them.—A. You will find them among all classes of people, no matter what their color, that are not capable of managing their business. Some are more extravagant than others. Now, I don't know that I have anything more to say.

By the Chairman:

Q. I would like to ask you a hypothetical question. Do you believe that a full-blood Indian ever will acquire increased capacity to transact his own business unless he is given an opportunity to experiment? Do you not think it is impossible to say whether he is or will ever be able to do so unless the opportunity is given him to try it?—A. Do you mean by removing his restrictions, so he can transact business?

Q. No; I mean this: Do you think that it can be said of any full blood that he is or is not capable of transacting his own business in a safe and sane manner unless the chance is given him and it is actually demonstrated whether he can or can not? In other words, do you think that it can be definitely said whether or not he is capable of transacting his own business as long as he is held in wardship and is not given the opportunity of transacting any business?—A. I don't know; only this, that if he was given the full benefit of transacting his own business, it could then be seen whether he was or not. I believe that the majority of them, if they were given the opportunity, would show that they are capable of doing business for themselves. I think, as he gained experience, if he was allowed to start in a small way, that he would be fully as capable as the average white man.

Q. You believe if he was given the opportunity that he would grow with his responsibilities or opportunities? Is that what you desire to be understood as saying?—A. Yes, sir.

By Senator LONG:

Q. Are the full bloods of your age able to speak English?—A. Yes, sir; quite a number of them are.

Q. But not all of them?—A. No, sir.

Q. They have gone to school—the ones that speak English?—A. Yes, sir; they have been attending school.

Q. Do they teach English in school?—A. Yes, sir.

Q. So it follows that if they go to school they have to learn English?—A. Yes, sir.

Q. Do you mean that they have attended the schools in the States or in the Territory?—A. Yes, sir; in the Territory.

Q. And in these schools they speak English?—A. Yes, sir.

Q. And do you think that most of the full bloods of your age are capable of attending to their own business affairs?—A. Yes, sir; most of them are, to a certain extent.

Q. But all of them are not?—A. Well, there is one now and then that might not be.

Q. But the older full bloods, in your opinion, are not capable of attending to their business?—A. No, sir; some of them might not be. Well, I say most of them might not be.

Q. You would not consider it to be a safe experiment to allow them to do so?—A. No, sir.

Q. If the attempt were made the result in some cases might be disastrous?—A. Yes, sir; to a good many of them, I have no doubt about it.

Q. And the full bloods of your age have taken their allotments, haven't they, or the most of them have taken them?—A. Yes, sir.

Q. They are the younger Indians?—A. Yes, sir.

Q. That is all.

By Senator BRANDEGEE:

Q. Had you been attending school here before you went away to attend school?—A. Yes, sir.

Q. Where had you attended school here?—A. I attended the public schools.

Q. How old were you when you went away from here?—A. I was about 18.

Q. You went to school in Ohio?—A. Yes, sir.

Q. Was it your own idea to go into another State to school?—A. Well, I can't say that it was. I was raised by a poor mother; she was poor and ignorant, but she knew the value of education and she always tried to impress upon me the value of a good education; she never let an opportunity pass of impressing that on me, and I was impressionable and I never forgot it, so it has always been my effort and desire to learn in every way possible, and she helped me in all ways, and of course I had a hard time of it; I had to work part of the time to get provisions and clothing to live and to get a little money ahead, and when I would get a little money ahead of course I would go to school as long as it lasted, and then I'd go to work again and earn more and go back to school.

I want to acknowledge, here, what I owe to her for the way she impressed me, for she always told me to go to school and study hard and learn what I could and, gentlemen, I have never forgotten it. I don't want you to understand, gentlemen, that I am the only one amongst my people who is sensible of the advantages to be derived from education, for there are plenty in my nation who have striven in their own way to acquire it, and if they did not succeed it was not because of a failure of their will—it is because they did not go about it as I did. When I had advanced so far, of course, it was my will that I should go elsewhere and finish my education, and though it was hard I managed to do it, and that was the way I acquired what education I have. It is not very much, though; I regret that I haven't more.

Q. Well, I must say that you seem to have done very well; you are to be congratulated.—A. Thank you.

By Senator LONG:

Q. Have you ever taught school?—A. Yes, sir.

Q. Where?—A. In the Cherokee Nation.

Q. Right in the Cherokee Nation here among your own people?—A. Yes, sir.

Q. And now you are clerking in a store?—A. Yes, sir.

Q. And you have had your restrictions removed?—A. Yes, sir.

Q. Have you sold your land?—A. Yes, sir; part of it.

Q. What part of it have you sold?—A. I have sold my surplus land.

Q. Have you sold all your surplus land?—A. Yes, sir. I have sold all my land excepting my homestead.

Q. And how many acres are there in that?—A. In my homestead?

Q. Yes, sir.—A. Thirty acres of homestead.

By Senator TELLER:

Q. Do you live on it?—A. Yes, sir.

Q. You live there now?—A. Yes, sir.

Q. It is near the town here, is it?—A. Well, no; it is not very near. It is about 25 miles from town.

By Senator LONG:

Q. You live in town here, don't you?—A. Yes, sir; at the present time, I do.

Q. So you live here in Vinita at the present time?—A. Yes, sir—oh, here in Vinita? No, sir; not here in Vinita.

Q. Well, where do you live?—A. I live out here at Pryor Creek, about 25 miles from Vinita.

Q. And you live on your homestead there?—A. Yes, sir.

Q. Do you work it—cultivate it yourself?—A. No, sir; I live there, but I don't work on it. I have a man that cultivates the place; he attends to the place for me.

Q. This man whom you have employed looks after your homestead and you clerk in a store in town?—A. Yes, sir.

Q. When did you sell your surplus land?—A. Immediately after the restrictions were removed.

Q. Did you get a good price for your land?—A. Yes, sir; I got a very good price.

Q. Why did you sell your surplus land?—A. I had to do it in order to make a start. I could not make a start at improving my homestead unless I did it, for there were things that I had to have.

Q. What did you have to have?—A. I had to buy my farming implements and buy my team, and put buildings on my homestead. It was unimproved, and there was no other way of improving it but by selling my surplus land.

Q. In other words, you improved your homestead from what you got or realized from the sale of your surplus land?—A. Yes, sir.

By Senator TELLER:

Q. Could you raise enough to support a family on 30 acres of ground?—A. Yes, sir; I think so. Wherever there is good tillable land a man can raise enough on 30 acres of ground to support a family all right, provided he kept it in a good state of cultivation.

By Senator BRANDEGEE:

Q. Let me ask you this question: Do the majority of the full bloods in the Cherokee Nation speak and write English?—A. Well, you will find quite a good number of them that can speak and write the English language.

Q. Well, can the majority of them do so?—A. I don't know whether the most of them can or not; but there is quite a number who can.

Q. But whether or not the majority can do so, you can't say?—A. No, sir.

Q. I understood some witness to say here this afternoon that almost all of the full bloods of the Cherokee Nation both speak and write English. What do you say as to that?—A. Well, that probably is correct. It is true, I think of the younger generation; but now and then you will find one who can't.

Q. Well, now, let me ask you this: Is there any prejudice or jealousy among the people of your nation against those who can or do manage to get a good education and return to the tribe?—A. No, sir; there is not. I don't believe there is. They don't seem to be any discrimination against such.

Q. They are willing for anybody to acquire as good an education as they can acquire in any way they can acquire it?—A. Yes, sir.

The CHAIRMAN. That is all.

Mr. GLORY. Well, gentlemen, I am very thankful for the privilege of appearing here before you, and I hope that in the future these few words that I have spoken may so impress you, or have a tendency to impress you, and through you others, that they will eventually bear fruit.

Senator LONG. We appreciate what you have said, and I am sure we have all been much interested and instructed by it, and we trust it will.

Mr. GLORY. Thank you.

The CHAIRMAN. Are there any others present who desire to address the committee? If there are, we would be glad to hear from them now, one at a time, however. I am informed that Mr. A. Grant Evans, of Muskogee, is present, and if so, we would be very glad to hear from him.

Statement of Mr. W. H. Walker.

By the Chairman:

Q. Where do you live, or what is your post-office?—A. Tahlequah.

Q. What is your business?—A. I am assistant secretary to the chief of the Cherokee Nation.

Q. What is your citizenship?—A. Cherokee, by blood.

Q. Are you mixed blood?—A. Yes, sir; one-eighth Cherokee.

Q. And the balance white?—A. Yes, sir.

Q. What do you wish to say?—A. I want to speak to the committee on this question of the removal of restrictions for a moment.

Q. Very well; proceed.—A. I can probably illustrate it better by taking my own case. I am one-eighth Cherokee. I have three children that I have allotted for, and one that I have not filed for yet, and there is my wife and myself who have filed also, making in all about 550 acres that my wife, myself, and my family have. Now, there is about 150 acres of that land that is not good agricultural land. It is a cheap grade of land. Now I am illustrating the point I want to make by my own experience. I made application about five months ago to the Secretary of the Interior to have the restrictions removed from my surplus allotment, and although five months have passed I have never had a hearing on it yet, and there has been no action taken at all.

Q. Well, what do you expect this committee to do?—A. Well, I call your attention to these delays in these matters with the hope that Congress will do something to remove the trouble.

Q. Where did you make your application?—A. Through a representative of the Indian agent's office here who was there at Tahlequah, where they come from time to time to attend to any business there may be for them to do. I requested the Indian agent here, Mr. Kelsey, to make a special recommendation in the case if he would, as he has authority to do under the rules.

Q. Did he make it special?—A. I am not sure, but I—well, I don't know, and I have not asked him about it. His representative that was over there at Tahlequah, to whom I made the application, told me that he thought he would do it without question.

Q. And that was five months ago?—A. Yes, sir; it was in the last of May some time, and this is November—it is more than five months ago. Now, the point I want to get at is the slow action that is taken in these cases like mine. There can be no objection to the removal of my restrictions. I believe that everybody who knows me will certify that I am about as capable of running my own business safely and carefully as the average white man. I think that Mr. Kelsey himself will certify to that, and there can be no objection on that ground. Now, I don't blame Mr. Kelsey. I think he does the best he can and that the business in his office is attended to as well and expeditiously as is possible, but I think the trouble occurs down there in the Department of Indian Affairs at Washington. There is more or less delay in every case, but in some of them it is very great and very annoying, for it is hard to think that in a case like mine they could not get action on it in nearly six months. We are feeling that these delays are brought about under the present regulations, and that they are unreasonable and unwarranted, and we feel that Congress should take it up and make a general order.

Q. Removing restrictions?—A. Yes, sir.

Q. Do you think that should include full bloods?—A. Well, I don't know about that. I have been among them all my life—was practically born among them and have been brought up among them, and I think I know them just about as well as anybody, and when it comes to saying that I would make the order so sweeping as to include them, I have to stop and think. Now, I'll tell you the way it is. There should be distinctions—there should be some discretion shown. I don't believe it would do to take it off all of them. There are a great many among them—men like Mr. Gritts, who was here before you and made a statement—there are men among them like him who are competent to handle their own affairs.

Q. So you think there are some of the full bloods who are competent to manage their affairs in a safe manner?—A. Yes, sir; and on the other hand a great majority of them are not.

Q. To what extent would you remove the restrictions on the mixed bloods?—A. Now, it is the mixed bloods—well, I believe it should be a general order.

Q. Removing all restrictions?—A. Yes, sir.

Q. On the homestead and all?—A. No, sir; I don't think I would take it off the homesteads. No; I would leave it on the homesteads, for there are people that ought to be protected in their homesteads.

Q. Then, you would not approve taking it off the homesteads?—A. No, sir; I would not; for if you did that I know that we would soon have a great many people who would be homeless.

Q. What conditions would you recommend as to the removal of restrictions from the full bloods?—A. Well, I believe it should be done through the United States courts in each case and making a special and separate examination into the merits of each application and a special investigation as to the fitness of the full blood to have them removed, and it should be done by hearing evidence like in any ordinary suit in court.

Q. You think, then, that there should be no general law passed by Congress removing the restrictions on any of their lands?—A. No, sir; I don't believe it would be a good idea. I think it ought to be a court proceeding as I have described. I think each case should be handled separately in the case of the full bloods.

Now, I want to impress upon the committee the fact that there is a very great necessity for some relief on this restriction business as far as the half breeds are concerned, because we are soon going to have a new State down here, and there is a problem confronting us as to how we are going to carry on our local government without some taxable property. We can't carry on any kind of government without having something that is taxable.

Q. Then you do not object to be taxed?—A. No, sir.

Q. You are perfectly willing to be taxed?—A. Yes, sir. If I am to be a citizen in this new State I want to bear my share of the expense of running the State.

Q. You wish to be a good citizen?—A. I do.

Q. And you think it is the duty of every good citizen to pay his due share toward the expense of running the State and local county or city governments?—A. I do.

Q. Are there many more like you down here?—A. Yes, sir.

Q. You say that you are secretary to the chief?—A. I am one of them. He has three secretaries, and I am one of them. I have been one of his secretaries for three years now.

Q. The chief's name is Rogers, I believe?—A. Yes, sir; W. E. Rogers. In my position I have an opportunity to know what the sentiment of the people is on any question, and I think I know what it is on the question of removal of restrictions.

Q. Has Mr. Rogers ever passed any opinion or has he ever expressed any opinion, either public or private, on that question—that is, in regard to the removal of restrictions?—A. Well, I have heard him say so privately—yes, and publicly, too, but not in an official capacity. He would make suggestions along that line.

Q. His views are similar to yours?—A. Yes, sir; I think so.

Q. How about your people—the Cherokees?—A. I think it would be the sentiment of a great majority of them that the restrictions should be removed. Well, now these people who have come here and who have homes here—if the people who desire to come here and make their homes with us—if there was a general order made that they could come here and buy their homes and improve them and live on them—if they would come in or were allowed to come in and buy this land from the allottees it would be a great thing for the country and for the people who own the land, for, as a rule, they are poor and haven't anything, and if they could sell their surplus land or part of it, say, they could go at work improving their homestead and have a comfortable place to live; they would have the means of getting a start, and that is what most of them need; and another good thing would be that the land would sell for what it is worth in the market the same as it does in the State. If that was done it would just about shut out the speculator.

Q. Is that the class of gentlemen who have been referred to many times since we began this investigation as the "grafter"?—A. Yes, sir. I will call him the speculator, for that is what he is. If this was done I believe there would be a very great and sudden advance in the prices paid for land. This is a great country; it is all right, and some day everybody will admit it is all right. All it wants is half a chance, and it will show the country a thing or two. I am free to say that we would much rather see it settled up by a good class of farmers and put in crops—settled by people who know how to farm, for their way of doing things would be an object lesson to our people, and that is what they need more than anything else—that and money with which to get a start. Thank you, gentlemen.

Extract from report of select committee of the Senate.

MARCH 30, 1908.

DEAR SIR: I beg leave to submit herein below, for the consideration of your subcommittee, certain statements made by Indian citizens of the Five Civilized Tribes before the select Senate committee consisting of Senator CLARENCE D. CLARK, of Wyoming, chairman; Senator CHESTER I. LONG, of Kansas; Senator FRANK B. BRANDEGEE, of Connecticut; Senator HENRY M. TELLER, of Colorado, and Senator WILLIAM A. CLARK, of Montana. Also report and recommendation of such committee on removal of restrictions.

This committee was appointed under the provisions of Senate resolution of June 30, 1906, its purpose being to investigate all matters connected with the condition of affairs in Indian Territory, and specifically to report to Congress legislation necessary therefor. These statements were taken on the ground in Indian Territory, and may therefore be considered as representative of the sentiment of the Indian people in the Five Civilized Tribes.

Numerous other statements were made in the hearings conducted by this select Senate committee, covering over 2,000 pages of their report, and I earnestly invite the attention of the Members of the House Committee on Indian Affairs to the report of this committee and to their recommendation for removal of restrictions.

Respectfully,

HON. JAMES SHERMAN,
Chairman Subcommittee on Indian Affairs.

C. D. CARTER.

Recommendation of select Senate committee as to removal of restrictions.

By the act of March 3, 1901, all Indians in Indian Territory were made citizens of the United States. The Indian tribes had title to these lands by patents from the United States. These lands were occupied in common by the members of the respective tribes. By the supplemental agreements made in 1902 these Indians agreed to take their lands in severalty upon condition that they could alienate their allotments within a certain period, which differed in the several tribes. We believe that Congress might shorten this period and permit alienation at an earlier date.

Congress, by the act of April 21, 1904, removed the restrictions upon the alienation of all allottees of either of the Five Civilized Tribes who were not of Indian blood, except minors, and except as to homesteads, and provided that restrictions upon the alienation of all other allottees, except minors, and except as to homesteads, might with the approval of the Secretary of the Interior, be removed upon application to the Indian agent at the Union Agency.

Section 19 of the act of April 26, 1906, provides that no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes should have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the approval of that act unless such restrictions, prior to the expiration of said period, shall be removed by act of Congress.

We believe that this last legislation was unwise, injurious to the Indians, and of no validity. Congress, after providing in the supplemental agreements that all the lands allotted to the citizens of the different tribes should be alienable within certain periods, could not, without the consent of the Indians, extend the time in which the lands could not be alienated and add to the restrictions imposed by the original agreements. The effect of this legislation has already clouded, and, if unrepealed, will continue to cloud the title of much land in Indian Territory, and will result in endless litigation.

It will prevent the Indians from obtaining a fair price for their lands, and has been and will continue to be a fruitful source of dishonest transactions.

It will not prevent sales being made at the expiration of the periods designated in the supplemental agreements, and has already resulted in contracts being made for such sales. This provision is generally considered to be invalid and should be repealed.

We recommend that all restrictions be removed from the surplus lands of all citizens of the Five Civilized Tribes, except minors.

We recommend the removal of restrictions as to homesteads of the members of such tribes who are not of Indian blood, which includes intermarried white citizens and freedmen.

The removal of restrictions on the alienation should also include the removal of restrictions as to encumbering and leasing.

We believe that the restrictions should remain upon the homesteads of citizens of Indian blood, which would include both full bloods and mixed bloods. This will insure each member of every family a home that can be improved from the funds derived from the sale of his surplus lands. A homestead in Indian Territory is not like a homestead on the public domain, where the head of the family only has a homestead. A homestead in Indian Territory consists of from 40 to 160 acres of average land for each member of the tribe, and may or may not be his place of residence. A family of six may have homesteads aggregating from 240 to 960 acres, and in the Choctaw and Chickasaw nations such a family may have from 480 to 12,000 acres, which would still be inalienable under the supplemental agreements and the legislation which we here recommend.

In view of this fact the committee submits this partial report, and at an early date, if permitted by the Senate, will submit to the Senate its conclusions upon other matters herein referred to, which have been subjects of its inquiries.

Respectfully submitted,

C. D. CLARK,
CHESTER I. LONG,
FRANK B. BRANDEGEE,
H. M. TELLER,
W. A. CLARK.

Statement of C. H. Victor, three-fourths Choctaw Indian.

The CHAIRMAN. Where do you live, Mr. Victor?

Mr. VICTOR. I live 6 miles southeast of Ardmore.

The CHAIRMAN. What is your nationality or blood?

Mr. VICTOR. I am a Choctaw by blood.

The CHAIRMAN. Are you of the full blood?

Mr. VICTOR. No, sir; I am three-quarters.

The CHAIRMAN. You are three-fourths Indian?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. We shall be glad to hear any information you may be able to impart.

Mr. VICTOR. I have heard some very intelligent men get up here and explain their views, but I have not heard any Indians make any talk here, nor have I heard anyone make an explanation or statement that I thought suited the Indians or that fitted the country any better than Mr. Cobb did. I have heard all he said, and I tell you, gentlemen, that he made the best talk that has been made here and told you more of the truth than anyone else has. He may be a "grafter," but that is neither here or there, for, if he is one, he gave you some awful good advice, and he ought to know about as well as anybody in this country what he is talking about. Mr. Mills also has told you just what the truth is. Both these gentlemen have about told the truth about conditions here.

I have not much to say, but I do want to say something about the removal of restrictions. It is a hard subject and has a great many sides to it, but I think, on the whole, that the thing that ought to be done and will have to be done, if there is not to be a permanent bar interposed to the advancement of this country, is to remove the restrictions from the surplus lands of the mixed breeds and the full bloods, and I think it is best to do that for this reason: You can go out here in this country and pick up 100 mixed breeds just as you come to them, and also 100 full bloods, and you will find just as many out of the full bloods who are capable of attending to their business as you will find in the mixed bloods. I am an Indian, and I know what I am talking about from the standpoint of an Indian.

I believe I am acquainted with more Indians in the Choctaw and Chickasaw nations than any single man in either nation. I believe that there is not another man in these nations who knows as many of the Indians as I do; therefore I feel that I am warranted in assuming that I know something about them.

I observe here that it has been a common thing for everyone who has spoken and has referred to the matter at all, to assume that the Mississippi Choctaws are not as competent to look after their business as the native Choctaws, but I say that under the same and equal circumstances they are, and under some conditions more so.

They came here from Mississippi—were brought here by speculators, largely. Down there in Mississippi they had no land, no protection, and no special privileges, and they had to work in order to make any kind of a living, which was something that the Indians up here did not have to do. They had to work land there for a share in the crop, and the people who owned the land furnished them with teams and tools to work with, for half the crop raised. So they had to work, and it would have been a good thing for the Indians in this Territory if they had always had to work, but that is neither here nor there. The Government has protected them and fostered them all their lives, and naturally that has not had much of a tendency to impart to them habits of thrift and self-reliance, so I will content myself by saying that if you were to take the Choctaws from the Choctaw Nation and send them to Mississippi with the Mississippi Choctaws, and put them to work where they would all stand on an equal footing, the Mississippi Choctaws would not emerge from the comparison discreditably. What I mean to convey, gentlemen, is the idea that if the Mississippi Choctaws had been here as long as the native Choctaws have been and had been subjected to the same influences they would be just about the same, for outside of these considerations I can not see any difference between them. They all look just the same to me.

But what is their condition, gentlemen, to-day, compared with what it was when they were first brought to this country? There is a very great improvement.

Senator LONG. You think that they are rapidly acquiring the ways of this country?

Mr. VICTOR. Yes, sir; very rapidly.

Senator LONG. They have been here two or three years, have they not?

Mr. VICTOR. Yes, sir; a little longer than that—about four years.

Senator LONG. Do you see any change in them now, compared with what their condition was when they came here?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. Much of an improvement?

Mr. VICTOR. A very noticeable improvement.

Senator CLARK of Montana. They are mostly farmers, are they not?

Mr. VICTOR. Yes, sir; altogether. Not farmers as you understand farming—but farmers.

Senator CLARK of Montana. Indian farmers?

Mr. VICTOR. Yes, sir.

Senator CLARK of Montana. Do they speak the Choctaw language?

Mr. VICTOR. Yes, sir.

Senator CLARK of Montana. Do they speak the Choctaw and Chickasaw language both?

Mr. VICTOR. I can not say that they do.

Senator CLARK of Montana. Do you speak both the Choctaw and Chickasaw languages?

Mr. VICTOR. I can not really say that I do. The languages are so similar that I can understand very well anything that is said in Chickasaw, but I can not say that I can speak the language.

Senator CLARK of Montana. There is a great similarity in the languages?

Mr. VICTOR. Yes, sir; they are the same family and bear a very close resemblance. I can manage to hold a conversation, if I have to, with a Chickasaw as well as a Choctaw.

Senator CLARK of Montana. Then the citizens of these two nations can understand each other?

Mr. VICTOR. Yes, sir; very well, as a rule.

Senator LONG. Do the Mississippi Choctaws understand and speak English?

Mr. VICTOR. No; they do not talk very much English.

Senator LONG. You may proceed with your statement.

Mr. VICTOR. My reasons for saying that I believed it was beneficial to remove the restrictions from the surplus of the Indians entirely, and that it would be beneficial to the Indians to do so, was based primarily on the fact they get their purchase money. See that they get that. If they got their money, those among them who have energy and "get-up" enough about them will proceed to improve their homesteads, and that will be a benefit to them. Those who when they get their money get drunk and proceed to "blow" themselves, neither the land nor the money would do them any good in any case, and if an Indian is that kind of a man, you can put the restrictions on him for a hundred years and it will not make him any better. So if the restrictions are kept on the Indians in the hope that such restrictions will act as an educational influence or stimulus, the thing is all thrown away—it does not help the Indian and tends just that much to the retardation of the progress of the country.

The CHAIRMAN. Wherever we have been, when this matter has been

discussed, we have heard expressions of belief that the Indians would waste their money if allowed to sell their surplus. We have been told that they would spend it for whisky, would get drunk, and squander their money in other vicious ways. We have been told that some of these leases have been acquired by getting the Indian drunk and then befuddling him out of his land. I want to ask you as to this Territory, where the sale of intoxicating liquors is prohibited by law, or is supposed to be prohibited by law, whether it is or is not a fact that liquor can be easily obtained?

Mr. VICTOR. Some intoxicating drinks can be obtained.

The CHAIRMAN. Easily?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. Intoxicants that are under the ban of the law?

Mr. VICTOR. Yes, sir; I do not know that whisky can be obtained easily, but I do know that intoxicating drinks can be obtained easily at times. I am perfectly familiar with the ways these so-called "graffers" do their work, for I have seen them engaged in it many a time; but I will say this, that I never in any instance saw a grafter giving an Indian whisky. Of course I am not saying that it has not been done by some grafters who were without a conscience, and there are some of that kind here; there are some men who would take advantage of an Indian in that way, and it is that class of grafters who have worked a hardship on lots of men who are doing a perfectly legitimate business. They have got people who can not discriminate—for they do not have the time to investigate—to conclude that all real estate men are grafters, because some bad men among them use disreputable methods. There are grafters in this country who have never paid a cent for their improvements, who have just gone and jumped them, and under contracts that would specify the improvements to come to so much—the land at so much and the improvements at so much, as a further consideration—and they would lease them out again that way to farmers who were to pay for the improvements, when, as a matter of fact, the improvements never cost them a cent. In the case of minors, that is a favorite practice of theirs. They get the minor allotted on the land and a guardian appointed for the minor, and then they get a lease for five years from that guardian at a nominal rent, and in the lease they get a credit on the amount they contract to pay for these improvements that never cost them a cent, but which they put in at two or three times what they actually are worth even if they had paid for them. In that way they frequently get the land for all these years without costing them anything, and they rent it to farmers at big rents and put the whole thing into their pockets, for they do not have either rent or taxes to pay.

The CHAIRMAN. These men have brought the whole "grafting" business into disrepute?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. Do you know any of these grafters, so called?

Mr. VICTOR. Yes, sir; I am familiar with these so-called "graffers," and have some very good friends among them. I will say another thing. I do not think there is a man in this grafting business or in this leasing business who has got his money back yet. He may get it back, but I am satisfied that not one of them has done it yet.

Senator LONG. They have done what they did to help the Indian?

Mr. VICTOR. No, sir; not at all. They were ambitious, and they went into that business because they thought that they were going to make a whole lot of money out of it, and they have been fooled—that is all. I do not think they thought of the Indians at all. I have never given them credit for that much humanity. I think the only ones they thought about helping was themselves. They thought that they were going to make more money than they did out of it, and they have failed, and in the final wind up the result has been that it has placed the so-called "grafter" and the Indian both at a disadvantage.

Senator LONG. If both of them have failed, who has received the benefit? You know that there can not be anything without its compensations, and there must be some one who has been benefited by this mix up somewhere along the line.

Mr. VICTOR. Take a man who is running an allotment business and got a little the worst of it; of course, if he got the worst of it, it follows that the Indians must have got the best of it. The kind of Indians these grafters dealt with were the kind that anything that would be done for them would only be temporary. You can not do them any permanent good. They took these Choctaw Indians from Mississippi, and when they first came out here they were very ignorant, although they really were better workers than the native Indians, as I said before; but the grafters would come up in the Choctaw country and get them down here and show them the land and pay their expenses to the land office to get them to allot it, and in a great many instances when they got them there the land they intended them to file on would be filed on already, and the grafter would have to take them back there again and show them some other land and then take them back to the land office to file on that, and find that that, too, had already been filed on, and sometimes they would have to make two or three or four trips, all at the expense of the grafter, and that cost a good deal of money.

That is where the grafter got the worst of it, for he would have to get the Indian a good allotment to come out even on the lease, and where the Indian was benefited was in getting a better allotment than he could get in any other way, and they could lease their allotments for from \$50 to \$75 a year, and that was something, for after five years they would have the allotment with the improvements that the grafter would have to put on it, for he would have to improve it to make anything out of it, unless they were already on it, and he would have to leave them there anyway. I leased my allotment for \$75 a year, because I thought that was a very good price for it, for it was not improved. I took up raw land and it had to be improved.

Some of the Indians get good allotments, and some of them get sorry allotments. Some get fine surplus allotments and homestead allotments that are worthless. The grafter gets their restrictions removed and buys their surplus, and when they have to go and hunt up their homestead they find it is rocky, barren ground that is not worth anything at all, and then they do not have anything.

The Indian, when he gets his money from the grafter, is not apt to complain. As long as the grafter pays him pretty regularly, even if it is not much at a time, the Indian is not likely to complain. Where the Indian will make a kick is where the grafter, to get the lease, will say he will pay him \$100 or \$150 a year and makes the lease out for \$50 or \$75 a year, then the Indian will make a kick, just as anybody else would, and he goes off and makes a complaint about it at the agent's office, and then there is trouble.

There was a man over here the other day—one of the farmers that is always kicking about the grafters—and he came to one of my neighbors, whose name is Sam Simpson, and he said: "Sam, if you

will give me a lease on that land of yours I will take it and improve it, and in five years you will have nice improvements on it," and Sam said: "How much will you pay me for it?" and he said, "I will put these improvements on it for you." So he would not do any better than the grafter would, but he is going around kicking about the grafters. The fact is, every last one of them is a grafter if he gets a chance, and when they go around kicking about grafters it is because they haven't had a good chance to get in their own graft.

The only way, gentlemen, to get rid of these conditions is to remove all their restrictions—every one of them—wipe them all off at once, reserving only the restriction that they get their money for their land and that their homesteads are reserved also. I think that there ought to be at least forty acres reserved from sale or lease, so that they would have some place to go to, and forty acres is as much as anybody wants; at any rate, as much as any of the Indians want. If they will improve forty acres, it will make a good comfortable living for them down here.

The CHAIRMAN. Mr. Victor, it has been suggested that this estate that you referred to where the little children were not provided for—

Mr. VICTOR. Mr. Sampson's children?

The CHAIRMAN. Yes; it has been suggested by a gentleman, who just now came up here and spoke about it, that that estate was in a contest, and the whole thing is in the hands of the court, and the rents are paid into court, and that they can not be expended until that contest is disposed of. Do you know anything about that part of the matter?

Mr. VICTOR. No, sir; I do not know anything about that. I will say this, that I do not suppose, by a good deal, that all of it is in a contest. There may be a little of it contested, but I am sure that all of it is not contested. I understand there is some—I understand it was not the children's land but John Sampson's land that was contested, for I saw him the other day and he told me that he had lost out, and he had gone to the Choctaw Nation and had filed on some land there.

The CHAIRMAN. Do you know of any cases where the guardian and the grafter who leased the land were working together and dividing the spoils or profits?

Mr. VICTOR. I do not altogether understand that.

The CHAIRMAN. Did you ever find a case, or do you know of a case, where the guardian who leases the land and the grafter who gets the lease were working together and dividing the profits or spoils of the estate?

Mr. VICTOR. I do not know of more than one concern that I have understood does that, but I do not know that it does it. I only tell you what I have heard.

The CHAIRMAN. Speaking in a general way, the position of a guardian is in disrepute down here in this country or these nations?

Mr. VICTOR. I do not know how it is all over the Territory. I know it is considered a disreputable business in the Choctaw and Chickasaw nations.

The CHAIRMAN. It is in disrepute among the Indians?

Mr. VICTOR. Oh, yes; it is with everybody, the white people as well as the Indians. I think you have heard white men who have come before you and denounced it as bitterly as the Indians have.

The CHAIRMAN. That is the way it is universally looked upon down here.

Mr. VICTOR. That comes pretty near true, but there is a guardian now and then who does the right thing and looks after his wards all right. He does the best he can for them. Now and then you will find that kind of a man. I want to say this, that if a guardian comes in with a bill for railroad fare and hotel bills at \$2 a day he does not have any trouble in getting it approved, but if it is a bill for groceries or dry goods, or other necessities that he has got for his wards, he has a pretty hard time to get that approved. I do not know that there has been one account approved where the guardian was advancing \$5 a month and dry goods, and I know the children did get them—actually got them—I know that, for I went myself every month and got them. They are at my house now, going to school.

The CHAIRMAN. I want to ask you a question about the ability of these full bloods to make an allotment. Would you infer that these people who had lived here for a long time—who were born and raised here—would be familiar with all the land in their section, or at least in their neighborhood—would be familiar with that land to an extent sufficient to enable them to go and make an allotment for themselves?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. Would it not be reasonable to infer that when the time came for making allotments that they could go and pick out the land and make the allotments for themselves?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. And that they could do that without the aid or assistance of any grafter?

Mr. VICTOR. Yes, sir; they could if they were living in that country. Take the Chickasaws, who have always lived in this country. They went and selected their own allotments, for they knew the country and knew what they wanted. But take the Choctaws—the southern and northern ones, both. As a rule, they did not know anything about this Chickasaw country, and it was a natural thing that they should have some one select them. That is where the grafter got in his work.

The CHAIRMAN. Why did they come here and make their allotments? Was it because the land is better, or was it because it was represented to them that there was better land here for them?

Mr. VICTOR. Yes, sir; it has been represented to them that the land is better. Of course these so-called "grafters" had men running around all over the Choctaw Nation hunting them up and bringing them here, and that is the reason they came here. With regard to the land, I believe as a general proposition that the land in the Chickasaw Nation is better than it is in the Choctaw Nation. There is a lot of very good land in the Chickasaw Nation, and so there is in the Choctaw Nation; but on the whole I believe there is a great deal more good land here in the Chickasaw Nation than there is in the Choctaw Nation.

The CHAIRMAN. You think this is a better country than the Choctaw country is?

Mr. VICTOR. Yes, sir; I believe that the Chickasaw country, taking it all over, is a better country than the Choctaw is. I have lived in both and know them as well as anybody, and that is my opinion.

The CHAIRMAN. What is your occupation?

Mr. VICTOR. I am a farmer.

The CHAIRMAN. Where were you educated?

Mr. VICTOR. At Carlisle, Pa.

The CHAIRMAN. Are you a graduate of that school?

Mr. VICTOR. No, sir; I never took the finishing course. I left there before the examination day on account of my eyes. Although I had finished, I did not take the examinations.

The CHAIRMAN. Why did you leave?

Mr. VICTOR. I left there about three months before the time of the examination on account of sore eyes.

The CHAIRMAN. And you are cultivating a farm now?

Mr. VICTOR. Yes, sir.

The CHAIRMAN. How large a farm do you cultivate?

Mr. VICTOR. I myself cultivated this year about twenty-five or thirty acres.

The CHAIRMAN. What did you raise?

Mr. VICTOR. Corn and oats and sorghum, and such as that.

The CHAIRMAN. You have spoken about the Indians using the proceeds of their lands, if they were not restrained from doing so, and said that they had no "get up" to them, or something like that. What did you mean by that?

Mr. VICTOR. It is just about like this—I suppose in a general way that Indians are just about like white people. I think they are just about like white people. If you give some of them a thousand dollars a day, like lots of white men, they would not have a cent in thirty days.

The CHAIRMAN. Are you speaking of the full bloods?

Mr. VICTOR. Of both classes. When it comes down to business, I believe there is just about as many full bloods that are capable of doing business as there is of the mixed breeds.

The CHAIRMAN. Then your belief is that there are as great a proportion of the full bloods who are competent to do business for themselves as there is of the mixed breeds?

Mr. VICTOR. Yes, sir; I think there would not be much difference. For instance, if you take a thousand mixed breeds and a thousand full bloods, and take them just as they come and take the restrictions off them. I believe the full bloods will at the end of a year show up with just as much as the mixed breeds. These full bloods, many of them can not speak the English language, but they are capable of taking care of themselves all the same, and these people, if they had an opportunity to sell their surplus would, I believe, use their money to very fair advantage.

The CHAIRMAN. Why?

Mr. VICTOR. It would give them an opportunity to improve their homestead. On the other hand, the Indian who would not use his money to advantage in improving his homestead would not do it if he had a million dollars; so I say it does not seem to me to be any good putting these restrictions on his homestead, for if he is that kind of a man, the moment he gets his money out of his surplus he will "blow it in" anyway, whether it is rent money or money from the sale of it. They will do with it just the same as they did when the payments used to be made to them. The provident and careful ones took care of it and spent it to good advantage and the improvident ones "blew it in" as quick as they could. They would get their money one day and the next morning they would not have 5 cents. There are lots of whites just like that, too; so after all there is not so very much difference between an Indian and a white man. The mixed bloods will do that just as much as the full bloods will. I could never see much difference in them anyway.

The CHAIRMAN. Have the Choctaws a disposition to get up every day and go to work and till their land and try to raise a surplus of crops and sell it and save up money?

Mr. VICTOR. Some of them.

The CHAIRMAN. How many of them?

Mr. VICTOR. I would say 40 per cent of them would.

The CHAIRMAN. Do they do it now?

Mr. VICTOR. Yes, sir; they do it now.

The CHAIRMAN. Many of them?

Mr. VICTOR. Yes, lots of them. You have not been around much over this country, I guess. There are full bloods down here who have fine residences and as fine farms as you will find in the Territory.

The CHAIRMAN. Full bloods?

Mr. VICTOR. Yes, sir; full bloods. There is a full blood over here who, I understand, has between \$6,000 and \$7,000 in the bank at Medill. He is a full-blood Indian and he can neither read nor write, but he knows how to do business and save money. The officials tried to beat him out of it, but they failed, for he beat them. Now, that man is J. Hunter Pickens, and he is worth, I suppose, \$50,000 or \$60,000. He is not the only one, either, for a great many of the full-blood Indians are in good circumstances. All those who will let an opportunity pass them will never do any good. They are incorrigible, and you can not reform them by protecting them, and I think it is wrong to protect them at the expense of the community, for this protection, so called, is only a dream, anyway. It does not protect them. It is ineffective from that standpoint; for nothing can protect them from their own infirmities, and it retards the growth and welfare of the country. If their surplus lands were sold for them and the money kept so that they could not spend it and doled out to them monthly or quarterly, that might be of some assistance to them, and it would have the advantage anyway of getting some one on their surplus allotments that would do some good with them.

I am an Indian—more Indian than anything else—but I believe that this country ought to be permitted to advance, and a lot of worthless people of my blood should not be allowed to stand in its way. The good and progressive Indians—and there are lots of them—will hold their own, and the worthless ones will go down, and that is all there is of it. They are down—most of them—and this policy of protecting them does not tend to elevate them at all. If you keep on protecting them, they will not be one bit more capable of taking care of themselves fifty years from to-day than they are to-day. That is my opinion, and that is all I think I have to say.

Statement of Allen Wright, full-blood Choctaw Indian.

The CHAIRMAN. Where do you reside?

Mr. WRIGHT. Smithsville, Ind. T.

The CHAIRMAN. Of what nationality are you?

Mr. WRIGHT. I am a Choctaw.

The CHAIRMAN. What people, or class of people, do you represent in making your statement?

Mr. WRIGHT. The full-blood Choctaws.

The CHAIRMAN. You may proceed and make such representation as you desire.

Mr. WRIGHT. Mr. Chairman and gentlemen of the committee: I have come with my friend, Mr. Jackson, in the effort to look after the wants of our people. I represent the second district of the Choctaw Nation—seven counties of people, mostly full-blood Choctaws. In Meshaba County, where I live, I doubt if you could find more than 100 white families in the county. The county is 70 miles long and 50 miles wide. There are about 75 to 90 families of white people in the county. I was informed by the Indian agent during the last payment of town-site

funds that they paid out between 400 and 500 shares to Choctaws, which shows the population of that county.

The CHAIRMAN. How much would that show the population to be? Mr. WRIGHT. Each one gets his share. I suppose that in that area or radius of 25 miles around it would be about 500.

The CHAIRMAN. About 500 people? Mr. WRIGHT. Well, more than that. The children of the full bloods were not paid during that time and the reason why they were not paid by the Commission was this: Shortly after the probate matters were taken from the Choctaw court, the representatives of different companies, especially trust companies, and more especially a certain trust company of Atoka, sent out different agents. I could name some of them if necessary, some eight of them, some Choctaws by blood, and three white men. The principal man was A. C. Million. Another one was A. J. Walduck, of Ardmore, originally from Illinois, I think; and one was R. S. Allen, of Mena, Ark. These three men hired Indians, young men who could speak English, who went from house to house and got the names of the children that each parent had. The majority of the full bloods could not understand what they were signing. They had to sign by marks, witnessed by these men who were canvassing for those children's names, and by that means they gave what are known as "waivers" of the right of appointment.

The CHAIRMAN. An instrument waiving their guardianship rights as parents of the children?

Mr. WRIGHT. Yes. By that means the parents were deprived of control of the interests of their children. And therefore when the parents came along, they did not draw the money for their children. In fact, a great many of them now are nearly starved to death, and the trust company at Atoka has failed to pay out the money that was due to those children and some of them died without attention, some orphan children.

The CHAIRMAN. In cases of that sort, why is not complaint made to the court to see that the guardians appointed by the court perform their duty under their oath and bond? Guardians are regularly appointed by the court, are they not?

Mr. WRIGHT. Yes. They have applied to the courts. The attorneys for the nations, on probate matters, McCurtain and Hall, prosecuted this man A. C. Million and others, and in the meantime these parties showed that they had received waivers from the parents to the trust company and the trust company has made a contract with two men whom I know; one is Henry Sangwin and the other man is Peter J. Hudson, of Tuscahoma, Ind. T. These parties made application for appointment as guardians over these children, but it seems the parents made complaints to Mr. Hudson and Mr. Sangwin, and it seems that Hudson and Sangwin have no power to send money for those children, because the trust company has control of the money.

Senator CLARK of Montana. What is the name of that trust company? Mr. WRIGHT. The Southern Trust Company.

Senator CLARK of Montana. In Atoka?

Mr. WRIGHT. Yes, sir.

Senator TELLER. Are they the recipients of the money?

The CHAIRMAN. Is the money deposited with the trust company?

Mr. WRIGHT. Yes.

The CHAIRMAN. The money so deposited is subject to the order of the court, is it not?

Mr. WRIGHT. I merely wanted to show why the children were not paid, and the reason I wanted to show that is this: The parents, a great many of them, are able to take care of the children, but unknown to the parents these grafters have—

The CHAIRMAN. I will guarantee that if the parents will go into court the court will set aside that action.

Mr. WRIGHT. There are several cases like Mr. Hudson's case. He is guardian over, I think, some seventy-five or ninety children.

Senator TELLER. Is he a square man?

Mr. WRIGHT. I suppose so. I know he is a good man.

Senator TELLER. Then why does he not go into court and get an order on the trust company to pay this money out for the benefit of the children? Congress has not any control over that matter.

Mr. WRIGHT. I know that. I only wanted to show how it was that it was done.

Senator TELLER. We have trouble enough already without going into that. It is easy for the parents or the guardian to go into court. If the guardian does not do it, the parents can do it.

Mr. WRIGHT. Another thing I want to say to the committee is that a great many Choctaws over there, when the land office was open, were not able to go to it because it was more than 90 miles away.

When I got to Atoka I found that all Indians that I thought were not able to travel, on account of lack of money, had been carried over there through this town (McAlester). They went to Hatfield. What are called "land grafters" took a carload of Indians from Hatfield to Howe, and from here to Atoka, and another carload from another direction coming up by Durant to Atoka, and lined them up there.

These grafters, Roach & Co., of Mena, and others, go to Mr. Johnson, who has six children and his wife, and tells them and others over there, "I want you to file on that land; I will give you \$10 for a quarter section; I will give you \$25 for the whole allotment and I will pay your way to Atoka and back." That is the way they went over there—a carload of Indians. But, lo and behold, the land was held up at that time, and another grafter got hold of the same parties and carried them over to Tishomingo and they filed homesteads and surplus land. They could not apply for surplus until they filed homesteads first. And nearly all filed for allotment in the Chickasaw Nation.

The CHAIRMAN. To what does all this tend?

Mr. WRIGHT. The point I wanted to present to you is this: Living in the Choctaw Nation, just as soon as they filed their land in the Chickasaw Nation they make a contract for five years and take \$40 or \$50 for a full allotment, but oftentimes the parties refuse to pay.

They may pay \$25 or \$12.50 or whatever they have a mind to.

The CHAIRMAN. What is it that you want to have done?

Mr. WRIGHT. I want the law repealed which prohibits the full bloods from leasing the land.

The CHAIRMAN. You want to be allowed to lease the land?

Mr. WRIGHT. Yes, sir; only reserve 40 acres in homestead.

The CHAIRMAN. You want them to be given liberty to lease their surplus land and all their homesteads except 40 acres?

Mr. WRIGHT. Forty acres.

The CHAIRMAN. What do you say about the sale of it?

Mr. WRIGHT. There was a family living near Smithville who had surplus land near Ardmore, and some near Cornish, and they wanted to move over there and live on their own land. A man named Cobb had leased it from those parties. Mr. Cobb tells these people: "I leased from you for five years; it is now three years, and if you want to take possession of your land in the Chickasaw Nation you can pay

me \$200 down and you can have the place and the improvements I have made."

In order for the full blood to live on his homestead, he ought to have 40 acres reserved from leasing or sale, so that he could live on it.

The CHAIRMAN. Then your idea is that, so far as leasing is concerned, the full bloods should be allowed to lease everything, including the surplus, allotment, and homestead, except 40 acres?

Mr. WRIGHT. Yes.

The CHAIRMAN. Is there anything you wish to say regarding these lands?

Mr. WRIGHT. There is. As to restrictions, I think that they ought to be removed from surplus lands of the full bloods for the reason that the majority of the people are land poor. This could be done with the understanding that supervision could be exercised by either the court or the Government to look after the interests of the full bloods.

A great many deeds have been signed by Indians—full bloods—who did not know the contents of the deeds, and so gave their title away.

The CHAIRMAN. Then your view as to that is that the restrictions on the full bloods should be removed as to surplus, and they should be able to sell that surplus under conditions such as would enable it to be honestly sold?

Mr. WRIGHT. Yes.

The paper presented by Mr. Wright is as follows:

"GENTLEMEN OF THE UNITED STATES SENATE COMMITTEE: The subject that has been assigned to me by those interested in the welfare of the Territory and its people is one to which I have given serious and solicitous consideration. Affecting, as it must, the future well-being of the Indian, it is calculated to arouse the sober reflection of any person who has the welfare of his people at heart. I have often asked myself the question whether it was better to remove every restriction from the land of the Indian and place him on an equal footing with the other citizens of this country, or should the restrictions now thrown about him and his property be permitted to remain. I have tried to free myself from any bias or prejudice in considering the question and to look at it from the standpoint of a person interested in the success of this country and at the same time mindful of the Indian and his condition as I know it. The first plan, that of removing every restriction, has many things to commend it and is worthy of serious consideration, and while it would probably advance the material interests of the country to a great degree, it might do so at the expense of many ignorant and uninformed Indians—a result to be avoided. The second plan—that one now in operation—also has many things to recommend it, and if it accomplished the purposes for which it was adopted, that of benefiting the Indian, should be carried out. But those of us who are acquainted with the conditions of the country and know the prevailing circumstances among those Indians whom it is sought to protect realize that the placing of restrictions upon the land of the Indians is a detriment rather than a benefit. I am informed that this subject has already been presented to you and in a manner far better than I am capable of, and what I shall say to you will be by way of supplementing what has already been said, and I shall only briefly take up the question of the removal of restrictions upon the surplus allotments of the Choctaws and Chickasaws.

"In these two nations each citizen, as you are aware, has received as his or her allotment 320 acres of average allottable land, one-half of which, or 160 acres, is the homestead. And if we take the average family of five, consisting of husband, wife, and three children, those five persons are the owners of 800 acres of land, which is homestead land and can not be disposed of during the lifetime of the allottee, not exceeding twenty-one years, and 800 acres of surplus land. If the head of the family has accumulated enough of means to properly improve the large amount of land of himself and family, it is safe to assume that he will be abundantly able to take care of himself and his property under any state of affairs whatsoever; but if, as many of the Indians are, he is unable to improve and properly cultivate the land of himself and family, then this large acreage of land is useless to him, and in its unimproved state a serious drawback to the advancement of the country. Without means and unable to use his land as collateral with which to procure the means, his land lies idle or he is forced to lease it at a disadvantage in order to derive any income from it whatsoever. Those of us who are acquainted with the lease system as practiced in this country know that such a system is a fraud upon the Indians and a curse to the country. The majority of these leases are held by a class known as grafters, whose one aim is to secure all the land they can at the lowest possible price and sublet it at the highest price obtainable, without any thought or care as to the future condition of the land. Before the legislation passed by the last Congress the favorite plan was to lease the allottee's land for a period of five years, paying a small amount as part consideration and agreeing to place substantial improvements on the allotment as a further and the moving consideration. The improvements placed thereon, as a rule, are of such a character that at the end of five years they will be worthless and the allottee will be in as bad a condition as when he made the lease, as far as improvements are concerned. The class of subtenants who are willing to subrent these leases are not the kind of farmers who build up a country, and generally such subtenants are of the same stamp as the man from whom he subrents.

"The honest farmer who will improve and build up this fair land of ours and become a useful and substantial citizen of the State will not put forth his best efforts under such conditions. He will have none of the grafter or his questionable holdings, and until it is possible for the better class of farmers to come among us and own and improve the land of this country the country's progress must be at a standstill. We can never build up such a State as we should, and will if given the opportunity, under such a condition as prevails here. A State founded upon a system of tenancy will never develop into a prosperous State. To obtain the results that the country is capable of we must make it possible for the honest farmer to come here and obtain title to the land, and whenever it is possible to acquire good title to property we will have well-improved farms and a substantial class of citizens, instead of poorly improved farms put in under leases and the floating population which follows.

"If the allottee had the right to sell all of his surplus, I believe that both the Indian and the country would be materially benefited. The reason for this assertion, in addition to what has already been stated, is this: There has been given to each Choctaw and Chickasaw allottee, with the exception of freedmen allottees, land valued at \$1,041.28. The land was appraised at from 25 cents per acre, the lowest value, to \$6.50, the highest value, and the allottee who selected 25-cent land has received or will receive 4,165.12 acres of land, one-half of which, or 2,082.26 acres, is his homestead. The allottee who has selected the highest-priced land has received 160.19 acres, one-half of which, or 80.9

acres, is his homestead, and if he has selected average land he has received 320 acres of land, of which 160 acres is his homestead. If the Indian will cultivate well his present homestead allotment, even though he has only 80 acres, his condition will be far superior to what it is today. If the restrictions are removed, then it will be possible for the honest farmer to deal direct with the Indian and to improve a farm which will be an example to his Indian neighbor.

"The idea that prevails throughout all legislation regarding this country has been the protection of the Indian and the full-blood Indian rather than those of a lesser degree of Indian blood, and while I do not wish to be understood to question the motives which prompt such a spirit, it occurs to me too great a protection, too much paternalism and sentimentality might be of more harm to the Indian than good. New conditions now prevail, and new methods in meeting those changed conditions must be inaugurated. From a citizen of a small nation, holding his land in common with the other citizens of the nation, he has become a citizen of a great State to be, owning in fee the land allotted to him; one of the citizens of a great nation, enjoying greater privileges and having placed upon him greater responsibilities. The sooner he appreciates those changed conditions and realizes that he is only one of many individuals that go to make up the citizenship of the country, the sooner will his future be solved. I believe that the Indians of the Choctaw and Chickasaw nations will meet those conditions as they should, and if the restrictions upon their surplus allotments are removed and they are placed upon an equal footing with other citizens as regards that part of their property, that they will prove themselves worthy of the confidence reposed in them. And I do not share this opinion alone. The governor of the Chickasaw Nation, a man who has been the chief executive of his nation for three terms and who has the interest of his people at heart, and who is thoroughly familiar with their condition and standing as citizens, has every confidence in their ability to meet the new order of things, and so expressed himself in his last message to the legislature. True it is among the Indians there are many who will dispose of their land at the first opportunity and will squander the money that they receive for it, but I maintain that the restrictions that are now placed upon the land does not benefit this class of Indians. You can not any more successfully control by legislation a person's propensities to squander his substance than you can control by legislation his appetite for intemperance.

"Anyone who is acquainted with the class of Indians who would thus throw away their property will bear me out in the statement that this class will in some manner succeed in getting rid of their property. If they can not sell it, they will lease it for a mere pittance, and if they can not lease it they will enter into some sort of a contract, greatly to their disadvantage, in order to obtain a small amount of money. This class, which I believe forms a very small percentage of the Indians of these nations, and which are to be found in every race of people on earth, you can not protect, and the restrictions now on their lands only serve the purpose of checking the great majority of the Indians who wish to progress, retarding the growth and advancement of the country and at the same time giving the grafter a better chance to drive a better bargain. In other words, I believe that the restrictions upon the surplus allotments benefit only the grafter at the expense of the Indians and to the detriment of the country. But, as said before, I believe that the class of spendthrift Indians form a very small percentage, and I am firmly convinced that the great majority will appreciate the value of their land and if they sell will receive the full worth.

"There is still another argument, it seems to me, that might be urged in favor of the removal of restrictions upon surplus lands in these nations. We have just been granted the right by Congress to form a new State, under whose government, when formed, must live both the white man and the Indian. With this great privilege must also come great responsibilities and burdens. One of the heaviest burdens that must fall on the citizens at the very beginning will be the burden of taxation. The expense of State, county, and municipality must be met.

"As long as the land is bound down by restrictions and in the hands of the allottees it can not be taxed, and if the taxes can not be raised on real property then it must be levied on personal property, and will fall with equal force on the Indian and the white man. The more progressive and thrifty the Indian is and the more personal property he has acquired the heavier will be his taxes, while the Indian who has no property except his allotment is free from taxation. It is human nature to love and respect an institution to which we contribute more than to an institution to which we do not contribute, and if the Indian contributes to the support of the school, to the expense of the county, and to the maintenance of the Government, then he is going to feel an interest in that school, the affairs of the county will concern him, and he will honor and respect his State and its institutions and become a useful and positive citizen. No State can attain a greater height in the character of its citizenship than the character of the individuals who compose it, and if we are to take our proper place among the other States of the Union then must we bring the individuals of the State to a proper realization of the duties and responsibilities of a citizen of the State, and this can be best brought about by creating in the individual an interest in the affairs of the State. I for one, and I think a majority of the Indians who think about this question, do not want to shirk any of the duties that I owe my State as a citizen if I am to share equally with the other citizens of the State in the benefits to be derived from the State.

"In conclusion I will sum up what I have endeavored to say in this: I believe that the present and future interest of the Indians will be best subserved by a removal of the restrictions upon surplus allotments, and that without this the Indian will be more harmed than benefited and the progress and advancement of the State will be retarded.

"Respectfully submitted.

"ALLEN WRIGHT."

Statement of John Bullette, one-fourth Delaware Indian.

The CHAIRMAN. Are you a Creek Indian?

Mr. BULLETTE. No, sir; I am a Delaware.

The CHAIRMAN. Where is your residence?

Mr. BULLETTE. Claremore, Ind. T.

The CHAIRMAN. What is the quantum of your Indian blood?

Mr. BULLETTE. About one-fourth.

The CHAIRMAN. I do not know that we have any particular object in questioning you, but it occurs to me that I would like to have your views on the question of the restrictions.

Mr. BULLETTE. Well, Senator, I would like very much to oblige you, if I am equal to the occasion.

The CHAIRMAN. You can state your views.

Mr. BULLETTE. Yes, sir.

The CHAIRMAN. Do so, please.

Mr. BULLETTE. Gentlemen, you have before you one of the most important questions that ever confronted the Senate of the United States or the people of this Indian country. It is too deep and intricate and involved a proposition for you to undertake to settle in the next thirty or forty days. It will take more time than that if it is to be settled properly. I am, indeed, proud to say to you that it pleases all the people of this whole country who have the true interest of the Indian at heart to see the zeal and interest you have displayed in trying to get at the bottom of that question. I am an Indian, and I have thought a great deal over it, and yet I don't know that I have an opportunity to talk to you—I don't know where to begin on the question.

In the first place, there is a conflict of ideas among the people about this matter. There is a conflict of ideas among the people, both white and Indians, and this being the case I don't wonder that Congress has not been able to settle the question satisfactorily, for how can Congress be expected to solve a question that the people have not been able to settle among themselves as to what should be done. This accounts for the confusion of the past twenty-five years in Congress in attempting to legislate on this question.

To my certain knowledge—and I state it right here before Senator TELLER, who has been in the Senate for all that time—I say that for twenty-five years the only thing that Congress has been consistent about in the matter of legislation for the Indians has been the determination to make them citizens of the United States, and that they have accomplished as far as it can be accomplished on paper. They have enacted it into a law, but many people (Indians in the Territory) can't see that it has done them any good, for it has conferred on them the obligations of citizenship, and the way it is enforced is a practical denial of the most sacred right known to the individual—the right to dispose of or do with his property as it pleases him.

Yes, gentlemen, you have argued and your predecessors have argued for twenty-five years in the halls of Congress about these people, and the pendulum of legislation would swing this way and it would swing that way and then swing back again, but the only thing you followed consistently was the effort to make citizens of the people of this Territory. But enough of that.

In answer to your question, I will say that the people, taken as a whole, of the Five Civilized Tribes are as capable of taking care of themselves as any similar body of people anywhere on earth. Of course it is said that there are incompetents among them. Of course there are. Who denies it? Where is the body of people on earth that does not contain its portion of incompetents? Of course these people are competent, else you would not have made them citizens. I know of my own certain knowledge that Senator TELLER has stood in his place in the Senate and stated the Indians were incompetent and inefficient, and opposed every argument that was made in attempting to prove them to be competent; but the proofs accumulated, and at last became so convincing that he was satisfied that they were just as capable of caring for themselves as white people were, and he so stated. I repeat here that, as a nation and as a body of people, the majority are capable, and in this, as in all other instances, the interests of the majority must be first considered. The wishes of the majority should be considered, and that was the right view that was taken of it by Congress, and so were made United States citizens. A dissolution of our tribal form of government in its entirety was brought about, and the result is that the nations as heretofore constituted have practically ceased to exist. It is only the ragged and incompetent ends of these little nations that are telling you to-day that they are helpless and unable to stand alone.

Now, the question has come down to this: You can not deal with us in a body; you can not deal any longer with us as nations. We are citizens and you have to deal with us as individuals. Each and every man stands on his own bottom now in this country, and you have to deal with each one individually. You are here seeking information that will act as a guide to you in your future legislation. With that end in view you are inquiring of individuals as to their opinion about the policy to be pursued. I am one of the individual units that appear before you, and you inquire of me for my opinion. You want to know what my observation has taught me and how I look at things and understand them.

Now, gentlemen, in my humble way I have been thinking these matters over, and the question has occurred to me time and time again. What shall be done with these people? What will ultimately become of them? You use the term "full bloods" frequently here, as if that expression indicated a uniform, separate, and distinct class. It does not indicate any such thing. There is just as much difference between full bloods here in the Territory as there is between white people and full bloods. You will find that the extremes of intelligence and ignorance meet in them as perfectly as it meets in the whites in any community anywhere in the older States. In every community in these States you will find men of great intelligence and acumen and you will find men steeped in the most profound ignorance, and so it is with the full bloods. Now, I ask, are you going to deprive these intelligent full bloods or mixed bloods, whichever they may be, of all their rights to freely transfer and dispose of their property because it happens that there is a portion of the community who are ignorant and incapable? You might just as well proceed on the theory that a white man is unable to properly transact his business because one-half of him is Irish and the other half Dutch. It would be just as reasonable to deny him all the rights of a citizen as it is to deny the intelligent Indian the full rights of a citizen because half his fellows are less capable than he is. It may be contended that this is a far-fetched comparison, but I contend that the simile is just as reasonable. I contend it is exactly similar in the case of the full-blood Indians.

This matter of ignorance in the full-blood Indians is something that is largely injected into them by people who have an ulterior object to serve. It is true that there are sections in which the ignorant class largely preponderate, but, on the other hand, there are sections where the full blood is intelligent and fully able to cope successfully with any grafter that ever attempted to make him a victim of his wiles. Ask some of the grafters if that is not so; if they have not encountered some of them and came out of the fray wearing visible marks of the combat—financially, if not physically. [Laughter.] Speaking of grafters, I want to say that some of the dirtiest and most skillful of the grafters that ever operated in this country are found amongst the ranks of these same full bloods. Depraved and vicious in every instinct, they serve as the tools of their white coadjutor, who sends them out all over the country to seek out and work upon the ignorance and weakness of their fellows, and worthy they have proven themselves to work in conjunction with their white brother grafter.

The white grafter in this country knows that class of people. He knows how to get them and how to work them to the best advantage. They seek out these depraved and degraded beings, and they are the ones that ought to be made to suffer. That class of full blood deserves no protection from any source. They should be made to work—on the rock pile, if necessary. Some have argued there that the full blood should be allowed to sell his surplus—well, I'll go further and say that, in my opinion, if he is intelligent enough to sell his surplus, he is intelligent enough to sell his homestead, too. There are many such. They need no homestead, for they live in town most of the time, and, as far as a homestead is concerned, he has no earthly use for it. Well, there you have him and it is easy to dispose of him. Put him on an equal footing all along the line with other citizens and let him find his level. Put him on an equal footing with other citizens in every respect.

Again, here is the full blood down here in the hills. He has got an allotment out here on the prairie where he never was before. He never saw that allotment before in all the days of his existence in this nation. He comes up here to town. He meets with a full blood grafter, or it may be a white grafter—it don't matter much which it is—he is sure to run up against him. That is before he has made his allotment, and they take him out and show him a piece of land, and then they pay his expenses down to the land office and file on it. Lots of them do that without ever seeing the land. Now, that Indian don't want that land. He has never had any use for it. He had no use for it before and has no use for it now; and the grafter who took him out there and down to the land office to file on it and paid his expenses, and gave him a dollar or two in addition, knows that he can get that land as soon as that Indian is in a position to transfer it. He is just about as sure of it as if he had filed on it in person; and, as a matter of fact, the grafter is the fellow that is reaping whatever benefit there is in it to-day. He may be agreeing to pay him some rent for it and the Indian might be expecting it, but he offsets the rent by some improvements he is supposed to put on the land and which he may or may not be putting on it, but the result is the same—the Indian gets nothing.

That is the full blood now I am talking about, and the land the Indian has is his surplus, for he has his little homestead back there in the hills, and even that he won't improve. It is more land than he needs and more than he will ever use. He has been there for fifty years, or his people have been ever since this Cherokee Nation has been here, and that is where his family have grown up. He has been down there in these hills, and on that patch of ground he has raised a family of five or six or eight children on a patch of 20 or 30 acres of land. He has taken his homestead there, and that is his homestead, and that homestead is going to keep him just as he has been kept, and that is all he desires or wants. You can't persuade him to come out of these hills and live on this selection you have made for him elsewhere. He is attached to the section and knows every hill, spring, stream, and tree; and his attachment is strong for all these scenes and associations, and nothing you can do will persuade him to leave them. There is where he will remain despite any inducement of love or money. He will not sell his homestead even after the restrictions are removed unless the grafter comes around and induces him to do so, but that is not the kind of land the grafter is after; but if he should come around the Indian would probably sell; but they should not be removed. The point I make is that there should be discrimination, and that it should not be stipulated or declared that all full bloods are incompetent because some are incompetent, any more than all white men should be condemned as incompetent because of the manifest incompetence of some of them. Now, let us see about what they are worth—at the rate of \$4 an acre—they have 120 acres. Is that right?

The CHAIRMAN. Yes.
Mr. BULLETTE. And if it is one or two dollar land—and that is about the kind of land it is down in that country—that would give them about 60 acres for a homestead. Now, figure the amount of land a man and his wife and three or four children would have. Why, there are more than 250 acres that that family would have, and they would never sell any of it, for it is their homestead, the place of their birth and raising, and to which they are strongly attached. Now, it is simply nothing more nor less than an outrage to deprive him of the power to sell the piece of land he has up here in the country, out on the prairie—his surplus—land that he has no possible earthly use for, on which he will never live, which he will never improve, and never will derive any benefit from unless he sells it, even if he was able to do it.

The Cherokee people monopolized this whole country as public domain before the white people came in here, and yet during all the long years that they monopolized it they did not improve it and never derived any revenue from it, and there were many thousands and thousands of acres of it. That includes all this magnificent land, the best in the nation. This magnificent kingdom was public domain, and yet we did not utilize it, but kept our homes in the hills and let it all run to waste, as far as any profit realized from it was concerned. Now, are you going to restrict him from selling this land that he can't improve? Are you going to prevent him from selling this land that he can't use and take the money derived from it and apply it to the improvement of this homestead in the hills that he should improve and cultivate? If that is to be the policy of the Government, I don't think it is a consistent policy. If you are going to protect the individual, that is the way to do it. That is the only plan that will ever work out satisfactorily for the Indian and the country both. The only way is to take up some plan along the lines suggested by Mr. Hodge and carry it into effect.

I want to impress upon you Senators that the word "incompetent" has not always been explained perfectly by people who have appeared before you, and who apparently knew very well what the information was that you gentlemen wanted and the end you were trying to reach. I want to impress upon you that we are desirous of protecting every person who really needs protection, to the extent that he is worthy of protection. A person who is not competent to dispose of all his property as he sees best, is certainly not competent to retain more of it than is necessary for his absolute wants to keep him from poverty. More than that would be useless to such an individual, and he should not be protected in the possession of any more than that. We believe that every full blood, it is no matter how improvident or incompetent he is, should be protected; but we do protest that the mantle of protection should not be thrown about every full blood, because, forsooth, some are incompetent; but so far as the majority, who are competent, we protest that we should be allowed to do and transact our own business in our own way. No doubt if that is permitted many will make sad mistakes, for the wisest men make mistakes. Mistakes are unavoidable, and the man don't live, and never has or will live, that won't

make any. So remove the restrictions from us and let us be free to transact our business as a white man transacts his business.

The CHAIRMAN. Then I understand your view to be the same as Mr. Hodges's?

Mr. BULLETTE. Practically the same as far as the individual full blood is concerned; but, according to my idea of it, you have got to deal with each person individually.

The CHAIRMAN. That is, consider each individual case separate and apart from the others?

Mr. BULLETTE. That is my idea. You can not deal with sections or factions at all.

The CHAIRMAN. As I understood Mr. Hodges, that is exactly his view of it.

Mr. BULLETTE. Yes, sir; that is my idea. You have to deal with us one by one. We have passed the time when you can deal with us or protect us in a body.

The CHAIRMAN. Let me see if I get your idea. From what you have said I am not sure that I catch your idea. According to your idea the homestead of the full blood should be absolutely exempted from sale?

Mr. BULLETTE. Yes, sir; and in that connection I might use the word "indefinitely" exempted.

The CHAIRMAN. And your view is that so far as his surplus is concerned he should be allowed to go before some duly constituted authority, board, or tribunal and establish his competence and be allowed to sell, or conditionally to dispose of it, whichever you choose to call this authority, and on a showing of his competence be allowed to sell his surplus as he pleases. Is that your idea?

Mr. BULLETTE. Yes, sir; and let that tribunal or commission instruct some person to see that it is sold—to make the arrangements and submit them to the board, and after it is sold have that person instruct that Indian or consult with that Indian as to what disposition shall be made of the proceeds in improving his homestead; or better still, let that person—not the Indian—go ahead and make the permanent improvements on the homestead of the Indian, and what other improvements that are needed to improve his physical condition; for it is a sure thing that an improvement in a man's physical surroundings is always followed by a corresponding improvement in his moral and mental make up. Comfortable surroundings of a physical nature always tend to a better moral and mental standing, and I know of no better way to lift these Indians to a higher plane and a better way of life than that. It will preach with more force to them by its example than all the words that can be uttered.

The CHAIRMAN. That is all very well, as far as it goes, but it is a theory, for there might be many difficulties in the way of carrying out that plan, but let that go.

Mr. BULLETTE. It occurs to me that there would not be any particular difficulty in carrying that plan out.

The CHAIRMAN. What would you say in regard to the removal of restrictions from the half breeds or mixed bloods?

Mr. BULLETTE. There are some of the mixed bloods who need the protection of the Government in the matter of restrictions, but on the other hand there are a great many that do not need it and do not deserve it. They should be put on an equality with the white citizens of this country in all respects and made citizens in every respect; and if they are improvident and lose their substance that is their misfortune just as it is the misfortune of a white man to lose it. If they are improvident and wasteful, I believe they should not be protected, but that the very best thing that could be done for them would be to let them get away with what they have got, and then let them go to work. That is the only way that most of them will ever be made to do anything.

The CHAIRMAN. Then you make no distinction between the surplus and homestead of the mixed bloods?

Mr. BULLETTE. No, sir; I do not.

The CHAIRMAN. You put it all together?

Mr. BULLETTE. Yes, sir. It all goes in the same lot. Take the restrictions off all of it. If a man is a United States citizen and otherwise qualified, let him take his luck with the balance of United States citizens. I do not see what occasion or principle requires the Government to give him any more protection than any other United States citizen. I can't see how it would be any advantage to him to restrict him from selling his homestead any more than his surplus.

Senator TELLER. You say if he is a United States citizen he should share in the fortunes and treatment accorded to all citizens?

Mr. BULLETTE. Yes, sir.

Senator TELLER. The most ignorant full blood in the Territory is also a citizen of the United States?

Mr. BULLETTE. Yes, sir.

Senator TELLER. I will take this occasion to correct you about one thing. I never was convinced by any argument that ever was produced to me or from anything that I have seen that this allotment system was a wise thing for the Indians; and I never was convinced that it was a wise thing that the full-blood Indians were made citizens. I have always voted against it whenever I had an opportunity to vote. I have been opposed to it all the time and have always voted against it, no matter in what shape, form, or manner it came up. I have never knowingly voted for anything that had a tendency in the direction of conferring citizenship upon the Indians as a race. I believe, as you do, that while there were thousands of Indians that were capable of becoming citizens, there were many more thousands that were incapable of becoming citizens, and for that reason I have always been against the extension of the franchise to the Indians as a race.

Mr. BULLETTE. I do not remember that you acquiesced or consented to it, but I made that reference only from the fact that the policy of the Government has been carried out, and these treaties have been negotiated and acts of Congress passed that at last brought it about, and I assumed that you acquiesced.

Senator TELLER. Congress was unquestionably convinced at the time that act was passed that allotment and citizenship would be beneficial to the Indians; they also became convinced beyond question that by conferring citizenship on them they were conferring a favor. My contention was that when we did that we practically abandoned all control over the Indian only so far as the control over his lands was concerned, and we reserved the right to retain control over the disposition of his land in these treaties that were made.

Mr. BULLETTE. You will admit that the effect has been to make them citizens of the United States?

Senator TELLER. Yes; I am indeed sorry to say that I admit it. I think that was the very worst thing that ever was done for the Indian. I never had any other thought, and I always opposed it in every way in my power, and I will say further that neither on this trip nor on any other occasion since those laws were enacted and went into effect

have I seen anything that would cause me to change that opinion. Indeed I am more firmly of the opinion that I was right, and when I say that I mean the opinion that the worst calamity that has ever overtaken these Indians has been this one of citizenship and the consequent division of their estate into allotments to the individuals.

Mr. BULLETTE. That policy has been carried out and is being carried out, and you will admit that there are many of us who are as intelligent at least as the average white man, and fully as competent to carry on business as is a white man.

Senator TELLER. I have already admitted that, but unfortunately, in my opinion, there are many more who are not.

Mr. BULLETTE. That is our misfortune and we can not help it, but because some are poor and ignorant and incompetent I do not think it is fair to wrap all who have Indian blood in their veins in a blanket and adorn them with paint.

Senator TELLER. I am not doing that. I am ready to give every Indian credit for everything he possesses in the way of intelligence and educational accomplishments. I have expressly stated that there are thousands such. Understand me, I am ready to admit that every Indian citizen has just exactly the same right to control his property (and that includes his land) that I or any other citizen has. I believe as a matter of fact and law he should and does possess that right unrestricted and untrammelled, and I do not believe the Government can make any distinction. I believe that when the Government has once made, issued, and delivered these patents with certain restrictions in them the land has passed absolutely out from under the control of the Government, save only what is expressed in the patent, and that any other attempt at restriction will fall so far as it attempts to control the citizen. In other words, I believe that the land is still under our control, notwithstanding the fact that the people who hold it are citizens, the control being in the land and not in the citizen.

Mr. BULLETTE. Well, you will admit you are equal to the question of protecting the Indian if you see fit to pass such laws as you can pass for his protection?

Senator TELLER. I do not know about that, either. That remains to be seen.

Mr. BULLETTE. There must be some way of protecting the full-blood Indian who is deserving of protection.

Senator BRANDEGEE. Do you agree with the last witness, Mr. Brown, who averred that the education received by the young Indians has not availed to make them competent to manage their affairs?

Mr. BULLETTE. Well, there is such a difference—

Senator BRANDEGEE. Did you hear what he said on that matter?

Mr. BULLETTE. I do not know that I did.

Senator BRANDEGEE. He stated substantially that the education received by the young Indians was of such a character that it practically was of no value to them in the way of instilling ideas into their minds that would avail them in looking after their property. In other words, he stated that the education received by the younger generation of Indians rendered them no more capable of taking care of their affairs than their fathers had been before them.

Mr. BULLETTE. Well, I do not know about that. I know a great many educated people, whites as well as Indians, that are very incompetent in handling business affairs.

Senator BRANDEGEE. He stated it to be true as a whole. That it was the almost universal rule.

The CHAIRMAN. I understood his statement to be that the younger element were no more capable than were the Indians of forty or fifty years ago.

Senator BRANDEGEE. That is what he said. What do you say to that?

Mr. BULLETTE. I would not like to indorse that in its entirety. I think we have advanced some. It would be a sad thing indeed if we had not.

Senator BRANDEGEE. Then you think there has been some progress?

Mr. BULLETTE. I do; yes, sir.

Senator BRANDEGEE. To what extent?

Mr. BULLETTE. Well, I can not say; but there certainly has been some.

Senator BRANDEGEE. You think it has been slight?

Mr. BULLETTE. No, sir; I can not say that it has. Young men are proverbially improvident. That is a peculiarity of the white race as well as the Indian. Young men will sow wild oats; but many a man who is wild and improvident in his youth settles down into the staid and good business man. I have seen such—white and Indian both. I do not want to differ with Mr. Brown. We may both be right. He represents a different race of people from what I do. I can only speak in a general way and state what I know of my own section of the country. I believe in our section of country the more education and experience our young men have the better business workers they make; and I believe as they are educated they become more and more inclined not to indulge in bad habits, and they get more or less touched up with refinement or refined ideas in a great many ways.

Senator BRANDEGEE. I understand you to say that you favor the removal of all the restrictions on the whole class of mixed bloods, both as applied to their homesteads and surplus?

Mr. BULLETTE. Yes, sir; that is my idea of what ought to be done.

Senator BRANDEGEE. Would you remove the restrictions that exist upon the homesteads of the mixed bloods?

Mr. BULLETTE. That is my notion, that the whole thing should be removed. I do not know that I would insist upon it, but I do not know of any good reason why it should not be done. I am one of them myself, and since I am a citizen of the United States I do not know why I should enjoy any special favor or be subjected to any special restriction. I put it on that ground more than anything else, for I believe that all citizens ought to stand on the same footing and there should be no special favors or restrictions. That would apply also to the full bloods, but in their case there are special circumstances applying to many of them that take them out of the operation of the rule.

Senator BRANDEGEE. Then I understand you are in favor of removing the restrictions from the homestead as well as the surplus?

Mr. BULLETTE. Yes, sir.

Senator BRANDEGEE. Would you do that without any examination into the competency of the individual?

Mr. BULLETTE. No, sir; I do not think so. I would want an examination to be made of him.

Senator BRANDEGEE. Then you do not believe in the removal of these restrictions upon the mixed bloods as a whole without first having an examination held as to their capacity to transact their business?

Mr. BULLETTE. No, sir; not off their homestead without an examination as suggested by Mr. Hodge.

Senator BRANDEGEE. But you would remove it from their surplus without such examination?

Mr. BULLETTE. Yes, sir.

Senator BRANDEGEE. Then you would want an examination to be held as to the competency of the individuals when removing the restrictions off the surplus of the full blood and the homestead of the mixed blood?

Mr. BULLETTE. No, sir; I should insist upon the removal of the restrictions on the surplus of the mixed bloods without any examination and on their homesteads after examination, and the sale of the surplus of the full bloods after examination, and absolute restriction on the sale of the homestead. I make that distinction for this reason, that there is a wide difference in the condition of these people. Some of them live out in the country or in remote parts and hardly ever see a town, while others live in the towns and never hardly see the homestead. Many of them are in the towns and engaged in different lines of business, and they might use the money derived from the sale of their surplus lands in business, and so they might of the homestead, but the sale of the homestead is a more particular matter, and when a man makes application to do that I would make it the subject of a strict inquiry as to what he will do with the money from it. This applies to the mixed bloods. Now, I know what I am talking about. I have a boy. I don't suppose he will ever have any experience in farming. He is a stenographer. There is quite a number of our young people engaged in teaching school and as clerks in stores and one thing and another. They will never be farmers; have had no experience as farmers and don't desire to have, and I don't see any reason, if they wish to sell their homestead, why they should not be permitted to do so.

Senator BRANDEGEE. Your idea is that that should be done after an investigation by some tribunal or commission?

Mr. BULLETTE. Yes, sir; that is my notion. If it was done in any case it would have to be done in all. It might vex some people who feel they are as capable as anyone, but if it is done with one it would have to be done with all, and there are many that require it.

Senator BRANDEGEE. As to the full bloods, would you allow them to dispose of their surplus?

Mr. BULLETTE. Yes, sir.

Senator BRANDEGEE. As a class?

Mr. BULLETTE. Yes, sir.

Senator BRANDEGEE. Without any individual examination as to their competency?

Mr. BULLETTE. Yes, sir; I think so, if that would be thought best.

Senator BRANDEGEE. And as to the homesteads of the full bloods, what would you say?

Mr. BULLETTE. My notion would be to indefinitely restrict the sale of that.

Senator BRANDEGEE. And as to the intermarried whites; how about those?

Mr. BULLETTE. That is a matter you might ask me some questions about.

Senator BRANDEGEE. That is what I am doing.

Mr. BULLETTE. What do you want to know?

Senator BRANDEGEE. I asked you about your notion of restrictions on the intermarried whites. There are not restrictions on them now except as to their homesteads?

Mr. BULLETTE. No, sir.

Senator BRANDEGEE. How about the homestead of that class?

Mr. BULLETTE. I expect they ought to be turned loose like other white men.

Senator BRANDEGEE. You would turn them loose like other white men are?

Mr. BULLETTE. Yes, sir; let them go and do as they like. I do not know that the Government of the United States has any more right to protect them than it has the negroes, or the Swedes, or Germans, or French, or any other class or nationality.

Senator BRANDEGEE. I do not either. We agree on that point.

Mr. BULLETTE. I always understood that that idea of protecting the Indian originated from the fact that the United States by treaty stipulation is under treaty obligations to protect the Indian indefinitely. That is the idea these full bloods have of it, as you have heard here to-day; that it was a treaty obligation on the part of the United States to protect them in any trouble or danger indefinitely. I don't think that was ever the idea of the legislators of the United States, even if the treaties do state that they shall endure while grass grows and waters run. That is a figurative form of speech that Indians always insisted on being in treaties that were to extend to some time in the future, and I believe, it was so understood. Unforeseen and unpreventable difficulties might come up that would render it impossible of fulfillment.

The CHAIRMAN. You are a Delaware?

Mr. BULLETTE. Yes, sir.

The CHAIRMAN. I understand that the Delawares are a part of the citizenship of the Cherokee Nation?

Mr. BULLETTE. Yes, sir; and equal in every regard, both in respect to citizenship and property rights—that is, both political and property rights.

The CHAIRMAN. So in all respects you are on an equality, or your tribe is on an equality, with the Cherokees?

Mr. BULLETTE. Absolutely on the same footing.

The CHAIRMAN. How many Delawares have you?

Mr. BULLETTE. At the last census we had 1,150 of us.

The CHAIRMAN. Full bloods and mixed bloods?

Mr. BULLETTE. Yes, sir.

The CHAIRMAN. How many full bloods are there in your tribe?

Mr. BULLETTE. Very few full bloods.

Senator TELLER. You Delawares bought your rights in the Cherokee Nation?

Mr. BULLETTE. Yes, sir.

Senator TELLER. The Delawares bought their rights there?

Mr. BULLETTE. Yes, sir.

Senator TELLER. How long have you lived here in the Cherokee Nation?

Mr. BULLETTE. I came here to the Cherokee Nation in 1869.

Senator TELLER. Where from?

Mr. BULLETTE. From Kansas.

Senator LONG. What part of Kansas?

Mr. BULLETTE. From Wyandotte County. I am a Kansas man. It is a good country, too.

Senator LONG. You are right.

Mr. BULLETTE. Yes, sir; we will agree on that, Senator. They used to look upon us with a little suspicion, but I think they will get over that.

Senator LONG. You mean the Cherokees and other Indians looked upon your people with a little suspicion?

Mr. BULLETTE. Yes, sir; but they are getting over that.

Senator LONG. Do they look upon all Kansans with suspicion?

Mr. BULLETTE. With more or less suspicion. But, gentlemen, this is an awful problem for you to solve.

The CHAIRMAN. Unless there be other gentlemen who desire to be heard upon this question of the removal of restrictions we will now take a recess until 8 o'clock this evening, when we will be in session again and continue indefinitely, and we will devote that session to the further consideration of the oil and gas question.

The committee took a recess until 8 p. m., at which hour they reassembled.

Statement of Indian Rights Association.

INDIAN RIGHTS ASSOCIATION,

700 Provident Building, Philadelphia, March 25, 1908.

To the Members of the Senate and House of the United States:

We respectfully invite your attention to the pending bills (S. 5586; H. R. 15641) by which it is proposed to remove the restrictions from the alienation or incumbrance of certain lands in the State of Oklahoma allotted to members of the Five Civilized Tribes. The agreements under which a portion of the lands of the Five Civilized Tribes were allotted in severalty, and the balance opened to the white settlement, all contained provisions to the following effect:

"All the lands allotted shall be nontaxable while the title remain in the original allottees, but not to exceed twenty-one years from the date of the patent."

The agreements containing this provision were ratified and confirmed by Congress, and constitute an obligation of the Government of the United States which should remain inviolate. The policy of removing most of the restrictions heretofore imposed upon the alienation or incumbrance of lands allotted to the Indians may be unobjectionable in itself, but it ought not to be so applied as to involve the violation of national good faith. If, under the proposed legislation, an Indian should see fit to sell his allotted land, it would properly become subject to taxation in the hands of the purchaser, and if an Indian should see fit to incumber his land, it should properly be subject to taxation as long as the incumbrance lasts, the right to incumber being a new privilege, not granted under the agreements heretofore made; but section 4 of the McGuire and Clapp bills undertakes to subject to taxation all lands allotted to members of the Five Civilized Tribes, except the homesteads of those enrolled as having more than half Indian blood, even while such land remains unalienated and unincumbered in the possession of the allottees. This is a plain violation of the agreements above referred to.

This breach of national good faith would operate with peculiar hardship in the case of minors. If their lands are made subject to taxation, the greater portion of such lands will in all probability be sold for taxes, so that upon arriving at lawful age the minors will be without homes or lands, and the penalties and forfeitures for past-due taxes will be so great that they will not be able to redeem them and will be forced to sell their equity of redemption for practically nothing.

By removing restrictions from the lands of minors, in addition to other dangers to which they will be exposed, the probate courts will have authority upon application of the guardian to direct that these allotments be sold. It is well known that most of the guardians and curators of minor allottees are not the natural guardians; that they are usually not related to the minors in any manner, and have no interest in them further than to profit by securing the appointment as guardian or curator. The results under such conditions with other tribes show that minors' lands are being disposed of rapidly, indicating that the only safe arrangement is for the Federal Government to retain control of these lands. An investigation of the reports of guardians made to the courts that formerly had jurisdiction of these matters in Indian Territory, and to the probate courts of the State since statehood, will show conclusively that the minors are being charged for every conceivable service.

In Oklahoma a great deal of personal property is exempt from taxation, so that the burden falls largely upon the land, and if the scheme proposed in the McGuire and Clapp bills be carried out, Indian allotments will necessarily bear a very large share of the burden of taxation in that portion of the State which was recently the Indian Territory. In the case of allotments of minors, unimproved land, or land leased in consideration of improvements and returning no income to the owner, will almost certainly have to be sold for taxes.

It has been suggested that the State of Oklahoma can be trusted not to impose any taxation which would operate unfairly, but this suggestion overlooks the fact that under the constitution of the State the legislature can not exempt the property of any particular class of persons from taxation, nor legislate in regard to the estates of any particular class of minors.

Experience shows that where Indian lands are within the borders of a State the taxing authorities often seek to subject them to taxation without much regard to the legal rights of the Indians. An instance of this is seen in *United States v. Rickert* (188 U. S. 432), where a judgment of the Supreme Court of the United States was needed in order to defeat an attempt by Roberts County, S. Dak., to tax the permanent improvements on Indian lands and the personal property used in the cultivation of them.

The fact (if it be a fact, as it probably is) that the State of Oklahoma is in need of money may constitute a reason why the adult allottees, who are now citizens of the State, should waive some of their rights, but it can not possibly weigh against the obligations of agreements solemnly made by the United States, and, moreover, Oklahoma was admitted as a State upon the express condition that:

"The rights of the Indians shall not be impaired in any manner, nor the authority of the Government of the United States over their persons and property limited or affected by the constitution of the State."

When the State was admitted it was perfectly well known that Indian lands could not be taxed, and the State has no just right to demand that any modification of existing laws should be made in its favor and to the injury of the Indians.

The argument has been made that the Indians of the Five Civilized Tribes are intelligent, industrious, and saving, and are perfectly capable of bearing the burden of taxation. While this is undoubtedly true of a few of them, it is certainly not as yet true of the great majority; but even if it were true of all, their intelligence and industry could not constitute a reason for breaking faith with them.

For these reasons we urge that the bills be amended by the insertion of the words "of lawful age" after the word "allottees" in the fourth

line of the first section, and also by striking out the fourth section and substituting the following:

"The provisions of this act shall not apply to any lands allotted heretofore or hereafter to any minor until such minor shall attain the age of 21 years, and nothing in this act shall be held to repeal or impair any provision that allotted lands shall be nontaxable while the title remains in the original allottee, for any specified number of years from the date of the patent, in any case where such provision is found in any agreement heretofore made with any one or more of the Five Civilized Tribes and agreed to or confirmed by the Congress of the United States: *Provided, however,* That all lands encumbered by the allottees shall be subject to taxation as long as the incumbrance shall last."

We therefore ask you to use your influence against these bills; or, if it is impossible to accomplish their defeat, to endeavor to have them amended as indicated, so as to protect the rights of minors.

Respectfully,

INDIAN RIGHTS ASSOCIATION,
By CHARLES C. BINNEY, President.

Letter from Richard C. Adams.

FEBRUARY 26, 1908.

HON. PHILIP P. CAMPBELL,

Chairman of the Subcommittee on Indian Affairs:

Mr. Chairman and gentlemen of the committee, not having time to be heard before your committee yesterday, you promised to consider a letter I addressed you in reference to H. R. 15641 and other bills on the same subject then under consideration before your subcommittee.

I am a Delaware Indian and have represented my people here in Washington for the past ten years, and in their interest I desire to call your attention to certain parts of the bill now up for consideration.

I do not object to the removal of restrictions on the surplus allotments of all Indian lands in Oklahoma, nor do I object to the taxation of the homestead of those of less than one-half blood, but I do want the removal of restrictions to be the removal of restrictions in fact.

I heard a number of gentlemen claiming that it would be a great calamity to the Indians to place them on their own resources. In my opinion, the greatest calamity that has ever come to the Indians has been the fact that the Government denied to them this privilege and tried to teach them for more than one hundred years that they have no business trying to attend to their own affairs. If the Indian knows that he must depend upon himself and that the contracts he makes will be taken for what they stand for, you will not hear of such cases as were related to you yesterday, when one person will sell a tract of land seventeen times; neither will you hear so much of their selling their land for an inadequate consideration.

Since 1904 there has been a large amount of land in eastern Oklahoma sold, as has been stated yesterday, to speculators and others, but the very fact that this large amount of land has been sold has built up that part of Oklahoma and increased its population more than double.

There are many Indians to-day who have large bank accounts and are getting revenues from oil lands who a few years ago had scarcely nothing at all, and many of the Indians themselves have, with these revenues, bought other lands which were sold by the freedmen, and the greatest royalty they get to-day comes from the lands they lease free of restrictions and not encumbered by the rules and regulations of the Interior Department. Many millions of dollars have been brought into the State of Oklahoma already as the result of the removal of restrictions from the freedmen lands. There are smelters, cement works, oil refineries, glass factories, and numerous other permanent and lasting improvements, which could not have been erected had the restrictions not been removed from the freedmen lands.

No doubt you can find a number of cases where citizens of that country have mismanaged their affairs, but you can find the same proportionate amount of people right here in the District of Columbia who can boast of no better management.

I desire now to call your attention to certain parts of H. R. 15641. On page 1, line 11, after the word "their," the word "land" should be stricken out and the word "homestead" inserted. This probably is what was intended originally. I can not believe that it was for a review of the sales that were already made in accordance with the law. Certainly the freedom of our country will need no encouragement to do that anyway.

On page 2, section 2, after the words "restricted lands," in line 25, strike out "whether;" and on the next page, line 1, strike out the words "of adults or minors." This would make section 2 in harmony with section 6.

On page 4, line 2, after the words "Five Civilized Tribes," strike out "except as otherwise specifically provided by law;" and on line 10, after the word "tribes," insert "in cases where there are no duly qualified and acting guardian under authority of proper State or county courts." This would remove from the bill, as far as I am concerned and the people whom I represent, all the objections we have to it.

In support of these last amendments I wish to give you some of my own experiences as guardian of my children. I was appointed guardian of my children by the court on June 10, 1904. I leased their lands in the fall of that year and the most royalty I could get was 15 per cent. On each tract of land oil was found. The agent, under the rules of the Department, collected the royalty, deposited the money in national banks, and required me to get an order of the court to get the money out of the banks.

Up to October 11, 1906, I was compelled to get twenty-eight orders of the court to get the money from the banks or the hands of the Indian agent. These twenty-eight orders cost me from \$6 to \$10 each and the money would be kept out of my hands all the way from four to seven months. I was required by the court to earn at least 4 per cent on the money.

In September, 1906, I complained to the Department of the disadvantage this placed me under, and on October 11, 1906, the Secretary of the Interior waived the rules and regulations and allowed me to collect the royalties direct from the pipe line company. After this I sold the oil every Monday morning and received my checks every Thursday. The court gave me authority to invest the money to the best advantage of the wards at my own discretion. I invested the money in other oil lands and in most every case succeeded in getting a good tract. During that year I earned for my wards 229 per cent.

In October, 1907, the Secretary of the Interior rescinded his letter of October 11, 1906, and ordered the Indian agent to collect the royalties due my wards as he had previously done. I opposed this order and insisted that I was an officer of the court, and had the right to col-

lect the royalty direct, as that was the contract in the lease, which read as follows:

"In consideration of which the parties of the second part hereby agree and bind themselves, their successors and assigns, to pay or cause to be paid to the lessor, as royalty, the sum of 15 per cent of the value, on the leased premises, of all crude oil extracted from the said land."

The leases that were made in the last year read differently, as the royalty is to be paid to the Indian agent for the benefit of the lessor.

The Prairie Oil and Gas Company refused to turn the money over to me, and I brought suit against them. On February 18, 1908, the attorney of the Prairie Oil and Gas Company wrote a letter to Mr. Kelsey, copy of which I hand you herewith. It appears from this letter that the Indian Office has instructed the pipe line companies to decline to receive and pay for oil direct to the guardians. I can not understand why this should be, as the guardian at last must get the money. He can not get an accounting from the Indian agent except in a voucher which shows that so many barrels of oil were sold at so much money, and that 3 per cent was deducted for collecting the money. When the guardian gets an accounting from the pipe line company he gets a statement showing out of what tanks the oil was run; how many barrels were run; the date it was run, and the price it brings. In this way a guardian can keep his books straight; know that he is getting every cent that is coming to him, and is not charged anything for the collection of his money; is not kept out of the use of it, and can keep his accounts straight with the court. The accounting that the guardian gets from the Indian agent is nothing more than an abbreviated form of the statement of the account as rendered by the pipe line company to the Indian agent, so that there would seem to be no good reason why the accounting should not be made by the pipe line company to the guardian direct, and thereby save the Indian the delay and loss incident.

The lands that I bought for my children I leased without the supervision of the Interior Department, some for 25 per cent and some for 35 per cent royalty. This shows the advantage of making a lease free from the rules and regulations of the Interior Department.

I am, respectfully, yours,

RICHARD C. ADAMS.

FEBRUARY 18, 1908.

HON. DANA H. KELSEY,
Muskogee, Okla.

DEAR SIR: I hand you herewith a summons served upon our agent at Tulsa in an action instituted by Richard C. Adams, as guardian, against the Prairie Oil and Gas Company, for an accounting of the oil produced on the lands of his wards.

The company declined to pay Mr. Adams direct for reasons which you know. The only defense that we can make is that we are instructed by you to make payment for royalties through your office. If your department does not care to assume the defense of this action, I know of no reason why we should not permit Mr. Adams to take judgment against the company. This office would be very glad to have this question settled, as cases of this kind are continually occurring where we are compelled under instructions from your office to decline to receive and pay for oil direct to guardians. The situation is becoming somewhat embarrassing and should be settled once for all.

Very truly, yours,

Letter from council of the Creek Nation.

HON. JAMES S. SHERMAN,
Chairman Committee on Indian Affairs.

SIR: We beg to submit, through you, for the information of the committee, the following facts pertaining to the matter of the removal of restrictions from the lands of the citizens of the Muskogee (or Creek) Nation.

Certain bills have been presented to the present session of Congress which if enacted into law will directly affect the landed interests of a large portion of the citizenship of the Creek Nation, and, as their trusted representatives, it is but natural that we should feel a lively interest in their provisions, and we ask your kindly indulgence while we offer some thoughts on the subject.

The Creek people for many years had an organized constitutional form of government in that part of the country set apart by your Government to be the home of the Creeks as well as their neighboring tribes, enjoying the products of their farms though small in acreage, and with a resigned feeling of security and protection under their tribal laws and existing treaties. In course of time the people from the surrounding States forced themselves into the Creek Nation, who, by the terms of the treaties we had with the Government, thus became intruders subject to removal by the United States authorities from the limits of our country. The Creeks asked for the removal, according to treaty, of this fast-growing influx of intruders, and after some few abortive efforts in that direction, the Government in effect ceased its efforts and sent to us the Dawes Commission to negotiate with us for the abolishment of our government and individualization of our lands.

Your Commissioners declared that the Government could not protect the Creeks in the undisturbed occupancy and use of their lands and from the annoyance occasioned them by the lawless intrusion of citizens from the States so long as they continued to hold their land in common; but that if they shall individualize their lands they would then be in a proper condition to be protected, and the Government, instead of trying to protect the Creeks as a whole, would extend its protection to each individual citizen in the possession of his allotment. This it was declared was the only effective way of affording the relief prayed. The sacrifice required was so great that the Creeks were loath to yield it, but after many conferences, extending over some years, the Creek commissioners finally reluctantly gave in to the pressure thus brought to bear and acceded to the plans of the Government, congratulating themselves that with all these humiliating sacrifices they had at least secured permanency of ownership in the individual citizen of his allotment, and whatever else he may lose he would at least be secure in his home. In the light of what has been doing in the Creek country, however, for the last few years past, by those engaged in the practice of defrauding the Indians and freedmen of the Creek Nation of their lands, the Creeks have come to fear that they made a sad mistake; that the Government, too, must have been mistaken; that the plan for their protection is a failure, and that they are about to be left an easy prey to unscrupulous greed, spoliation, and rapine.

We feel very much that it would be just to our people to place upon record somewhere some authentic account of some of the nefarious

plans and methods pursued in the Creek Nation to defraud its citizens of their lands, as this would go to prove, when in after years a large number shall become landless and homeless vagrants, that they were not altogether to blame for their vagrancy. In pursuance of this line of thought permit us to mention some of these practices as they occur to us at the present time. Mixed bloods, freedmen, and others of our citizens holding valuable tracts of land were, in some cases, to all intents and purposes kidnapped and carried off to Kansas City, St. Louis, and other cities, away from the protective influences, friends, and kindred, feasted and entertained royally at places of amusement, and finally induced to sign away their holdings. Others were paid a few dollars with the promise that the balance would be paid when the title had been examined and found to be clear, but which promises were never fulfilled. Others still, through interpreters in collusion with the grafters, were induced to sign papers said to be leases of their allotments for a term of years for \$5 or \$10, which instruments afterwards proved to be warranty deeds. Old-fashioned barbecue and Indian dances were provided inside of an inclosed corral, the gates to which were guarded by interested parties and no one permitted to enter except such persons as the grafters desired to deal with and of whom warranty deeds were obtained. Indeed, the fact is notorious in that locality that a certain Indian was practically hog tied by the grafters or their agents, by which proceeding he was intimidated and coerced into signing a conveyance of his title to his allotment.

We have knowledge of one instance where, about six months ago, an old colored woman, a citizen of the Creek Nation, who had a very valuable allotment of land, was time and again approached by the grafters with offers to purchase her land. She resisted all overtures of the would-be purchasers for quite a long time, but after many rebuffs from the old woman a certain grafter adopted a new plan to induce her to sell her allotment. He obtained a small canvas bag such as is used by country stores to contain shot that is retailed to hunters. This he filled with nickels, dimes, and halves, and dollar pieces of silver, which in this receptacle showed up to the allottee as an immense fortune. As was expected, the scheme worked, and the buyer without even counting the money got the land. The bag of money when counted afterwards amounted to only a little over \$300. This amount was paid for land easily worth over \$2,000, and this transaction was enacted by one who lives and moves in what is regarded as good society in that neighborhood, and this is but one of many instances of the same character. Another method characterizing the fertile brain of the fraudulent dealer in land consists in obtaining from the official rolls of the Dawes Commission the names of allottees who own desirable lands, and if any of them prove by said rolls to be minors, their parents or guardians are approached and by persistent persuasion, and in some cases the free use of intoxicants, caused to execute affidavit that the minor is of age, when a deal for the allotment is at once consummated. In case any question as to the validity of the transaction is likely to arise, the affiant is threatened with imprisonment for perjury should he dare to correct his former statement and endanger the transaction. In this way the fraud remains an undisturbed cloud on numerous such titles in the Creek Nation.

The methods above indicated apply with equal effect on the full-blood, mixed-blood, and freedmen citizens, and the urgent need of the hour is some law or power that shall effectively protect our people from further like frauds. Only a few days since we learned that the Indian Bureau of this city was officially advised of action now being taken by the State courts in our country which amply justifies our apprehensions. Land dealers holding many fraudulent deeds to allotments for which they have paid ridiculously inadequate prices, ranging all the way from five to twenty-five dollars, but which in actual value are worth thousands, are applying to the State courts to quiet titles. The Indian allottee is cited to appear in court and show why these deeds may not be declared valid. In case of a full blood, he does not understand the full meaning and seriousness of the summons, and, failing to appear in court, the title under consideration is, by reason of default, declared by the courts to be valid and binding. Practically all the lawyers in our nation hold questionable deeds to Indian allotments. Some of them are large stockholders in land and trust companies, extensively engaged in the promiscuous buying, selling, and leasing of Indian lands. The interest of the lawyers thus being identically the same as that of the land grafter, it would be impossible for the Indian to employ the services of an attorney who is not prejudiced to the case of his client to appear in court to make the defense. It is very proper to assume the conclusion that no lawyer can direct the case of his client to an equitable adjustment, which, if so accomplished, would react and impair his interest in lands he illegally holds. Thus you see that ours is not a groundless fear, nor are our representations of them convulsive explosions of prejudice, but legitimate conclusions justified by the experiences and history of the past, and the activities already existent in our country. The Creeks have not forgotten their sad experience of a few generations ago in the States of Georgia and Alabama, their former homes, where were practiced almost identically the same things we see now occurring in the State of Oklahoma.

The old records will prove that the grafters of Oklahoma have adopted and are operating precisely the same methods of fraud in land deals with the Indians that were followed by the land grafters of the States above mentioned. We would very much prefer that jurisdiction in all cases involving property rights, both of adults and minors, lie in the Federal courts or some other tribunal of the United States, whose presiding head shall be an appointee of the President and not elected by the people of the State. We wish that until our full bloods and the others of our citizens for whom we speak shall have had sufficient experience and practical knowledge of the requirements of the new conditions surrounding them to fit them for intelligently caring for their own, they be exempted from the jurisdiction of the State courts, at least in cases where their landed interests are concerned.

Since arrival here we have learned that a strong effort is being made for the removal of restrictions from the allotments of mixed bloods and freedmen citizens of the Creek and other nations, including their homesteads. It is hardly necessary for us to say that we are not in sympathy with this movement.

The original freedmen, so called, were the former slaves of the Creeks, and along with their masters regarded land quite the same as they did the other cardinal elements of water, air, light, and sunshine, something spontaneous and ever existing, which has been beneficently provided by the Great Spirit for the free use and support of all His children, and not a thing on which a money valuation may be placed. A large percentage of them therefore possess no more adequate idea of the true value of an acre of land than many of our most inexperienced full-blood Indians, and we believe that to throw the bars

down now and subject them to the machinations of the unscrupulous land speculators in our country will simply mean in about a year's time a large pauper element in the State. Our lands and other property have been divided out among these people, and for forty years we have occupied the same country, living in peace and harmony, and we believe that they should be prevented for at least some reasonable period of time from frittering away the 40 acres allotted to them as homesteads, and we earnestly ask that this protection be thrown around them, which the Government did stipulate to do when we agreed to and accepted allotments.

We have to admit the fact that a mere infusion of white or other blood does not, in the case of the Creeks, always make wise and tactful business men of them, and we have therefore very many citizens who are more than half white blood, many of whom will in a few months lose their homesteads if the restrictions are removed, and we believe that the restrictions in these cases should be removed only when applied for by the allottees and the application is approved by the Secretary of the Interior.

We beg that the representations we make here be not regarded as merely perfunctory, not to be seriously considered, or which may be brushed away as the emanations of a weak sentimentality, for we are much in earnest about this matter, and hope you shall find your way clear to afford our people the coveted relief. You have set apart large tracts of country for the exclusive use and special preservation of the wild animals of the plains and forests. You have placed restrictions and watchmen on these vast reservations so that no man may appropriate them or put in operation any scheme to disturb the homes of these wild charges of the Government. Can not the great Government of the United States do as much for those classes of the Creeks for whom we speak? Once a great and noble people, friendly and hospitable to the visiting stranger, our race is run, our sun is set. You have no more great outlying West to which you may push us, as you formerly did, with the assurance that there we may live and prosper "as long as grass grows and water flows," and we beg of you to stamp out the practice of greed and avarice prevailing in our country until our citizens reach that advancement that will enable them with advantage to themselves to assume the full stature of American citizenship with all of its attendant advantages and responsibilities.

Respectfully,

MOTY TIGER,
Principal Chief Creek Nation.
G. W. GRAYSON,
SAMUEL J. HAYNES,
JOHNSON E. TIGER,
Creek Delegates.

Statement of attorneys for the Creek Nation.

[Memorandum on authority of Congress over Indian affairs, as provided for in Senate bill 5153 and House bill 16735, regulating Federal jurisdiction.]

The enabling act authorizing the admission of Oklahoma into the Union as a State contains a specific reservation in favor of the authority of Congress to legislate on matters pertaining to the affairs of the Five Civilized Tribes of Indians resident in the Territory to become a part of such State. In this reservation Congress must have had in contemplation a situation which would call for some additional legislation pertaining to these affairs.

This subject was first to receive the attention of Congress in drafting the act, section 1 thereof containing the following provision:

"That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such right shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never been passed."

This broad and comprehensive reservation of authority on the part of Congress is ample to authorize any action that Congress may deem it necessary to take to meet the exigencies of the situation in Oklahoma growing out of the duties and obligations of the Government to the Indian tribes and the property of all Indians over which the Government has retained any authority and concerning which it is necessary for it to perform any duty.

It was decided in an early day by Chief Justice Marshall, *Cherokee Nation v. State of Georgia* (5 Pet., 17), that neither an Indian nor an Indian tribe could go into the courts of the United States on their own account, and that they, being wards of the Government, must be represented by the Government in all judicial proceedings, and that the Government owed them the duty of its protecting care in all personal and property interests. The principles laid down by Chief Justice Marshall have been followed by the United States Supreme Court and the Federal courts in every instance in which a similar question has been presented.

The vast amount of new legislation pertaining to the affairs of Indians necessarily raises new questions to be determined by the courts relative to the duty of the Government to the Indian. A patent to his allotment, with legal restrictions on alienation, the conferring of citizenship upon him while under restrictions, the holding of his lands in severalty, his tribal relation and his citizenship, the status created by allotment in severalty, citizenship, tribal relation, and statehood, when these all exist together, the status arising upon the dissolution of tribal government as to those still under restrictions, etc., all present new phases, or at least new combinations, of the principles which have been announced by the court, and of course will lead to long-continued and disastrous litigation if Congress fails to make some specific declaration as to the jurisdiction and procedure in the Territory where these conditions exist; and this is true notwithstanding the numerous utterances of the courts upon some of the various phases of the questions that will necessarily arise.

The authority of the Government and the jurisdiction of the United States courts in general over Indian affairs has been presented in an exhaustive opinion by Justice Miller of the Supreme Court in the case of the *United States v. Kagana* (118 U. S., 375).

Among other things, the above opinion contains the following:

"But these Indians are within the geographical limits of the United States. The soil and the people within these limits are under the political control of the Government of the United States or of the States of the Union. There exists within the broad domain of sovereignty but these two. There may be cities, counties, and other organized bodies with limited legislative function, but they are all derived from or exist in subordination to one or the other of these. The Territorial govern-

ments owe all their power to the status of the United States conferring in them the powers which they exercise and which are liable to be withdrawn, modified, or repealed at any time by Congress. What authority the State governments may have to enact criminal laws for the Indians will be presently considered, but this power of Congress to organize Territorial governments and make laws for their inhabitants arises not so much from the clause in the Constitution in regard to disposing of and making rules and regulations concerning territory and other property of the United States as from the ownership of the country in which the Territories are, and right of exclusive sovereignty which must exist in the National Government and can be found nowhere else.

"Perhaps the best statement of their position is found in two opinions of this court by Marshall in the case of the *Cherokee Nation v. Georgia* (5 Pet., p. 1), and in the case of *Worcester v. Georgia* (6 Pet., p. 539).

"In the first of the above cases it was held that these tribes were neither States nor nations, had only some of the attributes of sovereignty, and could not be so far recognized in that capacity as to sustain a suit in the Supreme Court of the United States. In the second case it was said that they were not subject to the jurisdiction asserted over them by the State of Georgia, which, because they were within its limits, where they had been for ages, had attempted to extend her laws and the jurisdiction of her courts over them.

"In the opinions in these cases they are spoken of as 'wards of the nation,' 'pupils,' as local dependent communities. In this spirit the United States has conducted its relations to them from its organization to this time.

"These Indian tribes are the wards of the nation. They are communities dependent on the United States; dependent largely for their food; dependent for their political rights. They owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this court whenever the question has arisen.

"The power of the General Government over these remnants of a race once powerful, now weak and diminished in numbers, is necessary to their protection, as well as to the safety of those among whom they dwell. It must exist in that Government, because it never has existed anywhere else, because the theater of its exercise is within the geographical limits of the United States, because it has never been denied, and because it alone can enforce its laws on all the tribes."

The above very lucid statement of the obligation of the Government in these matters and the relation of these people to the State and the Federal Government is as pregnant with truth at this time as when uttered by the distinguished jurist.

Analogous principles have been announced by the courts at various times.

"The duty and jurisdiction to exercise such control and wardship being so vested in the General Government, the manner of its exercise is purely a political question for determination by the political departments, and not within judicial cognizance.

"As long as the United States recognizes the national character of the Indians, they are under the protection of treaties and the laws of Congress, and their property is withdrawn from the operation of State laws.

"Necessity exists for extended Federal jurisdiction and control over Indian lands." (*U. S. v. Rickert*, 188 U. S., 533; 22 Cyc., 117; *Jones v. Meehan*, 175 U. S., 1; *Stephens v. Cherokee Nation*, 174 U. S., 445.)

The status of Indians after citizenship is conferred has received attention from the courts, and it has been held—

That the Government is not relieved from its duties of guardianship and protection of members of an Indian tribe assumed by treaty with such tribes in consequence of the Indians becoming citizens of the United States, and the fact that Indians to whom lands have been allotted in severalty are declared to be citizens of the United States does not render null and void as to them or as to the remaining portions of their tribes restrictions upon alienation of their lands contained in acts of Congress under which allotments in severalty have been made, nor terminate the right and duty of the United States to preserve the reservation lands for the use and benefit of the Indians. (*U. S. v. Mullin*, 71 Fed. Rep., 682.)

"Citizenship bestowed on the Indians is in no way inconsistent with the restrictions upon their title to their lands, and the leases obtained in the Flourney Company were utterly void." (*Beck v. Flourney Live Stock Co.*, 65 Fed. Rep., 30; 12 C. C. A., 497.)

"So long as the tribal organization is recognized by the National Government the fact that the habits and customs of the Indians have been changed by intercourse with the whites does not authorize the courts to disregard the tribal status." (5 Wall. U. S., 737; *U. S. v. Holliday*, 22 Cyc., 119.)

"They are not amenable to the laws of the Territory or State in which they reside; they are, however, subject to the plenary authority of the United States." (*Tuttle v. Moore*, 64 S. W., 585; *U. S. v. Choctaw Nation*, 193 U. S., 116; *Loanoke v. Hitchcock*, 187 U. S., 535; *Stephens v. Cherokee Nation*, 174 U. S., 445.)

It has also been held that an Indian tribe can not sue or be sued in the courts of the United States or in a State court, except where authority has been conferred by statute. (*Thebo v. Choctaw Nation*, 68 Fed. Rep., 372.) Also that the United States may as guardian of such Indians maintain an action in their behalf. (*U. S. v. Wianns*, 73 Fed. Rep., 72; *U. S. v. Boyd*, 68 Fed. Rep., 577; 22 Cyc., 121; *U. S. v. Boyd*, 83 Fed., 547; 27 C. C. A., 592.)

As said in the *United States v. Partello* (48 Fed., 667):

"The United States from the earliest organization of the National Government has assumed control over the several Indian tribes in the United States and has denied such control to the State governments.

"Also, Congress has full power to reserve in the enabling act authority over Indian tribes and property. Such reservation is with the consent of the people forming the State."

This subject was thoroughly considered in re *Kansas Indians* (5 Wall. U. S.), L. C., 755, 756, in which it is said:

"If under the control of Congress, from necessity there can be no divided authority. If they have outlived many things, they have not outlived the protection afforded by the Constitution, treaties, and laws of Congress. * * * There can be no question of State sovereignty in the case, as Kansas accepted her admission into the family of States on condition that the Indian rights should remain unimpaired and the General Government at liberty to make any regulation respecting them,

their lands, property, or other rights which it would have been competent to make if Kansas had not been admitted into the Union."

This language applies with equal force to the State of Oklahoma and her rights and prerogatives.

In *Stephens v. Cherokee Nation* (174 U. S., 446), Justice Harlan, after an exhaustive review of the authorities relating to the relative powers and rights of the General Government and those of the States in regard to Indian affairs, and in which he reiterates and approves the principles announced by Chief Justice Marshall in the case *Cherokee Nation v. Georgia*, above, and by Justice Miller in the *Kagama* case, above, uses the following language:

"Such being the position occupied by these tribes (and it has often been availed of to their advantage), and the power of Congress in the premises having the plenitude thus indicated, we are unable to perceive that the legislation in question is in contravention of the Constitution."

This decision was based upon legislation of Congress upon the subject of Indian affairs, the constitutionality of which was questioned on the theory that Congress was without power to enact it.

In *Wigman v. Conolly* (163 U. S. L. C., 62 and 63), the question of the superior power of the Federal Government over these matters again received the attention of the court in a case where the probate court of the State of Kansas, on application of a guardian for an Indian girl of about 7 years of age, had ordered the sale of her allotment at the price of 75 cents per acre. Not, however, basing the conclusion upon the injustice and inhumanity of that proceeding, the court does not fail to express its very earnest disapproval of the transaction, and in discussing the law bearing upon the case says:

"This treaty of 1867 introduced a new limitation upon the inalienability of lands patented to a minor allottee—that is, the limit of minority. And such limit must be applied to sales voluntary and involuntary and cut off the right of a guardian to dispose of the estate. The fact that the patent to this allottee had already been issued did not abridge the right of the United States to add with the consent of the tribe a new limitation to the power of the individual Indian in respect to alienation. The land and the allottee were still under the charge and care of the nation and the tribe, and they could agree for a still further protection—a protection which no individual was at liberty to challenge."

"It follows, therefore, that at the time of this assumed power of Esther Wilson to dispose of her realty such realty was inalienable, and a deed made by the guardian, though under the authority of the probate court of the county of the State in which the lands were situated, conveyed no title."

In all matters to which the judicial power of the United States is extended by the Constitution Congress may give the United States courts exclusive or concurrent jurisdiction, as it deems proper, and may change and modify the same at pleasure; and Congress may likewise provide for the transfer from a State court to a Federal court suits involving matters of Federal jurisdiction at any stage of the proceedings in such State court and even after judgment therein. And after once having relinquished its jurisdiction over a proper matter of Federal cognizance, Congress may reestablish the jurisdiction of the Federal court therefor. (*Ry. Co. v. Whitton*, 13 Wall., 271; *Martin v. Hunter*, 1 Wheat., 349; 5 Blatch., 343; *The Moses Taylor*, 4 Wall.)

Congress has power to legislate concerning the territory or property of the United States and over any subject under the control of the United States or concerning which the United States has any obligation. (U. S. Constitution, Art. IV, sec. 3; 8 Fed. Stat. Antd., 200, and authorities.) And this includes the jurisdiction of Congress over Indian reservations and Indian affairs after statehood. (9 Fed. Stat. Antd., 193, 197; *Stephens v. Cherokee Nation*, 174 U. S., 477.)

The unequal contest between the Indian under restrictions and the white man with whom he comes in contact in a business transaction is a matter of familiar knowledge, and the shameful injustice done the Indian under such circumstances, as a rule, makes imperative the duty of the Government to give him proper protection. This can only be done by comprehensive provision for adjudication of his rights in the Federal courts, where he may receive the aid of the officers of the Government, the only officers owing him (a ward of the nation) any duty under the law. To maintain restrictions upon his lands, thereby retaining a guardianship thereover, and at the same time surrendering the jurisdiction over this property to a sovereignty owing him no duty is wholly inconsistent and illogical; and the only way to prevent his interests being consumed in the confusion resulting from an obligation in one sovereignty and authority in another is to make unequivocal provision for the Government to exercise authority commensurate with its obligation to be invoked as the occasion may require. The jurisdiction of the Federal courts is extended by the Constitution to all matters in which the United States is a party, including, of course, all matters in which it has a duty or obligation. (Art. IV, sec. 3.) The power follows the duty (U. S. v. *Kagama*, above), and the facilities for executing the duty and the instrumentalities through which the duty is carried into effect should, in the nature of things, be made coextensive therewith.

Nor can it be claimed with any force whatever that this legislation is a discrimination against the State or people of Oklahoma. The subjects dealt with in this bill are of Federal cognizance and have been so regarded in the harmonious cooperation of the different departments of the Government in all acts affecting the same. If it can be said that the proposed legislation is a discrimination against the State of Oklahoma, then it can be said with equal force that the judiciary act of 1789, creating and fixing the jurisdiction of the Federal courts, was a discrimination against all the States.

That the jurisdiction of the General Government over this subject-matter is derived from the Constitution can no longer be questioned. This fact is firmly grounded in adjudication. And, even though it did not rest upon express authority of the Constitution, a right, exercised so long by a sovereign power, becomes prerogative and can not be denied by implication.

Congress has pursued a similar policy in other instances. Under act of August 15, 1894 (28 Stat. L., 305), the circuit courts of the United States were given exclusive jurisdiction in matters pertaining to the affairs of the Indians. That statute contains, among other things, the following provision:

"That all persons who are in whole or in part of Indian blood or descent who are entitled to an allotment of land under any law of Congress, or who claim to be so entitled to land under any allotment act or under any grant made by Congress, or who claim to have been unlawfully denied or excluded from any allotment or parcel of land to which they claim to be lawfully entitled by virtue of an act of Congress, may commence and prosecute or defend any action, suit, or proceedings in relation to their rights thereto in the proper circuit court

of the United States, and said circuit courts are hereby given jurisdiction to try and determine any action, suit, or proceedings arising within their respective jurisdictions involving the right of any person in whole or in part of Indian blood or descent to any allotment of land under any law or treaty."

This act specifically excluded from its operation the Five Civilized Tribes and the Quapaw Agency. This was doubtless done because it was inapplicable to their situation at that time. Under the act of February 6, 1901, the above statute was amended requiring that the United States be a party defendant in all suits brought under this act. This was deemed necessary because of the fact that the allotment to lands made under the same act reserved the right to the Government and made it its duty to act as trustee for the Indians for a period of years. Congress then deemed it wise for the United States, acting in that fiduciary capacity, to have the right to go into its own courts when any controversy was involved in which it represented the interest of the Indian, and even deemed it necessary, or proper at least, to give the United States courts exclusive jurisdiction of such controversy. No sound distinction can be taken between the duty of the Government as a trustee under such circumstances and when acting as guardian of restricted lands.

The Government has a duty to perform when acting in either capacity, and if there is any substantial difference between its duties as a trustee and as a guardian, the greater obligation goes with the guardianship because guardianship involves broader responsibilities, and therefore any power that the Government would have to protect a title which it held as trustee it would certainly have to protect title over which it was guardian and maintain restrictions. This law has received an exhaustive review from the Supreme Court of the United States in the recent case of *McKay v. Kalyton* (204 U. S., 458), in an opinion by Justice White in which the constitutionality of the act, the necessity of it, and the duty of the Government to protect in its own courts such interests as are involved when the title to Indian lands is at issue. This opinion also confirms the doctrine laid down in the *Cherokee* case by Justice Marshall, the *Kagama* case by Justice Miller, and the *Rickert* case by Justice Harlan, above referred to, and it also distinguishes the principles involved in such a controversy from that involved in the issue presented in the matter of *Heff*, in 197 U. S., p. —, holding that the decision in the *Heff* case was based upon the right of the State of Kansas to enforce police regulations only over an Indian citizen, and that that case was not in conflict with the uniform line of decisions in regard to the jurisdiction of the Government and the Federal courts over the property of a member of an Indian tribe which is not subject to alienation. These cases all discuss the question of the conflict between the States and the Federal Government and the prerogatives of the States, and all recognize the paramount authority of the General Government in matters under its control. Congress also reserved to the Federal courts in the State of New York, jurisdiction over the property, rents, and profits of the Seneca Indians, act of February 19, 1875 (1 Stat. L., 330), and many other instances might be cited in which similar legislation has been enacted.

Congress has reserved the right to legislate on subjects of this character in the enabling acts of all the States where Indian lands were located at the time of the admission and has exercised this reserved right whenever the occasion required it, and the authority to do so has never been questioned by any court.

The many fraudulent conveyances and contracts affecting lands of the Indians under restrictions placed upon them by Congress and the procedure resorted to to validate and enforce the same in the State courts of Oklahoma, with a result disastrous to the Indian, shows the necessity of this legislation.

The removal of causes from a Territorial court after admission into the Union as a State is always governed by the enabling act authorizing the admission and not by the provisions of the Federal judiciary act in relation to the removal of causes from a State to a United States court. This fact constitutes a strong reason why such enabling act should contain specific and comprehensive terms as to the right and procedure in such matters, as the court does not have the advantage of the precedent and adjudication based upon the general law applicable to the removal of causes.

Section 16 of the enabling act authorizing the admission of Oklahoma is defective in some particulars, as must be manifest to anyone who considers it. Its terms are not free from ambiguity and uncertainty, and the natural consequence to result from this will be tedious and expensive litigation. It is within the power of Congress to remedy any defects in this regard and it is in the interest of all persons, including the Government, who have substantial and legitimate interests to protect that Congress shall make a more explicit declaration of its intention in this regard.

Florida was admitted into the Union in 1845, no provision being made for the transfer of causes. In 1847 Congress enacted a law making provision for the transfer of all cases of Federal cognizance to the United States courts. (*Benner v. Porter*, 9 Howard, 235.)

Failure to make adequate provision in the enabling act for the transfer of causes under such circumstances may be corrected by a subsequent act of Congress, as has been done heretofore. (*Frieburn v. Smith*, 2 Wall., 160.)

The provisions in the proposed bill relative to this subject, especially as to the causes in which the United States is a party when suing in its representative capacity as guardian or for the use of any of the Indian tribes or for any of the Indians to protect their restricted lands, if enacted into law will prevent a vast amount of expensive litigation and great delays in determining conflicting rights, and such a result is, as a matter of course, to be desired, as a delay of justice is of the substance of a denial of justice.

An act of Congress approved May 28, 1830 (4 Stat. L., 411), applicable to the lands of the Five Civilized Tribes of Indians west of the Mississippi, contains, among other things, the following provisions:

"SEC. 3. And be it further enacted, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States, if the Indians become extinct or abandon the same."

"SEC. 6. And be it further enacted, That it shall and may be lawful for the President to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever."

The trust created by this law, although observed by the Government and treated as obligatory on the part of the executive, legislative, and judicial departments for more than three-quarters of a century, has not been fully executed and can not be while a single restriction remains upon the lands of any Indians of said tribes and while a single tribal government exists among such Five Tribes.

The Government will hardly at this time abandon the forum in which, when necessary, it has asserted the protection of these people during all of this time.

Respectfully submitted.

M. L. MOTT,
Attorney for Creek Nation.
W. L. STURDEVANT,
Special Counsel in Creek Litigation.

[Subcommittee print. S. 4644, Sixtieth Congress, first session.]

In the Senate of the United States.

A bill for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. That all lands of adult allottees of the Five Civilized Tribes, who for over three years prior to the passage of this act have been actual nonresidents of the tribe or tribes upon whose lands he was allotted, shall be free from all restrictions. All lands, except homesteads of said allottees enrolled as mixed-blood Indians having half or more than half white blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having less than half white blood and all allotted lands of enrolled living full bloods shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act.

SEC. 2. That all land allotted to allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees for periods not exceeding five years without the privilege of renewal, except that oil, gas, or other mineral leases for any period of time, and other leases if made for more than five years, of any such restricted lands may be made with the approval of the Secretary of the Interior, and not otherwise.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes, approved by the Secretary of the Interior, shall be conclusive evidence as to the age and the quantum of Indian blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act.

SEC. 3a. That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior, shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situated.

SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes. The land of allottees enrolled as freedmen shall be subject to taxation from and after sixty days from the passage of this act.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian and curator, said representative or representatives of the Secretary of the Interior shall have power, and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records, and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That the homesteads of minors shall not be sold or encumbered by order of the court or otherwise until such minor arrives at the age of 21 years.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by substituting for the words "a United States Commissioner," at the end of said section, the words "a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions from the alienation of said allottee's lands: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said estate.

SEC. 10. That the Secretary of the Interior be, and he hereby is, authorized to appoint a representative or representatives for the eastern district of the State of Oklahoma, as he may deem necessary, to approve leases, sales of land, and the removal of restrictions, subject to appeal to the Secretary of the Interior. Such representative is also authorized, under authority and direction of the Secretary of the Interior, to take all necessary steps to protect the lands of Indians upon which the restrictions are retained.

Mr. CARTER introduced the following bill (H. R. 19177), to wit:

A bill removing restrictions from certain lands in Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after sixty days from the date of this act restrictions shall be removed from the alienation, lease, incumbrance, and taxation of all lands allotted, or to be allotted to the allottees of the Five Civilized Tribes in the State of Oklahoma, except as to the full-blood Indian's homestead; and that such full-blood Indian's homestead shall remain inalienable until December thirty-first, nineteen hundred and twenty-eight: *Provided*, That no person or corporation shall be permitted to acquire title to such lands as are subject to tillage and suitable for agricultural purposes in excess of one hundred and sixty acres.

Mr. CARTER. Mr. Chairman, I do not desire to discuss a question of a partisan nature, but I want to call attention to a bill which I have introduced in this House and to present reasons as best I can showing the justice and necessity of such legislation.

This bill provides for the removal of certain restrictions upon the alienation of Indian lands in Oklahoma, and it shall be my purpose to show to this committee that these restrictions have proven in the past a constant and successful barrier to the progress and development of our State, a menace to the civilization and advancement of the Indian and destructive of the very spirit of American liberty.

I do not rise for the purpose of criticising the acts of any man who has had to do with Indian affairs in the past. I have the highest regard for that able man who stands at the head of the House Committee on Indian Affairs, although I differ from him politically.

That mistakes have been made in handling the affairs of the Five Civilized Tribes in our State no one will dare gainsay. It is but human to err, and it is but natural that mistakes should have been made in settling conditions so anomalous as ours. So far as I am concerned, I am going to be generous enough to ascribe the cause of these mistakes to a misconception of the situation and to attribute such misunderstanding of the conditions to the dense and prolix complexities of the state of affairs with which these gentlemen were confronted.

I fully comprehend the many disadvantages that confront one in securing favorable consideration of a measure introduced by a minority Member. Without going into a discussion of the rules of the House, I will simply say that I understand it to be the policy of the majority to assume all responsibility for legislation, no matter which party is in power.

My remarks, however, should apply with equal force to a bill introduced by my colleague [Mr. McGUIRE], and I want to say just a word in regard to his bill. The McGuire bill is good

enough, so far as it goes, but, in my opinion, it falls short of the legislation needed in Oklahoma to-day.

This bill must not be regarded as embodying the exact ideas of the Oklahoma delegation. It smacks too much of paternalism for that. This measure should be regarded as representing the limit to which the Interior Department would agree to go at this time. It is the result of an agreement with that Department, gives a great measure of relief, and for these reasons I shall give it my unqualified support, in the hope that if my bill fails, then the removal of restrictions provided for by the McGuire bill will prove so satisfactory that there will be no objection to adopting the provisions of my bill at an early day.

PRESENT CONDITIONS.

Of one thing I am morally certain, and that is this: If the gentlemen on the floor of this House only had a thorough understanding of the conditions in Oklahoma, if they could only see these conditions in their true light and as they really exist, there would be no occasion for the presentation of my remarks to-day, for I feel sure you would pass the bill which I have presented without opposition and with very little comment.

As you all know, we have a new State out there. Our predicament was deplorable enough before our admission, but with the advent of statehood and the many burdens that come therewith, the conditions on the east side of that State, in what has heretofore been known as Indian Territory, will soon become almost intolerable.

All the lands in Indian Territory originally belonged to the Indians composing the Five Civilized Tribes and were inalienable and nontaxable. Indians, I say, Mr. Chairman. As a matter of fact, they are not real Indians, as you understand that term. A great majority of them are mixed-blood Indians, with a small degree of Indian blood. Others, white men who have intermarried into the tribe, and a great number—about 15,000, as I remember—are negroes, freedmen, former slaves of these tribes, who have had lands allotted to them, so that the actual Indian, the real full-blood Indian, only represents a very small minority of these people. But, getting back to the land question, I will say that there are about 20,000,000 acres of these lands, all inalienable and all nontaxable. To be more accurate: Restrictions have been removed on about 3,000,000 acres of these lands, leaving a residue not of 20,000,000, but of 17,000,000 acres on that side of the State, all nontaxable, and on which permanent improvements and home building are absolutely prevented, for the reason that title can not be made on account of these restrictions.

Such lands as have had restrictions removed are distributed over many of the counties on the east side, but I understand that in some of the counties no restrictions whatever have been removed. All of the land is inalienable and not one dollar in taxes can be realized from same.

The major portion of these lands have never been improved or put in cultivation, therefore produce no revenue whatever to anyone. Many of the Indians owning such lands have no funds with which to improve them, and the most inconsistent and ridiculous part of the whole system is that this very class of Indians, who are too poor to build improvements on their lands, are prevented from leasing these lands for a longer period than one year. Now, what I would like to have explained to me is how, in the name of common sense, such lands are ever to be made productive under the present system? The Indian without funds to improve his land is prevented from having it improved by leasing. So I think it can easily be understood how this very class of Indians which are incompetent must retrograde under the present law.

These conditions, of course, make our State a most undesirable abode for the man with a worthy ambition to build and own a home of his own.

Many of our best citizens have emigrated within the last eighteen months, pulled up bag and baggage, and left the State entirely. Why? For no other purpose than to seek a location where they can own a home and improve it.

Within the radius of the trade of my home town, Ardmore, I understand that 50,000 acres of land which had formerly been in cultivation lay out and produced no crops whatever last year. Every town and every commercial interest in our State has felt the baleful influence of these restrictions, and the Indian himself is the worst discommoded of all.

Our State is in its infancy. It is in the formative period, when it needs to draw upon every resource and every fiber at its command. We have no public, State, or county buildings on that side of the State. No court-houses, no jails, no school-houses, and no improved roads. As a matter of fact, outside of the towns you can not even acquire title on which to build schoolhouses under the present law. My bill will remedy all of these conditions completely, while that of my colleague will

ameliorate conditions, to a large extent, though not giving complete relief.

Now, mind you, Mr. Chairman, not a member of the Oklahoma delegation asks that the full-blood Indian be molested in his last home, but we do ask that such Indians as are civilized and competent be allowed to manage their own affairs without interference from the Federal Government, and that the progress of our State be not further retarded by such senseless restrictions on the acts of intelligent people.

HISTORY.

In order to thoroughly understand the unfairness and the creation of these unjust inhibitions on the rights of my civilized fellow-tribesmen, it will be necessary to go back a few years and recount briefly the history of these erstwhile wards of Uncle Sam.

By way of explanation, I wish to say that the word "civilized" in the term "Five Civilized Tribes" is by no means a hollow and meaningless expression. The Indians composing these tribes have been subjected to the beneficent influence of Anglo-Saxon civilization for centuries, by education, by religion, by intermarriage, and by all other means of direct association with the whites.

This very term, "Five Civilized Tribes," has been applied to these people for four generations, and for eighty years they have had regular constitutional forms of government, fashioned after the Government of the United States, by which they enacted a regular civilized code of laws, protecting their respective citizens in their property rights and punishing infractions of law and order.

Their school systems, operated entirely by the tribal governments, were the most liberal of modern times. They had what they called "neighborhood schools," similar to district schools in many of the States, and high schools with a regular prescribed curriculum, the completion of which merited and exacted a diploma. Not only were tuition and books provided without cost to the pupils or parents, but board, laundry, and medical treatment as well, and, in some schools, particularly the orphan schools, clothing and all other necessities were furnished at no direct expense whatever to the beneficiaries.

So that the Five Civilized Tribes have come to be, in deed and in fact, civilized. This is a bold assertion, Mr. Chairman, but I make it without fear of contradiction. I dare say there is as small a degree of illiteracy among some of these tribes to-day as among a similar number of people in the city of Boston, the very hub of civilization on this continent. [Applause.]

These Indians became dissatisfied with their environments during the early part of the last century and made application to their Great White Father, Andrew Jackson, for a change. This illustrious old patriot bade his children seek a new home in the wilds of the boundless West.

After searching about over the entire Western country it is no wonder that these children of nature chose the beautiful Indian Territory, with its richly productive soil, its mild, equable climate, its clear, running, crystal waters, and bountiful supply of wild game, where, as many of them thought, they would pursue their worship of nature so long as grass grew and water ran. But the Indian was quick to see the possibility of development in his country. He was early to see the advantage of raising cotton, corn, wheat, and live stock, rather than loitering in idleness and depending upon the uncertainty of the chase for a livelihood. So he invited his paleface brother to come in and assist in the development of what he called his "Land of the Fair God."

The white man came on horseback and in the prairie schooner at first. Then came his railroads and other modern means of transportation, and finally the palefaces swarmed in upon us from all sides, bringing with them their up-to-date agricultural, mining, and other machinery, their religion, their education, and their civilization, until finally the clouds of ignorance and superstition which once hovered over these people have been almost entirely dispelled, and this same Indian stands to-day in a great many instances as the very highest exponent of American civilization [applause] clamoring to have all disabilities removed from his rights and liberties and to be given full-fledged American citizenship. [Applause.]

Mr. CHANEY. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. CARTER] yield to the gentleman from Indiana [Mr. CHANEY]?

Mr. CARTER. I do, with pleasure.

Mr. CHANEY. I would like to ask the question if there has been an opinion expressed on the bill the gentleman has introduced, by the Secretary of the Interior.

Mr. CARTER. He has agreed to the bill which has been introduced by my colleague.

Mr. CHANEY. Has he expressed an opinion in behalf of the gentleman's bill?

Mr. CARTER. He has not agreed to all the provisions of my bill.

Mr. CHANEY. I am very much interested in the gentleman's speech and interested, too, in seeing that these people have the largest possible liberty consistent with their protection; and does the gentleman tell the House that all the restrictions respecting the alienation of lands and all these matters relating to transactions between man and man could safely be removed, and that they would not be gobbled up by persons who would take advantage of them?

Mr. CARTER. No, sir; I do not pretend to tell the committee that all the full bloods are competent, but many of them are. I will come to that in a little while. My bill provides that the restrictions shall be removed from all lands except the full-blood Indian's homestead, but that his homestead shall remain inalienable for twenty years.

ATOKA AGREEMENT.

The Five Civilized Tribes had made such rapid strides in civilization in their new home, and their country had been developed and settled to such an extent that by the closing years of this same century it again became necessary to modify their conditions, so that beginning with the year 1898 certain agreements were entered into with these several tribes looking to a complete change of the Federal relation with these people. These agreements were negotiated by authorized tribal commissioners and a United States commission, commonly known as the Dawes Commission. They required the ratification of Congress and a majority of the popular vote of the tribe before they became effective. These agreements provided for a dissolution of the tribal governments within eight years, allotment of lands in severalty, and speedy settlement of all tribal affairs.

Among other things, certain restrictions were placed upon the alienation of Indian lands, the provision for such restrictions being practically the same in all of the different agreements. I will read the provision in what is known as the "Atoka agreement," made with the Choctaws and Chickasaws, which will suffice to reveal the intent of all:

All the lands allotted shall be nontaxable while the title remains in the original allottee, but not to exceed twenty-one years from date of patent, and each allottee shall select from his allotment a homestead of 160 acres, for which he shall have a separate patent, and which shall be alienable for twenty-one years from date of patent. The provision shall also apply to the Choctaw and Chickasaw freedman to the extent of his allotment. Selections for homesteads for minors to be made as provided herein in case of allotment, and the remainder of the lands allotted to said members shall be alienable for a price to be actually paid, and to include no former indebtedness or obligation, one-fourth of said remainder in one year, one-fourth in three years, and the balance of said alienable lands in five years from the date of patent.

That all contracts looking to the sale or incumbrance in any of the land of an allottee, except the sale hereinbefore provided, shall be null and void. No allottee shall lease his allotment, or any portion thereof, for a longer period than five years, and then without the privilege of renewal. Every lease which is not evidenced by writing, setting out specifically the terms thereof, or which is not recorded in the clerk's office of the United States court for the district in which the land is located, within three months after the date of its execution, shall be void and the purchaser or lessee shall acquire no rights whatever to an entry or holding thereunder, and no such lease or any sale shall be valid as against the allottee unless providing to him a reasonable compensation for the land sold or leased.

This provision is well enough, perhaps, for incompetent persons, but its application is every day proving a detriment to such civilized Indians as compose the majority of the Five Civilized Tribes.

The Atoka agreement was defeated at the first Choctaw-Chickasaw election, many of the more advanced members of the tribes opposing it on account of this very restriction provision. Another election was called, however, the importance of an early change in conditions urged, and this time the agreement was ratified by a small majority, in the main because it was thought the spirit of such agreement would be carried out, giving us a "speedy settlement of tribal affairs," and these matters of restrictions on land titles and taxation could be adjudicated prior to the advent of statehood.

Mr. BEALE of Pennsylvania. Will the gentleman allow an interruption?

Mr. CARTER. Certainly.

Mr. BEALE of Pennsylvania. In what way or by whom can these matters be determined as to whether they should have the privileges that you have said they should have?

Mr. CARTER. I do not believe I understand the gentleman's question.

Mr. BEALE of Pennsylvania. You say that under certain conditions they are to have the right of title. In one way you say it shall be done within five years and another within two years.

Mr. CARTER. I am coming to that in a minute. That law has all been changed.

Mr. BEALE of Pennsylvania. I beg the gentleman's pardon; I was only asking for information.

SUPPLEMENTAL AGREEMENT.

Mr. CARTER. Before the lapse of many years it was discovered that this Atoka agreement was inadequate and incompetent for the settlement of these affairs, and in 1902 another compact was entered into with the Choctaws and Chickasaws by the United States known as the "supplemental agreement." This supplemental agreement practically reiterated the restriction provision of the Atoka agreement, and the former procedure of enactment ensued. A strong fight was made against this agreement on account of this same restriction provision; but as it gave to these tribes an opportunity to have expunged from their rolls certain persons whom they claimed had no rights, and provided for a per capita payment of a part of the tribal funds, it was ratified at the election.

ACT OF APRIL 26, 1906.

The conditions under these two agreements were most deplorable, but not to be compared to what was yet to be handed out to us by the act of April 26, 1906. Under these two agreements the Secretary of the Interior had not been prevented from removing restrictions on the alienation of lands other than homestead allotments, whenever, in his opinion, the Indian was considered competent to manage his affairs. So that one of these Indians, who had now come to be a sovereign citizen of the United States, supposedly with all the rights, privileges, and immunities attaching thereto, could, by debasing his manhood and pride to a degree of abject servility, by admitting his inferiority to other men, supplicate and beg the right to eat the bread which he possessed, and which was justly his to do with as he pleased.

This last act referred to not only denied a part of these people this small modicum of liberty, not only prevented them from presenting their humble request for the pursuit of their happiness as they saw it, not only declared that they should not be allowed to present their modest petition to have such restrictions removed when they were competent, but placed the additional inhibition on many that they could not even lease their land without truckling to some departmental official.

Now, this is not said in any spirit of antipathy or disrespect to any departmental official. I have the highest regard for many of those people. They are not to blame. The officials of no Department are to blame for this. The system is wrong, the law is wrong, and Congress alone has power to change that law.

But says some facetious Member, "CARTER, you have no kick coming. You may have your restrictions removed. Make your application, and the Secretary of the Interior would not dare refuse to remove your restrictions."

That is true as to a part of my lands only. What I want gentlemen of this committee to understand is that I and each member of my family have 160 acres of land which no power under heaven's canopy can give us authority to alienate except this Congress.

The Indian is very much of a human being. He is subject to all the impulses and foibles of other intelligent people, and, like any other intelligent man, he resents the idea of having to ask any man's permission to do as he desires with his own property. He can see no reason why he should be called upon to submit his plans to any man in order to get supervision over what is justly his; so he hesitates to ask the Secretary of the Interior to remove any supposed restrictions there may be upon his liberties as an American citizen.

Out West, Mr. Chairman, money is scarce and interest very high. Many times in the past have the individual financial interest of business men of Indian blood suffered for the want of cheap money, which is almost always available on such real estate security as this, and which they could easily have obtained but for the imposition of these restrictions. No man may attempt to prophesy what the vicissitudes of life will bring. We may even undergo greater privations in the future than in the past. We may even see the savings of a lifetime swept away for the want of a few dollars which could be obtained in this way; but it matters not what may transpire, let the very worst come to the worst, I for one shall never bend the knee to mortal man for any financial consideration. [Prolonged applause.] And the majority of them feel just as I do, sir.

Now, Mr. Chairman, do not misunderstand me. I know that we have grafters out there. I know that we have a few Indians who are incompetent, and I would not leave the last home of the full-blood Indian to the pitiless mercy of unscrupulous grafters. Far be it from that. No man has a more profound

sympathy for these plain, artless people than I. No Member on the floor of this House feels more keenly his responsibility to them than I. Why? They elected me to Congress. But for the Indian vote I might not be a Member of this honorable body to-day, and they elected me upon the very platform that is embodied in my bill—removal of all restrictions upon the alienation of Indian lands, except the full-blood Indian's homestead. [Applause.]

Mr. CHANEY. Will the gentleman yield for a question?

Mr. CARTER. Yes.

Mr. CHANEY. I beg to ask the gentleman what his bill does more than the bill which has had the recommendation or assent of the Secretary of the Interior?

Mr. CARTER. The bill of my colleague [Mr. McGUIRE] provides for the removal of restrictions on all people not of Indian blood; upon all people whose quantum of Indian blood is less than one-half; upon the surplus lands of all people whose quantum of Indian blood is one-half or more; but it does not touch the full-blood Indian's surplus, while my bill provides for the removal of all restrictions, except upon the full-blood Indian's homestead.

Mr. FLOYD. Will the gentleman yield to me for a statement right in that connection?

Mr. CARTER. Yes; with pleasure.

Mr. FLOYD. As the gentleman is aware, I spent about two weeks in the Indian Territory last summer.

Mr. CARTER. I well recall that fact, and I think we were much benefited by the visit of the distinguished gentleman from Arkansas.

Mr. FLOYD. I want to call the attention of the House to two or three cases that were given to me by a prominent lawyer of Pryor Creek. One was the case of a young lady who was a graduate of two literary institutions and also of the Conservatory of Music at Chicago. She could not dispose of her lands on account of this provision. Another case was one that appeals to the sympathy of every man, and that was this: A lady had three children; they were full bloods, and she had an allotment for herself and three children. This attorney told me that the land allotted to her was worth \$50 an acre. She could not lease it on account of the restriction forbidding leasing. She could not sell it. She submitted a letter to her attorney, asking why it was that, with so much land, worth so much money, they could not get bread. The woman had to beg bread because the regulations prohibited her from selling her land or leasing it for more than one year to anybody. Nobody would undertake to go on and clear up those rich bottom lands, clear them of timber, and put them in cultivation on a one-year contract or an illegal contract.

This shows the far-reaching effect of these restriction laws. The first case mentioned restricts an Indian of the highest degree of education and intelligence, who is as capable of managing her affairs as any other person. The second restricts a small ignorant class rich in lands and values, and by so doing keeps them in a condition of absolute poverty and want. The law is equally detrimental to both classes.

Mr. CARTER. That is true, and there are numerous instances of this kind. College graduates with one thirty-second Indian blood are subjected to these restrictions, and I know of a number of poor full-blood Indians who are incarcerated in the jails to-day in Oklahoma for minor offenses unable to make bond, yet owning an abundance of land which can not be hypothecated even at the price of their freedom. This restriction law respects neither intelligence nor want, and its wide scope reaches from the most intelligent mixed blood and white man, who resents dictation, to the helpless full blood impoverished by its application.

Mr. THOMAS of North Carolina. Will the gentleman yield?

Mr. CARTER. I will, with great pleasure.

Mr. THOMAS of North Carolina. How many acres did the gentleman say was allotted and could not be disposed of?

Mr. CARTER. All of it is restricted by a later act, which I will get to very soon.

Mr. THOMAS of North Carolina. I thought the gentleman said he had a certain number of acres himself that he could not sell.

Mr. CARTER. I will explain that fully in just a moment.

Mr. THOMAS of North Carolina. I thought I caught a statement from the gentleman of the number of acres.

Mr. FULTON. I think I can explain that.

Mr. CARTER. I expected to explain that later in my remarks, but I yield to my colleague.

Mr. FULTON. I was simply going to say that the gentleman from Oklahoma [Mr. CARTER] said that he could have the restrictions removed on his surplus lands, consisting of 160 acres, by applying to the Secretary of the Interior, but his home-

stead of 160 acres he could not sell in any manner any more than a full blood.

Mr. CARTER. The people of Oklahoma are not antagonistic to the Indian. They have been the recipient of many favors at the hands of the Indian people, and they are appreciative of the fact. They are the neighbors and friends of the Indians, and they themselves would be the loudest in their protests if the incompetent full bloods were left unprotected. If a full-blood Indian or any other person becomes homeless, he becomes a pauper and thereby incurs an undesirable expense for his subsistence, not upon the Federal Government, but upon the State in which he resides. So, Mr. Chairman, I do not think you need to have any fear of that score. The people of Oklahoma do not want the restrictions of any incompetent men removed.

Mr. BEALE of Pennsylvania. Will the gentleman yield for a question?

Mr. CARTER. I have only a limited time, and am attempting to make a conservative argument, but will gladly yield when my remarks are concluded, if I have any time left. The majority of the Indians composing the Five Civilized Tribes can no longer be considered a savage and uncivilized people. They are civilized. They are enlightened. They are educated to a high degree, and I dare say that the stranger in Oklahoma to-day would find great difficulty in distinguishing the mixed-blood Indian from the white man, as a rule. So we believe the time has certainly come when we must distinguish between the competent and the incompetent Indian, just as we do between such classes in all other nationalities.

FULL BLOODS.

Now, Mr. Chairman, the full-blooded Indian is in reality the only real ward of the Federal Government, and my bill gives him ample protection. It provides that he may not sell his homestead allotment for twenty years, but that he may sell his surplus land and thereby procure funds with which to improve his homestead.

Under the provisions of my bill the Indian will receive a two-fold benefit. In the first place, he will receive money with which to improve his homestead and make it productive. In the second place, when his surplus lands are sold, they will be sold to some home builder who will immediately begin the erection of his home and put his land in a high state of cultivation.

This land will lie adjacent to some full-blood Indian's homestead, and as this land is improved and put in a higher state of cultivation, just in that proportion will the full-blood Indian's homestead be increased in value, so that within a few years the full-blood Indian's homestead will be worth more than his entire allotment is to-day. This I believe to be the best protection ever offered to the full-blood Indian, for the reason that it gives him actual aid and assistance, while the present law simply strains at a purpose it fails to accomplish. It intimidates and prevents the honest home seeker from entering the market and paying a legitimate price for these lands, at the same time failing to prohibit the unscrupulous adventurer from getting possession of such lands and clouding the title to same for a merely nominal consideration.

Here is a point I want this committee to catch: The Indian in his primitive state was noted for an unwavering fidelity to his obligations. I can remember during my lifetime when an Indian's word was considered as good as his bond, but not so now. This system tends to destroy this, the most commendable feature of pristine Indian character, by plainly saying to the Indian, "Go sell your land and give a deed to it, then make application to have your act set aside, to be repossessed of your property, and upon the grounds of your incompetency we will sustain you in your dishonest contentions." Did you ever hear of such teaching to a simple, unsophisticated ward by its guardian? The Indian may be a little slow to get next to the white man's virtues, but he has abundant wit to catch on to his vices. [Laughter.]

Even the most ignorant full-blood Indian is by no means benefited by these restrictions. Much of the land allotted to the full-blood Indian is unimproved. These Indians, as a rule, are poor and have no funds with which to improve their lands. If they could only lease their lands, they might have them improved in that way, so that in a few years they would provide some kind of an income. Or, better still, if they could only sell their surplus lands the proceeds of such sale might be applied to permanent improvements on their homestead, and I would not object to having my bill amended to that extent.

But, Mr. Chairman, there is one fundamental fact which we must not overlook in dealing with this proposition, and that is this: These Indians of the Five Civilized Tribes do not own

their lands by the good graces of the Federal Government. They bought these lands and paid for them. These lands were accepted by them in lieu of much more valuable lands relinquished in the old Southern States. They had a fee-simple title to these lands for generations before allotment. The only reservation in the deed being that of escheat, which I presume would have operated without such provision in the deed. We have no moral right to prevent these people from using their property to the best advantage.

POVERTY.

The Choctaws and Chickasaws are reputed to be one of the wealthiest classes of people on the face of the earth, yet to-day, with all their boasted wealth, with all this glorious paternal supervision, many of the ignorant full-bloods among them can barely keep the wolf of starvation from the door, when, as a matter of fact, they are rich—but how? Rich in lands and moneys held out of their reach by the Federal Government.

"What profiteth a man if he owns the earth and yet starves to death?"

I tell you, Mr. Chairman, it is a crime to longer keep these people under such bondage. Many of them are growing old and will soon pass away; doubtless their condition of penury will hasten death. Then, in the name of humanity, nay, I will not make hypercritical appeals to your sentiment, but appeal to your fairness instead. In the name of that spirit of fairness which rests deep down in the bosom of every true-born American, let us see to it that these poor people are given an opportunity to enjoy the possession of some of their just rights before that dreaded reaper takes them to the great beyond. [Applause.]

TAXATION.

You have exempted the Indian's land from taxation, when the most casual glance into history will disclose the fact that it has always proven a mistake to exempt any certain class of people from taxation. It is a greater injustice to those exempted from this burden than it is to those burdened by such exemption.

History will show that such injustice as this has often led to cruel and wanton bloodshed. Whenever attempts have been made to exempt any certain class from taxation a prejudice has invariably sprung up against the exempted class by those who had to bear the burden, and this prejudice has been known to exist for years after the cause has been removed.

The only prejudice existing to-day against the Indian in Oklahoma is due to the fact that he will not contribute his part to ward the support of the State. This prejudice is at present in its incipency. As taxes become due and demands are made for payment it will grow and gather force, finally to the utter excommunication of the Indian politically, socially, and commercially.

To say the most of it, ownership of this world's goods is but transient and fleeting, while this prejudice would, I am sure, be permanent and enduring.

I had much rather have my child grow up moderate in means, yet efficiently educated and rich in the love and esteem of its neighbors, than that it should attain its majority lavish in wealth, but banished from its consorts into a small minority, to be scorned and despised, for a just cause, by its equals. [Prolonged applause.]

The Indian who has seriously considered this matter will have no word of protest against having his lands taxed. He must realize that this demand for an equalization of supporting the burden of the State is a just one, and for that reason can not be permanently withstood.

He would be short-sighted, indeed, if, simply for the purpose of saving a few paltry dollars taxation, he would allow a condition to exist which would create a prejudice not only detrimental to his own interests, but which would prove a menace to his children and his children's children.

The Indian expects all the burdens and benefits that come with your American citizenship. He will not object to paying his taxes if you will only make of him a citizen in fact as well as in name and eradicate these restrictions from his liberties.

The Indian believes, no matter what his political faith may be, in that eternal principle, "Equal rights to all and special privileges to none." And should stand firmly upon the proposition that "the man who is unwilling to bear his just share of the burden of supporting his Government is unworthy to live under and enjoy the blessings of a great Government like ours." [Applause.]

PURPOSE OF INDIAN OFFICE.

Undoubtedly the purpose of the establishment of the Indian Bureau in the Interior Department was to eventually make of the Indian an independent and self-reliant citizen, and to this

end I take it has the Indian Office ever labored, educating and instructing the Indian in literature, in agriculture, and in all the different branches that go to make our cosmopolitan American citizenship.

This paternalistic attitude is well enough for the full-blood Indian, who, as stated before, is the only real ward of the Government, but when an Indian or any other person reaches the point of intelligence at which he is competent to think and act for himself any further attempt to supply the demands of his life or stand sponsor for his acts simply stimulates the indolence in the nature of that individual and destroys such independent and initiative character as you have been able to construct.

The intelligent mixed-blood Indians of our tribes have unmistakably attained the object of Federal supervision, to wit—intelligent, self-reliant citizenship. What such educated Indians as these need is to be let alone. Let the Federal Government loosen its hold. Remove their restrictions; make them free; give them a show, and I guarantee they will make good as American citizens.

KICKING KICKAPOOS.

The Kickapoo land frauds recently unearthed have been cited and exploited as an argument against the removal of restrictions for the Five Civilized Tribes. Such acts of loot and plunder as seem to have been committed on these poor, ignorant people are most reprehensible and warrant rigid punishment under the law; but the argument that this circumstance is any reason for the retention of restrictions on the lands of intelligent Indians is the sheerest kind of sophistry.

These Kickapoos are Indians of the very lowest degree of civilization and mentality, uneducated, and almost savage in instinct. They sold their lands to move to Mexico, and the very fact that they wanted to leave a great country like this and go to Mexico or any other place ought to have been sufficient notice that the Kicking Kickapoos were incompetent.

But seriously and in fairness these people can no more be compared with the educated mixed-breed Choctaw, for instance, simply because they are both of American Indian stock, than can the most ignorant, dog-eating Igorot be compared to the shrewd, aggressive Jap because they are both of Asiatic-Malay origin.

To sum up briefly, I said I believe the imposition of these restrictions, according to existing laws, bad for the Indian, bad for the State of Oklahoma, and contrary to the spirit of American liberty. It is bad for the mixed-breed Indian, because it hampers the independence of an intelligent man; prevents him from using his property to the best advantage; teaches him to lean upon another; teaches him to be a tax dodger, and destroys his self-reliance, which we will all agree is the most potent element contributing to the composition of untrammelled American manhood. It is bad for the uneducated full blood, because it strains at a goal it has failed to reach; teaches him duplicity and knavery, which crimes he is not given to in his primitive state; denies him the funds with which to improve his lands, and cheapens the price of his lands by limiting the market to adventurous purchasers only.

It is bad for the State of Oklahoma, because during the embryonic period of this young Commonwealth it takes from its tax sheets almost one-half of the lands, prevents legitimate dealing in land, prevents permanent improvements on lands, prevents home building, and builds up a system of tenantry the like of which American civilization has never seen before. It is contrary to the spirit of American liberty, because it places restrictions on the rights and acts of competent and intelligent people, sovereign citizens of the United States, who are not charged with the commission of any offense whatever against either law or morals.

Not being versed in the law, it would be presumptive in me to attempt to discuss the legality or constitutionality of this question before this body of eminent lawyers. I do, however, ask the indulgence of the committee in calling to its attention certain Supreme Court decisions which I believe affect, vitally, this question.

In the case of *The Cherokee Nation v. The State of Georgia* (5 Peters, p. 1) Chief Justice Marshall delivered an opinion which I understand to be the first legal definition of the term "Indian tribes." Mr. Marshall stated, in substance:

Indian tribes are not foreign states, but must be regarded as domestic, dependent aliens.

This Supreme Court decision is reenforced by numerous other opinions, some of which are *Jones v. Mehan* (175 U. S., p. 1), *Eastern Band of Cherokees v. United States* (112 U. S., p. 288).

If these tribes are domestic, dependent aliens, it would naturally follow that each constituent element thereof is a domestic, dependent alien. But United States citizenship was conferred on all members of the Five Civilized Tribes by the act of March

2, 1901. Now, it seems to me that the term "dependent alien" is absolutely incompatible with United States citizenship, therefore restrictions might be maintained upon the liberties of Indians who are domestic, dependent aliens, but not upon United States citizens, and in view of these citations, it seems to me a very close question if such restrictions can really be legally and constitutionally maintained.

But that matters not, granting for the sake of argument that such provision should be upheld by the court. Grant that this provision may not be a technical legal violation of the Federal Constitution. Nevertheless, I believe that to restrict an intelligent man in such a manner as this is morally violative of the spirit of that provision of the Constitution which guarantees life, liberty, and pursuit of happiness.

If I am a sovereign citizen of the United States, of sound mind, and competent to manage my own affairs, you have no more moral right to single me out and place specific restrictions on the disposition I shall make of my effects on account of my Indian blood than you have to restrict an Irishman in the wearing of the green on St. Patrick's Day on account of his Irish blood, and I do not think this House would want to attempt to regulate that—not the New York City Members, anyway. [Laughter.]

In conclusion, I want to say, if you will remove these restrictions, if you will give Oklahoma an equal start with all the other States at the time of their admission, we will give you a sample of progress of which the parent Government may well feel proud. Our country will be filled with home seekers, worthy constituents of many of these gentlemen, who will build homes and convert the rich virgin soil into blossoming fields of grain and cotton.

The worthy pioneer will then have an opportunity to realize the ambition of his life. Consider for a moment the American pioneer. Consider this sturdy, stout-hearted yeoman who has helped to develop this country and make it fit to live in; who has taken his life in his hands, as it were, and hewn from the great primeval forests of the West his modest home far in advance of law and order, thereby making possible the existence of all the great States west of the Alleghenies and contributing to the magnitude and grandeur of this stately Republic. [Applause.]

Is not this worthy citizen entitled to some consideration at the hands of the Government he has helped to build and make great? Why, think you, has this sturdy citizen braved all the dangers of frontier life? Why has he undergone all the privations of the early settler? For the just and righteous purpose that he and his beloved little family might secure some hearth and fireside, humble though it be, that they could call home. [Applause.] If you remove these restrictions you do no less than justice by all, yet you grant to this steadfast citizen a life which will have a new meaning. He will move from the humble hut where he has been forced to live and pay rent in the past and begin the erection of a new home, all his own, paying tribute to none save his country and Almighty God. [Loud applause.]

It shall be our utmost endeavor and highest ambition to give to the parent Government an example of unalloyed devotion and loyalty; if in the troublous times of war it should become necessary to call for good men, brave and true, to battle for the rights of this great Republic, you will find that no State in this Union will respond more willingly than the infant State of Oklahoma. [Loud applause.] None shall be permitted to rally around the Old Glory more graciously and more patriotically than the sons of the Indians, "Land of the Fair God;" and in the piping times of peace we will endeavor to contribute to the National Congress honest, patriotic Members always, who will dare to do the right as they see it no matter what their political faith may be. [Loud general applause.]

Mr. BEALE of Pennsylvania. I would ask what it is that the gentleman would have and that they think they require for Oklahoma?

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. CARTER. Mr. Chairman, I thank the committee for its considerate attention.

Mr. BEALE of Pennsylvania. Then I will state, if I have the time, that if there is anything this House could do for Oklahoma, I am sure it will do it after the statements that have been presented by the gentleman from Oklahoma. [Applause.]

[H. R. 15641, Sixtieth Congress, first session. Report No. 1454.] In the House of Representatives, January 29, 1908. Mr. McGUIRE introduced the following bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

April 6 (calendar day, April 16), 1908, reported with amendments, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

[Omit the parts in brackets and insert the part printed in italics.]

A bill for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions, but all sales or incumbrance of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior. All lands, including homesteads, of said allottees enrolled as less than half Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood and all allotted lands of enrolled living full-bloods shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance [until] prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act: *Provided, That these lands shall not be subjected or held liable to any form of personal claim or demand against the allottees arising or existing prior to the passage of this act.*

SEC. 2. That all land allotted to adult allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or in the case of minors as provided in section 6 hereof, for periods not exceeding five years without the privilege of renewal, except that oil, gas, or other mineral leases for any period of time, and other leases of adults if made for more than five years, of any such restricted lands, [whether of adults or of minors,] may be made with the approval of the Secretary of the Interior and not otherwise.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior [and the enrollment records connected therewith] shall be conclusive evidence as to the age and the quantum of Indian blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act.

SEC. 3a. That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgement of deeds, and the same shall be recorded in the county where the land is situate.*

SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes. [The land of allottees enrolled as freedmen shall be subject to taxation from and after sixty days from the passage of this act.]

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

[SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes, except as otherwise specifically provided by law, shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern district of Oklahoma as he may deem necessary to care for the allotted restricted land of allottees, whether adults or minors of the Five Civilized Tribes, including, when the supervision of the Secretary of the Interior is authorized by law, the sale or leasing of such lands and the disposal, for the benefit of the Indians, of the proceeds of such sales or leases. Said appointed representatives shall, without charge except necessary court fees, if any, care for the restricted allotted land of minor allottees of the Five Civilized Tribes, and shall annually account concerning such restricted land, both to the Secretary of the Interior and to the respective probate judges having jurisdiction of the persons and property of such minors. The probate judge may appoint the representative of the Secretary of the Interior having charge of the restricted land of any such minor to act as guardian for such minor without fee or charge, except necessary court charges and expenses incurred under order of the court. Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under direction of the Secretary of the Interior.]

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of

guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardians and curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character, made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: Provided, That the homesteads of minors shall not be sold or incumbered, except loans authorized by law, by order of the court or otherwise, until such minor arrives at the age of 21 years.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of \$50,000, to be used in the payment of expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern district of Oklahoma.

Sec. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

Sec. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by substituting for the words "a United States commissioner," at the end of said section, the words "a judge of a county court of the State of Oklahoma."

Sec. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions from the alienation of said allottee's land: Provided, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said estate.

[House Report No. 1454, Sixtieth Congress, first session.]

REMOVAL OF RESTRICTIONS FROM PART OF LANDS OF ALLOTTEES OF FIVE CIVILIZED TRIBES.

April 6, 1908, committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. McGUIRE, from the Committee on Indian Affairs, submitted the following report, to accompany H. R. 15641:

The Committee on Indian Affairs, to whom was referred the bill (H. R. 15641) for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes, have considered said bill at length with others containing the same subject-matter and beg leave to report as follows:

The Five Civilized Tribes referred to in this bill are the Choctaws, Chickasaws, Cherokees, Creeks, and Seminoles, occupying that portion of the State of Oklahoma formerly known as the Indian Territory.

Under existing law all land allotted to these five tribes by previous acts of Congress is inalienable and nontaxable except that the Secretary of the Interior, under such rules and regulations as he may prescribe, may remove the restrictions against the alienation of the land which was allotted to persons of less than one-half Indian blood. These five tribes occupy practically all of that country formerly designated and known as Indian Territory, now a portion of the State of Oklahoma, comprising nearly one-half of the entire State. Since the admission of Oklahoma to the Union that part of the State has been divided into counties and subdivided into townships, school districts, etc. There has been elected a full set of county officers in each county, township officers in each township, and school district officers wherever school districts have been organized.

The only taxable real estate is that contained within the corporate limits of cities and towns and real estate outside where restrictions have been removed and where the Indian has disposed of his land.

As appears by another page of this report, restrictions had been removed on 3,028,196.58 acres, on the 24th day of December, 1907, but less than half this amount had been alienated. There has been since that date some removal of restrictions and some additional sales.

It will be readily observed from the foregoing statement that there is little taxable property in that portion of the State of Oklahoma except personal property and real estate in the corporate limits of cities and towns. The meaning of this is that there is a government, State and local, to support with practically no real estate upon which there may be a levy for taxable purposes. The cities are required to bear the expenses of county and State government, with the exception of personal property and a small per cent of outside real estate mentioned in the preceding paragraph. This leaves a portion of the people of that

State bearing all the burdens of taxation, and relieves another—the most wealthy of the people of the State—from any of the burdens of taxation. The result is that it is impossible to support schools except in the extremely wealthy section more than two or three months in the year. For those persons who are taxed, the per cent of taxation is enormously high—almost unbearable.

The territory occupied by the Five Civilized Tribes, as shown by the preceding, in all amounts to 19,688,069.52 acres. On December 24, 1907, restrictions had been removed from 3,028,196.58 acres, but of this amount a comparatively small portion had been alienated, and under existing law it is not taxable until alienated.

Practically all mixed-blood Indians of the Five Civilized Tribes are educated and entirely capable of transacting their own business. There are very few exceptions to this statement. This bill does not seek to remove the restrictions from mixed-blood Indians having one-half or more than one-half Indian blood, and does not seek to remove the restrictions from the full-blood Indians. Thus it will be seen that the bill only relates to the removal of restrictions from those persons having less than one-half Indian blood, also intermarried white persons and freedmen who have by previous acts been provided with allotments.

The bill does provide that the Secretary of the Interior, in his discretion and under such rules and regulations as he may prescribe from time to time where sufficient showing has been made to him, remove restrictions from persons of half or more of Indian blood.

The following tables will show the number of Indians and their blood among these Five Civilized Tribes, and the amount of land made alienable and taxable by this bill, amounting, in all, to 8,434,749.42 acres:

STATEMENT OF LAND CONDITIONS IN THE STATE OF OKLAHOMA.

Tribal enrollment showing degree of blood of Indians in the Five Tribes.

ADULTS.

Full bloods:		Freedmen—Continued.	
Choctaws	4,141	Creeks	6,807
Chickasaws	690	Cherokees	4,925
Creeks	3,556	Seminole	986
Cherokees	3,020	Total	23,382
Seminole	750		
Total	12,157	MINORS.	
More than half:		Full bloods:	
Choctaws	583	Choctaws	4,178
Chickasaws	249	Chickasaws	848
Creeks	653	Creeks	3,256
Cherokees	1,234	Cherokees	3,581
Seminole	173	Seminole	649
Total	2,892	Total	12,512
One-half:		Registered Delawares	126
Choctaws	956	More than one-half:	
Chickasaws	545	Choctaws	390
Creeks	664	Chickasaws	135
Cherokees	1,372	Creeks	243
Seminole	211	Cherokees	819
Total	3,748	Seminole	7
Less than one-half:		Total	1,594
Choctaws	6,379	Registered Delawares	16
Chickasaws	2,226	One-half:	
Creeks	2,399	Choctaws	678
Cherokees	17,719	Chickasaws	279
Seminole	155	Creeks	475
Total	18,878	Cherokees	1,556
Intermarried:		Seminole	183
Choctaws	1,585	Total	3,171
Chickasaws	635	Registered Delawares	27
Creeks	286	Less than one-half:	
Cherokees	286	Choctaws	1,731
Seminole	2,506	Chickasaws	712
Total	5,994	Creeks	649
Chickasaws	4,670	Cherokees	7,089
Freedmen:		Seminole	10
Choctaws	5,994	Total	10,191
Chickasaws	4,670	Registered Delawares	28

Enrollment as to class and acreage of each tribe.

	Enrollment.		Acreage.
	Number.	Total.	
Chickasaws by blood	5,684	6,307	4,708,108.05
Chickasaws by intermarriage	623		
Chickasaw freedmen	19,036	22,977	6,950,043.66
Choctaws by blood	1,585		
Choctaws by intermarriage	1,356	19,702	3,072,831.16
Mississippi Choctaws	1,356		
Choctaw freedmen	12,895	5,128	365,554.39
Creeks by blood	6,807		
Creek freedmen	2,138	41,511	4,420,070.13
Seminole freedmen	986		
Cherokees	36,390	106,289	19,512,889.39
Cherokee Delawares	196		
Cherokee freedmen	4,925		
Total Five Civilized Tribes			

According to letter of Commissioner to the Five Civilized Tribes, the number of acres subject to alienation on December 24, 1907, follows:

Choctaw and Chickasaw nations	998,158.58
Creek Nation	1,457,509.00
Seminole Nation	1,379.00
Cherokee Nation	571,150.00

Total 3,028,196.58

Leaving a residue of 16,659,872.94 acres inalienable and nontaxable. The bill removes restrictions as follows:

	Enrollment.		Made alienable.	
	Number.	Total.	Per capita.	Total.
<i>Choctaws and Chickasaws.</i>				
One-half and more:				
Minors	1,480			
Adults	2,330			
		3,810	160	609,600.00
Less than half, including intermarrieds:				
Adults	8,605			
Minors	2,443			
Intermarried	2,221			
		13,269	320	4,246,080.00
Freedmen	10,634		40	425,360.00
Total		27,713		5,281,040.00
Land alienable at present				998,158.58
Restrictions removed by bill				4,282,881.42
<i>Cherokees.</i>				
One-half and more:				
Adults	2,606			
Minors	2,375			
		4,981	80	378,480.00
Less than half, all classes:				
Adults	17,719			
Minors	7,089			
Intermarried	283			
Freedmen	4,925			
		35,000	110	3,302,090.00
Total		35,000		3,681,570.00
Land alienable at present				571,150.00
Restrictions removed by bill				3,110,420.00
<i>Creeks and Seminoles.</i>				
One-half and more:				
Adults	1,701			
Minors	908			
		2,609	120	313,080.00
Less than half, all classes:				
Adults	2,554			
Minors	659			
Freedmen	7,793			
		11,006	160	1,760,960.00
Total		13,615		2,074,040.00
Land alienable at present				1,032,592.00
Restrictions removed by bill				1,041,448.00
Total number of acres on which restrictions are removed by bill				8,434,749.42

It is estimated that of the 19,600,000 acres of land embraced in the Five Civilized Tribes not more than 6 per cent has been alienated and is taxable.

Under the present laws there is little improvement of the allotments, and the revenues received from them by the Indians is not large. This bill will enable the large portion of Indian allottees who are capable of managing their affairs to sell the portion of their lands not required by them and to so improve that which they retain that it will afford them a good income. It will result in the large portion of Oklahoma occupied by the Five Civilized Tribes becoming the property of the men who till the soil, and will ultimately do away with the present lease system, which checks the development of that State. There is a limit to the amount of taxes that the small portion of the people now bearing this burden can stand, and unless provision is made whereby the lands in the Five Tribes may be taxed, there can be no adequate public school system, necessary bridges can not be constructed, public roads can not be opened and improved, and the county and district government can not be properly conducted. Thus the development of this portion of the State would be further hampered.

The Indian citizens are now enjoying the same privileges and benefits of State and local government in Oklahoma as the white citizens. Besides affording relief to all of the citizens of the State this bill should prove a benefit to the Indian allottees, as they are the large property owners and would have the advantage of the increased valuations that would come with the development of the resources of their portion of the State through the ending of the lease system, the equalizing of taxation, and the establishment of efficient public schools, good roads, and the other benefits of local government.

Your committee therefore recommends that the bill (H. R. 15641) do pass with the following amendments:

After the word "restrictions," in line 10, on page 1, strike out "but all sales or incumbrances of their lands prior to March 1, 1909, shall be void unless the adequacy of the consideration and the fact of its actual payment or proper security therefor be approved by the Secretary of the Interior."

On page 2, in line 9, strike out the word "until" and insert in lieu thereof "prior to."

After the word "act," in line 18, on page 2, insert—

"Provided, That these lands shall not be subjected or held liable to

any form of personal claim or demand against the allottees arising or existing prior to the passage of this act."

In line 19, on page 2, after the word "to," insert "adult."

In line 24, after the word "lessees," insert "of adults."

In line 25, on page 2, after the word "lands," strike out "whether of adults or minors."

In line 5, on page 3, after the word "Interior," strike out "and the enrollment records connected therewith."

After the word "act," in line 9, on page 3, insert:

"Sec. 3a. That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior, as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease, and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situated."

In lieu of section 6 insert—

"Sec. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardians and curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minors without fee or charge."

"And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands."

"Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That the homesteads of minors shall not be sold or encumbered, except loans authorized by law, by order of the court or otherwise, until such minor arrives at the age of 21 years."

"And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of \$50,000, to be used in the payment of expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern district of Oklahoma."

[S. 6720, Sixtieth Congress, first session.]

In the Senate of the United States, April 20, 1908. Mr. OWEN introduced the following bill, which was read twice and referred to the Committee on Indian Affairs:

A bill for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All allotted lands of said allottees enrolled as freedmen, except homesteads, shall be free from all restrictions: *Provided*, That adult freedmen may lease their homesteads for five years for agricultural purposes, and not to exceed fifteen years for mineral purposes.

All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half white blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having less than half white blood and all allotted lands of enrolled living allottees of more than half Indian blood shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the

proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act.

SEC. 2. That all land allotted to adult allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or, in the case of minors, as provided in section 6 hereof, for periods not exceeding five years, without the privilege of renewal, except that oil, gas, or other mineral leases for any period of time, and other leases if made for more than five years, of any such restricted lands, may be made with the approval of the Secretary of the Interior and not otherwise.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the age and the quantum of blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act.

That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior, as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior or his designated agent a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens, as though it were the property of other persons than allottees of the Five Civilized Tribes. The land of allottees enrolled as freedmen shall be subject to taxation from and after sixty days from the passage of this act.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act, shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian and curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minor, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That the homesteads of minors shall not be sold or incumbered except as to leases authorized by law by order of the court or otherwise until such minor arrives at the age of 21 years.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, or after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by substituting for the words "a United States commissioner," at the end of said section, the words "a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions from the alienation of said

allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said estate.

SEC. 10. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available as the Attorney-General may direct, the sum of \$20,000, to be used in the payment of expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern district of Oklahoma.

[H. R. 15641, Sixtieth Congress, first session.]

In the Senate of the United States, April 23, 1908, read twice and referred to the Committee on Indian Affairs.

An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as of less than half Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood and all allotted lands of enrolled living full bloods shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act.

SEC. 2. That all land allotted to adult allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or, in the case of minors, as provided in section 6 hereof, for periods not exceeding five years without the privilege of renewal, except that oil, gas, or other mineral leases of adults for any period of time, and other leases of adults if made for more than five years, of any such restricted lands, may be made with the approval of the Secretary of the Interior and not otherwise.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the age and the quantum of Indian blood of any enrolled citizen or freedman of said tribes to determine questions arising under this act.

SEC. 3a. That all oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall not be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

SEC. 4. That all land from which restrictions shall have been removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: *And provided further*, That allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives for the eastern judicial district of the State of Oklahoma as he may deem necessary to inquire into and investigate the conduct of guardians and curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian and curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardians and curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian and curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character, made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior; *Provided*, That no restricted lands of living minors shall be sold or encumbered, except leases authorized by law, by order of the court or otherwise.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of \$50,000, to be used in the payment of expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern judicial district of Oklahoma.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and other purposes," approved April 26, 1906, is hereby amended by substituting for the words "a United States commissioner," at the end of said section, the words "a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions from the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said estate.

[H. R. 15641, Sixtieth Congress, first session. Report No. 575. Calendar No. 588.]

In the Senate of the United States, April 23, 1908, read twice and referred to the Committee on Indian Affairs. April 28, 1908, reported by Mr. OWEN, with amendments.

[Omit the part in brackets and insert the part printed in italics.]

An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as of [less than half] one-quarter or less than one-quarter Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having [half or] more than [half] one-quarter or less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having [half] one-quarter or more than [half] one-quarter Indian blood, including minors of such degree of blood, and all allotted lands of enrolled living full bloods, including minors of such degree of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act. *No restriction of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands. All restricted allotted land of allottees of the Five Civilized Tribes shall be subject to taxation where such land has been leased, but taxes thus levied shall not become a lien against the land but shall be paid by the lessee and shall be a lien against any crops or values produced from the land.*

[SEC. 2. That all land allotted to adult allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or in the case of minors as provided in section 6 hereof, for periods not exceeding five years without the privilege of renewal, except that oil, gas, or other mineral leases of adults for any period of time, and other leases of adults if made for more than five years, of any such restricted lands, may be made with the approval of the Secretary of the Interior and not otherwise.]

SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee for a period not to exceed five years: *Provided*, That leases of oil, gas, or other minerals, and of restricted homesteads and leases for more than five years, may be made under rules and regulations provided by the Secretary of the Interior, and not otherwise, and leases of the lands allotted minors may be made as provided in section 6 of this act.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to [the age and] the quantum of Indian blood of any enrolled citizen or freedman of said tribes and of no other persons to determine questions arising under this act, and the enrollment cards of the enrollment records shall be conclusive evidence as to the age of said citizen or freedman: *Provided*, That if any such card shall be lost or destroyed said rolls shall be conclusive evidence as to the age of said citizen or freedman.

[SEC. 3a.] That [all] no oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall [not] be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

SEC. 4. That all land from which restrictions [shall] have been or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: *[And provided further] Provided*, That allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of encumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by [law] this act, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives [for the eastern judicial district of] within the State of Oklahoma who shall be citizens of that State as he may deem necessary to inquire into and investigate the conduct of guardians [and] or curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardians [and] or curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value, by reason of the negligence or carelessness or incompetency of the guardians [and] or curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian [and] or curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character, made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That no restricted lands of living minors shall be sold or encumbered, except by leases authorized by law, by order of the court or otherwise.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of [fifty] thirty thousand dollars, to be used in the payment of necessary expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern judicial district of Oklahoma: *Provided*, That the sum of ten thousand dollars of the above amount, or so much thereof as may be necessary, may be expended in the prosecution of cases in the western judicial district of Oklahoma.

Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot against whom no fraud has been established may be dismissed and the title quieted upon payment of the full balance due on the original appraisal of such lot.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by [substituting for the words "a United States commissioner,"] adding at the end of said section, the words "or a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions [from] upon the alienation of

said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of [said] the estate of said deceased allottee.

Sec. 10. That nothing in this act shall be so construed as to abridge, change, or affect the rights of any citizens by blood or freedmen, or their heirs, of the Five Civilized Tribes, who may hereafter by the order of court, or of the Interior Department, be adjudged entitled to enrollment.

Sec. 11. That the Secretary of the Interior is hereby authorized and directed to pay, out of any money in the Treasury of the United States belonging to the Chickasaw Nation, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Chickasaw Nation and drawn on the national treasurer thereof prior to April 26, 1906, and submitted for payment to the United States Indian agent at Union Agency, at Muskogee, Okla., with interest at 6 per cent per annum from the respective dates thereof: *Provided*, That said Secretary shall not pay such warrants until he investigates the issuance and transfer of said warrants and is satisfied that the respective owners of said warrants purchased the same in good faith for a valuable and reasonable consideration and had no reason to suspect fraud in the issuance of said warrants.

Sec. 12. That the Secretary of the Interior may permit any lessee having a coal and asphalt lease covering segregated coal or asphalt lands in the Choctaw and Chickasaw nations in Oklahoma, which lease has been approved by the Secretary of the Interior, to surrender any tract or part thereof and to substitute therefor, subject to the terms of the lease and approval by the Secretary of the Interior, adjoining land within said segregation substantially equal in area to the land surrendered.

And all royalties heretofore accrued or hereafter arising from mineral leases by Seminole allottees heretofore or hereafter made shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall hereafter belong; and all royalties accrued or hereafter accruing under any oil lease made under section 13 of the act of Congress approved January 28, 1898, entitled "An act for the protection of the people of Indian Territory, and for other purposes," shall be paid to allottees of the land included in such lease pro rata according to the area of their respective holdings, or to their lawful assigns.

Sec. 13. That all records pertaining to the allotment of lands of the Five Civilized Tribes shall be finally deposited in the office of the United States Indian agent, Union Agency, when and as the Secretary of the Interior shall determine such action shall be taken, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, as the Secretary of the Interior may direct, the sum of \$15,000, or so much thereof as may be necessary to enable the Secretary of the Interior to furnish the various counties of the State of Oklahoma certified copies of such portions of said records as affect title to lands in the respective counties.

Sec. 14. That section 15 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, shall become operative immediately upon the approval of this act.

Statement of lands affected by removal-of-restriction amendments made and proposed in the Senate to H. R. 15641.

The amendment on page 2, line 4, replaces restrictions on the surplus allotments of all Indians of three-quarter and more Indian blood, except full bloods. The statement as to restrictions, as replaced by this amendment, follows:

	Total enrollment.	Acreage.
Choctaws and Chickasaws.....	1,125	160 180,000
Cherokees.....	2,720	80 215,000
Creeks and Seminoles.....	900	120 108,100
Total.....	4,745	503,700

Total number of acres on which restrictions are replaced by above amendment, 503,700.

The different amendments changing the status from "less than one-half" to "one-quarter or less than one-quarter," affects removal of restrictions as follows:

	Total enrollment.	Acreage.
Choctaws and Chickasaws.....	1,023	160 163,620
Cherokees.....	1,936	30 58,080
Creeks and Seminoles.....	300	40 12,000
Total.....	3,259	233,700

Total number of acres on which restrictions are replaced by above amendment, 233,700.

The amendment proposed by Senator McCUMBER, to wit: To further replace restrictions on surplus lands of "one-quarter-blood Indians," affects removal of restrictions as follows:

	Total enrollment.	Acreage.
Choctaws and Chickasaws.....	2,611	160 317,760
Cherokees.....	4,025	30 121,550
Creeks and Seminoles.....	1,076	40 42,040
Total.....	7,712	481,350

Total number of acres on which restrictions are replaced by proposed McCumber amendment, 481,350.

Total number of acres restricted by all amendments, 1,218,750.

Respectfully submitted.

C. D. CARTER.

[H. R. 15641, Sixtieth Congress, first session.]

In the House of Representatives, May 12 (calendar day, May 14), 1908. Ordered to be printed with the amendments of the Senate numbered. [Omit the part printed in brackets and insert the part printed in italics.]

An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as of (1) [less than half] one-quarter or less than one-quarter Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having (2) [half or] more than (3) [half] one-quarter or less than three-quarters Indian blood shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having (2) [half or] more than (3) [half] one-quarter Indian blood (6), including minors of such degree of blood, and all allotted lands of enrolled living full bloods (7), including minors of such degree of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act. (8) No restriction of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands.

(9) [SEC. 2. That all land allotted to adult allottees of the Five Civilized Tribes and subject to restriction may be leased by the allottees, or in the case of minors as provided in section 6 hereof, for periods not exceeding five years, without the privilege of renewal, except that oil, gas, or other mineral leases of adults for any period of time, and other leases of adults if made for more than five years, of any such restricted lands, may be made with the approval of the Secretary of the Interior, and not otherwise.]

SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee for a period not to exceed five years: *Provided*, That leases of oil, gas, or other minerals, and of restricted homesteads and leases for more than five years, may be made under rules and regulations provided by the Secretary of the Interior, and not otherwise, and leases of the lands allotted minors may be made as provided in section 6 of this act.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to (10) [the age and] the quantum of Indian blood of any enrolled citizens or freedman of said tribes (11) and of no other persons to determine questions arising under this act (12), and the enrollment cards of the enrollment records shall be conclusive evidence as to the age of said citizen or freedman: *Provided*, That if any such card shall be lost or destroyed said rolls shall be conclusive evidence as to the age of said citizen or freedman.

(13) [SEC. 3 a.] That (14) [all] no oil, gas, and other mineral leases entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall (15) [not] be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgement of deeds, and the same shall be recorded in the county where the land is situate.

SEC. 4. That all land from which restrictions (16) [shall] have been (17) or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: (18) [And provided further] *Provided*, That allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of encumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by (19) [law] this act, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives (20) [for the eastern judicial district of] within the State of Oklahoma (21) who shall be citizens of that State as he may deem necessary to inquire into and investigate the conduct of guardians (22) [and] or curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian (23) [and] or curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardians (24) [and] or curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further

extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian (25) [and] or curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character, made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That no restricted lands of living minors shall be sold or encumbered, except (26) by leases authorized by law, by order of the court or otherwise.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of (27) [fifty] thirty thousand dollars, to be used in the payment of (28) necessary expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern judicial district of Oklahoma (29): *Provided*, That the sum of \$10,000 of the above amount, or so much thereof as may be necessary, may be expended in the prosecution of cases in the western judicial district of Oklahoma.

(30) Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot against whom no fraud has been established may be dismissed and the title quieted upon payment of the full balance due on the original appraisement of such lot.

The Secretary of the Interior shall be further authorized, at the request of any allottee with restricted land, to bring suit on his behalf to remove cloud from the title thereto without cost or charges to the said allottees, and all necessary expenses incurred under this section shall be defrayed from the money herein appropriated as hereinafter provided.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by (31) [substituting for the words "a United States Commissioner,"] adding, at the end of said section, the words (32) "or a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions (33) [from] upon the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of (34) [said] the estate (35) of said deceased allottee.

(36) SEC. 10. That nothing in this act shall be so construed as to abridge, change, or affect the rights of any citizens by blood or freedmen, or their heirs, of the Five Civilized Tribes, who may hereafter by the order of court, or of the Interior Department, be adjudged entitled to enrollment.

(37) SEC. 11. That the Secretary of the Interior is hereby authorized and directed to pay, out of any money in the Treasury of the United States belonging to the Chickasaw Nation, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Chickasaw Nation and drawn on the national treasurer thereof prior to April 26, 1906, and submitted for payment to the United States Indian agent at Union Agency, at Muskogee, Okla., with interest at 6 per cent per annum for the respective dates thereof: *Provided*, That said Secretary shall not pay such warrants until he investigates the issuance and transfer of said warrants and is satisfied that the respective owners of said warrants purchased the same in good faith for a valuable and reasonable consideration and had no reason to suspect fraud in the issuance of said warrants.

(38) SEC. 12. That all royalties heretofore accrued or hereafter arising from mineral leases by Seminole allottees heretofore or hereafter made shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall hereafter belong; and all royalties accrued or hereafter accruing under any oil lease made under section 13 of the act of Congress approved January 28, 1898, entitled "An act for the protection of the people of Indian Territory, and for other purposes," shall be paid to allottees of the land included in such lease pro rata according to the area of their respective holdings, or to their lawful assigns.

(39) SEC. 13. That all records pertaining to the allotment of lands of the Five Civilized Tribes shall be finally deposited in the office of the United States Indian agent, Union Agency, when and as the Secretary of the Interior shall determine such action shall be taken, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available as the Secretary of the Interior may direct, the sum of \$15,000, or so much thereof as may be necessary to enable the Secretary of the Interior to furnish the various counties of the State of Oklahoma certified copies of such portions of said records as affect title to lands in the respective counties.

(40) SEC. 14. That section 15 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the

Indian Territory, and for other purposes," approved April 26, 1906, shall become operative immediately upon the approval of this act.

(41) SEC. 15. That for six months after the approval of this act the Secretary of the Interior be, and he is hereby, authorized and directed to enroll as members of either the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, such persons as the records in his office may show were wrongfully omitted from the rolls of either of said tribes by reason of error of law or of inadvertence, or because of want of time to properly consider their applications for enrollment, and he may consider any evidence heretofore filed for or against such applicants, and the said Secretary is further authorized in any case where he is satisfied from the evidence and records in his office that a member was wrongfully enrolled as a freedman and should have been enrolled as an Indian to transfer said member from the approved freedman roll to the roll of citizens by blood of such tribe: *Provided*, That in suits brought to restore the names of persons struck from the final rolls of the Five Civilized Tribes the Secretary of the Interior, as defendant, may offer as a defense the record to show that such name had been erroneously placed upon such roll, and the name of no person shall be restored to such roll who was not originally entitled under the law to have been enrolled, and the burden of proof in such cases shall be upon the Secretary of the Interior: *Provided further*, That the children of Choctaw freedmen, entitled under the act of April 26, 1906, to make application under that law, and who failed to apply for lack of proper notice, shall have ninety days from and after the passage of this act within which to make such application, and such application shall have the same effect as if it had been made within the time originally proposed by such law.

(42) SEC. 16. That the provisions of section 13 of the act of Congress approved April 26, 1906 (34 Stat. L., p. 137), shall not apply to town lots in town sites heretofore established, surveyed, platted, and appraised under the direction of the Secretary of the Interior, but nothing herein contained shall be construed to authorize the conveyance of any interest in the coal or asphalt underlying said lots.

Passed the House of Representatives April 20, 1908.

Attest: A. McDOWELL, Clerk.

Passed the Senate with amendments May 13, 1908.

Attest: CHARLES G. BENNETT, Secretary.

[House report No. 1731, Sixtieth Congress, first session.]

REMOVAL OF RESTRICTIONS FROM PART OF LANDS OF FIVE CIVILIZED TRIBES.

May 12, 1908, ordered to be printed.

Mr. SHERMAN, from the committee of conference, submitted the following conference report (to accompany H. R. 15641):

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15641), an act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 4, 5, 19, 27, 36, 41.

That the House recede from its disagreement to the amendments of the Senate numbered 10, 11, 13, 15, 16, 17, 18, 20, 22, 23, 25, 26, 28, 29, 31, 32, 33, 34, 39, 42; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and on page 1, line 8, after the word "whites," strike out "shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as freedmen shall be free from all restrictions. All lands, including homesteads, of said allottees enrolled as of" and insert after the word "whites" , as freedmen, and as mixed-blood Indians having less than half.

On page 2, line 1, after the word "blood," insert the words including minors.

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof half and less than three-quarters; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

In line 2 of the proposed amendment change the word "degree" to degrees.

On page 2, line 4, of the bill, after the word "enrolled" strike out the word "living," and in line 5, after the word "full-bloods," insert , and enrolled mixed-bloods of three-quarters or more Indian blood , and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows:

In line 2 of the proposed amendment change the word "degree" to degrees; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows:

After the word "lands," in line 4 of the proposed amendment, change the period to a comma and add: and for such purposes sections thirteen to twenty-three, inclusive, of an act entitled "An act to grant the right of way through Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," approved February twenty-eighth, nineteen hundred and two (thirty-second Statutes at Large, page forty-three), are hereby continued in force in the State of Oklahoma; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof: SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed

may be leased by the allottee, if an adult, or by guardian or curator under order of the proper probate court, if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: *Provided*, That leases of restricted lands for oil, gas, or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: *And provided further*, That the jurisdiction of the probate courts of the State of Oklahoma over lands of minors and incompetents shall be subject to the foregoing provisions, and the term minor or minors, as used in this act, shall include all males under the age of twenty-one years and all females under the age of eighteen years.

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows:

On page 3, in line 6, change "and" to "or" and in the same line strike out the word "leases" and insert the word *lease*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows:

At the end of the proposed amendment add the words: *or now domiciled therein*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In line 11 of page 5 strike out the word "guardians" and insert the word *guardian*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof: *Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot, against whom the Secretary of the Interior may find, upon investigation, no fraud has been established, may be dismissed and the title quieted upon payment of the full balance due on the original appraisal of such lot: Provided, That such investigation must be concluded within six months after the passage of this act.*

Nothing in this act shall be construed as a denial of the right of the United States to take such steps as may be necessary, including the bringing of any suit and the prosecution and appeal thereof to acquire or retain possession of restricted Indian lands, or to remove cloud therefrom or clear title to the same, in cases where deeds, leases, or contracts of any other kind or character whatsoever have been or shall be made contrary to law with respect to such lands prior to the removal therefrom of restrictions upon the alienation thereof; such suits to be brought on the recommendation of the Secretary of the Interior, without costs or charges to the allottees, the necessary expenses incurred in so doing to be defrayed from the money appropriated by this act.

And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

At the end of the proposed amendment add:

Provided further, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March fourth, nineteen hundred and six, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior in the manner provided in section one hereof, for the use and support of such issue, during their life or lives, until April twenty-sixth, nineteen hundred and thirty-one; but if no such issue survive then such allottee, if an adult, may dispose of his homestead by will free from all restrictions; if this be not done, or in the event the issue hereinbefore provided for die before April twenty-sixth, nineteen hundred and thirty-one, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: Provided further, That the provisions of section twenty-three of the act of April twenty-sixth, nineteen hundred and six, as amended by this act, are hereby made applicable to all wills executed under this section.

And the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof: *Sec. 11. That the Secretary of the Interior is hereby authorized and directed to pay, out of any moneys in the Treasury of the United States belonging to the Choctaw or Chickasaw nations, respectively, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Cherokee and Chickasaw nations, and drawn on the national treasurer thereof prior to January first, nineteen hundred and seven, with six per cent interest per annum from the respective dates of said warrants: Provided, That said warrants be presented to the United States Indian agent at the Union Agency, Muskogee, Oklahoma, within sixty days from the passage of this act, together with the affidavits of the respective holders of said warrants, that they purchased the same in good faith for a valuable consideration, and had no reason to suspect fraud in the issuance of said warrants: Provided further, That such warrants remaining in the hands of the original payee shall be paid by said Secretary when it is shown that the services for which said warrants were issued were actually performed by said payee.*

And the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof:

Sec. 12. That all royalties arising on and after July first, nineteen hundred and eight, from mineral leases of allotted Seminole lands heretofore or hereafter made, which are subject to the supervision of the Secretary of the Interior, shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: Provided, That the interest of the Seminole Nation in leases or royalties arising thereunder on all allotted lands shall cease on July thirtieth, nineteen hundred and eight.

And the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment as follows:

Strike out all of the proposed amendment and insert in lieu thereof:

Sec. 14. That the second paragraph of section eleven of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, is hereby amended to read as follows:

"That every officer, member or representative of the Five Civilized Tribes, respectively, or any other person, having in his possession, custody or control any money or other property, including the books, documents, records or any other papers, of any of said tribes, shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money of the tribe in his possession, custody or control, and shall deliver all other tribal properties so held by him to the Secretary of the Interior, and if any person shall willfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided, prior to July thirty-first, nineteen hundred and eight, he shall be deemed guilty of embezzlement, and upon conviction thereof shall be punished by fine of not exceeding five thousand dollars, or by imprisonment not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable in civil proceedings to be prosecuted in behalf of and in the name of the tribe or tribes in interest for the amount or value of the money or property so withheld."

And the Senate agree to the same.

ROBT. L. OWEN,
MOSES E. CLAPP,
CHARLES CURTIS,

Managers on the part of the Senate.

J. S. SHEEMAN,
BIRD MCGUIRE,
JNO. H. STEPHENS,

Managers on the part of the House.

STATEMENT OF MANAGERS ON THE PART OF THE HOUSE.

The Senate receded from amendments Nos. 2, 4, 5, 19, 27, 36, and 41. The House receded from amendments Nos. 10, 11, 15, 16, 17, 18, 20, 23, 25, 26, 28, 29, 31, 32, 33, 34, 39, and 42.

And from all other amendments the House receded with an amendment.

Amendment No. 1 is merely a change of phraseology and does not change the intent of the bill.

Amendment No. 3 in the bill, as it passed the House, provided that all lands, except homesteads, allotted to mixed bloods of more than one-half Indian blood should be free from restrictions. The amendment, as agreed to in conference, changes this provision so that the lands that are free from restrictions are those allotted to Indians of more than one-half and less than three-fourths Indian blood.

Amendment No. 6 provides that mixed bloods of more than three-fourths Indian blood can sell their homes only after application to the Secretary of the Interior and approval by him. This provision, as it passed the House, provided that full bloods could dispose of their homestead only upon application to the Secretary of the Interior. This amendment, as agreed to in conference, provides that Indians of three-fourths or more Indian blood shall be under the same restriction as full bloods.

Amendment No. 7 includes minors of such degrees of blood within the restrictions provided in amendment No. 6.

Amendment No. 8 provides that no restrictions on alienation shall prevent the exercise of the right of eminent domain, and in conference a provision was agreed to making it certain that the provision of the railroad right-of-way act should not be repealed by this provision.

Amendment No. 9 struck out section 2, as passed by the House, and inserted a new section 2. This change was substantially a phraseological change. The amendment, as agreed to in conference, changes the phraseology of both the Senate and the House provisions, enlarges the scope of the provision somewhat, and defines what is a "minor."

Amendment No. 12, as agreed to in conference, provides that the enrollment records made by the Commissioner to the Five Civilized Tribes shall be conclusive evidence as to the age of the person thus enrolled.

Amendments Nos. 13, 14, 15, 16, 17, and 18 are purely phraseological changes.

Amendment No. 20 changes the territory within which the Secretary of the Interior shall exercise certain powers from a portion of the State of Oklahoma to the whole State.

Amendment No. 21 provides that only citizens or persons domiciled within the State of Oklahoma shall be employed by the Secretary to perform certain services therein.

Amendments Nos. 22, 23, 24, 25, and 26 are purely phraseological.

Amendment No. 28 is the insertion of the word "necessary," so that the appropriation therein made shall be used only for "necessary" expenses.

Amendment No. 29 provides that \$10,000 of the money appropriated may be used in the prosecution of actions in the western district of Oklahoma.

Amendment No. 30 gives the authority to the Secretary of the Interior to dismiss suits brought against the vendee or mortgagee of a town lot where, after investigation, it is found that no fraud has existed, and where such vendee or mortgagee has paid the full price of the original appraisal. This amendment also provides that nothing in the act can be construed as a denial of the right of the United States to take such steps as it is thought necessary to conserve the rights of the Indians.

Amendments Nos. 31, 32, 33, and 34 are purely phraseological.

Amendment No. 35, as agreed to in conference, makes provision for the disposition of restricted lands where the original allottee dies.

Amendment No. 37 makes provision for the payment of the warrants heretofore issued by the Choctaw and Chickasaw councils.

Amendment No. 38 provides for the disposal of the moneys received as royalties under mineral leases of the lands in the Seminole Nation.

Amendment No. 39 provides that all records pertaining to the allotments of any member of the Five Civilized Tribes shall be deposited in the office of the agent at the Union Agency, and makes provision for carrying this into effect.

Amendment No. 40 amends section 11 of the second Curtis Act relating to the transfer of property, money, books, etc., in the possession of the former officers of any of these tribes to the Secretary of the Interior.

Amendment No. 42 makes provision for the disposal of town lots in town sites heretofore established wherein mineral has been found beneath the surface of said lands.

J. S. SHERMAN,
B. S. MCGUIRE,
JOHN H. STEPHENS,
Managers on the part of the House.

[PUBLIC—No. 140.]
[H. R. 15641.]

An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted, etc., That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites, as freedmen, and as mixed-blood Indians having less than half Indian blood, including minors, shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half and less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and all allotted lands of enrolled full bloods, and enrolled mixed bloods of three-quarters or more Indian blood, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April 26, 1931, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this act. No restriction of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands, and for such purposes sections 13 to 23, inclusive, of an act entitled "An act to grant the right of way through Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," approved February 28, 1902 (32 Stat. L., p. 43), are hereby continued in force in the State of Oklahoma.

SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: *Provided*, That leases of restricted lands for oil, gas, or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years, may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: *And provided further*, That the jurisdiction of the probate courts of the State of Oklahoma over lands of minors and incompetents shall be subject to the foregoing provisions, and the term minor or minors, as used in this act, shall include all males under the age of 21 years and all females under the age of 18 years.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen or freedman of said tribes and of no other persons to determine questions arising under this act and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman.

That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situated.

SEC. 4. That all land from which restrictions have been or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: *Provided*, That allotted lands shall not be subjected or held liable to any form of personal claim or demand against the allottees arising or existing prior to the removal of restrictions other than contracts heretofore expressly permitted by law.

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of encumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this act shall be absolutely null and void.

SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State

of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives within the State of Oklahoma who shall be citizens of that State or now domiciled therein as he may deem necessary to inquire into and investigate the conduct of guardians or curators having in charge the estates of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian or curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian or curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian or curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other incumbrance of any kind or character, made or attempted to be made or executed in violation of this act or any other act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of \$90,000, to be available immediately, and until July 1, 1909, for expenditure under the direction of the Secretary of the Interior: *Provided*, That no restricted lands of living minors shall be sold or encumbered, except by leases authorized by law, by order of the court or otherwise.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of \$50,000, to be used in the payment of necessary expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern judicial district of Oklahoma: *Provided*, That the sum of \$10,000 of the above amount, or so much thereof as may be necessary, may be expended in the prosecution of cases in the western judicial district of Oklahoma.

Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot, against whom the Secretary of the Interior may find, upon investigation, no fraud has been established, may be dismissed and the title quieted upon payment of the full balance due on the original appraisal of such lot: *Provided*, That such investigation must be concluded within six months after the passage of this act.

Nothing in this act shall be construed as a denial of the right of the United States to take such steps as may be necessary, including the bringing of any suit and the prosecution and appeal thereof, to acquire or retain possession of restricted Indian lands, or to remove cloud therefrom or clear title to the same, in cases where deeds, leases, or contracts of any other kind or character whatsoever have been or shall be made contrary to law with respect to such lands prior to the removal therefrom of restrictions upon the alienation thereof: such suits to be brought on the recommendation of the Secretary of the Interior, without costs or charges to the allottees, the necessary expenses incurred in so doing to be defrayed from the money appropriated by this act.

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

SEC. 8. That section 23 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended by adding at the end of said section the words "or a judge of a county court of the State of Oklahoma."

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee: *Provided further*, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March 4, 1906, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior in the manner provided in section 1 hereof, for the use and support of such issue, during their life or lives, until April 26, 1931; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from all restrictions; if this be not done, or in the event the issue hereinbefore provided for die before April 26, 1931, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: *Provided further*, That the provisions of section 23 of the act of April 26, 1906, as amended by this act, are hereby made applicable to all wills executed under this section.

SEC. 10. That the Secretary of the Interior is hereby authorized and directed to pay out of any moneys in the Treasury of the United States belonging to the Choctaw or Chickasaw nations, respectively, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Choctaw and Chickasaw nations, and drawn on the national treasurers thereof prior to January

1, 1907, with 6 per cent interest per annum from the respective dates of said warrants: *Provided*, That said warrants be presented to the United States Indian agent at the Union Agency, Muskogee, Okla., within sixty days from the passage of this act, together with the affidavits of the respective holders of said warrants that they purchased the same in good faith for a valuable consideration, and had no reason to suspect fraud in the issuance of said warrants: *Provided further*, That such warrants remaining in the hands of the original payee shall be paid by said Secretary when it is shown that the services for which said warrants were issued were actually performed by said payee.

Sec. 11. That all royalties arising on and after July 1, 1908, from mineral leases of allotted Seminole lands heretofore or hereafter made, which are subject to the supervision of the Secretary of the Interior, shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: *Provided*, That the interest of the Seminole Nation in leases or royalties arising thereunder on the allotted lands shall cease on June 30, 1908.

Sec. 12. That all records pertaining to the allotment of lands of the Five Civilized Tribes shall be finally deposited in the office of the United States Indian agent, Union Agency, when and as the Secretary of the Interior shall determine such action shall be taken, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available as the Secretary of the Interior may direct, the sum of \$15,000, or so much thereof as may be necessary, to enable the Secretary of the Interior to furnish the various counties of the State of Oklahoma certified copies of such portions of said records as affect title to lands in the respective counties.

Sec. 13. That the second paragraph of section 11 of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906, is hereby amended to read as follows:

That every officer, member, or representative of the Five Civilized Tribes, respectively, or any other person, having in his possession, custody, or control, any money or other property, including the books, documents, records, or any other papers of any of said tribes, shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money of the tribe in his possession, custody, or control, and shall deliver all other tribal properties so held by him to the Secretary of the Interior, and if any person shall willfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided, prior to July 31, 1908, he shall be deemed guilty of embezzlement and upon conviction thereof shall be punished by fine of not exceeding \$5,000, or by imprisonment not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable in civil proceedings to be prosecuted in behalf of and in the name of the tribe or tribes in interest for the amount or value of the money or property so withheld.

Sec. 14. That the provisions of section 13 of the act of Congress approved April 26, 1906 (34 Stat. L. p. 137), shall not apply to town lots in town sites heretofore established, surveyed, platted, and appraised under the direction of the Secretary of the Interior, but nothing herein contained shall be construed to authorize the conveyance of any interest in the coal or asphalt underlying said lots.

Approved, May 27, 1908.

Civil and Religious Liberty.

SPEECH

OF

HON. JAMES T. LLOYD,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. LLOYD said:

Mr. SPEAKER: No people have more cause for patriotic devotion than Americans. None have received greater heritage than the citizens of this Republic. Civil and religious liberty has been the goal of ambition. Our ancestors have made everything subservient to it. Those who have preceded us have marked plainly the path which their successors may safely follow. Political parties may divide the people, and properly so. Different policies in government may be declared and their contentions be earnest and determined, as they should be, but if the flag be assailed the people with one accord may be depended upon to rally to its support. Misfortunes may overtake citizens of the Republic, hardships and privations may be endured by them, financial panic and distress may, like a scourge, come upon them, storm and flood may devastate, fire and earthquake may destroy, drought with its blight and destruction may sorely distract, the unemployed may be in need of bread, but with it an attacking foe may be assured that Americans are ready to sacrifice comfort, property—yes, life itself, if need be—to maintain the honor and integrity of the Government they love so well.

The colonists, when they determined to throw off the yoke of oppression, laid down certain fixed and determinate principles which they declared were the inalienable rights of men. These were tersely and forcefully asserted in the Declaration of Independence, which was the chart by which the people of 1776 were guided and the sheet anchor of the hopes of mankind from that time until this. This Republic was builded upon it as its chief

corner-stone. How carefully, yet surely, were the rights of men there expressed. What deliberate resolution was shown in their pledge of loyalty to its execution in placing on the altar of sacrifice property, life, and character. Their principal grievances were taxation without representation, the quartering of standing armies amongst them without their consent, the placing in control over them officers not of their choosing nor of their number. Because of these grievous burdens it was determined to throw off the yoke of bondage and establish a free government based upon what is asserted as self-evident truths and God-given rights. It was proclaimed that, "Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it and to institute a new government, laying its foundation on such principles."

If these fundamental doctrines were correctly stated by Thomas Jefferson in his presentation of them to the Continental Congress, they ought to be of equal force to-day. Then the colonists were the oppressed and were seeking redress of their grievances. Now their descendants are in the enjoyment of the full fruition of their achievements. Our forefathers secured a heritage for this generation in government, boundless resources, and extraordinary opportunities not surpassed in the annals of history. Within one hundred and thirty-two years after their solemn announcement to the world of their determination to enjoy the rights denied to them, their successors are in the possession of all the blessings necessary to human happiness and prosperity.

I wish, in the few moments allotted to me, to call attention, in a brief way, to the different kinds of governments now found under the American flag. No greater range of authority is found under any other flag. The English Crown, on whose possessions the sun in its daily journey never sets, has no greater variety of government. President Roosevelt to-day holds sway from the representative government of the mainland to the extreme of military despotism elsewhere.

Mr. Speaker, I ask you to view the situation and to contemplate the conditions that are presented. This Republic has been the asylum of the oppressed and has been the field for the culture and development of human liberty, but it is now so far removed from its ancient moorings that I beg to inquire if it has not itself become an oppressor, and whether it is not violating the very principles for which it so strenuously contended in the beginning.

There are at present three Territories, Arizona, New Mexico, and Hawaii, that have local government, make their own laws, and have Delegates in this body to speak for them. Their governors are appointed by the President, but their Delegates and local officers are chosen by the people. Hawaii presents a strange spectacle in having no county organizations nor municipal governments. The city of Honolulu, with its population of 40,000, is not incorporated and its lawmaking body is the legislature of Hawaii.

In 1873 a treaty was made with the then Hawaiian Government by which the United States was to have and control Pearl Harbor, a superior inland refuge for vessels at Honolulu, and on account of this concession the Government was to admit Hawaiian products free of duty. If the sugar sent to the United States from Hawaii since 1873 had all paid duty at the regular rate, the aggregate would have been many millions of dollars. Notwithstanding our anxiety to secure that splendid harbor, it is a surprising fact that it has been completely neglected and that to-day no war vessel of any considerable size could enter it. Not a single battery has been located to defend it. The people of the island are left almost wholly unprotected and are subject to the attack of any foe that might present itself.

In Alaska there is a governor appointed by the President, but upon whom but few duties are imposed. The government there may be said to be a rule of judges and marshals. There are no county organizations and but few municipal governments. They have no system of taxation, excepting in their towns for local purposes and an occupation or license tax which is levied on every class of business enterprise. The revenue thus acquired goes into the National Treasury. The population is between thirty and forty thousand and is confined to comparatively few localities.

The output of gold in Alaska last year was about \$30,000,000, and its salmon fisheries are the greatest in the world. Alaska has territory that is nearer the North Pole than to New York. It has sections which have the greatest rainfall of any portion of the United States. Other parts of the country hardly have rainfall at all. A part of it is so warm that in winter ice can hardly be obtained for summer use. Other districts are so cold that they are never free from ice. The possibilities of this great country are beyond conception.

Its development has hardly begun. It now asks for Territorial government and begs the right of self-control. Will Congress give it or deny it?

Another subject of American sympathy and interest is the island of Santo Domingo. The President of the United States became a kind of receiver of it—collected its revenues by its consent and deposited them in New York banks. Later, by treaty, the United States agreed to collect the revenues of the island and pay 40 per cent of them to the creditors of the island and expend the remainder to meet the current expenses of the Santo Domingo Government. The obligation assumed for the creditors is to have delivered to them 40 per cent of the revenue, and for this Government of the United States is morally responsible. For the islanders the United States is expected to receive and honestly account for, according to contract, what comes into its hands. Any default would be chargeable to our Government. It is difficult to explain what may be the effect of these relations or to determine what complications may grow out of them. Our ships of war have been used for their enforcement, and both the Army and Navy may be needed to carry out our obligations. The people there are turbulent, restless, and insurrectionary, and no one can tell when there may be a clash of authority.

Porto Rico is the most desirable island in the West Indian group. It is 36 miles in width and 100 miles in length and has a population of more than 800,000. It is smaller in area than Connecticut and more populous than Maine or Colorado. It came into the control of the United States as a result of the Spanish-American war. It willingly assumed the new relation and its people gladly gave up their allegiance to Spain to accept the authority of this Government. They are a poor, but law-abiding, people. They had the courage and ability to settle the question of human slavery without the shedding of blood. They have been a subject people for hundreds of years, but have never been rebellious or reactionary. These people are now wholly dependent upon this Government. They are pleading for the same rights that our fathers claimed in 1776. They are urging complaints similar to those that were lodged against King George. They insist that they have a government without their consent and in which they have no proper representation. They have a governor appointed by the President and amenable to him. They have a legislature of two branches, the upper house of which is appointed by the President. No law can therefore be enacted without the consent of his appointees. Porto Rico has no complete Territorial government and no Representative or Delegate in Congress. The appeals of the Resident Commissioner, Mr. LARRINAGA, have been most forceful. His story of the disappointment of his people is pathetic. By the courtesy of the House of Representatives, in the last Congress, he was permitted to address it. In speaking of his people, among other things, he said:

The people whom I, in a peculiar way, represent, contend that they have a full right to be represented here in this House as it was represented for thirty-five years in the Spanish Congress. We had there sixteen full-fledged representatives, who had to look after the laws regarding Porto Rico. They passed the most important law that any Congress ever passed or will pass in centuries to come. It was the Porto Rican delegation with their votes that made the law that set 50,000 slaves free in their community.

At another time in his speech, in speaking of the present régime, he remarked:

The government of the island has been conducted entirely by the absolute and tyrannical rule of our executive council, or upper house, formed of eleven members appointed by the President, the majority of whom are, at the same time, the heads of the different departments. They make the laws, vote our taxes, collect our money and expend it without any satisfaction being given to the people of the island. Each head of a department may act in the most independent and arbitrary way without any regard whatever to the will of the people.

The executive council, to whom Mr. LARRINAGA refers, is composed of the secretary, attorney-general, treasurer, auditor, commissioner of interior, and commissioner of education of the island, and five other persons named by the President. On concluding his remarkable speech, this astounding statement was made:

Our status is entirely repugnant to the people of Porto Rico, and I wish here to solemnly protest before Congress and the American people of that feature of our organic act which makes the upper house appointed by the President and not elected by the people.

Shall their appeal be heeded? Is their demand a reasonable one? I ask you seriously to inquire whether, on principle, our Government has done the best for these people that could be done and whether their complaints are not well founded? They have the right to control their local affairs and are fully capable of doing so. They are anxious for greater freedom and are entitled to enjoy it and I beg you, sir, to grant it, and to that extent defend the Constitution and preserve the honor and integrity of the Government.

There came under the dominion of our flag, by the payment of \$20,000,000, certain islands of the Far East, a part of the Eastern Hemisphere, with a population of 8,000,000 souls. The inhabitants had expected liberty, but in return received discontent. They had been allies in war, but they became enemies in peace. They demanded of the United States the freedom which they supposed they had secured and insisted upon its enjoyment, but our Government silenced them with shot and shell. Their subjection is known, but their just deserts may not be understood. Their present condition can be ascertained, but their status in the future is uncertain and gives them but little hope. Viewing the situation from the standpoint of the Filipino, have these people any right to complain? There can be but one answer to this question.

It may be argued that we do not know what disposition is to be made of the Philippine Islands nor what policy is to be adopted in their control, but this is certain, as much as some may regret it, they are now subject to the authority of the United States. The rights of the Filipino are fundamental and should be recognized. Why should this weak and defenseless people be denied the right of trade when the Cuban Republic is, both by treaty and law, especially favored? These people had nothing to say in becoming a part of our country; they were bought with a price. Shall they be treated as so many slaves, or shall they be given the rights of free men? Their liberties should be maintained; their rights must be observed. Their country should not be a chattel of the United States, to be carried hither and thither wherever caprice, expediency, and selfish interest would demand, but they should be recognized as substantially a part of the Republic. If they are to enjoy the benefits of American liberty, on what principle can they be denied? If they are not sufficiently advanced in civilization to be capable of self-government, then how much more care should be taken to give them every possible opportunity of trade and education that they may become fitted for it.

The desire for liberty is found among these people. They are longing for its enjoyment. Can we justify our own conduct on the ground of their inability? It was said in 1776 that our forefathers were not capable of self-government. Numbers of people among the colonists believed it, but that ability has been fully demonstrated. It may be that these people can more nearly satisfactorily perform the functions of government than politicians claim. If it be true that we are not carrying to them that degree of liberty and self-government which is properly theirs, we are bringing reproach upon the good name of those who purchased our liberty with their own blood and have given to us such a valuable heritage.

In Guam, the Panama Canal Zone, and some smaller islands of the sea our flag floats in authority and government is maintained under it, but in no place does its authority place our Government in a more delicate position than in the island of Cuba. Within ten years they were in revolt trying to rid themselves of the tyranny of Spain. Our Government, with the spirit of magnanimity not surpassed in human history, came to the rescue of the downtrodden and liberty-loving Cubans and asked the Spanish Government to permit them to control their own affairs and enjoy the freedom for which they contended, but Spain would not consent. Congress then made a formal decree, and said to the world: "Cuba is free, and of right ought to be free," and pledged to the Cubans the lifeblood of the citizenship of this Republic to maintain their demand, and at the same time assured mankind that no motive prompted but humanity, no desire except that the people of Cuba should be protected in the enjoyment of that liberty so dear to the oppressed. American blood and treasure paid the penalty and Cuba became free. With what pleasure was the new Republic with its one star heralded among the nations. But what is its condition to-day? Held under the iron heel of martial law by the power which rescued it. No governor, no legislative assembly, no representation—ruled alone by the strong arm of the military of the United States. For months this condition has been endured, and now no immediate promise of relief. The American flag is up in Cuba. It floats in defiance over its ramparts, but should it be hauled down? If so, when and under what circumstances? How, in good conscience, is that flag regarded by the 2,000,000 Cubans who wish to conduct their own affairs and enjoy the freedom of their Government?

Mr. Speaker, in the light of the conditions to which I have alluded, may not the inquiry be properly made, Has not our nation drifted away from its former idea of human liberty? Has it not become so intoxicated with power as to be oblivious to the rights of those less fortunate who are subject to it? Have the principles of the rights of men laid down in 1776 become obsolete? Were our fathers wrong in their contentions?

If not, how can those whose rights are jeopardized be disregarded?

No ambition is more genuine than the desire to be free. All men are entitled to the blessings of freedom. It is the mission of our Republic to carry the sunshine of equality to the hearts of the enslaved and bid them throw off their shackles and enjoy the rights of free men. Our Government asks all men to be partakers of the joys of national prosperity and bearers of the burdens when adversity does come. It would have the door of every heart unlocked to the realization that this Government brings the greatest known blessings to its participants. The Revolutionary fathers declared their labors for the benefit of themselves and their posterity forever. We bless the world by extending free government to those who have it not and by removing the obstacles that may hinder others in its complete enjoyment. This is certainly our mission with reference to our outlying possessions. Is our country willing to assume it or will it shrink from the burden? Must the Porto Ricans continue dissatisfied because they are not permitted to elect their own lawmakers and manage their own fiscal affairs, or will they be given self-government? Will the Filipino not be given the hope of ultimate freedom, either as a part of the United States or independent of it? Why not make him feel that liberty is to be his portion and that our beautiful flag can carry no other sentiment to any struggling people? Why not lift the Cubans to the enjoyment of their fondest dreams— independence—and thereby show to everyone subject to the American flag that freedom is his; that the mission of this Republic is to remove all shackles of bondage, and that political subjugation will no more be tolerated than human slavery?

Currency Bill.

REMARKS

OF

HON. ADOLPH J. SABATH,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. SABATH said:

MR. SPEAKER: For years we have been told by the great authorities on banking that our present system of currency legislation was preposterously ill adapted to the needs of the country. For three years the panic had been looming ahead, and yet this great smash of Republican prosperity and trust-bred inflation is now to be used as the very means of making worse the evils that brought on this present panic. For years we have been laboring under the conditions brought about by the banking magnates. Whether this Republican panic was intensified by the deliberate attempts of the great banking interests, or whether it was a consequence of the overproduction inherent in and the consequence of the actions of the régime in power, need not to be discussed now.

Ever since the panic of October, 1907, and certainly for six months, we have been told that currency legislation was necessary and that some plan should be found whereby a repetition of the conditions would become impossible. During all this period of time no honest attempt to bring about a reform has been made. The Republican majority has shown itself incapable of producing statesmanlike legislation such as is demanded by the people of the United States. To-day we are witnessing a spectacle that would have been unbelievable a few years ago. At the close of the long session of Congress a currency bill, the contents of which is unknown to anyone, of which a copy can neither be seen nor secured, is called up for passage under the gag rules which are drawn so iniquitously and in such distrust of all Members that they condemn the legislation sought to be enacted.

The conference report is brought in under a rule limiting the debate and discussion on this vital and important measure to sixty minutes. No amendments are to be made to it, and yet its effect is to be as far-reaching as any legislation brought before the country in the last twenty-five years.

In the six months we have spent here enough time has been frittered away not only to elaborate a carefully drafted currency bill, acceptable and beneficial to the country, but we have had sufficient time to have passed other legislation strenuously demanded and insisted upon by the American people, such as revision of the dishonest tariff, which is robbing and plundering the people in the interests of the trusts.

We might have passed the Wilson bill, an amendment to the Sherman antitrust law; we might have passed the anti-injunction law; the eight-hour law; besides, by enacting the compensation bill (H. R. 16739), introduced by me, but not permitted to be called up, which, enacted into law, would have protected thousands upon thousands of workmen who are being killed and injured each and every year; or my other bill, which provides for trial by jury in contempt proceedings where the contempt is not in the presence of the court, and other legislation needed and justly demanded by the workmen of this country. Yes; we have had enough time to pass a postal savings bank bill, which would have been a great benefit and blessing to the country, but not desired by the banking magnates. But instead the time has been taken up in passing corporation bills, voting away up to this time the enormous sum of nearly one thousand million of dollars of the people's money, and I am satisfied that the amount will reach the billion-dollar mark before the close of the session. This in the face of the fact that our Treasury shows a deficit of millions of dollars each and every month, thereby increasing the nation's indebtedness from day to day. Whatever time was not consumed in voting away the people's money has been used for land-grabbing bills and political speeches delivered with the sole intent of misleading the people.

In the last minutes of this long session, without giving Members any opportunity to be heard, this nefarious bill, which no honest man wants and no one asks for outside of the gang of Wall street operators, and which I am sure will cause untold damage, is sprung on us. I am of the opinion that the people of this country will not much longer tolerate the treatment that is now being accorded them. I believe that it is high time that some laws should be passed that are not only for the interests of the favored few and against the interests of the vast majority, and that the laws I mentioned above would be in the interests of all of the people of the United States.

Now, let us glance at the bill, based as it is on those proposals the House has heretofore rejected and now must swallow, and see what it provides. It starts out to create a bank trust, just as if we had not enough trusts now. By this bill you are creating one more, which will be the most powerful and dangerous of them all, by providing that any ten national banks with a capital of not less than \$5,000,000 may organize associations which shall have the right to take notes, commercial paper, any kind of railroad or other bonds, and deposit them in the Treasury of the United States and secure 75 per cent to 90 per cent of bank notes, which are to be circulated by them as money. Grand and capital idea, and very good for the Wall street magnates.

Mr. Speaker, the more I think of the provisions of this bill and our currency system the more I am satisfied that the entire system of ours is wrong and it is solely in the interests of the very rich and favored bankers—the money kings and the money changers of Wall street. The Government, instead of issuing what money is required, issues and sells interest-bearing bonds. The banks buy these bonds, deposit them with the Government as security, and secure from the United States Treasury that amount of bank notes, currency, or what they call "money," and which they circulate as money, upon which they pay the Government a tax of one-half of 1 per cent. The banks receive interest on the United States bonds they deposit with the Government and also on the money which they obtain, double and triple interest, mind you, not on their money, but on the money belonging to the people deposited with them as bankers. In addition to the private function of banking they have been granted the special privilege of issuing bank notes through these transactions, special and governmental privileges, namely, of issuing notes; they earn from 15 to 36 per cent a year and very frequently more. This bill provides that these banks shall pay 4 per cent on the notes, or rather on the clearing-house bank notes. But what is this tiny charge in comparison with the heavy interest they force the people to pay in the form of direct taxes for private gain?

I wish to ask, Why should not the Government issue the money and currency directly to such amount as is actually required to carry on our commerce and required by the people in due course of business, and thus save the community from this double and triple interest charge, the most iniquitous form of public taxation for private ends? By keeping the note-issuing function where it belongs we would put an end to the wild gambling and speculation which is responsible for the excessively high interest rates and depressions occurring every year and culminating in the usual panic every time overproduction affects us, when coupled with the similar plethora of international dumping.

I desire to remind the American people not only of what some of our greatest men from time to time have said on this very question of the banking power and its sinister abuses, but also of what the Constitution provided and what the framers of our Constitution believed, by whom and how money should be issued. I am satisfied if we had lived up to the teachings of the fathers of the Republic, the country would not be obliged to kneel before the throne of J. Pierpont Morgan—whom his indiscreet flatterers in a recent magazine article called "Morgan the Magnificent," in comparison with a profligate Italian tyrant, Lorenzo the Magnificent. So far from Morgan having saved the country from financial ruin, it was the one act of intelligent self-interest that the capitalist class has shown in sixty years. The country, as a matter of fact, could not be and was not saved by Morgan's and Rockefeller's spectacular aid to the gamblers and their banking allies in Wall street; and the humiliation and disgrace of the richest and greatest nation of the world are again threatened by this very class of financial magnates unless this infamous bill is allowed to become a law.

The reason for this is not far to seek. The power that could crush out the aspiring new Western powers from sharing in the bankers' loot, that could gobble up the few independent steel works and the Westinghouse shops and copper mines, that could squeeze its enemies and get its revenge for the panic of March, 1907, and at the same time gather in all those interests that heretofore had escaped them—this power would not hesitate to strike at the commerce and financial stability of the country for the purpose of marketing its rotten securities by the means of this bill. And this is the whole matter.

The true object of the bill is not, however, to save the country from the recurrence of the panic; it probably will bring one on quicker than the usual course of unnatural overproduction, inherent in the system, calls for. Its object is rather to afford a market for the stocks, now called "convertible bonds," which are to be worked off on the gullible public. To do this effectually the Government is to give them the stamp of its approval by permitting their use as the basis for bank-note currency.

Let us see whether this is mere assertion without basis of fact. When the Aldrich bill was first introduced Senator LA FOLLETTE wanted to save the savings and hoardings of the people from the undigested provisions of the bill. He knew that once a bond was acceptable to the Treasury for currency purposes, it was sure to be used as a permissible investment for savings banks, and had the Harriman Alton railroad bond savings bank bill signed by Roosevelt as governor of New York before his eyes. Senator LA FOLLETTE proposed that only those bonds were to be used as a basis of bank circulation as had been passed on by the proper officials, and after a *systematic valuation of the stocks and bonds* had been made by the Government. This, of course, was what the stock-jobbing magnates did not want. As well ask a green-goods man to spend a few hours in the assay office and test his gold brick. Without more ado the bill was sunk out of sight. Everyone supposed that for once decency had triumphed, and that the light of day had stopped the machinations of the financial bunco steerers. In the last moments of the session this bill, without a chance of discussion and, as I have said, without an opportunity for study or criticism, is jammed through the House at the orders of the same interests, who, when defeated in their attempt to push through the Penrose bill to muzzle the press, slipped its provisions in as a rider to the post-office appropriation bill, and thus fastened on any opposition paper the noose of instant and arbitrary extinction. In the same manner, when this bill will have become law, the little bankers throughout the country will be forced to howl for and insist on the creation of a great central bank. Were it possible to have the central bank free from the manipulations of the Wall street gang, it would not be so bad as is this scheme of a gang of stock jobbers, working off their watered stocks, converted into and in the guise of bonds, on the public, through the indorsement which these so-called "securities" are to receive as soon as they are to be receivable for Government securities and currency.

Mr. Speaker, I wish to ask, Why should not the Government issue the money and currency directly to such amount as is actually necessary for the carrying on of our commerce and is needed by the people in due course of business, and thereby save the people this double and triple interest charge? By doing so we would put an end to wild gambling and speculations, responsible for high interest rates for call money, reacting on legitimate demands of every trader and every merchant, and a sure forerunner of every panic.

I am satisfied that if we had lived up to these rules of sound finance the country would not have been obliged to kneel before J. Pierpont Morgan, and, as his friends claim, beg him to save it

from financial ruin. And yet we are told that unless this outrageous bill is enacted we shall again have such a panic with us in the fall of this year. The idea is preposterous. The gamblers have been bled, their frenzied dupes have been wiped out. The bankers are not required to lend their surplus to big and little gamblers as in the past. The bank rates in every large capital city in Europe are forced down by the plethora of money kept there by recuperating savings and investment seekers, and therefore money is a drug on the market and no immediate recurrence of a money stringency is to be feared in the natural course of events. Bad as the methods of distribution of money are now, artificial as they can be manipulated by the headman, common sense, if not business acumen, will show that the bankers' class can not afford to arrange the money matters of the nation so badly that the repetition of the same lack of management is to be apprehended this year. There will be no congestion, because the panic has cleansed the blood in the body politic, and any attempt to make us believe in its imminent recurrence is made in bad faith for the sole purpose of passing this stockjobbing bill.

WHAT THE CONSTITUTION PROVIDES.

Article I, section 8, of our Constitution provides that Congress alone shall have power "to coin money and regulate the value thereof and of foreign coins." This shows that the National Government has the supreme authority over the money of the nation, but so that this clause may not be misunderstood it is provided in Article I, section 10, of the Constitution that "no State shall coin money, issue bills of credit, or make anything but gold and silver coin a tender in payment of debts." Thus the framers of the Constitution tried to doubly emphasize the fact that the National Government alone was to exercise the power of issuing money, and that the several States were not to interfere.

Why, then, give that power to banks?

The highest courts in all countries have repeatedly held that the issue and control of money is a prerogative of Government, and can only be rightly performed by the highest power in the land.

But what do our financial kings care for the Constitution, who, whenever they feel so disposed, issue millions of clearing-house certificates, which they circulate as money without any regard to law or opinion of the people?

Thomas Jefferson foresaw the impending danger of this system when he said:

I believe that banking institutions are more dangerous to our liberties than standing armies. Already they have raised up a money aristocracy that has set the Government at defiance. The issuing powers should be taken from the banks and restored to the Government and the people to whom it properly belongs.

That peerless champion of the people, Andrew Jackson, sixty years ago said:

If Congress has the right under the Constitution to issue paper money, it has been given them to be used by themselves, not to be delegated to individuals or corporations.

John C. Calhoun's remarks on this self-same question have materialized time and time again. This is what he says:

Place the money power in the hands of a combination of a few individuals and they by expanding and contracting the currency may raise or sink prices at pleasure, and by purchasing when at the greatest depression and selling when at the greatest elevation may command the whole property and industry of the community. The banking system concentrates and places this power in the hands of those who control it. Never was an engine invented better calculated to place the destiny of the many in the hands of the few.

A prediction that has been verified to the letter.

The United States Senate Chamber still rings with the echo of Gen. John A. Logan's speech wherein he sounded the warning in the following language:

I can see the people of our Western States, who are producers, reduced to the condition of serfs, to pay interest on public and private debts to the money sharks of Wall street, New York, and of Threadneedle street in London, England. And this will be accomplished by withdrawing the Treasury notes from circulation and destroying them until the banks can control the entire volume of money, and then compel the people to use personal checks in lieu of money—checks passing through the clearing houses which the banks will establish in all the larger cities, to enable them to make a fictitious showing of prosperity and fool the people with the great volume of business, which they will cause to be published in the daily and weekly newspapers. But remember, checks are not money (1874).

Eminent statesmen and students of finance have from time to time deprecated the great influence and power which the banks exercise principally to further their interests and secure, to the detriment of the country and its people, an absolute control of the financial situation.

The great Webster expressed himself during the course of his great speech on the financial problem, as follows:

There never has been devised by man a plan more specious by which labor could be robbed of the fruits of toil than the banking system. The people not only take bank paper as money, paying interest on it

at enormous rates, but when the banks suspend the people lose the discount, while the bankers gain it.

The people wonder why financial panics occur so frequently. I can tell them why. It is to the interest of the bankers and brokers that they should occur. It is one of the specious methods by which these despotic and utterly useless knaves rob the producing, manufacturing, and mercantile classes of their honest earnings. It is one of the chief plans by which this infamous ring is riveting the chains of slavery upon the limbs of labor. It is one of the chief means adopted to build up a money aristocracy that shall live in idle luxury and ape the pretentious airs of European nobility.

How true are the remarks of this great man! Does this not portray the present time?

I also desire to embody in my remarks the following from the Republican Philadelphia North American of this date (May 29, 1908):

THE CURRENCY CRIME.

The Republican party is about to go before the people with the mongrel, hybrid, cheating, swindling thing labeled the Aldrich-Cannon currency bill as its claim to the ballots of American workers and business men, already long-suffering and embittered victims of the gamblers of New York.

It has been whipped through the House, to the shame of the men who have stilled their own convictions and crouched cowards under the lash of the vulgar tyrant in the speaker's chair for fear of his threat to deprive them of their slices from "the pork barrel"—their appropriations in the omnibus building bill.

It will be whipped through the Senate in like fashion, in all likelihood, thanks to the feebleness of the Democratic minority, playing the donkey's rôle as usual in their inability to see the chance to gain favor by a filibuster that would be patriotic statesmanship.

Worst of all, we believe that Roosevelt will make the bill a law by signing it. He will hurt his country and his party not because of lack of courage or of good intent. He will do this sin because of lack of understanding.

In grasp of financial questions he is an infant. He trusted Cortelyou. That was excusable. But he continued to trust him after last December. And now again, with the best of motives, he will commit one of those blunders which Talleyrand rightly called "worse than a crime."

Has not Roosevelt enough friends there to save him from himself?

Are there not enough loyal Republicans to keep the party from being rushed into gravest peril by this foisting upon the people at the dictates of a Wall street law immeasurably worse than the one condemned by practically every organized body of business in the nation?

Even the original Aldrich bill was better than this iniquity. Even the two-headed freakish thing promised by the conference conspirators was not so vicious as the swindle rushed to passage in the House after one hour's debate, before a single member had a chance to read the bill upon which he voted.

It was only eighteen months or so ago that Aldrich on the floor of the Senate made this declaration regarding municipal and railroad bonds: "In these days they are fluctuating widely, and no prudent banker could afford to buy bonds other than the bonds of the United States."

But that was before he had new orders from 26 Broadway and the National City Bank, and before J. P. Morgan's office boy in Washington received the message that illegal bond issues would be needed for Wall street's convenience in addition to \$250,000,000 deposits of the people's money.

Those high financiering banks of New York owed outside banks \$410,000,000 just before last fall's panic. From August until December the country could squeeze only 5 per cent of its own money from New York's clutches. And Wall street made a virtue of paying \$20,000,000 of its \$400,000,000 indebtedness to the distressed country, during a period when the accommodating Cortelyou increased the Treasury deposits in New York banks \$47,000,000.

But Wall street had bonds in plenty—railroad and municipal bonds unsalable, unacceptable by savings banks, and so speculative and unstable that many of them fluctuated from 10 to 20 per cent within a year.

New York was the defaulter of the nation, with its illegal clearing house certificates.

There were bonds enough when Mr. Cortelyou opened the Treasury doors to them to increase the deposits of railroad and municipal bonds with the Government from \$87,000,000 in October to \$200,000,000 in December. And still Wall street gasped for breath under its load of dubious securities.

It was to dump upon the Government that load that Aldrich introduced the bill that he did not himself dare defend except as a makeshift. And it was that bill which brought forth an outburst of indignation from every board of trade and commercial body throughout the land.

And now, at the eleventh hour, the conspirators deliver their stab at the commerce of the country. They rush forward a bill well described as "half Senate infamy and half House infamy," embodying every rotten Wall street device that lay in the earlier bills and discarding every amendment for the protection of honest banking and legitimate business.

Commercial paper is mentioned and railroad bonds are not. Oh, the wisdom of these pirates, thinking they can mask their purpose with such word twisting! Just as if the business men of this country would not understand the meaning of "other bonds" and "any securities including commercial paper."

State, county, and municipal bonds to be accepted at 90 per cent of their market value. "Other bonds" and commercial paper to be taken at 75 per cent only after arranging complicated and elaborate associations feasible only for the New York banks.

This law will mean the turning over of the Treasury of the United States to the gamblers of the New York Stock Exchange for a period of six years.

It will mean the making of "good times" and "bad times" of "bull" markets and "bear" markets according to the pleasure of Rogers and Rockefeller in the National City Bank and J. P. Morgan in the National Bank of Commerce.

It will mean not the slow and certain movements of contraction and inflation by the natural laws of commerce, but sharp changes forced at will by the master gamblers.

It will mean the gift to the chief enemies of the nation of the power to issue or retire half a billion of dollars, exciting speculation or compelling disaster according to whichever best suits their betting book.

What the effect will be upon the coming elections we do not know. We do not know what measure of punishment a long-suffering people will inflict upon their betrayers.

It is not the time to think of politics or partisanship. A thing is being done which will affect every employer and every employee in America, every banker, merchant, manufacturer, clerk, and mechanic.

We wish merely to warn one and all. The country will be in the condition of a convalescent to whom drugs that are powerful stimulants, but poisonous, would be administered. * * * And after the North American and the few like us have been mocked at as false prophets and pessimists, pay day will come. And the price will be a bitter one.

Mr. Speaker, in the midst of prosperity, with everything in abundance, the fields yielding great crops (not due, however, to a Republican Administration), mines producing millions upon millions of wealth, with the country full of resources, and all at once, without any reason, we find our beloved country in the midst of a panic which has forced the closing of thousands of shops and factories, kept 400,000 freight cars idle, when fifteen months ago a car famine caused the community untold losses, ruined thousands of business men and threw out of employment millions of our laboring men, and thus caused untold suffering.

Who has suffered deepest because of this conspiracy and made-to-order panic? In the first place the laboring men (the men forced to work for a living) and the producers of our wealth, and, in the second place, the business men, as well as the manufacturer, who was obliged to close his place of business, shop, plant, or factory, being unable to pay bills that were coming due, or even to pay his workmen, since the money has been centralized by the criminal money combination of Wall street for speculative purposes. But what is one man's loss is another man's gain, but in this case we can say: "What was and is millions' loss is one man's gain." Who was the gainer by this prearranged panic? No one but the very man who now controls our friends—J. Pierpont Morgan—who was and who is hailed all over this country—yes, even on the floor of the other Chamber and in magazine articles by the great friend of the people, that much overworked Senator from New York (a director of sixty-four corporations), as a savior of this country.

Do you not think, Mr. Speaker, that a country where such things are possible is in danger? That where such a currency anarchy exists, it is responsible for these conditions, and that a scheme that gives one man or a clique of men such great power as to be able to stop a panic, very dangerous? For if he or they have the power to stop a panic they must have had the power to create the panic. They have actually done this very thing and are guilty of all subsequent developments, of which this wretched makeshift bill is the most sinister.

And in this connection I will be bold enough to ask, What did the present publicity and fame-seeking Administration do to assist the public? What step did the Republican Administration take? Did the responsible leaders insist or send out any order that the banks should comply with the laws of the land and pay, or return to the public money deposited in these banks, honestly believing that they could obtain it whenever needed or demanded?

Oh, no! On the contrary, instead of trying to protect and assist the commercial world and the great mass of people of the United States, our entire reserve, amounting to about \$250,000,000, was placed at the disposal, yes, deposited and turned over to these New York banks and bankers so as to enable them with greater ease to crush out the life and existence of our commerce and ruin all those that were in their way—their war of conquests, then, mind you—this enormous sum of money was turned over to them without receiving a single cent of interest. When I say "Without a single cent of interest" I mean the Government did not receive a single cent of interest, and that in the face of the fact that this money, so deposited, was bringing the gamblers of Wall street up to 100 per cent for call money to continue their devil's game.

Now, these very bankers and their hirelings are out clamoring and crying that the country has not enough money to do business with, when they know that it is false and untrue. We had, and right now have, more money in circulation than ever in the history of this country. Statistics show that in 1800 we had only \$5 per capita; in 1830, \$6.29; in 1850, \$12; in 1862, \$10.23; in 1870, \$17.50; in 1879, \$15.32; in 1889, \$22.52; in 1893, \$24.56; in 1897, \$22.87, and at the present time (or in October, 1907, just before the panic) \$34.71 per capita. Does this not show we have more money than ever before? Absolutely so. The only trouble is that it is not where it should be and is where it should not be. The distribution is unjust, because it permits a perversion of public functions for private graft. I admit that at present we need a larger amount

of money per capita than before, for the reason that the prices of all commodities have increased and that notwithstanding we are on a gold basis and have the so-called "sound dollar."

Although the circulating medium has increased with our population, yet so utterly has the past lack of system in banking perverted (here as in all its aspects true to its class instinct of selfish exploitation) its functions that instead of increasing our facilities of interchange and prosperity it has become a means of crushing all except the master devils in control of the money machine. In every instance prices have increased they have increased much more than the slight increase in money wages temporarily granted by the master class. For instance, on the necessities of life and on all articles controlled and manufactured by the protected thieving trusts the margin between the possible savings from the small wages and absolute destitution has been wiped out. Does this not, and should it not, satisfy anyone that my contention is correct that this country has had enough circulating money? The mischief lies in the defects of distribution, and this bill not only intensifies it, but makes it more dangerous and directly sinister. Ever since the banking interests perceived that some form of regulation of the railroads became inevitable, water was poured into all the stocks and bonds of every carrier. The purpose was twofold. In the first place, it permitted a tiny minority to control through a holding company vast railroads; and, secondly, and more directly, to soak the community with a lot of inflated paper so-called "securities." In order to market these and to give them the apparent approval of the Government, this bill becomes the necessary lever with which to unload the so-called "securities" on the public.

Surely the country has enough money, but it is not properly distributed, nor is it where it by right belongs, with the people.

Now, who is clamoring for more money and elastic currency—the people? No; the banks.

For whose benefit—the people's benefit and interest? No; for the bank magnates' own gain and benefit.

Now, if you desire to make it still easier for banks to bleed and rob the people and make it still easier for them to control the wealth of this country, then in this case pass this Wall Street Morgan-Rockefeller bill for which they are clamoring, but for heaven's sake do not try to make the American people believe that it is done for the interest of the country. Be honest and admit that it is done for the poor, oppressed, and lean banks who are only declaring from 30 per cent up to 60 per cent dividends on their capital and whose \$100-shares are worth up to two thousand and in some instances more, because it is they and no others who want this legislation.

I believe that this clamor on the part of these banks for currency legislation, Mr. Speaker, is a great bluff and nothing else. By their actions they are trying to blind the people and keep the people's thoughts from the abuses that now exist, fearing that if the public would awaken, it would demand repeal of all the obnoxious acts which make it possible for the banks of this country to do what they please with the public.

Government money should be substituted for the national-bank notes called money.

Until this is done the user will continue to grow more automatic and powerful and the toiler more completely his slave.

In the belief that our present monetary system is enriching a privileged few and doing an incalculable wrong to the many, we demand its abolition, root and branch, and advocate a substitute for all coin and currency now in use, full legal-tender paper money (not notes), to be issued by the Government for a consideration and in sufficient volume for doing the business of the country for cash.

This money should be issued direct to the people without the intervention of interest-bearing bonds or bankers and, being receivable for taxes and for all dues to the Government, would be self-redeeming, thus making unnecessary all coinage of precious metals for redemption purposes.

Under an equitable monetary system a favored few will not have their products stamped as money, thereby giving them an immense advantage over their fellow-producers to whom this privilege is denied, but all producers will be placed on an equal footing, and no one will be able to obtain money unless he gives to society some useful product or service in return.

The monopoly to issue money enjoyed by private individuals has led to numberless other monopolies, and will in time concentrate all wealth in a few hands if the present system is not reversed.

Let the Government issue all money; let it be issued for a consideration and services only, and received as it is issued, thereby forming a natural and perfect circulation.

Under this system the money will first come into the posses-

sion of the industrious people, and those social parasites who have been absorbing labor's products by the mere control and manipulation of money will be compelled to either live on what they have accumulated or else become industrious also.

I honestly and firmly believe that the foregoing plan or system proposed by the Monetary Association should, and some day surely will, be established, and in connection establish postal savings banks and within a short time the people and the country will free themselves from the deadly grip of this mammoth money octopus.

The question is, Will you do it?

Remember, by your deeds you shall be known.

This evil legislation is bound to recoil on its authors. It is sure to emphasize in the minds of all thinking people not only the vacuity of mentality of the Republican party, but it will surely make the people understand that mere worship of the fetish of the full dinner pail and Republican prosperity no longer can hold good. For years the senseless howl about the Democratic panic of 1893 has done good service. What can be said of the Republican panic that began in 1907 and whose end no man can foretell? It is idle to say that other causes of international nature contributed to it. It is undisputed that the great malefactors of corporation finance precipitated it and made use of it to punish their adversaries, and to some extent were caught in its maelstrom of financial rottenness. To escape from this they find their only relief in working off on the people their inflated converted bonds under the aegis of this proposed legislation. Let all this be disputed—what have the Republicans to say to the charge that this panic came while they had, and have had, uninterrupted control of the Presidency and of both Houses of Congress for a long period of years?

Here is an extract from the New York Evening Post of January 18, 1908:

KILLING THREE SUPERSTITIONS WITH ONE PANIC.

Every man regrets that the panic had to come. We all suffer, and shall suffer from it; for its effects will be with us for months to come. Secretary Taft, whose account in his Boston speech of the origin of our financial troubles was so informed, is too clear-sighted to be under any delusion about the effect passing away, as some obstinate optimists believe it will, in a night. He predicted that industrial crippling would be a certain and continuing result. That but heightens the sense of the calamity which has befallen the country. Yet, if it had to be, there are many public grounds for satisfaction that it fell just when it did. It came at precisely the right moment to kill, or at least scotch, three of our most harmful political superstitions at the same time.

Defining superstition as a conviction without reason, or in the face of reason to the contrary, we need have no hesitation in calling one belief about the Republican party superstitions. It is that the Republican party is, somehow, "good for business." With that this nation has been for some years grievously afflicted. It has been in vain to point out mistaken policies, insensate leaders, and corrupt management. Never mind all that, people have said; we have noticed that when the Republican party is in power work is plenty, wages are high, the tall chimneys smoke, exchanges mount up, profits are great, prosperity is abundant; and we don't propose to run the risk of a change. Of course this was based on a memory as short as the argument was fallacious. The Republican party was in power in 1873-1877, among the most disastrous years of our history. Per contra, the Democratic party, when in control from 1884 to 1888, was distinctly good for business. But political memories in this country rarely cover more than a year or two of the immediate past, and so the superstition we speak of has come to hold thousands in its grasp. But they must feel its hold broken to-day. The hard fact has done what all the reasoning in the world could not effect. Men in all parts of the country are out of work. The public revenues are steadily declining, and a large Treasury deficit is plainly in sight. The business and manufacturing outlook is gloomy, yet there, all the while, is the Republican party in full power. The spell of a mere name has not worked. Providence has ceased to be a member of the Republican party. The result can not fail to be to cause the Republican managers to think with less reverence of their own supernatural wisdom and of the divine bounty with more.

The twin superstition is the persuasion that a high tariff has a magic in it to make good times. We have had this dinned into our ears to such an extent for ten years past that even ordinarily sensible men have come to think there might be something in it. The result has been to make the tariff sacrosanct, to touch which was both a crime and a sacrilege. Some of the best heads in the Republican party have been given over to believe this strong delusion and lie. They have been ready with instant objection to any proposal to revise the tariff, since it would mean a great blow to business. Well, business has now received a succession of staggering blows, and the high tariff has been no protection against them whatever. When men have talked about the unnecessary and oppressive duties on iron and steel, the answer has been that we could not afford to disturb the high tariff which kept that vast industry at its pitch of activity. Well, the iron and steel business has been cut squarely in half, though not a single duty has been pared down by a shaving. Suppose such a tremendous shock had followed tariff reduction. Every Republican finger in the land would have pointed to the awful warning. But to-day the awful warning has come with the high tariff in full vigor. This ought to put an end to the worship of the tariff as a fetish for at least a decade.

Superstitions are nonpartisan. * * * But that superstition, too, shriveled before the breath of the panic.

The part which unreasoning hopes and fears, with unfounded beliefs, have played in political history, everyone knows to have been large, and no man in his senses expects that it will be more than relatively smaller as education and experience make their slow and painful conquests. But it is always a relief when a political obsession ceases even temporarily to hamper rational discussion. That amount of adversity's sweet milk we can draw from the panic. It has made certain pet delusions so absurd that they can no longer be maintained with a

straight face. And historians will be able to say of the panic of 1907 that, if it wrecked banks, it also destroyed superstitions.

The panic of 1893 came on the country as an aftermath of the panic of 1892. The panic of 1907 belongs to and should be borne by the Republican party without any partners except their silent partners, the corporation magnates and trust beneficiaries. The panic of 1893 all but burst forth in Harrison's Administration. President Harrison's Secretary of the Treasury had the plates for the bonds engraved and was getting ready to issue bonds, the same bonds that were afterwards used by Cleveland to save the credit of the Government—all but wrecked by the expenditures of the Republican House and Republican Senate. The wastefulness of that period is duplicated to-day, and the Republican panic of 1907 has not taught the Republicans anything whatever.

But this time you will not be able to mislead all the people. They have found you out and your Wall street gamblers' bill shows what straits you are in. You are at the end of your rope and, like Bill Sykes, you are about to play a trick of unspeakable and needless financial ruffianism before your political end. You are not even grateful to your wretched dog, and are illtreating that portion of the little bankers who have filled your campaign funds with this loathsome financial flimflam.

How much longer this will be tolerated by the American people I do not know, but I predict this, that it will not take long. The American people will some day in the near future come to realize that whenever the condition in a country reaches that stage that it is possible for one man to stop or steer a panic for his own ends, that it is also possible for that same group or that same man to cause to be or bring about a panic. Both feats have already been accomplished and are fresh in the people's minds. They have left ruin and desolation and misery all over our country, and the end is not yet in sight, in spite of skillfully manipulated stock markets and faked enthusiasm. If nothing else showed the pitiable condition of the Republican party it is shown by the fact that the stock markets rise and keep on rising on the killing in the stock markets and curbs that can be made when this currency bill becomes law, and this in spite of over 400,000 freight cars idle and empty, and in spite of a national deficit unheard of in a solvent State in times of peace. The party of Lincoln and of Sherman and of Boutwell has become an annex to and a servant of a gang of stockjobbers. With this well deserved gibbeting I pity the people of these United States, who must in the last instance pay the piper for the untold evils of this mongrel currency bill.

Education.

Education is the foundation upon which to build a nation's prosperity, happiness, and liberties.

SPEECH

OF

HON. RICHMOND P. HOBSON,
OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. HOBSON said:

Mr. SPEAKER: Under the leave to print granted by the House, I desire to have printed in the RECORD the following articles and information from the General Educational Board, which is doing a mighty work for the general cause of education in America:

IMPROVED CONDITIONS FOR THE SOUTHERN FARMER.

[An address delivered by Dr. Seaman A. Knapp, of the United States Department of Agriculture, at the tenth conference for education in the South, at Pinehurst, N. C.]

In discussing this topic it is necessary to arrive at a just estimate of present conditions in our Southern rural districts.

Some years since a traveler said that the farms of the South looked like a bankrupt stock ready for the auctioneer; the soils were impoverished, the brush and briar patches conspicuous, the buildings dilapidated, the fences a makeshift, the highways but little more than much-used bridle paths; the churches and schoolhouses were built upon the plan of inclosing the necessary space at the least expense, and the graveyards appeared as if the living did not believe in the resurrection.

This view point is not mine. To me the Southern States surpass all of the countries of the earth of equal area in material resources,

mainly undeveloped. Underneath almost every acre is concealed a mineral wealth of surpassing value; within almost every acre are agricultural resources that, touched by intellect and labor, will reveal marvelous products. To me the Southern people are the purest stock of the greatest race the world has produced. The rural population has lived under unfortunate conditions for the best development, but the essential material of their natures is not impaired, and it requires but leadership but to maintain great results. "Scratch a Filipino and you may uncover a Malay;" scratch a poor white of the South and you reveal a hero. Great gains have already been made and greater are yet to come. There are some retarding conditions. What are they? The following are a few of the most important:

First. In the older States of the South the annual product per acre has greatly decreased, owing to the rapid loss of soil fertility, and moderate production is only maintained at increased cost. Even comparatively new States, like Texas, indicate rapid loss of fertility.

Second. Within the last half century vast areas of virgin prairie soils have been opened for settlement by the construction of railway lines, and have attracted many from the older States. Economic and rapid transportation are equalizing the land values of the world, depressing them in older and more populous sections and rapidly enhancing values in the newer. This is true in Virginia, in New York, in England, and elsewhere.

Third. The large body of freedmen settled throughout the rural districts of the South has tended to lower farm values and depress agriculture. I am not claiming that they intentionally do this or are morally responsible for the effect. The effect is not the result of color, but is caused by lower planes of living. I simply mention it as a factor.

Fourth. The poverty of the laboring whites should be taken into account. It takes resources to build and maintain a high civilization. If the poor whites and the colored people, constituting nine-tenths of the country population, do not have means to buy farms, nor improve them, nor purchase equipment, nor to pay current expenses, country conditions must fall to a low level. Considerable of this is due to the war between the States, which financially ruined the South. It takes a long time for a people to recover from sweeping disasters, and it takes longer when nine-tenths of them have but slight knowledge of thrift.

Fifth. The credit system has been a potent factor in depressing agriculture. To some extent it might have been a necessary evil in a limited way forty years ago, but it prospered and became dominant, oppressive, and insolent. It unblushingly swept the earnings of toil from the masses into the coffers of the few. It substituted voluntary for involuntary servitude, ownership by agreement, and poverty by contract under fear of the sheriff for the ownership by birthright and a government by proprietary right. So we have lived under a slavery where the chains are ingeniously forged and the bands riveted with gold. It is all the same in effect—the impoverishment of the masses.

Sixth. Evolution in manufactures has wielded a mighty influence against the general development of the country. Sixty years ago most of our mechanics lived in the country upon small farms, which they and their families tilled for support, and they sold their surplus labor to supplement the home income. People were honest and thrifty, because all were employed; to-day these mechanic farmers reside in town or city, sell all their labor, and live out of a canned garden and milk a tin cow. Of course their sons and daughters are idle.

Seventh. To foster the mechanic arts we have levied a duty upon the farmers, thereby destroying competition and increasing the cost of what they purchase about 50 per cent. This with the marvelous improvements in machinery and mechanical power has given the mechanic an earning capacity (as shown by the last census) of from four to six times that of the average farmer. This is the main magnet which attracts the best youth from the farms and deprives the rural districts of their rightful leaders.

Eighth. To cap the climax of depressing influences most of the money of the country has been diverted into commercial channels through the banking laws. In olden time there were men in the country who loaned money to farmers; later all such funds have been absorbed by banks, until banks directly and indirectly control the money of the country. Farmers can deposit in a bank; but they can not borrow from that bank, even their own money, to make a crop. It requires at least six months to make and market an average crop upon a farm. Banks can loan only for ninety days. Suppose all of the deposits of a village bank were made by farmers, that money must be loaned upon short time and hence is not available for crop raising to any extent. Thus the banking capital of our country, a considerable portion of which belongs to farmers, has not promoted agriculture, but has stimulated commercialism and by its concentration in cities has fostered gambling in stocks. The great fluctuation in the values of farms and farm products lies in the fact that the money of the country is not backing them. It has been loaned to the merchant, the manufacturer, and the speculating interests. This is not intended as an argument against banks. Banks are a necessity. The criticism holds against a phase of our banking laws which by process of law diverts the money of farmers into commercial channels.

This backward condition of the country as compared with the city is not a new problem. It dates from the earliest historical periods. Many of the words of reproach or opprobrium in the English language were the designation of farmers, in the several languages from which they were derived, such as villain, heathen, clown, and boor. While rural conditions were such as these names indicate, the weavers of Bruges and the trainbands of London were winning victories for liberty.

Every effort to improve the country has been more or less of an uplift. When manufacturers were established in the villages of England and in New England an important step was taken in economic production. It helped the marketing of farm products and gave employment to the surplus labor of the country. This should still be the policy of manufacturers, if the most economic production is sought. These villages were a social as well as an economic gain.

The establishment of country schools was another advance. They had been far from perfect and possibly should be modified to meet present conditions; but they have been an inspiration to thousands who lived remote from urban refinement. They were expensive, but infinitely cheap as compared with the barbarism of ignorance.

Another advance of the country was the establishment of agricultural colleges. These democratic institutions attracted the sons of farmers by their gospel of labor and the introduction of studies helpful in vocations of toil.

It was hoped, and by many expected, that the graduates of these colleges would return to the country, become captains of rural industries,

and revolutionize conditions. This did not occur, but good was done. Thousands of the undergraduates are upon the farms. Many of these colleges have established short courses for the tillers of the soil. Farmers' institutes have been organized to carry agricultural knowledge to the scattered homes in the country and deliver it orally. They have fostered investigations along agricultural lines, and they keep the necessity of more agricultural knowledge as a live issue before the people.

Another class of reformers is prescribing "diversification of farm products" as a remedy. Diversifying is a great aid to success in agriculture, under certain conditions; but how can the man who has nothing to diversify? He can not go into dairying nor stock farming, because he can not buy the fraction of a cow or a pig. He can not plant new crops, because the merchant regards the move as an experiment, and he will not advance on an experiment. The only way such farmers can prosper is by remaining in the old rut and improving the rut.

Other advocates of reform are clamoring for improvement of rural conditions—better homes, passable highways, free delivery of mails, etc. These are excellent suggestions; but they do not reach the main difficulty, which is the lack of means to do anything.

I once heard a poor tenant farmer complain that he could not make a living farming; a passing stranger remarked, "Why don't you quit farming, if there is no money in it, and go to banking?" "Mister!" replied the poor man, "I don't know whether you are insane or an idiot. It sounds like both." To men on the farm hunting for a breakfast, considerable of the advice sounds like both.

There is another remedy for the country, very popular just now, and that is the teaching of agriculture in the common schools. Properly defined and understood, there is a certain amount of helpfulness in it. However, if taught universally in the country schools, no sweeping revolution will result, for the following reasons:

First, Agriculture is not a science and it has but little science in it. That little science can be taught. The remainder must be acquired by observation, experience, and business methods. Some instruction may be given in soils, in plant classification, in the way plants feed and grow and are propagated, in insect and bird life, and in animal structure and requirements. These may go into secondary schools in a limited way. It appears to me impracticable to introduce them generally into the rural common schools, as they are now organized; at least till teachers are trained to instruct. If these schools can be consolidated into township schools, properly graded, it will then be possible to introduce some object-lessons and primary instruction in nature studies. In the common country schools, it is at present unwise to attempt much looking to agriculture beyond object-lessons. These are always valuable, and oral instruction should be given with them.

It is estimated that there is a possible gain of fivefold in the earning capacity of each farm laborer above his present income. Practically the whole gain is due to the following plan: Fill the soil with humus; prepare a deeper and more thoroughly pulverized seed bed; better seed; proper fertilization; more cultivation; the use of stronger teams; better machinery and tools; and utilize the idle lands by grazing. Four-fifths of the gain is in the economic use of better teams and tools and the introduction of animal husbandry. A majority of our common school teachers are women, ignorant of practical agriculture, but no more so than 60 per cent of the male teachers. How are such teachers to instruct in these branches, which requires a farm fully equipped and practical experience?

I have been talking about common schools. In our portion of the United States there are no common schools. They are most extraordinary schools. The children are given science lessons, language lessons, social economy, French, Latin, drawing, vocal and piano music, etc. Possibly later they may learn to read and spell. I asked the patron of one school how the pupils progressed in Latin. He replied, "Very well, indeed. The only difficulty is that they are required to write their translations in English and they do not know how to write English."

Let us drop this farce. The need in common schools is for thorough training in the fundamental English branches. If there is time for more, let the boys study bookkeeping and business methods. If still there be room, introduce nature studies and object-lessons. Let the girls take for higher branches the lost science of cooking, housekeeping, and physiology. I am asking for a substantial foundation upon which to build a useful life for such people as must be practical, because they must earn their bread by toil. For people of means and with love of learning, I commend a life of study, broad, deep, and thorough, well rounded by extensive travel and observation. We need great scholars. The common toiler needs an education that leads to easier bread.

In the centuries the American people have been at work on the problems of rural reform some progress has been made, and we are now prepared for the complete accomplishment of what we have so earnestly sought, the placing of rural life upon a plane of profit, of honor, and power. We must commence at the bottom and readjust the life of the common people.

First, by increasing the earning capacity of the small farmers. More comfortable homes, better schools, improved highways, telephones, free delivery of mails and rural libraries—all require money. They can not be installed and maintained without it; hence the basis of the better rural life is greater earning capacity of the farmer. Farm renovation and maximum crop production are now fully understood, and they can be explained and illustrated in such a simple and practical way that it would be a crime not to send the gospel of maximum production to the rural toiler. It is said by some that the farmers are a hard class to reach and impress. That is not my experience. They are the most tractable of people, if you have anything substantial to offer—but they all want proof. They do not take kindly to pure theories, and no class can more quickly discriminate between the real farmer and the book farmer than the men who till the soil. The message to the farmers must be practical and of easy application. Who shall take this message? Our experience is in favor of farmers of fair education and acknowledged success on the farm. They may make mistakes, from a scientific standpoint, in delivering the message, but these are easily corrected. The main thing is to induce the farmer to act, and no one can do that like a fellow-farmer. Of what avail is it that the message be taken by a man of science, if the farmer will not give heed? In general it is not the man who knows the most who is the most successful, but the man who imparts an implicit belief with his message. The greatest failure as a world force is the man who knows so much that he lives in universal doubt, injecting a modifying clause into every assertion and ending the problems of life with an interrogation point.

The process of changing the environment of a farmer is like that of transforming a farm boy into a scholar. First, the farmer is selected

to conduct a simple and inexpensive demonstration. Second, a contract is drawn with the United States Department of Agriculture by which he agrees to follow certain instructions. Third, better seed is furnished him and his name is published in the papers. Fourth, each month when the Government's field agent goes to inspect his demonstration many of his neighbors are invited; consequently he will almost unconsciously improve his farm so as to be ready for company and cultivate all of his crops better. Fifth, a report of his extra crop is made in the county papers. His neighbors talk about it and want to buy seed. Sixth, he sells the seed of his crop at a high price. His neighbors ask him how he produced it. He is invited to address public assemblies. He has become a man of note and a leader of the people and can not return to his old ways. Soon there is a body of such men; a township, a county, and finally a State is transformed. The power which transformed the humble fishermen of Galilee into mighty apostles of truth is ever present and can be used as effectively to-day in any good cause as when the Son of God turned His footsteps from Judea's capital and spoke to the wayside children of poverty.

The environment of men must be penetrated and modified or little permanent change can be made in them. The environment of the farmer is limited generally to a few miles. The demonstration must be carried to this limited area and show how simple and easy it is to restore the virgin fertility of the soil, to multiply the product of the land per acre, to increase the number of acres each laborer can till by three or four fold, and to harvest a profit from untilled fields by animal husbandry. This is our farmers' cooperative demonstration work.

The second step in rural regeneration is the establishment of agricultural banks, through which reliable men may be assisted to own the lands they till. In the United States there are over 2,000,000 rented farms, more than one-third of the total number. The majority of these farmers would become owners if properly encouraged and aided. In addition there are tens of thousands of mechanics in the towns and cities who were raised on farms and would return to the country and purchase lands for homes if slightly assisted.

Agricultural banks should be established to assist in carrying out the plan of colonizing the country with thrifty home owners. Furthermore, it is equitable, because while millions produced by the farms of the nation have by the process of banking been transferred to commerce, no way has been provided, under the law, by which the money of the people can be used by the people for time investments in providing for ownership of rural homes—the royal right of American sovereigns and more honorable than the Order of the Garter or the Golden Fleece.

The third advance in the great uplift of rural conditions consists in teaching farmers' wives and daughters how to feed, clothe, and doctor their families. When the township graded school takes the place of the scattered district schools, it will be plain how to accomplish this work by school demonstrations.

If these three progressive steps be taken, the rest will follow as a natural evolution. It is not a matter of pure deduction which assures me that the farmers will make their homes more comfortable and more beautiful, will perfect the rural school system, will construct good roads, telephones, and electric railways, when they have the means to do so. Wherever our farmers' cooperative demonstration work has been conducted long enough for the farmers to get out of debt, there is a marked improvement in buildings and farm equipment to do good work. The farmers' families are better clothed and fed; thrift and comfort have appeared in places formerly as destitute of these as the jungles of Africa.

The State can accelerate the progress of rural improvement by encouraging good works. In England better highways have been promoted by a law which provides for the general Government taking charge and thereafter maintaining all roads which the people construct and improve up to certain excellence. In a similar way the State could encourage the building of the best macadam or Roman type of roads by offering premiums for every mile constructed by a township or county, and important highways might even receive national aid. Such a highway as the Spaniards constructed from Ponce to San Juan is worthy of national aid and is more valuable to the country than a railroad and at less cost. The life of a Roman highway is more than two thousand years. Several such highways should bisect every county in the United States and be a part of a great national road system. The secondary highways will of course for many years be dirt roads; but they should be of the best type. With our waterways improved, connecting canals constructed, and a system of national highways developed, the problem of transportation will be largely solved and an immense impetus given to better country conditions.

In a similar way a wise governmental policy can foster schools by special annual appropriations to township and county graded schools of a certain excellence. Under such a system a high school fully equipped to instruct in the practical branches required for successful farm life could be maintained in every county.

Telephones should be made a part of the postal system and extended through the farming districts of the United States where the people have shown ability to construct and maintain a first-class highway, one-half the expense of installing the telephone to be borne by the rural route and a rental charge made, as for post-office boxes. In addition there should be a rural express on every highway of the first class. Thus a farmer residing 10 miles from his market town could make an order by phone and receive the package by express in a short time. By the same conveyance the sons and daughters of the farmers could attend a central high school.

Upon this general plan, and no other, can the country become what it should—a home-making place, where the farmer will reside upon his farm. The mechanic and the merchant wanting more space for their homes will choose it 5 or 10 miles in the country, and professional men will seek rural quiet and rest. Our civic centers are expanding with amazing rapidity, not because men love brick walls and electric elevators, but because they there find greater earning capacity and certain conveniences and comforts, which have become a necessity. Make it possible to have all of these amid the quiet and beauties of nature, with rapid transit to business centers, and vast numbers that have sought an urban home will turn to the country for a home at less cost with purer air and water, greater convenience and beauty, cheaper food and more contentment.

Let it be the high privilege of this great and free people to establish a republic where rural pride is equal to civic pride, where men of the most refined taste and culture select the rural villa, and where the wealth that comes from the soil finds its greatest return in developing and perfecting that great domain of nature which God has given to us as an everlasting estate.

The Democratic Congressional Committee.

SPEECH

OF

HON. JAMES T. LLOYD,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. LLOYD said:

Mr. SPEAKER: Political parties are necessary to the best interests of the Republic and have been important factors in the progress of our Government. There must be organization to make these parties effective. In every part of the country the machinery is established to carry out these purposes. Committees are selected which, in a representative way, look after the work of the party. The two great parties each have a Congressional committee, composed mainly of Members of Congress, who are charged with the responsible work of assisting in the various Congressional districts in the attempt to secure control of the next Congress.

The Democratic Congressional committee is composed of the following Members of the House of Representatives and the Senate: JOHN L. BURNETT, Alabama; STEPHEN BRUNDIDGE, Arkansas; FRANK CLARK, Florida; JAMES M. GRIGGS, Georgia; HENRY T. RAINEY, Illinois; LINCOLN DIXON, Indiana; D. W. HAMILTON, Iowa; BEN JOHNSON, Kentucky; JOSEPH E. RANDELL, Louisiana; JOHN GILL, Maryland; JOHN A. KELIHER, Massachusetts; W. S. HAMMOND, Minnesota; E. J. BOWERS, Mississippi; JAMES T. LLOYD, Missouri; G. M. HITCHCOCK, Nebraska; GEORGE A. BARTLETT, Nevada; WILLIAM HUGHES, New Jersey; WILLIAM H. RYAN, New York; WILLIAM W. KITCHIN, North Carolina; T. T. ANSEBERRY, Ohio; JAMES S. DAVENPORT, Oklahoma; JOHN G. McHENRY, Pennsylvania; D. L. D. GRANGER, Rhode Island; D. E. FINLEY, South Carolina; JOHN WESLEY GAINES, Tennessee; JOHN M. MOORE, Texas; H. D. FLOOD, Virginia; CHARLES H. WEISSE, Wisconsin; MARCUS A. SMITH, Arizona; ROBERT L. OWEN, Oklahoma; ROBERT L. TAYLOR, Tennessee; HENRY M. TELLER, Colorado; A. S. CLAY, Georgia; THOMAS S. MARTIN, Virginia; WILLIAM J. STONE, Missouri; FRANCIS G. NEWLANDS, Nevada; JAMES P. TALIAFERRO, Florida; JOHN H. BANKHEAD, Alabama, and CHARLES A. CULBERSON, Texas.

This committee met and organized by the selection of the following officers: JAMES T. LLOYD, chairman; DAVID E. FINLEY, and D. L. D. GRANGER, vice-chairmen; FRANK CLARK, secretary; WILLIAM HUGHES, assistant secretary, and Joseph J. Sinnott, a messenger in the House of Representatives, sergeant-at-arms.

Its various subcommittees have been chosen and are as follows:

Executive committee, HENRY T. RAINEY, chairman; D. E. FINLEY, WILLIAM J. STONE, LINCOLN DIXON, D. W. HAMILTON. Campaign committee, LINCOLN DIXON, chairman; D. E. FINLEY, D. W. HAMILTON, CHARLES A. CULBERSON, WILLIAM W. KITCHIN, WILLIAM HUGHES, STEPHEN BRUNDIDGE, W. S. HAMMOND, GEORGE A. BARTLETT, HENRY M. TELLER, THOMAS S. MARTIN, JAMES S. DAVENPORT, T. T. ANSEBERRY.

Literature committee, JOHN WESLEY GAINES, chairman; G. M. HITCHCOCK, E. J. BOWERS, HENRY T. RAINEY, ROBERT L. OWEN, D. L. D. GRANGER, FRANK CLARK, JOHN A. KELIHER, JOHN L. BURNETT, JOHN G. McHENRY, ROBERT L. TAYLOR, JOSEPH E. RANDELL, MARCUS A. SMITH.

Finance committee, H. D. FLOOD, chairman; WILLIAM H. RYAN, JAMES M. GRIGGS, W. J. STONE, FRANCIS G. NEWLANDS, A. S. CLAY, CHARLES H. WEISSE, JOHN GILL, BEN JOHNSON, JAMES P. TALIAFERRO, JOHN M. MOORE, JOHN H. BANKHEAD.

The Republicans selected a Congressional committee, whose names I have not been able to obtain. They effected an organization by naming JAMES S. SHERMAN, of New York, chairman, and HENRY C. LOUDENSLAGER, of New Jersey, secretary.

Each committee is preparing some kind of handbook of information for distribution. This book contains extracts from the CONGRESSIONAL RECORD of speeches and statements of prominent men, which have been printed.

This is a wonderful country. Party spirit may run high, contest for supremacy may be intense, contending parties may widely differ as to the internal policy; but when the honor of the country is assailed or its rights trampled upon by an outside foe, there is but one voice in defense—that is the voice of the whole people, who are willing to die, if need be, to maintain the integrity of the Republic.

The Currency Law.

SPEECH

OF

HON. WILLIAM S. BENNET,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. BENNET of New York said:

Mr. SPEAKER: Under leave to print I insert in the RECORD this new currency law, believing it to be a matter of general interest, and also an interesting article by William Henry Knox, of the New York bar, which article appeared in the Albany Law Journal in January last:

[Public—No. 169.]

H. R. 21871. An act to amend the national banking laws.

Be it enacted, etc., That national banking associations, each having an unimpaired capital and a surplus of not less than 20 per cent, not less than ten in number, having an aggregate capital and surplus of at least \$5,000,000, may form voluntary associations to be designated as national currency associations. The banks uniting to form such association shall, by their presidents or vice-presidents, acting under authority from the board of directors, make and file with the Secretary of the Treasury a certificate setting forth the names of the banks composing the association, the principal place of business of the association, and the name of the association, which name shall be subject to the approval of the Secretary of the Treasury. Upon the filing of such certificate the associated banks therein named shall become a body corporate, and by the name so designated and approved may sue and be sued and exercise the powers of a body corporate for the purposes hereinafter mentioned: *Provided*, That not more than one such national currency association shall be formed in any city: *Provided further*, That the several members of such national currency association shall be taken, as nearly as conveniently may be, from a territory composed of a State or part of a State, or contiguous parts of one or more States: *And provided further*, That any national bank in such city or territory having the qualifications herein prescribed for membership in such national currency association shall, upon its application to and upon the approval of the Secretary of the Treasury, be admitted to membership in a national currency association for that city or territory, and upon such admission shall be deemed and held a part of the body corporate, and as such entitled to all the rights and privileges and subject to all the liabilities of an original member: *And provided further*, That each national currency association shall be composed exclusively of banks not members of any other national currency association.

The dissolution, voluntary or otherwise, of any bank in such association shall not affect the corporate existence of the association unless there shall then remain less than the minimum number of ten banks: *Provided, however*, That the reduction of the number of said banks below the minimum of ten shall not affect the existence of the corporation with respect to the assertion of all rights in favor of or against such association. The affairs of the association shall be managed by a board consisting of one representative from each bank. By-laws for the government of the association shall be made by the board, subject to the approval of the Secretary of the Treasury. A president, vice-president, secretary, treasurer, and an executive committee of not less than five members shall be elected by the board. The powers of such board, except in the election of officers and making of by-laws, may be exercised through its executive committee.

The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation, any securities, including commercial paper, held by a national banking association. For the purpose of obtaining such additional circulation, any bank belonging to any national currency association, having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of its capital stock, and which has its capital unimpaired and a surplus of not less than 20 per cent, may deposit with and transfer to the association, in trust for the United States, for the purpose hereinafter provided, such of the securities above mentioned as may be satisfactory to the board of the association. The officers of the association may thereupon, in behalf of such bank, make application to the Comptroller of the Currency for an issue of additional circulating notes to an amount not exceeding 75 per cent of the cash value of the securities or commercial paper so deposited. The Comptroller of the Currency shall immediately transmit such application to the Secretary of the Treasury with such recommendation as he thinks proper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and if he be satisfied with the character and value of the securities proposed and that a lien in favor of the United States on the securities so deposited and on the assets of the banks composing the association will be amply sufficient for the protection of the United States, he may direct an issue of additional circulating notes to the association on behalf of such bank to an amount in his discretion, not, however, exceeding 75 per cent of the cash value of the securities so deposited: *Provided*, That upon the deposit of any of the State, city, town, county, or other municipal bonds, of a character described in section 3 of this act, circulating notes may be issued to the extent of not exceeding 90 per cent of the market value of such bonds so deposited: *And provided further*, That no national banking association shall be authorized in any event to issue circulating notes based on commercial paper in excess of 30 per cent of its unimpaired capital and surplus. The term "commercial paper" shall be held to include only notes representing actual commercial transactions, which, when accepted by the association, shall bear the names of at least two responsible parties and have not exceeding four months to run.

The banks and the assets of all banks belonging to the association shall be jointly and severally liable to the United States for the redemption of such additional circulation; and to secure such liability,

the lien created by section 5230 of the Revised Statutes shall extend to and cover the assets of all banks belonging to the association and to the securities deposited by the banks with the association pursuant to the provisions of this act; but as between the several banks composing such association, each bank shall be liable only in the proportion that its capital and surplus bears to the aggregate capital and surplus of all such banks. The association may at any time require of any of its constituent banks a deposit of additional securities or commercial paper, or an exchange of the securities already on deposit, to secure such additional circulation; and in case of the failure of such bank to make such deposit or exchange the association may, after ten days' notice to the bank, sell the securities and paper already in its hands at public sale and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of such additional circulation. If such fund be insufficient for that purpose, the association may recover from the bank the amount of the deficiency by suit in the circuit court of the United States and shall have the benefit of the lien hereinbefore provided for in favor of the United States upon the assets of such bank. The association or the Secretary of the Treasury may permit or require the withdrawal of any such securities or commercial paper and the substitution of other securities or commercial paper of equal value therefor.

SEC. 2. That whenever any bank belonging to a national currency association shall fail to preserve or make good its redemption fund in the Treasury of the United States, required by section 3 of the act of June 20, 1874, chapter 343, and the provisions of this act, the Treasurer of the United States shall notify such national currency association to make good such redemption fund, and upon the failure of such national currency association to make good such fund, the Treasurer of the United States may, in his discretion, apply so much of the redemption fund belonging to the other banks composing such national currency association as may be necessary for that purpose; and such national currency association may, after five days' notice to such bank, proceed to sell at public sale the securities deposited by such bank with the association pursuant to the provisions of section 1 of this act, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of the additional circulation taken out by such bank under this act.

SEC. 3. That any national banking association which has circulating notes outstanding, secured by the deposit of United States bonds to an amount of not less than 40 per cent of its capital stock, and which has a surplus of not less than 20 per cent, may make application to the Comptroller of the Currency for authority to issue additional circulating notes, to be secured by the deposit of bonds other than bonds of the United States. The Comptroller of the Currency shall transmit immediately the application, with his recommendation, to the Secretary of the Treasury, who shall, if in his judgment business conditions in the locality demand additional circulation, approve the same, and shall determine the time of issue and fix the amount, within the limitations herein imposed, of the additional circulating notes to be issued. Whenever after receiving notice of such approval any such association shall deposit with the Treasurer or any assistant treasurer of the United States such of the bonds described in this section as shall be approved in character and amount by the Treasurer of the United States and the Secretary of the Treasury, it shall be entitled to receive, upon the order of the Comptroller of the Currency, circulating notes in blank, registered and countersigned as provided by law, not exceeding in amount 90 per cent of the market value, but not in excess of the par value of any bonds so deposited, such market value to be ascertained and determined under the direction of the Secretary of the Treasury.

The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept as security for the additional circulating notes provided for in this section bonds or other interest-bearing obligations of any State of the United States or any legally authorized bonds issued by any city, town, county, or other legally constituted municipality or district in the United States which has been in existence for a period of ten years, and which for a period of ten years previous to such deposit has not defaulted in the payment of any part of either principal or interest of any funded debt authorized to be contracted by it, and whose net funded indebtedness does not exceed 10 per cent of the valuation of its taxable property, to be ascertained by the last preceding valuation of property for the assessment of taxes. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept, for the purposes of this section, securities herein enumerated in such proportions as he may from time to time determine, and he may with such approval at any time require the deposit of additional securities or require any association to change the character of the securities already on deposit.

SEC. 4. That the legal title of all bonds, whether coupon or registered, deposited to secure circulating notes issued in accordance with the terms of section 3 of this act shall be transferred to the Treasurer of the United States in trust for the association depositing them, under regulations to be prescribed by the Secretary of the Treasury. A receipt shall be given to the association by the Treasurer or any assistant treasurer of the United States, stating that such bond is held in trust for the association on whose behalf the transfer is made and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency. The provisions of sections 5163, 5164, 5165, 5166, and 5167 and sections 5224 to 5234, inclusive, of the Revised Statutes respecting United States bonds deposited to secure circulating notes shall, except as herein modified, be applicable to all bonds deposited under the terms of section 3 of this act.

SEC. 5. That the additional circulating notes issued under this act shall be used, held, and treated in the same way as circulating notes of national banking associations heretofore issued and secured by a deposit of United States bonds, and shall be subject to all the provisions of law affecting such notes except as herein expressly modified. *Provided*, That the total amount of circulating notes outstanding of any national banking association, including notes secured by United States bonds as now provided by law, and notes secured otherwise than by deposit of such bonds, shall not at any time exceed the amount of its unimpaired capital and surplus: *And provided further*, That there shall not be outstanding at any time circulating notes issued under the provisions of this act to an amount of more than \$500,000,000.

SEC. 6. That whenever and so long as any national banking association has outstanding any of the additional circulating notes authorized to be issued by the provisions of this act it shall keep on deposit in the Treasury of the United States, in addition to the redemption fund

required by section 3 of the act of June 20, 1874, an additional sum equal to 5 per cent of such additional circulation at any time outstanding, such additional 5 per cent to be treated, held, and used in all respects in the same manner as the original redemption fund provided for by said section 3 of the act of June 20, 1874.

SEC. 7. In order that the distribution of notes to be issued under the provisions of this act shall be made as equitable as practicable between the various sections of the country, the Secretary of the Treasury shall not approve applications from associations in any State in excess of the amount to which such State would be entitled of the additional notes herein authorized on the basis of the proportion which the unimpaired capital and surplus of the national banking associations in such State bears to the total amount of unimpaired capital and surplus of the national banking associations of the United States: *Provided*, *however*, That in case the applications from associations in any State shall not be equal to the amount which the associations of such State would be entitled to under this method of distribution, the Secretary of the Treasury may, in his discretion, to meet an emergency, assign the amount not thus applied for to any applying association or associations in States in the same section of the country.

SEC. 8. That it shall be the duty of the Secretary of the Treasury to obtain information with reference to the value and character of the securities authorized to be accepted under the provisions of this act, and he shall from time to time furnish information to national banking associations as to such securities as would be acceptable under the provisions of this act.

SEC. 9. That section 5214 of the Revised Statutes, as amended, be further amended to read as follows:

"SEC. 5214. National banking associations having on deposit bonds of the United States, bearing interest at the rate of 2 per cent per annum, including the bonds issued for the construction of the Panama Canal, under the provisions of section 8 of 'An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans,' approved June 28, 1902, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of 1 per cent each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds; and such associations having on deposit bonds of the United States bearing interest at a rate higher than 2 per cent per annum shall pay a tax of one-half of 1 per cent each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds. National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first month a tax at the rate of 5 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax of 1 per cent per annum for each month until a tax of 10 per cent per annum is reached, and thereafter such tax of 10 per cent per annum, upon the average amount of such notes. Every national banking association having outstanding circulating notes secured by a deposit of other securities than United States bonds shall make monthly returns, under oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average monthly amount of its notes so secured in circulation; and it shall be the duty of the Comptroller of the Currency to cause such reports of notes in circulation to be verified by examination of the banks' records. The taxes received on circulating notes secured otherwise than by bonds of the United States shall be paid into the division of redemption of the Treasury and credited and added to the reserve fund held for the redemption of United States and other notes."

SEC. 10. That section 9 of the act approved July 12, 1882, as amended by the act approved March 4, 1907, be further amended to read as follows:

"SEC. 9. That any national banking association desiring to withdraw its circulating notes, secured by deposit of United States bonds in the manner provided in section 4 of the act approved June 20, 1874, is hereby authorized for that purpose to deposit lawful money with the Treasurer of the United States and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury, to withdraw a proportionate amount of bonds held as security for its circulating notes in the order of such deposits: *Provided*, That not more than \$9,000,000 of lawful money shall be so deposited during any calendar month for this purpose.

"Any national banking association desiring to withdraw any of its circulating notes, secured by the deposit of securities other than bonds of the United States, may make such withdrawal at any time in like manner and effect by the deposit of lawful money or national bank notes with the Treasurer of the United States and upon such deposit a proportionate share of the securities so deposited may be withdrawn: *Provided*, That the deposits under this section to retire notes secured by the deposit of securities other than bonds of the United States shall not be covered into the Treasury, as required by section 6 of an act entitled 'An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes,' approved July 14, 1890, but shall be retained in the Treasury for the purpose of redeeming the notes of the bank making such deposit."

SEC. 11. That section 5172 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of \$5, \$10, \$20, \$50, \$100, \$500, \$1,000, and \$10,000, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall, as soon as practicable, cause to be prepared circulating notes in blank, registered and countersigned, as provided by law, to an amount equal to 50 per cent of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the subtreasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency for their delivery as provided by law: *Provided*, That the Comptroller of the Currency may issue national bank notes of the present form until plates can be prepared and cir-

culating notes issued as above provided: *Provided, however*, That in no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this act."

SEC. 12. That circulating notes of national banking associations, when presented to the Treasury for redemption, as provided in section 3 of the act approved June 20, 1874, shall be redeemed in lawful money of the United States.

SEC. 13. That all acts and orders of the Comptroller of the Currency and the Treasurer of the United States authorized by this act shall have the approval of the Secretary of the Treasury, who shall have power, also, to make any such rules and regulations and exercise such control over the organization and management of national currency associations as may be necessary to carry out the purposes of this act.

SEC. 14. That the provisions of section 5191 of the Revised Statutes, with reference to the reserves of national banking associations, shall not apply to deposits of public moneys by the United States in designated depositories.

SEC. 15. That all national banking associations designated as regular depositories of public money shall pay upon all special and additional deposits made by the Secretary of the Treasury in such depositories, and all such associations designated as temporary depositories of public money shall pay upon all sums of public money deposited in such associations interest at such rate as the Secretary of the Treasury may prescribe, not less, however, than 1 per cent per annum upon the average monthly amount of such deposits: *Provided, however*, That nothing contained in this act shall be construed to change or modify the obligation of any association or any of its officers for the safe-keeping of public money: *Provided further*, That the rate of interest charged upon such deposits shall be equal and uniform throughout the United States.

SEC. 16. That a sum sufficient to carry out the purposes of the preceding sections of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 17. That a commission is hereby created, to be called the "National Monetary Commission," to be composed of nine members of the Senate, to be appointed by the Presiding Officer thereof, and nine Members of the House of Representatives, to be appointed by the Speaker thereof; and any vacancy on the Commission shall be filled in the same manner as the original appointment.

SEC. 18. That it shall be the duty of this Commission to inquire into and report to Congress, at the earliest date practicable, what changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency, and for this purpose they are authorized to sit during the sessions or recess of Congress, at such times and places as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ a disbursing officer and such secretaries, experts, stenographers, messengers, and other assistants as shall be necessary to carry out the purposes for which said Commission was created. The Commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary.

SEC. 19. That a sum sufficient to carry out the purposes of sections 17 and 18 of this act, and to pay the necessary expenses of the Commission and its members, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said Commission, which audit and order shall be conclusive and binding upon all Departments as to the correctness of the accounts of such Commission.

SEC. 20. That this act shall expire by limitation on the 30th day of June, 1914.

Approved, May 30, 1908.

MONEY PROBLEM AND ITS SOLUTION.

[By William Henry Knox, member of New York City bar.]

1. Can the members of the various legislatures and of the Congress, soon to assemble, solve the money problem?

The stock of money was two and a half billion dollars, or, if not diminished by export, is only \$27 per person, nearly as low as in European kingdoms, Denmark having \$9 per person. It can not be increased by our Government, as appears by the money laws of Congress passed in 1837, 1838, 1849, 1853, 1861, 1862, 1863, 1864, 1865, 1873, 1876, 1878, 1882, 1890, and 1891, which, of course, suspend and prohibit all coinage or additions. It has not been increased for a generation, when, I believe, it was about \$40 per person. Our present 90,000,000 persons have found it, for several years, insufficient to carry their myriads of transactions. If \$12,000,000,000 are on deposit in the banks, as common report states, what kind of dollars are they? If that is true, then there is about \$150 per person. That can not be true, because the Administration claims only \$30 per person. However, if it is true, the explanation is that two billion real dollars have been redeposited by the 20,000 banks with one another a half a dozen times over. One fair, safe, and plain way somewhat to increase the stock of money would be for our Government (by permission of a law to be enacted) to coin into money all gold hereafter offered and actually extracted from mines within our country, until it is \$100 per person, and, perhaps as a penalty, to charge its offerers, for the services of our mint, an adequate seigniorage.

2. Can usury ever be abolished?

Gold and silver coin, our only lawful money, should be deemed and made not a commodity or kind of personal property, but the medium on which to float and move transactions, and with which to do away with the necessity of exchange by barter, just as the waters rushing through the Narrows, an arm of the high seas, are the unpurchasable medium on which are floated and moved the vessels of commerce and pleasure plying between this port of New York and the rest of the world, and which no one but our Government shall have power to raise or lower.

Dealing in money, except by strict lawful banking, should be made as unprofitable and dangerous as it is immoral. Buying or selling money or accepting premiums for purchases or sales of it, is scandalous, and should be prohibited as a crime.

Every one who deals in money, or who is one of the moneyed class—the few that pay or ought to pay large sums annually as taxes upon their bank balances—is opposed to increasing the stock of money, and to imposing an export tax upon money leaving our country. Every one who deals in property—that is, in commodities, lands, services, and all other kinds of property except money—is in favor of increasing and keeping here the stock of money, or the odd one that thinks he is not

would be if he saw the distinction and the difference between money and property which wise men have seen for centuries, and which the usury and larceny sections (528 and 378) of the Penal Code saw and see.

Every dealer in money should be forbidden by penalty of felony from preying upon the necessity of a failing borrower. He needs and makes famines, panics, and failures. He gets rich from outrageous rates of interest. He wants our Government to borrow unnecessary and fabulous sums, and then, so as to paralyze the people and their commerce and pleasures, to tax them to pay the immense interest, leaving future generations to pay the principal, and then he has his golden period to make money. He prefers, as a security, our Government's I. O. U. to a citizen's I. O. U. He wants to mar any law proposed to curb his class. While he is a *laissez faire* and always concerned about crops, he is in favor of any scheme to drive the real dollar out of our country. His specious schemes for "an elastic currency," for "a contraction currency," for "an emergency currency," for "check-currency," for "bank credits currency," for "I. O. U.-based-on-future-taxation-but-not-on-present-gold-coin-money currency," and for the assumption of a function of our Government—his scheme should be reprobated and condemned. Really he wants the real dollar rare and dear so it will buy a heart's blood! He should be whipped out of the temple of money and forever kept out.

There is not in the world any legitimate business of dealing in property for the borrower to invest his loan in that can pay more than 6 cents for the use of \$1 in it for the full three hundred and sixty-five days; and if he borrowed his call loan at a greater rate, he must fail. Observations by commercial agencies show that the most profitable wholesale businesses earn, on an average, only 5 per cent net; and that 90 per cent of all firms and individuals, if not actual failures, are far from successes. There are few corporations in the world a hundred years old.

Usury always was held a wicked wrong. "Ye exact usury," charged Nehemiah, in 350 B. C. (Ch. v, v. 7). "Will ye even sell your brethren? I pray you, let us leave off this usury." Then they said: "So will we do!" Shaking out his lap, Nehemiah prayed: "So, God, shake out every man from his house and from his labor that performeth not this promise, even thus be he shaken out and emptied!"

Four hundred million Mohammedans believe that a commission of usury is a mortal sin. They will not accept any interest on their bank balances.

"They who devour usury, or who return to usury," cursed Al Koran, in A. D. 650 (Ch. li), "shall not arise from the dead, but as he ariseth whom Satan hath infected by a touch and shall be companions of hell fire and continue therein forever. He, therefore, who abstaineth from usury," rewarded Al Koran, "shall have what is past forgiven him and shall spread for himself couches of repose in paradise."

Says our law (ch. 538 of Laws of 1879):

"No greater rate of interest upon a loan of money shall be charged than \$6 upon \$100 for one year."

That wise law has an exception (ch. 237 of Laws of 1882, and sec. 56 of the banking law):

"Upon a call loan," says that exception, "banks and bankers may charge interest at any rate."

That evil exception is the chief cause of all famines, panics, and failures. It is the root of that gangrene growth—all margin and future gambling. It makes this oppressive and dishonorable trick and gamble of dealing in money a lawful business—which felonious practice—thanks to this special class legislation—some bankers, brokers, and other individuals are not ashamed to engage in openly. It creates and presents the spectacle of call loans bearing bankrupting rates of interest, of the borrowers abandoning all their collateral pledges, and of helpless depositors unable to get their own money back.

Should not that ruinous exception—the call-loan law—be repealed?

3. Is conversion by a banker a larceny or not?

It helps to cause famines, panics, and failures. If an executor or any other fiduciary receives a deposit of money and fails to pay it over he is guilty and punishable. But, if a banker or bank receives a deposit of money from his depositor and fails to pay it over to him he is not punishable—on the theory, says the law, that the deposit erected between them merely the relation of debtor and creditor. He is presumed to have invested the deposit according to the banking law. If the presumption is violent and untrue, plainly the law for the same guilt should lay the same punishment. Banking in violation of law seems to be a safe child's play although there have been some convictions.

4. Should the standard for bank director be raised by law?

The qualifications possessed and the quantity of stock owned by a stockholder in a banking corporation, or indeed in other corporations, to be eligible for director in it should be great enough (to be required by new additions to the penal code) to insure public confidence in his character and capacity and insure that he will never, through his corporation, commit conversion, check kiting, overcapitalization, merger, waste, bribery, usury, and such kinds of crime. A director and his corporation should be prohibited from owning any stock, bond, salary, or other interest in a similar, rival, competing, or parallel corporation. Otherwise radical reformers will arise and will, perhaps, get a law giving only one vote to each stockholder no matter how many shares of stock he owns instead of, as at present, one vote to each share of stock, which reform would wreck all corporations or at least drive them down to the level of partnerships. However, it must be admitted that the average corporation is a one-man concern—every director, officer, and employee being the boss's mere "rubber-stamp."

5. Would a bank conducted by our Government help to prevent future famines, panics, and failures?

So that bankers and banks shall never be superior to our Government—as they seem to be assuming one of its functions at present—they should have a competitor, say in every branch money-order post-office, which should be for an inhabitant within its vicinage a place of deposit of money to the extent of \$1,000 without paying him any interest, and which of course would keep those deposits within our country and would be as sound as our Government itself. Our Government should invest those deposits in \$20,000 or less sums in real estate bond and mortgage security at 3 or less per cent. At times, poor persons may not like to risk their ready money with banks for any rate of interest, nor be able to pay rents for safe deposit boxes. They would trust our Government with it, thus keeping it in circulation. Except to that limited extent our Government should never be granted any power or discretion in banking save to coin and issue money, and banking should be regulated solely by strict provisions of civil and criminal statute law, Federal or State.

6. Do the collections of the customs and other revenues help to cause famines, panics, and failures?

The income of our Government, roughly \$2,000,000 a day, instead of being deposited in bank is hoarded up in our Government's vault. If it is a good thing to hoard up its income until it is, say, fifty millions, why is it not a good thing to hoard it up until it is, say, the entire two and a half billions and thus leave every one without a dollar and the prey of foreign government bank usurers? Certainly they have millions of our gold coin money in their hands at present which they are ready to sell to us at Shylockian rates—rates higher than they have charged in thirty-four years.

In a word, let laws be enacted coining money, abolishing usury, defining conversion by bankers, directing the deposit of our Government's income in bank daily, and requiring bank checks to be payable only through the clearing house, where there is one, and the chief causes of famines, panics, and failures will be destroyed.

WILLIAM HENRY KNOX.

The Currency Bill.

SPEECH

OF

HON. JAMES T. LLOYD,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. LLOYD said:

Mr. SPEAKER: The Democratic party, which was so marvelously triumphant for the first seventy years of the country's history, still lives to bless mankind and bring hope to those who believe in its teachings.

For nearly fifty years the Republican party has controlled the legislation and, to a great extent, the political destiny of the Republic.

We are now entering upon a contest between these two great parties which will be intense until the people have again asserted themselves at the ballot box. Many people have been led to believe the statement which has been so forcibly and frequently made, that "Republican supremacy insured prosperity, and Democratic success brought adversity," and to reach the truth must be disabused of this heresy.

The panic of 1893, with its necessary business depression, has been charged directly to the Democratic party by Republican leaders in every section of the country, and many have been deluded by the statement. The truth of history shows, however, that the Democrats were not responsible for it, and that the cause of the panic, if in legislative and administrative conditions, existed when Mr. Cleveland was inaugurated.

In May, 1893, as in October, 1907, business failures precipitated financial alarms; money was withdrawn from circulation and hoarded in private places. Mr. Cleveland in 1893 found a depleted Treasury, which was the heritage of Republican rule, and to meet the exigencies of the times and the demands on the Treasury was forced to borrow money to meet the expenses of the Government. In 1907, with large sums of money in the Treasury, Mr. Roosevelt loaned to the banks many millions of dollars, and in this way depleted the Treasury, and found it necessary to borrow money to meet the daily obligations of the Government.

The Democrats of 1893 have been abused and condemned by Republican politicians for borrowing money when it was absolutely necessary to do so to prevent the drafts on the Treasury going to protest. If this censure was just, what should be the opprobrium in 1907 when, instead of protecting the Treasury, money was placed in the banks for their protection to such an extent it was impossible to meet the daily demands on the Treasury without borrowing money? If the Democrats in 1893 were in any way censurable for securing a loan to replenish a depleted Treasury, how utterly inexcusable were the Republicans in 1907 for placing themselves in a position where it became necessary to borrow money?

The Republicans, in trying to fix responsibility for the panic of 1893 on the Democrats, have charged that it was brought about by the then threatened revision of the tariff, and yet they are now asserting that the tariff must be revised and go so far as to inform the country that this revision must take place at special session, either in November next or in March, 1909. This course positively discredits their statements heretofore made, for if the panic of 1893 was brought about by the proposed revision of the tariff, would any Republican now advocate the revision of the tariff if he believed that such advocacy would result in financial disaster and ruin? Their course brands their previous contention with error and fully justifies the course which was pursued by the Democrats in 1893.

In justice and fairness to the American people, that party should apologize to the country for the false charges made against the Democracy and openly admit that its statements were without foundation.

This country owes much to its natural advantages. Government through legislation has greatly helped and in some instances hindered that progress. As a rule, the market for the farmer has been good, both at home and abroad. In recent years its half billion surplus products each year, instead of hoarding or selling at ruinous prices, have found a ready market beyond the seas at a living price. The products of mine and factory alike have found surplus market in both Orient and Occident. The soil and climate with sunshine and rain combine to increase the products and wealth of the country. The industry and enterprise of labor, together with the supply of ore and raw minerals, unite in affording opportunities not found elsewhere. On these elements which enter into the American success there is no political patent nor limited copyright, so that no political party is wholly responsible for everything that makes prosperity nor entitled to credit for every element in that prosperity.

Despite political conditions, there has been material prosperity during the last fifty years, within which time the Republican party has been in the ascendancy. During all these years, from the incipency of the Government, the Democratic party has been a vital, active force in its affairs. For seventy years in the formative period of the Republic it was responsible for the enactment of laws and their enforcement, and since that time has been a forceful organization which has frequently served as a great balance wheel to protect the people from most pernicious and extreme legislation.

This party deserves to live. It ought to receive the plaudits of men, whether they are Democrats or Republicans, for what it has achieved. He who would contemptuously refer to Democracy's splendid record of more than a century would crush truth to earth that error might arise in its stead. During Democratic supremacy there was the most marvelous development ever known in any country. The young Republic, built upon the ruins and desolation of the Revolutionary period, arose in prominence by the most rapid strides and soon took a position never before attained by any government so young in years. Its population increased from 3,900,000 in 1790 to 31,440,000 in 1860. Its per cent of increase was greater during each decade than in any like period since 1860. Its wealth increased during the seventy years from \$620,000,000 to \$16,160,000,000—a per cent of increase not shown in any other country and not equalled in this country since 1860.

Its exports and imports amounted to \$43,000,000 in 1790, which increased to \$687,000,000 in 1860, more than sixteen times as great, and a per cent of increase much larger than since that date.

Many believe that the prosperity of a country may be determined by its circulating medium. In 1800 there were twenty-six and a half millions of money, or \$5 per capita, and in 1860 this sum, which increased more than sixteen fold, reached the enormous sum of four hundred and thirty-five millions, or \$13.85 per capita, a greater per cent of increase than in the years which have followed.

In 1791 the public debt was seventy-five and a half millions, or \$19 per capita, and its total wealth was \$160 per capita, but in 1860 the debt was so reduced as to amount to \$1.91 per capita, and this notwithstanding two wars had intervened, with their necessary additional expenditures.

In 1860 the farmer had 49 per cent of the wealth of the country; he now has 23 per cent. What has brought about this change? Let the Republican party answer.

The condition of labor is not as good now as then. Why has it not received its share of material increase? The boasted prosperity of the Republican party suddenly sank into panic and disaster in October last. The cause assigned is that the Republican party, with its eleven years of supremacy, had failed to provide the laws necessary to protect against such contingency. What fearful responsibility is admitted in this confession!

An unwilling Congress has been forced by the Speaker of this House to accept an emergency remedy in the Aldrich-Vreeland bill, because it is claimed there is likely worse financial disaster in store and such legislation may prevent it. If this be true, similar legislation passed a year ago should have prevented the present depression and the loss of the billions within the past eight months. This action is the admission of the lack of foresight on the part of the Republican party in not providing the necessary currency legislation.

I shall not follow up the record of the Republican party, but can safely say that its achievements are not equal to those of

the Democracy, and that the onslaughts and abuses which that party from time immemorial have heaped upon the Democracy have been unwarranted, unjust, and untrue. The Democracy is not an infallible party, but its record is one which no man need be ashamed of, and it now stands, as it formerly did, for progress and for the best interests of the whole people.

I wish to present a statement made by Senator ROBERT L. OWEN, of Oklahoma, on "Panics in relation to the Democratic and Republican parties," as expressed in a letter addressed by him to Hon. GILBERT M. HITCHCOCK, of Nebraska. The letter, in part, is as follows:

Since the Republican party came into power there have been four great panics—those of 1873, 1884, 1893, and 1907. Three of these were confessed panics which occurred at a time when the Republicans were in complete control. These were the panics of 1873, 1884, and 1907. The panic of 1893 occurred immediately after Cleveland went into office, and was produced by the banks associated in the New York Clearing House, who constricted credits and suggested to all their correspondent banks throughout the United States to constrict credits, on the alleged ground that gold was leaving the country, but probably for the purpose of securing a repeal of the purchasing clause of the Sherman Act and to prevent further recognition of silver.

All panics have one vitally important feature in common which might be called "the soul of a panic"—that is, the withdrawal of money from the banks and from circulation by frightened depositors and by the hoarding of such funds. The fear of depositors may arise from a variety of causes. When bank depositors realize that a situation has arisen whereby they can not obtain their bank deposits in cash on demand, many will withdraw their funds and lock them up. Whenever this happens in any important degree it paralyzes commerce, causes bank suspensions, the bankruptcy of merchants, and the suspension of business activities. It closes factories and throws men out of employment sometimes on a vast scale, as in each of the four great panics I have named.

THE RATIO OF DEPOSITS TO ACTUAL CASH.

The report of the Comptroller of the Currency demonstrated that the ratio of actual cash in the banks of the country as compared to the actual deposits of the banks is approximately 10 to 1; that is, the deposits are ten times greater than the cash in the banks. If 10 per cent, therefore, of all the bank depositors should, on a given day, withdraw their deposits from the banks of the United States, we would not have a dollar of currency remaining in the banks. They would have under such a contingency the same assets as before, invested in stocks, bonds, and commercial paper, but no cash. No such demand as 10 per cent of bank deposits has ever been made on a given day in the United States, nor has it ever been approximately made; yet in the panic of 1893, during the course of six months (one hundred and eighty days) 18 per cent of the deposits were actually withdrawn from the national banks of the United States, or at a rate of one-tenth of 1 per cent per day during the one hundred and eighty days. This process did not diminish the cash in the banks, because the banks compelled their borrowers to liquidate. Their weakest borrowers, therefore, sold their property at a very low rate compared with the normal values, and those who had ready money bought such property at a greatly reduced rate, and the money from the proceeds of such sales went immediately back into the bank.

THE EFFECTS OF PANICS.

The Comptroller's report shows that bank "exchanges," consisting of checks and drafts, etc., diminished one-half in the panic of 1893, and the same substantial effect was witnessed in the panics of 1873 and 1884. These "exchanges" make an enormous volume of quasi currency, amounting to a sum approximately equivalent to our total supply of currency in gold, silver, and paper money. The shrinkage of 50 per cent in which these "exchanges" (which served the function of currency in ordinary business) always has the effect of causing a violent shrinkage of normal values with ruinous effect upon business, causing bankruptcy and paralysis in business.

If the Democrats were responsible for the panic of 1893, it was a grievous responsibility. If the Republicans were responsible for the panics of 1873, 1884, and 1907, they were responsible for three panics, and for business calamities three times as serious, but the fact is, the Republican party was really responsible for all four of these panics, because it lacked the wisdom (if it had the power) to provide a remedy against panics.

THE CAUSE OF PANICS.

The primary cause of a panic is the fear of the people that they can not get cash for their bank deposits. The immediate effect of this fear of a panic is the withdrawal of currency from the banks, and the hoarding of such currency in lock boxes and hiding places. The coincident effect of this withdrawal of currency is frightening the bankers into a bankers' panic, and they make it worse by the suspension of credit, and the suspension of credit means a paralysis of business, because all men do business on debt and credit basis, extending credit or receiving it.

THE REPUBLICANS AT FAULT.

The best witness of the responsibility of the Republican party of the panic of 1907 is Senator ALDRICH, of Rhode Island, the leader of the Republican party in the Senate of the United States, and I will call your attention to his statement made on the floor of the Senate, which is a complete demonstration and confession of the great sin and omission of that party and its direct responsibility for every panic since the war. In offering Senate bill No. 3023 as a remedy for the prevention of panics, Senator ALDRICH, of Rhode Island, chairman of the Committee on Finance, on February 10, 1908, said:

"There should be no misunderstanding as to the sole controlling purpose of this bill. It proposes by its provisions to prevent panics and to furnish means of relieving panic conditions."

Mr. ALDRICH further said:

"The serious defect of our monetary system as disclosed by our recent bitter experience is the fact that we have no means whatever for providing the additional issues necessary to meet or prevent panic conditions."

He further said:

"We are clearly answerable for any defects or omissions which we have in our power to remedy. If we should fail to take some effective action to provide against a crisis such as that through which we have just passed, we should assume a grave responsibility, which I feel that we can not afford to take. It is difficult to overestimate the magnitude of this responsibility."

The declaration of future responsibility for preventing a panic is a confession of past responsibility for not having prevented the panics of the past. He confessed that the Republican party is clearly answerable for future panics due to such defect in the laws, and yet if this be true, it was the very defect of the law and the omission to pass proper laws that permitted the panics of 1873, 1884, 1893, and 1907. That the leader of the Republican party in the United States Senate was not unmindful of the terrible result of this sin of omission of his party is evidenced by the manner in which he opened his speech of February 10, 1908. He said:

"The financial crisis from which the country has just emerged, which culminated in a serious panic in October, was the most acute and destructive in its immediate consequence of any which has occurred in the history of the country. It is impossible to conceive, much less to measure, the losses which would have resulted from such a calamity. The country was saved by a narrow margin from an overwhelming catastrophe whose blighting effect would have been felt in every household. A total collapse was avoided, but the shrinkage in the values of securities and property and the losses from injury to business resulting from and incidental to the crisis amounted to thousands of millions of dollars."

It is perfectly obvious from this statement that Senator Aldrich believed that if the Republican party had done its duty it would have passed legislation protecting the United States against panics long years ago and would have prevented the panics of 1873, 1884, 1893, and 1907.

One of the stock arguments of the Republican partisans since the panic of 1893 has been that Democracy is synonymous with panics and coincident with hard times. Only the unlearned could be misled by such a pretense. The panics of 1873, 1883, and 1907 occurred at a time when the Republicans had full control.

The panic of 1893 was ripe and ready to blossom forth when Cleveland came into power the second time.

It is a well-established fact that President Harrison, before his retirement on March 4, 1893, had gone so far as to prepare plates for a bond issue, and these very plates were used by President Cleveland as an inheritance from the Republican Administration.

It has been the sin of omission in not having heretofore provided a remedial statute that puts the fault of previous panics at the door of the Republican party. Even when the Democratic leader, Hon. James K. Jones, offered in the Senate a remedy in 1900, they refused it and failed to act, leaving the country to suffer the terrible injury of the panic of 1907, which was deliberately brought about by big interests which enormously profited by the losses of weaker people. The beneficiaries of the panic of 1907 are those who, in the past, have made vast money contributions to Republican campaigns and who will do so in this campaign, for there is no publicity bill exposing such corrupt and vicious contributions of money, notwithstanding the pretense that the party in power earnestly favored a publicity bill.

Employment of Child Labor.

SPEECH

OF

HON. CHARLES W. FULTON,

OF OREGON,

IN THE SENATE OF THE UNITED STATES,

Wednesday, May 6, 1908.

The Senate having under consideration the bill (S. 4812) to regulate the employment of child labor in the District of Columbia—

Mr. FULTON said:

Mr. PRESIDENT: I do not suppose anyone will contend that this legislation is necessary for the protection of every child who is under 14 years of age. There are so many cases similar to those so vividly pictured by the Senator from Massachusetts where a law of this character is necessary that it becomes our duty, I think, to enact some legislation along the lines here proposed. But it must be admitted that there are many cases in every community where the child will be advantaged by being engaged in some character of employment. If left an orphan, for instance, it may be far better for it to be permitted to engage in some useful employment than to be put in an orphanage. There are many instances where the child is not an orphan, but the parents are poor and need his earnings, and in order that the child may have the opportunity that it desires and that the parents desire for him, and in such case it may be better if it be allowed to go out to work.

These considerations perhaps of themselves would not be sufficient to move us to defeat entirely the proposed legislation, but if we can make provision that will take care of those cases where the child might be properly employed, although under the age of 14, it seems to me that it is our duty to do so.

The proposition of the Senator from Washington is to submit such cases to the juvenile court and let the judge determine whether or not the particular place that it is proposed to employ the child, the particular work at which it is proposed to employ him, will be to his disadvantage or not; and if the court concludes that it will not, then he will make the order permitting the employment.

Mr. President, will anybody contend that every instance in history where a child under 14 years of age has been employed and has been put at work has been to its disadvantage, has corrupted its morals, or stunted its growth, or weakened its powers in maturity?

The Senator from Iowa this afternoon paid a glowing and deserved tribute to the Senator from West Virginia [Mr. Scott], and said that if every employer of children was such a person as he, animated by that same high sense of humanity, by that kindly disposition which prompted the loving care that he exercises over those in his employ, there would be no occasion for legislation of this character. The Senator was quite right. And yet, Mr. President, there are thousands of such employers, and a child placed under such is far better off than he is in idleness, far more fortunate than in some institution of charity.

I think no Senator here who if compelled to leave his child would not far rather have it committed to the care of such an employer than that it should be put in some public institution of charity.

These institutions are usually excellently conducted and well designed to take care of the helpless children who are cast upon the world friendless and unprotected, but it does not follow that all such children must be committed to those institutions if better provision can be made for them.

Is it probable that the judge who presides over the juvenile court, who is selected for that position because of the peculiar characteristics that fit him for the work, will be less considerate of the character of the morals and of the welfare of the child than will be the overseer or superintendent of the orphan asylum? You have, after all, to take some chances, and do not be carried away with the idea that you take no chances when a child is sent to a public institution of charity. You take some chances there—and tales have been told and investigations have, unfortunately, in some instances, proven them to be true—of conditions existing in such institutions far more cruel than any that obtain in factories, cruel as they may be. We all know of the indignities and wrongs that the little folks suffer in these great centers of industry, but let me tell you they suffer wrongs and indignities indescribable oftentimes in public institutions, because they are presided over by men and women animated not by love and affection for the poor little unfortunates, but by greed and avarice and considerations personal to themselves.

Therefore, Mr. President, I am perfectly willing to leave the question to a judge who presides over the juvenile court, and if a case is presented to him where a child can be given to the tutelage and care or placed in the employment of a person whom he knows to be humane, whom he knows to be a kindly employer and knows that he will look after the morals and the physical welfare of the child as if it were his own, I would give him the power to commit the child to his charge.

Currency, Antitrust, and Publicity Legislation.

SPEECH

OF

HON. JOHN L. BURNETT,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. BURNETT said:

Mr. SPEAKER: Never has the Republican party gone into a campaign with as much slime upon its garments as it carries into the present one.

Never has it gone into one where it has realized that its shortcomings, its sins, and its infamies are so fully known to the great masses of the people as at this time.

For the last twelve years it has invoked the doctrine of the full dinner pail to bamboozle the people, and it has raised the cry of prosperity as the slogan for its success.

Thousands of honest men have been deceived by the specious arguments of its spellbinders, and thousands of toilers have cast their ballots for its candidates because they believed that Republican success meant bread and meat to their wives and their children, and that Democratic victory meant hunger and want for those whom they loved. But, Mr. Speaker, you "can't fool all the people all the time," and at last the greed of your vampires has caused the scales to fall from the eyes of the American voters, and your day of retribution is at hand.

The objects of your Republican care and benefactions had become so entrenched in their own arrogant lawlessness that they believed no power could ever drive them out. It would

have yet been many a long year before they could have been dislodged but for the fact that they became so greedy with devouring the people that their insatiable maws forced them to turn to devouring themselves. Then it was that the light began to be turned on and the people began to see that the very foundations of their liberties were being threatened.

When the noise of revolt began to rise from a murmur to a storm the President took notice. He knew that he owed his election to these very pampered foals of a Republican dam, and no doubt he would have gladly shielded them from the impending storm had he dared to do so.

But, whatever else may be said of the President, no one has ever accused him of being a poor politician, and good politics required him to pretend to line up with the people. "My Dear Harriman" was soon forgotten, and those who had contributed most liberally to his campaign fund, when they were overtaken and exposed, were permitted to exile themselves as outlaws and pariahs or to die in disgrace and transmit to their posterity the heritage of a tarnished name. While he was consigning Judge Parker to the Ananias club, those managing his campaign were reaching forth for trust funds, knowing that the goal of a position in the President's official family would reward their fidelity to the cause of their lord and master. While posing as the champion of the people against unlawful trusts and combinations, we find the President giving a certificate of good character to a former member of the Cabinet whose own admissions showed him guilty of the very crimes so loudly denounced by the President.

After the successful fat frying by Cortelyou in the last Presidential campaign it was generally understood that he would be the President's candidate for his successor. Gratitude seemed to demand as much, and had there been no exposures he no doubt would have been the President's heir to the nomination.

But again the sagacity of the President asserted itself. He knew that it would never do to try to name as his successor one about whose hands still lingered the odor of tainted money, and with the same grateful appreciation with which we saw him throw "My Dear Harriman" overboard we find him dumping Cortelyou into the trash pile of has-beens. In the meantime, as the campaign approached, the President began to realize that the mimic warfare which he had been carrying on against the trusts had gone too far for another fat frying, and that even the trusts were taking his "horseplay" too seriously. So we find him again consorting with the agents of some of those against whom he had pronounced his "anathema maren-atha."

What better proof of that fact could we have than the following little colloquy that occurred in the hearings before the House Judiciary Committee on the Hepburn antitrust amendment between the chairman and Mr. Low, of the Civic Federation:

The CHAIRMAN. Right there, Mr. Low, if there is no objection, who are the people that actually participated in the preparation of the bill? Who are the men who actually drew it?

Mr. Low. We conferred with Mr. Gary, of the United States Steel Corporation.

The CHAIRMAN. E. H. Gary, president of their board of directors?

Mr. Low. E. H. Gary, who is likely to be here this morning. He is in Washington, and I think he came on for purpose for this meeting. The lawyers actually engaged in the drafting of the bill were Mr. Stetson—

The CHAIRMAN. That is, Francis Lynde Stetson?

Mr. Low. Francis Lynde Stetson; and Mr. Morawetz.

The CHAIRMAN. Victor Morawetz?

Mr. Low. Victor Morawetz. Professor Jenks, of the Federation, was in constant collaboration upon the subject. We also kept in close touch with the administrative departments of the Government through the Bureau of Corporations.

The CHAIRMAN. That is, Mr. Herbert Knox Smith?

Mr. Low. Mr. Herbert Knox Smith; yes.

Who can doubt after reading this extract the character of the little game going on between Gary, the president of the board of directors of the United States Steel Corporation, and Herbert Knox Smith, the President's trusted lieutenant? A most outrageous plot was being enacted between the executive department of the Government and the officials of the trusts.

What business did Stetson and Morawetz have in the councils of those who honestly wanted to curb the trusts? One glance at the Hepburn antitrust amendment will show that they were there to render aid, not to the people, but to the criminals who had so long oppressed the people. The President and his press bureau had paraded the prosecution of the trusts till the natural inquiry began to arise, Who of these violators of law and morals are personally wearing stripes? Fines against the corporation would not stop it, for at last the consumer pays the fine, and a demand was growing louder and louder for some personal punishment of the malefactors. To inflict the personal punishment might check the campaign funds, and the Repub-

lican party was going to need the funds worse than at any time in its history.

Something must be done, and in collaboration with the directors and attorneys for the trusts section 4 of the Hepburn anti-trust amendment was brought forth, which says:

No suit or prosecution by the United States under the first six sections of the said act approved July 2, 1890, shall be begun after one year from the passage of this act for or on account of any contract or combination made prior to the passage of this act, or any action thereunder.

Here is one of the many jokers in the bill, and who can doubt that the trust officials and attorneys laughed in their sleeves when they saw how easy the President was to placate on the heels of the coming campaign?

Another of the many fruits of the little seances held between the leaders of the Republican party and the systems who were expected to furnish the sinews of war to crush the people at the polls was the farce enacted by the House on the heels of the session, in which it was pretended that legislation was desired to regulate contributions to campaign funds.

For the purpose of preventing such legislation the Crum-packer bill, seeking to humiliate and crush the white civilization of the South, was attached to the publicity bill. Who is such a fool as not to see through the hypocrisy of the Republican party in this fiasco, and who is so obtuse as not to understand that this was intended to defeat any legislation that would restrict the power of that party to thrust its hands into the tills of widows and orphans and loot them of their funds for the purpose of corrupting elections?

The Anti-Trust League, through its secretary, Mr. H. B. Martin, begged the appropriate committee of the two Houses of Congress to permit the production of evidence that would unfold the nefarious plot between corporate interests and the Republican party to crush out the liberties of the people, but their entreaties were only met with the "horselaugh," so often resorted to by the leaders of that party. As a part of my remarks, I desire to attach a part of the correspondence and hearings on this subject.

At a hearing of Mr. H. B. Martin, before the Senate Judiciary Committee, the following occurred:

MR. MARTIN. The request I make is made on behalf of the Anti-Trust League, and of Judge S. H. Cowan, representing the Cattlemen's Association, who is not able to be present to-day. It deals with a matter that was suggested in the hearings before—that a commission be appointed to sit during the recess of Congress and report to Congress next fall. That commission, I believe, was to be appointed by the President.

Senator DEWEY. Whom do you represent?

MR. MARTIN. The Anti-Trust League and Judge Cowan, who represents the Cattlemen's Association.

We are very much opposed to the appointment of a commission by the President to report at the next session. What I am referring to now is that part of the bill relating to capitalists, and not that relating to the laboring men.

The part of the bill I refer to is that part that relates to combinations of capital. What we desire is that that be considered by the members of the committees of both Senate and House of Representatives—by the duly elected lawmakers of the country, the responsible members of the lawmaking body—for the reason that some of the most grievous objections to this legislation grow out of the relations between these great combinations of capital, forbidden by the present law, and the executive branches of the Government. We desire that the legislature—the Senate, as representing the lawmaking branch of the Government—shall deal with this question on its own responsibility. We desire also that this committee, if possible, secure from the Senate a resolution authorizing it to subpoena witnesses and to take testimony and to require the production of persons and papers, because we believe and are sure that we can show to the committee—if it is clothed with that power—that that part of the proposed legislation which refers to the combinations of capital has been prepared and suggested and brought before Congress as a means of exempting from the provisions of the law of one or more of the most dangerous combinations of capital in the United States or in the world.

Senator DEWEY. Do you mean that the bill submitted by the Civic Federation had that object?

MR. MARTIN. I do. I believe that we can show, if the committee will get the Senate to give it the resolution of which I have spoken, that that part of the bill was framed—

Senator DEWEY. Mr. Seth Low is a friend of mine, and he is one of the most humane and sympathetic of men. Do you mean that he was or would be a party to a thing of that kind?

MR. MARTIN. Mr. Low stated that he did not draw the provisions of the bill—that they were handed in by him, but that they were drawn by Mr. Stetson, attorney for the steel trust, and by Mr. Morawetz and other members of large corporations.

It was further stated by Professor Jenks, representing the executive branch of the Government—he himself being a member of the executive branch of the Government—that it was not only drawn in that way, but that it had the approval of Mr. Gary, of the steel trust.

We are prepared, further, to show that this bill before it was presented to this body—before being presented to Congress—was presented to bankers, trust magnates, and railroad magnates in New York City, with the purpose of reaching an agreement that the executive branch of the Government would use its influence to put this legislation through, which granted immunity to them for their offenses against the law in return for cooperation and support in matters connected with the nomination and election of men in the executive branch of the Government. We can prove these things, if the committee will get from the Senate authority for the production of witnesses and papers.

That does not relate to the labor part of the matter at all. We are perfectly willing that the committee may report that part of the bill to-day and pass it to-morrow.

Senator DEWEY. But when you come to mingle in that way the Civic Federation with such serious charges as you make, you still further confuse my idea on the matter of good trusts and bad trusts, to which I alluded the other day. I do not know whether Mr. Gompers's attention was called to that. It seems that when the fleet, in its marvelous trip, reached San Francisco, it was arranged that they should be entertained by two classes of people who could not agree. One class was designated locally by some of the newspapers as the "good trust," and the other the "bad trust." [Laughter.] Both the good-trust people and the bad-trust people gave a banquet in their honor. Both invitations were accepted. The good-trust banquet was \$10 a plate, and the bad-trust banquet \$20 a plate. The governor attended the bad-trust banquet. [Laughter.] Then I wanted to know what it was that constituted a man a member of the good trust and what a member of the bad trust, so I looked the subject up.

I found that the members of the good trust were those who cornered the necessities of life, while those who belonged to the bad trust were those who secured great franchises. [Laughter.]

MR. MARTIN. Under the present law offenders are liable to fine and imprisonment for their offenses. Those same gentlemen get together and prepare a change in the law, bring it to Congress, and ask Congress to pass it—a law which will exempt them from the punishment which they have incurred through a long series of years. They are like the Irishman who was arrested for horse stealing, when I was a boy. The people said to him: "Now, Pat, you are guilty; you stole the horse; the punishment is hanging, and we are going to hang you in five minutes. But," they said to him, "we will give you the privilege of naming the kind of tree you will be hung to." He said: "I'll be hung to a gooseberry tree." [Laughter.] "But," they said to him, "a gooseberry tree is not big enough to support you." "Well," he says, "I'm in no hurry; I'll wait till it grows." [Laughter.]

We have now a good big oak tree in the shape of the Sherman anti-trust law on which to hang the trust criminals for their offenses; and now come these gentlemen of the steel trust and the President of the United States and his friends, and propose a gooseberry tree in the shape of the Hepburn bill as a substitute, and they are willing to wait until it grows. [Renewed laughter.]

On the 18th of May, Mr. Martin addressed the following letters to Hon. KNUTE NELSON, chairman:

WASHINGTON, D. C., May 18, 1908.

HON. KNUTE NELSON,
Chairman of subcommittee of Committee on Judiciary,
now considering proposed amendments to antitrust laws.

SIR: We respectfully petition yourself as chairman and the members of the subcommittee of the judiciary, now considering the proposed amendments to the antitrust laws, to secure the passage by the Senate of a resolution empowering your subcommittee to sit during the sessions and during recess of the Senate, and empowering your subcommittee to subpoena witnesses, administer oaths, and compel the production of persons and papers. The resolutions also to empower the committee to employ necessary clerks, stenographers, messengers, and experts for the conduct of an inquiry into the origin and character of proposed amendments to the antitrust laws, and to report on the same to the Senate as early as possible.

The necessary expenses of the committee to be paid out of the contingent fund of the Senate.

Some of the reasons which fully warrant your committee in asking and the Senate in adopting such a resolution were submitted by me to the subcommittee on Saturday last. The facts which I then set forth and many others amply justifying the passage of the resolution by the Senate are so well known, not only to myself but to the members of the Senate, and at least a part of the public, and are of so grave a character and so seriously affecting the interests of the people of the United States as to make necessary for the public welfare the adoption at once by the Senate of such a resolution.

Respectfully submitted.

H. B. MARTIN,
National Secretary American Anti-Trust League.

OFFICE OF NATIONAL SECRETARY,
AMERICAN ANTI-TRUST LEAGUE,
Washington, D. C., May 18, 1908.

HON. KNUTE NELSON,
Chairman, and the Members of the subcommittee of the
United States Senate Committee on the Judiciary,
Washington, D. C.

SIRS: On January 10, 1906, F. E. Stebbins and R. C. Wright appeared before Assistant United States Attorney-General Purdy and presented to him the cases of the violation of the antitrust act of 1890 by the Eastern Railroad Association, of Washington, D. C., a combination of individuals and corporations engaged in a conspiracy to restrain and monopolize interstate commerce in inventions and appliances on railroads, which combination was operating and is operating greatly to the injury of the inventors, the railroads, and the public. Although the evidences of violation of law was ample and complete, the said Assistant Attorney-General Purdy refused and neglected to proceed against the violators of the law.

Again, in February, 1907, said Stebbins and Wright called upon Assistant Purdy and once more urged him to take action against the said Eastern Railroad Association on the evidence they had submitted to him and which evidence some of the most eminent attorneys in the United States had pronounced ample ground for prosecuting by the Department of Justice. Again Mr. Purdy refused to act.

Upon the refusal of Purdy to proceed Messrs. Stebbins and Wright presented themselves at the White House and asked for an audience with President Roosevelt in order to present the matter to him. When the President was informed by his secretary what the business was on which they wished to see him, he refused them an audience, saying he would not see them on that case, that they should go to the Department of Justice (where they had just been refused any relief).

In April of 1908 Mr. Stebbins again went to the Department of Justice to ascertain if any action could possibly be procured from Assistant Attorney-General Purdy in this case. Mr. Purdy said he had not changed his mind in regard to the matter and would do nothing, although the proofs of violation of the law were before him. This evidence had been declared amply sufficient for prosecution by such eminent lawyers as Judge J. S. Wilson, leader of the bar of the Dis-

trict of Columbia; Senator William E. Chandler, of New Hampshire; Senator and ex-Judge George Turner, of the State of Washington, and Senator George F. Hoar, then chairman of the Judiciary Committee of the United States Senate. The charges and evidence in this case are still in the hands of the said Assistant Attorney-General Purdy, who has recently been rewarded by the President by an appointment as judge of the United States district court of Minnesota, and is now pending for confirmation or rejection before the Senate.

We respectfully petition your honorable committee and the Senate not to confirm Mr. Purdy's appointment as judge until you have fully investigated the facts in this case, after which we feel sure that you will conclude that a man who, as Assistant Attorney-General, prevents the prosecution of violators of the antitrust law is not a proper man to administer the law as a judge of the United States district court, especially when the Minnesota district, to which the President seeks to appoint him, is one where immense operations are being conducted by the steel trust, one of the most notorious and dangerous violators of the law.

It will further be found by your committee that recently one F. B. Kellogg, chief counsel in the Minnesota district of the steel trust, appeared in Washington and actively urged the appointment of Mr. Purdy as United States judge in that district.

The persuasions of the steel trust attorney, Kellogg, were evidently effective with President Roosevelt, but we earnestly hope that they may not prove equally convincing to your honorable committee and the Senate of the United States.

Trusting in the great historic precedents which have proven the legislative branch of government to be the defender of popular rights against executive abuses, we are,

Respectfully, yours,

H. B. MARTIN,

National Secretary American Anti-Trust League.

Mr. Martin has correctly stated the facts in the above communication.

F. E. STEBBINS.

The following is a memorial presented to the House of Representatives by the Anti-Trust League:

MEMORIAL.

WASHINGTON, D. C., May 28, 1908.

To the honorable the House of Representatives of the United States:

The undersigned, representing the national committee of the American Anti-Trust League, respectfully call your attention to certain matters of the greatest and most urgent importance to the Government and the people of the United States, which require action at once if the most vital interests of the Government and the people are to be safeguarded from the most insidious attack ever planned against the welfare of a free people.

This impending assault upon the public rights takes the form of two pieces of legislation now pending before Congress, one of which is known as the "Hepburn-Warner amendment to the antitrust law" and the other as the "Aldrich-Vreeland emergency currency bill." No possible excuse can ever be framed by any Senator or Member of Congress which will justify him to the people of America if either or both of these iniquitous bills should be enacted into law by his aid. The injury to the people would be so enormous and irreparable that the legislative offense in passing them would be absolutely unpardonable by the voters of the country when they become fully cognizant of the menace to their interests involved therein.

We mention these two bills together because they are but parts of one wide scheme of plunder and oppression devised by the lawless and predatory individuals who control the great trusts and monopolies of finance, transportation, mining, and manufacturing of our country, and who in the pending elections are seeking to buy control of the Government in all its branches.

The close and questionable connections shown herein to exist between the great moneyed monopolists and the Executive Departments of the Government prove in a most conclusive way the imperative need of the passage at the present session of Congress of the bill for publicity of campaign contributions, in order that corporation corruption funds may not be the controlling factor in the coming national election.

In the matter of certain dangerous proposed amendments to the antitrust laws, which are commonly known as the "Hepburn amendments," and which ex-Mayor Seth Low, of New York, admitted were drawn by the officers and attorneys of a great law-breaking monopoly known as the "United States Steel Corporation" after secret conferences between the head officials of said steel trust and certain high executive officers of the United States Government, we call attention to the astounding facts disclosed in the following extracts from the statements of ex-Mayor Low and others, taken from the official report of the hearings before the House and Senate Committees on the Judiciary.

We also call your attention to the remarkable statements made in President Roosevelt's recent messages on this subject, showing an extraordinary harmony between the opinions of the President and those of the malefactors of great wealth.

We also submit for your consideration the statements of certain Wall street bankers who are well informed of the inner workings of Wall street and Washington finance, and one of whom is prominently identified with the steel-trust conspiracy in violation of the antitrust law of 1890, as well as with certain great railway combinations, and who was a prominent figure in the manipulation of the made-to-order financial panic of October, 1907. His statement shows the perfect agreement existing between the Wall street plutocrats and the President as to the fact that they both want Taft as the next President of the United States.

We further call to your attention the convincing and weighty evidence of ex-Secretary of the Treasury Hon. Leslie M. Shaw, for five years a member of President Roosevelt's Cabinet, who by virtue of his long experience in that official circle is necessarily well acquainted with the inside relations existing between the Executive Departments of the United States Government and the great combinations and criminal trusts who are looting the entire nation by Presidential permission. Mr. Shaw's statement is positive, definite, and convincing as to the unlawful indulgence granted by President Roosevelt to the steel-trust officers to violate the plain provisions of the law in strangling their principal competitor, the Tennessee Coal and Iron Company, through the instrumentality of their self-made panic of October, 1907.

One of the most amazing examples of the immunity to commit crime which is enjoyed by the steel-trust coterie is exhibited in the reports of the meetings of the steel-trust officials and others, controlling a

monopoly of 95 per cent of the steel production of the United States, which have been held in New York during the past week for the purpose of combining to control prices and perfect their monopoly in violation of the statutes of the United States. This, too, in face of the fact that Congress is in session at the time and the President is in full possession of the power to put an end to their offenses.

We direct your attention to the fact that instead of being guided by the stern and just interpretations of the law laid down by Judge Landis in one of the greatest decisions in the history of American jurisprudence, viz, that these great monopolists "are worse than the men who rob the mails or counterfeit the coin of the realm," and sending the officers of the law to arrest the lawbreakers who attended the steel trust meeting, the same as he would have done to a group of small counterfeiters, President Roosevelt appears to have been acting in harmony with Gary, Morgan, and Carnegie, the very chiefs of the conspiracy.

This is further shown in the New York World's published report of the understanding, agreement, and combination of influence existing between President Roosevelt and Chairman Gary, of the steel trust, which we submit herewith, the joint results of which are to the campaign advantage of the President's political faction and candidate and the strengthening of the grip on the resources and people of America of the unlawful and oppressive monopoly of the steel corporation.

We also call your attention to the numerous published statements as to the understanding that is reported to have been arranged between the executive department and certain great railroad combines, whereby the latter were to be allowed to violate the law by the wholesale raising of rates and by the consolidation and control of competing lines.

We also call your attention to the published accounts of the remarkable understanding said to have existed between the President of the United States and the president of the New Haven Railroad, whereby the former was to suspend the operation of the law for the benefit of the latter, who, on a former occasion, the Presidential campaign of 1904, was one of the first of the gentlemen controlling great lines of transportation to announce his support of the President in that campaign and his contribution of a \$10,000 check to that end.

Another circumstance, showing the close, if not questionable relations existing between the Executive departments and the steel trust is indicated in the statements regarding the interference of the agents of the steel combine's armor-plate branch in favor of the President's bill for four battle ships recently before the Senate and the House. For years it has been a public scandal that the armor-plate trust, which is a branch of the steel monopoly, has been operating in brazen violation of the law and looting the Public Treasury by their extortionate prices for armor for the Navy Department.

The Aldrich-Vreeland bill should never be enacted by Congress, because it virtually authorizes and creates a monopolistic trust of banks, which would inevitably be dominated by the great steel trust and Standard Oil banks combination of New York. And still more dangerous is the fact that the Aldrich-Vreeland bill, if enacted into law, would be substantially an abdication by the Government of its high constitutional function of issuing money, and the surrender of that essential attribute of national sovereignty to a group of trust bankers in the great cities who to-day should be standing trial before a jury for their numerous offenses against the laws of the United States.

No currency bill should be enacted by Congress which does not contain the provision embodied in the amendments offered by Senator LA FOLLETTE, of Wisconsin, and Senator GORE, of Oklahoma, when the bill was last before the Senate.

The utterly indefensible action of a dominant faction of the House of Representatives in jamming through the House, with only sixty minutes of debate, of a cunningly and secretly concocted, unprinted bill of such enormous importance as the Aldrich-Vreeland bill, should not be tolerated, and fully warranted the Senate in sending it back for fuller and fairer consideration. Such a bill could not bear the light of public discussion and honest amendment; hence the secrecy and haste shown in its preparation and passage.

The gravest injury, both to the political and business welfare of the people of the United States, will surely follow should the steel trust and its affiliated banks and railroads be allowed to name the next President and control the next Congress of the United States. Such a lamentable result may well follow the passage of the Aldrich-Vreeland bill and the failure of the legislative branch of the Government to take energetic hold of this matter and defeat the Aldrich-Vreeland bill and to promptly and fully expose the whole fact in relation to the matters which we have recited herein.

Therefore we most earnestly appeal to your honorable body to adopt the resolution asked for by the committee of the Anti-Trust League in its verbal request and written letter recently submitted to the Judiciary Committee of the Senate. Plain language and prompt action are absolutely necessary in times of public danger. We have used the one, and "trusting in the great historic precedents which have proven the legislative branch of the Government to be the defender of popular rights against Executive abuses," we appeal to the Senators and Representatives to protect the people with the other.

Respectfully submitted.

H. B. MARTIN,

National Secretary National Committee
American Anti-Trust League.

So threatening have become the conditions that thoughtful men and thoughtful newspapers all over the country became alarmed, and on every side are heard notes of warning and appeal.

I beg leave here to insert a few of these:

DEAL WITH STEEL TRUST FOR TAFT CAMPAIGN FUND—CARNEGIE ALREADY HAS GIVEN \$250,000, ANTI-TRUST LEAGUE ALLEGES, IN RETURN FOR HEPBURN BILL CONCESSIONS—PROPOSED LAW GRANTS IMMUNITY AFTER A YEAR—CHARGES FILED WITH SENATE COMMITTEE AGAINST PURDY ALLEGED TOLERATION OF TRUST.

WASHINGTON, May 19, 1908.

Through its secretary, H. B. Martin, the American Anti-Trust League proposed to-day to the Judiciary Committee of the Senate to prove that for sufficient funds to secure the Presidential nomination for Secretary Taft President Roosevelt and his Administration have bargained with the United States Steel Corporation to sell out the Sherman antitrust law.

The league proposes to put Andrew Carnegie, E. H. Gray, chairman of the executive committee, and a number of directors on the stand and show that Mr. Carnegie already has given his personal check for \$250,000 to the manager of the Taft campaign and that he and his company have agreed to give a great deal more if the Hepburn bill,

which provides for the practical emasculation of the Sherman law, is passed at this session.

The Anti-Trust League proposes to prove further that Mr. Carnegie is in the habit of making contributions to Senatorial campaign funds, giving all the way from \$10,000 to \$50,000 in each State where any friend of the steel trust is in danger of being defeated or where there is a chance to defeat for reelection a man who has been unfriendly to the great corporation.

All the league asks is that the subcommittee of the Senate Judiciary Committee report favorably on its request for an investigation to be held during the coming recess of Congress. This committee is composed of Senators NELSON, DILLINGHAM, DEPEW, BACON, and CLARKE of Arkansas.

The charge that the Administration and the trusts had made a deal was first published exclusively in the World on April 25.

"This effort to trade a law for money and political support is without a precedent in our national history," said Mr. Martin to-night. "The truth is that the President and his henchmen became panic-stricken, and they determined to do everything possible to secure the nomination of Mr. Taft. We have sources of information which they did not know about, and all we ask is that the Senate Judiciary Committee disregard political consequences and allow us to produce the proof."

Though Senator NELSON, chairman of the subcommittee of the Judiciary Committee, to which the charges have been referred, is said to be deeply impressed, there is little likelihood of any action being taken until after the election.

[From New York World, May 24, 1908.]

ROOSEVELT'S PLEA KEEPING STEEL UP?—REDUCTION IN PRICE WOULD CUT WAGES AND HURT REPUBLICAN PARTY'S CHANCES.

At a meeting of the presidents of the subsidiary companies of the United States Steel Corporation last week President Gary vaguely explained that it would be necessary for them to work out their policies without any expectation that prices would be reduced on any of the products. There were also various conferences during the week in New York of the sales agents of the United States Steel Corporation. There are twenty-two of these men who are heads of departments. All were present.

On Thursday twenty of the twenty-two very strongly urged that there be a cut in prices. They maintain that they can do no business now with the price of pig iron away down and the price of refined steel and iron maintained at the old levels. They said that the public was too smart not to understand that their prices were being fictitiously maintained and that the possible purchasers were holding off until there was a break.

They said that if the prices were cut now it would start business booming, and that later on the prices could be pushed back to the present levels. That was on Thursday. President Gary said he would give an answer next day. On Friday he informed them that a reduction in prices was impossible. He said they would have to go ahead and fight it out the best they could under the present conditions.

One of the men who got these instructions said there was no doubt that the thing in the background was an understanding between Mr. Gary and others of the United States Steel Corporation and President Roosevelt that present prices were to be artificially maintained so that there would be no necessity for any cut in wages.

The President, and possibly other Republican leaders, feel that a considerable cut in wages of steel and iron workers would result in strikes all over the country, which would work against the interests of the Republicans in the coming campaign. The managers of the steel corporations say that it is impossible to make a large cut in prices without also cutting the wages of the men.

This the President wants to avoid and therefore is willing to countenance the present artificial maintenance of prices. This complete command of the selling and labor situation would not have been possible without the acquisition of the Tennessee Coal and Iron Company, which was accomplished by slaughterhouse methods in the days of the panic last October.

[From New York World, May 23, 1908.]

SECRETARY SHAW TALKS OF MORGAN DEAL WITH ROOSEVELT—WHITE HOUSE SANCTIONED STEEL TRUST'S CONTROL OF TENNESSEE COAL AND IRON, HE INDICATES—EX-HEAD OF TREASURY ASSAILS THE PRESIDENT—DESIGNING PRESIDENT COULD PERPETUATE FRIENDS IN OFFICE BY GRANTING IMMUNITY.

CHICAGO, May 22, 1908.

Leslie M. Shaw, for five years Secretary of the Treasury under President Roosevelt, delivered an address to-day before the convention of the National Electric-Light Association, in which he attacked the President. He said in part:

"Until recently we have had the benefit of a progressive and a conservative party. But now both political parties have become progressive, if not radical. For the first time in human history a great English-speaking people is without conservative leadership. I have never ceased to be thankful that a minority has always stood ready to challenge the majority, but there is now no challenging party."

"A few months ago the largest capitalized corporation on the globe sent its representative to the Chief Executive of the United States asking permission to take over its principal competitor. It is currently reported that permission was granted, and so far as I know the American people approve."

"I have no hesitancy in saying that this is the only first-class country in the world where permission could have been obtained from the executive department of the Government. Anywhere else such a request would have been answered, 'Go consult your lawyer.'"

"I am expressing no opinion as to the wisdom or want of wisdom of such procedure. I am simply citing instances to illustrate the operation of the law of evolution which carries us onward, and, undoubtedly, in the main, toward better things."

"Every condition, however, is fraught with danger. The pessimist is never without foundation for his fears, nor the optimist for his hopes; I am an optimist, but I want to emphasize the fact that a designing, unscrupulous, and ambitious Executive, clothed with authority to fix rates, to determine the life tenure of corporations and business combinations, and to grant or withhold franchises would be in a position to perpetuate himself and his friends in office as long as he was willing to accept political support as the price of immunity. I want to suggest that it is wise to protest against the day when the unmitigated demagogue shall be exalted."

Ex-Secretary Shaw tells for the first time of a trade which current rumor has now made a part of political history between President Roose-

velt and J. Pierpont Morgan. The Trust Company of America last fall was facing a run and applied to the Wall street magnates for assistance. This concern controlled the Tennessee Coal and Iron Company, the only opposition in America of any moment to the steel corporation.

Morgan, so the story runs, responded to the appeal for aid and promised to pull the trust company through if it turned over to the steel corporation, of which he is the guiding spirit, the control of the Tennessee Coal and Iron Company. The trust company, driven to the wall, consented, but before the deal could be made it became necessary to obtain the approval of the national authorities, as it was in direct violation of the Sherman antitrust law.

This consent was given, according to report, upon the consideration that Morgan take an active part in financing the next Republican national campaign. Morgan, so it is said, in return exacted the promise that FORAKER be returned to the Senate from Ohio and Ex-Governor Frank Black be sent to the Senate from this State as the successor of Senator PLATT.

MONEY POWER'S STILL-HUNT—BANKER SAYS CORPORATIONS SEEK TO CONTROL GOVERNMENT—HENRY CLEWS SEES UNOBTUSIVE, SUB ROSA WORK BY RAILROADS TO RULE AT WHITE HOUSE—SUPPORT FOR TAFT.

MANCHESTER, N. H., May 20, 1908.

"The nation's corporation problem" was the subject discussed to-night at the first meeting of the Economic Club of Manchester. The speakers were Henry Clews, a banker, of New York; Prof. Frank Parsons, and Walter A. Webster, both of Boston. P. R. Sullivan acted as toastmaster. Mr. Clews said in his address:

"It may surprise some to learn that the great power concentrated in the President's hands by Congress has made the great corporations, including the railway companies and banking institutions, ambitious and eager to control the Federal Government itself, and they are resolutely working to control it as far as they can by the force of capital, but as unobtrusively as possible. They know that their designs to make the money power supreme would arouse popular indignation, so they are engaged in a still hunt, and Samuel J. Tilden used to say that this is what wins in politics and a political campaign."

"The Government control of trusts, the railways, and other corporations has become so great that it is hardly to be wondered at that the great object that they now have in view should be to control the Government's policy, and already they are, sub rosa, powerful political machines."

"In this connection, it is significant that some large railway and banking interests have identified themselves with the Taft movement. Every fresh extension by Congress of the President's power over corporate interests has made the large corporations, industrial, railway, and financial, with their enormous capital and resources, more and more bold and determined in their efforts to control the Presidency, if, indeed, that is possible, and this motive underlies a great and growing amount of corruption in our national politics."

"We can therefore see in the attitude and aims of the great corporations, with their wealth and political influence, a possible menace to our Republic and its free institutions."

[From New York Sun, May 23, 1908.]

CLASH IN THE WHITE HOUSE—BONAPARTE THREATENED TO QUIT THE CABINET—HE ANNOUNCED THAT HE HAD FILED SUIT AGAINST THE NEW HAVEN ROAD AND THE PRESIDENT ORDERED THE ANNOUNCEMENT KILLED—THEN THE PRESIDENT YIELDED.

WASHINGTON, May 22, 1908.

There was a clash of policies at the White House this morning, and the encounter came near causing a rupture of official relations between President Roosevelt and Charles J. Bonaparte, Attorney-General. The President had one policy and Mr. Bonaparte another, and both had to do with the filing of a legal action against the New York, New Haven and Hartford Railroad Company as an alleged combination in restraint of trade.

There was an earnest and emphatic discussion between the President and Mr. Bonaparte, culminating in a threat from the Attorney-General to resign his office. The President yielded, for a reason which will appear later, and the petition against the New Haven road was filed in Boston this afternoon, although Mr. Roosevelt was opposed almost until the last moment to this action by the Department of Justice. Told chronologically, the events which culminated in to-day's sensational event in the Cabinet room are as follows:

Several months ago representatives of the Department of Justice began an investigation of the New Haven road, involving its ownership of electric lines in Massachusetts, Rhode Island, and Connecticut and its large interest, acquired last year, in the Boston and Maine Railroad. District Attorney French, at Boston, reported in favor of a suit against the company, setting forth that the investigation had shown to his satisfaction that the New Haven road enjoyed almost a complete monopoly of the transportation facilities in New England and this monopoly had been formed by the purchase and consolidation of formerly connecting lines of steam and electric road.

When Mr. French's report came to Washington, it was examined pretty thoroughly by Milton D. Purdy, assistant to the Attorney-General, whose office was specially created to deal with prosecutions under the antitrust laws. Mr. Purdy has sometimes been called the chief trust buster of the Administration, and his nomination for a Federal judgeship in Minnesota is now before the Senate. After a careful examination of the report Mr. Purdy reported to Attorney-General Bonaparte that he did not think the case against the New Haven road was a strong one, and that no action should be taken toward the dissolution of the alleged merger.

In the meantime representatives of the New Haven road, including two of its vice-presidents, had several interviews with President Roosevelt, and in each case received the assurance that he had not consulted with the Attorney-General about any legal action against the company, although, as was well known, the investigation had been completed and a report made to the Department of Justice. The President led the New Haven road's officers to believe that nothing would be done toward a prosecution of the company under the antitrust laws, and he assured them positively that in no event would any action be taken without notification to them.

About ten days ago it was said on competent authority, almost the highest, and was so reported in the Sun, that a suit was to be filed against a railroad company, but persons who asked the President about the contemplated action were assured that nothing had been determined upon and that the matter had not been brought to his attention in any way.

This assurance was repeated by the President yesterday in the strongest terms when Timothy E. Byrnes, one of the New Haven road's vice-

presidents, called at the White House. The President's statement caused Mr. Byrnes to say when he came from the White House that Mr. Roosevelt had given no directions that a suit be filed and to predict that no action whatever against the New Haven road would be taken.

Probably one of the most surprised men in the country this morning was Mr. Byrnes when it became known that the Attorney-General had formally announced through the several press agencies that a petition would be filed against the New Haven road in Boston this afternoon. He was not more surprised, however, than President Roosevelt himself.

The announcement came from the Department of Justice shortly before 10.30 o'clock. Half an hour later Mr. Bonaparte went over to the White House to attend the regular meeting of the Cabinet, but the news of the contemplated action against the railroad company had preceded him and the President immediately asked him for an explanation of his action. The President's request for information was in the nature of taking Mr. Bonaparte to task, but the Attorney-General met the issue squarely, explaining that he had found, after a competent investigation, that the New Haven road was violating the terms of the Sherman antitrust law, and that he understood it to be the policy of the Administration to prosecute such cases.

Either just before or just after the Attorney-General's arrival at the White House the President caused a telephone message to be sent to Mr. Bonaparte's private secretary, directing that he notify the newspaper correspondents to "kill" the announcement from Mr. Bonaparte's office that the New Haven road was to be prosecuted under the Sherman law. The private secretary was told that no suit or petition would be filed and that the newspapers should be so informed. It was found, however, that the early editions of some of the evening papers had already published the announcement.

In the meantime the discussion between the President and the Attorney-General proceeded to the point where Mr. Bonaparte offered his resignation from the Cabinet as an alternative to the filing of the suit against the New Haven road. Further details of the discussion are lacking, except that the President, evidently in view of the fact that the fat was in the fire as a result of the publication of Mr. Bonaparte's announcement, decided to yield.

Here we have the statements of a celebrated banker and of a former member of the President's Cabinet, showing the enthrallment of our country by the very ones to whom the President and Secretary Taft are now holding out the olive branch of peace. On every hand we hear that the heads of the great trusts are declaring for Taft, and who doubts the prediction that if he should win a flag of truce will at once be unfurled between them. The appeals of the Antitrust League to be permitted to furnish evidence that for a consideration peace had been declared between the warring camps, was refused, and the following resolution met the same fate:

Resolution asked for by the Anti-Trust League in order that the true origin and purpose of the Hepburn amendment might be exposed.

Resolved, That the Committee of Interstate Commerce of the House of Representatives, or any subcommittee thereof, be, and the same is hereby, authorized and directed to consider the question whether the present laws against trusts and pooling agreements regulating railroad rates of transportation ought to be reinforced and strengthened; and that for the purpose of said inquiry said committee be authorized and directed to investigate the workings in every particular of said laws; to ascertain whether offenses against them have been impartially and vigorously prosecuted; whether any omissions and failures to prosecute have happened by reason of any agreements or understandings between officers of the Government and the malefactors; and if so, what was the nature of the same and what were any inducements or motives leading thereto, with all the details thereof concerning which Congress and the public ought to be informed; and also whether any such agreements or understandings have existed looking to a joint effort of the parties thereto to obtain changes in the aforesaid laws, and if so, whether such agreements or understandings have been carried out in whole or in part and the extent of the progress therein and the motives thereof; also whether assent has been given by officers of the Government to any acquisition by one corporation of the stock or securities of another corporation for the purpose of preventing competition, and if so, in what cases, and especially whether or not it is expedient to provide that reasonable agreements in restraint of trade and for preventing competition in transportation or otherwise may be granted licenses by the Government; and said subcommittee shall report by bill or otherwise, to sit during the coming recess of the Senate, to send for persons and compel their attendance, and to send for papers and documents and compel their production, and to sit by subcommittee of not less than three members—the expenses of the inquiry to be paid from the contingent fund of the House.

The passage of the currency bill a few days ago, under whip and spur, was another evidence of the straits into which the buccaneers of the Republican party had fallen. The conference report was made to the House and adopted with an hour's debate. Hon. OLLIE JAMES asked for unanimous consent that it be passed over till morning and printed so that Members could know what they were to vote on. This was refused. Why such indecent haste? Because the bankers of the East, whence the campaign funds were expected to come, had again triumphed, and Republican leaders knew that it would never do for Western Members to hear from their people before they were whipped into the shambles. This outrageous bank-trust act will make many a Republican Congressman from the West bite the dust of defeat, and they ought to do so. Men who will so shut their eyes to the interests of their own people and kiss the hand of the money changer who is applying the lash to the people ought to be driven from the halls of legislation with a scourge of scorpions by those whom they so misrepresent. Mr. Speaker, the voice of 4,000,000 of unemployed throughout this country will not be hushed, and your party, when the polls are closed in November, will meet that retribution which its infamies and its iniquities so justly deserve.

1908.

SPEECH

OF

HON. EDWARD L. HAMILTON,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. HAMILTON of Michigan said:

Mr. SPEAKER: Fifty-four years ago the Republican party came into being as the incarnation of an aroused national conscience, and took its place for all time among the forces that have ruled mankind for nobler purposes.

It came into being as a protest against the extension of slavery in our Territories.

It wrought out the problems of reconstruction; it stood fast for sound money and national honesty; it stood fast for protection to American labor and American industry, and, with the chart of its founders before it, guided the nation safely across the line of the twentieth century, undivided and unsurpassed among the nations of the earth.

During all that time, in the language of William McKinley, this Government "never repudiated an obligation either to its creditors or to humanity. It never struck a blow except for humanity and it never struck its colors."

Our leaders have come up from our midst, performed their appointed tasks, and gone their way to dusty death and immortality, crowned with the approving judgment of mankind, including those who denounced them in their lifetime.

Democratic self-government is based upon the theory that one man's judgment at the polls is as good as another man's judgment at the polls; that each is more likely to be right than to be wrong and that a majority must be right.

Therefore the Democratic national platform of 1904, following Thomas Jefferson, rightly declares "absolute acquiescence in the will of the majority" to be "the vital principle of Republics."

If, therefore, the Republican party has been given power for almost two generations of the most progressive years in our history, it is because the Republican party has had the confidence of the people and because no other party has had their confidence.

To deny this would be to deny a self-evident truth.

So strongly has the Republican party been entrenched in public confidence during all these years, and so erratic have been the various kinds of opposition to it, that, in the language of Bolingbroke in describing the alignment of parties in England during his lifetime, "accidental passions" have been arrayed upon the one side and "the settled habits of thinking people upon the other."

Nowhere does the individual citizen, the average man, associate himself more intimately with the purposes and ideals of his government than here in America; and the individual citizen, the average man, associates himself with the purposes and ideals of his government here in America by voting for or against political policies promulgated by political parties through political platforms.

In the last national election about seven and a half million voters identified themselves with the purposes and ideals of their government by voting the Republican ticket.

Even admitting that a popular vote is an average among conflicting views which are merged in final results, still it is fair to say that the Republican party does represent, and for a long time has represented, the purposes and ideals of a majority of the people of the United States, so far as their purposes and ideals can be expressed in a political way. To assume otherwise would be to assume that the people of the United States have been incompetent to run their own government for about forty-seven years.

THE INEFFECTUALNESS OF A DEMOCRATIC VOTE THIS YEAR.

At the outset of any political discussion this year we are met by the fortunate fact that the Senate of the United States is Republican, and is likely to continue to be Republican indefinitely.

Therefore every man who goes to the polls to vote this year will be confronted with the question, which he must determine for himself, not whether any Democratic policy shall be put in operation, because obviously no Democratic policy can be put in operation, but whether we shall continue to go forward on the upgrade under Republican policies or whether we shall stagnate and stand still with an ineffectual Democratic House of Representatives and an ineffectual Republican Senate and an in-

effectual Democratic President mutually blocking the way to the accomplishment of any policy by any party.

Therefore if any man, Republican or Democrat, wants to see the Dingley law revised to meet commercial changes he ought to vote the Republican ticket.

If any man, Republican or Democrat, wants to see this Government go on with the business of resuming control over itself by making corporate combinations subservient to law and order he ought to vote the Republican ticket.

If any man, Republican or Democrat, wants to avoid a period of commercial stagnation, for which no party could be held responsible, he ought to vote the Republican ticket.

Now, on what grounds will the gentlemen on the other side invite public confidence this year?

Certainly not because of anything they can possibly hope to accomplish during the next four years. Everybody admits that.

Certainly not because of anything they did accomplish during the years from 1893 to 1897 when they had a chance. Nobody claims that.

Certainly not because of the successful exhibition in practice of any principle which they have ever heretofore advocated. Nobody claims that.

REASONS.

But if from the various views expressed any coherent statement of reasons can be deduced, it would appear—first, that gentlemen on the other side believe that most of the policies of this Administration are right, that they themselves claim many of them as their own, and therefore the Republican party ought to be defeated. But when before has an indorsement of a policy been used as an argument for a change?

Second, that they concede that they were wrong on the money question, and that we were right, and therefore we ought to be defeated.

But when before has a confession of error been filed as an argument for future confidence?

Third, that this Administration, having grappled with the problem of corporate combinations, which a Democratic Congress recognized and dodged by referring the facts disclosed by an investigating committee to "subsequent Congresses," therefore the Republican party ought to be defeated. But why should shuffling irresolution be given leadership?

Fourth, that having declared against trusts in their last national platform, and at the same time having nominated a Presidential candidate to stand on that platform whose nomination, according to Mr. Bryan, "virtually nullified the antitrust plank" in that platform, therefore the Republican party ought to be defeated. But how can a confessed straddler for expediency be trusted to execute a straight-out policy?

Fifth, that both parties having declared for tariff revision, and the Republican party having declared for revision from time to time to meet commercial changes under the policy of protection, and the Democratic party having declared for revision in the direction of free trade, and having denounced protection as robbery, thereby openly announcing that if permitted to revise the tariff it would not revise it so as to protect American labor and American industries, therefore the Republican party ought to be defeated.

But why turn out success, not ordinary success, but success which makes all the world wonder, and send experts here to study our conditions, and substitute a policy of discrimination against our own people in favor of foreign capital and foreign labor?

Sixth, that the Senate of the United States, which was then controlled for purposes of ratification by Democrats, Populists, and Free Silver Republicans, having ratified the treaty of peace with Spain whereby we acquired the Philippine Islands, and the Republican party having set up a stable government there, therefore the Republican party ought to be defeated.

But why defeat the Republican party for faithfully executing a trust which the Democratic party is at least in part responsible for imposing?

PARTIES.

Without political parties popular government is impossible. What is a political party? There are at least two definitions. One is, that a political party is a voluntary association of men holding certain fundamental political principles in common which they seek to express in legislation. That is the Republican party.

Another definition is that a political party is a miscellaneous, heterogeneous, kaleidoscopic, phantasmagoric aggregation of discordant inconsistencies revolving from force of habit around a vacant place once occupied by a political principle never incorporated into law. That is not the Republican party.

If you ask, What is a Republican? I answer you that ac-

cording to the last election he was about two-thirds of everybody.

If you ask me, What is a Democrat? I am obliged to state to you that in my search for reliable Democratic exposition on this subject I have found it impossible to reconcile conflicting authorities, and can only present to you some of the more recent authoritative Democratic declarations on this somewhat vexed question.

For illustration, some time ago the Albany Argus charged that the New York World had "not had a Democratic thought or drawn a Democratic breath or experienced a Democratic instinct or sentiment in more than a decade."

To which the World, after observing that in that case it, the World, "must be almost as undemocratic as the Democratic party itself," proceeded to reply by inquiring, "But what is a Democrat in this particular year of our Lord?"

And inquiring further said:

"If Mr. Bryan is a Democrat, what is Mr. Cleveland?"

"If Mr. Cleveland is a Democrat, what is Mr. Hearst?"

"If Mr. Hearst is a Democrat, what is Judge Parker?"

"If Judge Parker is a Democrat, what are Murphy, Connors, and McCarren?"

"If they are Democrats, what is Woodrow Wilson?"

"If he is a Democrat, what is Tom Taggart?"

"If Taggart is a Democrat, what are DANIEL and RAYNER and CULBERSON and Morgan and JOHN SHARP WILLIAMS?"

"And if they are Democrats, what are Ryan and Belmont?"

That was last year.

If you ask me what is a Democrat this year I refer you to Mr. Cleveland's recent letter to the Hartford Times in which he discusses the importance of impressing the Democratic creed upon the people this year, but he does not tell what that creed is; and almost simultaneously with Mr. Cleveland's deliverance Senator TILLMAN, who is another kind of a Democrat, in a colloquy in the Senate March 16, denied that Mr. Cleveland is a Democrat at all and called him something worse.

For further cotemporary authority I refer you to the recent attempt of Mr. Murphy of Tammany Hall to read the Hon. BOURKE COCKRAN out of Tammany Hall and the Democratic party, although Mr. COCKRAN, who is still another kind of a Democrat, says he has "written all the definitions of Democracy accepted and approved by Mr. Murphy during the last four years." But evidently Mr. COCKRAN was unable to keep pace with the moving picture.

Even here on this floor Democracy is not the sum of all its parts.

There is a legend that all the animals and birds once assembled to hear one Orpheus play upon his lyre; and the legend runs that, forgetting their several appetites—some of game, some of prey, and some of quarrel—they sat all sociably together listening to the airs and accords of the lyre; the sound whereof had no sooner ceased, however, than they straightway all returned again to their several appetites—some of game, some of prey, and some of quarrel.

So our brethren on the other side assemble peaceably enough from time to time to listen to the more or less mellifluous phrases of some of their number; but the sound thereof no sooner ceases than they all return again to their several appetites—some of game, some of prey, and some of quarrel.

Is there the shadow of a half of a half substantiated half reason why we should abandon the tried, coherent, and definite policies of the Republican party and take our chances with a party whose warring elements can give no guaranty of anything except confusion?

PANICS AND PROSPERITY.

We are just now emerging from a period during which the commerce of the country has been compelled to pause for a time and take breath in the swift rush of enterprise which began with the inauguration of William McKinley and increased with the increasing prosperity of our whole population.

On the 22d day of August last there were more than thirteen billion dollars on deposit in the various banks and trust companies in this country; but notwithstanding that, for about nine weeks, beginning about November 1 last, the entire banking system of the country practically suspended cash payment and held this enormous sum inactive in its vaults.

This was brought about not by a wild stampede, but by the reasoned apprehension of thinking men in New York City, whose fears were aroused by the disclosures of the New York Clearing House that certain bankers were using their resources to promote the questionable enterprises which an era of phenomenal prosperity always stimulates. This apprehension spread westward and money ceased to circulate for a while.

But as compared with the long, dreary dead level of depression from '93 to '97, this brief financial stringency is only a

breathing space on the march of "a strong land's swift increase."

From '93 to '97 every report of our Treasury was a mathematical demonstration of a general condition of distress, in the midst of which cities and towns were devising ways and means of public charity, and three million men were out of work.

Twelve years ago we elected William McKinley as the advance agent of prosperity, and fulfillment followed close upon the heels of prophecy.

The day he took the oath of office he summoned Congress to convene in extra session March 15, and before that Congress had adjourned it passed the law which bears the name of Nelson Dingley and was signed by William McKinley.

From that time on until October last, the only time when enterprise slackened down was when all the wheels of trade stood still and the nation stood for an instant with bowed head in spirit beside the grave of William McKinley.

In the language of JOSEPH G. CANNON—

Attribute this condition to what cause you may, speculate about it as you will, call it confidence in men or measures, the fact remains that it exists and that there never was recorded anywhere such industrial development and such a wave of prosperity as has swept over the United States in the last decade.

AMERICAN HOMES AND AMERICAN CITIZENSHIP.

Now, while it is true that the greatest gains of nations as of individuals can not be presented in the form of a balance sheet, still it is true that the material condition of a people has direct relation to their mental, moral, physical and political welfare, and idleness is the heaviest of taxes.

Multiply idleness and you multiply hunger, want, crime, bankruptcy, and industrial rust and cobwebs.

Multiply business and you multiply invention, ingenuity, enterprise, manhood, womanhood, libraries, schools, and churches.

Therefore a policy that builds American homes on American soil, in sight of the American schoolhouse, under the American flag, and gives to every man, woman, and child some hope of better things with which to lure them on from day to day to higher levels of manhood, womanhood, and patriotism, rightly takes rank among the things of highest national importance.

Humanity may sometime meet upon some higher level than patriotism, but at present there is no nobler trait in human nature than love of a man's own country, and the love of home is the heart of patriotism.

There is a greater prosperity than the mere prosperity of dollars and cents.

The best things in this world can not be measured by money. Mr. Bryce, in his *American Commonwealth*, says:

Sometimes, standing in the midst of a great American community, one is startled by the thought of what might befall this huge yet delicate fabric of laws and commerce and social institutions, were the foundations it has rested on to crumble away. Suppose that all these men ceased to believe there was any power above them, any future before them, anything in heaven or earth but what their senses told them of?

We may build forts, we may build big ships, we may forge great guns, and we may recruit armies and navies, but the progress and the power and the glory of our country depends upon the quality of our manhood and our womanhood.

Every issue of the coming campaign, or any other campaign, is subordinate to the vital issue of good citizenship and honest government.

It is really not of such vital importance whether the Senate is encroaching upon the House, or the House upon the Senate, or the Executive upon both, or whether one demagogue shall fool the people more conspicuously than another demagogue; or whether one man shall be reputed to be closer to the President than another; or, indeed, whether one man shall be closer to the Presidency than another man.

These things are part of the stuff that some lives are made of, that are drawing their daily nutriment from the Government, and part of the stuff that other lives are made of that would like to draw their daily nutriment from the Government. But above all, the vital principle of our Republic is clean living and honest citizenship taught in American homes, and the quality of American homes and the quality of American citizenship is intimately connected with political policies.

PROTECTION.

To the policy of protection to American labor and American industry are not only geared all the shafts, bands, and wheels of a tremendous range and variety of production, transmutation, and exchange, but it is intimately connected with the character of American citizenship.

The energy generated by the confidence of 87,000,000 people in the stability of the Republican policy of protection has set in motion, and kept in motion, 600,000 factories, running day and night, with some slackening since October last, which have supplied our home demand and an export trade with manufactured products, which, added to our agricultural exports, have so shifted the balance of trade in our favor that some people have expressed the fear that we might somehow get a first mortgage on the rest of the world and have to run it by commission.

This prosperity is not the result of free trade or a debased currency.

Twelve years ago, in the midst of hunger and want and bankruptcy and industrial rust and cobwebs, we were talking about repudiating our debts in the face of the world.

Since that time, with a little falling off since October last, whether measured by horsepower units, kilowatt hours, volts, amperes, dollars and cents, or human happiness, no parallel can be found in human history for the splendid progress of the people of the United States of America.

Within the last ten years we have increased our national wealth from \$70,000,000,000 to \$120,000,000,000; our wealth per capita from \$1,100 to \$1,400; the value of our farms and farm property from about \$18,000,000,000 to \$27,000,000,000; our total foreign commerce from \$1,500,000,000 to \$3,000,000,000, while our internal commerce is estimated at \$22,000,000,000, a sum equal to the international commerce of all the world; and our manufacturing conditions have shifted from 3,000,000 men out of work in 1895 to 6,000,000 men employed in 1907 at higher wages and shorter hours than ever before.

We are not only producing gold from American mines, but we are adding to that gold foreign gold, exchanged for American goods made by American labor.

We have more money per capita than ever before, more money in savings banks deposited by labor than ever before, more farm products than ever before, bringing more money than ever before because there has been more work for more people than ever before.

Statistics are only the bare framework of description, but when the balance is on the right side it means hope, which paints even upon bare walls far-stretching, blooming landscapes of possibility, and stakes them with the landmarks of success, and when it is on the wrong side, it means rent due and nothing to pay with, misery at home, and discontent at the polls.

CURRENT AND INCIDENTAL EXPENSES.

Meanwhile we have gone on paying our debts instead of running in debt, notwithstanding the expenses of our war with Spain, in which we raised, equipped, trained, and transported an army halfway round the world, and at the close of which we paid Spain \$20,000,000 on account of the treaty of peace, and shipped her captured soldiers home to her clothed and fed.

Since that time we have annexed Hawaii, established the Republic of Cuba, reorganized the island of Porto Rico, recognized the Republic of Panama, set up a stable government in the Philippine Islands, preserved the administrative entity of China, defined Alaskan boundaries by peaceful arbitration, strengthened the Monroe doctrine, reorganized our Army, strengthened our Navy, extended forest reserves, and irrigated deserts off the face of the map.

Incidentally we paid \$5,000,000 for the relief of Porto Rico on account of the hurricane there; we joined in the relief of Martinique, and we joined in the relief of the legations beleaguered in Peking.

Meanwhile we have gone on paying the current expenses of the greatest nation on earth, maintaining harbors along more miles of coast than any other nation on earth; extending rural mail delivery from 321 routes in 1890 to 36,000 now, over which mail is delivered at the gates of the rural homes of 12½ million people, and at the same time we have been gladly paying pensions to disabled soldiers and to the widows and orphans of soldiers who helped to keep this nation whole upon the map of the universe.

Not only that, but we paid out \$50,000,000 for the right of way of the Panama Canal without a ripple in financial circles, and since that time we have added that colossal undertaking to our current expenses at the rate of about \$16,000,000 a year during the last four years.

This is the brief and incomplete inventory of our national achievements under the Republican Administrations of William McKinley and Theodore Roosevelt, which, however, does not take into account our stupendous private enterprise, except as public enterprise presupposes private prosperity.

Here in America we have set up factories within easy reach by easy transportation of fields of raw material, and gone on in prosperous evolution reducing friction, waste and cost, increasing output, by-products and wages, reducing profits per unit and increasing profits in gross, extracting the uttermost essence of utility, until our factories have developed an aggregate of fifteen million horsepower.

Notwithstanding the recent financial stringency, every business test demonstrates that we are prosperous.

THE QUANTITATIVE THEORY.

Gentlemen who adhere to the idea that the hard times from 1893 to 1897 were not in any way associated with the Wilson-Gorman law, but were the natural reaction from the good times preceding them, and that the good times since 1897 are not in any way associated with the Dingley law, but are the natural reaction from the hard times from 1893 to 1897, and that therefore bad times produce good times and good times produce bad times, will have no difficulty in arriving at the conclusion that the financial stringency which began last October was the direct result of the period of prolonged prosperity since 1897 without any further analysis.

They tell us that crops are good and that good crops help to make good times, but that good crops are not the product of protection, but are the product of the magic of the sun and the wind and the rain, just as they always were, and that is true, except that prosperity always stimulates production.

But crops were good from 1893 to 1897 and times were bad, and we never had a bigger crop than last season, and yet money ceased to circulate for a time.

No convulsion of nature marked the transition from Democratic to Republican times. The seasons kept their ceaseless round. Nothing happened but a restoration of public confidence.

Ninety-five per cent of business is done on credit and credit is confidence, and when this confidence is shaken by the policy of a political party or the threatened policy of a political party or by any other cause money ceases to go freely from hand to hand.

The people had no confidence in the Democratic party from 1893 to 1897; hence hard times.

It is said that we have more gold and silver now than ever before, and that more gold and silver make better times, but that more gold and silver is not the product of protection, but is the product of discovery and improved machinery.

But this is only partly true. Money comes not only from mines, but in exchange for goods. There was a heavy annual increase of American gold from 1893 to 1897 and times were bad. Since that time, however, we have not only been adding to our gold the gold dug from the earth and panned from Alaskan rivers, but we have been adding to our gold the gold of other nations, exchanged for American goods, made by American labor and gold derived from the increased value of our farms and the increased value of our crops, and the increased number of our factories and the increased employment of our people.

Democrats have constantly accounted for our phenomenal prosperity upon Mr. Bryan's theory that more money makes higher prices, and therefore they advocated free silver, because more money makes higher prices.

At the same time, when discussing the tariff, they advocate lower duties, because, they say, lower duties make lower prices.

This theory that more money makes higher prices is the so-called quantitative theory, which is as old as political economy, but it is an essential part of that theory that it is only money in use and circulation that affects prices, only money that "goes to the market of commodities," in the language of John Stuart Mill, and "is there exchanged against goods," that affects prices, and therefore affects prosperity.

Inasmuch as the circulation of money and the extension of credit depend upon public confidence, this quantitative theory of money ceases to act affirmatively under a Democratic Administration.

It is true that the question of sound money has passed from argument to judgment by confession, and nothing remains of Coin Harvey except a faded photograph in the gallery of political necromancers; and nothing is left of free silver except a hole in the Democratic national platform adopted at St. Louis, covered over with a Western Union telegram, signed Parker; but Mr. Bryan still continues in session as "unfinished business," with the prospect of being again called up on the national calendar this year, and none of these things can be said to be settled until he is disposed of.

Cotton Exchange Methods.

SPEECH

OF

HON. THETUS W. SIMS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. SIMS said:

Mr. SPEAKER: On May 18 the gentleman from Texas [Mr. BURLESON] included in his very able argument replying to criticisms on his address on April 2 in advocacy of the passage of his bill for the suppression of certain gambling, the letter of submittal of part 1 of the report of the Commissioner of Corporations, Mr. Herbert Knox Smith, as appears from the RECORD of that date.

I do not think it possible to use the pages of the CONGRESSIONAL RECORD to better purpose than the printing therein of the letter of Mr. Smith transmitting the second part of his very able and exhaustive report, to the end that both letters may be read and studied together.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF CORPORATIONS,
Washington, May 29, 1908.

SIR: I have the honor to submit herewith Part II and Part III of the report on the operations of cotton exchanges, made in accordance with House resolution 795, of February 4, 1907. These parts deal with cotton-exchange methods of classification of cotton and with the range of contract grades. Subsequent parts will take up the effects of exchange rules and other conditions upon the price.

METHODS OF CLASSIFICATION.

For the purposes of delivery on future contracts cotton is classed into a number of grades—eighteen in New York and about the same in New Orleans, these two being the only American markets doing a future business. The classification is based chiefly on color and amount of dirt and trash in the cotton. Many criticisms have been made upon the rules of classification in both these exchanges and upon the way in which these rules have been applied. Many difficulties are inherent: the classification of cotton will probably never be an exact science, but must always depend more or less upon the discretion of experts and be open to honest differences of opinion. Moreover, there are no uniform standards of grades in the cotton trade. Grades of the same name in different exchanges differ considerably in quality. This in itself causes much of the difference of opinion.

Radically different methods of classification are employed in the New York and New Orleans exchanges. The New Orleans system is largely a private affair between the parties, the exchange merely furnishing the arbitrators. Each lot of cotton when tendered for delivery is submitted to such arbitrators, and they, having before them the price differences "off" or "on" middling cotton officially quoted by the exchange, determine what differences shall be applied respectively to the various grades of cotton in the particular lot, though they necessarily determine also, as part of this process, what these grades are.

The New York system is distinctly different. New York has what is called a certificated stock of cotton, and the New York exchange officially determines, through its classification committee, what cotton shall be admitted to that stock and its grade therein, while the inspection fund of the exchange is responsible to the owner of such cotton for mistakes made by the committee in such classification. All cotton intended for contract delivery in New York is submitted, upon arriving at that port, to the classification committee. If accepted, a certificate is issued setting forth its grades. This cotton thereafter is dealt in on the basis of that certificate, unless the same be changed by reclassification. The classification at New York is thus much more closely bound up with the exchange itself, and its effects are more a part of the operations of the exchange than in New Orleans.

A number of criticisms have been made against the New York system as to principle. Thus, lots of cotton are certified as having so many bales of such and such grades, but without identifying the grades of the individual bales. The result is that when the buyer receives a lot of cotton he can not, from the certificate, sort it out into even-running grades, because he has no means of knowing which bales belong to the given grades. To sort it out he must examine the cotton itself, at considerable expense and delay. This increases the reluctance of buyers to accept the actual delivery of cotton on future contracts.

Another criticism is that the New York rules do not provide for the exclusion of extremely weak or "perished" staple cotton, as the New Orleans system practically does. While the New York classification committee asserted that as a matter of principle they would not admit perished staple, nevertheless, so far as the rules are concerned, the grades are determined chiefly by color and amount of trash, and there is no definite standard by which weak or perished staple can be determined and excluded, and some such cotton has actually been certificated. It seems probable that the amount is not large, but the presence of any of it is extremely objectionable, owing to the seller's option of selecting grades to be delivered. The admission of even a small amount of such low grades has a very injurious effect in depressing disproportionately the price of future contracts. The charge, however, that the New York stock is the refuse accumulation of many years is disproved by the fact that in September, 1904, the entire stock was reduced to 15,600 bales, of which a considerable part was of high grade.

Criticisms have been made also as to the application of the New York system. There has been considerable overclassification or overgrading by the New York committee. This is conclusively proved by the payments from the inspection fund. This fund, it will be remembered, is used to indemnify the owners of certificated cotton for mistakes in grading by the classification committee. From 1890 to 1906, sixteen years, these payments, including the net payments for rejections, averaged less than \$1,250 a year, a total of less than \$20,000, while for the single year ended April 30, 1908, under a reform management, the net total was almost \$27,000. This great increase in these

payments shows that the previous classification must have been far too high.

A specific instance of deliberate overgrading took place in the latter part of 1906, when the board of appeals of the New York Exchange instructed the classification committee to admit to the certificated stock all cotton which passed the preliminary and informal examination of the assistant inspectors at the dock, although the same might later have been held rejectable by the classification committee on its final classification. This cotton, thus forced in, was to take the lowest grade of the certificated stock.

This ruling was in direct conflict with the by-laws of the exchange. The classification committee entered a protest, and even noted upon certificate slips of such rejectable cotton "should have been rejected." When the new management of the exchange came into office in June, 1907, this practice was stopped.

A contrary criticism has been made of the New Orleans Exchange, to the effect that there is an undergrading there, and while the proof of this is not conclusive, it is probable that in certain cases it is true. It is quite likely that the effect of the general opinion of the exchange has been to cause the arbitrators to be, consciously or unconsciously, too severe in their classification at certain times. A number of Southern merchants have made such assertions very vigorously.

The Bureau does not consider the New York system of classifying and certificating cotton, as distinguished from its "fixed-difference" system, as wrong on general principle. Under the conditions surrounding the New York business it is a proper development, capable of proper application. The principal difficulties on both exchanges have been with the careless or improper manner of applying their rules. In regard to certain details, however, a number of changes, most of which have already been widely discussed, seem desirable.

The New York rules, as well as New Orleans, should expressly provide some method by which extremely weak or perished staple should be definitely excluded from the certificated stock.

The New York certificate of classification should identify each individual bale by grade. It is objected that increased expense of handling and of storage would result, but it seems probable that this increased expense would be no greater than the expense now thrown on the receiver of cotton in attempting to identify or reclassify a mixed lot of bales, and such identification would also greatly facilitate the handling of certificated cotton and its segregation into even-running lots for consumption.

There should certainly be a system of uniform grades throughout the cotton trade, if possible. It would greatly simplify the business and stop a number of abuses. The practical difficulties in the way of arriving at such a system are considerable, and probably the best that can be done at present is to make a persistent effort to approach gradually such an ideal as near as may be.

RANGE OF CONTRACT GRADES.

Very numerous criticisms have also been directed at the large number of grades now deliverable on future contracts on both cotton exchanges. It must always be remembered that the buyer of a future contract has no option as to grades. He must take whatever the seller chooses to deliver to him. There are now eighteen grades deliverable on New York and New Orleans contract, covering a very wide range. In practice it frequently happens that deliveries on a single contract embrace ten different grades and half grades, so that lots thus delivered are often greatly mixed. This is true both in New Orleans and in New York, though not to so great an extent in the former place.

So far as spinners are concerned, the practical certainty of receiving several different kinds of cotton on one contract makes it impossible for them to buy their cotton on the exchanges. The range of quality of cotton which can ordinarily be used by a given spinner is extremely limited, owing to the mechanical restrictions of his mill and the requirements of his particular custom. So limited, indeed, is this spinner's range that it is wholly out of the question to so restrict the range of grades on exchanges as to make this contract generally acceptable to spinners and still maintain a practical future market. The spinner will probably always buy directly through spot transactions, although he should be able to use the exchange for hedging purposes.

It is obvious that the more mixed a delivery is the less desirable it is. It has happened that sellers of contracts have deliberately tendered lots of very indiscriminate character for the purpose of forcing the buyer to sell out his contract rather than receive the cotton, making it possible for the seller to buy in the contract at a profit. The present wide range of deliverable grades makes this possible.

On the other hand, there must be a considerable range of grades, as, unlike certain other great staples, there is a very wide range of actual difference in the quality of a given crop of cotton; there is also a demand for most, if not all, of these grades. This is often expressed in the phrase that "the contract must be broad enough to take care of the crop."

The contract must also be broad enough to induce general trading thereon, and thus furnish the broad market necessary to fulfill the true functions of an exchange. There is no reasonable obligation, however, to take care of that part of the crop which is for most purposes unspinnable, and the admission of very low grades of such unmerchantable or unspinnable cotton into the exchange stocks creates several evils. The effect of such cotton is to depress the price of future contracts, and this tends to affect unfavorably the value of the entire crop, the great bulk of which is of much better quality. It is certainly wholly improper that a small fraction of very low grade cotton should be allowed on exchange contracts if it has such effect. The extent of this particular effect, however, will be considered fully in a later part. Secondly, this low-grade cotton is the cause of by far the greater part of the numerous difficulties and controversies as to classification and the establishing of price differences in both markets. In the third place, the producer is encouraged to grow and pick a low quality of cotton.

LOW-MIDDLING CLAUSE.—The most practical suggestion for a limitation of the present range of grades is the so-called "low-middling clause"; that is, the exclusion of all white cotton below the grade of low middling, and possibly all tinged or stained cotton below that in value. The Bureau is strongly inclined to favor such a change; it would not only eliminate a number of the lowest grades now deliverable, which are objectionable both on account of the controversies to which they give rise and on account of their unfortunate effect in reducing the contract price, but it would also tend to exclude substantially all unspinnable cotton. It must be remembered that the amount of so-called "unspinnable cotton," while comparatively small, has a disproportionate effect upon the price of all future contracts, so that the benefit to the rest of the crop by its elimination would be much greater than any hardship thereby created as to this small fraction of the crop.

As distinct from the limitation of the present range of tenderable grades, a number of suggestions have been made for restricting deliveries on single contracts within that range so as to make the contract a more certain and advantageous one.

These suggestions may be commented on briefly.

First. A "specific" contract: It is wholly out of the question to make the contract an absolutely specific one; that is, to provide that only one particular grade shall be delivered. In view of the fact that future contracts are largely made before the quality of the crop is known, very few sellers of future contracts would dare to agree to deliver any particular grade of cotton on an exchange contract, owing to constant danger of intentional manipulation resulting in corners and squeezes. Such a restriction would practically destroy the future market by making it very narrow.

Second. That not more than three grades of cotton should be delivered on any single contract. The Bureau regards this not only as impracticable, but as having little advantage over the present system.

Third. To have two contracts, one for the delivery of middling cotton and above, and the other for the delivery of middling cotton and below. Such an arrangement would be wholly experimental and its results are not easy to calculate.

Fourth. That all deliveries should be substantially "even running"; that is, that on any single contract only a range of a half grade either way from the medium grade tendered should be deliverable, the seller having still the option, however, of selecting such medium grade. It is not believed that this is entirely practical, or even that it would accomplish the results desired, inasmuch as the buyer would still be left in great uncertainty as to what grades would ultimately be delivered. This system also would greatly add to the difficulties of classification and the controversies arising therefrom.

Fifth. Possibly a more practical suggestion is that of a premium for even-running deliveries, to be inserted in the contract itself.

A further and a practical suggestion is that the seller, on the day that he issues notice of delivery, which in New York is three days and in New Orleans five days before the delivery, shall specify the grade or grades of cotton which he intends to deliver. This would give to the buyer an opportunity to make provision for disposing of it in accordance with its quality.

It is believed that by the adoption of the low-middling clause many of the difficulties of classification would be removed; much of the evil effect of very low cotton on contract prices, as well as the controversies as to "differences," would be eliminated; no real hardship would be worked; and, if a proper system of differences were fairly applied thereto, with uniform and accurate classification, many of the present tenable objections to the business of the exchanges would be removed.

In making these suggestions the various objections thereto, which have been fully heard, have been carefully considered, and while numerous other suggested reforms have been also considered, only those have been set forth here which seem to merit serious attention. The importance of the exchanges of New York and New Orleans in the cotton trade, and their unquestioned effect on all concerned in this great industry, make it desirable that careful consideration be given to those lines of improvement which seem practical.

Very respectfully,

HERBERT KNOX SMITH,
Commissioner of Corporations.

The PRESIDENT.

To Regulate Interstate Commerce in Intoxicating Liquors.

SPEECH

OF

HON. CHARLES E. LITTLEFIELD,

OF MAINE.

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 28, 1908.

Mr. LITTLEFIELD said:

Mr. SPEAKER: In the early part of this session I introduced a bill (H. R. 4776) to regulate interstate commerce in intoxicating liquors, popularly known as the Littlefield bill. This bill reads as follows:

A bill to limit the effect of the regulation of commerce between the several States and Territories in certain cases.

Be it enacted, etc., That the interstate-commerce character of all shipments of intoxicating liquors, including ale, wine, and beer, from one State or Territory into another State or Territory shall terminate immediately upon their arrival within the boundary of the State or Territory in which the place of destination is situated and before the delivery of said liquors to the consignee, and said liquors and all corporations and persons engaged in such shipment shall then become subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise: *Provided*, That shipments of such liquors entirely through a State or Territory and not intended for delivery therein shall not be subject to the provisions of this act, nor shall this act authorize the infringement of the right of common carriers to continuously transport such merchandise from without such State to a station therein.

SEC. 2. That in all such shipments to be paid for on delivery, commonly called C. O. D. shipments, the sale shall be held to be made at the place of destination or where the money is paid or the goods delivered.

While I have made an energetic and persistent effort to get this bill favorably reported from the Judiciary Committee, to which it was referred, my efforts have been unavailing. I can not with propriety refer to what has taken place in the committee, but I think I am safe in saying that every member of that committee will concede that I have exhausted every legitimate parliamentary expedient in endeavoring to make progress therein.

This bill has been vigorously attacked as being unconstitutional. It seeks to remove the impediment of the commerce clause of the Constitution so as to allow the police powers of the State to operate with full force and vigor the moment the liquor comes within the borders of the State whose police powers are to operate thereon. Strictly speaking, it can not be said that Congressional legislation to that end is without constitutional authority and effect, because there can be no question but that so far as the Congress has the power, it can exercise it in removing the impediment or restriction, and the question as to power can only be specifically raised when the State legislature undertakes to exercise its powers over the liquors which were the subject of interstate transportation. Even if the legislation undertook to operate at an earlier point of time than Congress could constitutionally authorize its operation, the State legislation would be held unconstitutional and the Congressional legislation inoperative for the purpose desired.

It is true that the bill goes a step further than the existing law, but it goes in precisely the same direction, and its constitutional competency is governed, I believe, by exactly the same legal principles upon which the Wilson bill was sustained, and this bill is a direct logical sequence of the law as laid down by the Supreme Court of the United States on this subject. I do not go so far as to say that there is no room for an honest and intelligent difference of opinion upon the constitutional question involved, but I do say that in my judgment the court will be compelled to sustain this legislation unless it overrules in some material particulars some of its recently decided cases. They result logically in a complete justification of the principle upon which this bill is predicated. A great deal of confusion in the discussion, in my judgment, results from a profound misconception of the characteristics of interstate commerce. The power to regulate articles of merchandise under the commerce clause of the Constitution is limited to the time when the article of merchandise becomes the subject of interstate commerce or to the period or zone during which its interstate character exists. Without for the moment undertaking to define where the points are, it is clear that this interstate character begins at some point and ends at some point. The interstate zone has a definite place of beginning and an equally definite place of ending. Outside of this zone, before it begins and after it ends, the power of the State is supreme and exclusive. Within this zone the interstate character is an indivisible whole, a continuous entity. It is within the exclusive control of Congress and can not be invaded by State legislation, at least without Congressional action removing the restriction upon the State. It has the same qualities at the beginning as at the end. It is simply a question of transit, and the character of the transit is the same at all stages of its progress. It is the same when it ends as it is when it begins. This transit is not made up of aliquot or fractional parts or major or minor incidents. It can not be divided up into separate and independent integers or factors. If there be a factor that is an incident of this interstate transit at the end of the zone, that same factor is also present at the beginning of the transit and continues throughout the whole zone.

While we are not concerned in this discussion in scientifically delimiting the beginning of the zone, it may be assumed, I think, without controversy, that the zone begins when the liquor actually starts on its interstate transit. The question that is vital to the discussion is, When does the zone end or the transit terminate? After a long course of somewhat varying decisions, the Supreme Court of the United States held, in the case of *Leisy v. Harden* (135 U. S., 100), that the zone did not end or the interstate character of the shipment of liquor did not terminate until the original package was broken up in the hands of the original consignee or until the liquor was sold in the original package by the original consignee, as only then did the liquor become commingled with the mass of goods in the State, and a part of State, as distinguished from interstate, commerce. This was an authoritative delimitation of the interstate zone. That zone, which remained intact until the original package was broken or sold by the original consignee, could not be invaded by State legislation, and it was held in that case that liquor in the original package in the hands of the original consignee could not be affected by the police power of the State. It was readily perceived that the drawing of this line of demarcation would seriously embarrass the States in prohibiting or even regulating the sale of intoxicating liquors, and in pursuance of a suggestion made in the opinion in *Leisy v. Harden* ("the responsibility is upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits which have not been mingled with the common mass of

property therein. * * * Up to that point of time we hold that in the absence of Congressional permission to do so the State had no power to interpose any seizure or any other action," 124) the Wilson law was passed for the purpose of shortening or narrowing this zone. This act became a law August 8, 1890, and reads as follows: "That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquors or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise." It undoubtedly intended to narrow the zone so that the line of the State would be the delimitation of its ending as against the breaking or sale of the original package in the hands of the original consignee, as held in *Leisy v. Harden*. By a forced construction, however, the court held that this act did not narrow the zone to that extent, but only to the extent of making the actual delivery to the consignee the ending of the zone. In the hands of the consignee, the liquor, though in the original package, by virtue of the Wilson law is now subject to all of the police powers of the State. In *Leisy v. Harden* the court referred to the right of sale in the original package in the hands of the consignee as being "an inseparable incident to the right to import it," but it was no more an inseparable incident at that stage of the transit than it was and is through the whole zone from the beginning until the end.

Since that case the right of sale has been at times referred to as "only an incident," but this does not advance the argument, as it does not appear whether or not it is a major or minor incident, or is still held to be an "inseparable incident," and there is nothing that makes any distinction in the application of this incident to the original package in the hands of the consignee after actual delivery and its application to the same original package at any stage of its transit. As a matter of law the package when it enters the zone is constructively delivered to the consignee and is at his risk, and the power of sale as an incident only, major or minor or "inseparable," is a characteristic of the package through the whole zone. Moreover, the fact that since the Wilson law the sale of the original package in the hands of the original consignee can be prohibited is a minor factor in the operation of the police power upon the liquor in the original package in the hands of the original consignee. The zone having thus been narrowed by the Wilson law by moving forward the line of demarcation, the original package in the hands of the original consignee can be seized and destroyed by the State under appropriate legislation, so that not only was the right of sale which it is claimed was "only an incident" destroyed, but the original package itself, the very subject-matter of the interstate transportation, can also be destroyed, and thus the fruit of the extraterritorial contract is as a matter of legal construction wholly destroyed. The Wilson law, which has produced these results, has been sustained. It narrowed the zone, terminated the transit at a point earlier than that before laid down, and wholly destroyed the interstate character of the liquor the moment it passed that point. If *Leisy v. Harden* was well decided in fixing the time of demarcation ending the zone of interstate shipment, and in *Re Raher* (140 U. S., 545) and *Rhodes v. Iowa* (170 U. S., 412), sustaining the Wilson act in making a new line of demarcation in placing forward the ending of the zone in the process of the interstate transit are also well decided, no reason is perceived why the zone can not be still further narrowed by confining the line of demarcation to the boundary line of the State.

The effect of thus further narrowing the zone will be precisely the same to all legal intents and purposes as the narrowing that has already taken place under the Wilson law. That law enabled the State not only to prohibit the sale, but to destroy the subject-matter of the transit and of the extraterritorial contract at a point earlier than it otherwise could do. No other or further consequences of any kind can flow from placing forward the line of delimitation. Under the Wilson Act, the sale of the original package in the hands of the original consignee can be prohibited, and the liquor itself can be destroyed, things which it was held could not be done before that act was passed. Under the proposed bill the sale can be prohibited and the property destroyed before physical delivery takes place to the consignee, results which are identically the same as results which flowed from the Wilson Act. Moreover, inasmuch as the title to the property and the risk, unless otherwise agreed, is in the consignee from the time liquors are delivered to the carrier

for interstate transit, in what way does a bill that prohibits the consignee from selling the liquor before it reaches him differ in its legal or practical effect upon the extraterritorial contract, from one that prevents him from selling it as soon as it actually reaches his hands? Under the Wilson law the consignee can neither sell nor use (if there is appropriate legislation against it) liquor which he has purchased under an extraterritorial contract, after it reaches his hands. From what source does that exclusive and especial sanctity come that zealously protects the transportation of an article of merchandise on the ground that unless protected the extraterritorial contract is defeated and the laws of one State would be able to defeat a contract made in another, and then sustains a statute that enables the law of the State to destroy absolutely the whole subject-matter of the contract the moment it is actually delivered to the consignee? This position, if sound, magnifies the right of sale into an indestructible quality of the merchandise, as the only beneficial use the consignee could make of the merchandise in such a case would be to sell it during transit while in the zone. It seems clear that if this zone can be constitutionally narrowed by Congressional legislation as it has, that it can be still further narrowed for the same reason to accomplish the same results and to be attended by exactly the same effects upon the rights of the consignee.

It is to be observed in passing that this bill is not open to the objection that it delegates to the States the power to regulate commerce. Under the authority of *In re Raher* it simply removes "an impediment to the enforcement of the State laws, in respect to imported packages in their original condition." It imparts "no power to the State not then possessed," but allows "imported property to fall at once upon arrival within the local jurisdiction" (564).

There are those who seem to be very much impressed with the idea that liquors intended for the personal use of the consignee are affected by some peculiar quality which makes it constitutionally impossible for Congress by legislation to authorize the States to interfere with the use of liquor thus transported. The only right that the consignee has to the transportation of liquors is derived from the commerce clause of the Federal Constitution. I submit, with the greatest respect, that the particular use for which liquors are intended can have absolutely no effect whatever in determining the constitutionality of the proposed legislation. The power to "regulate" at all is predicated solely upon the power to "regulate commerce." This power to regulate is not only plenary in its character, but is absolutely without qualification, limitation, or distinction. It does not relate to the particular manner or to the particular purpose for which the commerce is carried on. It relates to all commerce, irrespective of purpose or intent or character and is without qualification; so long as it is "commerce" it is the subject of regulation. For what purpose "commerce" is carried on is entirely immaterial so far as the power to regulate it is concerned. The fact that liquor may be intended for the personal use of the consignee, not only does not give it any peculiar sacro sanct character, so far as the power of the Congress or the State to regulate or control it is concerned, but if anything, it contraindicates such character. To deliver liquor to a consignee for his personal use is clearly to segregate it from its "commerce" character; to take it out of "commerce." If it is delivered for the purpose of being bought and sold, then the liquor retains its "commerce" character, and if there is any constitutional distinction (which I do not think there is) between the two purposes, it would seem that the purpose that preserved rather than the purpose that destroyed the "commerce" character would be beyond the power of Congress to impair, as it is more clearly in line with the rational and dominating purpose of the constitutional provision.

I have not taken time to engage in a discussion of decisions or the authorities subsequent to the three cases hereinbefore referred to for the sufficient reason, that in my judgment, none of them either add to or take from, so far as the conclusions and reasoning of the court are concerned, the cases already cited, but they all proceed on precisely the same lines and are covered by the same legal and constitutional considerations.

I wish to say a few words about the practical reasons for the enactment of this legislation, as in my judgment they are compelling in their character. The abuses which have sprung up all through the country are intolerable. They are not abuses in the sense that they are violations of the law, but they are abuses in the sense that the parties engaged in the sale of intoxicating liquors avail themselves of the peculiar constitutional rights disclosed by the decisions hereinbefore referred to, and are therefore able to substantially nullify local legislation. The rights of the original consignee to receive liquors in any quantities for any purpose has developed a multitude

of interstate liquor express company saloons in both prohibition and license States, which are absolutely beyond the power of local legislation. There is no limit to the number of their patrons or to the quantity that may be delivered to each, and the State has no power to prevent the delivery under such circumstances to any patron. It can not prevent the delivery in unlimited quantities to any consignee whether he be a wholesale or a retail dealer in intoxicating liquors. It does not approach an answer to the demand for this legislation for relief from these difficulties to inquire whether the laws of a given State are or are not effectively enforced. To refuse to allow the passage of Federal legislation that is essential to enable a State to effectively enforce its laws, on the ground that the State does not now enforce its laws in this regard largely on account of this constitutional difficulty, is obviously a puerile absurdity. That would be equivalent to advising a man who could not get out of a pit without the aid of a rope that he could not have the necessary rope because he had not extricated himself from the pit without it.

Under the existing constitutional conditions it is perfectly competent to have established and maintained in every village, town, and city, in either prohibition, licensed, or local-option States, an interstate liquor saloon from which can be served in small or large quantities an unlimited list of customers. This legislation does not supplement any particular form of regulation or control that the States may exercise over this traffic. It leaves that to each State to settle for itself. Inasmuch, however, as the opposition to the legislation is largely based on the opposition to and criticism of the prohibitory law, I think something may well be said upon the question of this kind of legislation against the traffic. I am in favor of such legislation as will most effectively minimize the evils that everyone concedes flow from the sale of intoxicating liquors. The efficacy of any legislation must be subject to the same test that is applied to all matters that are the subject of legislative action—that is, the test of time and experience. As to the prohibitory law, the test popularly suggested is "does prohibition prohibit?" In the sense of entirely eliminating the sale of intoxicating liquors, it does not prohibit and never can prohibit, nor in that sense does any other law prohibit. Laws or prohibitions never have and never can entirely eliminate the evils against which they are aimed, and the only question is, Does the prohibitory law more effectively minimize the evils against which it is aimed than any other system of legislation? In Maine it is my belief that it does. Some of the reasons which I have for that belief have been stated by me in two articles, with which I conclude these remarks, and I think they fully justify me in that conclusion. In addition to these articles, inasmuch as the great name of Lincoln has at times been invoked upon the other side of this controversy, I will also append an extract from one of his speeches, which I think clearly indicates his attitude with relation to legislation of this character.

"THE OPERATION OF THE PROHIBITORY LAW IN MAINE, BY HON. C. E. LITTLEFIELD, CONGRESSMAN FROM MAINE.

"The Maine law, by reason of the long-continued, conspicuous, and consistent attitude of the State of Maine with reference to the liquor traffic, has long been known the world over as the synonym of legislation prohibiting the sale of intoxicating liquor. The propriety and necessity of restricting the sale of intoxicating liquors within the narrowest possible limits is now generally conceded by all right-thinking people who have the general welfare in any degree at heart.

"The legal validity, as well as the wisdom and propriety from a moral and economical standpoint, of laws controlling and restraining the liquor traffic have long been well settled by the highest authority. In 1847 Mr. Chief Justice Taney, of the United States Supreme Court, said in an opinion holding license laws constitutional: 'And if any State deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether if it thinks proper. Of the wisdom of the policy it is not my province or my purpose to speak.' Mr. Justice Woodbury in the same case expressed himself more directly as to the propriety of such legislation. He said: 'From the first settlement of this country, and in most other nations, ancient or modern, civilized or savage, it has been found useful to discountenance excesses in the use of intoxicating liquor,' and after stating that the legislation in question was not 'apparently designed to promote other objects than physical, social, and moral improvement,' said: 'On the contrary, its tendency clearly is to reduce family expenditure, secure health, lessen pauperism and crime.' Mr. Justice Grier, in sustaining the legislation, said: 'I take

this occasion, however, to remark that the true question presented by these cases, and one which I am not disposed to evade, is, whether the States have a right to prohibit the sale and consumption of an article of commerce which they believe to be pernicious in its effects and the cause of disease, pauperism, and crime. * * * It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits.' In answering the commercial argument he said: 'And if a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be the gainer a thousandfold in the health, wealth, and happiness of the people.'

"In 1852 Mr. Chief Justice Shepley, of Maine, in sustaining that provision of the Maine law providing that liquor kept for unlawful sale should not constitute property, speaking for a unanimous court, said: 'The State by its legislative enactments, operating prospectively, may determine that articles injurious to the public health or morals shall not constitute property within its jurisdiction. It may come to the conclusion that spirituous liquors, when used as a beverage, are productive of a great variety of ills and evils to the people, both in their individual and in their associate relations; that the least use of them for such a purpose is injurious, and suited to produce, by a greater use, serious injury to the comfort, morals, and health; that the common use of them for such a purpose operates to diminish the productiveness of labor, to injure the health, to impose upon the people additional and unnecessary burdens, to produce waste of time and of property, to introduce disorder and disobedience to the law, to disturb the peace, and to multiply crimes of every grade. Such conclusions would be justified by the experience and history of man.' The most earnest advocate of prohibitory legislation could hardly state with more perspicuousness and force the reasons which justify it than is found in these great judicial declarations.

"Since 1851, with an interregnum of two years, from 1856 to 1858, Maine has had a prohibitory law. Prior to 1851 she had had experience with the unrestricted and the licensed sale. Incorporated as a State in 1820, one of her early legislative acts (March 20, 1821) was to authorize the licensing of 'persons of sober life and conversation, and suitably qualified for the employment,' as 'sellers of wine, beer, ale, cider, brandy, rum, or other strong liquors by retail.' In the contemplation of these early legislators beer and cider seem to have been 'strong liquors.' This act prohibited them from allowing persons to 'drink to drunkenness' in the house or shop of the retailer, and prohibited the sale to 'common drunkards, common tipplers or common gamblers' after their names had been posted by the selectmen, and authorized the selectmen or assessors to prohibit the sale to any person who by idleness or excessive drinking of spirituous liquors should be a misspender of his estate.

"In 1834 some changes were made in the law, and 'persons of sober life and conversation,' etc., were again authorized to be licensed. In 1841 it was discovered that mere 'sober life and conversation' were not sufficient to properly qualify a man for the trying business of liquor-selling; a broader and higher standard of qualifications was adopted, and no one could be licensed unless he was a 'person of good moral character.' In 1846 an act was passed 'to restrict the sale of intoxicating drinks,' and licenses were authorized to be issued to sell liquor 'to be used for medical and mechanical purposes, and no other,' to persons of good moral character—one in towns less than 1,000, two between 1,000 and 3,000, and not less than three nor more than five in towns over 3,000. The act did not apply to liquors imported into the United States from any foreign port or place.

"In 1851 came the first prohibitory liquor law. This was repealed in 1856 and a license law enacted; and in this connection it is interesting to note that it had been discovered that a 'good moral character' was no longer requisite to qualify a man for the responsible position of a liquor seller, as 'suitable persons,' which might mean anything besides a 'good moral character,' were authorized to be licensed. In 1858 we have one of the earliest instances of the referendum idea in legislation. A prohibitory liquor law was passed in 1858, and at the same session an act was passed entitled: 'An act to ascertain the will of the people concerning the sale of intoxicating liquor.' This act provided for submitting to the people two questions, the 'license laws of 1856' and the 'prohibitory law of 1858,' and further provided that if the license law should have a majority the prohibitory act of 1858 should be 'hereby repealed' and the license law of 1856 'should be thereby revived.' The legal effect of a vote for license might have been open to some doubt; but this question was not raised, as in a total vote of

35,588 license received only 5,912 and prohibition 28,864, with 912 defective ballots, or nearly 5 to 1 in favor of prohibition. While it was true that only about a third of the voters expressed themselves upon the law (the vote for governor that year being 102,261), of those that did the majority was decisive for prohibition.

"The law has been amended and perfected from time to time, until in its present form as a system of prohibitory legislation it is probably the most effective in existence, and only needs thorough enforcement to produce the best results possible under the prohibitory method in minimizing the sales of intoxicants. In 1884 a constitutional amendment prohibiting the sale of liquor was adopted by a vote of 70,783 for and 23,811 against the amendment in a total vote for governor that year of 141,156. In this instance about 70 per cent of the voters expressed their wishes, being 3 to 1 in favor of prohibition.

"There has been considerable agitation over this legislation recently. That it has not been enforced for some time past in portions of the State as thoroughly and effectively as it can and should be is no doubt true. Its opponents claim, among other things, that by reason of the difficulties attending its enforcement it is less restrictive and effective than a license law would be. If it be true that the liquor traffic flourishes better under it than it would under a license system you would naturally expect those engaged in the sale to prefer a continuance of the present law. As the result of the agitation the question of resubmission of the prohibitory amendment was presented to the legislature of 1901. There were 3,000 petitioners for the change and 8,000 remonstrants. Anomalous as it may appear, all of the liquor dealers in the State, it was asserted in the debate and not challenged, were found among the petitioners opposing prohibition and favoring license, for the purpose, if their assertions were to be relied upon, of curtailing their own business. None were found remonstrating. 'Beware of the Greeks bringing gifts.' Their actions spoke louder than their protestations. No matter what the argument was, they evidently knew what was desirable for them. The vote was decisive—in the senate 22 against resubmission and 3 for, in the house 84 against and 34 for. Such is the legislative history.

"Has the law justified itself and the reasonable expectation of its friends? Undoubtedly many of its friends expect, and all of its enemies demand, more of the law than it can be reasonably expected to accomplish. The law prohibits the sale of liquor. Hence it is inferred that if the sale is not entirely eliminated the law is a failure. This by no means is to be conceded. The law absolutely prohibits theft and embezzlement. The fact that men still embezzle and thieves still break through and steal does not demonstrate that the law prohibiting these crimes is a failure. Notwithstanding the fact that the crimes in the decalogue are prohibited, they always have been and will, no doubt, continue to be committed until the millennium arrives; and it does not occur to law-abiding citizens that because of that fact the laws which protect society (so far as it is susceptible of protection by law) should be repealed. There is no reason for expecting or demanding of a prohibitory liquor law any different results from those which attend the enforcement of other criminal laws. Can you make a man sober by statute? Can you make a man honest by statute? Each question requires the same answer. The law can make it easier for him to do right and harder for him to do wrong. While no reasonable man should expect, or demand, that the prohibitory law should entirely extirpate the traffic, if it will restrict the traffic within narrower limits than any other plan, and thus do the most to minimize the evils caused thereby, its existence is justified. Can the Maine law stand this test? The record must show.

"Prior to 1851 liquor was sold in nearly every grocery store in Maine. A set of books in a general store in a village near Portland shows that 84 per cent of the entries were for liquor. 'Boots, shoes, dress goods, sheeting and shirting, hats, caps, and groceries' appeared at rare intervals, but rum was spotted on every page. 'A wholesale grocer's books in Portland showed that two-thirds in number of all his sales were of liquors.' The proprietor stated that 'they were taken by the ox-teams of the traders and carried in every direction from Portland—north, east, west—and their course could be also as distinctly marked by poverty, dilapidation, and decay as the path of a conflagration through a forest.' It was estimated from old account books that the people of Raymond consumed more liquors in every period of eighteen years than the entire valuation of the town. To-day no liquor tax is paid in the town. It will not be pretended that anything like these conditions exist to-day. Then it was not an unusual thing to see twelve vessels in Owl's Head Bay laden with West India rum for discharge in Maine ports. None can be seen now. All the liquors that are consumed in

Maine come by rail or steamboat, and are smuggled in with greater or less secrecy as the law is more or less effectively enforced. Under these circumstances it is easy to see that the capacity of men to earn was then largely impaired and their earnings largely wasted. Then there was one licensed dram shop for every 225 inhabitants. In April, 1901, 1,234 persons in Maine paid tax as dealers in liquors. This tax is \$25, and as the penalties for nonpayment are very severe and vigorously enforced, this undoubtedly includes practically all persons who are dealing in liquors. These figures are only relative, as they include all town agents who can sell only for medicinal, mechanical, and manufacturing purposes. The State has 506 cities and towns and 78 plantations. The United States taxpayers are confined to 203 cities and towns, leaving 302 towns and 78 plantations without liquor dealers. Take the State as a whole and there is one dealer for 564 inhabitants, as against one for every 225 before; of these dealers, 841, or two-thirds of the whole, are found in twenty cities and towns; 457, more than one-third of the whole, in three cities—Portland, Bangor, and Lewiston; and 597, nearly one-half of the whole, in six cities, showing the manner in which the law has concentrated the traffic in the larger cities. This is better illustrated by Cumberland County, in which Portland, the largest city in the State, is situated. The county has a population of 100,689, and 218, one-sixth of the number in the State, are United States taxpayers, 194 of whom are located in Portland, leaving 24 for the remainder of the county, or one for every 2,106 inhabitants.

"Here it may be stated, as illustrating the changed conditions, that when Portland had a population of 4,000, 81 places were licensed to sell liquor, or 1 for every 50; and in 1823, with about 9,000 population, there were over 200 licensed places, or 1 for every 45 people, while to-day with 50,000 people it has 194 liquor taxpayers, or 1 for every 257 people.

"There were in the year 1900, 236,679 United States taxpayers in connection with distilled and fermented liquors, or 1 for every 322 persons. If Maine had the same proportion, she would have 2,156 instead of 1,234, or nearly twice what she has. Illinois, the State which paid the largest amount of internal revenue to the United States on account of distilled spirits and fermented liquors (\$44,406,765.14), had, in 1900, 20,969 taxpayers, or 1 for every 299 persons. Maine, to be in proportion, should have 3,032, or about two and one-half times what she has. Massachusetts had 1 taxpayer for every 362 persons. For the purpose of comparison I take the four States paying the largest amount of internal revenue on account of distilled spirits and fermented liquors:

	Internal revenue.	Tax-payers.	One for every—
			Persons.
Illinois	\$44,406,765.14	20,969	229
Kentucky	18,710,422.36	4,487	470
Ohio	13,976,177.82	17,632	235
Pennsylvania	14,544,727.76	17,990	350
Maine	28,291.72	1,502	564

"Maine's amount is estimated as proportional to 1887, the last year when her returns were given separately as a State; she is now included with New Hampshire and Vermont in the District of New Hampshire.

"Illinois paid internal-revenue tax per capita, \$9.20; Kentucky paid internal-revenue tax per capita, \$8.72; Ohio paid internal-revenue tax per capita, \$3.36; Pennsylvania paid internal-revenue tax per capita, \$2.30; Maine paid internal-revenue tax per capita, \$0.04.

"One of the most reliable indications of the thrift and prosperity of a people is the amount of its savings. In 1850 Maine had no savings banks; she now has deposited in her savings banks \$66,132,677. While she ranks only the thirteenth in population among the States of the Union, there are only six that outrank her in the amount of deposits, and only seven which have a larger number of depositors. Illinois, with about seven times the population of Maine, has \$2,000,000 less deposits. Kentucky has no savings deposits. Ohio, with nearly six times the population of Maine, has \$22,000,000 less deposits. Pennsylvania, with nine times the population of Maine, has only \$40,000,000 more deposits. In other words, Maine has in her savings banks \$95.22 for every inhabitant; Illinois only \$13.43; Kentucky, none; Ohio, \$10.71; Pennsylvania, \$16.72. These figures are made more significant by the fact that during the last two decades the accumulations of Maine have been sent to the West for investment steadily, continuously, and, relatively to her means, in a prodigious amount. In these investments the losses have been heavy. Notwithstanding this her savings deposits have increased \$40,000,000 in the last thirty-eight years,

and while her population since 1850 has increased only 20 per cent, her valuation per capita has increased 252 per cent.

"The only material difference in legislative policy between the States compared is the prohibition policy of the State of Maine. In virgin natural resources and opportunity for the acquisition of wealth and the accumulation of savings Maine is not the equal of the other States. The substantial prosperity of her people under her policy challenges the emulation of and can hardly be made the subject of adverse criticism by these sister States, or by those who decry her consistent adhesion to prohibition. She can challenge comparison not alone from a material standpoint but in all of the elements essential to the social, moral, and mental welfare of her people, and in the conservation of law and order. During the forty years ending in 1890 there has been a gradual increase of the unfortunate insane.

"In Illinois the increase was 520 per cent; in Kentucky the increase was 174 per cent; in Ohio the increase was 211 per cent; in Pennsylvania the increase was 94 per cent; in Maine the increase was 104 per cent.

"The number of paupers among a people, and their increase or decrease, is perhaps the surest indication of the lowering or raising of the welfare and quality of a people, whether they are improving or retrograding. From 1850 to 1890 the percentage of paupers increased in Illinois 176 per cent; in Kentucky, .073 per cent; in Ohio, 138 per cent. In Pennsylvania it remained practically the same, while in Maine the percentage has decreased 245 per cent. The percentage of criminals in a community illustrates to some extent its character as law-abiding or otherwise. During this period the percentage of crimes committed, as shown by prosecutions, increased in Illinois 247 per cent; in Kentucky, 204 per cent; in Ohio, 108 per cent; in Pennsylvania, 593 per cent; and in Maine, 354 per cent. Massachusetts is nearer to Maine in location, and in social and moral condition may be thought to be more nearly parallel. She is a local-option State, with license as a rule in her larger cities. In 1898 she had 7,454 prisoners, or 33 for every 10,000 people, while Maine had 841, or 13 for every 10,000.

"A comparison of vital statistics taken from the Bulletin of the Department of Labor for September, 1900, will be suggestive. For comparison I take Portland, the largest city in Maine, several larger cities, and a number of cities nearly the same size in other States.

Arrests for drunkenness.

	Population.	In every 10,000.
Portland	50,145	84
Boston	560,892	426
Philadelphia	1,293,679	221
Chicago	1,698,575	231
Indianapolis	169,164	60
Youngstown, Ohio	44,885	353
Harrisburg, Pa.	50,167	174
Canton, Ohio	30,667	173
Springfield, Ill.	34,159	239
Taunton, Mass.	31,036	311
Brockton, Mass.	40,063	187
Lynn, Mass.	68,513	371
New Bedford, Mass.	62,422	208

Cost of maintenance of police departments and jails per capita.

	Police departments.	Jails.
Portland	\$1.05	\$0.07
Boston	2.95	.29
Philadelphia	2.10	.58
Chicago	2.16	.13
Indianapolis	.88	.03
Youngstown, Ohio	.72	.07
Harrisburg, Pa.	.66	.09
Springfield, Ill.	.82	
Taunton, Mass.	1.17	.04
Brockton, Mass.	1.03	
Lynn, Mass.	1.19	
New Bedford, Mass.	1.88	

"The fact that these statistics do not amount to a mathematical demonstration, and that conditions not unlikely vary in all of these instances, is fully appreciated. Portland is the largest city in Maine, a seaport town, and has probably a larger percentage of floating population than any other, which would naturally tend to the most unfavorable exhibit in these particulars. The figures may be said to approximate the real conditions. Only one place, Indianapolis, shows fewer arrests for drunkenness, while all the other cities show from two to four times as many. Only five show a less cost of maintenance of police departments, jails, police courts, etc., and six show a larger cost. The maritime cities, moreover, which are like Portland as to these conditions, such as Boston, Philadelphia,

Chicago, and New Bedford, show nearly double the cost. These facts are entitled to some significance.

"When the fact is remembered that the enforcement of this law has not been and is not now as steady, persistent, continuous, vigorous, and effective as it might be and ought to be, this record fully justifies the references to this subject made by Hon. John F. Hill, the present governor of Maine, in his first inaugural message, when he said:

"The deliberate adoption of this policy by a people naturally careful and conservative in their judgment was the inevitable result of a moral evolution which recognized the demoralizing and far-reaching evils of intemperance, and sought to eradicate them from the community, and embodied the conviction that a traffic which took men from the ranks of productive industry, robbed them of their sober faculties, destroyed their self-respect, and made them a burden and a menace to those who had a right to look upon them for support and protection—a traffic which filled the poorhouses, prisons, and asylums with human wrecks, and imposed its greatest misery upon the innocent and helpless—was hostile to the public interests and wholly contrary to the spirit and purpose of a Christian civilization.

"Fifty years ago the so-called Maine law prohibiting the sale of intoxicating liquors was placed upon our statute books, where it still remains. While it has not accomplished all its advocates and supporters hoped for, it has been a powerful force in the development and promotion of a healthy temperance sentiment among the people of our State.

"To-day in a large majority of our country towns there exists practical prohibition, and the law against the liquor traffic is as well enforced as against other forms of crime. Even in our cities and larger villages, where the liquor interests are the most active and aggressive and where the law is most persistently violated, it has not failed to exert a restraining and salutary influence, and it has been a power in stimulating and promoting that intelligent and vigorous public opinion which is the support of all effective law, and without which any legislative enactment must fall far short of its purpose."

"The bitter feeling engendered by active participation in the enforcement of the law tends to deter even law-abiding people from taking a conspicuous part in such enforcement. While every citizen is morally bound to contribute his share to its enforcement, the duty is a disagreeable one, sometimes attended with great personal discomfort, and is naturally more honored in the breach than the observance. Public officials, upon whom the duty especially rests, as a rule move only when compelled. Persons engaged and interested in the sale of liquor are always active and aggressive. Inspired by enormous profits, the liquor seller's interest is direct, specific, and, with many, overpowering, as there are few things men will not do for the almighty dollar. That of the community is indirect and general, and requires continual vigorous agitation to produce results. Such agitation is inevitably intermittent. Hence the intermittent character of the enforcement of the law.

"But the effective instrument is at hand whenever the people are aroused and see fit to use it. The temper and sentiment of Maine people with reference to this question was indicated by the late State election in Cumberland County, where Rev. Samuel F. Pearson ran for the office of sheriff upon the sole issue of the enforcement of the law, against the regular Republican and Democratic nominees, and was elected in the full tide of a Presidential election. Pearson had 6,395 votes, the Republican candidate had 5,958, and the Democratic candidate had 4,465.

"The manner in which the enforcement of this law aids the workingman in diverting his wages from a worse than useless to a laudable purpose is shown by an instance that came under the observation of Sheriff Pearson after he began his vigorous campaign as sheriff. The men who worked on the docks in Portland, loading and unloading English steamers, receive their pay from the head stevedore in the shape of checks, showing their time and the amounts due them. Saloon keepers have been taking these checks in payment for liquor, and getting them cashed by the cashier of the Grand Trunk Railroad every month. Before January 1, 1901, the liquor dealers frequently passed in such checks to the amount of between \$1,700 and \$1,900. Since then the highest amount passed in by them was \$153. I understand that Sheriff Pearson is meeting with gratifying success in curtailing the liquor traffic, showing that there is no difficulty in doing the same thing everywhere where the proper effort is made."

"MAINE AND MASSACHUSETTS—A TEST OF THE PROHIBITION LAW—A COMPARISON INVITED BY EX-GOVERNOR GARVIN OF RHODE ISLAND—BY THE HON. CHARLES E. LITTLEFIELD, MEMBER OF CONGRESS FROM MAINE.

"An article in The Christian Endeavor World of Boston, by ex-Governor Garvin of Rhode Island, was a discussion of 'Questionable reforms.' In the course of the article Governor

Garvin made unfavorable remarks regarding the State prohibition law of Maine, contrasting Massachusetts with the Pine Tree State, to the disadvantage of the latter. The editor of The Christian Endeavor World asked Congressman Littlefield to present the matter from his standpoint, and the following paper was the result. It shows in a clear and unmistakable way the exact effect of prohibition in Maine, so far as statistics can show it.

"I am obliged to the editor for calling my attention to Mr. Garvin's reference to prohibition in Maine and the three reasons which he gives why 'prohibition is seen to be a superficial reform.'"

"The first is purely political, and is peculiarly a matter of personal opinion as distinguished from one of concrete fact, and has greater or less weight, as political obligations or fealty rests more or less lightly upon the individual whose action is to be determined by the considerations involved. It is therefore speculative rather than demonstrative in its character.

"The second is one of fact, so far as the facts are demonstrable by attainable data. The assertion that men get drunk as often in Maine as in Massachusetts, and that 'if the prosperity of a community is rightly measured by its increase of wealth and population, then Maine ranks as one of the least prosperous of all the States,' while somewhat guarded and circumscribed in its scope, is still a fair illustration of the hasty and ill-considered generalizations frequently met with in the discussion of this subject by the uninformed. I think Maine can successfully stand the test laid down.

"Inasmuch as Massachusetts has been referred to by way of comparison, and as she is popularly understood to be at least a fair representative of development in the line of moral, social, and material welfare, thus giving an exacting standard, I will confine myself to that State for comparisons. All of the statistics to which I shall refer, unless otherwise specified, are from the United States census, where they can be easily verified. They have the advantage of being disinterested, and of all being taken on the same basis. The United States during the last decade increased in population 20.7 per cent, Massachusetts 25.3 per cent, and Maine 5 per cent. The percentage of increase in Massachusetts was a little less than in the preceding decade, Maine's about three times as much, 5 per cent against 1.9 per cent. It is a very pregnant fact in this connection that, while Maine's population in 1900 was only 694,466, there were then living in other States 216,551 persons who were born in Maine. It is true that Massachusetts made great progress, but Maine furnished for her 98,000 and received in return only 15,000, giving from her small population more than six times as many as she received. In any fair analysis Maine's vital contribution of some of her most valuable material to her sister States must be considered, and when given its due weight it will clearly appear that she is by no means 'one of the least prosperous of all the States' from the standpoint of population.

"Whether or not a community has prospered during a given period, from the material point of view suggested by Mr. Garvin, clearly depends upon the accumulation of wealth per capita, and its increase or decrease, and there Maine easily outstrips Massachusetts, as her per capita wealth in 1850 was \$210, while in 1900 it was \$982, an increase of four and one-half times. Massachusetts had per capita in 1850 \$577, and in 1900 \$1,553, an increase of only two and four-fifths times.

"This is the period covered by the Maine law. Moreover, from 1880 to 1902 Maine has decreased her indebtedness per capita \$10, and Massachusetts has increased hers by the same amount. The town of Raymond, Me., is relatively typical of the State's material development. Prior to 1851, with 1,192 souls, with a valuation of about \$150,000, per capita \$126, it is estimated from actual sales taken from old account books that the value of liquor consumed in every period of eighteen years was more than the entire valuation of the town. To-day no liquor tax is paid in the town; and, while the population has decreased to 823, the valuation has increased to \$218,072, or \$265 per capita, doubling in per capita wealth. The population of Massachusetts in 1900 was 2,805,346, in round numbers four times that of Maine, and in the analysis to follow, in order to stand on a level with Maine, that proportion should be maintained.

"This marked relative increase of wealth in excess of Massachusetts is emphasized when attention is called to the fact that this increase was made under relatively decidedly adverse conditions. It is a well-known fact that farming in New England, and especially in Maine, where the disadvantages are probably the greatest, is not an occupation marked by rapid money making, however much there may be to commend it from other points of view. In Maine in 1900 there were 59,299 farms,

with an acreage of 6,279,946, and a valuation, with land improvements and buildings, of \$96,502,150, with an annual product of \$37,113,460, or an average of \$626 a farm; while in Massachusetts there were only 37,715 farms, with an acreage of 3,147,064, a like valuation of \$158,019,290, and an annual product of \$42,298,274, or an average of \$1,121 a farm. While unattractive for large profits, farming would seem to be twice as profitable in Massachusetts. If Massachusetts had a proportionate number of farms, instead of 37,715, there would be about 246,000.

"Maine has males 10 years of age and over engaged in farming 73,911, more than 10 per cent of her population, and Massachusetts only 64,662, a little more than 2 per cent of her population, leaving a much larger percentage free in Massachusetts for other and more gainful occupations. Massachusetts not only has fewer persons engaged in the less profitable occupation, but those that are engaged therein are making a greater profit, giving her a decided advantage.

"Manufacturing enterprises are generally accepted as the desirable avenues through which wealth can be accumulated, and here the advantage is decidedly with Massachusetts, as she had in 1900 an investment of capital in manufacturing of \$823,264,287, with wage-earners numbering 497,448, and an annual product of \$228,240,442, as against in Maine a capital of \$122,918,826, wage-earners numbering 74,816, and a product of \$28,527,849, Massachusetts exceeding Maine nearly eight times instead of four, as she would if the proportion were equal, again a decided advantage in the line of the acquisition of wealth.

"These facts speak in no uncertain tones in favor of Maine people and her policy.

"It is no discredit to Maine, however, to note the fact that from 1880 to 1900 she has increased by \$124 the average amount paid her wage-earners, while Massachusetts has made an increase of only \$87.

"The home is the basic and essential unit of our Christian civilization, and the capacity to establish, maintain, and own homes is the most significant characteristic of the highest development of a people. The average percentage of families having free and unencumbered homes in the North Atlantic Division, consisting of the New England States and New York, New Jersey, and Pennsylvania, is 22.3 per cent. Maine has 49 per cent, Massachusetts only 18 per cent. Maine is exceeded in this particular in all of the States and Territories only by Idaho, with 61.8 per cent; Montana, 49.5; Nevada, 60.4; New Mexico, 66.9; North Dakota, 56.7; Oklahoma, 63.5; Utah, 59.6, and Alaska, 80.5. Of farm families in Maine 69.2 per cent own their farms unencumbered. In Massachusetts only 53.8 per cent so hold them.

"The liquor traffic is the most prolific and potential source of insanity, pauperism, and crime. These, to quote Mr. Garvin, are 'the evils of drunkenness' that 'are so common and so potent and make the loss to society seem so vast.' Their connection with the subject under discussion is close enough to warrant examination and analysis in this connection.

"In 1903 Maine had 885 insane in its hospitals, 125.3 for every 100,000 people. Massachusetts had 8,679, or 288.5 for every 100,000, more than twice as many as Maine, notwithstanding the fact that the death record in Massachusetts for insane in hospitals was 1,025, with only 96 in Maine, nearly eleven times as many when there should only have been four times as many. Maine shows a decrease of the number of insane, with her relatively small death rate of insane, since 1880 of 112.3 in every 100,000 people, while Massachusetts shows an increase of 1 in every 100,000.

"In the Maine almshouses there were, December 31, 1903, 1,152 paupers, or 163.1 for every 100,000 people, and in Massachusetts 5,934, or 197.3 for every 100,000; and here again the death rate in Massachusetts was 1,398, and only 181 in Maine. Maine shows from 1890 to 1903 a decrease in paupers of 9, and Massachusetts an increase during the same time of 1,209.

"Maine's death rate from alcoholism in 1900 for every 100,000 people was 2.2; that of Massachusetts was 6.8, three times as great. Maine's rate is lower than that of any other State in the Union except New Hampshire's, which is the same. There were of prisoners in Maine, June 1, 1890, 512, or 774 for every 100,000; in Massachusetts, 5,227, or 2,335 for every 100,000; three times as many as in Maine. Among the offenses were: Against the public peace, Maine, 3; Massachusetts, 47. Against the public morals, Maine, 163; Massachusetts, 1,712. Assaults, Maine, 36; Massachusetts, 345. Drunk and disorderly, Maine, 146; Massachusetts, 1,811.

"June 30, 1904, there were of prisoners for drunkenness in Maine 120 and in Massachusetts 2,110, a proportion of more than ten to one, when if parallel it should be four to one. This is a record with which Maine has no occasion to be discouraged.

"These are splendid and unparalleled results, and demonstrate an actual progress in Maine markedly in excess of Massachusetts and elsewhere. Whether these results are attributed to the unusual intelligence and the natural energy, enterprise, thrift, and capacity with which the people of Maine are fortunately endowed to a degree not found elsewhere, or whether they are to be accounted for by the fact that, because of the policy of prohibiting the liquor traffic, they are able more effectively to conserve and utilize their energies, or both, I leave to be answered by the critics.

"The facts exist. If the critics propose to eliminate the prohibition of the liquor traffic as an important and controlling factor, the burden is upon them to do so. What is the differentiating cause? While the suggestion is not intended to apply to Mr. Garvin, it ought perhaps to be said that an opinion upon a question like this is not entitled to any great weight when it is based simply upon a flying trip through the State, stopping at a few of its hotels, or upon whiling away an elegant leisure on the comfortable veranda of some luxurious summer cottage, reasoning from superficial and sometimes imaginary premises, nonchalantly ignoring all careful investigation of the essential facts involved.

"It is not difficult under such circumstances to reach conclusions you are looking for, and in this manner many of the adverse judgments that have been rendered upon the law have been reached by worthy people.

"All of these facts are not only consistent, but they are entirely in harmony with, and are important factors in furnishing a most adequate and ample foundation for, an article in the Century Magazine for November, 1904, on 'The Brain of the Nation,' in which Mr. Gustave Michaud says: 'A steady fall in the birth rate of men of talent is met with in going from New England westward. While in New England out of every 100,000 births 54 are those of men of talent, in New York that number falls to 34, in Ohio to 19, in Indiana to 11, in Illinois to 10, in Missouri to 6, in Kansas to 2, and in Colorado to 1.'

"In further elaborating his proposition it is significant, as indicating the potential portion of New England, that he uses the State of Maine for his most effective illustrations. He says: 'The State of Ohio is comparable in area to the State of Maine. In 1826 there were in Ohio 5 universities and colleges (Ohio University, Miami University, Franklin College, Kenyon College, and Western Reserve University) against two in Maine (Bowdoin College and Colby University). Twenty years later there were in Ohio eight times the number of colleges and universities then found in Maine; yet the present birth rate of celebrities is more than twice as great in Maine as in Ohio. Nor has the State of Indiana remained behind in educational matters. In 1840 the generation that is now eighty years old founded in Indiana six universities and colleges against two in Maine, one in New Hampshire, and two in Vermont. In spite of such advantages that generation and the following show but one-fifth of the birth rate of men of talent observed in northern New England.' Maine's fifty-six years of experience under the prohibitory law does not appear to have begun to produce any very marked result in the line of the deterioration of the character and quality of her people.

"In this connection it is interesting to note that the record of Maine and Massachusetts in the production of teachers for every 100,000 persons from five to twenty-four years of age is as follows:

	1870.	1880.	1890.	1900.
Maine.....	161	221	253	259
Massachusetts.....	126	148	164	188
Excess.....	35	73	89	71

"In the consideration of any analysis like the foregoing it is always to be remembered that there is nothing in the policy or law of Maine that differentiates her from her sister States except the prohibitory law.

"No reason is perceived why the people of Maine should not feel well satisfied with the result of this comparison and analysis, as, instead of showing that she is 'one of the least prosperous of all the States,' it demonstrates that she is easily one of the most prosperous.

"The third reason given by Mr. Garvin seems to proceed upon the hypothesis that while the 'sobriety of the head of a family' is undoubtedly a blessing to himself and its members, 'its immediate effect would be to injure the men and families already sober and industrious,' and is therefore to be deprecated. He clearly demonstrates to his own satisfaction, at least, that, 'should the inebriates become sober and industrious, they would

enter the labor market in competition with those already at work, wages would fall, and the family of the sober laborer would get the minimum wage, which now goes to the family afflicted with an intemperate and idle head; therefore men should remain inebriates, and anything that tends to change them from inebriates is 'superficial.'

"It is no doubt true that 'political economy teaches that wages tend to a minimum;' but, if Mr. Garvin means to be understood that by reason of that general axiom political economy teaches that inebriates should remain inebriates, as otherwise, if they became sober, their competition would reduce the sober to the inebriates 'minimum wage,' then I feel obliged vigorously to dissent from such a conclusion, as I know of no political economy that teaches the essentially false and brutal proposition that, in order for a man to contribute to the welfare of the community in which he lives, he must make of himself a repulsive and expensive burden upon it. All sound political economy that is worthy of the name teaches the best methods of promoting the general welfare, and is based upon the fundamental axiom that each individual is bound to make the most of himself, and to develop the maximum of his capacity as a producer. Producers and not consumers are the great factors in conserving the public weal. A theory that makes of a man a consumer, and deliberately deprives him of the capacity to produce, is contrary to all teachings of political economy.

"It is true that, where an inebriate becomes sober, he has some tendency to revive a competition hitherto dormant, and that a condition that has some tendency to reduce wages is a factor in the whole equation of the general welfare; but it is only one, and a minor one at that. To predicate a general conclusion upon such a minor factor is to reach a conclusion that instinctively repels every right-thinking person, and could not be the result of the operations of a well-ordered mind acting upon sound premises.

"If the argument that, if inebriates are made sober, sober men will have more unjustifiable competition, and be compelled to work for less wages, be meritorious, then inebriates should remain inebriates. More than that, in order that the welfare of the sober man should be more effectively promoted, more sober men should be made inebriates, thus relieving the remaining sober of a part of the competition they now have, and enabling them to increase their wages. Then, while it may be, as seems to be admitted, that a young man may be 'wise in being a total abstainer,' he could hardly be said on this refined theory to be inspired by any laudable desire to promote the welfare of his 'sober' fellows, as by that course he engages in competition with them. If this theory is sound altruistically, everybody but the favored few should be an inebriate, thus conserving the welfare of the sober at the expense of the drunken.

"Instead of this imaginary deleterious competition resulting in a change from inebriety to sobriety (caused or tending to be caused, it is assumed, by prohibition) being a reason why prohibition is a 'superficial reform,' it furnishes one of the most persuasive and potential reasons why prohibition, as effectively minimizing the evils flowing from the traffic in intoxicating liquors, is well worthy the support of all who are desirous of promoting the general welfare, as such a change is clearly from every point of view wise and desirable.

"When inebriety is preferable to sobriety then there will be something in the third reason. A mere statement of this reason shows that the reason, and not the proposition which it is sought to sustain by it, is 'superficial.'

"ROCKLAND, ME."

The following is a very brief synopsis of an address by Maj. J. B. Merwin, of St. Louis, Mo., who was an intimate friend of Abraham Lincoln:

"It should be stated distinctly, squarely, and fairly, and repeated often, that Mr. Lincoln was a practical total-abstinence man—wrote for it, worked for it, taught it both by precept and by example; and when from a long and varied experience he found that the greed and selfishness of the liquor dealers and the saloon keepers overleaped and disregarded all barriers and every other restraint taught by the lessons of experience, that nothing short of the entire prohibition of the traffic and the saloon would settle the question, he became an earnest, unflinching prohibitionist.

"It has been said by those most competent to judge that Mr. Lincoln surpassed all orators in eloquence, all diplomats in wisdom, all statesmen in foresight; and this makes him and his name a power not to be resisted as a political prohibitionist.

"The gist of Mr. Lincoln's argument was contained in this fearless declaration: 'This legalized liquor traffic, as carried on in the saloons and grogshops, is the tragedy of civilization. Good citizenship demands and requires that what is right should not only be made known, but be made prevalent; that

what is evil should not only be detected and defeated, but destroyed. The saloon has proved itself to be the greatest foe, the most blighting curse, of our modern civilization, and this is the reason why I am a practical prohibitionist.

"We must not be satisfied until the public sentiment of this State and the individual conscience shall be instructed to look upon the saloon keeper and the liquor seller, with all the license earth can give him, as simply and only a privileged malefactor—a criminal."

"Mr. Lincoln used, in advocating the entire prohibition of the liquor traffic, nearly the same language, and in many instances the same illustrations, that he used later on in his arguments against slavery. At another place he said: 'The real issue in this controversy, the one pressing upon every mind that gives the subject careful consideration, is that legalizing the manufacture, sale, and use of intoxicating liquors as a beverage is wrong—as all history and every development of the traffic prove it to be—a moral, social, and political wrong.'

"Mr. Merwin stated that on the morning of April 14, 1865—the morning before Mr. Lincoln's assassination—he talked with the 'Martyred President' regarding the situation in the country. Among other things Mr. Lincoln said:

"After reconstruction, the next great question will be the overthrow of the liquor traffic."

"A speech on the anniversary of Washington's birthday on February 22, 1842, before the Washingtonian Temperance Society, of Springfield, Ill., was delivered by Abraham Lincoln, extracts of which follow and which was printed on the first page of the Sangamon Weekly Journal in the issue of March 26, 1842: 'Of our political revolution of 1776 we are all justly proud. It has given us a degree of political freedom far exceeding any other nation of the earth. Turn now to the temperance revolution. In it we shall find a stronger bondage broken, a viler slavery manumitted, a greater tyranny deposed; in it, more of want supplied, more disease healed, more sorrow assuaged. By it, no orphans starving, no widows weeping; by it, none wounded in feeling, none injured in interest. Even the dram maker and dramseller will have glided into other occupations so gradually as never to have felt the change, and will stand ready to join all others in the universal song of gladness. And what a noble ally this to the cause of political freedom! With such an aid, its march can not fail to be on and on, till every son of earth shall drink in rich fruition the sorrow-quenching drafts of perfect liberty. Happy day when, all appetites controlled, all passions subdued, all matter subjugated, mind—all-conquering mind—shall live and move, the monarch of the world! Glorious consummation! Hail fall of fury! Reign of reason, all hail!

"And when the victory shall be complete—when there shall be neither a slave nor a drunkard on the earth—how proud the title of that land which may truly claim to be the birthplace and the cradle of both those revolutions that shall have ended in that victory! How nobly distinguished that people who shall have planted and nurtured to maturity both the political and moral freedom of their species!"

Eulogies on the Late Senators Morgan and Pettus.

SPEECH

OF

HON. J. THOMAS HEFLIN,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 25, 1908.

The House having under consideration the following resolutions: "Resolved, That the House now proceed to pay tribute to the memory of Hon. JOHN T. MORGAN and Hon. EDMUND W. PETTUS, late Senators from the State of Alabama.

"Resolved, That, as a special mark of respect to the memory of the deceased Senators and in recognition of their distinguished public services, the House at the conclusion of the exercises to-day shall stand in recess until 11 o'clock and 30 minutes a. m., on Monday next.

"Resolved, That the Clerk communicate these resolutions to the Senate.

"Resolved, That the Clerk send a copy of these resolutions to the families of the deceased Senators."

Mr. HEFLIN said:

Mr. SPEAKER: In listening to the addresses touching the lives and character of Senators MORGAN and PETTUS, my thoughts went back to the South and her momentous problems of the sixties—aye, further still, to the early history-making days of the Republic.

That section of our common country that produced MORGAN and PETTUS has given to the nation some of its most illustrious

sons—men whose names are radiant on the brightest page of American history.

Mr. Speaker, two Republican Members at this session of Congress have indulged in uncomplimentary references to the South and her part in the war between the States. Had they been living, neither Senator MORGAN or Senator PETTUS would have permitted these unkind and unwarranted allusions to go unchallenged.

As an ardent believer in the South's right to secede and as a Representative of the State that these two Confederate soldiers loved and served so well, I decline to be silent on the subject. Let us dispassionately and in the interest of truth inquire briefly, What has been the South's contribution to civil liberty and constitutional government? Go ask the historian, and he will tell you that the first expression of legislative liberty came from Virginia, when she elected an assembly and established trial by jury; and when Great Britain levied taxes against the colonies without their consent that it was the Virginia assembly that declared that none but the representatives of the colonies could lawfully tax them. Our fathers declined to pay the taxes, and the British Parliament ordered them carried to England to be tried for treason. Again the South responded, and Patrick Henry denounced that high-handed exercise of arbitrary power.

It was this bold and righteous conduct on the part of a Southerner that led to a political union of the colonies and hastened a declaration of colonial rights.

The exigencies of the times demanded legislation of a general character, and a Continental Congress was called. Again the South responded, and Peyton Randolph, of Virginia, was chosen president of that congress, and it was his splendid genius and constructive statesmanship that guided the deliberations of that patriotic body of men. When recounting the wrongs inflicted upon his countrymen, it was Richard Henry Lee, a Southerner, who introduced a resolution declaring the independence of the colonies. The passage of that resolution involved a stupendous task. Again the South responded, and Thomas Jefferson, the "father of Democracy," wrote that immortal document—the Declaration of Independence. The die was cast, and in the dim distance could be heard the muttering thunder of British guns. Who now, in all the colonies, should lead in the clash of arms? In a moment the answer comes, and George Washington, a Southerner, is commander in chief of the continental forces.

Mr. Speaker, I wish, in passing, to correct a bit of history as written by Mr. Bancroft. The first tea party was held not at Boston Harbor, but at Wilmington, N. C. The first blow for American liberty was struck not at Concord, Mass., but at the battle of Alamance, in North Carolina, and there "the embattled farmers stood and fired the shot heard round the world." It was on Southern soil, at Yorktown, Va., that Lord Cornwallis surrendered to Washington. There the British lion crouched at the feet of the American eagle, and from that historic spot truth spoke with the thunder's voice and liberty walked with unfettered step. When the roar of musketry and the thunders of artillery had died away and peace was declared a Constitutional Convention was called. Who now should preside over the deliberations of that brave and patriotic body of men? Again the South responded, and George Washington was chosen President of the Convention.

Mr. Speaker, who was to perform the most signal and conspicuous service in that Convention? Again the South responded, and James Madison, of Virginia, wrote the Constitution of the United States. When the infant Republic had been christened in the name of the people and was making ready to take her place in the family of nations, into whose hands was she committed for safe and conservative guidance? Into the hands of him lovingly acclaimed "Father of his Country," and George Washington, a Southerner, was the first President of the United States. For more than half a century from that time John Marshall, of Virginia, and Roger B. Taney, of Maryland, as Chief Justices of the Supreme Court, construed the law. Southern men were the leaders in the House and in the Senate of the National Congress; Southern men, under Jackson, who triumphed in the war of 1812, and Southern men who followed the blades of Winfield Scott and Jefferson Davis into the heritage of the Montezumas. I would show to the gentleman from New York [Mr. SHERMAN] and the gentleman from Pennsylvania [Mr. DALZELL], and I would show to the world that in the light of these patriotic truths Southern men could never have fought as they did at Gettysburg and perished as they did at Crampton's Gap unless they had fought for the love of principle.

Mr. Speaker, both of our dear dead Senators MORGAN and PETTUS were Confederate soldiers, and no man ever donned a uniform or drew a battle blade who could point with more pride and devotion to his flag than did these two knightly Southern-

ers to the starry cross of the Confederacy. It represented to them the dearest rights and privileges that the fathers had planted in the Constitution of our common country.

The idea of States rights was the dominating idea in the Constitutional Convention. It was the golden thread running through the magnificent fabric of that marvelous instrument—the Federal Constitution. When the question of citizenship came up for consideration—when the power touching the qualification of voters was up for discussion—some of the delegates contended that there should be one standard of qualification and that that standard should be fixed by the General Government. This idea was overwhelmingly defeated, under the splendid leadership of Benjamin Franklin, who took the position that the State and the State alone should say who shall or shall not exercise the elective franchise. When the work of the Convention had been completed and the Constitution submitted to the various States for ratification, it was conceded everywhere, and public speakers on the hustings proclaimed it from the stump, that the State could withdraw from the Union whenever its people decided to do so. The doctrine of the Constitution, the doctrine of State sovereignty, was handed down from sire to son, and especially was this true of the South. "Light Horse Harry" Lee, the father of Robert E. Lee, and a devoted follower of Washington, wrote Mr. Madison in 1792, saying:

For no consideration on earth would I do anything that could be construed into a disregard of or faithlessness to this Commonwealth.

Again, in 1788, he declared:

Virginia is my country; her will I obey, however lamentable the fate to which it may subject me.

Rawles's view of the Constitution was the accepted textbook at the academy when Robert E. Lee was a cadet at West Point, and it expressly taught that "The secession of a State depends upon the will of the people of such State."

Charles Francis Adams, of Massachusetts, said recently that: "Prior to the war between the States the opinion was universal that in case of an unavoidable conflict between the State and Federal Government sovereignty resided with the State and to it allegiance was due."

When the South saw her people denied communion in the churches because of what the North styled the leprosy of slavery; when she saw her people denied a share of the territory acquired by her diplomacy, blood, and treasure; when she saw the common Constitution of all the States violated, acting in her sovereign capacity and exercising a constitutional right, she sought a quiet and peaceable separation from the General Government. This course the North opposed, and the war followed.

But, Mr. Speaker, never until Lee surrendered at Appomattox and the Lord God laid on the shoulder of every soldier in gray the sword of his imperishable knighthood was the right to secede withdrawn from the State.

Senators MORGAN and PETTUS accepted the verdict of the sword, and they returned to Alabama to start life over again on the ruins that the war had wrought. They were in the midst of a new order of things. The slaves bought of our white brethren in the North were without authority set free. The labor system upon which our people had so long depended had been destroyed, and the ballot, that which represented privileges and powers for which the quick-witted Celt and the thoughtful Saxon had struggled a thousand years to achieve, was given in the twinkling of an eye to the unfit hordes of an inferior race.

Senators MORGAN and PETTUS passed through bitter and trying experiences—experiences, Mr. Speaker, that made the heart sick. They saw the slave of yesterday go up and occupy the seat of civic authority; defile the temple of the Anglo-Saxon; make and administer the law, and this was reconstruction mantled in a saturnalia of crime that shocked and astounded the civilized world.

No two men in Alabama, or in the South, did more to stay the hideous tide of negro domination than the two dearly beloved Senators whose death the House mourns to-day.

In the dark and trying days of reconstruction these two men were foremost among the defenders of Anglo-Saxon civilization. They realized that submission to the reign of the carpetbagger meant the overthrow—the destruction of all that was sacred to the white man in the South—and knowing this they dared to do things from which the timid would shrink and the coward would flee.

When the ruthless hand of political injustice grappled at the vitals of our social order, Senators MORGAN and PETTUS went about among the people pleading with them to stand firm and fear not—that it were better to die defending the institutions of the white man than to live to see that imperial race submerged in the degradation that negro domination would bring.

Mr. Speaker, in conclusion let me say, the wealth of a State or a nation consists not in fertile soil, mineral land, or hoarded

gold, but it consists in the manhood of her men and the womanhood of her women.

Senators MORGAN and PETTUS were able, courageous, manly men. They were men of high purpose and strong convictions. No power on earth could intimidate or terrorize either of them. As private citizens, as Confederate soldiers, and as public servants they were faithful and fearless in the discharge of every duty as God gave them the power to see it. Neither of them was blessed with material wealth, but both of them were rich in all that is best and bravest in man. Alabama delighted to honor these grand old men, and in honoring them she honored herself, and felt at all times that when they responded to her name in the Senate of the United States that her highest and best interests were in the hands of able and incorruptible men—men of heroic mold.

Rich indeed in priceless jewels is the country that can boast them her sons. Fortunate indeed are we that we can claim them as countrymen and feel the quickening inspiration of the example to high-minded, noble endeavor. [Applause.]

On Bill to Amend the Immigration Law.

SPEECH

OF

HON. HENRY M. GOLDFOGLE,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Monday, March 2, 1908.

The House having under consideration the bill (H. R. 13079) to amend section 21 of the immigration law—

Mr. GOLDFOGLE said:

Mr. SPEAKER: The bill before us is so drastic in its terms, so unqualified in its provisions, so sweeping in its effects, and so promotive of many hardships when we come to analyze it carefully, that I can not give it my approval.

I indulged in the hope that my esteemed colleague from New York [Mr. BENNET] would accept the amendment offered. That amendment safeguards to some extent an alien against deportation, where really the offense charged would be an ordinary one as distinguished from a grievous or heinous crime, and where the interests of the public do not at all require deportation. The amendment provides that the Secretary of the Department of Commerce and Labor may, if he deems that the interest of the public will not be injured thereby, allow the convicted alien to remain in the United States. If the measure now proposed by my colleague from New York [Mr. BENNET] is to pass, such an amendment as I suggested should be added to the bill. The passage of the bill is asked under a motion to suspend the rules. Such motion, under the ruling of the Chair, the correctness of which I concede, prevents consideration of my amendment, and the gentleman from New York [Mr. BENNET] has stated his refusal to accept the amendment.

Under the rules of the House we must accept the bill just as it is, or vote it down.

Many Members of this House, who are distinguished constitutional lawyers, have seriously doubted the bill in its present form to be constitutional. Indeed, the gentleman from Illinois [Mr. MANN], an eminent lawyer, the other gentleman from Illinois [Mr. SABATH], another able lawyer, who is one of the Committee on Immigration, and the distinguished gentleman from Kentucky [Mr. SHERLEY], another authority on constitutional law, have all seriously expressed their doubt of the constitutionality of the measure before us. Some of them have insisted that in its present form it is unconstitutional. That question, however, has been sufficiently discussed on this floor and will not be further considered by me.

I shall endeavor to point out some of the many reasons why this bill ought not to pass. No well-disposed citizen desires that any alien criminal shall be admitted to our shores. We all agree that the criminal classes must be kept out; we have no place in this wide land to harbor criminals from abroad. The immigration law sufficiently provides for their exclusion. It invests full authority in the immigration officers to deport any immigrant who, in his country, was convicted of crime. If the law be properly enforced, as I believe it is, criminals coming from foreign countries can not be admitted, and if, somehow, they do come in, they can be deported under the present immigration law.

But this bill, which we are now considering, deals entirely with another and different class of alien offenders. It presents altogether a new feature in our immigration system. On its face the bill appears very simple. It looks so simple on its face that it seems to some, who have not carefully considered

it and not carefully analyzed it, to be a popular measure. Let us, however, carefully consider it as lawyers. Let us carefully consider it as legislators. Let us calmly consider its effect in the different States and as it would operate upon aliens in the different States of the Union. Then we will be better able to judge whether it is a wise or prudent or even a carefully drawn measure.

Before proceeding further, I want to say I favor the prompt punishment of violators of the law. I yield to no man in the earnest desire to see our criminal laws promptly, surely, swiftly, and impartially enforced. I want them enforced upon the great as well as the humble; upon the rich as well as the poor; upon the citizen as well as the alien. If any of these violate the criminal laws, they deserve the punishment which the law provides. When, however, the sentence of the court has been served and the penalty for the crime been paid and the offender has expiated his crime, that should as a general rule be the end of the matter. That has been the policy of the law and the spirit of our American institutions. The spirit of our American institutions, the policy of our Government, has been always against the punishment of transporting the offender beyond the seas. Up to this time we have stood firmly against the policy of exile.

This bill does not point out for what particular or specific crimes the alien criminal is to be deported. It applies to all felonies. It makes no exception. If the bill pointed out any particular class of crimes, so we could tell whether the crimes were grave or grievous, threatening the welfare of the State or menacing the well-being of the land or the life of man or nation, we would better be able to legislate upon the measure. The laws in the different States are not uniform as to what constitutes felony. They differ widely. In some States the stealing of a sheep, though it be worth but a dollar, is made a felony. In some States gambling is a felony. In some States larceny, large and small alike, is a felony, though the punishment varies according to the degree of crime. In some States breaking open of poultry crates and stealing poultry therefrom is a felony. So I could go on and multiply instances showing some so-called ordinary crimes felonies, while the same kind of offenses in other States are not felonies at all.

If Congress is to enter upon a policy of making laws to exile men and women and transport them beyond the sea; if we are to impose one kind of penalty on citizens who commit crime and another kind of penalty on aliens who commit the same kind of crime, surely we must discriminate between crimes exceedingly grave, heinous, and dangerous, and those usually regarded among men as ordinary or minor offenses, even though some States call them felonies.

Suppose, driven by want and poverty in a State where larceny of every kind is a felony, a man should, to satisfy his hunger or the hunger of wife or child, happen to steal an article of comparatively small value, would anyone here be willing to deport such a criminal after he served his sentence? Would any humane man wish to tear him away from wife and family, perhaps forever? Suppose, again, that in a State where gambling is a felony the offender served his sentence for gambling, would anyone here be willing to exile him because he happened to be an alien? Would you be willing, too, to part him from wife and family forever? Suppose, in a State where sheep stealing is a felony, the offender stole a sheep of small value, would anyone here be willing to add to his punishment, exile him from the country, even if constitutional power existed to exile him? Suppose, too, that one guilty of these minor and ordinary crimes, committed by him through want, through poverty or folly, but who had lived a good and blameless life for three, four, or five years before, and yielded to temptation in a weak moment, would you be willing to deport him after he had served his sentence or paid his fines? And yet this is the very thing that would be done under the bill if it be enacted into law. To such an unusual, unprecedented, harsh, and cruel measure I will not lend my approval. [Applause.]

The bill does not recognize the differences between the laws of the different States on the subject of felonies. In our State, perhaps, only grievous and aggravated and very serious crimes are felonies. In other States, again, laws have been passed that make a variety of offenses felonies, but for which there exists no reason in justice or fairness to deport the offender after he served his sentence, especially if before he committed the offense he was regarded by the community, or by his neighbors, as a man of good character. Such cases, we know, are many. They often happen.

The bill leaves no discretion in any officer of the Government. Regardless of what the felony, whether, as I pointed out, it be for aggravated crime or for a comparatively ordinary offense, deportation would necessarily follow. No power on earth could keep the offender in the country. The bill leaves no alternative,

though he have wife and family; not though he repented of his crime and desired again to become a useful citizen of the land.

Suppose, too, that the sentence be only a fine, or a very short time of imprisonment, would you be willing to deport the offender even though he, before he committed the offense, lived uprightly and had borne a good character, and though he have an American-born wife or children born here, who, under the Constitution, are citizens of the United States?

Hundreds of just such questions and similar ones arise under this imperfect bill.

Though there is no uniformity among the States on the classification of crimes, nor as to the particular things that may or may not be felonies, yet, under this law, the Federal Government would be compelled to deport every one convicted of felony regardless of whether the crime is classed as a minor offense in some of the other States or not.

Some of those distinguished and able Members of this House have suggested during this debate that serious international complications may arise from such a law as this. The alien may have declared his intention of becoming a citizen of the United States before he committed any crime whatever. He may have been a well-behaved man up to that time. He may have renounced his allegiance to his native land. He may have married and had children born here. To where would such an alien be sent? Would his native country be willing to receive him back? Is there anyone who can answer that question? How would you enforce, in such a case, deportation? These complicated questions surely would arise upon this measure as has already been suggested by distinguished Members of this House.

Take the case of an alien coming from Russia, Roumania, or other country, where he had been subjected to cruel and inhuman treatment, from the horrors of which he may have fled. Suppose that very man lived a good life here a number of years up to the time that he committed some one single infraction of the law, not of a dangerous or aggravated kind, should he be sent back to the land of persecution, tyranny, bigotry, and intolerance? In the name of justice, mercy, and humanity I answer, No. Would you send him back to such a country, compelling him either to take with him wife and family, taking the doubtful chance of their not being received in that country, or else leave wife and child behind to become a burden upon us and endure the hardships of poverty, and undergo, perhaps, untold miseries. Such a condition is opposed to the enlightened civilization of the age. It will not stand the test of fair, calm reasoning. It certainly is not deliberate legislation.

Then again, Russia, Roumania, or these other countries might not be willing to receive back one of their subjects after he had come lawfully into this country, resided here for years, established his home and family here, and kept here by our own authorities, under sentence of our law. It is extremely doubtful whether foreign countries would receive him back. Treaty regulations to that end would be required.

If the alien married in this country one of our own women, or if the alien was a woman and married a citizen of our country, or, being married, children were born to the alien, would you separate forever husband from wife, or wife from husband; would you tear children from parents, would you separate them forever, sending the alien parent into exile and establish a policy of exile hitherto unknown to our American Government?

And would you, after the offender served his sentence for an ordinary, single, solitary offense, cast him into exile, separate him from his nearest and dearest, although the offense was one not manifesting such a depraved state of mind as would make his stay here a danger to the country or a menace to our people.

Severe measures may be required to deter the commission of dangerous crimes that threaten the welfare of the community and are a grievous menace to the life of our individuals or to the nation. That proposition, however, is not before us. This bill makes no distinction between felonies. It does not even give the President power to prevent deportation. Under it convicted aliens in one State must be deported, while aliens, convicted of the same crime in another State where the crime is not classed as felony, can remain in the country. Such a discrimination is not only unfair, but makes the law absurd.

The intention of those who seek this measure is good. I do not question that intention. In its present shape the bill would give rise to cases of severe cruelty, hardship, and injustice, the very things that some of the advocates of the measure would, no doubt, desire to avoid. It is opposed to the principle of justice, of fairness, of humanity. These are elements that essentially enter into the grand structure of the American Republic, and closely interwoven into our system of American laws that make for strength of country and love for our American institutions.

Virginia Tobacco Experiments.

SPEECH

OF

HON. HENRY D. FLOOD,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. FLOOD said:

Mr. SPEAKER: Four years ago I succeeded in getting the Agricultural Department to establish an experiment station at Appomattox, Va., looking toward the improvement in tobacco and to the making of its production more profitable. The Agricultural Department has done all in its power to make this station as beneficial as possible to the farmers of the dark-tobacco belt of Virginia. This station was put in charge of Mr. E. H. Mathewson, an intelligent, energetic, and finely educated gentleman. He applied his energy, learning, and intelligence to the work of developing a system of raising tobacco and of crop rotation which has been a great benefit to the farmers in that county and section.

Subsequently the State of Virginia became interested in this work and supplemented the amount furnished by the National Government, with a view to having an experiment station in the bright-tobacco belt and in what is known as the sun-cured district. The station for the bright-tobacco section is located at Chatham, Va., and that for the sun-cured district will be located in Louisa County, Va.

The general assembly of Virginia made an annual appropriation of \$5,000 at its last session to aid in carrying on this work, and nothing that the Department of Agriculture has done seems destined to result in larger profit to the agricultural classes than does the demonstration work done in tobacco.

For the benefit of those who have not had the opportunity to see this demonstration work I desire to incorporate in my remarks the report made to the Department by Mr. Mathewson:

[Conducted cooperatively by United States Department of Agriculture and Virginia Experiment Station.]

RETROSPECT AND PROSPECT.

Experiments with tobacco looking toward its improvement and making its production more profitable were begun by the United States Department of Agriculture in 1904 at Appomattox—a favorable location in the heart of the "dark-fired" tobacco district of the State. Very little work of this kind has been undertaken in a systematic manner by trained investigators in any of the older tobacco regions of the United States. The ground to be covered, from an experimental viewpoint, was almost completely virgin territory. The experiments were conducted at first upon a very simple plan, and consisted in 1904 and 1905 of a series of 1-acre plat tests with fertilizers differing widely in the proportions and amount of plant food which they contained. The results of these two years' tests, and also those obtained by further trials in 1906 and 1907, furnish impressive evidence that farmers would gain much by reducing the acreage, cultivating only those soils most suitable for tobacco, and using much more intensive methods of fertilization and cultivation than is the custom.

As the work has progressed it has become apparent that to accomplish the best results it would be necessary to conduct the experiments on a more comprehensive scale. Those having the direction of the work began to see plainly that the real weakness in the situation lay quite as much in the deficiencies of the general farming system as a whole as in the tobacco alone. It is also true, perhaps, that too exclusive attention in the past to the production of tobacco only, has unconsciously led to a one-sided and unscientific system of farming, the injurious results of which are now beginning to dawn upon us very clearly. The present system was handed down to us from antebellum times, when labor and other economic conditions were upon an entirely different footing from what they are now. It is also evident that these economic changes are still going on perhaps at a faster rate than ever before. To adjust his plan of farming to these changing conditions has become for every farmer a most complex, discouraging, and costly operation. Readjustments are surely impending of a most fundamental and far-reaching nature. The agricultural methods of the future will differ radically from those of the past. Diversification of crops, a greatly improved rotation system, and the introduction of an effective livestock husbandry will certainly constitute the fundamental basis for the better, more enlightened, and more profitable methods of the future. It is no doubt true that the perplexing problems involved in this change will, in time, be worked out more or less satisfactorily by the farmers themselves, unassisted by outside aid, but it will be for them a very tedious and costly process, involving a great amount of unnecessary sacrifice on the part of present and succeeding generations. Could there be a more inviting opportunity offered to State or nation to extend its benevolent aid and do its utmost to ease the burdens and promote the welfare of its citizens?

Through the liberality of its legislators the State of Virginia, in 1905, made an appropriation of \$5,000 to cover a period of two years (\$2,500 yearly) for the purpose of assisting tobacco growers. This fund was put into the hands of the Virginia Experiment Station, for use as in its judgment most good would be done. The National Department had already made a start at Appomattox, and it was considered wise by those having the matter in charge to unite the State and national forces. This was accordingly done. The State appropriation became available July 1, 1906, and expires June 30, 1908. It overlapped into three crop seasons, but covered only one full year, that of 1907. The combination of State and national resources permitted a considerable extension of the scope of the work at Appomattox, which is in the "dark fired" section of the State, and also the beginning of a new line of work in

the "bright" or "flue cured" section at Chatham, in Pittsylvania County.

At Chatham a series of plot experiments with fertilizers have been conducted in 1906 and 1907. Very suggestive and important results have already been obtained, and they indicate strongly that there is yet a great amount to learn regarding the best and most profitable use of fertilizers in the production of "bright" tobacco.

At Appomattox, as a result of the State appropriations, the work begun by the National Department has been extended so as to include experiments not only with tobacco itself, but also with other crops grown, or suggesting themselves as desirable to be grown, in rotation with tobacco. The aim should be to build up general farm practice as a whole, as more real and permanent good can be done in this way than by working strictly with tobacco alone. One important point is that the full effects of the fertilizers tested can be determined only by carrying the experiment through the full rotation of all the crops to be grown in connection with the tobacco. Another very important point is that under the better and more intensive general system of farming aimed at it seems highly probable that important changes in the character of the rotation system itself is impending and very desirable. At Appomattox, therefore, the work has been extended somewhat in this direction, and promising results with wheat and grass have already been obtained. During the past season, 1907, 29 bushels of wheat per acre was produced on one field, and as high as 5.06 tons of flue-cured hay on another, the large yields in both instances being largely due to the after effects of the more intensive system of fertilization and cultivation which the preceding crops of tobacco had received. No fertilizer was applied directly to either the wheat or grass, except a top dressing of 300 pounds of nitrate of soda to the acre, which was given the grass early in the spring. Under identical conditions of soil and season, where the fertilizing crop of tobacco had received only an application of the time-honored 3-8-3 fertilizer, the yield of wheat was but 12 bushels to the acre and the grass practically nothing. It would be hard to overestimate the importance of results of this kind, especially in the case of the grass. Good grass crops make live stock husbandry possible and profitable, and the attendant benefits to a farming region of a successful live-stock husbandry are so obvious and well understood by well-informed men as to need no repetition here. The ultimate beneficial results which seem likely to come finally from a continuance of these crop-rotation experiments, at present only barely started, it would indeed be hard to overvalue. (For a further discussion of crop rotation and a more detailed account of results with wheat and grass already obtained from the Appomattox experiments, see copy of a paper read before the Virginia State Farmers' Institute, held in August, 1907.)

There is another very attractive and promising line of work which has been only touched upon in the work thus far undertaken either at Appomattox or Chatham. The reference is to the lasting benefits and increase in profits which seem certain to result from a vigorous, systematic, and extended campaign for the introduction of better methods of seed saving and selection; the introduction of the method of separating the light from the heavy seed, and the improving of the native tobacco by systematic selective methods or by cross-breeding and hybridization. If anyone will look into the breeding results obtained in other parts of the United States with tobacco, and other crops as well, the evidence will be found most convincing that work in this line promises to be well worth while. Almost every other tobacco-growing State is working at this problem of improved seed—in many cases already with most gratifying results. No less a plant-breeding authority than Professor Hays, now Assistant Secretary of Agriculture, has asserted repeatedly that for every dollar which the States or nation expend in plant-breeding work the returns will be numbered in the hundreds. (For a more extended discussion of methods and opportunities for improvements by seed selection and breeding, see copy of a paper read before the North Carolina State Farmers' Institute, held at Raleigh in August, 1907.)

The tobacco crop is subject to the attacks of a number of annoying and destructive insect pests. Here also is offered a most promising field for experiments or investigations seeking for better methods of controlling or preventing their attack. Take, for example, that insidious and destructive enemy of newly set tobacco, the so-called "wire worm" (*Crambus* sp.). It is entirely possible, and perhaps probable, that as a result of making a close study of the life cycle and habits of the insect in its several metamorphic forms it may be discovered that the moth has decided preferences as to the character of the vegetation on which to deposit its eggs. With such accurate knowledge it might be simply a problem of crop rotation to exclude this pest from the field completely in the year when the field is to be set in tobacco. The loss to the farmers of Virginia amounts to many thousands of dollars yearly as the result of the depredations of this insect pest alone, and with strong probability that it might be entirely prevented as the result of a few years of carefully conducted investigations with the object of determining the habits of the insect and the character of the vegetation which the moth will seek or shun as a place for the deposit of its eggs during the previous summer. Almost all farmers are well aware of the increased prospects for profitable outturn from early as compared with late set crops of tobacco. This is due to at least four causes. Early crops usually give a larger yield, the quality is better, the worm damage is normally less, and the curing weather is apt to be much more favorable. The general prevalence of the wire worm, however, deters many, if not most, farmers from planting as early as it would otherwise be for their advantage to do. Early settings are, indeed, so frequently destroyed by this worm as to discourage almost anyone. If this pest could be prevented from infesting the fields, the greatly increased profits obtainable from earlier settings (enormous in the aggregate for the whole State) would in itself be an end much more than justifying the trouble and expense of all the experimental work contemplated.

To summarize briefly, there already stands out clearly in the minds of those having the work in charge the following more or less distinct and definite proposed lines of work, although they are of necessity interdependent and closely related one to the other:

1. Experiments to determine and demonstrate the best possible system of crop rotation and method of conducting the same.
2. Experiments to determine the relative effects of the different fertilizing units, to determine the most effective proportions and combinations in which to use them, and the most profitable quantity to use. Important and suggestive results have already been obtained for this part of the problem, but it is only as the result of a large number of repetitions under a great variety of soils and seasonal conditions that the most comprehensive and reliable results can be obtained.
3. The improvement of the existing varieties of tobacco by systematic seed selection and cross breeding or hybridization; the introduction by

demonstration and explanation of the method of saving seed under bag and separating light from heavy seed.

4. Investigations to determine the life cycle and habits of insect pests, especially the so-called "wire worm," with a view to eradication or control.

5. As the work goes on other definite problems will doubtless suggest themselves. In any case there will be such incidental, but none the less important, secondary problems, as methods of cultivation, curing, handling, etc.

Broadly speaking, there are three more or less distinct types of tobacco produced in the State of Virginia, each representing clearly defined, yet somewhat overlapping sectional differentiations, each having its own peculiarities of soil, crop adaptations, and general style of farming.

Appomattox and Chatham are locations respectively in the "dark fired" and the "bright" or "flue cured" sections of the State, and for their purposes are considered satisfactory. Nothing, however, has as yet been done in the important "sun" or "air cured" counties in the neighborhood of Richmond on the North. There seems to be a most inviting and promising field for work in that section and the people there are as much entitled to assistance as in either of the other sections and the work ought to be extended so as to include not only the "dark fired" and "flue cured" sections of the State but the "sun cured" section as well.

The problems to be solved are fundamentally very much the same in each of these districts, but the methods of procedure and ultimate results will of necessity be modified to meet the requirements of the type of tobacco produced, and also adapted to the peculiarities of the soil and general agricultural conditions of each section.

However, in order to extend the experiments to the "sun cured" section and to develop the work in all of the sections as it should be developed, it will be necessary for the legislature to materially increase the appropriation available for the purpose. The appropriation should be at least \$5,000 annually and it should be made in a way to insure its permanence in as complete a degree as possible. It is difficult to plan and conduct work in the way to do the most good without some assurance that its source of maintenance will be continued from year to year.

The farm value of the tobacco produced in Virginia varies around seven or eight millions of dollars annually. But other crops grown in connection with tobacco will be affected also by the experiments, so that it seems a reasonable estimate that the experiments will directly influence farm products of at least \$10,000,000 annual value. Five thousand dollars is but one-twentieth of 1 per cent of the annual value of the interest to be affected prospectively by the appropriation, or, stated in another way, the annual value of the interests to be benefited is at least two thousand times as much as the appropriation asked for. Any business or other interests, of any kind, any where, that would not be justified in putting that small proportion of its income into efforts for improvement certainly would not be worthy of its existence, and if it did continue to exist could not reasonably expect more than to bring up the tail end of the procession. A price representing a certain amount of present self-sacrifice must be paid for progress, as for every other good thing in the world.

As previously stated, the experimental work with tobacco as at present conducted, was started by the National Department of Agriculture in 1904. Since 1906 it has been conducted cooperatively by the National Department and the Virginia Experiment Station. This relation possesses many obvious advantages, and it is proposed as very desirable that this relation be continued. There is a growing disposition on the part of the National Department to conduct its work in the several States more and more on a cooperative basis with the States, each bearing a portion of the expense, and it seems probable that the amount of money which the National Department of Agriculture continues to put into tobacco work in Virginia will depend to a degree upon the amount which the State itself puts in. The officials of the National Department have already indicated their willingness and desire to continue the cooperative manner of conducting the work, and it seems likely that they will continue to put in as much, and quite likely somewhat more, than the State does. With the \$5,000 hoped for from the State, there would thus be made available yearly the neat sum of at least \$10,000 for experiments and demonstrations directed to the upbuilding and improvement of general farm practice in those portions of the State where tobacco is an important farm crop.

It should be remembered, however, that it takes time to get work of this kind on an efficient and systematic basis. The special problems to be worked out suggest and formulate themselves clearly as the work progresses. The work or rejuvenating and readjusting agricultural methods in the tobacco districts of Virginia in a way to place it in step, or perhaps even in the foreground of the agricultural progress of the times, is the work not of a year or perhaps of a decade, but rather of a generation.

Those who have the direction of this work at heart do not anticipate any sudden or violent revolution in general farm practice as the result of a few years of experimental work, however efficient and well directed it may be. To be substantial the movement must of necessity be slow, but it is likely to be none the less sure, and it seems probable that it will gather impetus and momentum as it progresses. It takes time to effect changes of such far-reaching and fundamental nature as the changed economic conditions seem to make imperative. There is much ignorance, prejudice, and a vast amount of inertia to be overcome. It is doubtless true that the coming generation will profit more by the contemplated experiments than will the present generation. This is more or less true of all such work undertaken. It is, in essence, really an educational problem, and as such its purpose is greatly ennobled. It is the price of progress for present generations to make sacrifice for the sake of those to come.

The next great advance in rural education seems destined to be in the direction of the establishment of agricultural high schools. But they will be much limited in the scope of their usefulness unless much work of the kind contemplated has been done, in order to furnish a large amount of reliable and accurate information available for teaching purposes.

This report is a logical demonstration. Virginia alone has paid into the National Treasury since our unhappy civil war more than \$110,000,000 as internal tax on tobacco. In time of war the resources of the Government have no other origin and sufficiency than in internal taxes; but in time of peace there is neither necessity nor excuse for the imposition upon the people of this grievous burden—a burden falling upon an agricultural

product which is the money crop of so large a number of our citizens. It is my determined purpose to keep up an unremitting fight for the abolition of this tax as well as for all work of an educational character that will aid the tobacco planters. I shall continue my efforts to spread this demonstration work until it comes within the reach of every tobacco planter in the country, to the end that they may see and adopt what so greatly conduces to their advantage—that every acre planted in tobacco shall produce the highest possible grade and bring the highest possible price per pound.

And then, with a tobacco growers' association composed of men who know the value of their product and are determined to get this value, the tobacco growers will reap the legitimate reward of their investments and labor.

I believe that the tobacco raised in Virginia can not be successfully duplicated elsewhere in the world, and I am thoroughly persuaded that when our planters develop this industry along scientific lines and by intelligent organization shall have secured the legitimate value of their product, they will have a source of revenue the profit of which will be greater than that of any other agricultural product of our entire country.

As I contemplate the consummation of these beneficent ends a picture of surpassing beauty arises before me.

I see that section of the old Commonwealth of Virginia, which has been held in poverty by the bonds of unjust taxation and the burdens of iniquitous monopoly, taking its rightful place in the march of progress and prosperity. I see its impoverished fields revived and fruitful under a system of wise and scientific tillage. I see splendid schoolhouses gracing the hilltops and nestling in the valleys. I see durable and solid roadways traversing the lands. I see a prosperous and contented, a peaceful and sober people—a people animated by the spirit and emulous of the virtues and achievements of their forefathers.

I see a people whose intelligence, industry, and self-reliance constitute the security of a nation in time of peace and are a bulwark and defense in time of peril.

With the prosperity of the ancient Dominion will come back her prestige, and of this I know no more fitting symbol than the beautiful metaphor of Scripture:

Then shall the mountain break forth into singing, and all the trees of the valley shall clasp their hands.

The Widows' Pension Bill.

SPEECH

OF

HON. JOHN W. LANGLEY,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 3, 1908.

The House having under consideration the bill (H. R. 15653) to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late civil war, the war with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late civil war—

Mr. LANGLEY said:

Mr. SPEAKER: There has been a time in the history of the American Congress when measures of this character were not received with the unanimity that has been manifested here to-day. I am glad to see this transformation. It means that sectionalism is dead in this country and that the words "North" and "South" no longer have any meaning with us except as geographical designations. [Applause.]

It is manifest that this bill is to receive the unanimous vote of both sides of the House, and therefore there is no necessity for anyone to make a speech in support of it, so far as the question of the vote on the measure is concerned. I want to take advantage of this opportunity, however, to say that I am one of those who believe that this great and rich Government can not do too much for the old veterans and their widows and orphans.

Mr. Speaker, sentiment, as well as justice, pleads for the enactment of legislation to provide more generously for the widows of the men who laid down their lives on the battlefield that the Union might live or who have since succumbed to the effects of wounds or disease—not that our Government has been unmindful of both dictates. Congress, representing the people of the United States, has ever heeded the appeal, either outspoken or silent, preferred by the needs of the widows and orphans of the Union soldiers. Our pension roll contains abundant evidence of this fact. Not only by the enactment of gen-

eral laws, but by the passage of thousands of special acts, where the general statute failed to provide deserved relief, have these wards of the nation been aided. The history of the world presents no parallel to the generosity with which the people of this country have sought to discharge the implied obligation they assumed when a man enrolled himself in the Army or the Navy of the United States. But as the years roll on this obligation increases. Just as the invalid or service-pension list becomes lightened by the passing away of the defenders of the flag, so the list of the widows grows in extent, and their needs become more urgent as the years press upon them and diminish their capacity for earning a livelihood. So long as she is able to acquire an income the few dollars a month now paid her by the Government is a material help and goes quite a little way in making both ends meet. But when the hands become weak and the eyes grow dim, the meager bounty of the Government provided by existing law is not enough to keep her from want.

Mr. Speaker, this is not intended as an arraignment of Congress for anything it has failed to do. It is only a reminder of something yet to be done. Both sentiment and justice command. We Americans glory, and justly, too, in our devotion to woman. We would shield her from harm as far as human foresight can shield her. We would throw about her all the safeguards that aid in protecting her from the hardships of life. This instinct, implanted in every true American breast, finds expression even in those conditions that make for their ease and comfort in more or less trivial circumstances. How much more dominating are those considerations when applied to women bereft of the protection of husbands. How much more strongly do they appeal to our sense of chivalry and justice when we reflect that many of them sent their husbands forth to battle, almost with the Spartan mother's injunction to her son when she handed him his shield and said "With it, or upon it."

The sacrifices made by the women of our land in those terrible years of fratricidal conflict will never be told by half. On both sides of Mason and Dixon's line they were the real heroes of the war. They suffered, yet murmured not. On this side of the Potomac they labored in season and out of season that the boys in blue might not lack all comfort in the field. On the one side they shunned no deprivation, however cruel, so that thereby they could uphold the hands of the men who battled for the right as they saw the right. On both sides of the river they were ever the angels of love and charity and compassionate care, who came to the bedsides of the sick and wounded, cheered them as far as they could, spoke words of hope and comfort, or breathed a prayer as some soul winged its way to beyond the stars. Nor did they recoil before the terrors of the battlefield. You who have grown gray in the service of your country; you who faced the hail of bullets and in whose ears sounded the roar of cannon—you know, better than my feeble tongue can tell, how even on the bloody field those angels of mercy plied their gentle tasks. [Applause.]

Mr. Speaker, the hour is not yet ripe, I fear, for a successful plea that the Government may show more generosity to the "boys in gray" and their widows. That the time will come when the American people will do this, I feel certain; and I hope that God may speed that day. But, sir, I can and do plead with all the fervor I can command for further bounty to the widows of the Union soldiers. In the mountains of Kentucky stands many a humble cottage in which some Union soldier awaits the summons to the final roll call. In those homes, sir, dwell contentment, even with a lot that at best is hard. Those veterans, most of them suffering from wounds or disease, the result of loyal service, are grateful for what consideration the nation has shown them in the way of pensions. How infinitely greater would be their gratitude if, in the evening of life, they could be comforted with the thought that when the night sets in for them the darkness that will close around their loved ones will be made less appalling by the sustaining care of the Government.

These conditions, Mr. Speaker, are multiplied over all this broad land. There is hardly a State in which they do not obtain in some measure. Even down there in Dixie, sir, they prevail. The mountains of East Tennessee and of North Carolina shelter thousands of humble homes tenanted by Union soldiers. Most of the veterans have not many years to live. There is great significance in the fact that the Commissioner of Pensions can get along with less clerks every year. Only a few years ago we had something like a million names on the pension roll, this, of course, including all classes of pensioners, but 75 per cent of these were the veterans. As they drop off their widows claim our attention, and we dare not lose sight of the conditions that surround us and them.

It is not all sentiment that moves me in this matter; it is also the inherent justice of the proposition. Let us, by all means, increase the pension of the widow who only gets \$8 a month, not only because of what we owe to the memory of her dead soldier husband, but because what she receives now is not as much as we thought it was when we gave it to her. The few millions, more or less, which it will take from the Treasury every year will not make Uncle Sam any poorer, for it will be balanced by the steadily decreasing roll of invalid and service pensions. Besides, this country is getting richer all the time, and in spite of the possible deficit in the Treasury at the close of the current fiscal year, everybody is of good cheer and declines to be frightened. [Applause.]

If this bill could be amended under the rule, I should offer several amendments. In the first place, I think if any difference is to be made between the widows of Union soldiers it should be in favor of those who married the soldier before or during his service, and who were left alone to look after the home while the husband was battling for his country. I think, too, that every old veteran of the civil war ought to have a dollar a day with which to provide for himself and wife, and I would like to see the law amended so as to give the widows that I have just referred to one-half of that amount. Then, again, I think the law limiting widows' pensions to cases in which they married the soldier prior to June 27, 1890, ought to be repealed. I am in favor of pensioning the widows of all Union soldiers, whether the marriage occurred before or since June 27, 1890.

There is another amendment that I would like to see made to this bill, and that is that a pension be granted to the widows of those brave and patriotic State militiamen who, though never mustered into the service of the United States, cooperated with its armed military forces and rendered valuable service in the suppression of the rebellion. No good reason can be given why these should not be included, and I intend to offer a bill covering these cases. [Applause.]

I have presented this subject, sir, from various points of view, but that which strikes me most forcibly and which I would urge most earnestly upon Congress is consideration not only for the widows that are, but for the widows that will be. Let us deal fairly and generously by them. Let us do unto them what we would wish to have done unto us. As we deal justly by the living Union veterans of the war between the States, let us mete out an equal measure of justice to those whom the dead veterans have bequeathed to the care of the nation—their widows. [Applause.]

New Orleans Cotton Exchange.

SPEECH

OF

HON. THETUS W. SIMS,
OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 29, 1908.

Mr. SIMS said:

Mr. SPEAKER: I take advantage of the permission to print to place in the RECORD an address by W. B. Thompson, president of the New Orleans Cotton Exchange, before the joint committee on agriculture of the senate and house of representatives of the State of Louisiana on the subject of cotton contracts for future delivery and effects of adverse legislation. This is a valuable contribution to the study of the questions involved in proposed legislation by this House. I suppose it is as able a defense of the so-called "business of dealing in futures" as can be made, and as such I beg to invite the membership of this body to a careful study of this very able address.

I beg to say that it seems to me to present no reasons for the continuance of present practices of the cotton exchanges except in so far as these exchanges are used, if at all, in the nature of insurance or protection against fluctuations in the cotton markets of the country. A close study of the facts connected with dealing in futures convinces me that if actual dealers in spot cotton did not have to provide against violent artificial fluctuations caused by gambling transactions in futures on the cotton exchanges that there would be no need of the so-called "hedge transactions" in futures. The gambling transaction makes the "hedge" necessary and at the same time furnishes the market by which the "hedge" is made possible. Without the gambling transaction in cotton futures the

"hedge" would not be needed by the spot dealer or manufacturer. Investment speculation does not necessarily have an adverse effect on the commodity speculated in. It in fact often is a great help in the way of furnishing a kind of reservoir for surplus products not immediately needed by the manufacturer or consumer. But a gambling speculation that does not take care of the commodity, but does affect the values of the particular commodity made the object of these speculative deals, is an unmitigated evil and has no just cause for existence.

For instance, a bale of cotton that has been inspected and graded may be placed in a warehouse and a certificate issued stating weight and quality. This bale of cotton may remain in the warehouse for a year, and the certificate may be bought and sold a thousand times during that year, and no possible adverse or artificial effect on the value of that bale of cotton can result, because each and every sale is an actual bona fide sale of spot cotton, though each purchase may have been in the nature of a speculative investment and each transaction may have resulted in a profit to each person so buying or selling said bale of cotton. This bale may have been bought on a simple margin, the actual cotton remaining in the warehouse as a security to the holder of the certificate on margin. But, on the other hand, there may be a bale of cotton in a warehouse in New York or New Orleans, certificated as required under the rules, by which cotton may be deliverable on contracts in the exchanges. I buy on the exchange a bale of cotton for October delivery and put up in cash the required margin. The person selling me this mythical bale puts up a cash margin also. In a week, or maybe in one day, the market has gone against me and I sell, losing part or all of my margin. Some other person buys the same contract or another to take its place and puts up another margin in cash.

In a day, week, or month he is called on for additional margin. He declines, and the same contract, in effect, is again sold to another person, who, in like manner, puts up another margin. The price of this mythical bale of cotton may go up and down and be traded in on these cotton exchanges a thousand times during a year, and in that time the losses or profits may, in gross, equal the actual value of a bale of cotton, but not once has any bale of spot cotton ever changed hands actually or potentially. All this time, while many times the value of this mythical bale of cotton, by way of the double margin required, has been locked up in money thus held as margin, while the actual bale in the warehouse has remained as a weight to the extent of its full value in the money markets of the world. In fact, if there were no future dealing in cotton contracts it would require much less money to move and take care of the cotton crops. All these millions invested or held as margins on contemplative dealings are charged up as so much money used in handling the cotton crop, when, in fact, it has no real trade relative to it any more than has the money used in the games of chance at Monte Carlo. I shall not attempt to go any further by way of reply to Mr. Thompson at this time, but on some future occasion I hope to take up this address and reply to it in extenso.

Mr. CHAIRMAN AND GENTLEMEN OF THE JOINT COMMITTEE: The New Orleans Cotton Exchange thanks you for the opportunity given it to protest against the passage of Senate bill No. 4 by Mr. Marston.

I hope I may be excused if, by way of introduction, I spend a few moments in explanation of my interest in this question. I am in the cotton-factorage business. I make advances on the crop and sell consignments on commission. It is a spot business pure and simple. I have no pecuniary interest in any future brokerage concern, and if future trading is abolished it makes no direct pecuniary difference to me. On the contrary, if I took a selfish and a short-sighted view of the matter, I would say that I would be benefited by the prohibition of future trading. The development of the interior markets has been at the expense of the New Orleans market. The interior market and the facilities that the producer enjoys of selling his crop at home are all dependent upon the existence of the future-contract market. If the interior buyer could not hedge, he would not buy. This for two reasons. He could not afford to take the chance of a decline pending the time he could get the cotton to market. He would not be able to secure the money with which to pay for the cotton if he carried that cotton open and without any protection against a decline. Thus if the future-contract market was abolished and buyers were unable to buy in the interior, the result would be that much more cotton than now comes would then come to New Orleans for sale. This would necessarily increase the number of bales handled by the factors. If, therefore, I took a selfish and a superficial view, I would be in favor of abolishing future trading. But in the larger consideration of the question I reach the other conclusion. All I have is invested in the farmer and the crops and in cotton lands. If future trading was abolished, what I would gain in commissions from handling more cotton would be more than offset by what I would lose in the value of my accounts and what lands I own. I am convinced that if you destroy the future market you will decrease the amount realized by the farmer from his crops. From motives of self-interest and from sentiments of patriotism I am against any measure that will bring about this unhappy result.

Briefly, the bill in question aims to prohibit all future trading in all commodities and all securities wherein the element of speculation enters. If its provisions were enforced, its logical effect would be to prevent future trading in all commodities and all securities whether such trading is speculative or not. In an effort to prevent a per-

noxious practice by a limited number of individuals, this bill would not only outlaw a large and comprehensive class of entirely legitimate contracts, but would deny to the owner of property the right to dispose of it as he saw fit under the penalty of a fine or the pain of being accused of misdemeanor. It says that you may buy or sell a commodity for delivery at a future time, but if, in the meantime, you dispose of the rights you have by the contract acquired, you are *prima facie* a rogue. Whether or not the Constitution will permit such an abridgment of the rights of the individual is a question for the lawyers of the committee to answer. The injustice and unwisdom of such a restriction is readily perceived by the untrained mind.

The fact that bills similar to this one have become laws in other States, is no sound argument in its favor. This bill must stand or fall upon its merits here. It is no part of our purpose to assail or even criticize the legislative acts of our sister States. Experience is already recording its judgment. The assembly of the State of Louisiana is well able to protect its constituents and to promote their interests without external comparisons and suggestions. But we do criticize reference to the precedent for a more pertinent reason. The cases are not parallel. The conditions are not the same. The effect of the same legislation in the other States and in Louisiana would be different. The explanation of this statement lies in the fact that the Southern contract market is in Louisiana and not in the other States. The legislation in the other States is restrictive only—in this State the same legislation would be destructive. The purpose and effect of the antifuture laws of the other States was and is to curb the speculative tendencies of its citizens. The evident purpose and anticipated effect of Mr. Marston's bill is to destroy the contract market of the South. The legislation of the other States only restricted the several branches of the stream, the same legislation here would dry up its source. With no contract market in the South all Southern traders would be forced to go to New York or Liverpool for their contracts. This unfortunate result would not only add to the prestige and power of these markets, but would mean the surrender of the cotton producer's destiny to interests inimical to his own. In this view of the matter we seriously doubt that the lawmakers of the other States would indorse Mr. Marston with the same enthusiasm that he indorses them.

But we are not here for the purpose of attacking this bill or the author thereof. We stand upon a higher ground. We desire to meet the issue broadly and fairly. We do not rely upon the weakness of our opponents' case, but upon the strength of our own. We impugn the motives of no man, but we claim the same just consideration for ourselves. We know that there is reason for complaint against some of the developments of contract trading. We are here to go with you carefully and earnestly into an examination of this complex subject, in the hope that together we may reach a better understanding of the problem and find a way to better serve the great producing interests upon which at last we all depend.

MOTIVE AND OBJECT.

We have in mind the pernicious effects and the disastrous results of the mania for speculation that during the past few years has swept this country. We are well aware that the motive behind the antifuture legislation of the several Southern States and the motive behind similar legislation here proposed proceeds from a just condemnation of the evils of excessive speculation. At the outset it is our earnest desire to make it clear, definite, and emphatic that we oppose no legislation that is directed against the evils of speculation. On the contrary, we not only appreciate the essential wrong of the abuses of speculation, but we realize that these same abuses are gravely detrimental to the legitimate cotton trade for which we stand and which it is our mission to conserve. We are not in opposition to any effort to purify and improve any system of trade, but are in earnest sympathy and cooperation with all such efforts. Our object in appearing before you is not to obstruct reform, but to point out to you the truth very plain to us that such legislation as is here proposed would not accomplish the good result intended. We are intent upon showing you that this bill is sweeping and not discriminating, and if enacted into law would, while destroying the evil, also destroy the good which is by the evil already assailed and would result in concrete disaster to the most important interest of the South and one of the greatest and most comprehensive industries of the world. We desire to show you that the benefits of legitimate future trading are inherent and vital, while the evils that have become associated therewith are incidental and parasitic; that the evil and the good may be clearly differentiated and that it is entirely feasible to cast out the evil and retain the good, not only without injury to the latter, but with great benefit thereto.

We shall first ask you to consider the nature of the legitimate contract for the future delivery of cotton. We shall then call your attention to the place that this contract occupies in the economy of the entire cotton trade, and point out its specific beneficial functions which entitle it to its place therein; and, finally, we shall specify the abuses that have been practiced under the name of future-contract trading and suggest the remedies therefor.

THE FUTURE CONTRACT.

A contract for the purchase and sale of cotton for future delivery is not a vicious invention by means of which the parties thereto can sell or buy the farmer's cotton at a price fixed by themselves, without the consent and in opposition to the wishes of the farmer, as is by many persons believed. Nor is it a mere gambling memorandum without any substantial basis of promise and penalty, as many seem to suppose it to be. It is simply an obligation entered into by the two parties thereto that the one will deliver and the other will receive a certain number of bales of cotton at a certain price and at a specified time. It is identical in principle with a contract for the purchase and sale of any other commodity or thing or an obligation to do a certain thing at some specified future time. It shows the date upon which the trade is made, the number of bales of cotton bought and sold, the price to be paid per pound, the time of delivery, the terms and conditions agreed upon by both buyer and seller, and is signed and secured and delivered by the parties thereto or their agents. When thus drawn, signed, secured, and delivered, the contract is enforceable, not only under the rules of the exchange in which the same is made, but in the courts of law. The contract thus becomes an item of personal property which the owner may hold and at maturity demand and enforce specific performance of its terms, or if he finds some one who wishes to assume the owner's place in the contract, he may, if he so desires, transfer the contract to such person for whatever consideration he is willing to accept, just as he could transfer any other item of personal property. The transferee then stands in the place of the original party to the contract and assumes the latter's rights or obligations, and can hold and demand performance or negotiate the contract to another party as

in the first instance. There is nothing nefarious or spurious about the legitimate contract for future delivery. As an item of property it is as valid as a promissory note and, under different rules, as lawfully transferable. We will ask, therefore, for the sake of following our argument and appreciating our point of view, that you consider the contract for future delivery as a contract—legal and binding and transferable, as it truly is—and not as a knavish invention or a memorandum of a bet, either or both of which, unhappily, a number of earnest but uninformed or misinformed persons assume it to be. If we thus consider the future contract itself and disassociate it from the abuses that are ascribed to it, we will be able to form a juster estimate of its value and importance to legitimate business. After this just estimate has been fixed we can more wisely and with less danger of doing harm undertake to proceed against the abuses.

CONTRACT IS AN INSURANCE POLICY.

The contract for the future delivery of cotton is an intrinsic part of the modern system of marketing the crop and distributing the manufactured product. It is not an incident or experiment, it is an elemental factor. To the dealer in cotton and to the manufacturer of cotton goods it is an insurance policy, protecting him from loss by reason of fluctuations in price, just as his fire or marine insurance policy protects him from loss by fire or water. His fire or marine policy protects him from the loss of his property; his future contract protects him from the loss of his profits. His fire or marine policy protects his invested capital; his future contract encourages him to invest his capital. His policy insures the assets of his business; his contract insures the assets of his enterprise. Under this protection the cotton trade has grown to its present enormous proportions; upon the surety of this protection has been built the great modern system of forward trading whereby the market has been broadened, production stimulated, and consumption enlarged. If the future contract should be suddenly eliminated from the American markets, our trade system would be disorganized; both merchant and manufacturer would be cast from their long-used moorings adrift; the American traders, and the American traders alone, would be emasculated and bound, and our entire cotton trade would suffer the same in essence, differing only in extent and degree, what the general business of the country would suffer if suddenly all underwriters in America were prohibited from issuing policies of insurance and all Americans were prohibited from securing this protection from those whose country permitted them to sell it. If the future contract should be eliminated from the Southern market, these evil effects would fall primarily upon the Southern trade and would force our traders to go without protection or else to depend for such protection upon markets whose interests are the reverse of the producers' interests.

DANGER.

Such an interference with the cotton business would be destructive at any time, but it would be disastrous at this time, when we have just passed through an acute commercial and financial crisis and are still held by the grip of stringency and fear. When we consider that the cotton crop of the United States represents more than \$600,000,000 of created value each year, and from the exports of this crop we receive annually \$400,000,000 of foreign wealth in exchange; when we consider the tremendous amount of capital invested in the cotton-manufacturing industry both in the North and South and the hundreds of thousands of employees whose livelihood is dependent upon this industry; when we consider the vast army of cotton-land owners, producers, and laborers whose welfare is directly dependent upon the price of cotton and the stability of the market thereof, and when, finally, we take thought of the danger of the time we must be impressed with our heavy obligation to regulate our courses by wisdom and prudence lest we lay a reckless hand of hurt upon our people and our country.

BENEFITS.

We have made the statement that the future contract is a beneficial and even an indispensable factor in the modern cotton and cotton-goods trade and that the elimination of such contract would be followed by serious and far-reaching injury. It is therefore incumbent upon us to apprise you of the reasons why this statement is true. We will not go exhaustively into the details of this relation, but will content ourselves with a brief review of the salient functions and operation of the future contract.

Future trading releases the producer from the disastrous alternative of carrying the surplus of the crop himself or else of forcing it upon the spinner at the price fixed by the latter, because it makes possible and creates a demand intermediate between the producer and the spinner and thereby provides a more even and gradual transfer of the crop to the spindle from the field.

Future trading sustains and enlarges the market for cotton and cotton goods and thereby stimulates both consumption and production, because through such trading the dealer in cotton and the manufacturer of cotton goods may each provide himself with an insurance against loss by reason of the fluctuations of the market, and each is thereby encouraged to extend and press his business by soliciting orders, not only for the present, but to be filled in the future. From these propositions follow the important corollary that future trading increases the price paid to the producer for his raw material and decreases the price of the manufactured product to the consumer thereof. The price to the producer is increased, because the protection afforded by the future contract enables the cotton merchant to bid for cotton at a price in which is figured only his profit or commission, and he is relieved of the necessity of bidding a lower price in order that he may be protected against any decline in the market that might occur between the time he bought the cotton and the time he was able to dispose of it. The price of the manufactured product is decreased to the consumer thereof because, by reason of the protection afforded by the future contract, the spinner can contract to sell to the cloth merchant who supplies the wearer of the goods at a price covering only the cost of manufacture and the spinner's profit, without the necessity of adding thereto a sufficient margin of protection against an advance in the price of the raw material before he could provide himself with the same wherewith to fill his contract with the cloth merchant. Future trading used as an adjunct of the cotton business is not speculative; it enables the trader in actual cotton to avoid speculation and makes his business stable and safe.

PRACTICAL OPERATION ILLUSTRATED.

The practical operation of the future contract under the foregoing propositions is illustrated as follows: The spinner solicits orders from the cloth merchant to supply the wants of the latter for a long period

ahead. He has neither the goods nor the raw material in hand with which to fill the order solicited. The cotton which he proposes to spin for the order is probably not yet planted. The cloth merchant asks for the price at which the spinner will contract to deliver the goods at the times stated. The spinner consults the quotations of the future market for the several months and finds that he can buy contracts for the desired amount of cotton at certain figures. To these figures he adds the cost of manufacture, the expenses, and his profit, and names the resultant price to the merchant. When the contract between the spinner and the merchant is closed the former gives his broker an order to buy future contracts for enough cotton to fill his contract with the merchant. When these future contracts are bought the spinner is protected and it matters not to him or to the cloth merchant to whom he has sold whether the price of the raw material advances or declines. As he needs the cotton he generally goes into the spot market and buys, for the reason that he can there make his selection and get the exact grade and staple desired. When he has thus made his purchase he orders his broker to sell his future contract, it having performed its mission of insurance. The broker sells the contract to some one who may be either a cotton dealer wanting the same protection that the contract has given the first or a speculator who believes that the price of cotton will advance. If, on the other hand, future trading was not permitted, the spinner in the instant case would be deterred from contracting with the cloth merchant on the basis of the then price, unless he was willing to take a speculative chance that the price of the raw material would decline or would not advance. But the chances are that he would not contract ahead at all unless at a price high enough to cover not only the cost of manufacture, expenses, and his profit, but also a supposable advance in the price of the raw material between the time at which he made his contract and the time at which he would be able to buy the cotton with which to fill the same. Future trading, therefore, broadens the market, increases consumption, and makes the price of the manufactured article lower to the consumer.

Or take the case of the cotton merchant who buys from the producer and sells to the spinner. This merchant may solicit orders from the spinner for specific grades and staples for delivery in the future. The cotton which he proposes to deliver to the spinner might not yet be planted, yet under the protection afforded by the future contract he could name a price which on the market would cover his commissions and profit. When he closed the contract with the spinner he would protect himself against an advance in the market by buying a future contract. When the spinner was ready to take the cotton the merchant would go into the market and buy the specific grades and staples at the then spot market price, if he had not bought them already. When he had so bought the actual cotton the protective mission of the future contract would have expired and he would sell it to some one who probably wanted to use it as he had used it. The producer reaps a share of the benefit from the protective feature of the future contract in the imperative forward demand thus created for his cotton long in advance, possibly, of the planting of his crop.

Or take the case of the cotton merchant who had no forward contract with the spinner and no present orders for specific grades. He could still supply a market to the producer and pay the maximum price, provided he could protect himself with a future contract. He would consult the future market quotations and would bid for the cotton a price which on these quotations would allow him his profit or commissions and a margin for expenses. If his bid was accepted, he would at once sell a future contract to cover the amount of his purchase and hold the cotton in entire security until such time as his spinners came into the market again. Upon the sale of the cotton to the spinner he would buy back his future contract, its protective mission having expired. But if such merchant was prohibited from selling a future contract as a protection against his purchase of spots, he would not buy the spots unless he was willing to take the speculative chance that prices would advance. And he would not take the chance at all unless he could buy the cotton at a price low enough to assure him not only of his commissions and expenses, but low enough to protect him against a supposable decline in price that might occur between the time at which he bought the cotton and the time at which he could place it with the spinner. Future trading therefore enlarges the demand for cotton, distributes the burden of carrying the surplus, and makes the price higher to the producer.

These are the elemental benefits of future trading conducted on legitimate lines. We have heard no denial—and there can be no denial—that these results follow legitimate trading. The beneficial office of the legitimate contract is not debated and it is not debatable. The system is in danger because the good of it and the importance of it are overlooked or purposely ignored.

EVILS.

Up to this point we have asked you to consider only the good that is in future trading and to refrain from passing judgment upon the good and evil in an indiscriminate admixture or average. We ask this because we are sure that by considering the good and the evil separately we can arrive at a more accurate estimate of the nature and importance of each and of the relationship between the two and their dependence upon or independence of each other.

That there are evils in connection with future trading and that iniquities and wrongs have been committed under the name and in the practice of future trading we freely admit. We earnestly condemn these evils and wrongs. We are not only willing but anxious to join hands with all who are endeavoring to destroy these evils and correct these wrongs. We find no fault with the motives of the legislators of the several States of the South, nor with the motives of the gentlemen who are proposing the legislation here, in so far as these motives move toward the destruction of the evils and wrongs of speculation. But we do find fault with and oppose indiscriminating legislation which in a laudable effort to destroy the bad, neglects to take account of the fact that a great good is likewise threatened; which does not perceive, or refuses to perceive, that the two are easily separable, and that not only is it entirely feasible to destroy the evil without injury to the good, but that it is necessary that the evil shall be destroyed in order that the good may survive.

The evils that have become associated with future trading are three in number—the bucket shop, excessive speculation, and the unfair contract. These three abuses have brought the system into disrepute and have provoked the attack that is threatening the life of the system itself. The system is attacked not because the evils are inherent; not because the evils can not be eliminated without destroying the system, but because the aggravating character of the abuses has aroused a feeling of resentment so furious that for the time being discriminating justice has been blinded and silenced.

THE BUCKET SHOP.

A bucket shop is a place where wagers, not contracts, are made. Nothing is ever bought or sold in a bucket shop and no legal or enforceable trades are made there. It is a gambling proposition simply and without qualification. The keeper deals a game against his victims and what they lose he wins. Millions of bales of cotton may be ostensibly bought and sold in a bucket shop, with absolutely no effect upon the market or trade. The sole and only excuse for associating the bucket shop with the future trading system is because the bucket shop has selected the fluctuations of the future market as the issues upon which it makes its bets. The sole and only responsibility of the future trading system for the bucket shop lies in the remote suggestion that the former in legitimate business conduct makes quotations which the latter steals and manipulates for the purpose of fleecing its victims. No legitimate trader or decent merchant willingly tolerates the bucket shop. Unfortunately, because of a misunderstanding of the nature of the bucket shop and because of the adroit efforts of the keepers thereof for self-protection to muddy the waters and confuse identities, many persons erroneously and unjustly call by the name of "bucket shop" any place where future trading is conducted and give the rankest bucket shop the name of "exchange."

The remedy for the bucket-shop evil is simple. The bucket shop is not a part of any system or business—it is a distinct and characteristic institution. It is easily defined and located. A direct law would reach it and pluck it up and cast it out of the State or nation without injuring, involving, or touching any legitimate interest whatever.

SPECULATION.

Excessive speculation in cotton is the second evil attributed to future trading. It is true that future trading makes possible the injurious speculation complained of, but the relationship between the two is no closer than the relationship between any beneficial privilege and the abuse thereof. It is well enough and praiseworthy and wise to remove, in so far as we may, temptations to the frailties of mankind, but if we undertake to prevent injurious speculation by destroying all opportunities to speculate, we shall have to begin by closing practically every avenue of human activity and end by annihilating the human race. The test of a reform is in the net result. A legal and beneficial system of business should not be overthrown for the sake of preventing certain persons from practicing an abuse injurious to both the system and themselves. A true reform, which is a discerning reform, acts on this rule. The use of a bad principle is a wrong; the misuse of a good principle is an injustice. The wrong should be punished by destruction; the injustice by correction.

It is not to be denied that even in the legitimate exchanges a great many contracts for the future delivery of cotton are bought and sold for a purely speculative purpose, but in the frenzy of speculation that has but recently swept the country this is equally true of all other commodities and things. Speculation rampant is no respecter of commodities or issues. It is well, therefore, to consider whether this particular evil complained of may not be due more to the tendency of the time than to the nature of the business. Again, before we condemn speculation in entirety it would be well for us to consider the question as to whether or not there is a distinction between the kinds of speculation—between illegitimate and legitimate speculation, between speculation that is wholly bad and speculation that may be and is beneficial. We believe that there is such a distinction, and our conclusion is this: When a man in no wise incapacitated by reason of ignorance, weakness, or lack of means, or disqualified by reason of a position or relation of trust, buys or sells a commodity or thing or its representative, which is an enforceable contract therefor, because he thinks it is cheap or dear and because he thinks that he can subsequently dispose of his holding at a profit, the speculation is legitimate, not necessarily harmful to the individual, and almost necessarily beneficial to the market for the commodity in which he trades. But when a man not so qualified and incapacitated as specified undertakes to speculate, or when any man merely wagers that a certain event or tendency may or may not occur, or if, having bought or sold a commodity or thing or a contract therefor, he enters into a conspiracy with others or uses some accidental power of his own to depress or advance the price of the commodity or thing beyond its legitimate value to the hurt of the bona fide holders of or traders in such commodity, the speculation is illegitimate, hurtful to the individual and to the market in which he trades. Legitimate speculation as here defined is a benefit to the cotton market in that it supplies a demand for the commodity at a time when the demand for consumption is absent or in abeyance and thereby aids in carrying the temporary surplus of supply over demand. It is further beneficial in that it brings to the future market a larger supply of both buying and selling contracts, which to that extent facilitates both merchant and manufacturer in making quick and advantageous hedges of his specific contract and of his specific purchases and sales. Illegitimate speculation as here defined is wholly demoralizing and bad. It helps no one and injures everyone and should be destroyed.

The evil of excessive and hurtful speculation is somewhat more difficult to reach than the bucket shop evil, but it can be reached and if not destroyed it can be materially lessened. A popular arraignment of speculation in cotton contracts is based upon the charges that men in moderate circumstances have been reduced to poverty and goaded into crime by their losses in speculation; that employees by reason of their losses have been driven to embezzlement and theft; that men in positions of trust have been by reason of losses in cotton speculation or of a desire for gain, tempted into the appropriation of funds belonging to others. We believe that by far the greater number of these disasters proceed from bucket-shop gambling and that with the complete elimination of the bucket shop the number of these unhappy incidents would be comparatively small. But assuming for the sake of this argument that this class of speculators do operate in the legitimate exchanges where a hundred-bale contract is the minimum trade permitted, we still declare that they can be practically eliminated and the problem thereby nearly solved. The result can be largely accomplished by restrictions preventing the broker from executing any order unless the same is accompanied by a cash deposit large enough to be prohibitive to the smaller speculator and restrictive to the larger, and by prohibiting a broker from accepting an order from any employee of any person, firm, corporation, or trust company, unless said order is accompanied by the written consent of such employer.

UNFAIR CONTRACT.

The third evil to be considered is found in the terms of the future contract itself and in the rules of delivery and settlement thereunder, resulting in an injurious effect upon the market and the price of cotton by the delivery of cotton or tender of delivery on such contract

and under such rules. A contract giving an undue advantage to either seller or buyer is not only a contaminating element per se, but it also invites and facilitates the formation and the operations of those combinations of speculators which demoralize a market and injure legitimate traders by the sheer force of speculative activity. Logically this evil should be considered under the head of illegitimate or wrongful speculation as heretofore defined, but in view of the importance of the principle involved, we give it separate consideration. Such a contract not only fails to perform the legitimate functions of a future contract but it puts a premium upon illegitimate usage. It not only fails to afford protection to the legitimate trader but it throws the free-booters of speculation upon his back. It facilitates manipulation and nullifies foresight. A contract that is not fair is a reproach and can not survive. A contract that offers inducements to the speculative seller by giving him an unfair advantage, or to the speculative buyer by giving him an unfair advantage, is contrary to public policy and should be made unlawful if it is not already unlawful. The unfair contract affords a striking instance of the unjust application of a just principle. But the remedy for this wrong application lies not in depriving the individual of his right to contract, but in compelling him to make an honest contract.

The remedy for the evil of the unfair contract is very plain and of easy accomplishment. A law establishing a national standard of classification of the marketable grades of cotton, upon which standard all arbitrations on contract deliveries must be made; prohibiting any contract on which can be delivered unmarketable cotton or useless stuff, or cotton of a value uncertain and not readily ascertainable; and providing that all cotton delivered on contract shall be paid for on the basis of actual differences in the spot value of the grades delivered on the market and at the time of delivery, would effectually and immediately eradicate this evil influence.

DUTY.

Thus it seems plain that the legitimate future contract is in itself entirely legal and honest and has, in the evolution of the cotton trade, become a necessary, if not an indispensable, factor in the proper and advantageous marketing and distribution of the cotton crop and the manufactured product. It also seems plain that the future contract, by reason of its protective and auxiliary functions, has become so assimilated by the cotton trade that it can not be eliminated except at the cost of demoralizing a great industry and crippling a great people. It further seems plain that the evils complained of are not inherent in the system of legitimate contract trading, but merely incident thereto and can be eliminated therefrom with no hurt to the system itself, but with benefit thereto. The conclusion, therefore, follows that it is the duty of not only our legislators, but of our exchanges and of everyone who has at heart the welfare of the South and of the nation, to vigorously attack and destroy the evil, but no less steadfastly to sustain and encourage the good.

The New Orleans Cotton Exchange defends no evil. Our laws and rules represent the best thought of our members up to this time, but we are not yet satisfied. We welcome investigation and will pay earnest heed to all suggestions looking toward the improvement of the cotton contract and the cotton trade. We are convinced that such improvement will not come through destructive legislation, but rather through constructive endeavor. In view of the importance of the issue and of the grave consequences entailed, not only to us but to the country at large, we bespeak for our protest and warning your careful and earnest consideration.

FUNDAMENTAL PRINCIPLES.

These are the fundamentals of the question. If we understand the principles of a proposition and fix these firmly in our minds, the development of the proposition is an easy and a natural process. We must understand these principles before we can be assured as to what the effect of our activities with relation thereto will be. If we understand these fundamental principles, we can see clearly the working of the same in specific instances. If we understand causes, we will not have to guess at effects. If I have made myself clear, this broad and general conclusion is inevitable—that if future trading is abolished, the cotton trade would be demoralized, acute financial conditions would be rendered more acute, the producer would be obliged to take less for his cotton and pay more for the cotton goods he wears. If I have made myself clear, it will require but little stimulation of the logical faculty to perceive that certain specific and intimate misfortunes would follow the destruction of the future-contract market of New Orleans.

PRICES CONTROLLED BY SPINNERS.

First. It would remove the last defense that stands between the spinner's will and the producer's weakness. It is to the spinner's interest to buy his supplies as cheaply as he can and sell his manufactured product for as much as possible. Already the spinner is entrenched behind a more compact and vastly richer organization than is the farmer. Already the spinner has the support of all the great exchanges except the exchange of the South. All the great exchanges except ours are associated and affiliated with the spinning interests and always want to believe and almost always do believe that prices will be lower, and to that end direct their efforts. If therefore we destroy the only future market that looks and works for higher prices, we deliberately surrender the control of the price of cotton to those who it is our interest, our duty, and our salvation to resist.

TRUST CONTROL.

Second. It would make possible and probable the trust control of the cotton crop. An open market, into which the public may come and buy in competition with the special interests, renders trust control impossible. There is no future market for steel, and there is a steel trust; there is no future market for sugar, and there is a sugar trust; there is no future market for meat, and there is a meat trust. There is a future market for corn and wheat, but there is no corn or wheat trust; there is a future market for cotton, but there is no cotton trust. There is no trust control of any commodity that in open market may be bought and sold on contract for future delivery. The reason is plain. The great public is not equipped to buy and store the commodity itself, but it can buy the contract for the commodity, which contract may, if necessary, be enforced. When it appears to the public that the price of the commodity has been pressed too low it comes into the market and buys the contract for delivery. This competition forces the special interests which must have the actual commodity also to buy either the commodity or the contract therefor. The market is thus sustained and advanced and the producer is supplied with a market in which he may sell his present holdings or contract to sell his future crop. If it was

not for the facility of the future market this competition would not be possible; and if it was not for this competition, the special interests could fix prices to suit themselves.

IMPORTANCE.

It is a momentous issue here discussed. It is not a matter for casual legislation. We are tampering with a great trade system and with the welfare of millions of people. At all times we should be careful in dealing with questions of this great consequence. At this time, when conditions are unsettled, when restlessness prevails, when men are rash and impatient under the sting of hard times, and when the near future holds for us great good or harm, as we may elect, it is imperative that we keep our judgment cool and our activities well in hand. We can not afford to take the chance of breaking our hopes by a heedless conflict with the immutable law of sequence, which no king or congress can alter or repeal. We must not be led hither and thither by the cries of individual discontent; we must not permit even the generous impulse of reform to run amuck.

National Defense—Forewarned is Forearmed.

To be prepared for war is to prevent war. America can restore that balance of power in the Pacific without which wars of stupendous magnitude will be inevitable.

SPEECH

OF

HON. RICHMOND P. HOBSON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. HOBSON said:

Mr. SPEAKER: Under the leave to print granted by the House I desire to have printed in the RECORD the following articles bearing on national defense, which have appeared in the Sunday editions of papers in the Hearst syndicate:

IF WAR SHOULD COME—THE QUESTION OF PREPAREDNESS.

[By Capt. RICHMOND PEARSON HOBSON.]

EDITOR'S NOTE.—In spite of the assurances of Japanese diplomats, war with that nation is by no means improbable. By many clear-sighted statesmen it is even regarded as inevitable.

How are the American people prepared to cope with so stupendous a possibility? Are we adequately equipped and fortified against so formidable an enemy?

Would it be an impossibility, under present conditions, for the Japanese to occupy our Pacific seaboard, lay San Francisco, Seattle, and Los Angeles under tribute, and fortify the coast States so thoroughly and scientifically that their reconquest would cost billions of dollars and perhaps a million lives?

Does not the mere suggestion of so desperate a contingency point urgently to the necessity of swift national action for the adoption of the most complete preparatory plans?

These are questions which concern every American citizen from Maine to California. In order that the readers of the Cosmopolitan may understand the facts about the peril which threatens the country and the measures which must be instantly taken to meet it, we have obtained a highly interesting series of articles by Capt. RICHMOND PEARSON HOBSON, in which the situation is reviewed from the standpoint of an expert. The first of these articles is presented herewith. It will be followed by two others in the next succeeding issues. We venture to say that the facts presented by Captain Hobson will make very clear the duty of Congress to take such vigorous and immediate action as will be likely to avert the danger which is so lucidly and convincingly pointed out.

The sailing of the American fleet from Hampton Roads through the capes of the Chesapeake into the open sea on its voyage to the Pacific was the greatest naval spectacle ever witnessed in the Western World. The tens of thousands of spectators who had come from far and near to witness this event were electrified when the sailors mounted the bulwarks, superstructures, turrets, rigging, and masts, and gave rousing cheers as the President reviewed the departing ships. The multitude in turn spontaneously cheered as the great ships weighed anchor, and one by one stood away in solemn grandeur, in a column extending over 4 miles. The multitude present was but the eye and the voice of the 80,000,000 Americans who gazed upon this event from afar, some with a feeling of misgiving, but all with that confidence and assurance which possesses the American people, undismayed by nature and never yet defeated by man.

This event stirred the people of America, however, not merely with feelings of pride, and of expectancy awakened by the mere fact of undefined danger; beneath the great shouts of applause, pitched in the major of exultation, there was in the depths a

minor chord, expressed in the tears of parents, children, wives, sweethearts, whose dear ones were leaving for the unknown.

The eyes of the whole world also were fixed upon this fleet, and properly so. For the first time in history the yellow men of the Orient and the white men of the Occident gazed together with concentrated interest upon each other and upon a movement of vital moment, not only to their two continents, but to all men and nations—indeed, to civilization itself. And yet few people in any country seem to have comprehended the full significance of what was occurring.

For the first time since the birth of our Republic the monarchies of Europe were looking upon an undefended American coast line. How the members of the Holy Alliance, against whose conspiracy the Monroe doctrine was declared, would have gloated over that sight! What was whispered in Europe's secret councils by the direct successors of those conspirators against the rights of the people as the American fleet passed from the Atlantic to the Pacific, transferring to our Western waters practically the entire naval power of the one nation that has stood for and compelled the progress that has been achieved during the past century, not only in America, but also in Europe? The answer concerns our people more than the price of stocks, the cause of the panic, or the solution of any of the grave internal questions which now perplex the nation.

Leaving the European chancelleries to discuss these events, the American fleet has retraced the course taken by the *Oregon* in 1898, when that gallant ship made the record voyage for a single ship in time of war. Heretofore America has faced eastward, whence our foreign wars have come. Now, and suddenly, we have been compelled by the action of an Asiatic power to leave our European seacoast unprotected and to place practically the entire naval power of the nation between us and Asia. And yet the dangers in the Atlantic have not disappeared; they have not even decreased. Indeed, the "mistress of the sea" is at this moment, and for the first time in history, in league with the Asiatic power that has compelled this change in the policy of our nation. Though England is our mother country, two of our foreign wars have been fought with her. We have no contract with England binding her to respect our territories and rights. Japan has such a contract with England, and contemporaneously with the sailing of our fleet England gathered together, for foreign service, a fleet almost twice as large as ours.

No sudden or even immediate change had taken place in Europe or in our relation with European powers. The change that had taken place was in Asia, or, preferably, in our relation with one of the Asiatic powers, the one that is making itself the master of the Orient. The dangers in the Atlantic are not decreased, but the dangers in the Pacific have increased, and our President was compelled by the logic of events to take this action. It was not a matter of private opinion or personal preference. Conditions, not theories, confronted the nation, and duty laid its compelling hand upon our Chief Executive.

During the past two decades Japan has seized upon and utilized to the utmost the inventions and discoveries made by the white race. And in consequence Japan holds to-day the mighty forces of nature and of organization more completely at her command than any nation of the white race. In naval and military affairs each Western nation has built up a practice of its own, with both good and bad characteristics. Japan, on the other hand, has appropriated the good characteristics of all; and just at the time when Japan is emerging from feudalism she has made her entry into the council chamber of the nations through the gate of war forced open by the mighty power of her military organization.

The feudalism from which Japan is now emerging was rampant in Europe centuries ago. It was never a part of the life of America. This fact makes it difficult for Americans to grasp, without careful consideration, the significance of what is now transpiring. The white nations, on the whole, are three or four hundred years beyond feudalism, and under the leadership of America are swiftly traveling the road toward international confederation and organization that will tend to make war obsolete. But these nations are not yet federated. War is not yet obsolete even among the white nations in their relations with each other, and it behooves them to understand the meaning of Japan's rise in power through victorious handling of the weapons of war. The presence of superior power is absolutely necessary to check the natural course of that nation toward war with foreign powers, now that war within her own body has ceased as a result of the union of the feudal lords behind the Mikado.

No internal question at this moment is comparable in importance to the present and prospective strength of Japan com-

pared with that of our country. The supreme duty of America at this moment is to gauge accurately the possibilities of Japan's military power and to make that power ineffectual by the provision of an unquestionably superior force. No other thing that our Government can do would have so powerful an influence for the establishment of justice and the maintenance of peace in international relationships.

The departure of the fleet was like a flash of lightning. Things heretofore hidden by the darkness were brought momentarily into plain view. On one side of the Pacific was disclosed a great nation, heretofore considered inferior, that had demonstrated superior power on the field of battle, and emerged victor over the most populous nation of Europe. Justly proud of its achievements, and wounded by the condescensions of the Western World; different in color, in traditions, in political institutions, from our country; capable of being either friend or enemy to America as its supposed interest at any moment may dictate; almost as different from us in character and in preparedness and inclination for conflict as in color or in position on the world's map, this people, molded into one body with a common purpose in the heat of the war with Russia, caused and witnessed the most humiliating military and political spectacle ever seen in the Western World, namely, a revelation in the face of a grave danger that the United States is unable to execute a just foreign policy, is unable even to perform the duty imposed by the Constitution of preserving the members of the Union in the full and free exercise of the rights reserved by the several States. The people's representatives neither foresaw the danger nor provided against it. Congress, the press, the two great political parties of the country, did not see, even in this flash of light, that our nation is defenseless, and that the most tempting morsel that ever became a menace to national character or international peace is displayed unprotected before the rising power of the Orient.

The strength of a nation is in the number of its able-bodied men, their availability for action, the average fighting value of the men, and the preparation and efficiency of their organization.

For her soldiers and sailors Japan draws upon a population at home of nearly 50,000,000, a population greater than that of England, Austria-Hungary, or France, and only second to that of Germany in Europe and the United States in America.

By an extensive system of propaganda Japan is preparing to draw upon the 450,000,000 people in China, making, with Japan, for prospective use a total of 500,000,000, more than the combined population of all Europe and both the Americas.

The Japanese population is more available for war at the present moment than the population of any white nation. The people are not only more disposed for war on account of the stage of their civilization and their recent victories, but are more willing than the people of the West to bear the greater burdens of taxation without murmuring against the Government. Furthermore, the women are more ready to do the work while the men are on the battlefield. In the next place, the military forces can be maintained and a campaign properly executed at a cost far below what the same movements would impose upon the white nations.

Since the Russo-Japanese war the world has been compelled to put the fighting value of the average Japanese above that of the average white man. The Japanese has shown himself equally courageous in action and equally skillful in the use of modern weapons, while superior in endurance and more amenable to discipline.

The degree of preparation for war in America is low; it is high in the chief military nations of Europe, but it is higher still in Japan. There they begin with the school children and continue the work throughout life. In the Russo-Japanese war the extraordinary degree of preparation and the efficiency in action of the Japanese organization were the marvel of the world. The character of the yellow man, his patience, his attention to details, his endurance, make him an ideal unit for the organization of a perfect human mechanism of no matter what dimensions. The only safe assumption for a white man to make is that the yellow man, on the average, will be found his superior as a soldier and his equal as a sailor.

I do not hesitate in making this statement. With a knowledge of the Chinese derived from actual experience in China, I am prepared to say that the average Chinaman, properly trained, will make a better soldier than the average Japanese, being equally intelligent, more reliable, of greater strength and endurance, and without fear of death. In estimating the present, as well as the prospective preparation of Japan, it is necessary to take this fact into account, for Japan at this moment is carrying on a systematic instruction of the Chinese in the

arts of war, and when war comes Japan will find a way of drawing upon China for assistance.

The Japanese are masters in the inspection and spying out of the naval and military preparations of other nations. They are past masters in secreting their own preparations and intentions. They have had opportunity, and have made use of it, for learning everything that is going on in America. They have allowed no access to anything going on in Japan. The half has not been told of the preparations for war made by Japan during the past two years and a half, and yet that which is known of their preparations should rouse this nation to a sense of the danger and to a performance of its duty to the States composing the Union and to the great principles of liberty of which our nation is the world's leading exponent.

After the war with Russia, when the one fleet to be feared by Japan had been destroyed, when the vessels captured in the war constituted a substantial increase in the Japanese navy, when the heavy burdens laid upon the people by the war called for economies, especially in view of the fact that by the treaty of Portsmouth the expected war indemnity was denied to the victor, it would have been natural for Japan to rest for a while and recover herself before inaugurating an expensive programme for an increased navy. Instead of doing this, Japan has ordered more than \$100,000,000 worth of new ships of the *Dreadnought* class and large armored cruisers, eleven in number, together with auxiliaries and torpedo boats. Rush orders for these ships were given to English and Japanese shipyards.

Japan was already allied with Great Britain. There was certainly no need of additional ships to cope with Germany, France, or Italy. Why was this done? The only plausible inference is that the purpose was to secure an advantage over America while she was still sleeping. It was a master stroke, proved by the fact that Congress simply discussed the question for two whole years before ordering a single large ship of the new type, and the peace societies of America even increased their agitation in favor of disarmament.

Our people are liable to indulge in a feeling of unwarranted security now that our fleet has arrived safely in the Pacific and has been joined by the two battle ships and the two squadrons of armored cruisers already in those waters, numbering altogether eighteen battle ships and eight armored cruisers, making twenty-six armored vessels. The Japanese now have in Pacific waters eleven battle ships and eleven armored cruisers, making twenty-two armored vessels. It should be noted that the Japanese armored cruisers *Tsu Kuba*, *Okoma*, *Ibuki*, and *Satsuma* carry 12-inch guns, larger than any guns carried by our armored cruisers. These Japanese armored cruisers will certainly be found on the battle line with the regular battle ships. The modern superiority of our fleet will soon disappear. Our own ships will gradually deteriorate because of the lack of docking and repairing facilities, and the Japanese will be constantly adding to their fleet the great new ships as they are completed. The only two of this type that we have in course of construction will probably go into commission in the summer of 1910 and will be on the Atlantic seaboard. The Japanese by that time will certainly have in commission eight, and possibly eleven, more vessels, all of the new type. Conservative estimates have placed one vessel of the new type as equivalent to at least three vessels of the type that compose our fleet.

Assuming that our two new vessels can reach the Pacific in time, Japan will have a superiority of nine new vessels. The total strength of the two fleets, estimated in the average units of the present vessels, will be, United States thirty-two and Japan fifty-five. To bring us up to an equality with Japan, we must order at once and complete in record-breaking time eight battle ships of the *Delaware* class of 20,000 tons. If we order two of this class to complete a squadron of four, with the two already building, and at the same time four of an improved class of 25,000 tons, we can realize the same result at considerable less cost and in the same time. This programme must be regarded as the very minimum demanded by scientific treatment of the subject, for even then all these vessels would have to leave the Atlantic to make our strength equal to Japanese strength in the Pacific. The fact is, Japanese efficiency must be reckoned as gradually becoming greater than ours on account of their superior docking and repairing facilities and because of their presence in home waters. It is not scientific to have simply an equal fleet in the Pacific. We should have an unquestionably superior force, so as to prevent war if possible and to win if conflict is inevitable.

This still leaves the Atlantic ocean absolutely stripped of American war vessels, a condition which Congress can never justify before the American people.

One would have expected that the armies of Japan would decrease after the peace of Portsmouth. On the contrary, five

divisions have since been added to the Japanese army, and today Japan is prepared to put into the field half again as many men as in the war with Russia. This would mean 1,500,000 trained men.

The preparation of war material would naturally have fallen to a normal condition upon the conclusion of peace with Russia. Instead greater activity has resulted. Old works have not only continued in full force and overtime, but new works of great size have been established, and they are kept working day and night. The Japanese have built new steel works and armor-plate factories, new ordnance works for heavy guns, new torpedo factories, new powder factories, new factories for high explosives, also factories for small arms and projectiles; new shipyards have been established, new dry docks built, as well as new building slips, new machine shops, new building and repair works, and new boiler and engine shops; and, besides all this, heavy orders for war material have been placed abroad.

In contrast with this great army of 1,500,000 trained men, containing 1,000,000 seasoned veterans, and with this feverish activity, America has drifted drowsily along and now has but 69,000 men in the Regular Army and only 140,000 raw militiamen, most of the Regulars being now in service in Cuba and the Philippine Islands. There are now available inside of our own country only 9,000 infantry of the Regular Army, less than the police force of New York.

I estimate that Japan could place 500,000 trained men on the Pacific slope within four months, and 1,000,000 men within ten months, against whom we could not marshal over 200,000 men that have ever had any substantial military service. Where great numbers are involved, untrained men can not be effective against veterans. Our Army, therefore, is hopelessly inadequate to cope with Japan even on the Pacific slope, to say nothing of the Hawaiian Islands and the Philippines. So that for security we must depend absolutely upon superiority on the sea.

In addition to the preparation described above, in modern warfare a nation must not neglect to provide money or to secure active assistance, or neutrality where assistance is impossible, on the part of the most important nations likely to be affected by the war. In preparation of this kind Japan has been wonderfully active and successful. She has negotiated great loans at home and abroad, and now has on hand over 600,000,000 yen in specie, mostly in European depositories, and immediately available for military purposes, sufficient to keep 1,000,000 Japanese soldiers in the field for a year.

Although the exact text of the treaties between Japan and France and Japan and Russia is not fully known, there are evidences that by these treaties Japan has secured the neutrality of these two powers through conceding to them, with England's approval, special privileges in certain sections of the opening markets of China.

It is certain, however, that the accumulated wealth of France is pouring into Japanese coffers. But important as these things are, the supreme achievement of diplomacy was an offensive and defensive alliance with Great Britain, which for a century has held undisputed control of the sea. Being an island kingdom, Japan is vitally affected by the attitude of the "mistress of the sea" until such time as she is in control of the situation. This treaty continues until 1915 and renews itself automatically for ten-year periods successively, unless denounced by one of the parties. We must therefore squarely face the natural conclusion that Great Britain will cooperate with Japan, and consequently we must prepare to be masters of our waters in the Atlantic at the same time that we hold the supremacy in the Pacific.

IF WAR SHOULD COME!—THE CONFLICT.

[By Capt. RICHMOND PEARSON HOBSON.]

[EDITOR'S NOTE.—In the last issue of the *Cosmopolitan*, Captain Hobson showed very clearly how thoroughly Japan is prepared for war at the present moment in comparison with the state of affairs in this country.

In the following brilliant article he describes Japan's attack and America's defense, if war should come.

This is no work purely of the imagination. Captain Hobson is one of the greatest living experts in the science of war, and every move described in these pages is the result of careful study. He considers it the most important piece of writing he has ever done.]

In America, every function of government should have the earnest thought of the people. In no function of government is the need of an enlightened and interested public opinion greater than in that of providing for national defense. So vague is our present condition of knowledge upon this important subject that a popular discussion from the platform or in the press brings forth criticism and condemnation, as though such a discussion

tended to bring on war. In truth, the only true way to prevent war is for our people to understand the elements of national defense and the real factors that determine war and peace.

Nothing can have a more beneficial effect at this juncture than a general discussion of the contingencies of war. If there were not a single cloud above the horizon this would still hold true. As it is, the sky is overcast. It is past the eleventh hour. Any other people on earth or in the world's history would, long ere this, have thoroughly investigated the contingency of war with the great powers over the ocean from us and would have adopted precautionary measures to prevent the culmination of war if possible and to insure victory if war must come. As it is, our people, absorbed in developing our resources, have given no heed to the steady approach of the world's great armies. The annihilation of space and the conquest of the ocean have brought the great armies of Europe to our eastern doors; new armies, more portentous than those of Europe, have arisen in Asia and are likewise at our western doors, and to-day America is not only unable to prevent war but is powerless to avert disaster if war comes.

It has been shown how completely Japan is prepared for war. A recent interpellation in the Japanese Parliament as to the nation against which the warlike preparations were being made brought forth the answer from the minister of war that the preparations were "against eventualities in the Pacific," an official confirmation of the universally recognized fact that great war preparations have been going on for a long time. It has been evident for some time that Japan intends to move upon China, but her stupendous efforts in augmenting her navy leave no doubt that America is the objective. The swarming of spies over our country and our possessions, the peremptory attitude of Japan after the trivial incidents in San Francisco, her attitude on the immigration question, all confirm this conclusion. To study the contingency of war with Japan is, therefore, now an urgent public duty. In discussing this contingency, it may be remembered that there is no danger of divulging any secrets, naval or military. Japan and every other nation already know all our secrets, all our elements of weakness and of strength.

No one can forecast the exact date for the beginning of any war, even when war is recognized as inevitable. The only means of approximating it is to determine the time when the aggressive power will have relatively the greatest strength. By this test war is liable to come before our fleet reaches the Far East. If it does not come before that time, it is likely to be postponed until the fleet, or part of it, returns to the Atlantic, or until it deteriorates because of the lack of docking and repairing facilities and the Japanese fleet is reinforced by additional vessels.

Permanent control of the sea in the Pacific will determine the issue of the war. Therefore the destruction of the battle-ship fleet of the enemy will be the supreme objective of both powers. Japanese diplomacy has been invoked to secure the division of the American fleet by bringing danger from Europe through the Anglo-Japanese alliance. The second clause of the treaty of alliance reads as follows:

If, by reason of an unprovoked attack or aggressive action, wherever arising, on the part of any other power or powers, either contractor be involved in war in defense of its territorial rights or special interests mentioned in the preamble, the other contractor shall at once come to the assistance of its ally, and both parties will conduct war in common and make peace in mutual agreement with any power or powers involved in such war.

It is to be noted that an "aggressive action" may occur anywhere. The special interests mentioned in the preamble are those "in the regions of eastern Asia and India." It is impossible for any war against Japan not to endanger that country's interests in the "regions of eastern Asia," and any war would be proclaimed "unprovoked" and "aggressive" on the part of the other party. Therefore the only interpretation permissible is that Great Britain would join with Japan in a war with America.

When America assembled sixteen battle ships in the Atlantic, Great Britain assembled twenty-six battle ships. This was designed to cause a protest from the Atlantic coast States against the stripping of the Atlantic and to result in only a part of the fleet being sent to the Pacific. Our Government wisely proceeded to send the whole commissioned fleet. As new vessels are commissioned in the Atlantic they should be sent straightway to the Pacific, and the whole fleet should be kept together, constantly ready. As soon as practicable this whole fleet should be sent to the Philippines. If it is permitted to reach those waters before a rupture occurs, the Japanese-English purpose will be to bring about its departure for the Atlantic in whole or in part. We should, on the contrary, keep the whole united fleet permanently in Far Eastern waters and build additional fleets for the Atlantic. It is only by having the fleet in the Far

East that we can be sure of forcing a general engagement in case of war. This very fact gives us our only chance of peace and our only hope of victory if war is inevitable.

Should the fleet remain in the Far East, Japan will doubtless wait until it deteriorates because of the lack of docking and repairing facilities, and until she adds the *Ibuki*, the *Kurama*, the *Oki*, and the *Satsuma* to her fleet. Without the last two vessels the Japanese would have twenty-four armored vessels to our twenty-six. While they would have the advantage of being in home waters and of having adequate docking facilities, our fleet would still have a good fighting chance. But when the *Oki* and the *Satsuma* are added, each carrying four 12-inch guns and twelve 10-inch guns, thirty great guns in all—as many as any eight of our vessels, giving the Japanese the equivalent of thirty-two vessels to our twenty-six—the chances will be heavily against us. In spite of all that we can do this Japanese preponderance will exist before the summer is here. For the last three years we have neglected to build big vessels of the new type; and if war comes upon us in these most unfavorable circumstances, our best possible condition will see our fleet of obsolete vessels move out to engage a superior Japanese fleet, headed by two *Dreadnoughts* with their terrible concentration of power. Our only reliance, a reliance that should never be required, would be upon superior skill and greater efficiency.

It is altogether likely that Japan will add two more, and possibly four more, *Dreadnoughts* to her fleet before we can hope to add the *Delaware* and the *North Dakota*. We must therefore proceed with all dispatch not only to build new fleets of *Dreadnoughts* for the Atlantic, but new ones for the Pacific, and these latter must come as fast as the Japanese reinforcements. If the fleet reaches the Far East and remains there, we must be prepared for some time to come to see a general engagement with the odds against us. Should we win the victory, the war would be over. Should the Japanese win, the war would be just begun, for they would have control of the Pacific, and the invasion of the Philippines and of our Pacific coast would begin. There is little doubt that the British would join the Japanese the moment the Japanese gained such control of the Pacific that their armies would be available to cooperate with the British armies in an invasion from Canada. It is probably one of the objects of the peculiar wording of the Anglo-Japanese treaty to give the British a line of retreat or advance, according as defeat or victory perches on the Japanese banner.

Let us now take the case of our fleet being on the Pacific coast when war comes. As before, the permanent control of the sea is supreme and the destruction of the battle-ship fleet of the enemy the objective. In this case the long distance across the ocean becomes a leverage against us. Hawaii is the point without which neither power could take the aggressive, even after a victory that gave control of the sea. If Japan had control of the sea and also held Hawaii, the Pacific slope would at once be open to invasion. If America held Hawaii in force, the Japanese would have to overpower our force there, at great sacrifice, before invasion would be possible. Since Japan is compact, with strongly fortified harbors and a great army, America is forced to adopt the defensive. Even if we held Hawaii and gained control of the sea, we could never do more than destroy Japanese over-sea commerce, which is never a deciding factor in a great war. From the outset, therefore, we must realize that we have nothing to gain and everything to lose by war. Japan has little to lose and from her standpoint everything to gain.

Considering the fact that there are over 100,000 Japanese and only 7,000 Americans in the Hawaiian Islands, we must assume that Japan controls the pivot; and if she should get control of the sea, invasion of the Pacific slope would follow. We should at once place in Hawaii a garrison sufficient to keep the Japanese inhabitants under control and to repel a landing in force, even under the protection of Japanese ships, and we must take no chances of losing the control of the sea.

After hostilities began our fleet should remain on the defensive off our coast and put the enemy at the disadvantage of crossing the ocean before he could get an engagement. On no consideration should we venture farther than Hawaii, and this far only if we were in control and Pearl Harbor entrance can be dredged. This harbor is the most wonderful and most vital sheet of water in the world. Whether in the hands of the white men or the yellow men, it is destined to become the greatest naval station the world has ever seen. If held by the yellow men, America will be helpless against Asiatic invasion. It is our supreme duty to hasten to garrison and fortify the island of Oahu and speedily establish a naval station at Pearl Harbor.

Judging from the circumstances attending the beginning of the Russo-Japanese war, America would know nothing of the

first moves of Japan if war should come. Our first indication would be the simultaneous cutting off of cable communication with the Hawaiian Islands and the Philippines without warning or explanation. The cutting of the cables would be followed within a few hours by the landing of Japanese expeditions. Two of our fastest armored cruisers would probably be dispatched at once to make a reconnaissance of Hawaii. A week would probably elapse before any definite news would come from Manila by way of Hongkong or Saigon or Singapore. This news would probably recite that a Japanese expedition, under heavy escort, had landed probably 100,000 men in the Lingayen Gulf or on eastern Luzon, and that this army was advancing on Subic Bay and Manila. Reports would follow that the Filipinos were flocking to the Japanese colors. From the day America retained the Philippine Islands the Japanese have been in communication with the natives, planning our expulsion. The landing of the Japanese army would be the signal for an uprising.

The first report about Honolulu would probably be brought by the armored cruisers about ten days after they started from the coast, and their report would probably announce that a Japanese expedition had landed probably 15,000 men, with large quantities of arms, ammunition, and supplies; that the Japanese on the island had risen; that the small garrison and the American residents who joined it had been overpowered; that a Japanese army of probably 50,000 men was in camp out of range from the water; that active preparations were in progress to resist any landing that might be attempted, and that the vessels in the expedition had retired.

The seizure of the Philippines and the Hawaiian Islands would be the first move of Japan. Preparations have been completed for this move. The bases for the Philippine invasion will be Kilung, Formosa, and a harbor in the Pescadores Islands, which are being prepared for this purpose. These bases are so near to Luzon that 150,000 men could be thrown into this island long before our fleet could cross the Pacific, and once in the islands, with large quantities of munitions, the army could live on the country.

The first advance of this army would be upon Subic Bay, which would be quickly taken from the rear, and would thereafter be the naval base for the Japanese fleet. I do not believe, however, that the Japanese fleet would remain there. The one supreme objective being control of the Pacific, the Japanese plan would be to lure our fleet to the relief of Manila. The advance of the Japanese army and the siege of Manila would be conducted toward this end, and the dispatches allowed to go out would be planned to stir the American people to the attempt. Should we make the blunder of attempting the relief of Manila, the disintegration and ultimate annihilation of our fleet would be practically assured. It really could not relieve Manila, because we have no transports to convey the necessary troops, and we have no troops if we had the transports. The fleet would find itself in hostile waters over 6,000 miles from a base and unable to force a general engagement. The main Japanese battle-ship fleet would retire to the security of fortified home bases. Our fleet would be compelled to seek one of the inadequate, undeveloped harbors of the Philippines, without any facilities for docking or repairing. The enemy's cruisers would scour the ocean and cut off or cripple the collier coal service. The coal carried by the colliers with the fleet would be quickly exhausted. The fleet would doubtless be subjected to repeated attacks from torpedo boats and to harassment from the enemy's cruisers. Every time a vessel was injured repairs would be impossible. The machinery would rapidly deteriorate for lack of overhauling and the bottoms would foul without a chance for cleaning. The health and esprit of the men would sink steadily to a low level. Disintegration and ultimate defeat would be inevitable.

In case the fleet undertook to find the Japanese fleet and to force an engagement, it would be compelled to force an entrance into one of the fortified harbors of Japan to reach their fleet, incurring dangers and disadvantages that could not end but in disaster. Without troops it would be almost impossible to seize and hold an adequate Japanese harbor for a base from which to conduct a blockade. Thus it may be taken for granted that any attempt to relieve the Philippine Islands after they had been occupied would certainly end in disaster that would give to Japan permanent control of the sea.

The moment this control was secured the invasion of America would begin. The first step would be the gathering of a great army in Hawaii. Two hundred thousand men could be landed there in two weeks, 200,000 more in four weeks, and 200,000 additional men every month for six months. From Hawaii it is but a step to the Pacific coast—about 2,100 miles to San Francisco, about 2,200 miles to Los Angeles, and a few more to

Port Townsend. The choice of these points of invasion would depend on whether the British were in cooperation or not. Judging from the words of the Canadian premier, Sir Wilfrid Laurier, in a speech in the Dominion Parliament on the Japanese immigration question, on February 28, we can not assume that the Japanese would be alone. On the contrary, Sir Wilfrid pictured a Japanese fleet weighing anchor at Vancouver to proceed against a common enemy in the North Pacific. With British cooperation the invasion would take place simultaneously from British Columbia and at points on the coast of California.

Assuming British cooperation, there would be ample transport service, and in a few weeks 250,000 Japanese, with substantial reinforcements of Canadian and British soldiers, would proceed to occupy the cities and country around Puget Sound and then go southward through Portland, Ore., occupying as they went all the territory from the coast to the Cascade Mountains. Branch expeditions would be dispatched to hold the railroads and other passes through the mountains. Simultaneously two expeditions would land, one below Los Angeles, whence the city and the Southern Pacific, the Santa Fe, and the Salt Lake railroads would be seized, the other landing below San Francisco, whence this city and the Union Pacific Railroad would be seized. As reinforcements arrived these expeditions would move northward, occupying the territory from the coast to the Sierra Nevada Mountains, and seizing the mountain passes. The forts defending San Francisco would be taken from the rear, and this city, with its harbor, would become the base for the united armies of invasion after they made a juncture. In the seizure of the coast cities and the mountain passes the Japanese already on the coast would be invaluable, particularly the compact, disciplined Japanese clubs. As the country was occupied it would be thrown open to Chinese and Hindoos, as well as Japanese, and with the ocean open the white population of the slope would soon be overcome.

Simultaneously with the invasion of the slope Alaska would be occupied by Canadians, and there would be an invasion by the British from the Canadian frontier. Porto Rico, Cuba, and Panama would be seized, an unopposed fleet would destroy all the shipyards, and assaults would be made on our cities on the Great Lakes and on the Gulf and Atlantic seaboard. Our vulnerability on these waters is appalling. On the Atlantic coast alone our population aggregates over 15,000,000, with over \$17,000,000,000 worth of property within gunshot of the water. Coast defenses have always proved inadequate. The efficient protection of all these cities depends on the control of the sea. With the enemy in undisputed control of the sea the damage that could be inflicted and the tribute that could be exacted would stagger the world.

On the Great Lakes there are over 7,000,000 people and over \$7,000,000,000 worth of property within gunshot of the water, all without defenses of any kind, while over 200 British light-draft vessels can pass quickly through the Canadian canals to the Lakes.

I do not believe that Great Britain would undertake to join Japan unless Japan soon gained permanent control of the Pacific, so that troops from Japan and India, coming in through Vancouver and on the trans-Canadian railways, could join Canadian and British troops in the invasion from the north. However this may be, Great Britain is held in the offensive-defensive alliance, and it is our duty to investigate the contingency of war with those two powers. This investigation shows that for a long time nothing but the direst adversity could be expected. Upon the outbreak of war the Regular Army would be mobilized and the militia would be called out. Our people would awaken in consternation to find that there were only about 9,000 infantry of the Regular Army in the whole country, and that these few were scattered far and wide. The consternation would be intensified when it was found that only about 60,000 militia were fit for duty, and that these likewise were scattered over the whole country.

The President would probably issue a call for 250,000 volunteers, and the nation would be shocked to find that there was no system prepared for their organization and equipment; that not even uniforms could be supplied to half that number; that facilities were lacking even for their mustering in.

In olden days, when the numbers involved were comparatively small and the time available after the declaration of war was great, preparation in advance was not vital, though it has always been of great importance. Not so to-day. It is too late to prepare after war has come. Formerly vessels could be built in ninety days, and it took an enemy's fleet that long to get over the ocean and inaugurate a campaign. To-day it takes three years to build a battle ship, and an enemy's fleet could

be at our doors in less than two weeks and destroy our shipyards, so that no vessels could be built at all. Likewise with armies. When the numbers are so great it is impossible to perfect the organization overnight. In the Spanish war we called out but a quarter of a million volunteers altogether, but the woes of imperfect organization were so great that they died off like flies in camps at home here in our midst. A great industry or a great business can not be created overnight. Much less can an army.

With the Japanese in control of the sea in the Pacific, it would be impossible to prevent the invasions mentioned above. We could not possibly oppose the three invasions of 200,000 trained soldiers each, the veterans of Port Arthur and Manchuria, with 25,000 trained soldiers in each case. It would simply be slaughter and butchery to attempt resistance. It would take America at least a year to assemble and train an army competent to undertake the expulsion of the invaders. Ere this the host of Japanese, reenforced doubtless by Chinese and Hindus, would be in complete occupation, and with a million and a half veterans in control of the mountain passes they would be impregnable. The transportation and commissary problems, with the deserts and thinly settled stretches east of the coast ranges of mountains, would be stupendous, while the Japanese, besides having a rich country on which to live, would have the open-sea communications with the mother country.

We might as well realize now as later that the Asiatics, in control of the Pacific, could dislodge the Americans on the Pacific slope, and as long as they retained control of the sea we could never successfully contest their supremacy.

A general invasion from Canada by the combined British, Canadian, and Asiatic forces, with both oceans open and with east and west railroads and the waters of the Great Lakes for transportation, while the coasts were held by the unopposed fleets, would present us with a problem almost as hopeless. The invasion would probably reach from the frontier to New York and even to the Chesapeake, east of the Appalachians, and perhaps to the Ohio River, in the Middle West. Our people have been living under the impression of absolute security against invasion. This impression was well founded when the ocean was a great barrier and the only danger was from Europe. Events of recent years, however, have demonstrated the great capacity of Asiatics for war and have at the same time annihilated the time-and-space separation due to the ocean. With Europe and Asia cooperating and in control of the sea in both oceans the question of invasion takes on a new aspect. Japan is planning and preparing to gain control of the population and resources of China. The cooperation of Great Britain, the "mistress of the seas," would make practicable the invasion of America along its northern frontier. No nation could stand up under the weight of numbers the alliance could command.

It is time patriotic Americans were considering the possibility of a war for our very existence. They should realize that everything would hinge on the control of the sea in the Pacific. We must take no chances of having the permanent control of the sea in this ocean. If our fleet were on the Pacific coast at the outbreak of war it should remain on that coast, moving out no farther than Hawaii, and allow the Japanese to occupy the Philippine Islands for the time. Except for cruises by our armored cruisers, we should stand fast and proceed to build a new fleet as big again as our present fleet, and in the meantime should undertake no offensive move except to gain complete control of the Hawaiian Islands and establish a great naval base there. Of course Japan would proceed to build new ships also, but we could ask nothing better than a race in building ships. We should so move that the Japanese fleet could get a general action only by crossing the ocean.

Should war come when the fleet is in the Atlantic, its difficult transfer to the Pacific would begin immediately, but it should hug the coast on the eastern shores of the Pacific and force the Japanese fleet to cross the ocean to get a general engagement. Of course the Philippine Islands, Guam, Hawaii, the Aleutian Islands, Samoa, and Alaska would be seized, but the general invasion of the Pacific coast would not be undertaken while our fleet remained afloat. During the absence of the fleet, however, the coast would be subject to raiding expeditions. It is only too true that, almost without warning, such expeditions could seize Los Angeles, San Francisco, Seattle, Tacoma, and the other cities on Puget Sound, and possibly Portland. It is conservative to state that with our present lack of coast defense these raiding expeditions could be made successfully with our fleet in the Philippines, and some of them could be made successfully with our fleet on the coast. The Japanese have no doubt planned such

expeditions. Quickly executed, with 25,000 men in each expedition, there would be no hope of successful resistance at a single point.

Fabulous ransoms would be exacted, and, if refused, the cities would be looted and laid waste or left in ashes. If the ransoms were paid, all the works of defense would be destroyed, forts would be blown up, naval stations, arsenals, shipbuilding plants, wharves, dry docks, ferry boats, and railroad terminals would all be destroyed. All vessels and shipping would be captured and taken away. The size of the ransom and the extent of the damage that could be inflicted can be appreciated when we understand that in the State of Washington there are \$317,000,000 worth of property within gunshot of the water; in Oregon \$248,000,000; in California the huge sum of \$2,100,000,000, a total of \$2,665,000,000.

If war comes before we have taken more adequate steps for defense, we can only expect humiliation and defeat. The American nation, however, has never yet accepted defeat as final.

JAPAN IS TRYING TO FORCE WAR UPON AMERICA.

[By Capt. RICHMOND PEARSON HOBSON.]

It has been pointed out that Japan, having completed her naval, military, and diplomatic preparations for war with America, has recently been seizing upon incidents, no matter how trivial, to stir up the masses of Japan against America. These efforts have been eminently successful. By gross exaggerations and misrepresentations in the Japanese press the people's hatred and cupidity have been aroused, and this feature of preparation may be regarded as completed. The press campaign in Europe has been equally successful. By adroitly building molehills into mountains out of the local incidents in San Francisco, the press of Japan's ally has produced the impression that America has formed a fierce race hatred against Japan and is treating the subjects of that nation as inferiors; that she has been violating treaty rights, and that a war of recognition as a civilized nation would be justified on the part of Japan. The broad, plain fact that the American people could not possibly change overnight; that as a matter of fact their admiration for the Japanese has steadily grown; that they have a pride in Japan's success something akin to the pride of a sponsor; that they love the Japanese and invite and welcome them into the schools and everywhere else, everywhere, all over the country—these truths count for naught. The impression has been produced in Europe that there are causes that would warrant Japanese reprisals. It is not surprising, therefore, when we remember that Japan is ready and America is not, that the school incidents in San Francisco are seized by Japan to create a crisis and force the American Government into war.

When our Government learned about the inflammatory propaganda in Japan and the pro-Japanese propaganda of distortion in Europe, it took immediate occasion to correct the mistakes and sent a most courteous cablegram to the Japanese Government to the effect that the attitude of love that our people have always held toward the Japanese had in no wise changed; that we were upholding and would scrupulously uphold all our treaty obligations and would protect the rights of Japanese in America; that the friction in San Francisco was purely local, growing largely out of abnormal labor conditions, and that the best offices of the Government would be used to have even these local matters adjusted; but of course, as in all other international incidents arising within individual States, that the regular course required by our institutions would have to be followed, requiring local and State adjustment before action could be taken by the General Government. A more courteous, conciliatory assurance could not have been conceived.

Close upon the heels of this courteous cablegram, the Japanese ambassador in Washington went down to the State Department and left a note. I have been criticised for referring to this note as an ultimatum. It was just as much an ultimatum as Rome ever delivered to an enemy. When Rome was all ready for war she used to issue an ultimatum which she knew the enemy would not accept, and then would inaugurate the war because the enemy would not comply.

The ultimatum has been used by aggressive nations ever since, in the effort to justify themselves or gain moral advantage in the eyes of the world when they proceeded to break the world's peace.

The Japanese note says, in effect, that the matter of our "institutions" was no concern of theirs; that the question would not be discussed. We command you to put those pupils back in those schools. They evidently thought that our President would resent such a demand, involving, as its compliance would have involved, the disregard of institutions the product of a long evolution, the fundamental law of the land.

Supported, as our President would have been in such a position, by the American people, with the Japanese Government supported, as it would have been in its position, by the Japanese people, it was expected that a crisis would be produced from which Japan could bring on a rupture without incurring the condemnation of the public opinion of the world.

But our President was too wise to fall into the trap. He saw what it meant and realized how defenseless we were. Whatever may have been his resentment internally, it never showed externally. He wisely and shrewdly espoused the cause of the Japanese. He sent a member of his Cabinet scurrying across the continent "to investigate" the matter, a most extraordinary procedure in the slow methods of law and diplomacy, and directed an injunction to be secured against the school board of San Francisco, a most extraordinary procedure when the school board was only carrying out a law of California that had been in force for many years. He then wrote that extraordinary essay upon the glories of the Japanese and the infamies of the Californians and, taking advantage of his approaching message to Congress, included the essay in the message and sent it out thirty days in advance, so that the papers all over the world, in Europe and Japan, had the text and printed it when the message was released. The good people reading this text naturally began to question the motive behind Japan's peremptory attitude in face of such a conciliatory attitude by our Government. This checkmated the Japanese for the time. The President then directed the school question to be laid before the United States court in California. The facts were agreed upon and handed up to the court. The court considered them and prepared its decision. It was evident to those who followed the case that the decision would sustain the Californians. They were California's schools; California had the right to decide who could and who could not attend them. There was nothing in the treaty with Japan that granted the right of attendance, and there could be no such grant of right.

The case was an application of the old principle of the right of local self-government.

Just before the decision of the court was expected to be handed down the Japanese foreign minister appeared before the Japanese Parliament and served notice to the world that the decision of the court would determine the attitude of America and therefore the attitude of Japan. The President saw that this decision would be seized upon to have the world believe that the American nation had definitely decided to turn the Japanese pupils out of school. As a matter of fact, San Francisco proposed to supply these pupils with schools as good as the other schools and give them a free education, a privilege denied Japanese pupils in Australia, a privilege for which America received no equivalent in Japan. Furthermore, the schools of Los Angeles and all the other cities of California, the schools of Oregon and Washington and all the other States of the Union invite and welcome Japanese pupils right in the midst of the American pupils. Yet the Japanese Government chose to have a decision of a court as to the rights of American citizens determine the attitude of the nation, while these rights were exercised in only one city in the whole land, and the nation's attitude was really just the opposite. The cordiality and generosity of this attitude would in reality only have been proven the more conclusively by the decision. While the people everywhere had the right to deny to Japanese pupils free education, they exercised this right nowhere, and only in one city out of the whole land did they exercise the right far enough to require separate schools.

The President realized what the statement of the foreign minister meant. He had only recently directed the machinery of the court to be set in motion. He now quickly directed that the motion be stopped in its last stages. The decision was never handed down. It did not matter how important the decision would have been, we did not dare to let it be handed down. The great judicial function of the Government had to be suspended.

The President hurriedly telegraphed to the governor of California not to allow the Japanese question to be discussed in the legislature of California, and the governor prevailed upon the legislature to drop the question. We had come to such a pass that a legislature of a great American Commonwealth did not dare even to discuss a vital question of pressing importance. They had to surrender the right of freedom of speech and to stop the legislative functions of government.

The President then telegraphed to the mayor and school board of San Francisco to come across the continent to see him. They came, and a remarkable change came over them. On the way across the continent, when interviewed in passing through the cities along the route, they stated and repeated again and again that their minds were already made up, that there was

no use of taking the long trip, that they did it out of courtesy to the President, but that they were determined, in this vital question, to stand for their rights first, last, and all the time. When they left the conference at the White House they hastened back to San Francisco and "put those pupils back in those schools."

This was not done because the law required it, for the law was on the other side; it was not done because the principle involved was right, for the principle of intimately mingling two different races in large numbers is wrong; it was not done because the people of San Francisco wished it, for they emphatically did not wish it.

It was done to comply with the ultimatum of Japan, and it had to be done because we were utterly unprepared.

No free nation in the history of the world has ever suffered such deep, real humiliation as we have suffered at the hands of Japan. Every Department of our Government has been compelled to turn aside from its orderly procedure—executive, judicial, legislative—and finally an American city has been compelled to surrender the right of local self-government.

It is time for Americans to pause and take account of where we have drifted. The right of local self-government is the principle for which our forefathers died; it is the principle for which Anglo-Saxons have died for a thousand years; it is the very corner stone upon which the edifice of human liberty has been built. So absorbed are our people in their individual affairs, it is a question whether we are worthy to be intrusted with the holy cause of liberty. Our forefathers of the Revolution prized liberty above life, and in its cause, when less than 3,000,000 in population, they defied the "mistress of the seas." Their immediate sons, receiving the cause as a sacred trust, realized that America is the exponent and champion of human liberty in the world. When still less than 10,000,000 population they decreed that even the people in distant South America and the people of the whole Western Hemisphere shall have a chance for self-government. Here we are now, numbering 90,000,000 of population, stretching across the continent, with wealth unlimited, and yet not only are we unable to guarantee the chance for liberty to the people of South America, not only are we unable to guarantee the chance for liberty to the helpless peoples of our outlying possessions, but we are actually unable to guarantee the principles of liberty in the mainland of America itself. We have negligently drifted to the point where we must disturb the functions of our Government and must compel an American city to surrender the most sacred principle in all the institutions of liberty at the dictation of a power across the Pacific Ocean, a power of an alien race, an oriental absolutism just emerging from medievalism.

Furthermore we must keep on surrendering, no matter what demand is made upon us. It would be the part of folly to refuse and fall into the very traps laid for us and open the way for national disaster and worse humiliation in the end. The whole thing is palpably wrong. It is sinful and wicked. This nation, with so much depending upon her, must not continue like a weakling, unable to make good. How different it would all be if we had done our duty and promptly established our bases and adequately expanded our Navy. Japan would not now be strangling our commerce in Korea, Manchuria, and China and be plotting for the abolition of the open-door policy there; she would not be looking with covetous eyes upon our outlying possessions, she would not be seizing every little trivial incident that occurs in America to stir up animosity between the two peoples; she would not be seeking war; there would have been no Anglo-Japanese alliance, with its menace to our very life as a nation, and we would not be compelled to submit in abject humiliation to surrender what is more sacred than life itself, the trust committed to us by our forefathers. On the contrary, we would then be on a self-respecting solid basis for close friendship with Japan, and would be able to fulfill our duty to the cause of liberty and the cause of peace in the Pacific Ocean and in the world at large.

Japan was loath to drop the school incident even after the pupils had been put back in the schools.

Some time after this action a general meeting of the chambers of commerce of the principal cities of Japan was called, and the united chambers of commerce adopted resolutions condemning treatment of Japanese children in America that refused them educational advantages, and calling upon the chambers of commerce of America to use their good offices in securing justice to these children and avert the grave consequences that might otherwise arise.

These resolutions were simply ridiculous to Americans who knew that at the moment they were adopted not only all the other schools in America but also the schools of San Francisco themselves were open to Japanese pupils on absolutely the same

basis as American pupils. But its designed effect in Europe and in Japan was to nullify the effect produced by the previous announcement of the restoration of the pupils to the schools of San Francisco and to leave the permanent impression that injustice to Japanese children is the regular practice in America.

Similar action was taken to make permanent the impression in the world that America is unduly stringent in the question of Japanese immigration, and semiofficial announcements were made of changes Japan would demand when the renewal of the existing treaty with America came up.

The time for this renewal was years off, and America could not understand why the question was advanced by the Japanese Government when it posed before the world as being so solicitous of "preserving the friendly relations that have always existed between the two countries."

This semiofficial announcement was so couched as to be a defiance of the known determination of the people of the Pacific slope to have some substantial restriction placed upon Japanese immigration, which was fast becoming a menace to their industrial equilibrium, and the purpose was not only to produce the impression in Japan and in Europe that we were maltreating the Japanese and treating them with indignities incompatible with their self-respect as a civilized nation, but also to precipitate exclusion legislation in America that would play into Japan's hands as she sought her pretext of war.

This sensitiveness on the subject of exclusion in America seems ridiculous when we remember that the "indignities" of restriction are drastically enforced in Australia and other British colonies. But the world does not know this. It has never been proclaimed from the Japanese house top. So the semiofficial announcements had this desired effect upon the world and upon the people of Japan.

This fact, however, was soon subjected to the jolt that came with the outbreak in Vancouver. The British and Japanese press were quick to attribute this outbreak to the "influence and instigation of Americans," but it becomes generally known, in spite of the efforts at concealment, that thousands of the best citizens of the city and a number of British soldiers, who could not possibly have been "instigated," took part in the demonstration, and that the whole Japanese quarter was wrecked and a Japanese subject killed, compared to which all the incidents in San Francisco were as naught. In addition the whole structure of Japanese-English plans was rudely shaken when the mayor of the city proclaimed emphatically that the city would not pay a dollar for damages, and the members of the Dominion Parliament from British Columbia publicly announced that the people of his Province would forcibly resist any attempt on the part of the Crown to force Japanese immigration upon them.

Japan to-day stands out ridiculous in the eyes of the world as straining hard at the gnat in San Francisco and swallowing whole the camel at Vancouver. No wonder she has abandoned this path. No wonder we now hear of measures to restrict emigration and then to remove the cause of friction. No wonder the Japanese foreign minister issues his studied pronouncement to try to hush the whole matter up. We heard no such pronouncements before the Vancouver incident. This foreign minister of the honeyed words to-day, when honeyed words are not needed, is the same foreign minister of the ultimatum and the same foreign minister of the declaration concerning the pending decision of the California court. No wonder this foreign minister expressed the hope that his pronouncement "would prevent further misrepresentation and finally result in discrediting those who are constantly circulating false and harmful reports." He must now seek some other source from which to manufacture a pretext for war, and in the meanwhile the victim must be lulled back to sleep, lest she detect in the San Francisco incidents, now abandoned, the true attitude of Japan and proceed accordingly to take precautionary measures that would make Japan's task more difficult.

It seems now that the source for the next effort is to be Chinese disturbances, which Japan is planning to precipitate early next year. How long it will take Japan to get her pretext and force war upon us can not now be foretold, but to offset the possible increase of our Navy by the two large battle ships authorized by the last Congress Japan has now ordered two more *Dreadnoughts* in addition to those already building, one of the new ones to be built at Fairchild's in England, the other to be built in Japan, both of which will be completed before ours, and Japan's stupendous preparations for war continue with feverish activity.

It is easy for the foreign minister to insinuate that the efforts to arouse the American people to a sense of our danger are explicable "only upon the ground of a financial nature," and to

refer to the facts presented as "false and harmful reports," but he can not controvert those facts, nor truthfully deny them.

Let me warn my countrymen who are reading these papers not to drink the soothing syrup proffered by one who is holding a sword in her hand. We are a peaceful, trusting people and our inherent weakness and danger is to assume that because we do not wish to attack any other nation, no other nation wishes to attack us, and thus in false security to neglect the only preparations which could avert such an attack. Let me add that I have been diligent and scrupulously careful in gathering the facts, a task made difficult by Japanese secretiveness, and have only drawn the conclusion warranted by the facts, stating these conclusions without mincing words, as duty dictates they should be stated.

After the successful war with Russia, when every source of aggression has been removed far away, with no possible chance of aggression on the sea, we behold Japan making stupendous, hurried preparations for war, naval, military, and diplomatic preparations designed to gain control of the sea, which will be the vital question in case of war with America, and when these preparations are far advanced we behold the Japanese press stirring up the Japanese masses to animosity against America; we behold the allied press of Europe justifying Japan in undertaking serious measures for "redress" against America, and when the slightest opening occurs, however unjustifiable, however trivial, compared with the wide openings for closing similar "redress" from the British, we behold Japan issuing an ultimatum to America that requires abject humiliation or a rupture.

The avoidance of the rupture by the sagacity and wisdom of our President, and the abandonment of this particular opening on account of the occurrences in Vancouver, can not affect the only conclusions which no patriotic American can consider without apprehension:

First. Japan has prepared and is continuing preparations for war.

Second. These preparations are for war with America.

Third. The preparations are so far completed that Japan has already tried to force war upon unprepared America.

Fourth. Japan should be expected to seize upon the first advantageous opening to try again to force war upon America.

Fifth. The only possible way to avert war is for America to hasten defensive preparations, and while these are incomplete be prepared to submit to humiliations.

JAPANESE DIPLOMACY AND FINANCE POINT TO WAR WITH AMERICA.

[By Capt. RICHMOND PEARSON HOBSON.]

Feverish activity prevails in Japan in accumulating war materials, such activity as is seen only when a nation is on the verge of war. Existing establishments are being enormously enlarged, new establishments are being founded—steel and iron works, and armor plate and torpedo factories, shipyard equipments, docks, building plants, gun factories, powder and high-explosive factories, small arm and ammunition equipment factories.

These establishments at home are working full force overtime, night and day, and tens of millions of dollars worth of additional war material has been ordered abroad in Europe.

Hundreds of millions of dollars of ready specie money have been stored up. The merchant marine has been greatly expanded for over-sea transport service. The Chinese are being taught, trained, and organized in preparation for drawing upon the combined resources of both countries.

It may be pointed out further that these warlike preparations can have no European or Asiatic power as the objective, but are directed against America.

In great wars, however, naval and military preparations are not the only preparation; diplomatic preparations also are required. The great conquerors of history, like Napoleon, Caesar, Alexander, Tamerlane, were as great in diplomacy as in direct war itself, and their greatness and success lay largely in their mastery of the diplomatic factors of preparation. Frequently the outcome of war is settled absolutely by the success or failure of diplomatic efforts to secure the cooperation of other nations.

The aim of such diplomacy is twofold: To bring about as far as possible the isolation of the enemy, and to secure as far as possible the advantageous cooperation of other nations, in naval, military, financial, and moral support.

Japan being an island kingdom, her success or failure in any foreign war will always hinge upon the control of the sea. The invasion of Manchuria, for instance, depends upon Japanese control of the sea. The issue of the war with Russia was not settled by the brilliant victories of Liaoyang and Mukden, but by the naval battle of Tsushima. Japan realized full well that Russian control of the sea would mean Russian victory. Rus-

sia for fifteen years has been in a dual alliance with France, the second naval power in the world. An absolute prerequisite for war with Russia, therefore, was the cooperation of a strong naval power. Japanese diplomacy did not have to look for a field to find such a power. The first naval power of the world was ready at hand and waiting for an opportunity to back a third power against Russia, to check the advance of this rival empire, and weaken this hereditary enemy, particularly when their backing would not involve her own participation. The first Anglo-Japanese alliance was readily arranged, by the terms of which each of the contracting powers would come to the assistance of the other in case the other became engaged with more than one power; in other words, if France joined Russia, Great Britain would join Japan. This alliance eliminated France and secured the isolation of Russia. This completed Japan's diplomatic preparations. The naval and military preparations were already complete. The Russo-Japanese war, therefore, followed close upon the heels of the Anglo-Japanese treaty. War between Russia and Japan was inevitable, and would have come some day, but it is certain that Japan, without the cooperation of the British, would not have taken the aggressive during the continuance of the France-Russian alliance. The British, therefore, are absolutely responsible for the war as it came. The first Anglo-Japanese alliance, though professing peace as its purpose, was a war measure. Such, likewise, is the nature of the second Anglo-Japanese alliance, now in existence and extending till 1915. This treaty modifies the first treaty, so that now the British must join the Japanese if they become involved in war with only one nation.

What nation is Japan's objective in forming this new alliance? Evidently it is a great nation that has no alliance with other nations, for the first treaty would have been adequate for a nation with such alliances. There is but one great nation without alliances—America.

It is blandly sent out from Tokyo and London that the alliance has Russia in view. When Russia was in her full strength, the British had never found it necessary to form an alliance to protect India. When the new Anglo-Japanese treaty was entered into, Russia lay prostrate upon the earth, her army and navy permeated by mutiny, her people rent by revolution.

If there was but little occasion for Great Britain to form the alliance against Russia, there was even less for Japan. The first treaty had proved amply adequate for Russia, when Russia had a fleet at Port Arthur nearly as large as the Japanese navy and another fleet on the way larger than the Japanese navy. With these fleets annihilated, except those vessels in ports that were not captured by the Japanese, and with no prospect of a Russian fleet appearing in the Far East for a generation, why should Japan seek the cooperation of the "mistress of the seas" to keep Russia in check?

The suggestion is ridiculous.

The new alliance is not needed for Germany. The German army and navy have to be kept at home. The German Government has openly avowed that it realizes that Japan can throw the Germans out of Kiao-Chao any day it decides to do so.

The new alliance is not needed for France. Cochin China is as helpless at Kiao-Chao. It is not needed for Italy or any other European powers.

Anybody but a blind man can see that the new Anglo-Saxon treaty, a cast-iron alliance, offensive and defensive, is directed against America.

The purposes of this alliance are not difficult to discover. On the part of Japan it is the first important move to isolate America. It forestalls and prevents any possible aid America might have hoped to receive from Great Britain on account of the ties of races, blood, and language. With the great British naval base at Hong Kong, between Japan and the Philippines, and with a strong British fleet in the Orient, British aid to America is the one thing Japan would fear the most.

The alliance is intended to produce the division of the American fleet between the Atlantic and Pacific, and thus to insure the superiority of the Japanese fleet in this latter ocean, the great desideratum of Japan.

It insures financial aid, for which Japan has need in making her great war preparations, and in prosecuting the war.

On the part of the British, the purposes are equally plain. The Japanese are fast becoming supreme in determining the commercial policies of China and the Far East generally. They can insure, and have doubtless promised, the British commercial ascendancy in the Yangtse Valley, a "sphere of influence" the British have coveted for generations. The alliance would insure the elimination of America, their great competitor, from the oriental markets, and give to the British a partnership in the commercial supremacy of the Pacific.

It may be advanced that the British would refrain from war with the United States on account of the proximity of Canada. Thorough examination will take away the force of this assertion. In the case of the British alone, Canada is open to invasion, but with the British in alliance with a strong military power, Canada becomes a base for the invasion of the United States. Investigation shows that Japan in control of the Pacific Ocean could occupy the Pacific slope and hold it in the face of all the military exertion we might make. The situation would be far more critical in the case of a combined invasion from the Pacific and from Canada at the same time. Both oceans would quickly be swept free of American ships. Canada has about 55,000 trained men with which to keep us in check at first, then the British would pour trained troops into Canada faster than we could arm, equip, and train troops in the Eastern States, at least for one or two years. The British have a standing army of 286,000 men, and total effectiveness amounting to 750,000 men. She has practically an inexhaustible merchant marine with which to supply both oceans with transports. She would draw upon India and the Colonies. The hordes of the Hindoos would join the hordes of the Japanese and Chinese, and from the occupation of the Pacific slope they would soon overflow across the trans-Canadian railroads to supply all the men needed for a general invasion of the United States all along the Canadian frontier.

America, without any preparations whatever, would find herself crushed under the weight of the British Empire and the whole of Asia combined. The best terms we could hope to secure in suing for peace would be to pay an indemnity that would stagger the imagination, and yield up to the British Cuba, Porto Rico, the Panama Canal, the territory on the south side of the St. Lawrence and the Great Lakes, and the Northwest to the latitude below Puget Sound, including the whole of Alaska; to the Japanese and their Asiatic allies the whole of the Pacific slope, the Aleutian Islands, Hawaii, Guam, the Philippines, and Samoa, leaving them free to move down into Lower California, Mexico, Central America, and South America. America's horizon would thus be reduced to that of an inland nation, struggling for existence in the presence of surrounding foes, growing more overpowering as the years pass.

This picture will shock the imagination of Americans who have been listening to the mellow words of British diplomacy intended to be an opiate to our confiding people absorbed in their activities of peace.

I know that the mass of the British people have an affection for America, but it is not that part of the people that determine British foreign policy. It is but recalling a fact that stands out clear in our history to state that the British Government and governing classes resent the marvelous growth of the United States, and have sought and will seek again any opportunity to have this growth checked.

Public opinion in England is a strong factor in shaping British policies, and there would doubtless be great revulsion of feeling among the people to find their country lined up on the side of Asiatics against Americans. It must be recalled that there was strong revulsion of feeling in England against the drastic measures taken against the American colonies, but this did not stop the measures, did not prevent the employment of mercenaries and of the red savages, with scalping knife, for women and children along with men.

The only gauge we can go by at present is the press, and all during the difficulties in California the British press was unanimously on the side of Japan. This siding of a European nation with Asiatics against kindred nations of the white race is not an isolated case. In all the great invasions of Europe—by the Saracens, the Huns, the Ottomans, the Tartars—similar unholy alliances were formed.

Only thirty years ago we find Great Britain securing the cooperation of France to side with the Turk against the Russian. Bands of religion have no more weight than bands of blood. The British hold continental nations together to perpetuate the yoke of the Turks on the necks of Christians, and barbarous massacres in Crete, in Greece, in Armenia count for naught when it is assumed that political "interests" and advantages secured over rival nations are involved.

There is no doubt that with the development of the press, public opinion has grown stronger in England, as well as in all lands, but, at the same time, centralized governments, through control of the press, have gained an equal advantage in molding this public opinion in line with their policies, as public opinion is now being zealously molded in England to side with Japan.

The utmost that could be hoped from the revulsion of feeling in England would be to restrain an actual declaration of war and save the British from the dangers that might arise in Canada if Anglo-Japanese plans should meet a check. In the

meanwhile the British fleets would be mobilized and the exposed States on the Atlantic and Gulf coasts would clamor for protection and prevent our fleet from being concentrated in the Pacific, thus insuring to Japan an easy task in gaining control of the sea. It can be assumed that the British have guaranteed to the Japanese to keep the American fleet in the Atlantic when war approaches. Scarcely have we mobilized our fleet of sixteen battle ships, preparatory to going around to the Pacific, when the British mobilize a fleet of twenty-six battle ships ready for foreign service, giving it out that this overpowering fleet could be sent off on foreign service without exposing the British coasts, this notice being intended for German ears as well as American. While holding itself in a position to protest with uplifted hands against the thought of such a thing, the British are trying to produce, and are producing, uneasiness on the Atlantic seaboard, where the papers are now with one voice protesting against sending all the ships to the other ocean and leaving our great Atlantic cities unprotected.

While Great Britain is mobilizing her fleet in the Atlantic, Japan, by a back handspring, is suddenly taking up honeyed words of friendship and is urging us to send the fleet to the Pacific, and not to forget to have it come over to Japan and give them an opportunity to show their undying love and friendship for America. Great is the contrast with Marquis Ito's spontaneous words when our President announced his intention of sending the fleet, words that were a challenge to the "Grandiose pronouncement of the American President."

While Great Britain pulls, Japan pushes, to cause our fleet, or part of it, to remain in the Atlantic. Of course, a division of the fleet would be fatal. We must keep it together. As a compact mass of high efficiency, it would give good account of itself with a British fleet or a Japanese fleet either. Divided, it would make it useless.

This Anglo-Japanese alliance is made to run till 1915, during the period of incompletion of the Panama Canal, so that the task of transfer from one ocean to the other will require going around the Horn, practically insuring immunity to the ocean not occupied at the outbreak of war. It is doubtless planned by the allies that if the fleet is in the Atlantic, the British will threaten, but not actually become involved, at least for a while, until to do so would be a safe procedure. We are thus forced, for the present, to be exposed to either Japan or England. There can be no doubt as to the one. The integrity of our life is not involved in the Atlantic. We have had an English peril since our infancy. The yellow peril is the one we have not tested. In the Pacific our life is at stake. We must keep the fleet together, and must get it to the Pacific, and keep it there and take no chances with the British until we can build new fleets to eliminate the chances. Let us always encourage and reciprocate "ties of blood," "ties of language," "ties of religion," "ties of institutions," and so forth, but the true way to encourage these ties with the British or any other people is to be independent of them for our security. Let us cherish the "ties of love," "ties of friendship," that from the beginning have bound us to Japan, but the only true way to cherish these is to be independent of them for security. The great question of national defense is not left by any other nation to depend upon others; it must not be so left by the United States.

Thus we find ourselves between Europe and Asia.

Both continents are allied against us now, and both are liable to be allied against us at any time in the future. Therefore, the minimum basic for American defense is to be able to cope with any European power in the Atlantic and with any Asiatic power in the Pacific, both at the same time.

No choice is left us.

The minimum upon which to insure our safety and fulfill the requirements of self-preservation, is to have a navy as large as that of Great Britain and Japan combined.

JAPANESE DIPLOMATIC PREPARATIONS FOR WAR—PREPARATION OF ILL-FEELING BETWEEN PEOPLES AND OF A PRETEXT FOR WAR.

[By Capt. RICHMOND PEARSON HOBSON.]

Japan's diplomatic preparations for war with America are being completed along with naval and military preparations.

The tremendous advantages gained by the Anglo-Japanese alliance are obvious. If the British did not proceed further than the mobilization of their fleet in Europe, remaining within the bounds from which they could retire, and proclaim that the mobilization was for the benefit of Europe, even then the result would be greatly to the advantage of Japan as causing anxiety on the Atlantic seaboard of America, and the retention of the fleet or part of it in the Atlantic, thus facilitating Japanese control of the sea in the Pacific. Already in reply to our assembling a fleet of sixteen battle ships, the British have begun the as-

sembling of a fleet of twenty-six battle ships, and the press up and down the Atlantic and Gulf seaboard has already begun to protest against the approaching departure of our fleet for the Pacific.

We are not justified, however, in assuming that the British will confine themselves simply to the mobilization of their squadrons. We must assume, on the contrary, that they will fulfill the solemn pledges of their treaty and join the Japanese in the prosecution of war against America, and we can not fail to note the recent activities at Esquimaux, where the British would furnish a naval base for operations on the Pacific coast. This transforms the whole face of the Japanese crisis. With the great naval base at Hongkong, added to the developing bases in Formosa and Port Arthur and the four great bases in Japan proper, and with the British Pacific fleet combined with the Japanese navy, the control of the Pacific Ocean is assured to the allies, along with the control of the Atlantic. Our fleet only has to choose between two fleets, both greatly superior, as to which it will engage. Since the invasion of America will come from the Pacific, the allied fleets in the Pacific should be the choice, and the Atlantic and Gulf coasts must be left absolutely exposed until we can build a fleet in the Atlantic to match the British; and a fleet in the Pacific to match the Japanese means war with Great Britain also, and such war will see our flag swept from the ocean, and see America ground down by the hordes from India, China, and Japan, the swarm pouring over the Pacific slope and across Canada, with the British bases of Esquimaux in the Pacific and Halifax in the Atlantic from which to organize the expeditions of invasion from the north.

America's very life is at stake, and the crushing of America would mean the yellow men's conquest of Europe from the Atlantic. The question vitally affects the course of the world.

It must be clear to any student that, with the yellow man capable of developing into the best soldier in the world, capable of enduring hardships and fatigues impossible with the white man, the white race can not hope to meet the yellow race, numbering three to one, in a struggle on land. On the other hand the great endurance of the yellow man goes with a low standard of life, in conditions of poverty and want, with less wealth and resources, so that, for a time at least, the yellow race can not compete with the white race on the sea, where power demands wealth and not number of men.

Thus the safety of the white race is wrapped up in the control of the ocean.

When it is realized that America controls about one-half of the entire banking power of the world, an index of naval possibilities, and is steadily gaining an even larger proportion, it will be seen that she must be looked to as the ultimate bulwark of the white race in its struggle with the yellow race for control of the ocean. Further, the yellow race is now gravitating eastward, across the Pacific, and after crossing America would choose the route across the Atlantic to Europe, rather than the land route by Asia. America is thus the immediate buffer for the whole white race. The world can not but view with alarm the spectacle of the greatest naval power of the white race lending itself to the yellow race to give that race the one advantage upon which the white race must depend for its existence—the advantage in ships, with which to break down the nation that constitutes the white man's breastworks.

We have read of "holy alliances" in history. We now behold an unholy alliance. The British joining the Japanese against America is nothing short of treason to the white race.

National peril has been uppermost in the minds of European nations so long that the annihilation of space and the bringing of the yellow race to their doors does not yet produce the feeling of race peril. The nations of the white race have antagonized each other so long that they see in the rise of Japan an opportunity to gain an advantage over a rival white nation, rather than a common peril for all white nations. It is now common knowledge that the thousands of Chinese students returning from instruction in Japan, already reaching nearly a half million of Chinese pupils in China, are teaching a common hatred of the foreigner. This came out in the propaganda during the boycott of American goods. The yellow man's house is fast becoming united, while the white man's house is divided within itself. Of course, in the end the common peril will be appreciated, and then the nations of the white race will come together, but infinite harm may be done in the meanwhile, and union might come too late. Such a common danger apparently will be necessary to bring their brother nations together. It required common family peril to produce the united clan, it required common tribe peril to produce the united nation, it may require a common national peril to produce the united race. During this process of evolving the larger aggregation, vast

suffering and sacrifice were entailed, kindred families, clans, tribes, perished by the sword at each other's hands. It is the part of higher intelligence to avert similar sufferings on a vast scale. With a united front and in control of the ocean, the white race could check the militarization of China by Japan, striking at the root of the danger and could limit the coming war zone, and upon the lines of American institutions, recognizing the equal rights of others, could ultimately bring about the reconciliation of the races in a united brotherhood of man. But the day of this brotherhood is far away. The day of the united white race is likewise far away. Ours is still the day of the divided nations. Japan has been able to enlist other European nations besides the British in her diplomatic preparations for war with America.

The prestige of victory and the possession of power have given the Japanese a great leverage upon the nations of Europe that have ambition in the Far East, and she has been able to handle these nations as she pleased.

From the British she wished a hard and fast alliance to insure control of the sea. A hard and fast alliance she got. From the French, the bankers, she wishes money, and money she is getting. A new convention has been arranged with France, the net effect of which is to cause millions of French capital to pour into Japan. These millions are going into various avenues, but they will all lead directly or indirectly to swell and buttress the Japanese war chest. From the Russians she wishes relief from embarrassment in Manchuria; a new convention with Russia provides against this embarrassment.

The inducements that Japan gives to secure these treaties are not difficult to understand.

The building of the Panama Canal by America and her demand for the open-door policy in China, measures intended to be, which would surely be, of great advantage to all nations, are taken as the ground for alarm. Japan doubtless represents, in effect, to the European powers that when the canal is completed, with an open-door policy, the other nations could not compete with America, and she calls upon them to join her to throw America out of the Pacific and to divide China into "spheres of influence," promising to the British a preponderance in the Yangtse Valley, which they have coveted for fifty years; promising to France preponderance in the southwestern provinces, bordering on the French colony of Cochin-China, and to Russia preponderance in parts of Manchuria. Of course these features are carefully guarded and only conventional clauses of the conventions are made public—clauses really intended to throw America and the public of the world off guard. Take the convention with France, for instance, in which the two powers agree to uphold the other's "rights" in "adjacent region." This sounds natural and harmless, but it becomes known, particularly in the Far East, that the agreement was that France could occupy Yunnan, Kuangtung, and Kwangsi, important provinces of China in the southwest, and that Japan could occupy Korea, Chilli, Manchuria, Shantung, and Fukien.

It will be noted that the Fukien Province is far down across from Formosa, and that these other provinces are coast provinces and taken in connection with the Liaotung Peninsula, which Japan already controls from Port Arthur, they practically give Japan control of the coast line of China and consequently of Chinese relations with the outside world. It will be noticed also that this list includes Chilli, the province that gives access to and control over Peking, and consequently over the Chinese Government, and it is in this province of Chilli that under Japanese direction the viceroy has organized a great standing army, up-to-date in every way, estimated as already numbering over 70,000 men. It will also be noted that the list includes the peninsular province of Shantung, on which the German colony of Kiaochow is situated, and over which Germany has long cherished designs of control.

It is understood that the conditions with France were made with the knowledge and full consent of Great Britain and Russia. It is clear, therefore, that the four powers, Japan, Great Britain, France, and Russia, have a full understanding, that provides for the elimination of America and Germany from the Far East and for the division of China among themselves. It has all been brought about by Japanese diplomacy and will work into Japan's hands. With the antiwhite propaganda being developed throughout China by Japanese efforts, it ought to be clear to anyone that it would not be long after the division of China when the white nations participating would be eliminated in turn, probably France first and Great Britain last. But with the selfish bait of spoils in China, Japan has led these three great European nations to cooperate with her against Americans in the first great move by Japan toward gaining for herself the control of the Pacific and for the yellow man the supremacy of the world. In order to clinch this co-

operation and precipitate the issue, the Empress Dowager of China has been forced to announce that she will abdicate at the approaching Chinese New Year, and Tokyo dispatches announce that the Emperor of China is an imbecile. Shortly after the Emperor of Korea had been forced to abdicate Japan, standing upon the prostrate form of that helpless country, served notice upon the world that with the approaching abdication of the Empress Dowager there are likely to be disturbances in China that may require Japanese occupation of that Empire similar to the occupation of Korea. In line with this announcement the base at Port Arthur has been rapidly put in readiness for naval and military operations, and Japan is evidently planning early moves, which are expected to arouse the opposition of America and precipitate the conflict, unless it can be precipitated for some plausible pretext in the meanwhile, a pretext that would not alienate the public sentiment of Europe and check the cooperation of the European governments.

The fact has been brought out that Japanese preparations for war with America—naval, military, and diplomatic—have reached an advanced stage. Something further remains, however, before Japan can actually inaugurate hostilities. She must create an anti-American feeling among the masses of Japan to insure popular support in the prosecution of war and she must find some plausible pretext to excuse her in the eyes of the world.

The great agent for such purposes is the press, and for these purposes the Japanese Government has utilized the press of Japan, and, with the aid of her allies, the press of the world with wonderful success.

This task is a difficult one. It is generally known throughout Japan and the world that America first opened up Japan and never fired a gun, but left Japan unmolested, and that we have been her staunchest friend ever since. Not long after the opening up, during the disturbances that accompanied the last days of the shogunate, the Straits of Shimonoski were closed to foreign commerce, which led to the first naval demonstration and bombardment by Great Britain, France, the Netherlands, and America, ending in the exaction of \$3,000,000 from the Japanese Government, the money being divided equally among the four powers. The other powers took their quotas and used them up. America's quota was sent on, \$750,000. By the usages of the world and the example of the other powers, it was ours, but we never touched it. In due time, by a unanimous vote of the American Congress, we voluntarily returned the last dollar to the Japanese Government.

It is generally known that America was among the foremost western nations to abolish the principle of extraterritorial jurisdiction in Japan and thus to place Japan on an equality with the other great civilized nations.

It is generally known that during the war with Russia American sympathy was with Japan and was a substantial assistance in floating Japanese war loans.

The task of persuading the Japanese people that America had suddenly turned against her old friend was therefore a difficult and delicate one. The Japanese Government applied itself to the task with great adroitness. When popular protest ran high in Japan against the terms of the treaty of Portsmouth the cue was given to the press, and America was held responsible for the failure to receive the expected war indemnity. A propaganda was carried on similar to that which followed the war with China, when, in preparing the masses for the coming war with Russia, the press cried out against that country as having despoiled them of the fruits of their victory. The Japanese press, after the return of the envoys from Portsmouth, cried out that America, once their friend, had turned upon them and had deprived them of the fruits of their victory. Such is the universal belief regarding our gracious efforts that brought the bloody war to a close, insuring as it did incalculable advantages to Japan along with the restoration of the peace of the world.

Since then every possible incident, no matter how trivial, has been seized upon and grossly exaggerated to stir up the hatred of the Japanese people against America. No attention has been paid by the Japanese press to the stringent measures inaugurated against Japanese immigrants to other countries. As a matter of fact, the British colonies in South Africa, Australia, and New Zealand have been ten times as stringent as we have been in America. It would have been more consistent for the press of Japan to proclaim that the British were their enemies. Japanese have been excluded from Australia; a Japanese can not enter that country without giving bond that he will leave within a limited time, and while in the country he can not send his children to Australian schools, from which Japanese are entirely excluded. Yet such serious impositions have passed without comment in Japan. In the recent dis-

turbances in British Columbia, where a shipload of Japanese was deported, where in Vancouver without any abnormal conditions the best citizens of the place, joined by 100 British soldiers, attacked the Japanese quarters and over 50 Japanese houses were either partly or wholly destroyed and a Japanese subject was killed, almost no comment was made in Japan, except in excusing the British and palliating the offenses.

The Japanese Government made a plausible request that the city restore the houses. The mayor refused, and the Japanese Government said nothing. What a contrast in San Francisco, where conditions were abnormal, when the property of Americans and other nationalities was injured by the struggles of union and nonunion laborers, and many lives were sacrificed! The injury to Japanese property was only trivial. Altogether it amounted to only a few hundred dollars, unattended by injury to any Japanese subject.

In the famous bath-house incident it is estimated that the injury to Japanese property amounted to \$6. In that famous greenhouse incident, in Oakland, the injury amounted to \$1, the breaking of a windowpane. And yet these trivial incidents were seized upon by the Japanese press to inflame the Japanese people to bring forth mass meetings and thundering demands upon our Government. The press of England and to a lesser degree the press of France echoed the press of Japan, trying to have it appear that a fierce race hatred had sprung up in America against the Japanese.

The San Francisco school incident, however, was the one most exploited, for it served the double purpose of arousing anger among the Japanese masses and of creating an impression in Europe that would justify Japan in taking stern measures for redress.

In the press of Europe there was a clearly visible effort of Anglo-Japanese inspiration to produce the impression that the United States was violating the obligations of the treaty of 1894, whereas there is nothing in that treaty whatsoever that could be construed to require America to insist upon the free education of Japanese children living in the various States. There is infinitely less ground for complaint than there is against the British, who have made no effort to prevent Australia from enforcing her law that absolutely forbids Japanese from attending the public schools. The reason why the treaty was invoked is evident. The violation of treaty obligations is one of the causes assigned in international law as justifying war.

America paid no attention when California many years ago adopted a law that the school boards could provide separate schools for pupils of Mongolian race; the country paid no attention when the law was applied to the Chinese when they swarmed in, and no attention was paid when, with the swarming of the Japanese, the law was applied to them also. From the first the matter has been properly regarded in America as a purely local one. Furthermore, the California law is clearly a wise one. When people are so far apart that they differ in color, it is certain that they will differ widely in their habits and their standards and can not be congenial in intimate association. Nature has set her seal of abhorrence upon the mingling of blood of types so divergent. No good purpose can be served by forcing people of different color into each other's society. The effect is not marked when there are comparatively few of one color, but the universal experience of mankind demonstrates the wisdom of separating the colors when both are numerous. Just when the point is reached where separation becomes advisable is clearly a matter for each locality to settle for itself. Great numbers of Japanese were pouring into San Francisco, and the numbers in the public schools were showing signs of similar increase. Furthermore, the Japanese pupils were older than the American pupils, and anyone who has been to Japan knows how loose the standard of morals is. There is no question that action looking to separation in the schools of mixed sexes was to be expected before the actual number of Japanese pupils would appear to require the action. There is no imputation of self-righteousness when it is pointed out that the Teuton standard of morals is on a different plane from the Japanese, and the participation of the best citizens of Vancouver in the destruction of Japanese houses was, in a measure, an outburst of the old spirit of Puritanism against the presence of the looser morals of the Japanese quarter. The British, in their unholy alliance with the Japanese, may as well take account of forces that are deeper and stronger than the ties of a treaty of expediency to promote "immediate interests." Japanese in large numbers will be no more welcome in Canada than in Australia and the United States. The use of Canada as a base of invasion of the United States by Asiatics might not prove as harmonious as Anglo-Japanese plans contemplate.

While the school incident in San Francisco was treated as a local affair of no general interest, and was practically ignored by the press of the United States, it was seized upon by the British and Japanese press and exploited to the limit. The English press resounded with condemnation of the gross violation by America of the "treaty rights" of Japan; of the wanton manner in which America was subjecting the allies of the British to indignities, treating as an inferior race the nation that had given proof of the highest civilization; and along with the condemnation of America came the praises of the Japanese and the self-control they were displaying under great provocation.

The Japanese press with one voice denounced the Americans as having turned against them, having engendered a violent race hatred, which was taking the form of unrestrained attacks upon Japanese citizens; finally, by official action, persecuting the little Japanese children, turning them out of school, denying them an opportunity for education; the Japanese would not indefinitely submit to being "treated as an inferior race;" a "Japanese treaty was not the fit object for the waste-paper basket;" "America would learn that the Japanese navy was not maintained as an ornament;" the American Government was corrupt from top to bottom, in the cities, in the States, and in Washington, and the whole country needed to be conquered and "given a king;" America is very rich; the Americans were commercial at all times; their naval officers were social stars, but were devoid of patriotism and lacking in efficiency, and would give up immediately before Japanese patriots.

There could not have been a more carefully planned campaign to stir up the anger, hatred, and cupidity of a people to fire them for war.

Of course the Japanese Government "deplored" the unfortunate state of affairs. It wishes to appear "correct" before the eyes of the world, and while actually bringing about the anti-American propaganda, it tried to escape responsibility by laying it on the "yellow press" of Japan, inspired by the "party of opposition." It is singular how the "yellow press" and the "party of opposition" do not appear in any other international incidents, like the one at Vancouver or those in Australia. It is singular how in every other matter of foreign policy the whole press and all parties in Japan are with the Government.

Indeed, Japan has set an example to the world of the co-operation of the press with the Government. In all the course of the war there was not a thing published, as far as could be detected, without the consent and wish of the Government. The Government control of the press in Japan is absolute. In fact, the control of every other activity of the nation is absolute. Japan is an oriental autocracy, an absolutism, such as the white man has never known. The Emperor has come from the sun. A good Japanese can not look upon him. The virtues of the Emperor won all the victories. The central Government has its hand upon every form of business. The merchants of America and Europe need never think they are to have simply the competition of Japanese merchants. They must meet the competition of the Japanese Government. It is the Japanese Government and not the legitimate competition of Japanese merchants that is driving foreign commerce, and particularly American commerce, out of Korea and Manchuria, and is driving American commerce out of China proper. In the light of the true conditions it is almost ridiculous for the Japanese Government to lay the anti-American propaganda upon a "yellow press" in the hands of "the opposition."

The propaganda in Japan was for the purpose of firing the masses of the Japanese for war, and the propaganda in Europe was for the purpose of justifying Japan in the eyes of the world.

They were part of the Anglo-Japanese war preparations, and the energy with which they were pushed showed the advanced stages of these preparations. The crisis through which we passed and are now passing is shown by the way in which the California incidents, and especially the school incident, were seized upon to embarrass and humiliate our Government. The government of no free people in the history of the world has been so humiliated by a foreign power. It was only by wisely accepting the most abject humiliation that our Government has been able therefore to avert a disastrous war for which we are utterly unprepared and for which the Japanese and their allies have completed all the preparations.

THE DEFENSE OF THE PACIFIC.

[By Capt. RICHMOND PEARSON HOBSON.]

The sailing of the fleet for the Pacific has drawn the attention of the people of the nation to the Navy and its relation to national defense and to foreign affairs. The educational benefit can not be overestimated. In other countries the governments

and ministries determine the foreign policies and the naval and military programmes upon which these policies rest. In America all policies and all programmes depend upon the people, who are very busy with the work of developing the country's resources, and with grappling great domestic problems. In our position of isolation it is a difficult task to secure the attention of the people for the consideration of questions of foreign policies and of naval and military programmes, and without the attention of the people it is practically impossible to secure the attention of Congress. The long voyage of the fleet around the Horn would be justified by the educational benefit to the people alone. But it has a deeper significance. It marks the first move of the white man in the struggle with the yellow man for the control of the Pacific.

The popular idea has been that the yellow man, merging slowly into the white man's civilization, would be slow in grasping the situation and in developing the strength necessary for a serious struggle. On the contrary, the yellow man has quickly grasped the whole march of events, has seized upon the white man's art of war, and while the white man slept has swiftly organized vast power on land and on the sea, and is directing the trend of events to get the advantage of controlling the time and manner of the clash.

An analysis of recent events shows that Japan, fully prepared, tried to force America, unprepared, into war, and that our Government was only able to avert a disastrous war by abject compliance with the unwarranted demands of Japan that the Japanese pupils in San Francisco should be put back in the schools with the white pupils. Though the incidents in San Francisco have been dropped since the far more serious incidents in Vancouver, the persistence with which the Japanese Government keep the immigration question to the front, the increase in immigration into the United States, while the Japanese Government pretends to be trying to prevent immigration, the recall of the Japanese ambassador, the semiofficial announcement that a new treaty must be negotiated at once, coupled with the announcement that no treaty would be accepted that excluded Japanese, these things and the rapid spread of unrest in China, all go to show that Japan is determined to bring about war at an early day, and if possible before our fleet can reach the Pacific. The only reasonable course for America to pursue is to proceed with the necessary preparations. Upon the swift progress of preparations for war and a wise and yielding diplomacy, rest the only hope for peace.

We must gain time. Our present policy should be to "spar for wind." We must not allow the kaleidoscopic change of ambassadors and other moves to hurry us on to a crisis. Our Congress should refrain from discussing or considering the Japanese immigration question, and the people of the Pacific slope should possess their souls in patience, no matter how irritating and exasperating the influx of Japanese may become. Our Executive should by diplomatic processes, put off the question of a new treaty at least until the expiration of the existing treaty. The Japanese are not demanding a new treaty with the British about Japanese immigration into Canada, and we can well ask and accept the same arrangements that are made in Japan to check immigration into Canada. We should proceed as fast as possible to undermine the diplomatic structure that Japan has built up so adroitly and successfully.

The most effective work would be to enlighten the people of England and of the British Empire upon the effect of the unholy alliance with Japan, pointing out the unrest in India due primarily to Japan, the obstacles the Japanese are throwing in the way of British commerce in Korea, in Manchuria, and in China, showing that in the end the yellow man will turn upon the British; pointing out that community of interests, that Canada, Australia, and other British colonies have with the United States in the menace of Asiatic immigration. The campaign of enlightenment should extend as far as practicable to France, showing the French how Japanese supremacy in the Pacific would mean the expulsion of France from Cochin China, and to Germany and Russia, and Holland, and Italy, and all the white nations, showing how the interests of all are involved, the welfare and fate of the white race and the white man's civilization hanging in the balance. This work should be carried forward by discreet diplomatic activity and by the American press through its exchanges.

The direct work of preparation, naval and military, should proceed with all possible dispatch. The work of fortifying should be pushed on the Pacific even at the expense of neglect on the Atlantic. Every harbor of the Pacific coast should be strongly fortified, and the militia of the Pacific slope should be increased and trained as much as possible. Pearl Harbor, in the Hawaiian Islands, should be developed into a coaling station and base, strongly fortified. A floating dry dock should

be sent there and all the able-bodied white men in the islands should be organized and drilled and a strong garrison of regulars stationed there, while measures should be taken to prevent the smuggling in of arms for the Japanese. These islands must not fall into the hands of an enemy.

Guam should be fortified and converted into a coaling station as far as practicable. The quickest work, however, should be done in the Philippine Islands. The harbors should be fortified, mined, and heavily garrisoned, especially Manila Bay and Subic Bay. This latter should be speedily developed into a great naval base. The native Filipinos should be organized under American officers into a strong body of home guards. With the object lessons of Formosa and Korea before their eyes, there will be no question of the hearty cooperation of the Filipinos to prevent the Japanese yoke from falling on their necks.

In the last analysis, however, the outcome will rest upon the fleet. Every vessel in the Navy of substantial fighting power should be sent to the Pacific. The battle ships *Mississippi* and *Idaho*, nearly completed, should be sent to join the sixteen battle ships that are on their way. Likewise the armored cruisers *California* and *South Dakota*. Work should be hastened on the battle ships *Idaho*, *New Hampshire*, *Michigan*, and *South Carolina*, and on the armored cruisers *North Carolina* and *Montana*, and these should all be dispatched to join the Pacific fleet. We could thus assemble twenty-seven battle ships and twelve armored cruisers in the Pacific before Japan can force us into war.

Such a fleet, properly handled, would measure up with the Japanese navy and the British Pacific fleet combined. The successful assembling of such a fleet would be the strongest influence in postponing war. While it is being assembled American diplomacy must prevent any crisis, no matter at what cost. A premium should be offered for the completion of the *Delaware* and *North Dakota*, newly authorized battle ships of 20,000 tons, before the time limit set by the contracts, and, if it is then not too late, these should likewise be dispatched to the Pacific. The President should be authorized to purchase abroad as many of this new type of battle ships as can be secured. We should add to the Pacific fleet as many of these new battle ships as Japan possesses and should proceed to build in the shipyards of the Pacific coast as many new vessels as Japan builds and with the lead thus gained fix a standard for the naval activities on the Pacific coast to keep abreast of the needs for the defense of the Pacific Ocean.

To supply this lead in the Pacific, however, requires the stripping of the Atlantic and Gulf coasts, which can not be safely permitted to continue unprotected. We must work out and execute a definite policy in this vital question of national defense. With all our present strength sent to the Pacific, we must begin a rapid programme of construction that will in the shortest time put the Atlantic and Gulf seaboard in a condition of security, which means, upon investigation, that we must have a fleet available in these waters capable of coping with the British fleet. To accomplish this, we should adopt a dual programme of expansion, ordinary and extraordinary. The ordinary programme should authorize the regular annual expenditure of \$50,000,000 for new ships to be built in the United States, the types and number in each type to be determined by the Secretary of the Navy on expert advice. This ordinary programme would keep us abreast of the requirements if we had an even start. In order to catch up from nothing in the Atlantic, an extraordinary programme should be adopted, authorizing the President to purchase abroad or order constructed in America over and above the vessels ordered in the ordinary programme, additional vessels, the cost not to exceed \$50,000,000 per year, as may be required in his judgment for the proper advancement of the work of national defense.

At first thought, some may raise the objection of the great cost. The fact is the greater the cost of naval power the better. It is absolutely a relative matter. We can easily bear the cost, for our men are not taken away from productive work, and our resources are boundless. Whereas Japan and the other military nations that threaten us take their men away from productive works for service in the army, are weaker in resources, and can not easily bear the great cost. It should be a definite policy of ours to build ships ever increasing in size and cost and make the expense of naval power greater and greater. The greater we make the expense the sooner we shall gain the leadership and escape the menace now upon us.

It is true that the improvement of our waterways, the construction of the Panama Canal, and the great question of internal improvement are making heavier demands upon our Treasury. But our resources are equal to all the demands. It is not necessary to play off one good thing against another. In the matter of precedence defense must come first. The nation's

life must be rendered secure, and its tranquillity must be insured before internal improvements can be carried on or the nation can work out its destiny.

As a question of insurance, we have 20,000,000 of American citizens who on our coast line, bays, harbors, rivers, lakes, are living and have their property within gunshot of the water. Forts, mines, torpedoes are useful auxiliaries, but a strong navy is the only real insurance for all these citizens, outnumbering the citizens exposed to naval attack in all Europe combined, and for all this property, greater than the combined property of all the rest of the world similarly exposed. Furthermore, the citizens of the interior send parts of their products to the seaboard and over the ocean, our export property exceeding the export property of any other nation all dependent on a great navy for insurance in transit over the sea and in securing just treatment in the markets beyond. The price of all our great staples is determined by the demands in the world's markets. We have reached a point where we produce world staples far in excess of our consumption. For enduring prosperity we simply must have a chance and a fair chance to send our surplus to foreign markets. At present we are fast losing the most promising markets of the world—those of the Orient. Japan has caused discrimination against our products in Korea, Manchuria, and China, until last year we lost \$25,000,000 of our cotton textile trade alone in these markets, and yet our Government does not dare protest. We have no insurance out there; no fleet with a navy adequate for the nation's defense and security. The cost, while large, would not mean an insurance rate as large as 1 mill on the dollar. The tax would be less than one-tenth of 1 per cent. It should be remembered that as an investment a great navy would save in time war, which is the most expensive thing known to man. We are a peace-loving industrial nation and never have and never would seek war with another power, and if we had a great navy no other power would seek war with us. Without a strong navy other powers will and are seeking war with us. It is a simple question of peace with a strong navy or war without it.

Some have misapprehensions lest our quickening our pace in naval expansion would cause other nations to quicken their paces and give an impetus to militarism. Other nations are already running as fast as they can. They can not quicken their paces. We are the only nation that is sauntering along. Militarism permeates the other nations through and through already. We are the only nonmilitary nation. Giving us more power would add to the influence of peace forces in the world and advance the cause of arbitration, the cause of international organization for substituting law and justice for war and might. At present there is no system of international justice. There is no international police force that the weak can appeal to, else Korea would not have been absorbed. There is no international tribunal to appeal to for an injunction to restrain the strong. Korea made a pitiful appeal to the only semblance of a tribunal, and not a delegation at The Hague would even receive a visit from the Korean delegation. The world at large is still in the position of a frontier country where there is no court, no sheriff. The greater the relative power of peace-abiding citizens, the better for such a community, and the sooner the establishment of law and justice.

Some may superficially fear lest the building of a great navy bring militarism upon us, forgetting that navies, involving only a small fraction of the population and that small fraction being left far away at sea, can not possibly produce militarism. No navy ever usurped civil power or overthrew a government since time began. The thing that produces militarism is a great standing army in the midst of the people. With a strong navy we should never have to have a great standing army; without a strong navy we would speedily drift to the point where we would have to organize the whole nation into an army. It is war, above all things, that throws a people into militarism. With a strong navy we could live in peace. A strong navy, instead of producing militarism, is the one agent that can save us from militarism and permit us to work a wonderful civilization built upon cooperation and mutual service, instead of war and mutual destruction.

Some are timid and are afraid to trust America with the power that goes with a great navy, lest she abuse this power. These parties seem to have no misgivings about other nations having this power. They find no trouble in trusting the British with a navy three times as large as any navy in the world. Yet the British and all other nations have inherited enemies. Their navies are for war. America has no enemy; her Navy is for peace. A monarch abroad may sweep a country into wars of conquest and oppression. In America all wars depend on the people, who are peace abiding and peace loving from the very nature of things. We never have and never could enter upon wars of conquest

and oppression. We know that the safest repository of liberty is in a nation of free men. Likewise the safest repository of power is in a nation of peace-loving men. The 90,000,000 of peaceful citizens in the American nation is the one safe repository for naval power as long as this power is required by individual nations, and giving this power to America will give the influence needed by the peace forces of the world to restrain might and brute force from bringing on wars, and then a system can be evolved providing a substitute for war which would bring permanent peace; it is the short cut to the time when America and all other nations can give up their navies.

Some thoughtlessly imagine that the employment of a great navy is not in keeping with the teachings of Christ. They might as well say that the employment of policemen, of constables, of sheriffs, is against the teachings of Christ. They confound the teachings of Christ with the teachings of Confucius. No reformation ever took place in the realms of Confucianism. No Magna Charta, no Bill of Rights, no Declaration of Independence was ever heard of there. Thousands are killed yearly by the bite of the cobra, and in the spirit of nonresistance the victims do not kill or molest the deadly reptiles in the path. Christ scourged the money changers from the temple; He blighted the fig tree that did not bear fruit; He set the example of a man of action, who went about doing the things that would advance the cause of civilization. Whatever may be the great and glorious purposes the Almighty has for this world, they must be worked out by man and nation, not in nonresisting inactivity that leads to death, but in vigorous, positive action, recognizing the actual conditions in the world, activity that under the great laws of the universe produce steady development in the individual and progress in the civilization of society.

"Not everyone that saith unto me Lord, Lord, shall enter into the Kingdom of Heaven, but he that doeth the will of my Father, which is in Heaven." What practical good man in touch with the conditions in the world would conclude that the Father's will is that America should remain defenseless, become the prey of the yellow man, precipitating endless wars that would engender destroying hatred between the races, prevent the workings of missions, stop the spread of the gospel of love and of peace, and bring about the overthrow of the structure of civilization slowly built up by the white man through so many centuries?

On the other hand, is it not as clear as the noonday sun that the Father's will is that America, a nation without any inherited hatred, kinsman of all nations, that has grown up far from the turmoil that has come down the ages in Europe and Asia, the nation founded upon the equal rights of all, the true basis for permanent peace—that America, the great peace nation, with boundless resources, should reach out her strong arms over the oceans and check the cruel march of war in Asia and elsewhere in the world, secure her own safety and prosperity, and at the same time keep the peace of the world, so that commerce might march onward to build the nations together, so that Christianity might move out and girdle the world, so that man would not go backward toward the savagery of mutual extermination, but move forward on a rising plane, so that the Christian civilization built up in the world might not perish, but go on to nobler heights and embrace and bless the whole world, so that the white man may accomplish his glorious mission of establishing peace on earth and good will among men.

Injunctions.

SPEECH

OF

HON. CHARLES E. LITTLEFIELD,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. LITTLEFIELD said:

Mr. SPEAKER: It is my intention in the course of this speech to discuss the question of the use and abuse of injunctions, the power of Congress with reference to legislation in connection therewith, the Sherman antitrust law, the circumstances under which it was enacted, its scope from the standpoint of the legislative intent, and its legal basis, the proposed amendments known as the "Hepburn antitrust amendments" and their effect, the concrete legislation now demanded by the American Federation of Labor, and which supersedes all other legislation heretofore insisted upon or demanded by them, concluding with some observations, somewhat personal to myself, calculated to

demonstrate the weight to which the pronouncements of the parties demanding this legislation are entitled, from the standpoint of the results they are able to accomplish in a political campaign.

In the matter of the use and abuse of injunctions in labor controversies so much is repeatedly and insistently said, and so vigorously have the courts been denounced, that I think it may be safely said that the impression generally prevails that there has been and still is more or less abuse of judicial discretion in controversies of that character. I am free to admit that, in a general way, I entertained that impression myself, until I made the investigation to which I shall now refer.

The assertions have hitherto been general and indefinite in character. It seemed to me that at this time it was both wise and proper that the parties making these assertions and engaged in wholesale denunciations of the courts should be required to specify the instances of abuse and call attention to the circumstances under which they claim judicial discretion has been abused and the power of granting injunctions in labor controversies has been oppressively or improperly exercised.

With that in view, on the 5th of February, 1908, when Mr. T. C. Spelling, the attorney representing the American Federation of Labor, appeared before the Judiciary Committee to urge the enactment of the Pearre bill—reference to which will be hereafter made—I took occasion to ask Mr. Spelling if he would be kind enough to specify the cases of injunctions where instances of abuse had occurred, and point out the circumstances connected therewith, also to give a list of cases where injunctions have been unlawfully ordered. Mr. Spelling replied that there were a great many such cases, and that he would furnish the required information or have it done.

This was on the 5th of February, 1908. On the 24th of February Mr. Spelling appeared on the rolls of the Department of Justice as assistant attorney-general, and he has, in my judgment, had plenty of time to furnish the information inquired for, because he has been in attendance before the subcommittee of which I am chairman as simply an onlooker and observer. It is proper to remark that up to to-day Mr. Spelling has not filed a single one of "the great many cases" he claimed existed.

I may say in passing that I understand the employment of Mr. Spelling by the Department of Justice does not necessarily involve his being employed in cases against labor organizations under the Sherman antitrust law.

Mr. Gompers, who appeared before the committee, was also requested to put in all such injunctions in full involving abuses of the judicial power, with reference to the cases complained of. Mr. Gompers appeared on the 24th of February and was requested to file everything he had in that line, but nothing was filed with the committee until about the 6th or 7th of May, when a mass of material, some of it relating to State injunctions, some of it having no connection with injunctions, some of it being injunction orders and opinions relating thereto, was filed. No criticism of any injunction order or decree was filed with this material, and, although I specifically requested the gentlemen representing this body to file with the other data such criticism as they had to make of these injunctions or orders, they absolutely declined to file any criticism whatever.

I shall introduce as an appendix an abstract of the material thus filed, so far as it relates to injunctions and decrees and the action of the courts thereon. This abstract was made by Mr. J. A. Emery, a lawyer of ability and experience, and I rely on the results of his work in my discussion thereof.

The papers thus filed show only twenty-three decisions, orders, or complaints, beginning with an injunction issued December 19, 1893, by Judge Jenkins in the case of *The Farmers' Loan and Trust Company v. The Northern Pacific Railroad* (60 F. R., 803), being the celebrated Jenkins case, involving the Order of Railway Trainmen.

The abstract covers only the Federal cases, as we have no concern whatever with the action of the State courts, as they have no effect whatever on Federal legislation, and it is only proposed Federal legislation that I am considering. Of these twenty-three decisions, two are of the supreme court of the District of Columbia—*Bender v. Union* and *The Bucks Stove and Range Company v. the American Federation of Labor*.

In the *Bucks Stove and Range* case, notice of the motion for preliminary injunction was given two and one-half months before the motion was heard. The motion was fully argued, and the judge held the case under advisement for a month and then made the order for the preliminary injunction, to issue and filed an able and courageous opinion giving his reasons therefor. The case was set down for a hearing about two months after this order, and on the motion to make the injunction permanent the defendants did not contest the decree, which was made final

without argument or criticism, and it is still uncertain whether or not their appeal from the final order will be perfected.

In this case the American Federation of Labor was represented by eminent counsel, Hon. Alton B. Parker appearing for the respondents, and it was probably under his advice that the matter was not contested further, a very significant commentary upon the justice of the order for a preliminary injunction issued by Mr. Justice Gould.

In the *Bender* case, after notice and full argument, the court declined to issue a preliminary injunction. The matter was then carried forward and heard on the pleadings and proofs, on motion for a permanent injunction, which motion the court granted. After full argument the court took the matter under advisement, and then ordered a final writ of injunction to issue. From this decree the respondents entered an appeal. This appeal has since been withdrawn. Such withdrawal operates as a confession by respondents that their case upon the facts was hopeless and unworthy of further contention. If these two cases are characteristic of the twenty-three, they are all above criticism.

Two of these cases (*Boyer v. Western Union Telegraph Co.*, 124 F. R., 246, and *Platt v. Philadelphia and Reading R. R.*, 65 F. R., 660) are denials of petitions for restraining orders by labor unions against employing corporations. These are certainly not instances of abuse of the exercise of judicial discretion in the granting of an injunction, but are rather complaints because the court refused to exercise its discretion in the way desired by the union, and certainly constitute no argument for legislation restricting the power of the courts in that regard.

Another case, that of *Grand Trunk Railroad Company v. Gratiot Lodge et al.*, comprises merely a complaint and order to show cause, no restraining order appearing.

The remaining eighteen cases are injunction orders issued by the circuit courts of the United States from December 10, 1893, the Jenkins case, above referred to, down to and including the restraining order in the case of the *Hitchman Coal and Coke Company v. John Mitchell et al.*, November 27, 1907.

In fifteen of these eighteen cases *ex parte* restraining orders were issued, including two injunctions applied for by receivers (*Ames v. Union Pacific R. R. Co.*, Jan. 27, 1894, and *Farmers' Loan and Trust Co. v. Northern Pacific Co.*, 60 F. R., 803).

Two of these fifteen restraining orders (*Wabash v. Hinshaw*, 121 F. R., 563, and the order issued on the original bill; *Allis-Chalmers Company v. Iron Moulders' Union*) were dissolved and motion for preliminary injunction denied on the hearing on the merits of the case.

In *Kemmerer et al. v. Haggerty* (139 Fed. Rep., 693), also one of these cases, the restraining order was vacated for lack of jurisdiction over the parties, and the court did not therefore go into the merits.

In the celebrated Jenkins case the judge has been vigorously assailed for his action, and in connection therewith was threatened with impeachment proceedings before the Judiciary Committee. In this case the Northern Pacific Railroad Company, having gone into the hands of receivers, two days after their appointment a reduction of from 10 to 20 per cent was ordered in the salaries of employees. The employees threatened to strike to prevent the carrying out of this order, and the receivers applied to the court to restrain the men from executing their threat. Judge Jenkins issued a preliminary injunction containing the following clause:

And from ordering, recommending, approving, or advising others to quit the service of the receivers of the Northern Pacific Railroad on January 1, 1894, or at any other time.

Judge Jenkins subsequently modified the preliminary injunction by striking out this clause. This case was carried on appeal from his refusal to further modify his injunction to the circuit court of appeals. The opinion of the court of appeals was drawn by Mr. Justice Harlan, of the Supreme Court of the United States.

Mr. Justice Harlan discussed the issues in an elaborate and exhaustive opinion. It appears that it was contended on appeal that the circuit court exceeded its powers when it enjoined the employees of the receivers "from combining and conspiring to quit with or without notice the service of said receivers, with the object and intent of crippling the property in their custody or embarrassing the operation of said railroad, and from so quitting the service of said receivers with or without notice as to cripple the property or prevent or hinder the operation of said railroad."

The court held that this clause embodied two distinct propositions—one relating to combinations and conspiracies to quit the service of the receivers, "with the object and intent of crippling the property * * * or embarrassing the operation

of the railroads in their charge; "the other having no reference to combinations and conspiracies to quit, or to the object and intent of quitting, but only to employees "so quitting" as to "cripple the property or prevent or hinder the operation of the railroad."

The court held that the court below (Judge Jenkins) should have eliminated from the writ of injunction the words:

And from so quitting the service of said receivers with or without notice as to cripple the property or prevent or hinder the operation of said railroad—

but upheld the injunction in all other respects.

On the question of the distinction between the two propositions, the court said, after having called attention to the fact that the employees as a body had a right to demand given rates as a condition for their remaining in service and to withdraw from service if it was not granted to them, without reference to the effect upon the property or upon the operation of the road:

But that is a very different matter from a combination and conspiracy among employees, with the object and intent, not simply of quitting the service of the receivers because of the reduction of wages, but of crippling the property in their hands, and embarrassing the operation of the railroad.

In his order modifying the injunction and the reasons given therefor Mr. Justice Harlan simply emphasizes the familiar and well-established distinction between acts done or strikes inaugurated in pursuance of and for the purpose of carrying out a conspiracy and such acts entirely disconnected with such conspiracy.

Of the remaining eleven cases there was no contest in seven of them, nor any demand of any kind made to modify or vacate the restraining order by the defendants.

In the remaining four cases preliminary injunctions in the terms of the restraining order were granted in three instances, after hearing and argument.

The most recent of these instances, that of the Hitchman Coal and Coke Company v. Mitchell and als., requires more than a passing notice. This is the case where an injunction was issued by Judge Dayton of West Virginia, which has been the subject of considerable public criticism, resulting in the publication in the Record of the injunction order; and the judge has been subjected with reference thereto to more or less vigorous aspersion, not only on the part of Members of Congress, but upon the part of men occupying important executive office.

A brief statement of the facts will, in my judgment, show that the action of Judge Dayton in this case was absolutely justifiable, and a proper and necessary exercise of his judicial discretion in the protection of the rights of the parties concerned.

It seems that the Hitchman Coal and Coke Company were the owners of about 5,000 acres of coal; that its plant was equipped with apparatus and facilities which enabled it to produce about 1,400 tons a day; that it necessarily had large contracts for future delivery to practically the full amount of its capacity. That prior to April 1, 1906, they operated their mines by men who were affiliated with the United Mine Workers of America; that on April 1, 1906, a strike was ordered by that association, and that their employees being members thereof went out on a strike by virtue of that order, not because there was any controversy between them and their employers or any dissatisfaction with reference to their employment. On the contrary, they distinctly stated that they had no grievance against the Hitchman Coal and Coke Company, but went out on a strike because coal operators in other sections of the country had refused to accede to certain demands of the association. And although the Hitchman Coal and Coke Company offered to pay them any advance in wages after April 1, 1906, that might be agreed to as a result of the strike in connection with other coal operators if their operators and employees would continue with the work, these members of the United Mine Workers of America were ordered by the gentleman in charge of the union to strike, and did strike, notwithstanding their willingness to agree to accept such proposition.

Under these circumstances the operations of the Hitchman Coal and Coke Company were arbitrarily suspended for about two months, at the end of which time, not being able to get union men, they began to employ men not members of the union, requiring them to contract with them not to join the United Mine Workers of America, and confined their employment to nonunion men. Having found it impossible to rely with confidence upon the United Mine Workers for effective service, they were compelled to avail themselves of nonunion labor and endeavored to protect themselves in its employment by this contract, which under the circumstances was not only a wise precaution, but a clear exercise of their legal rights.

Later, the United Mine Workers of America, by their combination, confederation, and conspiracy, endeavored to compel them to reunite their works, to employ only members of the Mine Workers' Union, to discharge their nonunion labor that they had found it necessary to thus employ in order to continue their operations, and, as the principal and salient feature of this conspiracy, to induce the nonunion employees of the plaintiff, by threats, intimidation or persuasion, to violate the contract they had made with the plaintiffs at the time of their employment not to join the union, and to induce them to join the union in violation of such contracts without the consent and against the protest of the plaintiff.

Under these circumstances Judge Dayton issued his temporary order restraining the defendants from combining and conspiring to interfere with the employees of the plaintiff for the purpose of unionizing the plaintiff's mine without the plaintiff's consent and from inducing their employees to violate their contracts entered into by them when they entered the service of the plaintiff and containing other provisions of a similar character. In other words, he issued a restraining order for the purpose of protecting the plaintiffs in the exercise of their rights to employ such labor as they saw fit to employ and of the making and maintenance of such contracts as expensive experience had shown them the exigencies of their business required, and to prevent them from being compelled by intimidation, threats, or otherwise to discharge their nonunion labor, to reunite their works, to rely again solely upon union labor and thus completely subordinate their investments to the interests of union labor and its absolute control.

It was a perfectly proper exercise of the judicial power, and the plaintiffs were entitled to the protection of the court in that regard.

It was in accordance with well-settled principles and is sustained by the highest authority. The law recognizes the inviolability of the right of contract, and courts of equity will protect that right against conspiracies on the part of third parties to induce one of the parties to break the contract to the injury of the other.

In *Bitterman v. Louisville and Nashville Railroad Company*, 207 U. S., 205, which was a case between the railroad company and a scalper, and involved a contract which made a ticket not transferable by the purchaser, the court held that an actionable wrong is committed by one who "maliciously interferes in a contract between two parties" to induce one of them to break that contract to the injury of the other, and restrained a conspiracy to engage in the sale of such railroad tickets, which involved the inducing, by the scalper, of the violation of the contract upon the part of the purchaser, and held that it was not necessary in order to justify an injunction to restrain the carrying out of such a conspiracy to thus induce one party to violate his contract with another that the conspiracy should "involve the ingredient of actual malice in the sense of personal ill will." The wanton disregard of the rights of the contracting party, causing injury to the party by the violation of the contract, was a sufficient justification for the issuance of the writ restraining the carrying out of such a conspiracy.

This is precisely in point, sustaining Judge Dayton's order upon the crucial point involved in the case.

It was also precisely in line with the remarks made by Judge Gray in his celebrated decision in the anthracite coal strike case, concurred in by every member of the Commission, which included not only Judge Gray, but Carroll D. Wright, John M. Wilson, John L. Spalding, Edgar E. Clark, Thomas H. Watkins, and Edward W. Parker, one of whom, Mr. Clark, was a specific representative on the Commission of organized labor. Judge Gray said:

Our language is the language of a free people and fails to furnish any form of speech by which the right of a citizen to work when he pleases, for whom he pleases, and on what terms he pleases can be successfully denied. The common sense of our people, as well as the common law, forbids that this right should be assailed with impunity. * * * The right thus to work can not be made to depend upon the approval or disapproval of the personal character and conduct of those who claim to exercise this right. If this were otherwise, then those who remain at work might, if they were in the majority, have both the right and power to prevent others who choose to cease work from so doing.

This all seems too plain for argument. Common sense and common law alike denounce the conduct of those who interfere with this fundamental right of the citizen. The assertion of the right seems trite and commonplace, but that land is blessed where the maxims of liberty are commonplaces.

The right to work and the right to employ are very obviously correlative rights. The right that the Hitchman Coal and Coke Company were asserting in their application to Judge Dayton for an injunction was simply the right defined by Judge Gray in this decision, and that was the right to employ whom they liked, when they liked, and how they liked. And

this right, it may be said, has been distinctly sustained by the Supreme Court of the United States in the *Adair* case.

It should be repeated and emphasized that the employees of the Hitchman Coal and Coke Company who were to be displaced by union labor were under specific and express contracts and that a conspiracy to induce the violation of such contracts has always been held to be restrainable as an infringement of a clear legal right. The authorities are innumerable in sustaining this proposition and no authority can be found that denies it, and it should be remembered that Judge Dayton's order in this particular case was expressly predicated upon the knowledge of the defendants of the existence of such contracts and their deliberate purpose to induce their violation.

This was one of the grounds upon which the court proceeded in the case of *Thomas v. Cincinnati, New Orleans and Texas Pacific Company* (62 F. R., 803), in which the able opinion was drawn by Hon. William H. Taft; and the action of Judge Taft in this case is a specific precedent on all fours justifying the action of Judge Dayton in issuing this injunction. He said: "The breach of a contract is unlawful. A combination with that as its purpose is unlawful and is a conspiracy."

While it is true that this temporary restraining order was issued without notice and hearing on the 24th of October, 1907, it was issued only after the filing of a bond under a penalty of \$2,000 on the part of the plaintiff, and the cause was set down for hearing on the first day of the next term of court, to be held in that district on the 14th day of January, 1908, and notice was required to be given upon the plaintiff's motion for a temporary injunction. On this day counsel for the defendants appeared, entered a motion to dismiss as to certain of the defendants not served with process, and asked for a postponement of the hearing as to all the others. The hearing was postponed until the 18th day of March, 1908, when, at the request of counsel for the respondents, the hearing was postponed again until the fourth Tuesday of May, and just as I am preparing this speech I am in receipt of a letter from the clerk of that court informing me that it has been again postponed on the motion of the defendants until the November term, 1908.

No demurrer to the bill has ever been tendered; no suggestion or criticism of the scope of the restraining order has ever been made. The only thing that ever has been done in the case is to have a hearing upon the question as to whether the injunction motion should be delayed and postponed three times at the express request of the respondents, who were the only parties adversely affected thereby.

If the respondents have no complaint as to the scope of this restraining order and have no anxiety to have it heard in order that it may be discharged if ill-founded, what foundation is there for this vicarious, simulated, and sinister indignation that seems to be breaking out in various legislative and executive quarters with reference to the action that Judge Dayton was bound to take.

The contemplation of these salient and uncontrovertible facts must tend to a feeling of humiliating chagrin on the part of those zealous and earnest gentlemen who in season and out of season have been boiling their vicarious and baseless indignation over the action of Judge Dayton in this case. Three times the respondents have been offered an opportunity for a hearing; three times they have declined it and insisted upon a further delay, and now instead of a speedy hearing, they request a delay until November, continuing the restraining order for nearly a year upon their own motion. If they have been oppressed, evidently, up to date, they have not yet discovered it.

What particular advantage would these respondents have derived from a statute giving them a hearing within five days from the time of filing a motion to dissolve? This case is a good illustration of the profound lack of information with reference to this subject and of the indiscriminate criticism to which the court is not infrequently subjected.

This case was the only case specifically referred to by Mr. Samuel Gompers in his hearing before the Judiciary Committee as subject to criticism, although he then did not undertake to make any specific criticism of the action of the judge. As to this, it may well be said that if the list of actions submitted by him are as little open to criticism as is the action of Judge Dayton in this case, there is not one of which either he or his organization have any legitimate right to complain.

While no complaint is made about the action of the judge in the case of the *National Telephone Company v. Kent* in the matter of the restraining order, it is included in the list filed with the committee. This case was referred to by way of criticism in the matter of contempt by Mr. Gompers in the hearing before the committee. It is stated somewhat in detail in the abstract. I can only stop here to say that I hold in my hand a

letter from the attorneys for the respondents, which reads as follows:

WHEELING, W. VA., April 23, 1908.

HON. C. E. LITTLEFIELD, Washington, D. C.

DEAR SIR: Replying to your favor of March 28, 1908, we appeared in the United States circuit court as counsel for the defendants in the case of *National Telephone Company v. Kent et al.* No contempt proceedings grew out of the injunction case. We have no criticism whatever to make of the action of Judge Dayton in awarding the restraining order or in granting the preliminary injunction. Our clients directed us to discontinue their defense and no motion to dissolve or to modify was ever made. The injunction was made permanent as to our clients.

We took no part in the injunction suit brought by the Hitchman Coal Company.

Very truly, yours,

DOVENER & FICKEISEN.

Since the defendants and their counsel have no complaint to make it is hardly necessary to spend time looking for criticism which no one else undertakes to point out.

Upon the strength of these two cases in connection with which Judge Dayton has been criticised, it is proper to say that instead of being a subject of condemnation Judge Dayton has acted the part of a courageous, intelligent, upright judge and should receive the commendation of all good citizens for his proper and judicious administration of the law.

In the remaining three injunctions of the eighteen to which I have referred, in the case of the *Rocky Mountain Bell Telephone Company v. Montana Federation of Labor*, a restraining order was issued after notice of motion and hearing.

In the case of the *Allis Chalmers Company v. Iron Molders' Union* (150 Fed. Rep., 155) a preliminary injunction was granted after filing of supplemental bill and after motion, hearing, and argument.

In the case of *Newport Iron and Brass Foundry Company v. Iron Molders' Union*, September 27, 1904, the record does not disclose whether or not the restraining order was issued before the final decree.

Thus the papers filed with the committee show eighteen restraining orders of the circuit courts of the United States, covering a period of fourteen and a half years, only one of which has been modified by an appellate court.

While I have no complete injunctions that have been issued by Hon. William H. Taft while he was a circuit judge, it is well known that they are generally held in high esteem, and of the orders in the cases filed with the committee there are none which differ substantially from the orders of injunction, so far as I have been able to ascertain, issued by this distinguished judge in *Thomas v. Cincinnati, New Orleans and Texas Pacific Company* (62 Fed. Rep., 803), or *Toledo and Ann Arbor v. Pennsylvania Company et al.* (54 Fed. Rep., 730), so far as these orders appear to be stated in the opinions rendered in the course of the decision.

In the *Thomas v. Cincinnati* case, as an illustration, the defendant, Phelan, was enjoined "from either as an individual or in combination with others, inciting, encouraging, ordering, or in any other manner causing the employees of the receiver to leave his employ with intent to obstruct the operation of his road, and thereby compelling him not to fulfill his contract and carry Pullman cars."

Before leaving the list of the cases filed by Mr. Gompers with the committee, attention should perhaps be called to one other case, that of the *Reinecke Coal Mining Company v. Wood* (112 F. R., 497). Under the circumstances disclosed in that case, the defendants and others had invaded the Hopkins district in great force, establishing armed camps in the vicinity of the non-union mines, which were maintained for many months, and the roads patrolled and the approaches to the mines picketed for the purpose of coercing and intimidating miners to join the union and cause a strike unless the union scale was adopted. Non-union men were constantly threatened and assaulted, and when defensive measures were adopted there were constant collisions and disorders.

The court found that the conditions sought to be brought about were—

Undesired and vigorously repelled by the employers and a vast majority of the employees * * * and said: If this court can not in a case like this protect the rights of a citizen when assailed as those of the complainant have been in this instance, there is a decrepitude in judicial power which would be mortifying to every thoughtful man.

Some of the cases submitted present a greater condition even than that of the *Reinecke Coal Mining Company* case. I do not go so far as to say that all of the eighteen cases of injunctions and restraining orders submitted by Mr. Gompers are parallel in all respects to the *Reinecke Coal Mining Company* case or the *Hitchman Coal and Coke Company* case or the *Western Coal Mining Company v. Puckett* or the *Telephone* case; but in the absence of any specific criticism on their part, I do say that I have not been able to find any out of the eighteen

submitted by them that are the proper subject of legal criticism. If there are any facts involved in any of the cases that subject the action of the court in entering the decrees to proper criticism, these facts have not been called to our attention. And upon the face of the papers submitted to us, instead of the cases showing an abuse of the power of injunction, they would show its reasonable and legitimate exercise, and are only criticisms upon the ground that any use whatever of the power of injunction is understood by the labor organizations to be an abuse of judicial power, a proposition upon which they vigorously insist, as I shall further on show.

Mr. James A. Emery, at my request, has made a careful examination of the Federal Reporter since January 1, 1903, for the purpose of ascertaining how many injunctions of all kinds have been issued by the Federal courts since that date. This investigation discloses that in all there have been issued 328 injunctions, 20 of them only in cases involving labor controversies. In the case of 5 of these 20 there was notice and hearing before the order was issued, leaving only 15 since January 1, 1903, up to date issued without notice and hearing. And there is absolutely nothing in the records to indicate that any of them were excessive or oppressive in their scope, or that they were not fully justified by the facts presented to the court. There is nothing in the record to indicate that they have been the subject of any criticism of any kind or from any source.

I will print as an appendix to this speech a list of all of these cases. I may say that this investigation discloses three cases at least not included in the list submitted by the American Federation of Labor, which covers a period of fifteen years.

In the message of the President transmitted to Congress at the beginning of this session, in discussing the question of injunctions in labor controversies, the following remark appears:

Instances of abuse in the granting of injunctions in labor disputes continue to occur.

Knowing that the Department of Justice is in constant and intimate touch with the circuit courts, and that every restraining order or preliminary injunction issued by any Federal court must be served by a Federal officer, a United States marshal or his deputy, and that the proceeding, if permanent, must become a matter of record in the office of the clerk of the circuit court, and that the Department of Justice would naturally be advised either directly or indirectly of any abuse of judicial power that may have occurred in connection with controversies of this character, on the 11th of March, 1908, I wrote the Attorney-General as follows:

MARCH 11, 1908.

HON. CHARLES J. BONAPARTE,
Attorney-General for the United States, Washington, D. C.

DEAR SIR: In the President's message transmitted to Congress at the beginning of the first session of the Sixtieth Congress the following statement occurs: "Instances of abuse in the granting of injunctions in labor disputes continue to occur," etc.

Will you be kind enough to give me the names of the cases which show the "instances of abuse in the granting of injunctions in labor disputes" which have occurred, and if the cases in which the injunctions were granted are not accessible in publications please send me copies of the decree granting the injunctions, and in either case please call my attention to the specific features of the injunction in which the court is thought to have abused its discretion.

Yours, very respectfully,

C. E. LITTLEFIELD.

The Attorney-General promptly replied as follows:

OFFICE OF THE ATTORNEY-GENERAL,
March 14, 1908.

HON. C. E. LITTLEFIELD, M. C.,
House of Representatives.

MY DEAR SIR: Your letter of the 11th instant has just reached me. There is nothing on file in this Department which would enable me to give you the information therein requested. I do not understand the passage in the President's message which you quote to be in reference to injunctions obtained in suits to which the United States is a party, and this Department is not informed regarding the incidents of suits between private parties, unless these should incidentally involve the interests of the Government. I regret my inability to comply with your request, and remain,

Yours very truly,

CHARLES J. BONAPARTE,
Attorney-General.

It is quite clear from this that if there are any such abuses they have not come to the notice of the Attorney-General. Finding that it would be necessary, in order to get the desired specific information, to apply to the President, on the 27th of March I wrote him as follows:

WASHINGTON, March 27, 1908.

HON. THEODORE ROOSEVELT,
President of the United States.

DEAR SIR: In your message transmitted to Congress at the beginning of this session, the following statement occurs: "Instances of abuse in the granting of injunctions in labor disputes continue to occur."

Having the impression that the information upon which the statement was made came from the office of the Attorney-General, I have written him requesting him to give me the name of the cases referred to, and I am advised by him that he has no information relative thereto.

Will you be kind enough to have sent to me the names of the cases

you had in mind in which the acts of abuse in the granting of injunctions in labor disputes continue to occur, so that I can examine these cases with reference to that question, as I desire to bring down the question of unauthorized injunctions and the particulars in which the jurisdiction may have been exceeded to date? If you have not the particular cases where they can be reached, you may be able to give me the sources of your information and I can inquire there. I am,

Yours, respectfully,

C. E. LITTLEFIELD.

The receipt of this letter up to date has not been acknowledged, and in this connection it may be proper for me to say that while I have written the President scores of letters during the last few years, this is the only letter that I have ever addressed to him the receipt of which has not been acknowledged.

On the 27th of April, 1908, in a special message to Congress, the President referred to the question of injunctions and urged legislation along those lines, with reference to the abuse of injunctions, saying:

There seems, however, much doubt about two of the measures I have recommended—the measure to do away with abuse of the power of injunction and the measure or group of measures to strengthen and render both more efficient and more wise the control by the National Government over the great corporations doing an interstate business.

As regards injunctions, some such legislation as that I have previously recommended should be enacted. They are blind who fail to realize the extreme bitterness caused among large bodies of worthy citizens by the use that has been repeatedly made of the power of injunction in labor disputes. Those in whose judgment we have most right to trust are of the opinion that while much of the complaint against the use of the injunction is unwarranted, yet that it is unquestionably true that in a number of cases this power has been used to the grave injury of the rights of laboring men.

Not having received any reply to my letter of March 27, on the 30th of April I wrote the President again as follows:

APRIL 30, 1908.

HON. THEODORE ROOSEVELT,
President of the United States, White House.

DEAR SIR: Under date of March 27 I wrote you as follows:

"In your message transmitted to Congress at the beginning of this session the following statement occurs: 'Instances of abuse in the granting of injunctions in labor disputes continue to occur.'"

"Having the impression that the information upon which the statement was made came from the office of the Attorney-General, I have written him requesting him to give me the names of the cases referred to, and I am advised by him that he has no information relative thereto."

"Will you be kind enough to have sent to me the names of the cases you had in mind in which the acts of abuse in the granting of injunctions in labor disputes continue to occur, so that I can examine these cases with reference to that question, as I desire to bring down the question of unauthorized injunctions and the particulars in which the jurisdiction may have been exceeded to date. If you have not the particular cases where they can be reached, you may be able to give me the sources of your information, and I can inquire there."

The receipt of said letter not having been acknowledged, I am apprehensive it may not have reached its destination through some error in the mail. I am endeavoring to make my examination complete and exhaustive, and hope, therefore, you will feel at liberty to give me the desired information.

Yours, very respectfully,

C. E. LITTLEFIELD.

On the 4th of May, as I read my morning paper at the breakfast table, I found in it a newspaper article by John Callan O'Laughlin, containing, among other things, the following:

The President has indicated in his several messages to Congress the high importance he attaches to these two pieces of legislation (relative to injunctions in labor disputes and the modification of the Sherman antitrust law), which he considers vital to the welfare of the country. In the case of the anti-injunction bill, he believes that if the men and interests working against its passage are successful, a powerful public sentiment will be aroused within a short time which will force through Congress a bill providing for jury trials in all cases of appeal to the courts by capital. He does not consider the bill introduced in the House a few days ago by Representative PAYNE, of New York, as meeting the situation in a satisfactory way.

The President believes that Congress should enact the bill introduced by Senator BEVERIDGE, of Indiana, in the Upper House, which provides that no temporary injunction or restraining order shall issue without notice, and that if an issue is made a hearing shall be granted within reasonable time, not exceeding seven days.

At present there is no law specifically covering this subject. Under existing practice an employer may obtain a temporary restraining order from a judge in chambers without hearing and without notice, and strikers are arrested and punished for violation thereof.

In his last message the President called attention to the evils of this practice, saying that "those in whose judgment we have the most right to trust are of the opinion that while much of the complaint against the use of the injunction is unwarranted, yet it is unquestionably true that in a number of cases this power has been used to the grave injury of the rights of laboring men."

Representative LITTLEFIELD, of Maine, who in a speech on Saturday night attacked both the anti-injunction and antitrust measures of the President and intimated that they would be smothered in the House Judiciary Committee, wrote to Mr. Roosevelt a few days ago and asked him to state specifically the cases to which he referred. The reply which Mr. LITTLEFIELD received indicates clearly that Mr. Roosevelt does not propose to be drawn into any undue criticism of the courts.

It would be an easy matter for the information which the Maine Member wants by an inquiry directed to the proper sources.

The Administration does not believe with Mr. LITTLEFIELD that if Congress should pass an anti-injunction measure, the Supreme Court would declare it unconstitutional.

As a matter of fact, in the course he has pursued, the President has enjoyed the advice of the Attorney-General and of Secretary Taft, who, for many years served as a circuit judge, and who, through his decl-

sions, is charged by labor with having made government by injunction possible. These two officials will take direct issue with Mr. LITTLEFIELD, and are satisfied that the courts would consider a law, such as that proposed by Senator BEVERIDGE, to be well within the limits of the Constitution.

After finishing my breakfast, on opening my mail I found the following communication:

THE WHITE HOUSE,
Washington, May 2, 1908.

DEAR SIR: An official communication of the specific names and cases which you call for would entitle the persons named to be heard, and would in effect commit the President to a prosecution of certain judges before the Judiciary Committee of the House. It ought not to be necessary to point out the obvious impropriety of such a course. It would be on a par with a communication by the President giving the names of the senior officers of the Army and Navy alluded to in the statement in the President's messages to the effect that the lack of system of selection for promotions in the Army and Navy tended to bring to the highest rank as many men of mediocre as of first-class ability.

If the committee can not itself perceive that there have been instances of abuse in the granting of injunctions, it must give to the statement in the message that such instances exist whatever weight the committee deems proper, without calling upon the President for proof.

Yours, truly,

THEODORE ROOSEVELT.

HON. C. E. LITTLEFIELD,
House of Representatives.

Inasmuch as the only matters relative to the prosecution of any judge that would be cognizable by the Judiciary Committee would be a charge of high crime and misdemeanor constituting an impeachable offense, if the President is correctly informed there must be at least one judge who has so abused his discretion in the granting of a writ of injunction as to subject him to the charge of having thus committed a high crime and a misdemeanor, and if this information be correct it might perhaps well be said that an important public duty would be well discharged if the name of the judge thus committing a high crime and misdemeanor, with the circumstances connected therewith, were submitted to the Judiciary Committee.

If any judge has been guilty of so gross a violation of his official duty I am unable to see any "impropriety" in calling the attention of the Judiciary Committee to that fact. Surely such conduct should not be tolerated, and the Judiciary Committee would not hesitate to invoke the appropriate remedy if the facts justified it. The House quite recently presented a judge at the bar of the Senate, though it is quite true that their zeal in that case proved to be misdirected and their efforts were attended by a humiliating failure. Assuming the information that the President has acted upon in making his general charge to be reliable, I do not propose to discuss the ethical question as to whether the charge ought in fairness to be confined to the judge or judges thus offending, or whether it should be made against the Federal judiciary as a whole, leaving each judge subject to the same cloud as would rightfully affect the criminal judge.

Relative to the question, however, as to whether any judge has so conducted himself and so corruptly abused his discretion as to be guilty of a high crime and a misdemeanor, it is proper to say that I have the authority of the chairman of the Judiciary Committee for the assertion that during his service on the committee, and especially during his service as chairman, there never has come to the committee, either directly or indirectly, from any source, any suggestion that any judge has been guilty of anything like an impeachable offense in connection with the issuing of an injunction; and I may say that, while I have been a member of the Judiciary Committee myself since 1899, there has never come to my knowledge, either directly or indirectly, anonymously or otherwise, any intimation of that character.

I have never noticed any signs of an undue or overtender consideration for the action of the court on the part of gentlemen who have urged anti-injunction legislation, and I feel confident that if they knew of facts that would justify a charge of an impeachable crime, they would not hesitate for an instant to make it.

I may be pardoned for saying a word in passing in commendation of the manly and courageous stand that the chairman of the committee, the gentleman from Wisconsin [Mr. JENKINS], has maintained in connection with this legislation. He has stood up courageously against every attempt that has been made to invade or impair the judicial power, and I am very glad, indeed, to make this statement with reference to his conduct in connection therewith, especially in view of the fact that in other matters of importance in which I have been largely interested, particularly the effort to procure legislation in the line of the regulation of the interstate transportation of intoxicating liquors, the gentleman from Wisconsin [Mr. JENKINS] and myself have been diametrically opposed to each other upon constitutional grounds, as he has conscientiously believed that the legislation supported by me would not be authorized under the Constitution.

It is proper also to say that during this time there have been a number of complaints upon the part of disappointed litigants to the Judiciary Committee by people who have sought through the medium of impeachment proceedings to retry their controversies which have been adversely passed upon by a judge; but in no single instance has any intimation come from any source that any judge in connection with the issue of an injunction had so violated the judicial proprieties as to be a proper subject of investigation by the Judiciary Committee, unless the letter of the President may be held to be an intimation of that character.

In this connection it ought not to be improper to allow the highest court in the land to express its judgment upon the conduct of the inferior Federal judges with reference to the granting of injunctions. In the case of *Ex parte Young*, decided by the Supreme Court of the United States on March 23, 1908, in answering the suggestion that if the Supreme Court upheld the action of the circuit court in that case it would draw to the lower court a great flood of litigation, where one Federal judge would have it in his power to enjoin and nullify the legislative acts of the State, either in criminal or civil actions, the court said:

To this it may be answered in the first place that no injunction ought to be granted except in a case reasonably free from doubt. We think such rule is and will be followed by all the judges of the Federal courts.

If there have been any gross abuses of judicial power in this respect by the Federal judges, it is quite obvious that the Supreme Court of the United States has not up to date learned thereof.

Upon the general question as to whether or not there has been any abuse of this power, it is important and interesting to note that the gentleman from Michigan [Mr. TOWNSEND], who has actively aided in the promotion of the agitation for the enactment of anti-injunction legislation, as is generally understood in cooperation with the President, in a letter written by him with great care, not only for the information of his constituents, but for publication in the press of his State, said:

After looking over the history of this writ in the United States, I have been unable to find a single case where it has been issued improperly.

It is not necessary for me to suggest that the gentleman from Michigan never makes a statement upon an important public question except as the result of thorough and exhaustive judicial investigation, and where he has not been able to find a single case where the writ has been issued improperly it certainly raises a very decided presumption that no such case exists.

It seems that the gentleman from Michigan has not only not been able to "perceive" an instance of abuse; he has been unable "to find a single case."

Under these circumstances I do not hesitate to say that "the committee can not itself perceive that there have been instances of abuse in the granting of injunctions." I submit with entire confidence that it seems to me that when we have called upon the attorney for the American Federation of Labor for instances and specifications and he fails to furnish them; when we have called upon the head of the organization itself for the same information and he furnishes information without calling attention to any criticism; when we have made a thorough and exhaustive investigation of the reported decisions of the courts; when we have applied to the Department of Justice and ascertained that they have no information in relation thereto; when the gentleman from Michigan has made his independent and disinterested search and found nothing; when the Supreme Court, though not referring specifically to labor controversies, says that the judges have exercised due care; and when there has never been from any quarter, prior to the letter of the President, the slightest intimation upon the part of men representing the labor organizations that any abuse of the writ of injunction amounting to a high crime and a misdemeanor has ever been committed—and I think it is hardly necessary to suggest that the gentlemen who appeared before our committee for the promotion of legislation of that character have never been backward in their assaults upon the judiciary, it appears that we have, with reasonable diligence at least, exhausted every available source of inquiry. I feel certain that the President has been deliberately misinformed as to the facts as they exist in connection with this question, because, in my judgment, there are no facts that warrant the suggestion or the intimation, at least since 1893, that a single judge, anywhere, at any time, in any place, under any stress, has been guilty of any abuse of the judicial power in issuing either a temporary restraining order or a preliminary injunction.

In considering a question of this character it must be borne distinctly in mind that so long as juries render verdicts and so long as judges enter up judgments, disappointed litigants and exasperated attorneys will abuse the jury and denounce the court, and the proceedings of the court in the administration of the equity power can not and will not be immune from this prevailing tendency upon the part of the losing suitor to criticize the tribunal in which he receives an adverse determination. HAS CONGRESS POWER TO LIMIT OR CONTROL THE JUDICIAL POWER OF A COURT OF EQUITY.

I premise the legal discussion of this question by the statement, which must be obvious, that I can not expect to exhaustively discuss any of the propositions involved. The most that I can attempt to do is to lay down, so far as I can, the foundation—legal and constitutional—principles involved in this question. Their exhaustive elaboration in detail must be left for another time and occasion. The limits of this speech are not adequate to a full and complete discussion thereof.

The question goes to the very foundation of our whole constitutional system. As I understand our form of government, it involves the exercise of three great coordinate, independent powers—the executive, legislative, and judicial. Each of these powers within its own constitutional sphere is absolutely supreme and independent and can not be controlled or interfered with by any of the other powers.

The Executive, when it comes to the question of the exercise of executive discretion, is absolutely supreme, and the exercise of that discretion can not be controlled by the court. Neither can the Executive be deprived of the exercise of that discretion by the legislative power.

The legislative in all of its acts, in the enactment of legislation, and in the appropriation of money, within its constitutional limitations, is also supreme, and the court can not under any circumstances inquire into or undertake to control the reasons that inspire or the causes that produce any particular legislative act or that result in any particular appropriation. They are legislative acts, and in the exercise of the legislative discretion within its constitutional sphere the legislature is absolutely supreme.

And so, upon the other hand, the judicial power within its sphere and within its constitutional limitation, in cases where the court has jurisdiction, is likewise supreme, and the court in the exercise of the judicial power vested in it by the Constitution can not in any way be controlled or interfered with either by the legislative or the executive branch of the Government. Each within its sphere is absolutely not only independent, but supreme.

DISTINCTION BETWEEN JURISDICTION AND JUDICIAL POWER.

The Constitution of the United States, section 1, Article III, says:

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

It is to be observed that the same judicial power is vested in the Supreme Court as is vested in the inferior courts. It is vested in the same language, in the same sentence, under the same circumstances and for the same purpose, and it has the same constitutional characteristics and qualities. The Constitution is its source in each case. While it is true that Congress may ordain and establish inferior courts, and in a sense create them and in the same sense can destroy them, when once ordained and established and their jurisdiction is defined, the source from which they derive their judicial power is section 1 of Article III of the Constitution. It is the same source, in the same language, from which the Supreme Court derives its judicial power.

Section 2 provides that the judicial power shall "extend to all cases in law and equity arising under this Constitution," etc. The jurisdiction once defined, my belief is that within the limits of the jurisdiction, the court having the jurisdiction of the subject-matter and the parties, the judicial power to be exercised by it is beyond the power of the legislature to either impair, modify, or control. In this respect there is no distinction between the "inferior courts" and the "Supreme Court." The Constitution vests "The judicial power of the United States" in terms "in such inferior courts as Congress may from time to time ordain and establish." Congress may "ordain and establish" the "inferior court," but when ordained and established the Constitution vests it with the "judicial power."

I am aware that the relation between "jurisdiction" and "judicial power" has been the subject of great investigation and extended discussion, and that there are those who contend, and with a degree of plausibility, that there is, as a constitutional and legal proposition, absolutely no distinction between "jurisdiction" and "judicial power."

I submit, however, upon reason and authority, that there can be no real question that the distinction is fundamental and profound; that while jurisdiction may be defined by the legislature the judicial power is conferred by the Constitution itself. The legislature may limit the jurisdiction of the court to the parties and the subject-matter, but within those limitations it can not impair the exercise of the judicial power.

There are those who seem to entertain the view that there is in some way a distinction in this respect between inferior courts that Congress may from time to time ordain and establish and the Supreme Court, on the ground that the Supreme Court is by name mentioned in the Constitution and that the inferior courts are to be created by the Congress. And it is contended that inasmuch as Congress has the power to create a court it has the power to destroy it, and if it can destroy in whole it can destroy in part, and if it can destroy in part it can impair or modify the judicial power of an inferior court, because that is not a court created by the Constitution.

In my judgment this distinction has no warrant either in reason or authority.

While Congress does "ordain and establish inferior courts" by the express provision of the Constitution, it is also true that as an effective instrumentality for the administration of justice, the Congress ordains and establishes the Supreme Court itself. The Constitution does not provide of how many judges that court shall consist, nor does it provide when or where it shall sit, or how its decrees shall be enforced, or how its procedure shall be regulated. While the Constitution, in general terms, defines the jurisdiction of the Supreme Court, original and appellate, the appellate jurisdiction being specifically subject to the control of Congress, without Congressional action supplying the essential details, providing for appeals, and the manner in which cases shall be conducted, the Supreme Court would be a helpless, inoperative judicial instrument for all substantial purposes. It is a practical impossibility for the Supreme Court, *ex proprio vigore*, without the necessary machinery provided by the legislature, to effectively perform any of its judicial functions, and the constitutional distinction that is said to exist between it and the inferior courts as to "judicial power," because of the power of Congress to "ordain and establish inferior courts" and its assumed lack of power over ordaining and establishing as an effective judicial instrumentality the Supreme Court, has no substantial, logical, or constitutional distinction upon which to rest. While this specific question, the distinction between courts named in and courts authorized to be established by the Constitution, has not been fully discussed and expressly passed upon by the Supreme Court of the United States with reference to the Constitution of the United States, we are by no means at loss for reliable authority for the determination of this question.

The constitution of Connecticut (Art. V) provides that "the judicial power of the State shall be vested in a supreme court of errors, a superior court, and such inferior courts as the general assembly shall from time to time ordain and establish;" and it then provides that the judges of all the courts "shall be appointed by the general assembly in such manner as shall by law be prescribed."

In the case of *Brown v. O'Connell* (36 Conn., 446) the court said:

It is obvious from this view of these provisions that the general assembly have no power or authority to organize courts or appoint judges, by virtue of the general legislative power conferred upon them, and that their authority to do either is special, and derived from article 5 of the constitution alone; and that the judicial power is not conferred by the general assembly, but vests, by force of the constitution, in the courts, when organized pursuant to the special provisions of that article.

Then the court proceeded to hold that the police court, which was one of the inferior courts that the general assembly was authorized to establish, was subject to the same constitutional limitations and provisions as the courts that were specially mentioned by name in the Constitution, and it said:

It is conceded, as it well may be, that the legislature had the power to constitute this police court, under the provisions of section 1 of the fifth article. There is nowhere in that instrument any limitation in respect to the number or character of the inferior courts which they may establish. It was therefore competent for them to provide for the organization of the court in question and to define the jurisdiction it should possess, and when so constituted the judicial power of the State vested in it, by force of the constitution, to the extent of the jurisdiction so defined.

The court in the case of *The Board of Commissioners of Vigo County v. Stout et al.* (136 Ind., 58) very clearly appreciated this distinction when it said, discussing the powers vested in a court by virtue of the provisions of the Constitution:

Courts are an integral part of the Government, and entirely independent, deriving their powers directly from the Constitution, in so far as such powers are not inherent in the very nature of the judiciary. A court of general jurisdiction, whether named in the Constitution or

established in pursuance of the provisions of the Constitution, can not be directed, controlled, or impeded in its functions by any of the other departments of the Government. The security of human rights and the safety of free institutions require the absolute integrity and freedom of action of courts.

Note the specific language of the court, insisting that there is no distinction between the court, so far as its "judicial power" is concerned, "*whether named in the Constitution or established in pursuance of the provisions of the Constitution.*"

In *Jackson v. Nimmo* (71 Tenn., 608) the court also clearly recognized this fundamental distinction between "jurisdiction" and "judicial power," as it says:

In view of this, we think it clear, from the first and eighth sections of the article from which we have quoted, that the preservation of these courts, with their distinctive features, modes of procedure and organism, substantially as independent and separate agencies for the exercise of the judicial power was intended, the courts to remain intact. But the matter of their jurisdiction is not so fixed, nor was it so intended. This was to remain as then until changed by the legislature.

That there was a profound distinction, fundamental and elemental, between "jurisdiction" and "judicial power," in the view of this court, is too clear for argument. The court further says in that case:

To what extent the jurisdiction thus left under control of the legislature may be changed we could not definitely determine. The existence, however, of these courts as parts of the judicial power of the Government is beyond the power of the legislature to destroy. The courts are to be preserved intact, but what shall be the matter over which they shall exercise their powers, subject to certain limitations involved in other clauses of the Constitution, is left to legislative discretion.

And again:

The court must necessarily be existent before it can exercise jurisdiction at all, so that it is a separate and independent thing, both in thought, logic, and fact, from the matter of its jurisdiction. This may be more or less extensive, may fluctuate, be enlarged or diminished, and yet the court remains, as we have said, the same organic thing, ready to do the work that may be assigned to it, whether much or little.

In the case of *Callanan v. Judd et al.* (23 Wis., 350) the court, in discussing this question of jurisdiction and judicial power, said:

It may well be that the legislature may deprive the circuit courts of original jurisdiction in actions for the foreclosure of mortgages. It is unnecessary to determine whether it could or not. But it is quite certain that this clause contains no authority for it, while leaving those courts jurisdiction of this class of actions, to attempt to withdraw from them an acknowledged part of the judicial power and rest it in the jury.

In other words, while the legislature might narrow the jurisdiction or deprive the court of jurisdiction, so long as the court retained the jurisdiction by virtue of the legislative act, it was beyond the power of the legislature to impair the judicial power exercised within the limit of that jurisdiction.

If these well-considered cases of undoubted authority are the law of the land there can be absolutely no question but that there is a substantial and fundamental distinction between jurisdiction and judicial power.

It is to be noticed that the Constitution itself, in article III, section 2, recognizes and applies this fundamental distinction between "judicial power" and "jurisdiction." It provides that "the judicial power shall extend to all cases," etc. In the next paragraph of the same section it specifies the "cases" in which the Supreme Court shall have the original jurisdiction, and the "other cases" in which "the Supreme Court shall have appellate jurisdiction," vesting the judicial power in the court in all of the "cases" over which court is given jurisdiction. Thus the Constitution vests the "judicial power" in all "cases" as to which it has distributed and delimited "jurisdiction."

INVOLABILITY OF JUDICIAL POWER.

The further proposition follows, to which I shall only need to make brief reference, and that is that the legislature can not impair the judicial power. Upon this point the language of the court in the case last cited is significant and conclusive. The court said:

It was an inherent part, and one of the constituent elements, of equitable jurisdiction. If, therefore, it shall appear that, by the Constitution, the equitable jurisdiction existing in this State is vested in the courts, I think it will necessarily follow that it would not be competent for the legislature to divest them of any part of it and confer it upon juries.

They were discussing a statute that attempted to transfer to a jury the right to determine an issue of fact in a court of equity, and upon that point the court further said:

In order to determine the meaning of the phrase "judicial power as to matters of law and equity," it is only necessary to recur to the system of jurisprudence established in this country and derived from England, in which the courts had certain well-defined powers in those two classes of actions. In actions at law they had the power of determining questions of law, and were required to submit questions of fact to a jury. When the Constitution, therefore, vested in certain courts judicial power in matters at law, this would be construed as

vesting such power as the courts, under the English and American system of jurisprudence, had always exercised in that class of actions. It would not import that they were to decide questions of fact, because such was not the judicial power in such actions. And the Constitution does not attempt to define judicial power in these matters, but speaks of it as a thing existing and understood. But to remove all doubt, in actions at law the right of a trial by jury is expressly preserved by another provision.

But, as already stated, the power of a court of chancery to determine questions of fact as well as of law was equally well established and understood. And when the Constitution vested in certain courts judicial power as to matters in equity, it clothed them with this power, as one of the established elements of judicial power in equity, so that the legislature can not withdraw it and confer it upon juries.

And again:

The whole question was determined by this court in the case of *Freeman v. McCollum* and others (20 Wis., 360), where, notwithstanding an express provision in the act of 1864, requiring the courts to submit issues of fact in these cases to a jury, the court decided that the circuit court was not bound to submit such issues to a jury unless it saw fit.

This opinion proceeds upon the express hypothesis that the legislature can not impair the judicial power, and is specifically in point as to the equity power.

In the case of *Little v. The State* (90 Ind., 339) the same propositions are repeatedly laid down, and the court says:

Courts of justice possess powers which were not given by legislation, and which no legislation can take from them. Judicial power exists only in the courts; it can not live elsewhere. (15 Mich., 361; 5 Mich., 409; 79 Ind., 373. Then there are: 7 Cranch, 32; 85 Ind., 318 (44 Am. R., 29); 84 Ind., 380; 72 Ind., 374.)

The judiciary is a coordinate department of the Government and is not a mere subordinate branch, dependent for existence and power upon the legislative will. Purely judicial powers inherent in courts as of the essence of their existence, are not the creatures of legislation, and these powers are inalienable and indestructible.

When it is demonstrated, as I think it is by the authorities hereinbefore referred to, that there is a profound and fundamental distinction between "jurisdiction" and "judicial power," and that "judicial power" is vested in the inferior Federal courts by the Constitution beyond the power of Congress to limit, impair, or control it, the only question that then arises is whether the proposed legislation is or not an impairment of the "judicial power" and before reaching the specific question of injunctions and the attempt to control the issue thereof by the court, I wish, in passing, to make a brief reference to the question of the attempt to control the right of the court to protect itself by its power to punish for contempt in disobedience of its orders.

THE COURT CAN NOT BE DEPRIVED OF THE RIGHT TO PUNISH FOR CONTEMPT.

In the message of the President, under date of April 27, 1908, he says:

In contempt cases, save where immediate action is imperative, the trial should be before another judge.

In Secretary Taft's reply to the president of the Mine Workers' Association some two or three months since, he suggested not only that there should be notice and hearing before any injunction was issued in labor controversies, but that the hearing upon the question of contempt should be before another judge; and the recommendation of the President in his message of April 27 is precisely in line with the reply of Secretary Taft to the president of the Mine Workers' Union. And the first question I wish to call attention to is whether or not it would be competent for the Congress to deprive the judge, while sitting as a court where a contempt is committed, of the power of protecting his own court by his own decree and determining the facts himself, by transferring that right to another judge, or, as suggested in some of the remedies proposed, to a jury for determination.

The opinions of the court upon this question are not open to misconstruction. In the case of *Little v. The State* (supra) the court said:

The judiciary is a coordinate department of the Government, and is not a mere subordinate branch, dependent for existence and power upon the legislative will. Purely judicial powers, inherent in courts as of the essence of their existence, are not the creatures of legislation, and these powers are inalienable and indestructible.

Among the inherent powers of a court of superior jurisdiction is that of maintaining its dignity, securing obedience to its process and rules, protecting its officers and jurors from indignity and wrong, rebuking interference with the conduct of business, and punishing unseemly behavior. This power is essential to the existence of the court. Without the power to punish for contempt, no others could, as decided in *United States v. Hudson*, be effectively exercised. There is no doubt that the power to punish for contempt is an inherent one, for, independent of legislation, it exists and has always existed in the courts of England and America. It is, in truth, impossible to conceive of a superior court as existing without such a power.

The legislature may regulate the exercise of this power—may prescribe rules of practice and procedure, but it can neither take it away nor materially impair it. In the case of *Neel v. State* (9 Ark., 259) the court said:

"The right to punish for contempts in a summary manner has been long admitted as inherent in all courts of justice and in legislative

assemblies, founded upon great principles, which are coeval and must be coexistent with the administration of justice in every country—the power of self-protection. * * * It is a branch of the common law brought from the mother country and sanctioned by our Constitution.

In another opinion by the same court it is said:

"The legislature may regulate the exercise of but can not abridge the express or necessarily implied powers granted to this court by the Constitution. If it could it might encroach upon both the judicial and executive departments, and draw to itself all the powers of government, and thereby destroy that admirable system of checks and balances to be found in the organic framework of both the Federal and State institutions and a favorite theory in the governments of the American people." (State v. Morrill, 16 Ark., 384.)

In that case the whole subject is well discussed, and it was held that the legislature could not restrict the power to punish for contempt to acts defined and enumerated in a statute. The supreme court of Illinois, in 64 Illinois, 195, declare a like doctrine, the court saying:

"This court held, in an early case, that the power to punish for contempts was an incident to all courts of justice, independent of statutory provisions. (Breese, 340.) Courts in other States have also announced the doctrine that this power is inherent in all courts of justice—necessary for self-protection, and an essential auxiliary to the pure administration of the law."

In our own reports we have cases emphatically asserting the doctrine that the power to punish for contempt is *inherent in courts of justice*, and exists without and independent of legislative enactment. (28 Ind., 47; 4 Ind., 627.) There are many cases sustaining this doctrine, and we cite a few of the many: 37 N. H., 450; 2 Vir. cases, 408; 64 N. C., 202.

As the court possessed the inherent power to punish contempts independently of legislation, it is not material that acts such as that committed by the appellant are not defined in our statute concerning contempts of court. The fact that the act is not embraced in any of the statutory definitions of a contempt does not deprive the court of the power to treat and punish it as a contempt, if it be really such. Where the act constitutes a contempt, then the courts may so adjudge it, although it is not within the statutory provisions upon the subject. It is not the legislative declaration that constitutes an act of contempt; it may be such, although there is no statute so declaring. It is, indeed, not for the legislature to declare what the courts shall or shall not consider to be a contempt; that power rests with the judiciary; for to hold differently would result in placing the whole subject within the absolute control of the legislative department, and would thus withdraw from the courts one of the primary and essential elements of their constitution and existence.

And upon the inviolability of this power the case of Fishback v. The State (131 Ind., 311) is also significant. The court there said:

In treating of the subject of contempt, Bishop, in his work on Criminal Law (7th ed.), vol. 2, section 243, says:

"No court of justice could accomplish the objects of its existence unless it could in some way preserve order and enforce its mandates and decrees. The common method of doing these things is by the process of contempt. Therefore the power to proceed thus is *incident to every judicial tribunal, derived from its very constitution, without any express statutory aid.*"

There is no doubt that the power to punish for contempt is an inherent one, for, independent of legislation, it exists, and has always existed, in the courts of England and America. It is in truth impossible to conceive a superior court existing without such a power.

The legislature may regulate the exercise of this power—may prescribe rules of practice and procedure—but it can neither take it away nor materially impair it. (See also 110 Ind., 301.)

Carter's case (96 Va., 805), decided March 16, 1890, is directly in point against the power of Congress to transfer the right to determine the question of contempt to either another judge or to a jury. The pith of the proposition is depriving the judge acting in his judicial capacity, where a contempt has been committed by a violation of his judicial order, of the power to protect his court, by his own decree, and I submit that if he is to be deprived of it, it would be much less objectionable to transfer it to a jury than to another judge.

In Carter's case the court was discussing a statute that transferred to a jury the right to determine whether or not a contempt had been committed. It was passing upon a case of contempt not within the definition of a direct contempt but one as to which the legislature provided for the determination by a jury, and the court said:

If it were a contempt, not within that classification, then it is incumbent upon us to consider whether it was within the power of the legislature to deprive the court of jurisdiction to punish it without the intervention of a jury.

Upon that point the court said, holding that the statute was unconstitutional:

Reading the constitution of the State in the light of decisions of eminent courts which we have consulted, we feel warranted in the following conclusions:

That in the courts created by the Constitution there is an inherent power of self-defense and self-preservation; that this power may be regulated, but can not be destroyed, or so far diminished as to be rendered ineffectual by legislative enactment; that it is a power necessarily resident in and to be exercised by the court itself, and that the vice of an act which seeks to deprive the court of this inherent power is not cured by providing for its exercise by a jury; that while the legislature has the power to regulate the jurisdiction of circuit, county, and corporation courts, it can not destroy, while it may confine within reasonable bounds, the authority necessary to the exercise of the jurisdiction conferred.

We can not more properly conclude this opinion than by a quotation from a great English judge: "It is a rule founded on the reason of the common law, that all contempts to the process of the court, to its judges, jurors, officers, and ministers, when acting in the due discharge of their respective duties, whether such contempts be by

direct obstruction or consequentially—that is to say, whether they be by act or writing—are punishable by the court itself, and may be abated *instantly* as nuisances to public justice.

"There are those who object to attachments as being contrary, in popular constitutions, to first principles. To this it may briefly be replied, that they are the first principles, being founded upon that which founds governments and constitutes law. They are the principles of self-defense; the vindication, not only of the authority, but of the very power of acting in court. It is in vain that the law has the right to act, if there be a power above the law, which has a right to resist; the law would then be but the right of anarchy and the power of contention." (Holt on Libel, chap. 9.)

That there is no distinction in respect to the question of judicial power between the courts specifically named in the Constitution and the courts created by the Congress has already been established, and this Virginia case is, therefore, directly in point upon the proposition that Congress can not deprive the court of the right to protect itself by the exercise of its power to punish for contempt.

It should be observed here that the legislation proposed does not relate to the ordinary power of the court to punish for contempt. It is an attempt to curtail and impair the judicial power of the court to punish a respondent who deliberately violates its order and is thus in contempt of the court. It is a specific contempt of a specific order issued by the court. So far as maintaining the integrity and power of the court and vindicating its title to the respect of the public, it is a matter of vastly greater importance than most of the instances of contempt which ordinarily occur in the administration of justice.

It is also to be observed that while a violation of an order of the court in connection with labor controversies may result in the commission of a crime, it is at the same time a violation of the order, and it is for the violation of the order and not for the commission of a crime that the respondent, under such circumstances, is punished by the court. While the respondent in such a case in violating the order of the court may have by the same act committed a crime, either against the State or against the Federal jurisdiction, he can be punished for that and also punished by the court for the violation of its order, the two being entirely distinct and independent legal proceedings, and having, so far as the remedy or the offense is concerned, no connection whatever with each other.

This whole subject of contempt, and the power of the court relative thereto, and the distinction to which I have just adverted are thoroughly gone over by the court in its opinion in the case of *In re Debs* (158 U. S., 594), the opinion being drawn by Mr. Justice Brewer, speaking for a unanimous court. In the course of the opinion, in discussing the power of the court to protect itself by punishing disobedience of its orders as a contempt, the court said:

But the power of a court to make an order carries with it the equal power to punish for a disobedience of that order, and the inquiry as to the question of disobedience has been, from time immemorial, the special function of the court. And this is no technical rule. In order that a court may compel obedience to its orders it must have the right to inquire whether there has been any disobedience thereof. To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half its efficiency. In the case of *Yates* (4 Johns., 314, 369) Chancellor Kent, then chief justice of the supreme court of the State of New York, said:

"In the case of the Earl of Shaftesbury (2 St. Trials, 615; S. C. 1 Mod., 144), who was imprisoned by the House of Lords for 'high contempts committed against it,' and brought into the king's bench, the court held that they had no authority to judge of the contempt, and remanded the prisoner. The court in that case seems to have laid down a principle from which they never have departed, and which is essential to the due administration of justice. This principle that every court, at least of the superior kind, in which great confidence is placed, must be the sole judge, in the last resort, of contempts arising therein is more explicitly defined and more emphatically enforced in the two subsequent cases of the *Queen v. Paty* and others, and of the *King v. Crosby*."

And again, on page 371:

"Mr. Justice Blackstone pursued the same train of observation and declared that all courts, by which he meant to include the two Houses of Parliament and the courts of Westminster Hall, could have no control in matters of contempt. That the sole adjudication of contempts and the punishment thereof belonged exclusively and without interfering to each respective court."

In *Watson v. Williams* (36 Miss., 331, 341) it was said:

"The power to fine and imprison for contempt, from the earliest history of jurisprudence, has been regarded as a necessary incident and attribute of a court, without which it could no more exist than without a judge. It is a power inherent in all courts of record, and coexisting with them by the wise provisions of the common law. A court without the power effectually to protect itself against the assaults of the lawless, or to enforce its orders, judgments, or decrees against the recalcitrant parties before it, would be a disgrace to the legislation and a stigma upon the age which invented it."

In *Cartwright's case* (114 Mass., 230, 238) we find this language:

"The summary power to commit and punish for contempts tending to obstruct or degrade the administration of justice is inherent in courts of chancery and other superior courts, as essential to the execution of their powers and to the maintenance of their authority, and is part of the law of the land, within the meaning of *Magna Charta* and of the twelfth article of our Declaration of Rights." (See also *United States v. Hudson*, 7 Cranch, 32; *Anderson v. Dunn*, 6 Wheat., 204; *Ex parte Robinson*, 19 Wall., 505; *Mugler v. Kansas*, 123 U. S., 623, 672; *Ex parte Terry*, 128 U. S., 289; *Eilenbecker v. Plymouth County*, 134

U. S., 31, 36, in which Mr. Justice Miller observed: "If it has ever been understood that proceedings according to the common law for contempt of court have been subject to the right of trial by jury, we have been unable to find any instance of it."—*Interstate Commerce Commission v. Brimson*, 154 U. S., 447, 488.)

In this last case it was said, "surely it can not be supposed that the question of contempt of the authority of a court of the United States, committed by a disobedience of its orders, is triable, of right, by a jury."

In brief, a court enforcing obedience to its orders by proceedings for contempt is not executing the criminal laws of the land, but only securing to suitors the rights which it has adjudged them entitled to.

Here the unanimous conclusion of the Supreme Court of the United States is that in the last report every court "must be the sole judge of contempts arising therein," and when they indorse that proposition and say that to transfer the determination of that question to another tribunal, be it a jury or another court, which is the proposition suggested by the President in his message and by Secretary Taft in his reply to the Mine Workers' Union, "would operate to deprive the proceeding of half its efficiency." I feel bound to say that I must part company with the President and the Secretary and stay with the court and its solemn determination, and under no circumstances will I consent to the enactment of any legislation that will be thus in violation of what I believe to be profound, inherent, essential, fundamental principles.

The legislature has no power to deprive the court of the inherent right to protect itself, and if it had, I could not agree to legislation that would "be a disgrace to the legislation and a stigma upon the age which invented it."

It can not be necessary, in general, for me to further elaborate the proposition that the basis of the charge of the labor organizations against the courts proceeds entirely and absolutely from an incorrect hypothesis. The contempt proceedings of which they complain always arise where specific orders of the court have been violated. The parties are punished by the court not because they have committed crimes, not because the act itself may have been the commission of a crime, but because the act is a violation of the specific order of the court; and it is to maintain its dignity and enforce its decrees that the parties, under such circumstances, are held for contempt.

THE CONSTITUTIONAL RIGHT OF EQUITABLE PROCEDURE.

Thus far the discussion has involved the inviolability of the judicial power in general and the constitutional right of the citizen to its full, unlimited, and unhampered exercise. I think it is equally well settled that the Constitution as clearly guarantees to each citizen the right to the exercise by the chancellor of the full equity power of the court.

In the case of *Brown v. Kalamazoo Circuit Judge* (75 Mich., 274), a mandamus was applied for to compel the judge to set aside a decree in a chancery suit where, pursuant to a statute, the facts had been tried by a jury, and to proceed to hear the cause in the usual manner, passing upon both the law and the facts as a chancellor. In ordering the mandamus to issue requiring the cause to be brought forward and heard in the usual manner, in accordance with the well-settled equity procedure, the court, among other things, said:

It is within the power of a legislature to change the formalities of legal procedure, but it is not competent to make such changes as to impair the enforcement of rights. * * * The functions of judges in equity cases in dealing with them is as well settled a part of the judicial power, and as necessary to its administration, as the functions of juries in common-law cases. Our constitutions are framed to protect all rights. When they vest judicial power they do so in accordance with all of its essentials, and when they vest it in any court they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate. The right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury. Whatever may be the machinery for gathering testimony or enforcing decrees, the facts and the law must be decided together; and when a chancellor desires to have the aid of a jury to find out how facts appear to such unprofessional men, it can only be done by submitting single issues of pure fact, and they can not foreclose him in his conclusions unless they convince his judgment.

And again:

In all ages, and in all countries, this distinction by nature, which was never called "equitable" except in English jurisprudence, where it was first so called from an idea that the rights were imperfect because unknown in the rude ages, when property was scanty, and business almost unheard of in the regions outside of great cities, has been recognized and provided for by suitable methods substantially similar in character. * * * The system of chancery jurisprudence has been developed as carefully and as judiciously as any part of the legal system, and the judicial power includes it, and always must include it. Any change which transfers the power that belongs to a judge to a jury, or to any other person or body, is as plain a violation of the Constitution as one which should give the courts executive or legislative power vested elsewhere. The cognizance of equitable questions belongs to the judiciary as a part of the judicial power, and under our Constitution must remain vested where it always has been vested heretofore.

Note the significance of the language—

the right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.

To the same point is the case of *Callanan v. Judd et al.* (supra), where the court said:

In order to determine the meaning of the phrase "judicial power as to matters of law and equity," it is only necessary to recur to the system of jurisprudence established in this country and derived from England, in which the courts had certain well-defined powers in those two classes of actions. In actions at law they had the power of determining questions of law, and were required to submit questions of fact to a jury. When the Constitution, therefore, vested in certain courts judicial power in matters at law, this would be construed as vesting such power as the courts, under the English and American system of jurisprudence, had always exercised in that class of actions. It would not import that they were to decide questions of fact, because such was not the judicial power in such actions. And the Constitution does not attempt to define judicial power in these matters, but speaks of it as a thing existing and understood. But, to remove all doubt, in actions at law the right of a trial by jury is expressly preserved by another provision.

But as already stated, the power of a court of chancery to determine questions of fact, as well as of law, was equally well established and understood. And when the Constitution vested in certain courts judicial power as to matters in equity, it clothed them with this power, as one of the established elements of judicial power in equity, so that the legislature can not withdraw it and confer it upon juries.

It follows, therefore, that the equity power vested in the courts by the Constitution can not be controlled, impaired, or invaded by the legislature.

RELIEF BY INJUNCTION IS AN INHERENT EQUITY POWER.

What, then, is the equity power so far as the right to injunctive relief is concerned?

In the case of *State of Pennsylvania v. The Wheeling, etc., Bridge Co. et al.* (13 Howard, 563) the Supreme Court of the United States held:

In exercising this jurisdiction the courts of the Union are not limited by the chancery system adopted by any State, and they exercise their functions in a State where no court of chancery has been established. The usages of the high court of chancery in England, whenever the jurisdiction is exercised, govern the proceedings. This may be said to be the common law of chancery, and since the organization of the Government it has been observed.

Now, what with reference to notice and hearing in matters of injunction was the common law of chancery or the usages of the high court of chancery in England at the time of the adoption of the Constitution?

In the case of *Smith v. Aykell* (3 Atkins Chancery Report, 566), decided in 1747, the lord chancellor issued a restraining order without notice and without hearing, in accordance with the then well-settled procedure of the high court of chancery. In Adams' Equity, the work of an English author, written in 1845, the following rule is laid down with reference to ex parte injunctions, at page 694:

The ordinary mode of obtaining this injunction is by moving after notice to the defendant; but in particular cases, where giving notice might accelerate the mischief, it will be granted ex parte and without notice; e. g., in case of waste, or of negotiating a bill of exchange, and, even where that special ground does not exist, yet if the act to be prohibited is such that delay is productive of serious damage, as in piracies of copyright and patent, an ex parte injunction may be obtained. In order to obtain an injunction ex parte the application must be made at the first possible moment, and all the facts must be fully and honestly stated; if any concealment or misrepresentation be detected, the injunction will be dissolved, although the facts, if truly stated, would have been sufficient to sustain it.

A reference to Eden on Injunctions (1821), also an English work, discloses the same universal and immemorial practice of issuing restraining orders without notice and without hearing where the chancellor is confronted with threatened irreparable harm with an inadequate remedy at law.

That temporary restraining orders, without notice and without hearing, ex parte, have been issued from time immemorial by the courts of equity is, in my judgment, beyond question. And perhaps at this point the fact should be noted that there is a substantial distinction between a restraining order and a preliminary injunction and a final writ of injunction, which is well stated in the case of *Riggins v. Thompson* (96 Tex., 157) in an opinion written by Chief Justice Gaines, in which he says:

We understand that under the practice of the American courts three species of injunctions may be issued: (1) A restraining order, which is defined to be: "A restraining order is an interlocutory order made by a court of equity upon an application for an injunction and as part of the motion for a preliminary injunction, by which the party is restrained pending the hearing of the motion" (Bouvier's Law Dict., 2 ed.); (2) one which is intended to operate, and which does operate unless dissolved by an interlocutory order, until the final hearing; and (3) a perpetual injunction, which can be properly ordered only upon the final decree.

The obvious purpose of a restraining order is to maintain the status quo until a hearing can be had upon the merits. If it be true that according to the immemorial practice of courts of equity restraining orders for the purpose of maintaining the status quo have been issued without notice and without hearing ex parte, then under the statement of the court in *Pennsylvania v. Wheeling* (supra), it follows that it is a part of the equitable judicial power vested in the courts by the Constitu-

tion, and that it can not be impaired by legislative action. Where the court has the jurisdiction of the subject-matter and of the parties, the litigant who presents a case of threatened irreparable harm with no adequate remedy at law, under the authority of *Brown v. Kalamazoo Circuit Judge* (supra) has a constitutional right to such an exercise of the judicial power as will secure to him the preservation and enjoyment of his property.

Let me give a few practical illustrations for the purpose of applying the legal proposition. The plaintiff may be possessed of a piece of property as to which a conspiracy may have been formed for the purpose of destroying it. If, on the presentation of his application for an injunction to restrain the consummation of the conspiracy, notice is given, it is an obvious suggestion to the conspirators to accomplish their object before a decree can by any possibility be entered, especially if they comprise a large body of men, which is ordinarily the case in conspiracies such as these we are now considering. Notice of an application for an injunction to restrain the destruction of the property as a result of the already formed conspiracy would simply be a notice to carry the conspiracy into effect and destroy the property before, by any possibility, the decree could be entered.

Now, if the legislature can step in and say that under no circumstances or conditions can a restraining order be issued except after a given notice and hearing, it is equivalent to a legislative determination in advance adverse to the plaintiff that under no circumstances can he present a state of facts disclosing a threatened irreparable injury without an adequate remedy at law. In other words, it is equivalent to saying that when a suitor over whom a court of equity has jurisdiction enters the court, presents his cause, discloses a state of facts where irreparable harm is threatened and where, if notice is given, irreparable injury will be done before the decree can be entered, the legislature can step in and by the exercise of its power arbitrarily say that under such circumstances no court of equity shall issue a decree which will give to the citizen that protection to which he is entitled by virtue of the provisions of the Constitution. The legislature determines in advance that what the suitor would otherwise be entitled to as due process of law in a court of equity can not and shall not be exercised in his case in time to preserve to him his rights and protect his property.

It is obvious that, if after the giving of notice, the conspiracy is consummated and the property destroyed, from that time on a court of equity has no power whatever to intervene for the protection of the suitor who had thus placed himself in a position where he was entitled to the exercise and protection of the judicial power, because a court of equity can only intervene to prevent the commission of a wrong. It affords no remedy for wrongs already committed. Redress for such wrongs can only be obtained in courts of common law. In a case like that supposed the act of the legislature would deprive the citizen of what he would otherwise be entitled to—due process of law in a court of equity for the protection of his property.

If it were a note about to be negotiated which between the original parties would be so tainted with fraud as to be open to successful defense, and in the hands of an innocent purchaser for value could not be successfully defended against, the same conclusion would follow, because after notice that an injunction was to be applied for to prevent its negotiation the note might well be negotiated before a decree could possibly be entered.

Or take for instance the case of the threatened misapplication of trust funds by a trustee. If notice and hearing were incumbent upon the court before the misapplication could be restrained, the mere notice that the order was contemplated would be a notice to the delinquent trustee to misapply the funds before the decree could by any possibility be entered.

In these instances, any one of which might well happen, each of them presenting a case of threatened irreparable harm without adequate remedy at law, if it be competent for the legislature to step in and say that no injunction shall be granted except after twenty-four hours' notice, it may extend the length of notice indefinitely, and thus adversely determine that the plaintiff shall be deprived of what before the enactment of the law was his right to due process of law under the provisions of the fifth amendment to the Constitution.

Under the Constitution the citizen can not be deprived of life, liberty, or property without due process of law. When the citizen presents to the court in equity a state of facts showing threatened irreparable harm with an inadequate remedy at law, "due process of law" in "controversies dealt with by equitable methods" entitles him to the issuance without notice and hearing of a temporary restraining order, to preserve his property

until a hearing can be had upon the merits. If the order is issued, his property is preserved. The denial of this "due process of law" may, and probably would, result in the destruction of his property. Here the legislature steps in and by its arbitrary act declares that under no circumstances shall the suitor have his constitutional right to "due process of law" accorded to him until a notice shall have been given and a hearing had, which will precipitate the destruction of his property, leaving him without an adequate remedy at law, and depriving "due process of law" of all of its value. What answer is there to the proposition that such legislation deprives the citizen of his property "without due process of law" in violation of the fifth amendment to the Constitution.

I do not believe that the legislature has the power to thus impair the equitable methods of procedure which, under the authorities cited, are guaranteed to the citizen as inviolably as is the right of trial by jury in actions at law.

THE ACT OF MARCH 2, 1793, DOES NOT AFFECT THIS CONCLUSION.

It may be said, however, by way of answer to this contention, that an early statute of the United States provided for notice and hearing before an injunction should be issued, and that statute, if my contention is sound, was unconstitutional.

It is true that on the 2d of March, 1793, the Congress of the United States enacted a statute which read:

Nor shall any writ of injunction issue in any case without reasonable previous notice to the adverse party or his attorney of the time and place of moving the same. (Chap. 22, vol. 1, U. S. Stat. L., p. 534.)

It may be said with reference to this statute that it does not in terms apply to a restraining order, but is confined by its terms to "a writ of injunction," the distinction between which and a temporary restraining order is well settled in the Texas case already cited. It does not in terms undertake to control the judicial power in issuing a temporary restraining order.

There are two early cases, which I will not stop to cite, where the question of whether or not the notice given was reasonable under this statute was the subject-matter of discussion. The court in each case proceeded upon the assumption that a notice was necessary, and passed upon the simple question as to whether, in those particular cases, it was or was not reasonable. The question as to whether or not the act applied to temporary restraining orders, and whether or not, if it did, it was a constitutional exercise of legislative power, does not appear to have been raised or considered.

It is also true, however, that in the case of *Schermerhorn v. L'Esperance* (2 Dallas, 360), decided in the October term, 1796—opinions by Justices Peters and Wilson—the court sustained a temporary restraining order which was issued without notice and hearing, ex parte, and continued it until a hearing upon the merits. While the case itself, as reported, does not clearly disclose the fact that the temporary restraining order was issued without notice and hearing, I have made an investigation of the case and find from the original files and papers in the case that such was the fact. The restraining order in that case was issued without notice and hearing on the 2d of May, 1795, by the circuit court sitting in Philadelphia, two years after the statute above referred to was passed. As indicating the fact that the attention of the Government was called to the proceeding, it may be said that one of the respondents was an officer of the United States Treasury. So that within two years after this statute requiring notice before a writ of injunction should issue, in a building adjoining that in which the act was passed, and in the same district where the Congress was sitting, the circuit court issued a temporary restraining order without notice and without hearing, as an ex parte proceeding, indicating very clearly either that the court considered the statute of no validity or else was of the opinion that it did not apply to a temporary restraining order.

It is extremely significant as demonstrating what the well-recognized equity practice in relation to temporary restraining orders was at that early date, notwithstanding this statute, that the counsel in this case, Mr. Lewis, moved for a rule to show cause why the injunction should not be dissolved, and endeavored to support his motion on two grounds, the first of which was "that the injunction was issued irregularly, as there was no affidavit made of the truth of the allegations contained in the bill." The report shows that he said in support of this proposition, on the first ground, that "he did not object because the injunction had issued before a subpoena was served, as there were various cases in which justice could not otherwise be attained." This is a conclusive demonstration not only of the existence of the well-recognized equity procedure, but of the construction placed upon this early statute by the profession and by the court, and shows that the attention of the court was specifically called to the fact that no notice had been given before the temporary restraining order was issued in that case. It will be noticed that the law as stated

by the distinguished counsel in that case as early as 1796 is precisely the law as I have stated it in the course of this argument.

THE ACT OF 1793.

There is apparently some misconception of the circumstances under which this old statute of 1793 ceased to be a part of the statute law. The gentleman from Texas [Mr. HENRY] expressed what is no doubt the prevailing misconception in relation thereto. In a speech which appears in the RECORD under date of February 19, 1908, he says, in discussing a bill of his requiring notice and hearing before a temporary restraining order should be issued:

Gentlemen, such was the law for more than three-quarters of a century. It was inadvertently changed when the statutes of the United States were recodified.

This is apparently a discovery of another "crime of '73." The statement of the gentleman from Texas is erroneous in three particulars: First, the original statute did not apply to a temporary restraining order but applied only to the writ of injunction; second, the alleged change was not the result of an inadvertence; and third, it was not made when the statutes were recodified.

I am fully aware that the statement of the gentleman from Texas is the popular misconception. I feel certain, however, that the gentleman from Texas, who is a very bright and able lawyer, could not have made his statement as the result of his own investigation, but must have relied for his information upon some other authority. I have been told that it was the discovery of an ill-informed and overzealous executive officer. It should be stated, before calling attention to the circumstances under which the existing statute was enacted, that the courts were authorized by Congress in patent cases to grant injunctions in accordance with the course and principles of courts of equity, as early as 1819, and from that time up to 1870, by various statutes, which may be found as follows:

Third Statutes at Large, page 481, chapter 19; Fifth Statutes at Large, page 117, section 17; volume 16, page 206.

The present statute was enacted in 1872, prior to the existing revision of the Revised Statutes. Section 718 of the Revised Statutes reads as follows:

Whenever notice is given of a motion for an injunction out of a circuit or district court, the court or judge thereof may, if there appears to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion, and such order may be granted with or without security, in the discretion of the court or judge.

This section was section 7 of the act "to further the administration of justice," as passed by the Senate April 17, 1872, and it became a law on June 1, 1872 (U. S. Stat. L., vol. 17, chap. 255, p. 197). It appears now, in the Revision of the Statutes of 1874, as I have already said, as section 718.

So that the alleged change in the law was by no means an inadvertence but was deliberate and premeditated. The debate that occurred in the Senate is very instructive upon this question as to whether there was any occasion for any change in order to give to the court the power to issue a temporary restraining order when confronted with threatened irreparable harm with an inadequate remedy at law. The practice was stated in the debate as follows, by the ablest lawyers in the Senate:

Mr. STOCKTON. I understood the chairman of the committee a few moments ago to say that injunctions were always granted ex parte.

Mr. TRUMBULL. Not always; they may be.

Mr. CARPENTER. I understand if any judge having the jurisdiction by law to grant an injunction has presented to him a bill in equity, fortified with proofs which entitle the party by the acknowledged and usual practice of a court of equity to have an injunction, the judge has no discretion to deny it.

Mr. FRELINGHUYSEN. I think that elementary provision of the law even I may have been presumed to have heard and known of.

Mr. CARPENTER. Therefore I was astonished to hear the Senator deny it.

Mr. FRELINGHUYSEN. I did not deny it. (46 Cong. Globe, 2492.)

This debate shows that at that time, at least, the practice was universal for the courts of equity to grant temporary restraining orders without notice and hearing when they were confronted with threatened irreparable harm.

It is very clear that Congress understood that, in making this section a part of a general statute, they were putting into statutory form the existing law.

It does not seem to me, therefore, that the act of 1793 in any way impairs the validity of the proposition that I maintain, that the Congress has no power by an arbitrary act of legislation to deprive the court sitting in equity of the judicial power to protect in accordance with immemorial equity procedure the right of the suitor who presents to it a case showing threatened irreparable harm with an inadequate remedy at law.

For these reasons I am unable to agree with the contentions either of the President or the Secretary of War when they in-

sist upon the passage of legislation which would deprive the court of its essential and inherent power; and upon this point I take pleasure in saying that I am supported by the distinguished gentleman from Mississippi [Mr. WILLIAMS], who, on the 27th of March, 1908, said:

Of course, I take it that nobody will understand the President or I to mean that there should be any limit upon temporary restraining orders when issued for the purpose of preventing immediate destruction of property or of life or limb.

In this statement I understand the gentleman from Mississippi to state clearly the equity power of the court, and to not only assent thereto, but to insist that it shall still remain entirely unimpaired, although it is quite true that, having made this statement, the gentleman endeavored by a resolution to commit the House to the enactment of a bill which would absolutely deprive the court of that power.

In this, as I understand it, the gentleman from Mississippi [Mr. WILLIAMS] was engaged in making political history, not in a serious attempt to change the law.

CONGRESS CAN NOT DEPRIVE THE CITIZEN OF THE EQUAL PROTECTION.

The particular legislation, however, that the President urged the enactment of, in my judgment, is subject to another constitutional objection in addition to those which I have already urged. If I am able to rely upon the newspaper article written by Mr. O'Laughlin, which contains the substance of the letter already written to, but not at that time received by me from the President, and therefore evincing internal indications of being an authoritative statement of the President's position with reference to legislation, the President urged the enactment of what is known as the Beveridge bill. The Beveridge bill reads as follows:

A bill (S. 4533) concerning injunctions in labor disputes.

Be it enacted, etc., That no temporary injunction or temporary restraining order shall be issued without notice by any court of the United States in controversies between employers and employees, and all such temporary injunctions and temporary restraining orders shall be heard by the court issuing the same within a reasonable time, not to exceed seven days from the date when said temporary injunction or temporary restraining order is issued: *Provided*, That said court, upon agreement of parties or at the application of the defendant, may postpone said hearing to a later date than said seven days, in the discretion of the court: *Provided further*, That nothing herein contained shall be held to authorize the issuing of a restraining order or an injunction in any case in which the same is not authorized by existing law.

It will be noticed that this expressly provides that no temporary injunction or temporary restraining order shall be issued without notice, and it confines this provision to "controversies between employers and employees," so that it is not only subject to the constitutional objection that it arbitrarily impairs the power of the court to protect the property of the suitor, but it is partial in its operation, as it expressly limits its remedial features to a particular class in the community and relates solely to labor controversies between employers and employees.

That Mr. O'Laughlin is correct in his statement that this is the bill the enactment of which the President urges, is, I have no doubt, true, because it is in precise accord with the legislation urged by the President during the last Congress. At that time a bill, practically the same in terms, was introduced by Mr. Gilbert, of Indiana. It reads as follows:

A bill (H. R. 9328) to regulate the granting of restraining orders in certain cases.

Be it enacted, etc., That in cases involving or growing out of labor disputes neither an injunction nor a temporary restraining order shall be granted except upon due notice to the opposite party by the court in term, or by a judge thereof in vacation, after hearing, which may be ex parte, if the adverse party does not appear at the time and place ordered: *Provided*, That nothing herein contained shall be held to authorize the issuing of a restraining order or an injunction in any case in which the same is not authorized by existing law.

That this bill was specifically indorsed by the President appeared clearly before the Judiciary Committee when these bills were being heard. Mr. H. R. Fuller, legislative representative of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen, Order of Railway Conductors, and Brotherhood of Railroad Trainmen, on the 14th of March, 1906, in answer to a question, on page 14 of the hearing, said:

Mr. FULLER. Now, I do not care to get too much in detail; the President's message speaks for itself. The President's message is an indorsement of this bill identically as it is before you.

The bill to which he referred was H. R. 9328.

Mr. GILLET. Has the President expressed himself as being in favor of this bill?

Mr. FULLER. He has; it is an Administration bill.

And further:

Mr. LITTLEFIELD. Do you understand, Mr. Fuller, that the Administration is still behind it, urging its passage?

Mr. FULLER. I do, sir; the President's message speaks for itself.

Before discussing the legal objections to this legislation proposing as it does to confine its remedial features to one class only and to deprive the public of protection in cases of contro-

versies between employees and employers, and conceding to it protection in cases of all other controversies, it may be of interest to explain the attitude of the labor organizations with reference to this particular measure.

After Mr. Fuller had completed his statement before the committee, urging the passage of what I have called the Gilbert bill (H. R. 9328), Mr. Andrew Furuseth addressed the committee as a representative of the American Federation of Labor, and at the conclusion of his remarks he used the following emphatic language with reference to H. R. 9328:

It is said that this bill has the indorsement of the President. That can not be. If he understands this bill and then gives to it his indorsement, he is an enemy to honest labor struggling under adverse conditions for a better life—nay, he would be an enemy to human liberty. We do not believe, will not believe it.

In the labor movement, as well as in all walks of life, there are differences of opinion, divergent perspectives.

Organized labor demands an anti-injunction law that will absolutely limit the power of judges when they deal with controversies growing out of labor disputes; not a law that will be used as a compulsory arbitration act.

We want H. R. 4445.

We don't want H. R. 9328.

Mr. Furuseth knew that the bill he denounced had the indorsement of the President, as he was present and heard Mr. Fuller's statement. His statement was deliberate and premeditated, as he read it from a typewritten memorandum.

With reference to this characterization of the bill, thus having the indorsement of the President, it is interesting to note also that at the same hearing and within fifteen or twenty minutes after Mr. Furuseth made his statement, Mr. Gompers, president of the American Federation of Labor, addressed the committee. Among other things he said:

The essence of the question has been very amply set forth in the discussion of the question by Mr. Furuseth, who has addressed you this morning. I should say now that we—and I speak as a representative of the American Federation of Labor—are not in favor of that which Mr. Fuller has called the Administration bill (pp. 34-35).

The following colloquy then occurred:

Mr. LITTLEFIELD. Of course. But is the organization represented by Mr. Furuseth federated with your organization?

Mr. GOMPERS. Yes, sir.

Mr. LITTLEFIELD. They all oppose H. R. 9328?

Mr. GOMPERS. Yes; and are in favor of the Little bill.

Mr. LITTLEFIELD. I simply ask this as a general question. Do your organizations indorse the severe restrictions placed upon H. R. 9328 by Mr. Furuseth?

Mr. GOMPERS. We are opposed to the bill; whether in the exact language of Mr. Furuseth or not is not the question.

Mr. LITTLEFIELD. Yes.

Mr. GOMPERS. But we are apprehensive—yes, sir—of that bill, and we have grave reasons for being apprehensive.

Mr. LITTLEFIELD. Mr. Furuseth had some very vigorous opinions. I did not know whether you entertained or shared with him in those.

Mr. GOMPERS. I share them very largely.

Mr. LITTLEFIELD. Yes.

Mr. GOMPERS. I only had the opportunity of casually hearing them, and hence I am not in a position to say whether every word in what Mr. Furuseth said meets my indorsement.

Mr. LITTLEFIELD. Oh, yes; of course not.

Mr. GOMPERS. But the essence of it meets my indorsement.

Mr. LITTLEFIELD. Very well.

It will be noted that the reason given by Mr. Gompers for not indorsing every word that Mr. Furuseth said was the fact that he only "casually" heard his statement. It ought to be stated that the quotation made from Mr. Furuseth's remarks contained all that he said that could have been referred to under the term of "vigorous opinions," and the remark was made by him at the very conclusion of his address, only about ten or fifteen minutes before Mr. Gompers began his statement.

I do not propose to enter into any discussion with Mr. Gompers as to whether, as a matter of fact, he really intended to indorse the vigorous opinions of Mr. Furuseth or not, and will content myself with stating just exactly what the record shows upon that point, because at this session, before the Judiciary Committee, the matter was called to Mr. Gompers's attention and he made his explanation in his own way, as I now give it:

Mr. LITTLEFIELD. So as to give you an opportunity to make a statement in relation to it. In the same statement, the typewritten statement read by Mr. Furuseth at the last Congress, he used this language: "It is said that this bill has the indorsement of the President. That can not be. If he understands this bill and then gives to it his indorsement, he is an enemy to honest labor struggling under adverse conditions for a better life—nay, he would be an enemy to human liberty. We do not believe, will not believe it."

Do I understand that this is simply Mr. Furuseth's individual statement?

Mr. GOMPERS. Yes, sir.

Mr. LITTLEFIELD. And not concurred in by the organization or by yourself?

Mr. GOMPERS. No, sir. But since you ask me that question, it was that very thing I had in mind when I sought to ask you to question me further upon Mr. Furuseth's statement. It was just that very thing I had in mind. You at one time charged me with being present and hearing that statement without one word of protest, and giving it by implication my approval. As a matter of fact, during Mr. Furuseth's reading of that paper I was called out in the lobby not less than a

half dozen times, and I think I was scheduled to speak immediately after Mr. Furuseth, and I think there was another gentleman who, because he had to leave, spoke between Mr. Furuseth and me, and it was necessary for me to be called into the committee room by one of my friends, who said that Mr. Furuseth had finished and that I might be called upon at any moment. I want to say that I never heard that part of the argument read; never knew of its existence until a week or ten days after. But that does not make very much difference. I think it was too strongly, and I should say improperly, made. The criticism even by indirection was not one that I would indorse or countenance, and you will observe that Mr. Furuseth says that he does not believe it. He does not believe that if the President understood all that was involved that he would still advocate the passage of that bill.

Further on in the same statement Mr. Gompers had his attention called to the matter again, and the following occurred:

Mr. LITTLEFIELD. Calling your attention to the statement of Mr. Furuseth, in which he used the vigorous language which has been quoted and that you have referred to, I want to call your attention to this fact, that at a hearing before the committee in the Fifty-ninth Congress you appeared and made a statement shortly after he made a statement on the same day. The only intervening statement between his and yours is the statement of Mr. Emile Twyeffort, which appears on pages 31, 32, and 33, occupying two full pages of the printed record, and which I presume took about fifteen or twenty minutes in its delivery. You then made your statement, and in the course of your statement these inquiries and answers appeared in reference to this statement of Mr. Furuseth, and I simply want to call your attention to this so that you can make any sort of explanation you see fit. I have no question to ask you about it. I read from page 34 of the Record:

"Mr. LITTLEFIELD. Of course. But is the organization represented by Mr. Furuseth federated with your organization?"

"Mr. GOMPERS. Yes, sir.

"Mr. LITTLEFIELD. They will oppose H. R. 9328?"

"Mr. GOMPERS. Yes; and are in favor of the Little bill.

"Mr. LITTLEFIELD. I simply ask this as a general question. Do your organizations indorse the severe restrictions placed upon H. R. 9328 by Mr. Furuseth?"

"Mr. GOMPERS. We are opposed to the bill; whether in the exact language of Mr. Furuseth or not is not the question.

"Mr. LITTLEFIELD. Yes.

"Mr. GOMPERS. But we are apprehensive—yes, sir—of that bill, and we have grave reasons for being apprehensive.

"Mr. LITTLEFIELD. Mr. Furuseth had some very vigorous opinions. I did not know whether you entertained or shared with him in those.

"Mr. GOMPERS. I share them very largely.

"Mr. LITTLEFIELD. Yes.

"Mr. GOMPERS. I only had the opportunity of casually hearing them, and hence I am not in a position to say whether every word in what Mr. Furuseth said meets my indorsement.

"Mr. LITTLEFIELD. Oh, yes; of course not.

"Mr. GOMPERS. But the essence of it meets my indorsement.

"Mr. LITTLEFIELD. Very well."

That is the end of the examination.

Mr. GOMPERS. Yes. One or two of the questions and answers I want to repeat:

"Mr. LITTLEFIELD. Mr. Furuseth has some very vigorous opinions. I did not know whether you entertained or shared with him in those.

"Mr. GOMPERS. I share them very largely.

"Mr. LITTLEFIELD. Yes.

"Mr. GOMPERS. I only had the opportunity of casually hearing them, and hence I am not in a position to say whether every word in what Mr. Furuseth said meets my indorsement."

If I had heard the entire statement Mr. Furuseth made, including that closing paragraph to which attention was called, I would not have said, then, when questioned by you, Mr. LITTLEFIELD, "I only had the opportunity of casually hearing them," meaning the statements made by Mr. Furuseth. I stated this morning, as I stated in May a year and a half ago, that I did not hear that statement made. I was not in the room when the statement was made. I repeat that now. I was not in the room when that closing part of Mr. Furuseth's statement was read by him, and I did not know to what you referred, Mr. LITTLEFIELD, when you asked me the question. That was only disclosed to me months and months after, when it was brought into question.

Mr. LITTLEFIELD. But you will have to concede, then, that when I asked you the question and there was no suggestion that you did not know, I could not infer that you did not know, could I?

Mr. GOMPERS. You might, because I was not in the room.

Mr. LITTLEFIELD. But my inference was that you were in the room. I may be mistaken about that, but when I asked you about Mr. Furuseth's opinions, and you made no disclaimer that you had heard them, of course I could not but infer that you had heard them.

Mr. GOMPERS. I think that the paper must have taken possibly forty or forty-five minutes in its reading, and during that time I was out of the room not less than two or three times, and I was out of the room for fully five minutes before Mr. Furuseth concluded, because one of our friends, I think you will remember, was going away—

Mr. LITTLEFIELD. I can not undertake to remember definitely about that.

Mr. GOMPERS. This other gentleman spoke after Mr. Furuseth closed, and he got away from this room so hurriedly that he could not even wait for a question I wanted to put to him; he had to get a train; and that is the reason that I did not hear it.

It will be noticed that he first remembers he heard of the existence of the statement "not until a week or ten days after," and next that it was only disclosed to him "months and months after," when it was brought into question. I have no further comment to make.

It should be stated, however, that the reason, as I understand it, why the representatives of labor oppose the Gilbert bill, and the Beveridge bill, both being substantially the same, is because those bills recognize the right of a court of equity to issue injunctions in cases where they claim only personal rights are involved as distinguished from controversies involving physical property, such as real or personal estate, they claiming that the power to regulate and control personal

rights is a power that the courts have usurped; one which they have no right to exercise; that in a court of equity the matter of injunctions was originally confined, and ought to be still confined, to the protection of physical, tangible property, and that it has no place in conserving or protecting personal rights.

I can not stop, of course, to indulge in a discussion of that branch of the question, but desire simply to refer to the well-known fact that the equity power has always and often been exercised in the protection of personal rights and control of the person and the regulating of the acts of the person as distinguished from its power to regulate, control, and protect corporate subjects.

This, I understand, is the real reason for their objection to the exercise of the injunctive power in labor controversies and to any legislation which proceeds upon the hypothesis that the court would have any right to issue an injunction in such cases either with or without notice and hearing. This clearly explains their real attitude, which is that any use of the injunctive power in labor controversies is an abuse of the injunctive power.

Perhaps I ought here to call attention to the fact that the hearing before the Judiciary Committee, at this session, disclosed the fact that the American Federation of Labor, speaking through their attorney, to the committee, are opposed to the legislation recommended by the President and Secretary Taft, for important public reasons. Mr. Spelling, who represented the American Federation of Labor at the hearing, had his attention called specifically to the recommendation of Secretary Taft that injunctions in labor controversies should not be issued without notice and hearing, and was asked what his view was upon that proposition, and he said:

MR. SPELLING. I think that there is not a member of the American Federation of Labor but believes that theirs is a just demand, and yet would oppose any legislation which would have the effect of *totally destroying the efficacy of the writ of injunction*; and I speak for myself, and, I believe, for at least all the more intelligent members of that organization when I say that they believe that a requirement that notice should be given, in all cases of injunction, would destroy very largely the value of that remedy in all cases, where an injunction should rightfully issue, without meeting the requirements of the situation.

THE ACTING CHAIRMAN. Exactly so. So that as I understand, on important public grounds, you and the better element in your organization, are opposed to notice and hearing, on the ground that it would destroy the efficiency of the writ under certain exigencies?

MR. SPELLING. Now, that is my opinion.

THE ACTING CHAIRMAN. Yes; and it is the opinion of the intelligent, conservative element in your organization?

MR. SPELLING. They will be heard. I think probably they will tell you that they oppose that because it recognizes a bogus jurisdiction, and would be inadequate to meet the needs of the situation.

So that it thus appears that the attorney for the American Federation of Labor, and all the more intelligent members of that organization, realize the fact that if such a statute were passed providing for notice and hearing in all cases, it would very largely destroy the value of the remedy without meeting the exigency of which they complain, and for that reason they are opposed to the legislation recommended by the President and indorsed by Secretary Taft. My judgment is that this reason assigned by them, is one extremely good and sufficient reason for a refusal to pass any such legislation, and it is gratifying to me to be able to state that upon that proposition I entirely agree with them.

The fact that Mr. Spelling is now in the employ of the Department of Justice as an attorney certainly does not impair the value of his opinion.

Here it should be remembered that in the case of a labor controversy, where large numbers of individuals are concerned as respondents, and therefore the probability of irreparable harm being done is very largely accentuated, it is quite obvious that if no injunction could be issued until notice could be served upon each individual, and under the legislation proposed it would not be effective until so served, it would be a practical impossibility to get such a notice as would render an injunction under such circumstances of any practical value in protecting even physical property, to say nothing of personal rights.

It clearly appeared before the committee that substantially all of the labor organizations were voluntary associations, and a notice upon one would not, either constructively or otherwise, be a notice upon any other member of the association. An injunction to be effective and to protect the rights of the plaintiff would have to be predicated upon an individual notice served upon each member of the alleged conspiracy or combination, which, it is obvious, would in a majority of instances be a practical impossibility. So that the writ of injunction might as well, under such circumstances and for all practical purposes, be entirely destroyed.

There is another phase of this subject which shows that a requirement of notice and hearing would deprive the writ of injunction of all of its value in labor controversies. It is perfectly competent, and it is the usual practice, for the court in issuing an injunction to restrain the carrying out of a conspiracy, to make the injunctive order to run not only against the respondents named, but against all other persons conspiring, combining, and confederating with them. It not only restrains the individuals named, but it prevents the enlarging and spreading of the conspiracy by preventing others, not named and not known when the order is applied for and issued, from joining and making general such a conspiracy. The necessity for this in a labor controversy is too apparent for discussion. Without the power to issue such an order in the vast majority of instances, the writ would be for all practical purposes a nullity. Such an order, however, could under no circumstances be issued under the legislation proposed, as each person to be affected by the order must have notice and hearing before the order is made.

The Gilbert bill, and its successor, the Beveridge bill, are, in my judgment, open to further constitutional objection in that they deprive the citizen of the equal protection of the law. This raises the extremely interesting and vitally important question whether the Congress of the United States is subject to the same constitutional inhibition in enacting legislation as now applies without question, by virtue of the specific provisions of the fourteenth amendment, to the States.

There can be no question under the provisions of the fourteenth amendment—which provides that no State shall deprive “any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws”—that legislation of this character would be clearly unconstitutional if enacted by a State.

If a State legislature undertook to control the judicial power of a court of equity so that it could exercise its protecting power to conserve the safety of persons and property in all cases except labor controversies, it would be clearly the exercise of class legislation, partial in its character. It would deny to the plaintiff, whose property was threatened by a labor conspiracy, the protection of the law guaranteed by the Constitution, while giving to every other litigant in connection with every other controversy that protection. The State courts as well as the courts of the United States, when confronted with such an attempt to deprive the citizen of the equal protection of the law, would wipe such a law from the statute book as quickly as hoar frost vanishes before the morning sun.

In my minority views on the employers' liability bill I took occasion to call attention to the fact that the fifth amendment of the Constitution of the United States guarantees to every person that he shall not be deprived of life, liberty, or property without due process of law, and that the fourteenth amendment contains precisely the same language applied to the State, with the additional clause declaring that the State shall not “deny to any person within its jurisdiction the equal protection of the laws.” I then said that it was a serious and interesting question as to whether, in the absence of such a specific provision in the fifth amendment, there was a guaranty of the equal protection of the law, so far as Congressional legislation was concerned, by virtue of the provisions of the fifth amendment to the Constitution guaranteeing due process of law.

At that time my attention had not been called to any authority construing the language “due process of law” so as to include a guaranty of the equal protection of the law. The industry and research of a very able legal friend of mine, Mr. Daniel Davenport, of Connecticut, have placed at my disposal the authorities which I think establish the proposition that the Congress of the United States, under the fifth amendment, is bound by the fundamental principles of eternal right and has no power to deprive any person of the equal protection of the law.

In the case of *Budd v. The State* (3 Humphries, 483), the question was whether a statute of the State of Tennessee could be sustained that made it a felony on the part of the officers and agents of a certain bank to do certain acts that were not made felonies when done by officers of other banks in Tennessee; that made one law for the officers of the Union Bank of the State of Tennessee and another law for the officers and agents of other banking corporations in the State.

It was contended by the counsel for the respondent that the statute in question was in contravention of the constitution of Tennessee, which provides that no man shall be disseized or imprisoned, etc., but by the judgment of his peers or the law of the land, practically a quotation from *Magna Charta*, and made a part of the constitution of Tennessee.

Upon this question the court said, the opinion being drawn by Judge Reese, whom I understand to have been a man of high character and great legal ability:

If the felony were enacted with regard to the clerks, servants, and agents of a merchant to deter them from embezzlement and false entries, would it be imagined for a moment that it would be regarded as the "law of the land" and consistent with the Bill of Rights? If the felony affected only all the clerks of all the merchants of Nashville, or of Davidson County, or of middle Tennessee, would that, in either case, be "the law of the land"? It is believed none would so contend. And why not? Simply because the law of the land is a rule alike embracing and equally affecting all persons in general, or all persons who exist or may come into the like state and circumstances. A partial law, on the contrary, embraces only a portion of those persons who exist in the same state and are surrounded by like circumstances. If peculiar felonies, affecting all the people, or certain of the public officers of East Tennessee only, were held to be "the law of the land," it would be difficult to say for what object that clause was inserted in the Bill of Rights. One of its objects has been stated in various adjudications in our State to have been to protect the feeble and the obnoxious from the injury and the injustice of the strong and the powerful and, in general, to protect minorities from the wrongful action of majorities. This being its scope and purpose, would it not interdict the legislature from passing such an act as is last above referred to, for instance, creating certain acts of nonfeasance or malfeasance of the register of the western district, although a public officer, a felony, leaving the register of middle Tennessee, East Tennessee, etc., unaffected by it? Certainly it would. And why? Because the law would not treat similarly all who were in like circumstances. It would therefore be partial and of course not the law of the land.

And the court held that this statute was unconstitutional, because it did not operate equally upon all. In other words, it was a deprivation "of the equal protection of the law."

The significance of this decision is that it was rendered in 1842, twenty-six years before the fourteenth amendment, expressly prohibiting a State from denying to any person the equal protection of the law, was adopted, and was therefore entirely independent of the provisions of the fourteenth amendment. It is a specific determination by a highly respected court that under a constitution guaranteeing the protection of the "law of the land," legislation that deprives any person of the equal protection of the law, or that is partial in its operation, is unconstitutional and void.

That the "law of the land" is synonymous with "due process of law" is well settled. The Supreme Court of the United States in the case of *Dent v. West Virginia* (129 U. S., 114), in a unanimous opinion drawn by Mr. Justice Field, certainly one of the ablest and most distinguished members of the court, said:

As we have said on more than one occasion, it may be difficult, if not impossible, to give to the terms "due process of law" a definition which will embrace every permissible exertion of power affecting private rights and exclude such as are forbidden. They come to us from the law of England, from which country our jurisprudence is to a great extent derived, and their requirement was there designed to secure the subject against the arbitrary action of the crown and place him under the protection of the law. They were deemed to be equivalent to the "law of the land." In this country the requirement is intended to have a similar effect against legislative power, that is, to secure the citizen against any arbitrary deprivation of his rights, whether relating to his life, his liberty, or his property. Legislation must necessarily vary with the different objects upon which it is designed to operate. It is sufficient, for the purposes of this case, to say that legislation is not open to the charge of depriving one of his rights without due process of law, if it be general in its operation upon the subject to which it relates, and is enforceable in the usual modes established in the administration of government with respect to kindred matters—that is, by process or proceedings adapted to the nature of the case. The great purpose of the requirement is to exclude everything that is arbitrary and capricious in legislation affecting the rights of the citizen.

Here, then, we have, first, the court in Tennessee, holding that under "the law of the land" no person can be deprived of "the equal protection of the law," and that legislation partial in its character is unconstitutional; and in the case of *Dent v. West Virginia*, the unanimous opinion of the Supreme Court holding that "due process of law" is synonymous with "the law of the land," and that the law must be general in its operation upon the subject to which it relates; and many other authorities establishing this identity of meaning could be cited.

Under these authorities no legislation can stand the constitutional test that is partial in its operation, or that undertakes to deprive any person of his rights in particular instances when other persons have accorded to them the full enjoyment of the same rights under similar conditions.

I think it will be conceded that Hon. Thomas M. Cooley was in his time what Blackstone and Kent were in theirs as an authority upon the law, and no text writer is entitled to or has received greater respect from the profession and the courts. In his edition of *Story on the Constitution*, he discusses the fourteenth amendment, and reaches conclusions that are entirely in harmony with and support the position which I have taken. Among other things, he says:

And the same may be said of the like distinctions under laws establishing public schools, preemption laws, exemption laws, and the like; the rules which exclude persons from their benefits must be uniform and not partial; the individual citizen is always entitled to the benefits of the general laws which govern society. (Sec. 1934.)

And quoting from Webster's argument in the Dartmouth College case, he said:

"By the law of the land is most clearly intended the general law; a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society." "As to the words from Magna Charta," says another eminent jurist, "after volumes spoken and written with a view to their exposition, the good sense of mankind has at length settled down to this: That they were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private right and distributive justice." (Sec. 1944.)

And again:

The provision that no State "shall deny to any person within its jurisdiction the equal protection of the laws" would not seem to call for much remark. Unquestionably every person—all being now free-men—is entitled to the equal protection of the laws without any such express declaration. But with the power in Congress to enforce this provision by "appropriate legislation," it becomes a matter of no little importance to determine in what consists the equal protection of the laws and what amounts to a denial thereof. (Sec. 1959.)

It is to be observed, first, that this clause, of its own force, neither confers rights nor gives privileges; its sole office is to insure impartial legal protection to such as under the laws may exist. It is a formal declaration of the great principle that has been justly said to pervade and animate the whole spirit of our constitution of government, that all are equal before the law. (Sec. 1960.)

I am one of those who believe that the proposition set forth in the noble and resounding phrase of the great Declaration, for the verification of which our fathers pledged their lives, their fortunes, and their sacred honor, is a vital and fundamental principle of our institutions. It reads: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness, and that to secure these ends governments are instituted among men," etc. This does not mean to me that men were created with equal capacities, with equal ability, or even with equal opportunities, but it does mean to me that they were created equal before the law, with equal rights and equal privileges, and that under our system of government, in harmony with these fundamental, eternal principles, it is not competent for any legislative power, either State or Federal, to enact any legislation that will deprive any person of the equal protection of the law.

This, in my judgment, is the stone that the builders not only did not reject but which they made, and which now is, the head of the corner. It is the inviolable bed rock, fundamental and eternal, upon which our institutions are builded; it is the great, inspiring, dominating principle that characterizes every governmental activity and is reflected in every branch and feature of our constitutional Government. It is the vital principle which makes "a government of the people, for the people, and by the people" a "government of laws and not of men."

So that, Mr. Speaker, I believe that both upon reason and upon authority this Congress has no power to pass any legislation that will deprive any person of the equal protection of the law, or that will deprive the court of its immemorial judicial power to protect the citizen in the enjoyment of his property when he is confronted with a labor controversy, when that right is preserved to him in connection with all other controversies, under circumstances of a similar legal character.

For both of these reasons, then, Mr. Speaker—because the legislature has no power to restrain the court in its right to issue a temporary restraining order and because it has no right to pass any legislation discriminating between classes, in addition to the practical difficulty of the substantial destruction of the equity power as a remedial process—I am unalterably opposed to legislation of this character.

ANTI-INJUNCTION LEGISLATION ORIGINALLY DEMANDED.

Before leaving this matter of injunctions, in order that this speech may be a reasonably adequate presentation of these controversies from a historical standpoint, I think, Mr. Speaker, that it is incumbent upon me to briefly discuss the injunction bill which the labor organizations were demanding during the last Congress. It is what was known during the last Congress as the "Little bill," and was known in a previous Congress as the "Grosvenor bill," and reads as follows:

A bill (H. R. 4445, Fifty-ninth Congress, first session) to limit the meaning of the word "conspiracy" and the use of injunctions and restraining orders in certain cases.

Be it enacted, etc., That no agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees in the District of Columbia or in any Territory of the United States, or between employers and employees who may be engaged in trade or commerce between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the

District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce, nor shall any restraining order or injunction be issued with relation thereto. Nothing in this act shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy for which punishment is now provided by any act of Congress, but such act of Congress shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this act were therein contained.

Before discussing the provisions of this bill briefly I think it will be instructive to call attention to the circumstances under which it was urged upon the Judiciary Committee. This was pressed upon the committee upon the ground that the Parliament of England, in 1875, had passed legislation similar in its character; and it is proper to say that in 1875 Parliament did pass an act, which, among other things, provided that—

An agreement or combination by two or more persons to do or procure to be done any act in contemplation of or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

It will be observed that with the necessary changes in relation to interstate commerce and the introduction of the words "shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy," the paragraph quoted is identical with H. R. 4445, known during the last session as the "Little bill," as introduced by the gentleman from Arkansas [Mr. Little], who was afterwards elected governor of that State. The Little bill contained the further proviso:

Nor shall any restraining order or injunction be issued with relation thereto.

At the hearing upon this bill in 1902 the representative of the American Federation of Labor gave the committee the impression that the paragraph quoted was all that there was of the English statute. In so doing he successfully diverted the attention of the committee from the fact that there were a number of special qualifications and restrictions that became a part of the same statute which very materially modified the general language quoted from the statute, which general language he insisted should be enacted into law without any qualifications or limitations.

The English statute, in addition to the general language above quoted, provided, among other things, first:

Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is awarded by any act of Parliament.

Second:

Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offense against the State or the Sovereign.

Just exactly what these two exceptions covered I am not able to say, because I have not had an opportunity to carefully examine the acts of Parliament therein referred to, but that they narrowed the general language of the act may be inferred as otherwise there would be no occasion for the reference to the exceptions.

The statute further provided that a crime, for the purposes of that section, meant an offense which was punishable on summary conviction, and then proceeded to provide for the punishment of certain things on summary conviction, which, before that time, were not so punished and were not denominated as crimes, and so far as I know are not denominated as crimes anywhere except in Great Britain, and by virtue of the provisions of this particular statute.

The third exception provided that—

Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, willfully and maliciously breaks a contract of service with that authority or company or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water, he shall on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 or to be imprisoned for a term not exceeding three months, with or without hard labor.

A successful strike by men employed by contractors upon public work would be rather difficult under the provisions of that exception.

The fourth exception provided that—

Where any person willfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury, he shall, on conviction thereof by a

court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labor.

Here it will be noticed that it is not necessary for the employee willfully and maliciously breaking his contract to intend as a consequence the injury of valuable property; and it was simply sufficient if he so broke his contract knowing or having reasonable cause to believe that that would be the consequence. He need not intend it as a consequence, but if he ought to know or had reasonable cause to know it would be a consequence, and then the breach of such a contract, under such circumstances, made him guilty of a crime punishable by fine and imprisonment, and this made a fourth exception to the operation of the general provision.

The fifth exception is found under the following proviso:

Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

1. Uses violence to or intimidates such other person or his wife or children, or injures his property—

That is to say, if whenever any individual either uses violence or intimidates any other person, or his wife or children, or injures his property, he is liable to fine and imprisonment.

This constitutes the sixth exception: One who

2. Persistently follows such other person about from place to place—is also subject to fine and imprisonment. This is a very familiar method adopted by labor; and under the provisions of this statute, a single individual thus following another person about, would be subject to fine and imprisonment.

The seventh exception provides fine and imprisonment for any person who—

3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof.

The eighth exception provides fine and imprisonment for any person who—

4. Watches or besets the house or other place where such other person resides or works, or carries on business or happens to be, or the approach to such house or place.

The ninth exception is as follows:

Any person who "follows such other person with two or more other persons in a disorderly manner in or through any street or road shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 or to be imprisoned for a term not exceeding three months, with or without hard labor," the terms of fine and imprisonment applying in each case to the last five exceptions mentioned.

If there are any other exceptions that could have been added for the purpose of getting entire control of all of the operations of men engaged in a labor controversy, they do not occur to me, and it is difficult to see how human ingenuity could suggest them.

We were given the impression by the representative of the American Federation of Labor that the general language quoted in the bill was all there was of the English statute, and the fact that these nine important exceptions (which, as a matter of practical operation would place men engaged in a labor controversy in a strait-jacket that would make it practically impossible for them to successfully conduct a controversy of that character, either by way of strike or any other of the methods well known under such circumstances) were contained in the same statute was not only not disclosed to us but there was not the slightest intimation of their existence.

I think it is safe to say that the provisions of the English law could not be made a part of the law of this country either by Congress or any State legislature without the vigorous and bitter protests of the labor organizations. Yet we were urged to take a piece of the statute, without any knowledge of the qualifying language, and make it a part of the general law.

The scope of the "Little" bill should be briefly adverted to. It is not a crime under our law, in Maine at least, for a single individual to threaten to commit a crime. A man may threaten to commit murder, and under the statutes we have in existence this is not a crime; it is simply a threat to commit a crime—and so as to all other crimes. The remedy, if a man threatens to commit murder, is to have him placed under bonds to keep the peace, a proceeding to prevent him from committing the crime. The result is that this act, in terms, authorizes men to conspire to threaten to commit crime, or to threaten to commit murder, if need be.

There are a great many injuries that may be done by an individual to both person and property that do not reach the dignity of crime, yet are of such a character that might absolutely destroy the right of a man to peacefully enjoy his property and deprive him practically of the protection of the law.

This bill would clearly authorize men to conspire to do any act that interfered with the right or property or of the person that did not reach the dignity of a crime. It is not a crime for

an individual to intimidate or coerce, but this act clearly authorizes men to conspire and combine for the purpose of intimidating and coercing. It is not necessarily a crime to invade the legal rights of others, and this act clearly authorizes men to conspire for that purpose.

When that bill was first under discussion I asked the gentlemen responsible for its promotion whether they wished to be authorized to conspire to threaten to commit crime or do injury to property or to business, and they said "No." I asked them if they wished legislation authorizing them to conspire to intimidate and coerce, and they said "No." I put the further inquiry as to whether they thought it proper to insist upon legislation which authorized them to conspire and combine for the purpose of interfering with the legal rights of others, and they said "No."

I then suggested to them that I would draw a proviso that would simply prevent the application of the act to the matters which they said they did not desire to accomplish, and I prepared a proviso which read as follows:

"Provided, That the provisions of this act shall not apply to threats to injure the person or the property, business, or occupation of any person, firm, association, or corporation, to intimidation or coercion, or any acts causing or intended to cause an illegal interference, by overt acts, with the rights of others."

I submitted that there was nothing prohibited in this proviso that any reasonable man ought to desire to be authorized to conspire to do. It was conceded by the men interested in the promotion of this bill that they did not desire any such authority, but when they submitted the proviso to their counsel they immediately reported that the adoption of the proviso could not be agreed to because, although they did not want authority to do the various things therein prohibited, the proviso, if adopted, would emasculate the legislation and make it ineffective for the purposes desired by them. I absolutely declined to support the legislation without the qualifying proviso being added thereto.

No legitimate reason has ever been suggested why a proviso which excepted only such things as they conceded they did not ask to be authorized to do should not be adopted. It will also be observed that this bill exempted labor organizations from the operation of the Sherman antitrust law, because it provides "nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce." This was an express attempt to exempt labor organizations from the operations of the Sherman antitrust law, which provides that *all contracts and agreements* in restraint of interstate commerce shall be held to be illegal, and the parties making the same shall be liable to fine and imprisonment. It was a specific attempt to make it lawful for men engaged in labor controversies to do things that it was criminal for others to do. It authorized them to do acts that it was criminal for others to do—an express attempt to deprive other persons of the equal protection of the law. This was one of the bills that was fully and elaborately discussed in my last campaign, to which I shall refer hereafter. I said in my campaign in every speech I made that under no circumstances would I agree to the passage of any legislation that would authorize men to conspire to threaten to murder, or make it lawful for one set of men to conspire to do what it was a crime for other men to do, and further that I would do all in my power to prevent the enactment of legislation along those lines.

A little later I will discuss the question as to whether labor organizations were intended to be included in the provisions of the Sherman antitrust law. Attention here should be called to the fact that the effect of the ordinary contract and agreement in restraint of interstate trade and commerce, so far as impairing or impeding interstate trade and commerce, is almost negligible.

Take any important article of merchandise—for instance, pipe—and as an illustration consider the Addyston Pipe and Steel Company case. So far as the amount of pipe in interstate commerce was concerned, it was a matter of very small consequence as to whether the agreement that was denounced in that case, as in violation of the Sherman antitrust law, was or was not sustained. The agreement was made for the purpose of increasing the price of pipe to the consumer, but the effect upon transportation, upon the volume of trade, upon the instrumentalities of commerce—whether the price was high or low—was practically negligible, because the amount of pipe that would be transported would be substantially the same in either case, whatever the price might be. So that the direct effect of a contract or agreement of that character, clearly within the provisions of the Sherman antitrust law, would in a practical sense be absolutely negligible.

On the other hand, take a contract or agreement between employees engaged in interstate commerce, having for its purpose

the interference with, or obstruction of, interstate commerce, until their demands shall have been complied with. A combination of that sort is very accurately described by Judge Taft in his opinion in the case of *Thomas v. Cincinnati, New Orleans and Texas Pacific Company* (62 Fed. Rep., 803), where he says:

The gigantic character of the conspiracy of the American Railway Union staggers the imagination. The railroads have become as necessary to life and health and comfort of the people of this country as are the arteries of the human body, and yet Debs and Phelan and their associates proposed, by inciting the employees of all the railways in the country to suddenly quit their service without any dissatisfaction with the terms of their own employment, to paralyze utterly all the traffic by which the people live, and in this way to compel Pullman, for whose acts neither the public nor the railway companies are in the slightest degree responsible, and over whose acts they can lawfully exercise no control, to pay more wages to his employees. The merits of the controversy between Pullman and his employees have no bearing whatever on the legality of the combination effected through the American Railway Union. The purpose, shortly stated, was to starve the railroad companies and the public into compelling Pullman to do something which they had no lawful right to compel him to do. Certainly the starvation of a nation can not be a lawful purpose of a combination, and it is utterly immaterial whether the purpose is effected by means usually lawful or otherwise.

And in this connection, in the opinion of the Supreme Court of the United States, in the case of *Loewe v. Lawlor*, delivered February 3, 1908, the following appears:

"* * * and the uniform course of decision has been to declare that it is not within the competency of a State to legislate in such a manner as to obstruct interstate commerce. If a State, with its recognized powers of sovereignty, is impotent to obstruct interstate commerce, can it be that any mere voluntary association of individuals within the limits of that State has a power which the State itself does not possess?"

If labor organizations were to be exempted from the operations of the Sherman antitrust law, it would place it in their power not only to technically and theoretically interfere with interstate commerce, but to absolutely paralyze every interstate-commerce instrumentality, and put for the time being an absolute stop to interstate-commerce transportation, a result that does not and can not follow in connection with any other conceivable violation of the statute. While it is true that their combinations have not in mind and their organizations do not exist for the purpose of producing financial returns, and that industrial organizations do exist for private gain, it is also true that to exempt them from the operations of the Sherman antitrust law would place interstate transportation absolutely and entirely within their control, so that they could without let or hindrance, without the legal right to control them, absolutely paralyze it. No such consequence can follow as the result of any other combination against which the law is aimed. Why, then, should they be exempted?

For these, as well as other reasons, I never could give my assent to legislation of that character. Every legislative suggestion that exempts labor organizations or men engaged in labor controversies from the operations of the Sherman antitrust law is clearly open to the suggestions above indicated.

THE SHERMAN ANTITRUST LAW.

This statute has been the subject of a great deal of controversy and debate. There seems to be a widespread difference of opinion as to its scope and purpose. It has been persistently claimed and, is now claimed, by the representatives of labor organizations that the law was not originally intended to include within its scope organizations of that character.

This claim is based in a very large degree, if not wholly, upon alleged understandings or upon conversations between men who were more or less actively engaged in the construction of the legislation. Many of the persons who are directly referred to as giving individual opinions as to the scope and purpose of the act are now dead, and it is impossible to verify the accuracy of the recollection of those who rely upon that source as the basis for their opinions.

The legislative history of the act itself is, I think, absolutely clear with reference to that question, and an examination of the history will demonstrate beyond all cavil that labor organizations were specifically intended to be included within its provisions.

It ought to be said that the act was not the result of hasty or ill-considered legislation. It was debated more or less in the last session of the Fiftyth Congress, and very much more extensively during the first session of the Fifty-first Congress. The debate upon this question occupies in the neighborhood of 150 pages of the CONGRESSIONAL RECORD, extending over this whole period of time. There are very few acts of Congress that have received as much careful and deliberate investigation and consideration as has the Sherman antitrust law.

Introduced into the Senate as the first bill in the Fifty-first Congress, on the 4th day of December, 1889, it was referred to the Finance Committee, of which its author, Mr. Sherman, was chairman. It was reported by that committee to the Senate,

and after considerable debate and the introduction of quite a variety of amendments the following amendment, on the 25th day of March, 1890, was introduced and adopted by the Committee of the Whole on the part of the Senate:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers, made with the view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products.

It will be noticed that this amendment is in substance the bill introduced at this session of Congress by the gentleman from Pennsylvania [Mr. Wilson]. The amendment was offered by Mr. Sherman. While it may be said that it was treated with reasonable seriousness, the fact that it was specifically exempting a certain class of people, as distinguished from the great mass of people that the legislation was intended to operate upon, is quite clear from the debate. At the very time the amendment was pending it was suggested by Senator Blair that the bill ought to exempt persons engaged in the cod fisheries and in the manufacture of boots and shoes. And so far as anything appears by way of argument there is just as much reason for the exemption of those industries as there was for the exemption of persons engaged in horticulture or agriculture. It was jocosely suggested by Mr. Platt, of Connecticut, who was opposed to the legislation, that the woolgrowers of Ohio ought also to have the same exemption.

While the bill was pending before the Senate, having been reported from the Committee of the Whole to the Senate, a successful effort was made to refer it to the Judiciary Committee, it having been encumbered in the Committee of the Whole by a large variety of amendments, a great deal of doubt being expressed as to what would be its proper construction.

Pending the adoption in the Senate of the amendment already quoted, which had been adopted in the Committee of the Whole, Senator Edmunds, who was easily one of the greatest if not the greatest lawyer in the Senate at that time, and one of the greatest lawyers the Senate ever had in its membership, took occasion to discuss this particular amendment. His discussion and his opinions are extremely significant, because, as it will appear later, the bill was finally, after the debate in which he participated, referred to the Committee on the Judiciary, of which he was the chairman. In referring to this particular amendment, he said:

But if capital and plants and manufacturing industries organize to regulate and so to repress and diminish, if you please, below what it ought to be, the price of all the labor everywhere that is engaged in that kind of business, labor must organize to defend itself on the other side. If transportation companies and middlemen and exporters and dealers organize and arrange that they will give only so much for wheat, or corn, or pork, or whatever, the people who produce the wheat, the corn, the pork, or whatever are driven to organize to defend themselves so far as they can against that species of tyranny. However, the whole thing is wrong, as it appears to me; and so I think the amendment is wrong in the same way, which says that while the capital and the plant in any enterprise shall not combine to defend and protect itself, to increase the price of the product of that capital and plant, the labor which is essential to the production of that plant may combine to increase the price of the product of that capital and plant, the labor which is essential to the production of that plant may combine to increase the price of the work that is to be done to make the production of that enterprise.

What is the consequence, Mr. President? The laborers of the United States, I will say for illustration—and one illustration is as good as the hundreds that might be brought forward—the laborers of the United States engaged in the manufacture of iron (which is, perhaps, the most largely valuable, take it altogether, of all the manufactured products of the United States) combine, as this bill authorizes them to do, to put up the price of their wages; they put them up 50 per cent, for illustration. The manufacturer of iron, the men who and whose fathers by their labor have found the iron mine and have built the iron mill and the rolling mill and the steel process mill and all that sort of thing, are prohibited under penalties, as they ought to be under penalties if they are prohibited at all, from combining to raise the price of the iron that the workmen have made cost 50 per cent more and to sell at the advanced price if they can.

The consequence would be that if the labor of the United States thus organized chose through its head men to put up the price of the manufactured iron, that iron could not be produced unless the price at which it was to be sold should be enhanced accordingly. The result is that every iron mill in the United States must break or live not according to the demand for iron, not according to its production, but according to the will of the men employed to make it. (Cong. Rec., vol. 21, p. 2727.)

And again:

The fact is that this matter of capital, as it is called, of business and of labor is an equation, and you can not disturb one side of the equation without disturbing the other. If it costs for labor 50 per cent more to produce a ton of iron, that 50 per cent more goes into what that iron must sell for, or some part of it. I take it everybody will agree to that.

Very well. Now, if you say to one side of that equation, "You may make the value or the price of this iron by your combination for wages in the whole Republic or on the continent, but the man for whom you have made the iron shall not arrange with his neighbors as to the

price they will sell it for so as not to destroy each other," the whole business will certainly break, because the connection between the plant, as I will call it for short, and the labor that works that plant is one that no legislation and no force in the world—and there is only one outside of the world that can do it—can possibly separate. They can not be divorced. *Neither speeches nor laws nor judgments of courts nor anything else can change it, and therefore I say that to provide on one side of that equation that there may be combination and on the other side that there shall not be contrary to the very inherent principle upon which such business must depend. If we are to have equality, as we ought to have, if the combination on the one side is to be prohibited, the combination on the other side must be prohibited, or there will be certain destruction in the end.*

This is a very clear and concise statement of the precise business proposition involved in this legislation. The only answer attempted to be made to this argument of Senator Edmunds was the suggestion made by Senator Hoar, who said, in undertaking to differentiate the employee from the other factors upon which the legislation was intended to operate:

The laborer who is engaged lawfully and usefully and accomplishing his purpose in whole or in part in endeavoring to raise the standard of wages is engaged in an occupation the success of which makes republican government itself possible, and without which the Republic can not exist in substance, however it may nominally do in form, continue to exist.

I hold therefore that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements for the sake of maintaining and advancing their wages, in regard to which, as a rule, their contracts are to be made with large corporations who are themselves but an association or combination or aggregation of capital on the other side. When we are permitting and even encouraging that we are permitting and encouraging what is not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

While we might all agree with Senator Hoar as to the essential importance of the welfare of the laborers and their associations, it is quite obvious that it is equally essential to maintain the existence of capital in order that the laborer whose welfare is so essential should continue to be employed. It is absolutely impossible for the one to exist without the other. Senator Hoar did not suggest, nor can there be suggested, any line of differentiation or distinction with reference to the effect of either upon the welfare or prosperity of the Republic. To these suggestions Senator Edmunds made this reply:

There is no getting away from that, and therefore if the wage-earner is to command the operation of the statute and the wage payer can not go to the community and to his brother manufacturers in the same town and say, "Let us agree to put up the wages of our laborers in all our establishments, as they wish a dollar a day more, and let us put the price on our commodity that goes out a dollar a ton more, or whatever it may be, to make that good, so that we can all live and get on," the two sides of the equation are not on an equal footing.

On the one side you say that is a crime, and on the other side you say it is a valuable and proper undertaking. That will not do, Mr. President. You can not get on in that way. It is impossible to separate them; and the principle of it therefore is that if one side, no matter which it is, is authorized to combine, the other side must be authorized to combine, or the thing will break and there will be universal bankruptcy. (Vol. 21, p. 2729.)

To this remark of Senator Edmunds a careful reading of the debate from that time on shows that no attempt was ever made to reply. After having thus stated that the amendment made it a crime for one set of men to do what was lawful for another set of men to do, and that it was impossible to separate the two factors of the great equation, the Sherman antitrust bill, with all pending amendments, was referred to the Judiciary Committee, of which Senator Edmunds was chairman.

It was reported back by that committee on the 2d day of April, 1890, with an amendment, which is the Sherman antitrust law as it reads to-day, without the dotting of an "i" or the crossing of a "t," because after it was reported from the Senate committee it was not amended in any particular, but became a law precisely in the language of that report.

It is hardly necessary to suggest that after the statements made by Senator Edmunds no bill would be reported by him that either directly or indirectly exempted labor organizations from its operations when he had himself declared it was impossible to construct legislation upon that basis.

The bill went through all the various stages of conference reports, and amendments of various characters were from time to time suggested. It was taken up on the floor of the House, referred to and reported from the Judiciary Committee, and debated somewhat extensively upon the floor, but in no part of the debate and in no part of the proceedings was any effort made, after the conclusive and unanswerable statement of Senator Edmunds, to engraft upon the act any provision excepting labor organizations or men engaged in labor controversies therefrom.

We not only have this clear history, which is an unanswerable demonstration of the fact that the act was intended to cover employees and employers in interstate commerce, but in addition we have the statement made by Senator Edmunds,

published in the Chicago Inter-Ocean November 21, 1892, in which he said, referring to the Sherman antitrust law:

It is intended, and I think will cover every form of combination that seeks to in any way interfere with or restrain free competition, whether it be capital in the form of trusts, combinations, railroad pools or agreements, or labor through the form of boycotting organizations that say a man shall not earn his bread unless he joins this or that society. Both are wrong; both are crimes, and indictable under the antitrust law.

He further stated that it was the intention of the committee "to cover all such cases."

Inasmuch as Senator Hoar is frequently relied upon as authority for the suggestion that the legislation was not intended to include labor organizations within its scope, it ought to be said that in 1901 Senator Hoar made a legislative declaration in connection with a pending bill which clearly indicates that he understood that labor organizations were very properly included in the provisions of the Sherman antitrust law. His remarks were addressed to a provision reading as follows:

SEC. 4. That nothing in said act shall be so construed as to apply to any action or combination, otherwise lawful, of trade unions or other labor organizations, so far as such action or combination shall be for the purpose of regulating wages, hours of labor, or other conditions under which labor is performed, without violence or interfering with the lawful rights of any person. (CONGRESSIONAL RECORD, vol. 34, p. 2728.)

The last clause, "without violence or interfering with the lawful rights of any person," it will be seen covers very nearly the same ground as the proviso which I suggested as an amendment to the anti-injunction bill, and have heretofore referred to.

In discussing this amendment, Senator Hoar said:

There is a further provision that no labor organization or association shall be liable to punishment under the act to which this is an addition. I gave, as chairman of the committee, several full hearings to the representatives of the labor organizations of the country who were interested in promoting this legislation, and also to the representatives of the great organization, the Brotherhood of Locomotive Engineers, and they agreed with me, all of them, that these objections were well taken and that the legislation ought to pass.

Thereupon I proposed a measure, which I prepared carefully and thoroughly for that purpose, providing that the legislation against trusts should not apply to organizations for the purpose of raising wages, shortening hours of labor, or improving the conditions of labor if their action were otherwise lawful and was not accompanied with criminal violence, keeping the first section of the bill so far as it increased the punishment for the violation of the antitrust law, but striking out the minimum punishment, that I was in hopes the Judiciary Committee would authorize me to report to the Senate, and I should be glad to have it taken up and passed. (Vol. 34, p. 2727.)

So that the legislative record shows that Senator Hoar was not in favor of exempting labor organizations from the operations of the Sherman antitrust law. The provisions that he was discussing were in the form of a proposed amendment to the Sherman antitrust law. He did not intend to have the law apply except as to such combinations as could be actually had "without violence or interfering with the lawful rights of any person."

So long as the lawful rights of any person are protected, it is quite clear that there is no occasion for any statute. All that the Sherman antitrust law did, as a matter of fact, in the first instance was to protect the lawful rights of all parties who came within its scope.

THE LEGAL SCOPE OR BASIS OF THE SHERMAN ANTITRUST LAW.

I think it can be made clearly to appear that there is a profound misconception as to the legal scope of this statute. The common law applies to two well-defined and thoroughly understood conditions—contracts in restraint of trade, upon which is predicated the element of reasonable or unreasonable, which are contracts between two individuals, by virtue of which one contracts himself out of trade, and combinations or conspiracies tending to the monopoly of trade upon which the idea of reasonable or unreasonable never yet has been predicated by any well-considered decision.

On the 16th day of February, 1903, in a discussion on a bill pending before the House, amending the Sherman antitrust law, I took occasion to suggest these distinctions, and as a part of the history of this legislation I will now repeat in substance what I said on that occasion:

THE SHERMAN ANTITRUST LAW.

The Sherman antitrust law proceeds upon the theory that there are contracts and agreements monopolistic in their character which are in restraint of interstate trade and commerce. It is aimed throughout at contracts and agreements, that tend to monopoly. That is its genesis.

Section 1 provides that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce," etc., and "every person who shall make any such contract or engage in any such combination or conspiracy," etc.

Section 2 provides that "every person who shall monopolize or attempt to monopolize, or combine or conspire with any

other person or persons to monopolize, any part of the trade or commerce among the several States, or with foreign nations," etc.

Section 3 provides that "every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce," etc., and "every person who shall make any such contract, or engage in any such combination or conspiracy, shall be deemed guilty," etc.

Section 6 provides that "any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof)," etc. While the literal language of this act might include what is known at common law as "contracts in restraint of trade," it is very clear that its dominating controlling purpose is to prevent contracts, agreements, combinations, and conspiracies resulting in or attempting to create monopoly. It is at least doubtful if a common-law contract in restraint of trade can be predicated upon the Sherman antitrust law. It is because the words "in restraint of trade or commerce" are used that the idea has obtained that the qualification of reasonableness or unreasonableness should be imported into this statute by construction.

It is very ably suggested by Mr. Justice White, in his dissenting opinion in the *Trans-Missouri* case, that the Sherman antitrust law should be construed upon the basis as to whether or not the combinations or conditions that it undertakes to attack, are or are not reasonable or unreasonable, and it has been suggested by distinguished men since that the law is open to that criticism. It was suggested—I heard a distinguished gentleman in another tribunal the other day say—that it was intended by the framers of that law to subject it to the test, as to whether the conditions attacked were reasonable or unreasonable. I beg leave to submit that such a construction can not be sustained. There is a contract in restraint of trade at common law. A contract in restraint of trade at common law is a contract by virtue of which a man disables himself from engaging in a particular occupation, business, or profession. He agrees not to practice his profession or engage in his business for a certain number of years, or within a certain locality, or a corporation agrees not to sell its goods within a certain locality or during a certain time, or, as the note in *Angier v. Webber* (92 Comp. Dec., 751) puts it, they are "contracts which impose an unreasonable restraint upon the exercise of a business, trade, or profession are void, but contracts in reasonable restraint thereof are valid."

Now, that is the common-law contract in restraint of trade. But there are other conditions that disturb us vastly more than these contracts in restraint of trade, because contracts in restraint of trade at the common law were simply constructively against public policy and very few of them ever did any appreciable injury. The combinations and conspiracies that tend to monopoly and therefore increase the price of a product are an entirely distinct legal proposition. They are the status against which the Sherman antitrust law is aimed. It is contracts and combinations in the form of trusts or otherwise or conspiracies, not contracts that restrain one individual from engaging in a profession or in a business for a certain number of years or in a certain locality that are clearly within the intention of that statute.

Now, I wish to call the attention of the House to this fact: That at common law and under the decisions of the courts, from the days of the early common law down even until now, the idea of reasonableness or unreasonableness has never been predicated upon a combination or a conspiracy that tends to monopoly. It is always and only predicated upon contracts technically in restraint of trade, or that tend to exclude a man for a certain number of years or within a certain space. Every case referred to by the distinguished justice of the Supreme Court who dissented in the *Trans-Missouri* case as sustaining his view that reasonableness or unreasonableness should, under the Sherman antitrust law, be the test, is a case at the common law where the court were passing upon a contract technically in restraint of trade. No single case that he refers to involves contracts or agreements or conditions that tended to monopoly. In that respect his citations were foreign to the controlling purpose of that statute.

There are two distinct legal propositions—contracts in restraint of trade and combinations and agreements and conspiracies that tend to monopolies. I have not had the time myself carefully to examine every case upon this subject, but I have had them examined by a man in whose legal ability I have confidence, and I think I can safely say that from the time when monopolies were first discussed, the books do not contain a single case based upon contracts or agreements or conspiracies that tend to monopoly, and therefore improperly and unduly increasing the price of a product, in which the term "reasonable" or "unreasonable" is

predicated upon that condition—no case where that is relied upon as an element under such circumstances. On the other hand, where the facts satisfy the court that the condition tends to monopoly it is held unlawful without qualifications or limitations. While the term "restraint of trade" is used in defining the offense in the Sherman antitrust law, it is evidently used upon the theory that a monopoly or an attempt to monopolize trade would operate as a restraint upon interstate and foreign commerce, rather than in the artificial sense that a contract between two individuals that impaired the right of one to engage in trade for a certain time or within a certain locality would be a restraint of that commerce. The definition inaptly is in part based upon the common-law term "restraint of trade," while the act is not intended to apply to such contract, but to such contracts and combinations as tend to monopoly.

This whole question of the distinction between contracts in restraint of trade and combinations and conspiracies to monopolize trade was discussed in a very able and exhaustive opinion by Hon. William H. Taft, circuit judge, sitting in the circuit court of appeals in the case of the United States *v.* Addyston Pipe and Steel Company et al. (85 F. R., 271, 302). In the course of the opinion he states the proposition as follows:

The very statement of the rule implies that the contract must be one in which there is a main purpose, to which the covenant in restraint of trade is merely ancillary. The covenant is inserted only to protect one of the parties from the injury which, in the execution of the contract or enjoyment of its fruits, he may suffer from the unrestrained competition of the other. The main purpose of the contract suggests the measure of protection needed, and furnishes a sufficiently uniform standard by which the validity of such restraints may be judicially determined. In such a case, if the restraint exceeds the necessity presented by the main purpose of the contract, it is void for two reasons: First, because it oppresses the covenantor without any corresponding benefit to the covenantee; and second, because it tends to a monopoly. But where the sole object of both parties in making the contract as expressed therein is merely to restrain competition and enhance or maintain prices, it would seem that there was nothing to justify or excuse the restraint, that it would necessarily have a tendency to monopoly, and therefore would be void. In such a case there is no measure of what is necessary to the protection of either party except the vague and varying opinion of judges as to how much, on principles of political economy, men ought to be allowed to restrain competition. There is in such contracts no main lawful purpose, to subserve which partial restraint is permitted, and by which its reasonableness is measured, but the sole object is to restrain trade in order to avoid the competition which it has always been the policy of the common law to foster.

He says further:

It is true that there are some cases in which the courts, mistaking, as we conceive, the proper limits of the relaxation of the rules for determining the unreasonableness of restraints of trade, have set sail on a sea of doubt and have assumed that the power to say, in respect to contracts which have no other purpose and no other consideration on either side than the mutual restraint of the parties, how much restraint of competition is in the public interest and how much it is not.

That is to say, whenever the courts have departed from the original contracts in restraint of trade per se as to which the contracting out of trade is simply ancillary, and undertaken to apply to a combination and conspiracy tending to monopoly the element of reasonableness or unreasonableness, they have set sail on a "sea of doubt" and assumed a power which they can not legitimately exercise.

And again, in applying the authorities to the particular case in hand, he said:

Upon this review of the law and the authorities we can have no doubt that the association of the defendants, however reasonable the prices they fixed, however great the competition they had to encounter, and however great the necessity for curbing themselves by joint agreement from committing financial suicide by ill-advised competition, was void at common law, because in restraint of trade and tending to a monopoly.

And while it was attempted from the facts to show that although there was a combination or conspiracy in that case tending to monopoly, it was reasonable in its character, he held that such considerations were not applicable to the contract involved, because the contract was a combination or a conspiracy tending to monopoly, and not a contract in restraint of trade as to which at common law the element of reasonableness or unreasonableness was predicable, saying:

A great many affidavits of purchasers of pipe in pay territory, all drawn by the same hand or from the same model, are produced, in which the affiants say that, in their opinion, the prices at which pipe has been sold by defendants have been reasonable. We do not think the issue an important one, because, as already stated, we do not think that at common law there is any question of reasonableness open to the courts with reference to such a contract. Its tendency was certainly to give defendants the power to charge unreasonable prices, had they chosen to do so.

Here the learned judge distinctly holds that the element of reasonableness is not predicable upon a combination or conspiracy tending to the monopoly of trade. This opinion is instructive and valuable, and I will print it as an appendix to the speech. I refer again to the authorities to which I referred in 1903, showing, in connection with the opinion of Judge Taft, that there is no well-considered case at common law that

attempts in any degree to predicate, upon a combination or conspiracy tending to the monopoly of trade, the element of reasonableness or unreasonableness. It follows from this that the attempt that is made by the so-called "Hepburn amendment" to the Sherman antitrust law to import the element of unreasonableness into that statute has no foundation in the common law and is in direct violation of the well-considered legal distinction that has always existed between contracts per se in restraint of trade, where one individual contracts with another to contract himself out of trade, and combinations and conspiracies tending to the monopoly of trade.

These legal considerations disclose very clearly the cases that Mr. Justice Brewer had in mind in his concurring opinion in the Northern Securities case (193 U. S., 361), when he said, in referring to his concurrence in the Joint Traffic Association case (171 U. S., 505):

Instead of holding that the antitrust act included all contracts, reasonable or unreasonable, in restraint of interstate trade, the ruling should have been that the contracts there presented were unreasonable restraints of interstate trade, and as such within the scope of the act. That act, as appears from its title, was leveled at only "unlawful restraints and monopolies." Congress did not intend to reach and destroy those minor contracts in partial restraint of trade which the long course of decisions at common law had affirmed were reasonable and ought to be upheld.

The only "long course of decisions at common law" affirming contracts in restraint of trade to be reasonable are the contracts where individuals were contracting themselves out of trade—where the contract to remain out of trade was ancillary to the main contract. Contracts which were held to be reasonable, if they were limited either in point of time or in point of space, were uniformly held to be unreasonable if unlimited as to time and unlimited as to space.

Mr. Justice Holmes also had this distinction very clearly in mind in his dissenting opinion in that case when he says (p. 403):

The words hit two classes of cases, and only two—contracts in restraint of trade and combinations or conspiracies in restraint of trade—and we have to consider what these, respectively, are. Contracts in restraint of trade are dealt with and defined by the common law. They are contracts with a stranger to the contractor's business, although in some cases carrying on a similar one, which wholly or partially restrict the freedom of the contractor in carrying on that business as otherwise he would. The objection of the common law to them was primarily on the contractor's own account. The notion of monopoly did not come in unless the contract covered the whole of England.

There was no objection to such combinations merely as in restraint of trade or otherwise unless they amounted to a monopoly. Contracts in restraint of trade, I repeat, were contracts with strangers to the contractor's business, and the trade restrained was the contractor's own.

These are exactly the same contracts referred to by Mr. Justice Brewer in his concurring opinion as being in partial restraint of trade, and which a long course of decisions at common law had affirmed were reasonable and ought to be upheld.

Mr. Justice Holmes proceeds:

Combinations or conspiracies in restraint of trade, on the other hand, were combinations to keep strangers to the agreement out of the business. The objection to them was not an objection to their effect upon the parties making the contract, the members of the combination or firm, but an objection to their intended effect upon strangers to the firm and their supposed consequent effect upon the public at large. In other words, they were regarded as contrary to public policy because they monopolized or attempted to monopolize some portion of the trade or commerce of the realm.

These remarks of Mr. Justice Holmes very clearly suggest the profound and underlying distinction between the two conditions; as to the contracts that restricted the freedom of the contractor in carrying on that business as otherwise he would, and combinations and conspiracies in restraint of trade, the distinction is profound and fundamental. Upon the first the element of reasonableness or unreasonableness can be properly predicated; upon the second, which is made a crime under the Sherman antitrust law, the element of reasonableness or unreasonableness can not with any propriety be predicated.

Bearing in mind these legal suggestions with reference to the rationale of the Sherman antitrust law, I will now enter upon the discussion of what is known as the Hepburn amendment to the Sherman antitrust law, and with reference to this it is to be first said that the amendment was not drawn, either in whole or in part, by the gentleman from Iowa, who introduced it and under whose name it travels. It has never yet been clearly disclosed to the subcommittee who heard the matter just exactly who is responsible for all of its provisions.

It perhaps should first be stated, in order that there may be no misapprehension about its public features, that, as conceded by Mr. Low, the bill is not in any sense a bill of the trust conference held under the auspices of the National Civic Federation. The committee of that conference were under no instructions and had no authority to prepare any specific legislation. On the contrary, they were specifically instructed to urge upon Congress without delay to pass legislation providing for a non-

partisan commission, in which the interests of capital and labor and the general public should be represented. It was expected that this commission would make a thorough inquiry into the matter, and the resolution concluded with the statement that all it asked was that a national nonpartisan commission be appointed to consider the question and report at the second session of the then approaching Congress recommending some legislation for enactment.

The committee of the conference therefore had no authority whatever to prepare and propose any specific measure of legislation. The conference was composed of a great variety of men, some of whom were able lawyers, and they fully appreciated the fact that the subject-matter was so complicated and involved such tremendous interests that legislation to accomplish the end desired by the association could not be formulated without thorough investigation and long and careful consideration, so that it must be distinctly understood that what is known as the "Hepburn bill" is in no sense either directly or indirectly a measure for which the conference is responsible or to which it has ever in any sense given its approval. In fact, Mr. Low, who presented the Hepburn amendment, concedes that he is not acting with any authority from the conference, but suggests that he was complying with the wishes of the chairman of the Committee on Interstate and Foreign Commerce in the presentation of the bill pending before the committee. While it appears from Mr. Low's first statement that both Mr. JENKINS and Mr. HEPBURN were present at the conference as the result of which the bill was prepared, it also further appears in the hearing that Mr. JENKINS distinctly disclaimed any desire on his part to have the bill presented by the committee, and was in no sense responsible therefor.

So that the Hepburn bill stands before the House and the country, not as representing the ideas of the conference, but as the result of the collaboration of the gentlemen whose names were disclosed in the hearing before the committee, and other gentlemen whose names were not disclosed. The Hepburn bill reads as follows:

A bill (H. R. 19745) to regulate commerce among the several States or with foreign nations, and to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

Be it enacted, etc., That the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," be, and hereby the same is, amended by adding at the end of said act the following sections:

"SEC. 8. That any corporation or association affected by this act, but not subject to the act approved February 4, 1887, entitled 'An act to regulate commerce,' or the acts amendatory thereof or supplemental thereto, shall be entitled to the benefits and immunities in this act hereinafter given, if and when it shall register as herein provided, and shall comply with the requirements of this act, hereinafter set forth, but not otherwise.

"Such registration, by a corporation or association for profit and having capital stock, may be effected by filing with the Commissioner of Corporations a written application therefor, together with a written statement setting forth such information concerning the organization of such corporation or association, its financial conditions, its contracts, and its corporate proceedings, as may be prescribed by general regulations from time to time to be made by the President pursuant to this act; and such registration by a corporation or association not for profit and without capital stock may be effected by filing with the Commissioner of Corporations a written application therefor, together with a written statement setting forth, first, its charter or agreement of association and by-laws; second, the place of its principal office, and, third, the names of its directors or managing officers, and standing committees, if any, with their residences.

"Thereupon the Commissioner of Corporations shall register such corporation or association under this act. In case any corporation or association so registered shall refuse or shall fail at any time to file the statements or to give the information required under this act, or to comply with the requirements of this act, or in case information furnished by it shall be false in any material particular, the Commissioner of Corporations shall have power to cancel the registration of such corporation or association after thirty days' notice in writing to such corporation or association. Any corporation or association aggrieved by such action of the Commissioner of Corporations may apply to the supreme court of the District of Columbia, in a suit or proceeding in equity, for such relief in the premises as may be proper, and said court shall have jurisdiction to hear and determine such application, subject to appeal as in other causes in equity.

"SEC. 9. That the President shall have power to make, alter, and revoke, and from time to time, in his discretion, he shall make, alter, and revoke, regulations prescribing what facts shall be set forth in the statements to be filed with the Commissioner of Corporations by corporations and associations for profit and having capital stock applying for registration under this act, and what information thereafter shall be furnished by such corporations and associations so registered, and he may prescribe the manner of registration and of cancellation of registration.

"Nothing in this act shall require the filing of contracts or agreements of corporations or associations not for profit or without capital stock, and such corporations and associations while registered hereunder, and the members thereof, shall be entitled to all the benefits and immunities given by this act, excepting such as are given by section 10 and section 11, without filing such contracts or agreements; but from time to time every such corporation or association shall file with the Commissioner of Corporations, when and as called for by him, a revised statement giving, as of a date specified by him, such information as is required to be given at the time of original registration under section 8 of this act.

"SEC. 10. That any corporation or association registered under this act, and any person, not a common carrier under the provisions of the said act approved February 4, 1887, or the acts amendatory thereof or supplemental thereto, being a party to a contract or combination hereafter made, other than a contract or combination with a common carrier filed under section 11 of this act, may file with the Commissioner of Corporations a copy thereof, if the same be in writing, or if not in writing, a statement setting forth the terms and conditions thereof, together with a notice that such filing is made for the purpose of obtaining the benefit of the provisions of this section. Thereupon the Commissioner of Corporations, with the concurrence of the Secretary of Commerce and Labor, of his own motion and without notice or hearing, or after notice and hearing, as the Commissioner may deem proper, may enter an order declaring that in his judgment such contract or combination is in unreasonable restraint of trade or commerce among the several States or with foreign nations. If no such order shall be made within thirty days after the filing of such contract or written statement, no prosecution, suit, or proceeding by the United States shall lie under the first six sections of this act, for or on account of such contract or combination, unless the same be in unreasonable restraint of trade or commerce among the several States or with foreign nations; but the United States may institute, maintain, or prosecute a suit, proceeding, or prosecution under the first six sections of said act for or on account of any such contract or combination hereafter made, of which a copy or written statement shall not have been filed as aforesaid, or as to which an order shall have been entered as above provided.

"No corporation or association for profit or having capital stock, and registered under this act, that hereafter shall make a combination or consolidation with any other corporation or association, shall be entitled to continue its registration under this act, unless without delay it shall file with the Commissioner of Corporations, pursuant and subject to the provisions of this section, a statement setting forth the terms and conditions of such combination or consolidation, together with a notice as hereinabove provided.

"SEC. 11. That any common carrier under the provisions of the said act approved February 4, 1887, or the acts amendatory thereof or supplemental thereto, being a party to a contract or combination hereafter made, or any other party to such contract or combination, may file with the Interstate Commerce Commission a copy thereof, if the same be in writing, or if not in writing, a statement setting forth the terms and conditions thereof, together with a notice that such filing is made for the purpose of obtaining the benefit of the provisions of this section. Thereupon the Interstate Commerce Commission, of its own motion and without notice or hearing, or after notice and hearing, as said Commission may deem proper, may enter an order declaring that in its judgment such contract or combination is in unreasonable restraint of trade or commerce among the several States or with foreign nations. If no such order shall be made within thirty days after the filing of such contract or written statement, no prosecution, suit, or proceeding by the United States shall lie under the first six sections of this act, for or on account of such contract or combination, unless the same be in unreasonable restraint of trade or commerce among the several States or with foreign nations, but the United States may institute, maintain, or prosecute a suit, proceeding, or prosecution under the first six sections of said act for or on account of any such contract or combination hereafter made, of which a copy or written statement shall not have been filed as aforesaid, or as to which an order shall have been entered as above provided."

SEC. 2. That section 7 of the said act approved July 2, 1890, is hereby amended so as to read as follows:

"SEC. 7. That any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover the damages by him sustained and the costs of suit, including a reasonable attorney's fee."

SEC. 3. That in any suit for damages under section 7 of the said act approved July 2, 1890, based upon a right of action accruing prior to the passage of this act, the plaintiff shall be entitled to recover only the damages by him sustained and the costs of suit, including a reasonable attorney's fee; and no suit for damages under said section 7 of the said act, based upon a right of action accruing prior to the passage of this act, shall be maintained unless the same shall be commenced within one year after the passage of this act.

Nothing in said act approved July 2, 1890, or in this act, is intended, nor shall any provision thereof hereafter be enforced so as to interfere with or to restrict any right of employees to strike for any cause or to combine or to contract with each other or with employers for the purpose of peaceably obtaining from employers satisfactory terms for their labor or satisfactory conditions of employment, or so as to interfere with or to restrict any right of employers for any cause to discharge all or any of their employees or to combine or to contract with each other or with employees for the purpose of peaceably obtaining labor on satisfactory terms.

SEC. 4. That no suit or prosecution by the United States under the first six sections of the said act approved July 2, 1890, shall hereafter be begun for or on account of any contract or combination made prior to the passing of this act, or any action thereunder, unless the same be in unreasonable restraint of trade or commerce among the several States or with foreign nations; and no suit or prosecution by the United States under the first six sections of the said act approved July 2, 1890, shall be begun after one year from the passage of this act for or on account of any contract or combination made prior to the passage of this act, or any action thereunder; but no corporation or association authorized to register under section 8 of the said act approved July 2, 1890, as amended, shall be entitled to the benefit of this immunity if it shall have failed so to register, or if the registration of such corporation or association shall have been canceled before the expiration of one year after such registration, exclusive of the period, if any, during which such cancellation shall have been stayed by an order or decree of court subsequently vacated or set aside. Anything herein contained to the contrary notwithstanding, all actions and proceedings now or heretofore pending under or by virtue of any provision of the said act approved July 2, 1890, may be prosecuted and may be defended to final effect; and all judgments and decrees heretofore or hereafter made in any such actions or proceedings may be enforced in the same manner as though this act had not been passed.

In the discussion of some of the salient features of the proposed legislation I shall not devote myself to the bill introduced, because after a number of long and protracted hearings before

the subcommittee of which I am chairman, the gentlemen proposing the measure decided to present a substitute therefor which, according to their view, represented more clearly and adequately the views entertained by the gentlemen who collaborated in the preparation of the measure. That substitute was presented and made a part of the hearings, and reads as follows:

A bill to regulate commerce among the several States or with foreign nations, and to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

Be it enacted, etc., That section 7 of the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," be, and the same is hereby, amended so as to read as follows:

"SEC. 7. That any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover the damages by him sustained and the costs of suit, including a reasonable attorney's fee."

SEC. 2. That in any suit for damages under section 7 of the said act approved July 2, 1890, based upon a right of action accruing prior to the passage of this act, the plaintiff shall be entitled to recover only the damages by him sustained and the costs of suit, including a reasonable attorney's fee; and no suit for damages under said section 7 of the said act, based upon a right of action accruing prior to the passage of this act, shall be maintained unless the same shall be commenced within one year after the passage of this act.

SEC. 3. Nothing in said act approved July 2, 1890, or in this act, is intended, nor shall any provision thereof hereafter be enforced so as to interfere with or to restrict any right of employees to strike for any purpose not unlawful at common law or to combine or to contract with each other or with employers for the purpose of obtaining from employers peaceably or by any means not unlawful at common law satisfactory terms for their labor or satisfactory conditions of employment, or so as to interfere with or to restrict any right of employers for any purpose not unlawful at common law to discharge all or any of their employees or to combine or to contract with each other or with employees for the purpose of obtaining labor on satisfactory terms, peaceably or by any means not unlawful at common law.

SEC. 4. That the said act, approved July 2, 1890, is hereby further amended by adding at the end of said act the following sections:

"SEC. 9. That any corporation or association which may be subject to this act but not subject to the act approved February 4, 1887, entitled 'An act to regulate commerce,' or the acts amendatory thereof or supplemental thereto, shall be entitled to the benefits and immunities in this act hereinafter given, if and when it shall register as herein provided, and shall comply with the requirements of this act hereinafter set forth, but not otherwise.

"Such registration by a corporation or association for profit and having capital stock may be effected by filing with the Commissioner of Corporations a written application therefor, together with a written statement setting forth such information concerning the organization of such corporation or association, its financial condition, its contracts, and its corporate proceedings as may be prescribed by general regulations from time to time to be made by the President pursuant to this act; and such registration by a corporation or association not for profit and without capital stock may be effected by filing with the Commissioner of Corporations a written application therefor, together with a written statement setting forth, first, its charter or agreement of association and by-laws; second, the place of its principal office, and, third, the names of its directors or managing officers and standing committees, if any, with their residences.

"Thereupon the Commissioner of Corporations shall register such corporation or association under this act. In case any corporation or association so registered shall refuse or shall fail at any time to file the statements or to give the information required under this act, or to comply with the requirements of this act, or in case information furnished by it shall be false in any material particular, the Commissioner of Corporations shall have power to cancel the registration of such corporation or association after thirty days' notice in writing to such corporation or association. Any corporation or association aggrieved by such action of the Commissioner of Corporations may apply to the supreme court of the District of Columbia, in a suit or proceeding in equity, for review of such action and such relief in the premises as may be proper, and said court shall have jurisdiction to hear and determine such application and to affirm, reverse, or modify such action of said Commissioner, subject to appeal as in other causes in equity.

"SEC. 10. That the President shall have power to make, alter, and revoke, and from time to time, in his discretion, he shall make, alter, and revoke regulations prescribing what facts shall be set forth in the statements to be filed with the Commissioner of Corporations by corporations and associations for profit and having capital stock, applying for registration under this act, and what information thereafter shall be furnished by such corporations and associations so registered, and he may prescribe the manner of registration and of cancellation of registration.

"Nothing in this act shall require the filing of contracts or agreements of corporations or associations not for profit or without capital stock, and such corporations and associations, while registered hereunder, and the members thereof, shall be entitled to all the benefits and immunities given by this act excepting such as are given by section 11 and section 12, without filing such contracts or agreements; but from time to time every such corporation or association shall file with the Commissioner of Corporations, when and as called for by him, a revised statement giving, as of a date specified by him, such information as is required to be given at the time of original registration, under section 9 of this act.

"SEC. 11. That any corporation or association registered under this act, and any person not a common carrier under the provisions of the said act approved February 4, 1887, or the acts amendatory thereof or supplemental thereto, being a party to a contract or combination hereafter made other than a contract or combination with a common carrier filed under section 12 of this act, may file with the Commissioner of Corporations a copy thereof, if the same be in writing, or if not in writing, a statement setting forth the terms and conditions thereof,

together with a notice that such filing is made for the purpose of obtaining the benefit of the provisions of this section.

"No prosecution, suit, or proceeding by the United States shall be begun under the first six sections of this act for or on account of any such contract or combination hereafter made, of which a copy or written statement shall have been filed as aforesaid, or for or on account of any act done in performance thereof by or in behalf of such corporation, association, or person, unless such contract or combination shall be in unreasonable restraint of trade or commerce, as defined in section 3 of this act, or shall constitute a conspiracy in violation of section 1 or of section 3 of this act, or shall be in violation of section 2 of this act. If in the opinion of the Commissioner of Corporations any such contract or combination of which a copy or a written statement shall have been filed as aforesaid shall be in unreasonable restraint of trade or commerce, as defined in section 3 of this act, or shall constitute a conspiracy in violation of section 1 or of section 3 of this act, or shall be in violation of section 2 of this act, said Commissioner shall be authorized and empowered, and it shall be his duty, to enter an order to that effect, which order shall set forth briefly the grounds upon which it is based. Any such order may be made by the Commissioner upon his own motion and without notice or hearing within thirty days from the date of the filing of such contract or written statement. After the expiration of such thirty days no such order shall be made by the Commissioner except after notice to the party or parties who filed such contract or written statement and after giving such party or parties an opportunity to be heard, and such order shall take effect upon a date therein to be specified not less than ten days after the filing thereof; but any person aggrieved by such action of the Commissioner of Corporations, or the United States in case of his nonaction, may apply to the Interstate Commerce Commission for a rehearing of the case; and said Commission (with which the Commissioner of Corporations is hereby authorized to sit for the purpose of such rehearing with the powers and duties of a member) is hereby authorized and directed, after due motion to rehear such case and thereupon to enter such order in the case as seems to it proper, subject, as in other instances, to appeal to the courts as hereinafter provided. If any party or parties to any such contract or combination, of which a copy or a written statement shall have been filed as aforesaid, shall do any act in performance of such contract or in pursuance of such combination after the Commissioner of Corporations or the Interstate Commerce Commission shall have entered an order as aforesaid, such party or parties, unless such order of the Commissioner on the rehearing herebefore provided shall have been replaced by a new order or such order shall have been suspended or set aside by order of the court, as herein provided, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by fine not exceeding \$5,000 or by imprisonment not exceeding one year, or both said punishments; and the United States may institute and maintain proceedings in equity under section 4 of this act to prevent and restrain the performance of such contract and the continuance of such combination and any action pursuant thereto in violation of this act.

"No corporation or association authorized to register under section 9 of this act shall be entitled to the benefit of this section if it shall have failed so to register or if the registration of such corporation or association shall have been canceled; and the United States may institute, maintain, or prosecute a suit, proceeding, or prosecution under the first six sections of said act for or on account of any such contract or combination hereafter made of which a copy or written statement shall not have been filed as aforesaid or as to which an order shall have been entered as above provided.

"Any party affected by any such order entered by the Commission may institute and maintain a suit to enjoin, set aside, annul, or suspend such order in the supreme court of the District of Columbia, and jurisdiction is hereby given to such court to hear and determine such suits and to grant such relief; but no interlocutory order or decree enjoining, setting aside, annulling, or suspending any such order of the Commission shall be granted except after not less than five days' notice to the Commission. The provisions of 'An act to expedite the hearing and determination of suits in equity, etc., approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, including the hearing on an application for a preliminary injunction. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: Provided, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes, except causes of like character and criminal causes.

"No corporation or association for profit or having capital stock, and registered under this act, that hereafter shall make a combination or consolidation with any other corporation or association, shall be entitled to continue its registration under this act, unless without delay it shall file with the Commissioner of Corporations, pursuant and subject to the provisions of this section, a statement setting forth the terms and conditions of such combination or consolidation, together with a notice as hereinafore provided.

"SEC. 12. That any common carrier under the provisions of the said act approved February 4, 1887, or the acts amendatory thereof or supplemental thereto, being a party to a contract or combination in the nature of a traffic agreement, but not including pooling of freight or earnings, hereafter made as forbidden by section 5 of the said act approved February 4, 1887, or any other party to such contract or combination, may file with the Interstate Commerce Commission a copy thereof, if the same be in writing, or, if not in writing, a statement setting forth the terms and conditions thereof, together with a notice that such filing is made for the purpose of obtaining the benefit of the provisions of this section.

"No prosecution, suit, or proceeding by the United States shall be begun under the first six sections of this act or on account of any such contract or combination hereafter made of which a copy or written statement shall have been filed as aforesaid, or for or on account of any act done in performance thereof by or in behalf of such corporation, association, or person, unless such contract or combination shall be in unreasonable restraint of trade or commerce as defined in section 3 of this act, or shall constitute a conspiracy in violation of section 1 or of section 3 of this act, or shall be in violation of section 2 of this act. If in the opinion of the Interstate Commerce Commission any such contract or combination of which a copy or a written statement shall have been filed as aforesaid shall be in unreasonable restraint of trade or commerce as defined in section 3 of this act, or shall constitute a conspiracy in violation of section 1 or of section 3 of this act, or shall be in violation of section 2 of this act, said Commission shall be

authorized and empowered and it shall be its duty to enter an order to that effect, which order shall set forth briefly the grounds upon which it is based. Any such order may be made by the Commission, upon its own motion and without notice or hearing, within thirty days from the date of the filing of such contract or written statement. After the expiration of such thirty days no such order shall be made by the Commission except after notice to the party or parties who filed such contract or written statement and after giving such party or parties an opportunity to be heard, and such order shall take effect upon a date therein to be specified not less than ten days after the filing thereof; but any person aggrieved by such action of the Interstate Commerce Commission, or the United States in case of its nonaction, may apply to the supreme court of the District of Columbia for review of the case; and said court is hereby authorized and directed to hear and determine such application and to affirm, reverse, or modify such action, or in case of its failure to act to enter such order in the case as seems to it proper, subject as in other instances to the provisions of section 11 and to appeal to the Supreme Court of the United States as herein provided.

"If any party or parties to any such contract or combination, of which a copy or a written statement shall have been filed as aforesaid, shall do any act in performance of such contract or in pursuance of such combination after the Commissioner of Corporations for the Interstate Commerce Commission shall have entered an order as aforesaid, such party or parties, unless such order of the Commission shall have been enjoined, annulled, or suspended by a decree or order of a court, as herein provided, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding \$5,000 or by imprisonment not exceeding one year, or both said punishments, in the discretion of the courts; and the United States may institute and maintain proceedings in equity under section 4 of this act, to prevent and restrain the performance of such contract and the continuance of such combination and any action pursuant thereto in violation of this act.

"No corporation or association authorized to register under section 9 of this act shall be entitled to the benefit of this section if it shall have failed so to register, or if the registration of such corporation or association shall have been canceled; and the United States may institute, maintain, or prosecute a suit, proceeding, or prosecution under the first six sections of said act for or on account of any such contract or combination hereafter made, of which a copy or written statement shall not have been filed as aforesaid, or as to which an order shall have been entered as above provided."

SEC. 5. That no suit or prosecution by the United States under the first six sections of the said act approved July 2, 1890, shall hereafter be begun for or on account of any contract or combination made prior to the passage of this act, or any action thereunder, unless the same be in unreasonable restraint of trade or commerce among the several States or with foreign nations; and no suit or prosecution by the United States under the first six sections of the said act approved July 2, 1890, shall be begun after one year from the passage of this act for or on account of any contract or combination made prior to the passage of this act, or any action thereunder; but no corporation or association authorized to register under section 9 of the said act approved July 2, 1890, as amended, shall be entitled to the benefit of the provisions of this section, if it shall have failed so to register, or if the registration of such corporation or association shall have been canceled before the expiration of one year after such registration, exclusive of the period, if any, during which such cancellation shall have been stayed by an order of the Interstate Commerce Commission or an order or decree of court subsequently vacated or set aside. Anything herein contained to the contrary notwithstanding, all actions and proceedings now or heretofore pending under or by virtue of any provision of the said act approved July 2, 1890, may be prosecuted and may be defended to final effect; and all judgments and decrees heretofore or hereafter made in any such actions or proceedings may be enforced in the same manner as though this act had not been passed.

It would not be profitable for me to spend any time in this discussion in comparing the provisions of the substitute with those of the original bill. In the main, it proceeds upon the same lines. In some important details the modifications are quite pronounced, but so far as they modify and materially change the propositions involved in the original bill they are understood to now represent the desires of the gentlemen behind the legislation, and so far as the legislation is subject to criticism, it is only fair to say that the criticism ought to be directed to that substitute, in which they have endeavored to obviate, so far as they thought it wise to do so, specific objections made to their original proposition.

In discussing some of the salient features of the proposed legislation, having reference now to the substitute, I will take up first the features of the bill which relate to labor organizations. Section 3 of the substitute appears in a different order from section 3 of the original bill, and is intended, I have no doubt, to be a substantial modification of the original section 3. No legal discussion of section 3 has ever been presented to the committee. The original section was objected to on the part of those appearing in opposition to the legislation, upon the ground that it very clearly exempted labor organizations from the operation of the Sherman antitrust law, to all intents and purposes legalized an interstate boycott, and practically neutralized the effect of the decision in the *Loewe v. Lawlor* case, announced February 3, 1908, and known as the "Danbury hat case."

Whether section 3 in the substitute was intended to obviate these objections the committee were not advised. The first provision in this section, which is somewhat uncertain in its meaning and for which no explanation was vouchsafed to the committee, provides that nothing in the Sherman antitrust act should be enforced so as to interfere with a "strike for any purpose not unlawful at common law."

Just exactly what the parties responsible for this legislation mean by this language, I do not know. If it was meant to apply

to interstate commerce all of the principles of common law relating to combinations, it would then make the Sherman antitrust law very much more drastic and oppressive than it is now with reference to labor organizations.

If, on the other hand, it was only intended to wipe out the Sherman antitrust law as to labor organizations and leave them subject to such inhibitions only as were "unlawful at common law," then the legislation would be absolutely meaningless and ineffective, because, as is thoroughly well known, there is no Federal common criminal law, and if common-law principles with reference to combinations in restraint of trade applied to interstate transportation, the enactment of the Sherman antitrust law would be a work of supererogation and entirely unnecessary.

Which one of these meanings was intended by the astute legal gentlemen responsible for the language of this section, I do not undertake to say. If the first, clearly it would be extremely offensive to the labor organizations and would not meet with the approval of the committee. If the second, it was an insidious effort to absolutely destroy the operations of the Sherman antitrust law as to labor organizations, thus by indirection, without disclosing clearly upon its surface, accomplish a result that was certainly not intended, if the statements of Mr. Low and Mr. Jenks, who were the principal promoters of the legislation before the committee, can be relied upon, because they distinctly said that under no circumstances did they wish any legislation passed that would legalize or authorize such a boycott as was denounced by the Supreme Court of the United States in the Danbury hat case.

The further language of this substitute, however, presented and urged by them very clearly, in my judgment, did authorize just exactly such a boycott, because it provided that the provisions of the act should not be enforced where there was a combination of employees "for the purpose of obtaining from employers peaceably or by any means not unlawful at common law, satisfactory terms," etc.

It will be noted that this does not confine the purpose to means unlawful at common law, because by the very language of the section the phrase "by any means not unlawful at common law" is alternative and not used as synonymous with "obtaining from employers peaceably."

Now, the fact is that in the Danbury Hat case the results accomplished, which were clearly subject to the prohibition of the Sherman antitrust law, according to the decision of the Supreme Court of the United States, were in every instance peaceable. It was specifically and distinctively a peaceable boycott. It was an attempt on the part of employees to get from their employers, "peaceably," satisfactory terms.

So also was the boycott denounced by Mr. Justice Gould in his decision in the Bucks Store and Range Company case; that was specifically and distinctly a case where the employees were seeking to obtain from their employers, "peaceably," satisfactory terms, and so forth.

There can be no question, in my judgment, but that the language of section 3 of the substitute was deliberately intended to legalize and authorize an interstate boycott in the teeth of the decision of the court in the Danbury Hat case. The attention of Mr. Jenks was called to this, what I believe to be the obvious construction, by myself, and he suggested that their attorneys insisted that such was not the proper construction. In answer to that suggestion, he was requested to furnish to the committee the opinion of the counsel for the gentlemen responsible for the promotion of the legislation, differentiating the language used in section 3 from the conditions involved in the Danbury Hat case and the Bucks Store and Range case, or what would be more satisfactory to the committee, to have their counsel present, so that they could be examined and the matter discussed for the purpose of ascertaining what the true construction, effect and intent of this ingenious language in section 3 were.

Not only did he fail to present his counsel before the committee, but he utterly failed to present from his counsel, whoever they may be, the slightest suggestion or discussion undertaking in any way to differentiate the language criticised, from the facts passed upon by the court in these two cases. And, in the absence of this, after the chairman of the committee specifically insisted that the language was so intended and susceptible of no other construction, I think I am entirely safe in saying that section 3 was a deliberate purpose to exempt labor organizations from the operations of the Sherman antitrust law, and to defeat the effect of the decision in the Danbury hat case.

The labor organizations are not entirely satisfied with this construction that has been placed on this language, and they insisted, through Mr. Gompers, that what is known as the "Wil-

son bill" should be made an amendment to the substitute, in order to protect, as they said, the rights of labor organizations. The Wilson bill, insisted upon by them as an amendment to the proposed legislation, reads as follows:

A bill (H. R. 20584) to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against any unlawful restraints and monopolies."

Be it enacted, etc., That the act approved July 2, 1890, entitled "An act to protect trade and commerce against any unlawful restraints and monopolies," be, and the same is hereby, amended by adding at the end of said act the following section:

"SEC. 9. That nothing in said act is intended nor shall any provision thereof hereafter be enforced so as to apply to organizations or associations not for profit and without capital stock, nor to the members of such organizations or associations."

"That nothing in said act is intended nor shall any provision thereof hereafter be enforced so as to apply to any arrangements, agreements, or combinations among persons engaged in agriculture or horticulture made with a view of enhancing the price of their own agricultural or horticultural product."

It will be noticed that this bill is substantially a repetition, with but little change in language, of the original proviso adopted in the Committee of the Whole on the part of the Senate as an amendment to the Sherman antitrust law, which amendment went to its final grave in the hands of the Judiciary Committee upon the part of the Senate after Senator Edmunds had so explicitly pointed out its effect and made it absolutely certain that no legislation containing any such exception could ever meet with his approval.

That the legislation proposed, without this amendment, would be, to the last degree, unsatisfactory to the labor organizations, is, perhaps, too obvious for discussion. This amendment is clearly open to every objection which I have heretofore made as to its unconstitutionality and its unwisdom and impropriety.

The significance of the decision of the Supreme Court in the Danbury hat case, and its application to labor organizations and their activities, can be no more effectively stated than by quoting from the address delivered by Mr. Samuel Gompers, on May 1, at Chicago, and reported in the June number of the American Federationist, in which he says, referring to this particular case:

Apart from the fact that this decision applies to the hat makers, it also applies to every man and woman who belongs to a labor organization. I have heard it claimed several times since the decision has been rendered that it does not affect the labor organizations. My friends, I think it is in Shakespeare's "Merchant of Venice" where Shylock makes the remark, "You might as well take from me my life as take from me the means whereby I live." Under this decision of the Supreme Court and under its other decisions rendered in the recent past they might as well dissolve and destroy the organizations of labor as to enforce these decisions.

If I understand the English language, this is equivalent to an assertion that if the labor organizations were deprived of the right of engaging in and prosecuting an interstate boycott, they might as well dissolve and destroy them. In other words, that their successful activities and the results that they expect to accomplish are rendered entirely nugatory, and hence the instrument to be used in accomplishing these results is the interstate boycott.

This is in entire harmony with the petition filed by the American Federation of Labor to intervene and be heard in opposition to the plaintiff in the Danbury hat case before the Supreme Court of the United States. This petition was filed by Mr. T. C. Spelling, as the attorney for the American Federation of Labor, and is signed by Mr. Samuel Gompers and Frank Morrison, by T. C. Spelling, attorney. It was filed on the 2d of December, 1907, and among other things this petition states:

To the Supreme Court of the United States:

Your petitioners, The American Federation of Labor, Samuel Gompers and Frank Morrison, mentioned in the complaint herein, respectively show:

That said American Federation of Labor is a voluntary association heretofore organized and having an office and place of business at the city of Washington, in the District of Columbia; that it has a constitution heretofore regularly adopted and a membership consisting of many other voluntary associations; that the said Samuel Gompers mentioned in the complaint as the chief agent of your petitioner, is its president and chief executive officer, and said Frank Morrison is its secretary; that the said The United Hatters of North America mentioned in said complaint, is one of the voluntary associations constituting said membership; that petitioners are financially and otherwise interested in the decision of the above-entitled case, and that a decision herein in favor of the plaintiff in error would seriously obstruct and hinder the said American Federation of Labor, petitioner, in carrying out the purposes for which it was organized, and destroy, at least to some extent, its usefulness to its members, and would likewise in like manner injure said members.

That is to say, if it were held that the organization could not engage in an interstate boycott it "would seriously obstruct and hinder the said American Federation of Labor in carrying out the purposes for which it was organized, and destroy, at least to some extent, its usefulness to its members."

The petition goes on to say:

Wherefore your petitioners respectfully pray that they may be permitted to file a brief and be heard on the side of the defendants in

error herein, and for such other relief as to the court may seem proper. And in amplification of this petition your petitioners respectfully represent the following facts:

First. That the constitution of said American Federation of Labor, petitioner, makes special provision for the prosecution of "boycotts," so called, when instituted by a constituent or affiliated organization, as is described in the complaint filed in the district court by the plaintiff in error herein, through the agency and pursuant to the approval of the executive council of petitioner; but that what are alleged in said complaint to be boycotts are in reality legal and proper proceedings set on foot and carried on in order to accomplish lawful ends of your petitioner and of said affiliated or constituent associations.

Second. That under the provisions of said constitution many so-called "boycotts" have been and several are now being prosecuted by petitioner pursuant to approval of its said executive council.

From this it would appear quite clearly that the boycott was the principal instrument contemplated by the constitution of the American Federation of Labor for the accomplishment of its purposes; and this seems to have been in Mr. Gompers's mind when he was making his speech, especially when he insisted that they "might as well dissolve and destroy the organization of labor as to enforce these decisions." That is to say, according to his point of view, as declared in his speech on the 1st of May, 1908, if the decision in the Danbury hat case was to be enforced, and his organization is to be prohibited from engaging in interstate boycott, it might as well be dissolved and destroyed.

This is a trifle inconsistent with his statement in relation to this matter, when his attention was called to it before the committee, when a portion of the extracts above referred to was read, and he was inquired of as follows:

The CHAIRMAN. I suppose that accurately states the attitude of your organization?

Mr. GOMPERS. Yes, sir; but that is not one of the fundamental principles.

The CHAIRMAN. Well, your constitution provides for the prosecution of boycotts, does it not?

Mr. GOMPERS. No, sir.

The CHAIRMAN. But this petition, signed by the American Federation of Labor, Samuel Gompers, and Frank Morrison, by T. C. Spelling, attorney, says:

"First. That the constitution of said American Federation of Labor, petitioner, makes a special provision for the prosecution of boycotts."

I know nothing about it except what I see here.

Mr. GOMPERS. The constitution makes provision for the selection of a committee on boycotts, and also regulates the manner or, rather, restricts the number of boycotts which an organization can apply for indorsement, and it also restricts the central bodies from indorsing certain boycotts.

Your questions make it necessary for me to say just a word more, if I may.

The CHAIRMAN. Certainly.

Then follows a discussion of the Danbury hat case by him which goes into the merits of the case rather than a discussion of the legal principles, and is therefore not quoted, but it can be found at page 64 of the hearings on House bill No. 19745.

An examination of their constitution discloses the fact that it makes specific provision for the prosecution of boycotts, and contains many detailed provisions relating thereto. I make the following quotation on this point from the official proceedings of the convention of the American Federation of Labor, held at Pittsburg, Pa., November 20, 1905:

The committee on boycotts made the following report and recommendation, which was adopted by the convention: "We must recognize the fact that a boycott means war, and to successfully carry on a war we must adopt the tactics that history has shown are most successful in war. The greatest master of war said that 'War was the trade of a barbarian, and that the secret of success was to concentrate all your forces upon one point of the enemy, the weakest if possible.' In view of these facts, the committee recommends that the State Federations and central bodies lay aside minor grievances and concentrate their efforts and energies upon the least number of unfair parties or places in their jurisdiction. One would be preferable. If every available means at the command of the State Federations and central bodies were concentrated upon one such, and kept up until successful, the next on the list would be more easily brought to terms and within a reasonable time none opposed to fair wages, conditions, or hours but would be brought to see the error of their ways and submit to the inevitable. Under the present system, our efforts are largely wasted and our ammunition scattered. Let us reduce the boycotts to the lowest possible number and concentrate our efforts upon those, and we feel certain better results will be obtained."

I think Mr. Gompers must have had this action of his Federation of Labor in mind when making the statement last quoted from him. It is certainly a frank and explicit statement of the spirit that animates his organization, and I am not prepared to say that it does not fitly characterize the boycott "as the trade of a barbarian."

The Wilson bill is intended to leave the Sherman antitrust law so that the boycott shall be legitimized, as it exempts labor organizations entirely from its operations. It attempts to authorize them to prosecute this "trade." In the June issue of the Federationist Mr. Gompers, the president of the American Federation of Labor, makes this assertion:

In the name of labor, in the interest of all our people, we urge and must insist upon the enactment of—

The Wilson bill (H. R. 20584) amending the Sherman antitrust law.

That is to say, the issue flatly and squarely presented by him to Congress and the American people is the authorization of the interstate boycott.

Upon this issue I do not hesitate to say that, so far as I am concerned, I shall not only refuse to authorize or permit the authorization or legalization of an interstate boycott, but I shall use every instrumentality within my power to prevent the passage of any legislation intended to accomplish that result.

The Wilson bill is distinctively class legislation. It destroys absolutely the equality of men before the law, but is insisted upon in the American Federationist in the copy to which I have alluded, in connection with the declaration in the same article, in which they object to the injunction as "denying to workers the constitutional right of equality before the law;" the same article which insists upon the constitutional right of equality before the law insists upon specific legislation which would be distinctively denying to all other people the equal protection of the law, and creates the labor organization a distinctive class with peculiar and special privileges which are not granted to others situated in like manner. But a little inconsistency like this does not in any way disturb what they look upon as the value of the argument with which they sustain their position. It may be proper to again observe that the combinations that Mr. Gompers thus insists on having authorized by law are capable of being developed into what is denounced by Mr. Secretary Taft in his great opinion in the Phelan case as a conspiracy of the American Railway Union that "stagger the imagination."

With this legislation demanded by Mr. Gompers on behalf of the American Federation of Labor it would be perfectly possible to duplicate, without limit, combinations and conspiracies that, in the language of Mr. Secretary Taft, would "stagger the imagination."

It would legitimate the conditions referred to by Judge Gray in his celebrated report (reference to which has already been made) in the following language:

It also becomes our duty to condemn another less violent, but not less reprehensible, form of attack upon those rights and liberties of the citizen which the public opinion of civilized countries recognizes and protects. The right and liberty to pursue a lawful calling and to lead a peaceable life, free from molestation or attack, concerns the comfort and happiness of all men, and the denial of them means destruction of one of the greatest, if not the greatest, of the benefits which the social organization confers. What is popularly known as the "boycott" (a word of evil omen and unhappy origin) is a form of coercion by which a combination of many persons seek to work their will upon a single person, or upon a few persons, by compelling others to abstain from social or beneficial business intercourse with such person or persons. Carried to the extent sometimes practiced in aid of a strike, and as was in some instances practiced in connection with the late anthracite strike, it is a cruel weapon of aggression, and its use immoral and antisocial.

To say this is not to deny the legal right of any man or set of men voluntarily to refrain from social intercourse or business relations with any persons whom he or they, with or without good reason, dislike. This may sometimes be un-Christian, but it is not illegal. But when it is a concerted purpose of a number of persons not only to abstain themselves from such intercourse, but to render the life of their victim miserable by persuading and intimidating others so to refrain, such purpose is a malicious one, and the concerted attempt to accomplish it is a conspiracy at common law, and merits and should receive the punishment due to such a crime.

And again:

* * * The temptation to resort to this weapon oftentimes becomes strong, but it is none the less to be resisted. It is an attempt of many, by concerted action, to work their will upon another who has exercised his legal right to differ with them in opinion and in conduct. It is tyranny pure and simple, and as such is hateful, no matter whether attempted to be exercised by few or by many, by operators or by workmen, and no society that tolerates or condones it can justly call itself free.

In the same report Judge Gray, with equal vigor denounces the black list. I do not hesitate to say that upon this question, involving the right of the boycott and black list, I stand without any hesitation with Judge Gray. It is proper also to say that every other person that appeared before the committee in the proposed promotion of this legislation disclaimed any desire to have any legislation passed that would authorize the boycott.

I understand the President to agree with the denunciations expressed by Mr. Secretary Taft and Judge Gray, since in his message of April 27, 1908, he says:

But we should sanction neither a boycott nor a black list which would be illegal at common law.

And in another message I think he specifically indorses the attitude taken by Judge Gray in connection with the boycott, in his report on the anthracite coal strike, and moreover it may be said in this connection, inasmuch as the Wilson bill is a deliberate attempt to completely exempt from the operations of the Sherman antitrust law labor organizations, that that amendment does not evidently have the support of the Presi-

dent of the United States, because in this same special message to which I have referred the President says:

A strong effort has been made to have labor organizations completely exempted from any of the operations of this law, whether or not their acts are in restraint of trade. Such exception would in all probability make the bill unconstitutional, and the legislature has no more right to pass a bill without regard to whether it is constitutional than the courts have lightly to declare unconstitutional a law which the legislature has solemnly enacted.

So, as I understand it, the President himself is opposed to the amendment insisted upon by the American Federation of Labor, without the incorporation of which they are opposed, as I understand it, to the adoption of the so-called amendment to the Sherman antitrust law.

I propose to make one other quotation from the report of Judge Gray, in which, after having referred to the fact that in that particular case the boycott was accompanied by quite a number of acts of violence and outrage, he says, covering, as I understand it, the boycott question, and the occurrences incidental to its operation in that particular case:

The practices which we are condemning would be outside the pale of civilized war. In civilized warfare women and children and the defenseless are safe from attack, and a code of honor controls the parties to such warfare which cries out against the boycott we have in view. Cruel and cowardly are terms not too severe by which to characterize it.

I do not wish to be understood as asserting that all the provisions of the proposed substitute were opposed by the American Federation of Labor. The chief feature of the bill is the requiring of the organizations that come within its scope and take advantage of its privileges to become registered and submit their contracts and agreements to the determination and approval of the Bureau of Corporations. This bill contemplated the registering of the labor organizations, but did not require them to file any contracts and agreements, for the reason that they were not corporations organized with capital stock or for profit. It repealed the provisions of the Sherman antitrust law, giving threefold damages; and this feature of the legislation, as I understand it, met with the approval of the Federation, although they were distinctly opposed to the requirements of registration or the submission of any contracts or agreements to the determination of the Bureau of Corporations.

It did not appear that there was any suit pending in any court where threefold damages might be recovered under the provisions of section 7 of the Sherman antitrust law, except the Danbury hat case above referred to.

They might well be satisfied with the provisions of this substitute relating to threefold damages, because the act, in my judgment, disclosed a reprehensible effort to legislate out of court the plaintiff in the Danbury hat case, and take away his right to obtain threefold damages.

Section 2 of the substitute provides—

That in any suit for damages under section 7 of the said act, approved July 7, 1890, based upon a right of action accruing prior to the passage of this act, the plaintiff shall be entitled to recover only the damages by him sustained, etc.

"Any suit for damages" clearly covers the Danbury hat case, because that is a suit for damages, and a suit "based upon a right of action accruing prior to the passage of this act" also covers the Danbury hat case, because that action was so based.

Therefore, in terms conclusive, but without mentioning the Danbury hat case by name, although it was distinctly admitted that that was the only case that anybody knew was pending or that would be affected thereby, this proposed amendment in terms deprived the plaintiffs in that case of their right to recover threefold damages to which they were entitled when their suit was brought. It was admitted in substance that section 2 legislated these plaintiffs out of court, and they were the only plaintiffs that could possibly be affected thereby.

But it was contended that the closing portion of section 5 legislated them back into court. That could have been done by providing that as to pending actions the act should not in any way affect them, which could have been done in two or three words. On the other hand, the bill provided, first, that pending actions might be prosecuted and defended to final effect, which, of course, has no connection whatever with the question of statutory measure of damages, and further provided that all judgments and decrees heretofore or hereafter made in any such actions or proceedings "may be enforced in the same manner as though this act had not been passed," which did not restore the right to threefold damages.

But section 2 of the act expressly provided that no judgment should be rendered for anything but single damages, and any judgment therefore rendered after the passage of the act would be rendered for single damages only, and the fact that the act provided that the judgment might be enforced in the same manner as though this act had not been passed had no effect what-

ever upon the measure of damages, of which the plaintiffs in the Danbury hat case were deprived by the express provisions of section 2.

The attention of the promoters of this legislation was specifically called to this apparent effort in the first bill to legislate the plaintiffs out of court and deprive them of their right to recover this measure of damages, and after their attention having been so called to it, they filed as a substitute the bill which I have just been criticizing.

I do not go so far as to say that either Mr. Low or Mr. Jenks, who seemed to be mainly responsible for and largely interested in the enactment of this legislation, had any such intent. My belief, however, is that whoever prepared the language of this act and put it into legislative shape did have a deliberate purpose by indirection to deprive the plaintiffs in the Danbury hat case of the benefits of the Sherman antitrust law. I have no doubt it was the hope and the expectation that the legislation might pass and accomplish this result, and perhaps the peculiar effect of the language might not be discovered.

Whether in relation to subsequent actions the damages should be single or threefold is a matter which I do not propose to take time to discuss, except to say that if the substitute, as suggested, applying to future litigation, became a law, it would separate into a class by itself actions at law brought to recover by reason of unlawful or criminal conduct, and deprive the plaintiffs in such case of what is a well-known common-law right, of their right to recover punitive and exemplary damages for torts maliciously and willfully committed, a right too familiar to require discussion or elaboration.

There would not seem to be on general principles any particularly good reason why defendants who were engaged in the violation of a statute and in the commission of a specific crime, and in its commission were doing an injury to a plaintiff, that in such a case and under such circumstances the plaintiff should be deprived of the ordinary common-law right to recover at least punitive and exemplary damages.

THE AMENDMENT AS RELATING TO COMBINATIONS OF CAPITAL.

This portion of the amendment is said to have two great objects: First, it requires all corporations or individuals who seek to get the benefit of its provisions to register themselves with the Bureau of Corporations, and in the case of corporations, to file such information concerning the organization of such corporation, its financial condition, its contracts, and its corporate proceedings as may be prescribed by general regulations from time to time to be made by the President pursuant to this act, the purpose of the act being to procure from the corporations availing themselves of the provisions of the act information which would give to the public the measure of publicity which is understood to be desirable in connection with their operation and control, not only for the purpose of informing the Congress as to the needs of future legislation, but for the purpose of giving to the public such information as would so far as may be protect them in connection with the operations of, and their investments in, organizations of that character.

Corporations thus registering themselves for the purpose of getting the benefit of the provisions of this act were to have conferred upon them privileges that do not now exist under the law.

In entire disregard of the legal features of this legislation, to which I have heretofore called specific attention, involving contracts in restraint of trade at common law, and combinations and conspiracies tending to monopolize trade, it was proposed to engraft upon this statute without reference to the question as to whether the qualification would relate to contracts in restraint of trade at common law or combinations and conspiracies, the element of reasonableness, or unreasonableness, and a most ingenious scheme was devised for the purpose of putting into operation or making an application of these qualifying terms.

It perhaps should be said in a general way, first, that it may be quite true that there is existing business embarrassment on account of the confusion or lack of correct apprehension as to the true scope of the Sherman antitrust law that prevails and on account of the further alleged fact that in the general conduct of business it is claimed that it is to an extent necessary to enter into arrangements and agreements of some character which are alleged to be proper and judicious and perhaps necessary to the general conduct of business, but which are believed to be technically in violation of the provisions of the Sherman antitrust law as now construed.

This in a general way was the claim suggested by both Mr. Low and Mr. Jenks, both of whom I may say in passing, impressed me as men of character, intelligence and ability, and having the sincere and earnest desire to correct what they believed to be a generally prevailing business embarrassment in

connection with this legislation. It ought to be said, however, that neither of these gentlemen had, or ever have had, any practical experience in business. Neither of them had any expert knowledge of the law relating thereto and had to depend largely for their facts and for their law upon other parties; and their statements, both in relation to the facts and the law, were in a large degree general and not specific and concrete.

The provisions concerning the reasonableness or unreasonableness of the contracts and agreements to be entered into by the corporations availing themselves of the provisions of this proposed amendment were extremely ingenious and to my mind very suggestive. It is provided by the specific terms of the proposed substitute that these contracts and agreements would be subject to the determination of the Commissioner. That the Commissioner, if of the opinion, after an examination, that the contract or combination was in unreasonable restraint of trade, should so order, stating in his order his reasons therefor; and it was further provided, if the Commissioner made no such order within thirty days from the date of the filing of the contract or agreement, that after the expiration of that time the Commissioner should make no order, such contracts and agreements thus becoming validated by the simple lapse of time, should be held to be *prima facie* reasonable. So that it appeared by the amendment that it would be incumbent upon the Government in a prosecution of the parties to such contract or agreement thus held by lapse of time to be reasonable to show that it was an unreasonable restraint of trade.

This right of the Government to attack such contracts or agreements as unreasonable is merely technical and unsubstantial, since the memorandum filed with the committee by the Commissioner of Corporations discloses the fact that the determination of the Commissioner or his failure to determine was intended by that Bureau to be final and conclusive. On this point the memorandum filed by Hon. Herbert Knox Smith, the Commissioner, which he was instructed to prepare by the President, says, among other things:

Within thirty days he will thus find out either that his contract is believed to be contrary to public policy and may be attacked by the Government, in which case he would thereafter enter upon it at his own very proper risk, or he would learn, on the other hand, that the Government saw no *prima facie* reason to disapprove it, and he would then know that he could go ahead and base his operations upon it, and that so long as it was not against public policy it could not be attacked under the Sherman law; and this would be all the average business man would care to know.

Now, bear in mind the fact that whether or not it was against public policy was reached in one of two ways—first, by a specific determination of the Commissioner that the contract was in unreasonable restraint of trade, and, second, by the failure of the Commissioner to determine at all, when after the lapse of thirty days, by the simple lapse of time, the contract and agreement would be held to be reasonable. So that the action or inaction of the Commissioner resulted in the determination of whether or not the contract was against public policy, and if it was inaction upon the part of the Commissioner it gave to the corporation the knowledge that they could go ahead and base "their operations upon it." That this was the distinct understanding of the Commissioner of Corporations as to the manner in which this legislation, if it became a law, was to be enforced, more clearly appears from his further statement in the same memorandum, in which he says:

It should be so that the Government can, by legal and regular methods make its election as to the kind of contract which it will prosecute or will not prosecute, and be able so to advise the parties to that contract that they may act upon definite knowledge.

In essence this section provides merely a regular procedure, available for all parties for exercising that discretion as to enforcement of law which is an inseparable part of administrative functions.

Then the Commissioner goes on to discuss the fact that the executive department has a discretion which it can exercise as to when and how and under what circumstances it will enforce the provisions of a criminal statute. This suggestion, in his memorandum made by authority of the President, I take to be an authoritative declaration that a decision by his Bureau, either by action or inaction, would be accepted and acted upon by the Department of Justice. Wherever, then, by the operation of thirty days' time alone a contract thus filed was held to be reasonable, the corporations interested therein could feel satisfied that although technically still open to attack in the courts, they need have no apprehension, because the Department of Justice would take this negative determination by the lapse of time as the rule by which they were to be governed in the enforcement of the provisions of the Sherman antitrust law, and no action would be brought thereunder for the purpose of assailing any contract thus determined by indirection not to be in unreasonable restraint of trade.

Although the substitute provides more or less complicated machinery for appeal, it is very clear that, so far as the Government is concerned, if the Commissioner of Corporations correctly

apprehends the intent of the legislation, this determination simply by the lapse of time would be to all practical intents and purposes conclusive upon the Government, because the Department of Justice would take its cue therefrom and never bring any action in relation thereto.

Now, then, it is to be observed that this would enable any great combination to practically determine for itself what should and should not be a reasonable contract in restraint of trade. It is very clear that there can be no contract or agreement entered into by a manufacturing or industrial corporation which is not bound to be ultimately reflected in the price to the consumer; and the question as to whether or not a contract or a combination between it and another corporation is or is not in reasonable restraint of trade must ultimately be determined by the question as to whether or not such contract or combination does or does not unduly increase the price to the consumer; and the price to the consumer is beyond all question the final test of the reasonableness or unreasonableness, according to the theory of the proposed amendment, of a combination in restraint of trade.

I may say here that I am at all times and under all circumstances unalterably opposed to placing in the hands of any administrative bureau the power to pass upon the price of products to the consumer, and the power to supervise and regulate and control the business of 87,000,000 of people.

Mr. Smith, the commissioner who appeared before the subcommittee, admitted that in case a contract or agreement was submitted to him for decision it would be necessary, in order to ascertain whether or no it was in unreasonable restraint of trade, to ascertain and determine what was the cost of producing the product. He said, as he was practically compelled to say, that the examination to be made by his Bureau would not be perfunctory and formal and of the rubber-stamp variety, but that there would be intelligent and careful investigations for the purpose of developing the facts. That being the case, it is obvious that as to a large number of combinations in this country it would be impossible to determine within thirty days' time whether the proposed contracts or agreements were or were not reasonable, involving an investigation of the cost of producing their product, the question of their capitalization, which are all involved legitimately in the question of determining what could be legitimately charged in order to produce a fair return to the parties engaged in the prosecution of the business. The great bulk of the large corporations would thus be able to file any contract or agreement that they saw fit to file, and have it validated by the simple lapse of thirty days' time, during which it would be physically impossible for the Bureau of Corporations to pass even in the most perfunctory manner upon the question as to whether or not the contract or agreement in question was in unreasonable restraint of trade.

The result is that this ingenious scheme would result in the validation of substantially every contract and agreement that would be filed by the great combinations in the country, and place entirely within their control the consumers who are interested in the price of their product.

This bill would have provided a wholesale immunity bath on an immense scale for every large and vicious combination in the country—self-devised, self-prepared, and self-administered.

I distinctly stated to the gentlemen promoting this legislation that I desired to know, first, what sort of contracts and agreements the great combinations seeking the advantage of this legislation desired to enter into, what purpose they expected to accomplish, how they intended to reach the result, and what the effect was to be upon the consumer. Upon this phase of the investigation absolutely no information of any kind was submitted to the committee. It was suggested and intimated that the distinguished gentlemen interested in various combinations would make statements to the committee at some time during the progress of the hearings which, I may say now, were very long and protracted, but at no stage of the investigation was any information of this kind vouchsafed. Mr. Jenks said, however, that some of the men engaged in business were now engaged in practices which, if disclosed, would subject them to criminal prosecution, and they could not be expected to disclose to the committee exactly what they were doing, but this was no answer to the inquiry. The contracts or agreements that they desired to make were entirely independent of the question as to what sort of arrangements they were now engaged in carrying out.

The chairman of the committee distinctly stated to the promoters of this legislation that he would absolutely decline to recommend any legislation until he knew what was sought to be accomplished, how it was intended to accomplish it, and what the result would be upon the vast mass of consumers in

the country. No one came before the committee to even intimate or suggest the kind of contracts, the purpose to be accomplished, the way in which it would be accomplished, and the effect upon the consumers of the country.

Moreover, the Commissioner of Corporations admitted that it would be necessary for him to pass on the cost of producing the product. When asked whether he would also pass upon the question of capitalization, there was submitted to him the concrete illustration of a corporation whose plant cost \$150,000 to create, afterwards included in a vast combination with hundreds of other corporations capitalized in the combination on the basis of a million and a half. He was then asked whether, in determining whether the contract and agreement submitted by such a combination was or not in reasonable restraint of trade, he would take into account the cost of the plant or its capitalization—\$150,000 or \$1,500,000. He distinctly refused to state to the committee what his conclusion under such circumstances would be. He was then informed by the chairman that the chairman would not be likely to turn over to his Bureau the question of determining whether a contract was in reasonable restraint of trade, in the absence of knowing whether his Bureau would base its determination upon the actual value or upon created and printed value, which might be ten times the amount of the real value.

The only reason that Mr. Smith was able to give for not informing me as to whether he would take into account, in determining the reasonableness of a contract, the actual value of \$150,000 or the capitalized value of \$1,500,000 was because it required him to lay down principles in advance that "I neither can lay down nor ought to lay down."

He finally admitted, however, that "Whoever is in the office should follow the principles so far as they are laid down by the common law and the courts."

He having finally suggested these as the principles that ought to be followed, I endeavored to ascertain from him how these principles would apply to the illustrations, and so inquired.

Mr. LITTLEFIELD. Laid down by the common law; but you are not prepared to tell us whether the common law would justify you in basing the right on the capital or the capitalization.

Mr. SMITH. No.

This seemed to exhaust that source of information.

I have no hesitation in saying, so far as I am concerned, that in connection with the propriety of submitting the business of 87,000,000 people to one bureau officer, I should decline under any and all circumstances to submit such a proposition until I knew first what sort of a combination it was desired to have legalized; and second, upon what principles of law the determination was to be reached. The hearing before the subcommittee, so far as these two questions are concerned, are an entire and absolute blank; and for that reason, if for no other, I should under no circumstances recommend this legislation.

Upon this point it is to be further observed that a combination or conspiracy tending to monopolize trade is beyond all question illegal at common law, and a combination or conspiracy to restrain interstate trade is also a criminal conspiracy or combination under the provisions of the Sherman antitrust law. I have never yet seen or heard of a legal proposition that would justify the efforts to make a crime reasonable, which would be the effect of this amendment to the Sherman law if it were adopted, because it expressly provides that combinations and conspiracies in restraint of interstate trade, if reasonable, will be valid. A reasonable crime, in my judgment, is unthinkable, and I do not believe that it is sound to undertake to predicate upon a conceded criminal condition the element of reasonableness for the purpose of exempting such supposed condition from criminality.

As Mr. Justice Taft has well said, in the language which I have already quoted:

We do not think that at common law there is any question of reasonableness with reference to such a contract.

The effort to ingraft upon the Sherman antitrust law an amendment the controlling and dominating features of which relate to combinations and conspiracies tending to the monopoly of trade is an effort to amend the statute by introducing therein an element undertaking to qualify a conceded criminal condition which has no precedent in legislation and no justification in authority.

The gentleman from Massachusetts [Mr. WASHBURN] made a very clear and succinct statement before the committee. It was obvious that he had given to this question a very intelligent, able, and discriminative investigation. He called attention to the fact that there were more than 5,000 corporations in Massachusetts that were engaged in contracts or combinations with each other for the purpose of protecting themselves against injurious competition, but conceded that the effect of all of these combinations and contracts was to increase to a certain extent the

price of the commodity to the consumer. This, of course, gave rise immediately to the question as to how far or under what circumstances the increase of the cost to the consumer could be justified and whether or not any legislation could be had to adequately meet the situation and properly regulate and control it so as to protect the rights both of the corporations and of the consumer.

It ought to be said in connection with the question as to what sort of combinations or contracts would justify the amendment proposed, that a letter from Mr. Andrew Carnegie was read, in which he claimed that there was one great product, an article of general consumption, as to which, in his judgment, it was quite proper, to quote his language, "that the railroad company and the manufacturers should be allowed to agree upon a common rate;" and he said: "I do not recall any other article of which this can be so clearly said." He said, further, that "in ninety-nine cases out of one hundred it will undoubtedly be to rob the community of its right to the benefits of free competition, disguise it as we may."

If Mr. Carnegie's view of the situation is correct, the condition upon which this legislation is to be justified shows an extremely small factor in the aggregate of business—1 per cent as against 99 per cent that is entitled to relief. It is at least open to doubt whether Congress would be justified in enacting legislation to relieve so small a factor when its operation would be vicious in the last degree as to the remaining portion. It must be borne in mind that there can be no general legislation that will not operate under some circumstances with great hardship and apparent oppression; and the Sherman antitrust law must necessarily be subject to such consequences, and that this by no means indicates any necessity for its amendment.

It may, perhaps, not surprise you to learn that the particular article that Mr. Carnegie had in his mind was steel rails. As to steel rails, I may observe in passing that the committee were not informed that the United States Steel Company was suffering by reason of the lack of any legislation enabling them to successfully conduct their business. The last report of the company shows that they had accumulated in profits about \$133,000,000, and after paying all fixed charges, operating expenses, and dividends, carrying to a surplus fund something like \$69,000,000.

To be perfectly frank about it, the assertion that 99 per cent of the cases to be affected are criminal and vicious and only 1 per cent legitimate does not impress me as a strong reason for the enactment of general legislation.

In the President's message of April 27, 1908, he quotes the finding of the finance committee of the city of Boston, Mr. Nathan Matthews, chairman, in which reference to what is known as the "Boston agreement," is made as follows:

Where, as in the case of the "Boston agreement," a number of the most important manufacturers and dealers in structural steel in this country, including the American Bridge Company, one of the constituent members of the United States Steel Corporation, have combined together for the purpose of raising prices by means of collusive bids, and false representations, their conduct is not only repugnant to common honesty, but is plainly obnoxious to the Federal statute known as the "Sherman or antitrust law."

Upon this, the President makes the following comment:

Surely such a state of affairs as that set forth emphasizes the need of further Federal legislation, not merely because of the material benefits such legislation will secure, but above all because this Federal action should be part, and a large part, of the campaign to waken our people as a whole to a lively and effective condemnation of the low standard of morality implied in such conduct on the part of great business concerns.

If I understand the comment of the President correctly he intends to severely censure the conduct referred to in the quotation above made. It is very clear that if Chairman Matthews is correct in his views that the conduct of the American Bridge Company, which he condemns without stint as being a most reprehensible conspiracy, shows a state of facts that is clearly within the provisions of the Sherman antitrust law, and would make at least the American Bridge Company, depending upon the facts that might be developed, clearly liable to punishment for engaging in such obnoxious and reprehensible combinations.

The fact that the American Bridge Company has been guilty of this conduct does not, as it seems to me, indicate the necessity for any additional legislation. It is now criminal, and I infer from the President's message his idea is that it ought to remain criminal. The only thing that it does indicate, in my judgment, is that the Department of Justice should have an injection of ginger or an acceleration of steam and zeal so that it might more effectively and actively prosecute combinations of that character, and particularly that combination, assuming the facts to be accurately stated. The only possible effect that the

proposed amendment to the Sherman antitrust law could have, if it became a law, upon this combination or conspiracy entered into by the American Bridge Company would be to give to the bridge company an opportunity to get complete immunity therefrom by filing its contract and agreement and having it determined to be reasonable by the inaction of the Commissioner after the lapse of thirty days' time, because it is quite clear that the contracts of the American Bridge Company could not by any exercise of diligence be passed upon by the Commissioner of Corporations within thirty days. The amendment would enable it to get a certificate of good character for precisely that same kind of a contract after the lapse of thirty days' time.

Mr. Henry R. Towne, representing the Merchants' Association of New York, made a very interesting statement of business conditions which he thought were legitimate and laudable which seemed to him to be embraced by a strict construction of the Sherman antitrust law, but did not undertake to suggest any definite and specific standards by virtue of which what might be known as "reasonable arrangements" or "contracts" could be determined. This really is the great difficulty in the whole matter, the inability to define by any specific and definite standard what would be a reasonable contract, combination, or conspiracy in restraint of trade.

The inherent difficulty undoubtedly is that the law never yet has ascertained or defined or undertaken to qualify combinations and conspiracies tending to monopolize trade because as a matter of law a reasonable conspiracy to monopolize trade is unthinkable; they are unlawful per se.

In this connection it may be useful for me to quote from the case of *Hopkins v. The United States* (171 U. S., 592), where the court describe in detail a large variety of business arrangements and agreements that are not within the scope of the Sherman antitrust law. Under these definitions very many of the difficulties suggested by the parties promoting this legislation are eliminated as elements of controversy:

The contract condemned by the statute is one whose direct and immediate effect is a restraint upon that kind of trade or commerce which is interstate. Charges for such facilities as we have already mentioned are not a restraint upon that trade, although the total cost of marketing a subject thereof may be thereby increased. Charges for facilities furnished have been held not a regulation of commerce, even when made for services rendered or as compensation for benefits conferred. (*Sands v. Manistee River Improvement Co.*, 123 U. S., 288; *Monongahela Navigation Company v. United States*, 148 U. S., 312, 329, 330; *Kentucky and Indiana Bridge Company v. Louisville, etc., Railroad*, 37 Fed. Rep., 567.)

To treat as condemned by the act all agreements under which, as a result, the cost of conducting an interstate commercial business may be increased would enlarge the application of the act far beyond the fair meaning of the language used. There must be some direct and immediate effect upon interstate commerce in order to come within the act. The State may levy a tax upon the earnings of a commission merchant which were realized out of the sales of property belonging to nonresidents, and such a tax is not one upon interstate commerce, because it affects it only incidentally and remotely, although certainly. (*Ficklin v. Shelby County Taxing District*, 145 U. S., 1.) Many agreements suggest themselves which relate only to facilities furnished commerce or else touch it only in an indirect way, while possibly enhancing the cost of transacting the business, and which at the same time we would not think of as agreements in restraint of interstate trade or commerce. They are agreements which in their effect operate in furtherance and in aid of commerce by providing for it facilities, conveniences, privileges, or services, but which do not directly relate to charges for its transportation nor to any other form of interstate commerce. To hold all such agreements void would, in our judgment, improperly extend the act to matters which are not of an interstate commercial nature.

It is not difficult to imagine agreements of the character above indicated. For example, cattle, when transported long distances by rail, require rest, food, and water. To give them these accommodations it is necessary to take them from the car and put them in pens or other places for their safe reception. Would an agreement among the landowners along the line not to lease their lands for less than a certain sum be a contract within the statute as being in restraint of interstate trade or commerce? Would it be such a contract even if the lands, or some of them, were necessary for use in furnishing the cattle with suitable accommodations? Would an agreement between the dealers in corn at some station along the line of the road not to sell it below a certain price be covered by the act, because the cattle must have corn for food? Or would an agreement among the men not to perform the service of watering the cattle for less than a certain compensation come within the restrictions of the statute? Suppose the railroad company which transports the cattle itself furnishes the facilities and that its charges for transportation are enhanced because of an agreement among the landowners along the line not to lease their lands to the company for such purposes for less than a named sum, could it be successfully contended that the agreement of the landowners among themselves would be a violation of the act as being in restraint of interstate trade or commerce? Would an agreement between builders of cattle cars not to build them under a certain price be void because the effect might be to increase the price of transportation of cattle between the States? Would an agreement among dealers in horse blankets not to sell them for less than a certain price be open to the charge of a violation of the act, because horse blankets are necessary to put on horses to be sent long journeys by rail, and by reason of the agreement that the expense of sending the horses from one State to another for a market might be thereby enhanced? Would an agreement among cattle drivers not to drive the cattle after their arrival at the railroad depot at their place of destination to the cattle yards where

sold for less than a minimum sum come within the statute? Would an agreement among themselves by locomotive engineers, firemen, or trainmen engaged in the service of an interstate railroad not to work for less than a certain named compensation be illegal because the cost of transporting interstate freight would be thereby enhanced? Agreements similar to these might be indefinitely suggested.

In our opinion all these queries should be answered in the negative. The indirect effect of the agreements mentioned might be to enhance the cost of marketing the cattle, but the agreements themselves would not necessarily for that reason be in restraint of interstate trade or commerce. As their effect is either indirect or else they relate to charges for the use of facilities furnished, the agreements instanced would be valid provided the charges agreed upon were reasonable. The effect upon the commerce spoken of must be direct and proximate. (*New York, Lake Erie and Western Railroad v. Pennsylvania*, 158 U. S., 431, 439.)

Before reaching a discussion of the legal effect of this amendment in prohibiting its application to contracts, combinations, and conspiracies that are held to be reasonable by some standard not as yet invented or suggested by anyone to the committee, it is interesting to note upon its practical phase that this matter is completely covered by Secretary Taft in his opinion in the Addyston pipe case, where he says, among other things:

The manifest danger in the administration of justice according to so shifting, vague, and indeterminate a standard would seem to be a strong reason against adopting it.

And again:

We think the cases hereafter cited show that the common-law rule against restraining of trade extends to all articles of merchandise, and that the introduction of such a distinction only furnishes another opportunity for courts to give effect to the varying economical opinions of its individual members.

Inasmuch as Mr. Secretary Taft is of the opinion that the alleged standard proposed to be introduced by this amendment is shifting, vague, and indeterminate, I think I may safely assume that he would be opposed to the enactment of any legislation of this character.

This demonstrates that Mr. Low had a solid foundation for his remark when he said he did not know what a reasonable restraint of trade was and did not know of anybody else that did.

It is interesting to note, before I pass to the discussion of the effect of the proposed amendment upon the criminal and penal provisions of the Sherman antitrust law, that the Supreme Court of the United States, in the case of the Cincinnati Packet Company v. Bay (200 U. S., 184), have distinctly held that contracts and agreements upon which reasonableness and unreasonableness are predicated at common law do not as matter of fact come within the scope of the present Sherman antitrust law. In that case they held that a contract for the sale of a vessel, in connection with which the parties thereto agreed not to engage in the business in which the vessels were before that time engaged, was not a contract that came within the scope of the Sherman antitrust law, saying:

This being our view of the covenant in question, whatever differences of opinion there may have been with regard to the scope of the act of July 2, 1890, there has been no intimation from anyone, we believe, that such a contract, made as part of the sale of a business and not as a device to control commerce, would fall within the act. On the contrary, it has been suggested repeatedly that such a contract is not within the letter or spirit of the statute. (*United States v. Trans-Missouri Freight Association*, 166 U. S., 290, 329; *United States v. Joint Traffic Association*, 171 U. S., 505, 568.) And it was so decided in the case of a patent. (*Bement v. National Harrow Company*, 186 U. S., 70, 92.) It would accomplish no public purpose, but simply would provide a loophole of escape to persons inclined to elude performance of their undertakings, if the sale of a business and temporary withdrawal of the seller necessary in order to give the sale effect were to be declared illegal in every case where a nice scrutiny could discover that the covenant possibly might reach beyond the State line. We are of opinion that the agreement before us is not made illegal by either of the provisions thus far discussed.

The court thus held distinctly that contracts of that character are not within the scope of the Sherman antitrust law, leaving within its scope only contracts, combinations, and conspiracies tending to the monopoly of trade.

CHARACTER OF POWER VESTED IN COMMISSIONER.

There was considerable discussion before the committee, in which I do not propose to indulge at any length, as to whether the power that was to be vested in the Commissioner of Corporations by the proposed amendment was executive, judicial, or legislative or a combination of two or more of them. If executive, the action of the Commissioner in the executive capacity would be clearly conclusive and binding and could not be reviewed by the courts, either directly or indirectly, by way of appeal, because the exercise of executive discretion within its sphere is not subject to either legislative or judicial control.

If judicial, then the question arose whether it was adequately and competently vested in the Commissioner and whether an executive officer under those conditions could exercise a judicial power.

If legislative, then it would be an attempt to delegate to an executive officer legislative power, which the Congress has no power to do.

In this connection it is to be borne in mind that it is well settled that the power to review the question in connection with a public utility corporation, such as a railroad, as to whether or not a rate which has been charged is or is not reasonable, is a judicial power. If the railroad company has charged an unreasonable rate of freight, and collected it under protest from the shipper, the shipper has a well-recognized right at common law to recover back from the carrier the amount of the freight that is in excess of what would be a reasonable sum; and if, on the other hand, the shipper has not paid for the carriage of the property, the carrier can recover only what is a reasonable sum. But whoever heard of a recovery in court of a part of the sum paid for an article of merchandise on the ground that the price charged was unreasonable or excessive, in the absence of fraud in the contract of sale?

The power to fix the rate of transportation for the future is a legislative power, and this power can not be delegated to another body. It may be that the legislature can fix a specific and definite standard by which a reasonable rate to operate in the future may be determined, and delegate to some commission or body the power to determine what the rate shall be, measured by that standard, but no case can be found in the absence of specific constitutional provisions which sustains the delegation of the entire power without the establishing of a standard to any body or commission.

Upon this point the court said, in the case of *Interstate Commerce Commission v. The Railway Company* (167 U. S., 499):

It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

My attention has not been called to any legislation undertaking to fix the price of an article of merchandise. This bill, in the last analysis, however, undertakes to vest in the Commissioner of Corporations the power to determine what the price of all articles of merchandise that might be the subject of contracts and combinations filed with him shall be, but does not in any sense establish any standard by which it can in advance be determined how that conclusion is to be reached. As I have already shown, the Commissioner of Corporations either did not know what were the rules of common law governing that question, or if he did know, absolutely refused to state what he understood them to be.

WOULD THE AMENDMENT MAKE THE LAW A POLITICAL FACTOR?

I do not take time to discuss what is claimed to be an important political criticism of this bill. It is claimed, and it is true, that it would be in the power of the President under its provisions to change at any time the regulations under which corporations would be entitled to file their certificates and become entitled to the benefits of the act. It is also true that the Commissioner, even after having acted or having failed to act, on notice to the parties, might review his former decision or failure to decide and reach a different conclusion in relation to any contract or combination on file.

It is claimed that this power, arbitrary in its character, is liable to abuse; that if the bill became a law during the existing Administration, for instance, there would be no guaranty or certainty upon the part of the corporations who might avail themselves of its immunities as to what new regulations might be imposed by the next Administration as conditions for retaining their certificates and remaining immune.

It is apparent that a change of Administration might produce an entire change of policy and deprive the great combinations of their self-administered immunity. Whether this would tend to direct their political contributions into the coffers of the party whose continuance in power would maintain the continuance of their certificates of good character is a matter as to which the disseminators of public information would no doubt have and express vigorous opinions. There are public men, it is said, who have insisted that the control of 51 per cent of any product was a demonstration of the vicious character of the corporation. This standard would leave numerous victims outside the breastworks, and it is not impossible that it might intensify the political conflict if the result involved the application of such a standard.

THE AMENDMENT WOULD DESTROY THE ACT AS A PENAL STATUTE.

To my mind the most serious legal objection to this proposed amendment is the fact that the introduction of the element of reasonableness or unreasonableness would entirely invalidate the penal provisions of the act. If these were invalidated, there would not be enough of the act left for any extended discussion.

From all the authorities submitted by the opponents of the bill, with the answers thereto on the part of Hon. Herbert Knox Smith, my judgment is there is very little question that such would be the result of the adoption of the proposed amendment.

I do not go so far as to say that the gentlemen actively promoting the legislation contemplated or intended such a result. Nor am I certain that the legal gentlemen whose names were not disclosed, who were apparently responsible for the peculiar provisions of the act, contemplated such a result. I think it quite probable that they were undertaking to accomplish results that they thought might be advantageous to the interests that they represented, without taking into account the question as to what the effect of the amendment proposed would be upon the act itself.

Upon this question the following authorities, in my judgment, are conclusive:

In 26 Indiana, App. 279, the court was passing upon an act of the legislature, which provided:

It shall be unlawful for any person to haul over any turnpike or gravel roads at any time when the same is (are) thawing through, or is (are), by reason of wet weather, in condition to be cut up and injured by heavy hauling, a load on a narrow-tired wagon of more than 2,500 pounds.

The court held that the act was invalid, on the ground that it was indeterminate and uncertain, saying:

There must be some certain standard by which to determine whether an act is a crime or not, otherwise cases in all respects similar, tried before different juries, might rightfully be decided differently, and a person might properly be convicted in one county for hauling over a turnpike in that county, and acquitted in an adjoining county of a charge of hauling the same load on the same wagon over a turnpike in like condition in the latter county, because of the difference of conclusions of different judges and juries based upon their individual views of what should be the standard of comparison of tires, derived from their varying experiences or the opinions of witnesses as to what difference of width of tires would constitute one wagon a narrow-tired wagon and another a broad-tired wagon.

In the case of the Chicago and Northwestern Railroad Company v. Dey, et al. (35 Fed. Rep., 866), the opinion by Justice Brewer, the court said:

The next proposition of complainant is that the law is a penal one; that it imposes enormous penalties without clearly defining the offenses. It will be observed that section 2 requires that all charges shall be reasonable and just. Section 23 provides that if any railroad company shall charge more than a fair and reasonable rate of toll, or make any unjust charge prohibited in section 2, it shall be deemed guilty of extortion, and, by section 26, be subject to criminal prosecution, with a large penalty. Now, the contention of complainant is that the substance of the provisions is that if a railroad company charges an unreasonable rate it shall be deemed a criminal and punished by fine, and that such a statute is too indefinite and uncertain, no man being able to tell in advance what in fact is, or what any jury will find to be, a reasonable charge. If this were the construction to be placed upon this act as a whole, it would certainly be obnoxious to complainant's criticism, for no penal law can be sustained unless its mandates are so clearly expressed that any ordinary person can determine in advance what he may and what he may not do under it. In Dwar. St., 652, it is laid down "that it is impossible to dissent from the doctrine of Lord Coke, that acts of Parliament ought to be plainly and clearly, and not cunningly and darkly, penned, especially in legal matters." (See also United States v. Sharp, Pet. C. C., 122; The Enterprise, 1 Paine, 34; Bish. St. Cr., sec. 41; Lieb. Herm., 156.) In this the author quotes the law of the Chinese Penal Code, which reads as follows:

"Whoever is guilty of improper conduct, and of such as is contrary to the spirit of the laws, though not a breach of any specific part of it, shall be punished at least 40 blows; and when the impropriety is of a serious nature, with 80 blows."

There is very little difference between such a statute and one which would make it a criminal offense to charge more than a reasonable rate.

In Tozer v. The United States (52 F. R., 917), the facts are stated as follows:

George K. Tozer was indicted for a violation of the Interstate commerce act prohibiting undue preferences. The court sustained a demurrer to the fourth count, and the defendant was convicted under the second and third counts. The court subsequently denied defendant's motion for a new trial and an arrest of judgment, and from the judgment of conviction the defendant brings error.

Justice Brewer, in delivering the opinion of the court, said:

But in order to constitute a crime the act must be one which the party is able to know in advance whether it is criminal or not. The criminality of an act can not depend upon whether a jury may think it reasonable or unreasonable. There must be some definiteness and certainty. In the case of Chicago and Northwestern Railroad Company v. Dey (52 Fed. Rep.) I had occasion to discuss this matter, and I quote therefrom as follows:

The court then quoted the part of the Dey case which I have already cited, and said:

Applying that doctrine in this case, and eliminating the idea that the through rate is a standard of comparison of the local rate there is nothing to justify a verdict of guilty against the defendant.

In the case of Louisville and Nashville Railroad Company v. Commonwealth (99 Ky., 133) Judge Hazelrigg, delivering the opinion of the court, said:

The indictment in this case charges that the appellant did unlawfully charge, collect, and receive from A. Vancleave & Co. the sum of \$41.70 as toll or compensation for the transportation of a carload of coal, weighing 53,800 pounds, being at the rate of \$1.55 per ton, from Pittsburg, Ky., to Lebanon, in Marion County, over the line of said railroad, a distance of — miles, the said rate of \$1.55 per ton for the said transportation of said coal being more than a just and reasonable compensation therefor, contrary to the form of the statute, etc.

A conviction followed, and from the judgment on the verdict of the jury for the sum of \$500 the company has appealed.

Its complaints are that the statute prohibiting extortion by railroad companies, and providing a penalty therefor, prescribes no standard as to what is just and reasonable for the guidance of the corporation, and altogether fails to define what it may and what it may not do; that it is, therefore, void for uncertainty; that even if the statute is valid, the indictment states no facts showing the appellant guilty of the offense charged.

The chief question to be considered is the one affecting the validity of the statutes, the provisions of which are found in sections 816 and 819 of the Kentucky Statutes. The first-named section reads as follows: "If any railroad corporation shall charge, collect, or receive more than a just and reasonable rate of toll or compensation for the transportation of passengers or freight in this State, or the use of any railroad car upon its track, or upon any track it has control of or has the right to use in this State, it shall be guilty of extortion."

Section 819 fixes the penalty for the first offense at not less than \$500 nor more than \$1,000 and increases the penalty for subsequent infractions of the law. The circuit court of any county into or through which the road runs, and the Franklin circuit court, are given jurisdiction of the offense, the prosecution to be by indictment or action in the name of the Commonwealth, upon information filed by the board of railroad commissioners.

That this statute leaves uncertain what shall be deemed a "just and reasonable rate of toll or compensation" can not be denied, and that different juries might reach different conclusions on the same testimony as to whether or not an offense has been committed must also be conceded.

The criminality of the carrier's act, therefore, depends upon the jury's view of the reasonableness of the rate charged; and this latter depends on many uncertain and complicated elements.

That the corporation has fixed a rate which it considers will bring it only a fair return for its investment does not alter the nature of the act. Under this statute it is still a crime, though it can not be known to be such until after an investigation by a jury, and then only in that particular case, as another jury may take a different view, and, holding the rate reasonable, find the same act not to constitute an offense. There is no standard whatever fixed by the statute, or attempted to be fixed, by which the carrier may regulate its conduct; and it seems clear to us to be utterly repugnant to our system of laws to punish a person for an act the criminality of which depends not on any standard erected by the law which may be known in advance, but on one erected by a jury. And especially so as that standard must be as variable and uncertain as the views of different juries may suggest and as to which nothing can be known until after the commission of the crime.

If the infliction of the penalties prescribed by this statute would not be the taking of the property without due process of law and in violation of both State and Federal constitutions, we are not able to comprehend the force of our organic laws.

It is to be noticed that this case is predicated upon language substantially identical with that which it is proposed to inject into the Sherman antitrust law by this amendment, and the opinion of the court above expressed is as applicable to the language proposed in the amendment as it was to the language in the case passed upon by the court.

The court cites the opinion of Mr. Justice Brewer in the case in 35 F. R., 866, and also the Tozer case in 52 F. R., 917. After having cited the opinion of Judge Baxter, in the case of Louisville and Nashville Railroad Company v. Railroad Commission of Tennessee (16 Am. and Eng. Railroad Cases, 15), which sustains precisely the same point, the court said:

When we look to the other side of the question we find the contention of the State supported by neither reason nor authority. No case can be found, we believe, where such indefinite legislation has been upheld by any court where a crime is sought to be imputed to the accused.

The same question was considered by the court in the case of Commonwealth v. Louisville and Nashville Railroad Company (46 S. W. Rep., 700), where a statute prohibited a corporation from giving any undue or unreasonable preference or advantage to any particular persons or localities, in which case the court said:

It seems to us the opinion of this court in the case of Louisville and Nashville Railroad v. Commonwealth (35 S. W., 129), is decisive of this, for "undue or unreasonable preference or advantage to any particular person or locality" is just as indefinite and uncertain as the phrase "just and reasonable rate of toll or compensation."

In the case of McChord v. The Louisville and Nashville Railroad Company (183 U. S., 498), after quoting the Kentucky case (99 Ky., 133), the Supreme Court of the United States said that the former law under which that decision was rendered having been found defective, had been amended by later acts which established a definite standard, and sustained the statute for that reason, approving at the same time the reasoning of the court in the other cases.

In the case of Czarra v. Board of Medical Supervisors (25 Appeal Cases, D. C., p. 450), the court, holding a statute invalid that was indefinite in its terms providing for the revoking of a physician's license for unprofessional or dishonorable conduct, said:

In all criminal prosecution the right of the accused to be informed of the nature and cause of the accusation against him is preserved by the sixth amendment. In order that he may be so informed by the indictment or information presented against him, the first and fundamental requisite is that the crime or offense with which he stands charged shall be defined with reasonable precision. He must be informed by the law, as well as by the complaint, what acts or conduct are prohibited and made punishable. In the exercise of its power to regulate the

conduct of its citizens within the constitutional limitations, and to declare what shall constitute a crime or punishable offense, the legislature must inform him with reasonable precision what acts are intended to be prohibited. * * *

"Reasonable certainty, in view of the conditions, is all that is required, and liberal effect is always to be given to the legislative intent when possible. But when the legislature declares an offense in words of no determinate signification, or its language is so general and indefinite as that it may embrace within its comprehension not only the acts commonly recognized as reprehensible, but others also which it is unreasonable to presume were intended to be made criminal, the courts possess no arbitrary discretion to discriminate between those which were and those which were not intended to be made unlawful, can do nothing else than declare the statute void for its uncertainty."

In the case of *ex parte Andrew Jackson* (45 Ark.), the court held a Federal statute void for indefiniteness and uncertainty, which made it a crime for anybody to commit an offense against good morals, for precisely the same reasons and upon the same ground laid down by the courts in the citations to which I have already called attention.

Upon this point the committee were presented with a very interesting and somewhat extraordinary discussion of the law from the Commissioner of Corporations. In the memorandum filed by the Hon. Herbert Knox Smith, he discusses this question of the effect of the amendment, taking the ground that the authorities did not justify the conclusion to which I have heretofore arrived. His first legal suggestion in connection with this question, which needs consideration, is:

The only case at all analogous which is opposed to this view (that is, his view) is that of *United States v. Tozer* (52 Fed. Rep., 917), where it was held that there can be no conviction under the provisions of an act prohibiting undue preference in a case where the jury is required to determine whether the preference is reasonable or unreasonable.

As to this suggestion of the Commissioner, it is to be said that a representative of his office was in attendance upon the committee at every one of its hearings, taking notes for the use of the Commissioner, and that all of the cases to which I have called attention in this speech were specifically presented to the committee and discussed in the presence of this representative of the Commissioner of Corporations, so that at least a representative of the Commissioner had definite and specific knowledge that the case of the *United States v. Tozer* was not the only case at all analogous, but he had definite and specific information that there were not only other cases analogous, but that there were several cases specifically and precisely in point against the contention made by the Commissioner. Instead of the case of *United States v. Tozer* being the only case at all analogous, the following cases, the most of which are in point, and all of them, beyond all question analogous, had been cited and discussed:

- 26 Ind. Appeals, 279;
- 35 Fed. Rep., 866;
- 45 Ark.;
- 46 S. W., 700;
- 99 Ky., 133;
- 8 Am. and Eng. Enc. of Law, p. 935;
- 183 U. S., 498.

How the Commissioner came to make this statement the committee is not advised.

Further continuing the discussion, the Commissioner says, in the case of *Czarra v. Board of Medical Supervisors* (25 App. Cases, D. C., 443):

The medical practitioner was convicted under the act of Congress approved June 3, 1896, of "unprofessional and dishonorable conduct." The point considered by the court was whether these words were sufficient to satisfy the sixth amendment, which preserves the right of the accused in all criminal prosecutions to be informed of the nature and cause of the accusation against them. In this case the court said:

"This obvious duty must be performed by the legislature itself and can not be delegated to the judiciary. It may doubtless be accomplished by the use of words or terms of settled meaning or which indicate offenses well known to and defined by the common law. Reasonable certainty in view of the conditions is all that is required, and liberal effect is always to be given to the legislative intent when possible."

This is all the Commissioner does say about that case, and its effect and what was decided therein. If the English language is given its ordinary and usual signification in view of the fact that the Commissioner saw fit to italicize the words "was convicted," this statement of the *Czarra* case is equivalent to the assertion on the part of the Commissioner that there was a conviction that was sustained, and that notwithstanding the indefiniteness of the language the court sustained the validity of the statute. That this statement of the Commissioner, in his typewritten memorandum, is not an inadvertence, appears

very clearly from the fact that the Commissioner appeared before the committee more than a week before he submitted his written memorandum, and in his address upon that occasion made, in substance, the same statement with reference to the *Czarra* case that appears in his memorandum.

I hold in my hand the *Czarra* case. In the first place, there was no conviction under the statute. The statute provided a penalty for practicing medicine after the revocation of a license, and authorized the Commissioners to revoke the license for unprofessional or dishonorable conduct.

The license had been revoked. Nothing else had been done, although it is quite true that the revoking of the license laid the foundation for a criminal prosecution, provided *Czarra* continued to practice his profession, so that there was no conviction; and, in the next place, instead of sustaining the statute and the action of the Commissioners in revoking the license, the court said:

For the reasons heretofore given we are of the opinion that the order appealed from must be reversed with costs and the cause remanded with directions to dismiss the complaint.

The "reasons" were that the statute was too indefinite and uncertain.

So that this case, instead of sustaining the contention of the distinguished Commissioner of Corporations, is a specific and direct authority in opposition thereto, and his statement of it is a complete misstatement.

In the next case, *Johnson v. Southern Pacific Company* (117 Fed. Rep., 469), by which the Commissioner proposed to sustain his contention he is equally unfortunate in his attempt to accurately state the law. He said:

The act of March 2, 1893, known as the "safety-appliance law," makes it unlawful for any common carrier engaged in interstate commerce to run any train in such traffic that has not a "sufficient number of cars in it so equipped with power or train brakes that the engineer of the locomotive drawing such train can control its speed without requiring a brakeman to use the common hand brakes for that purpose" (sec. 1).

A number of convictions have been had under this act, and the point of indefiniteness has never been successfully raised, if raised at all. In *Johnson v. Southern Pacific Company* (117 Fed. Rep., 469), the court said, referring to this act:

"The act of March 2, 1893, is a penal statute, * * * its terms are plain and free from doubt and its meaning is clear."

The Commissioner in this remark and citation evidently relies upon the fact that here was a statute requiring a "sufficient number," an indefinite and uncertain term, and then leaves the impression, or in fact specifically states, that this provision of that statute had been sustained and a number of convictions had under it, and that in relation thereto the point of indefiniteness had never been successfully raised.

Section 1 of the act of 1893, to which the Commissioner refers, reads:

That from and after the 1st day of January, 1898, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

This, it will be observed, contains two propositions, the first specific and definite, prohibiting a common carrier from using any locomotive engine not equipped with a power driving-wheel brake and appliances for operating the train-brake system; the second prohibiting it from running any train that has not a sufficient number of cars in it so equipped with power or train brakes, etc.

The second proposition in the section contains the indefinite and indeterminate language "sufficient number" upon which the Commissioner of Corporations relies to sustain his contention that language as indefinite as the term unreasonable has already been incorporated in legislation and been sustained by the courts.

Having these two propositions in mind, let me call attention to the portion of the opinion from which the Commissioner of Corporations quoted, and it will presently appear that the quotation that he made was a deliberate misquotation, because the court was not, at that stage of the opinion, discussing the second proposition in the statute containing the indefinite phrase "sufficient number."

The opinion reads:

The act of March 2, 1893, is a penal statute, and it changes the common law. It makes that unlawful which was innocent before its enactment, and imposes a penalty, recoverable by the Government. Its terms are plain and free from doubt, and its meaning is clear.

Now follows the portion of the statute upon which the language of the court was predicated. The court says:

It declares that it is unlawful for a common carrier to use in interstate commerce a car which is not equipped with automatic couplers,

and it omits to declare that it is illegal for a common carrier to use a locomotive that is not so equipped.

An examination of the opinion discloses the fact, first, that the case was not a criminal prosecution, but was a civil action to recover damages for personal injury. The question was: Did sections 1, 2, 6, and 8 of the act of 1893 relieve the plaintiff of the assumption of risk, so that he was entitled to recover, although he knew of the negligent condition in which the cars were being operated?

The portion of section 1 which the court quoted in its opinion as applicable to the controversy pending before it contains only the first proposition to which I have alluded. The court quoted this much only of the section:

SEC. 1. That from and after the 1st day of January, 1898, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system.

The court stopped there, leaving out of consideration entirely the second proposition, which included the element of a "sufficient number," referred to by the Commissioner in his memorandum, and the language used by the court quoted by the Commissioner of Corporations, instead of being applicable to the proposition in the section including the indefinite term "sufficient number" applied, and applied only, to the first proposition in the statute, and had no relation whatever to a construction of this indefinite and indeterminate language.

The portion of the statute to which the court referred when it said, "Its terms are plain and free from doubt and its meaning is clear," is not the portion quoted in the Commissioner's memorandum, but is the portion which declares that it was unlawful for a common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system.

The case does not justify the conclusion attempted to be drawn by the Commissioner in his memorandum. The court did not directly or indirectly, by inference or otherwise, undertake to construe the term "sufficient number." If the Commissioner had quoted all of the opinion relating to the question there discussed and considered, that fact would have been too obvious for discussion. The Commissioner asserts that a number of convictions have been had under this act and that the point of indefiniteness has never been successfully raised. Not having been able to find any convictions, before I decided to discuss or comment upon this statement of the Commissioner, I called the attention of his Bureau to the fact that I had not been able to find any convictions, to say nothing of a number, and asked them to furnish me the facts upon which the Commissioner based his statement.

In answer to my inquiry I received the following letter:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF CORPORATIONS,
May 6, 1908.

HON. CHARLES E. LITTLEFIELD,
House of Representatives, Washington, D. C.

DEAR SIR: In the absence of Commissioner Smith, I beg to say, in reply to your verbal inquiry in regard to the words "A number of convictions have been had under this act" (the safety-appliance act), on page 441 of the hearing on House bill 19745, that the statement was evidently made inadvertently, though the opinion of Judge Evans in the United States v. Illinois Central Railroad Company, dated November 1, 1907, holds the suits under this act to be criminal prosecutions. A copy of this decision is sent you herewith.

I also inclose a memorandum furnished me to-day by the Secretary of the Interstate Commerce Commission; the "order increasing percentage;" ten cases considered applicable by the Commissioners, and the proof of a very recent case not yet in print.

Very respectfully,

E. DANA DURAND,
Acting Commissioner.

An examination of this opinion of Judge Evans discloses the fact that while he decided that the safety-appliance act is a criminal statute and that all violations of its provisions are in a broad sense crimes and misdemeanors, he does not predicate that language upon the indefinite portion of section 1 of the act of 1893, because the very beginning of his opinion discloses the fact that the only portion of that act relating to the subject that he was considering in his opinion is the first part of the section, which is definite and specific, and as to that the Judge says:

Section 1 of the act of March 2, 1893, as amended, known as the "safety-appliance act," provides that "It shall be unlawful for any common carrier engaged in interstate commerce to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving wheel brake and appliances for operating the train-brake system."

Not including, as you will observe, that portion of the section which undertakes to establish the indefinite offense of a "sufficient number."

So that this opinion of Judge Evans, even though it holds that the act is criminal in its character, is absolutely no justification

for the conclusion of the Commissioner that the term "sufficient number" has been held to be an adequate description of a criminal offense. The opinion does not either directly or indirectly refer to that portion of the section. As bearing upon the statement that a number of convictions have been had under that act, and that the point of indefiniteness had never been successfully raised, the memorandum of the Interstate Commerce Commission inclosed in the Bureau's letter to me is extremely significant. It reads as follows:

There have never been any convictions under the so-called "safety-appliance law" in the sense that they are criminal prosecutions. All the prosecutions have been by civil suits and not by criminal procedure. As will be noted by reference to the act, it is a penal statute for the recovery of a specific amount, namely, \$100, for each violation.

It has also been held by a majority of the courts that the law is absolute and that reasonable care or due diligence is not a defense.

There has never been any case brought where the charge was that there was not a sufficient number of cars so equipped with power or train brakes that the engineer of the locomotive drawing such train can control its speed without requiring the brakeman to use the common hand brakes for that purpose. The law was amended March 2, 1903, for the very reason that it was believed that this was so indefinite that a prosecution under this section would have been almost impossible. For that reason Congress amended the law and fixed a definite number of cars that should be equipped, namely, 50 per cent, and left it within the power of the Commission to increase the percentage. This they have done by increasing the percentage to 75 per cent. No prosecutions have been brought under this section where there was more than the required percentage of cars having their brakes used and operated.

It is true that Judge Evans, in the western district of Kentucky, has held that this is a criminal statute, but this decision is at variance with every other decision which we have had in nearly a thousand cases which have been brought.

I can understand how it may have been an inadvertence in a paper prepared with deliberation for the purpose of sustaining the contention of the Commissioner of Corporations to state that a number of convictions have been had under this act, intending to be understood that they were had under that provision of it relating to a "sufficient number," although there were none. But how it could have been an inadvertence to assert that the point of indefiniteness had never been successfully raised, giving the inference that it had been raised unsuccessfully in a number of cases, where there were no such cases, is not quite clear to me.

Let us sincerely hope that the conclusions of the Commissioner of Corporations, reached as a result of the multitudinous and continuous investigations in which his Bureau is or has been engaged, are not characterized by the same painful inadvertence as appears in this vigorous effort to promote the passage of legislation that will vest in his Bureau this tremendous power. If, unhappily, they should be so characterized, it may be doubted whether they are not wholly without value for any practical purpose.

I have felt bound to call attention to these unfortunate statements for the reason that this memorandum is, I imagine, to be circulated throughout the country for the purpose of demonstrating the propriety as well as the validity of the proposed amendments to the Sherman antitrust law. When it becomes necessary to sustain a piece of proposed legislation by that method of handling authorities, I feel bound to say it does not commend itself to my judgment.

SHALL THE RIGHT TO DO BUSINESS BE PRESERVED?

In order to make this discussion complete and cover the whole ground of labor legislation, proposed and demanded, it is incumbent upon me to state, as briefly as I may, the effect of the bill known as the "Pearre bill." This is the bill specifically and imperatively demanded by the American Federation of Labor, and is, as I understand it, the superlative achievement in the line of legislative drafting of the remedies insisted upon by them. The bill reads as follows:

A bill to regulate the issuance of restraining orders and injunctions and procedure thereon and to limit the meaning of "conspiracy" in certain cases.

Be it enacted, etc., That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed to labor and persons seeking employment as laborers, or between persons seeking employment as laborers, or involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be particularly described in the application, which must be in writing and sworn to by the applicant or by his, her, or its agent or attorney. And for the purposes of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

SEC. 2. That in cases arising in the courts of the United States or coming before said courts, or before any judge or the judges thereof, no agreement between two or more persons concerning the terms or conditions of employment of labor, or the assumption or creation or termination of any relation between employer and employee, or concerning any act or thing to be done or not to be done with reference

to or involving or growing out of a labor dispute, shall constitute a conspiracy or other criminal offense or be punished or prosecuted as such unless the act or thing agreed to be done or not to be done would be unlawful if done by a single individual, nor shall the entering into or the carrying out of any such agreement be restrained or enjoined unless such act or thing agreed to be done would be subject to be restrained or enjoined under the provisions, limitations, and definition contained in the first section of this act.

Sec. 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

With reference to this bill, in the American Federationist for June, 1908, over his signature as president of the American Federation of Labor, Mr. Gompers says:

In the name of labor, in the interest of all our people, we urge and must insist upon the enactment of * * * the Pearre bill, H. R. 94, regulating the issuing of the injunctive writ to its original and beneficent purpose.

It will be first observed that he does not succeed in his editorial statement in fully stating the purpose of the bill as it is stated in the bill, because that purpose is "to regulate the issuance of restraining orders and injunctions and procedure thereon and to limit the meaning of 'conspiracy' in certain cases."

This bill is, as I understand it, the handiwork of Mr. T. C. Spelling, the author of a legal elementary work known as "Spelling, on extraordinary remedies," and I feel that I am safe in saying that this incomparable achievement in the line of desired labor legislation is the most extraordinary proposition ever yet submitted to a legislative body. It should be distinctly borne in mind that this bill, in connection with the Wilson bill, represents the ultimatum of the American Federation of Labor. In the discussion of this bill before the Committee on the Judiciary at this session, Mr. Gompers used the following language:

I referred to the Pearre bill; yes, sir. I ought to say in this connection, with the subject of the bills before this committee, events have demonstrated clearly to my mind that there is only one bill before the committee that can be at all effective to deal with this abuse, with this invasion of human rights, and that is the Pearre bill. The others I do not know that it is necessary for me to argue even. The best of the other bills are ineffective, and so far as the representatives of the American Federation of Labor are authorized to speak at all for the men and women in the labor movement of the country to whom I have referred, *see say to you now that they would rather suffer the wrongs that they do, hoping and praying and working for a time when effective justice will be accorded us, than to consent to a wrong principle which would effectually and for a great length of time manacle the workman and prevent any sort of tangible relief.* (P. 48.)

And again, in the same hearing, after his attention had been called to the Rodenberg bill, and with the knowledge that there were various bills, too numerous to mention, some providing for notice and hearing before injunctions in labor controversies, others providing for hearing the question of contempt by juries, and others for hearing the question of contempt by other judges, etc., Mr. Gompers said:

Mr. Chairman, in any species of legislation that is intended to be helpful of a constructive character, to bring amelioration into conditions of the workers, compromise is possible. You can not get a whole loaf and therefore wisdom dictates that something shall be accepted. Time will give the opportunity to build upon it and construct this species of legislation that will be generally helpful. In this measure, in this feature of legislation, no such construction can take place. If labor concedes that the court has the right to enter and to issue injunctions that are never issued of the same character against any other citizen or man in the community, then, if we concede that, we must forever hold our peace, for we have given away our case. (P. 49.)

If I understand Mr. Gompers correctly, and I think I do, the Pearre bill is the only bill that would be accepted by the organization which he represents. The other bills are betrayals of principles on which they rely, and for their purposes mere "leather and prunella."

As to this he insists there must be no compromise. His organization "would rather suffer the wrongs that they do, hoping and praying and working for a time when effective justice will be accorded us, than to consent to a wrong principle which would effectually and for a great length of time manacle the workman and prevent any sort of tangible relief."

For these reasons the Wilson bill and the Pearre bill are their "sine qua non."

What is the Pearre bill? The Pearre bill in its essence and effect absolutely repeals the whole law of conspiracy in its relation to interstate commerce in relation to labor controversies. It provides that no restraining order or injunction shall be granted except to prevent irreparable injury to property or to property rights, and then proceeds to define what under the provisions of that bill shall be held to be property or property rights. This definition is the significant feature of the proposed legislation. It reads:

And for the purposes of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

Note the fearful significance of the last clause of this section, all comprehensive as it is in its terms "and for the purposes of this act no right * * * to carry on business of any particular kind or at any particular place or at all shall be construed, held, considered, or treated as property or as constituting a property right."

This bill, it will be observed, first proceeds upon the assumption that the right to carry on business is a property right, because if it were not it would not be necessary by express legislative declaration to declare it to be otherwise; and in fact Mr. Spelling, who appeared before the committee in support of this extraordinary piece of proposed legislation, conceded that the courts had so held, and that the right to do business was property and entitled to the protection of the law. He claimed, to be sure, that these decisions were predicated upon a wrong view of the law, and that they ought not to have been made, but he conceded that they had been made and that such was the law in accordance with the decisions of the court. On this point he said, in the hearing:

The ACTING CHAIRMAN. Have these vicious and unwarranted decisions resulted in the conclusion on the part of the courts—and I am not discussing now whether they are well founded or not—that the right to do business is property?

Mr. SPELLING. Yes; a great many courts; and I say, Mr. LITTLEFIELD, that the only basis that you or others have for the assertion that the right to do business is property is these decisions that we are attacking, and I say they are departures from the fundamentals of equitable jurisdiction, and I can show that they are departures.

The ACTING CHAIRMAN. And for that reason you want to get it corrected by legislation. That is what it comes right down to, is it not? It is because they are departures, and have reached that result and produced that condition, that now you are asking to have the condition corrected by legislation?

Mr. SPELLING. Yes; we want to have the excess lopped off. We want to get back; we want the courts brought back to the original, legitimate boundaries of their jurisdiction, as the boundaries were recognized prior to those erroneous and unwarranted decisions.

The ACTING CHAIRMAN. And usurpatory decisions.

Mr. SPELLING. And the only way to reach it is to go back and put our fingers on the rotten spot in these decisions, reach the germ of the disease and kill it, and that is what this bill purports to do, and what I feel it will do if it passes. (p. 10.)

Mr. Spelling not only concedes that the authorities all hold that the right to do business is property and therefore entitled to the protection of the law, but, although having been given a full opportunity, and having had plenty of time before he entered the employ of the Department of Justice to devote his legal acumen to this proposition, he failed to file with the committee a single case sustaining his contention, although he did, of course, in his argument discuss his theory, but there was no single case that he could find that sustained specifically his contentions.

It is proper to say that one of the principal cases relied upon by Mr. Spelling to sustain his contention that the right to do business was not a property right is the case of *People v. District Court* (26 Colo., 386), which was a case where an injunction had been sought to restrain the maintenance of a gambling house. In the course of the opinion the court used language which expressly differentiates between personal and property rights and recognizes the existence of both as within the protection of a court of equity.

In the syllabus and on the page referred to by Mr. Spelling, although not quoted by him, we read:

Courts of equity have no jurisdiction by injunction to restrain men that do not violate some personal or property right.

Here the distinction between personal and property rights is recognized, and both are recognized as within the injunctive power of a court of equity.

In the opinion, on page 389, the court said:

While it is undoubtedly true that a court of equity has jurisdiction by injunction to prevent violation of the public law when necessary to prevent irreparable injury to personal or property rights, it is equally true that it is not within its jurisdiction to prevent a criminal act, merely because it is criminal, when it in no way violates a property or civil right.

And here again the court expressly recognizes the fact that both personal and property rights are within the protection of the injunctive power. These are quotations that Mr. Spelling did not succeed in making, and if he had it would have shown that the case to which he referred as sustaining his contention was directly in opposition thereto.

The elementary book to which I have heretofore referred as being the work of Mr. T. C. Spelling is also in direct opposition to the contention he now makes in support of this extraordinary legislation. In that book, section 24, he says:

One reason for noninterference is a fundamental want of jurisdiction; another is the existence of an adequate remedy at law. In other words, the subject-matter of equity jurisdiction is the protection of civil rights and private property and not the punishment or prevention of crime or immoral acts when not in connection with violations of private right.

And while in order to sustain his contention he makes a quotation from High on Injunctions, it is to be noticed that he

quotes section 20b and does not call attention to section 20, which precedes section 20b, and which reads:

The subject-matter of the jurisdiction of equity being the protection of private property and of civil rights, courts of equity will not interfere for the punishment of merely criminal or immoral acts unconnected with violations of private right.

That *property* and *civil rights* are equally within the protection of a court of equity is so obvious from these citations that it is hardly worth discussion. If further authorities upon this point were necessary, it can be settled adequately by the case of *Texas v. Patterson* (14 Tex., Civil Appeal Reports, p. 465), quoting from page 469:

It is only when *property* or *civil rights* are involved and irreparable injury to such rights is threatened or is about to be committed, for which no adequate remedy exists at law, that courts of equity will interfere by injunction for the purpose of protecting such rights.

And again:

Yet as his punishing would furnish him whose *property* or *civil rights* have been irreparably injured by the acts constituting the offense no compensation for such injury, courts of equity will interfere to prevent such injury.

And again:

Where equity interposes its arm for the protection of *property* or *civil rights*.

And again:

For the purpose of preventing him from irreparably injuring another in his *property* or *civil rights*.

And again:

She must show that such nuisance is an injury to the *property* or *civil rights* of the public at large.

Similar quotations, distinctly and unequivocally recognizing the power of the court of equity to protect civil rights as distinguished from physical property, could be multiplied ad libitum. In fact, there are no authorities that contradicted this proposition.

It is to be noted in this connection that Mr. Justice Gould, of the supreme court of the District of Columbia, in his very able and courageous opinion in the *Buck Stove and Range* case, expressly decided upon all the authorities that the right to do business was property and entitled to the protection of the law.

I have no occasion to encumber this speech with a detailed reference to the authorities sustaining the proposition that the right to do business is property. That whole question was exhaustively investigated and thoroughly covered by the very able report of the Subcommittee of the Judiciary of the Fifty-ninth Congress, submitted by the gentleman from Massachusetts [Mr. TIBBELL] and the gentleman from Illinois [Mr. STERLING], with a very clear and perspicuous statement of the views of the gentleman from Georgia [Mr. BRANTLEY], all three of whom will be recognized as lawyers of ability and character, and their report I quote in the appendix.

Under these authorities there can be no question that under the law of the land, as it exists to-day, the right to do business is property and entitled to the protection of the law.

I think it is entirely safe to say that so long as the provisions of the fifth amendment to the Constitution of the United States which expressly provides that no "person shall be deprived of life, liberty, or property without due process of law," remains embedded therein, a statute that undertakes to destroy the right to do business as property will without any hesitation be held by the Supreme Court to be void and unconstitutional, as a deprivation of property without due process of law.

That portion of the Pearre bill which provides that "for the purpose of this act no right to continue the relation of employer or employee or to assume to create any such relation with any particular person or persons or at all" shall be "treated as property or as constituting a property right," is subject to exactly the same constitutional objection under the authority of the case of *Adair v. U. S.* (208 U. S., 172), where the court said:

The first inquiry is whether the part of the tenth section of the act of 1898, upon which the first count of the indictment was based, is repugnant to the fifth amendment to the Constitution, declaring that no person shall be deprived of liberty or property without due process of law. In our opinion that section in the particular mentioned is an invasion of the personal liberty, as well as of the right of property, guaranteed by that amendment. Such liberty and right embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor.

Without stopping to consider what would have been the rights of the railroad company under the fifth amendment, had it been indicted under the act of Congress, it is sufficient in this case to say, that as agent of the railroad company, and as such responsible for the conduct of the business of one of its departments, it was the defendant *Adair's* right—and that right inhered in his personal liberty, and was also a right of property—to serve his employer as best he could so long as he did nothing that was reasonably forbidden by law as injurious to public interests. It was the right of the defendant to prescribe the terms upon which the services of Coppage

would be accepted, and it was the right of Coppage to become or not, as he chose, an employee of the railroad company upon the terms offered to him. Mr. Cooley, in his *Treatise on Torts* (page 278) well says: "It is a part of every man's civil rights that he be left at liberty to refuse business relations with any person whomsoever, whether the refusal rests upon reason or is the result of whim, caprice, prejudice, or malice. With his reasons neither the public nor third persons have any legal concern. It is also his right to have business relations with anyone with whom he can make contracts, and if he is wrongfully deprived of this right by others, he is entitled to redress."

Section 2 of this bill is a deliberate attempt to exempt labor organizations from the operations of the Sherman antitrust law, although not so stated in terms, no other construction can be placed on the language used and this is open to the criticism which I have already made upon that proposition.

The fact that this legislation would be a flat violation of the fifth amendment is a sufficient answer thereto. Its practical application, as explained by its distinguished author, is so astounding in its effect upon the business interests of the country as to call for special comment.

I have had occasion during the last year or two to discuss in great detail the provisions of the Pearre bill and express my position in relation thereto. In one of the speeches in which I engaged in that discussion I took occasion to illustrate the operation of the legislation, which undertook to deprive the owner of a piece of property of the protection of the law the moment he began to do business with it. This was an address that I delivered in Battle Creek, Mich., before the Citizens' Industrial Association. For the purpose of showing the application of this legislation I illustrated it by calling attention to the fact that the plant of the Postum Cereal Company, vast and extensive in its character, costing probably a million and a half or more of money, consisting of buildings with the machinery contained therein, was constructed and operated solely for the purpose of manufacturing the products of that company.

I called attention to the fact that these buildings, with the machinery contained therein, were entitled to and would receive the protection of the law, notwithstanding the fact that this bill might be enacted by Congress; that the bill conceded that the buildings were physical property, and that the machinery was of the same character; and, if a combination or conspiracy were formed for the purpose of destroying either the buildings or their contents by irresponsible parties, that a court of equity would, notwithstanding the passage of the bill, issue its restraining order to prevent their destruction and protect the owner in the enjoyment of his property.

Then I called attention to the fact that if this bill became a law and the owner saw fit to use these buildings and their contents for the purpose of carrying on the business for which and only for which they were constructed and maintained, the moment he engaged in that enterprise, engaged in business, he would cease to have the protection of the law; and although parties might combine and conspire to absolutely deprive him of the power and the right to engage in business and to use his property for the only purpose for which it was constructed, they could do so without let or hindrance, and he would be without the protection of the law.

Mr. Spelling, before my committee, realizing perhaps some of the embarrassments suggested by this proposition, undertook to make an answer thereto, and the answer is contained in the hearing before the committee from which I now quote. Mr. Spelling had frequently during the hearing alluded to the speech that I made at Battle Creek, and I may say now, in order to give a correct history of this legislation and the efforts of Mr. Spelling to procure favorable action thereon, that he called my attention, as chairman of the subcommittee having this particular Pearre bill in charge, to the fact that I had stated in the Battle Creek speech that that particular bill should not, if I had the power, ever become a law. I stated to him that he was correctly stating my attitude, that the assertion made in that speech was made after due deliberation, that it was my deliberate intention and purpose, and, if I had the power, under no circumstances would legislation of that sort ever become a part of the law.

After having had his attention called to the speech in that manner and the illustration made by me of the practical operation of this proposed legislation, he made this answer, and I quote verbatim from the hearings:

The ACTING CHAIRMAN. How can a man use property that is created for doing a certain business without engaging in the business and carrying it on?

Mr. SPELLING. I will tell you how.

The ACTING CHAIRMAN. That is, how can he use the property created for that purpose without engaging in the purpose?

Mr. SPELLING. Had you not better repeat that? I did not hear it.

The ACTING CHAIRMAN. I say, how can a man use property for the purposes for which it is created and owned without engaging in the purpose; and if that is business, how can he do it without engaging in business?

Mr. SPELLING. Now, Mr. LITTLEFIELD, your corporation, or the one you are speaking about, is a manufacturing company, is it not?

Mr. LITTLEFIELD. Surely.

Mr. SPELLING. Suppose that manufacturing business becomes unprofitable and it quits, whether on account of strikes or for some other reason, and ceases to do business?

The ACTING CHAIRMAN. That does not even approach an answer to the question.

Mr. SPELLING. Well, let me answer, will you, please?

The ACTING CHAIRMAN. Go ahead; I thought you had answered it.

Mr. SPELLING. It ceases to do business. There can not, then, be any interference with its right to do business. It can still use that property for some other purpose—for a farm or for a cow house or for a residence; and it can use the machinery for anything it pleases. It can use it for ballast in a lake steamer. So it still has left the right of user and possession, which is a right of property, but the right to that business is done. That is personal.

The ACTING CHAIRMAN. That is the only answer there is to that proposition; is it?

Mr. SPELLING. That is all that I have.

The ACTING CHAIRMAN. After due and mature consideration, having had several months to think it over. (P. 16.)

In order to make this perfectly certain, the acting chairman repeated the proposition at a little later stage of the hearing:

The ACTING CHAIRMAN. I understand, to go back to your illustration a little bit further, that while it might be well that this large amount of property might be aggregated for the purpose of doing a particular business, the law would not protect a man in the use of the property in that particular business, but it would protect the property; so that if he could not use it in that business, it might be used, as you suggest, as ballast for a lake steamer. That is your conception of the practical condition when you get down to it. It would protect the property because the things per se, the physical structures, could be left there and could be used for horse sheds or ballast for a lake steamer; but it would not go so far as to protect him in the use of that particular property in any special business he wanted to devote it to?

Mr. SPELLING. It is not within my plan to go over that again.

The ACTING CHAIRMAN. I understood that to be your illustration, that the argument practically comes down to that.

Mr. SPELLING. I say that there is a very clear distinction between the right to do business and the right to use and possess property—that is, the property right of use and possession of property. (P. 18.)

So that we have as the practical result of the legislation invented by Mr. Spelling, and insisted on by the president of the American Federation of Labor, and in default of the passage of which he is now traveling about the country breathing out threatenings and slaughter against every man who opposes his will, a proposition which simply comes down to this: With the passage of this bill the right to do business as property is destroyed; and although the right to do business may be gone the buildings and machinery constructed for that purpose will remain and may still be used by the owners thereof for cow barns or for ballast for lake steamers.

It must be a profound comfort and a source of great consolation for the business interests of the country to feel assured that, although they may be driven out of business with impunity and without any right to legal redress therefor, they will still retain the inalienable constitutional right to use their buildings for cow barns and the material contained therein for ballast for steamers.

This bill was one of the questions thoroughly discussed by me in my last campaign. I declared in every speech I made that under no circumstances should I give my assent to any legislation that undertook to outlaw the right to do business or undertook to destroy it as a property right. At that time I did not have these suggestions made by Mr. Spelling, indicating his conception and his appreciation of the condition into which the interests of eighty-seven millions of people would be plunged if the American Federation of Labor could get the American Congress to pass this bill, deliberately outlawing the right to do business as property.

The issues tendered by the leaders of the labor organizations are, shall the boycott and blacklist be legalized or penalized, and shall the right to do business be outlawed or shall it be maintained. On these issues I am unalterably against the boycott and black list, and I stand unqualifiedly for the maintenance of the right to do business and its protection by the law. These issues transcend in their vital importance all the issues that now divide the two great political parties. Any candidate, from the Presidency down, that either truckles, or panders, to such a propaganda in either the Democratic or Republican party deserves to go down in overwhelming defeat. If we, as representatives of the people, all discharge our duties like men and patriots, we shall be able to transmit to our children and to our children's children the great heritage we have received, and long after the Republican party with its glorious record of progress and achievement shall have passed away, and the Democratic party, with its Jeffersons, Jacksons, Tildens, Cleveland, and Bryans, shall have become nothing but a memory, the constitutional government of a free people will continue to guarantee life, liberty, and the pursuit of happiness to countless millions yet unborn.

CONCLUSION.

It may perhaps be well for me to state here, because I have now reached the end of the discussion of the legislation demanded by the labor organizations, that the provisions of the Gilbert bill, to which I called attention in the early part of this address, practically authorizing conspiracies to threaten to commit crime and exempting labor organizations from the operation of the Sherman antitrust law, making it lawful for them to do what other people were denounced as criminals for doing, and this Pearre bill, destroying the right to do business as property and outlawing it, were denounced by me in every speech I made in my campaign. I challenged the gentlemen assailing me in that campaign to even read those two bills in the speeches they were making assailing me for my attitude in relation thereto. This is the head and front of my offending. I have no controversy with labor organizations as such nor any controversy with labor leaders except so far as controversies with them arise from their insistence upon legislation that in my judgment I deem unwise and vicious.

These two pieces of legislation were the great issues in my campaign; and I take great pleasure in saying that in no instance have I ever been able to find a member of the American Federation of Labor, or of any labor union, that undertook at any time when he thoroughly understood the situation, and had the effect of these two bills explained to him, to disapprove or criticize my attitude. On the contrary, I have never yet found a member of that organization, or a laboring man, who has not heartily indorsed my attitude in relation thereto when understood.

I am in perfect sympathy with the organization of labor for any lawful purpose. I think they are equally as legitimate as organizations of capital. I fully appreciate the fact that organizations of labor have been able to produce lasting, beneficial results to wage-earners. I fully approve of all of their activities and of all their purposes so long as they are confined within the limits of law. When a labor organization steps beyond the pale of the law and undertakes to infringe the right of either the man that labors or the man that furnishes employment to labor, then I part company with them.

I can not, I will not give my assent to any legislation that will operate in their favor as a class and against the rest of the community.

I can not, I will not give my assent to any legislation that will give to them special privileges and exempt them from the operation of criminal legislation that applies to all others, thus depriving other persons of the equal protection of the law.

It will become them, in the issue of the Federationist to which I have referred, while asking for the constitutional right of equality before the law, to insist upon the enactment of legislation, under the threat of their supreme displeasure, that confers upon them rights and privileges enjoyed and possessed by no other class of persons, that will turn over to them, without let or hindrance, without the right of courts to regulate or control, the whole interstate transportation of the country, and that would legalize and authorize the prosecution of interstate boycotts throughout the length and breadth of the land.

I gave in my last campaign my solemn promise to my constituents that no legislation of this character should, if I could prevent it, ever become a part of the law of the land. I shall return to them the commission that they gave me, unstained and untarnished by any taint of cowardice or demagoguery on this proposition. There is no power on earth, either Executive or otherwise, there is no exigency, political or otherwise, that can lead me by the slightest degree to vary from the faithful performance of that promise. I shall stand by it without variableness, neither shadow that is cast by turning.

Finally, brethren—and if I should speak from the fullness of my heart, inspired by the universally kind and appreciative sentiments that have been expressed to me on both sides of the House in connection with my withdrawal from public life, I could properly say, Beloved brethren, applying it, without distinction or discrimination, to both my Democratic and Republican friends—finally, brethren, may I be allowed to say that the results in my campaign are, in my judgment, a sufficient warrant for the assertion that, notwithstanding the threats of organized labor, no Member upon this floor need have any hesitation in standing upon his own feet, wearing his own hat, and discharging his duty in the fear of the ever-living God, without the fear of man.

Before I call attention in detail to the results, I wish to briefly indicate the conditions that confronted me in the campaign of 1906. In 1904 the Republicans in my State elected Governor Cobb, who, among other things, gave his solemn promise in the campaign to the people of the State that if

elected governor he would do his best to faithfully and impartially enforce the prohibitory law.

Strange as it may seem, he being a man of the highest character and of perfect integrity, as well as of great ability and unusual accomplishments, labored under the impression that this promise, thus made in his campaign, was equivalent to the giving of a bond by a business man and required full and complete fulfillment, and from that time on until now he has made an earnest, vigorous, and sincere effort to make good this promise to the people of Maine.

He was my warm personal friend, he lives in the town where I live, and I presented his name to the convention. The campaign that resulted in his nomination was one of unusual and extraordinary bitterness and rancor, and upon his election and ever since every public act that he has done that has created any friction or resulted in any disturbance has, as a rule, been, with great zeal and enthusiasm, charged up to me personally, upon the ground that in some way, directly or indirectly, I was responsible therefor, although I have had no more connection with the personal acts of the governor in the discharge of his duty, fully as I approve of them, than has any other Member of this House.

Politically, and entirely unrelated to labor legislation, I have been subjected to the continuous assaults of the leading Republican newspaper in my section, printed in my district, based very largely on gross misrepresentations of my public conduct, a paper that is taken very largely by many Republicans who take no other paper.

There was in 1906 a very vigorous agitation in connection with the resubmission of the prohibitory amendment of the constitution of the State of Maine, and this agitation was more acute and intense probably in the largest city in my district than in any other place in the State of Maine.

Fortunately or unfortunately for me, as the case may be, my attitude in connection with the question of prohibition is probably as well or better known than my attitude in connection with any other public question that concerns the people of that State. I became a temperance man and a believer in the prohibitory law long before I occupied any office. I did not accumulate those opinions for the purpose of obtaining office, and I have never modified or changed them for the purpose of retaining it. It is perhaps not invidious to say that I was as conspicuous as any other man in the State in connection with this agitation, and so far as that tended to embarrass the political situation it would embarrass me to a much greater degree, except possibly the governor, than any other man running for public office.

There was practically no campaign in the other three Congressional districts of the State. The three other Members of Congress from the State of Maine are well known to you as men of character, integrity, industry, and as capable, faithful public servants. I suppose that every one of them may properly be said to be, in the popular signification of the term, very much more effective and successful vote getters than I.

I had opposed to me in the campaign as candidate one of the ablest Democratic campaigners in the State of Maine, and probably as able a campaigner as can be found anywhere in the Democratic party throughout the country.

Under these conditions, independently of the assaults made upon me by the American Federation of Labor on account of my attitude in connection with the legislation which I have just been discussing, I stood to lose in my district probably a larger number of votes than any other Member of Congress could legitimately expect to lose.

It should also be stated that the assistance I received in my campaign from men outside the State was four speeches from the grand old hero who presides over the House, one magnificent speech by Secretary of War Taft, and two speeches by the brilliant gentleman from Michigan [Mr. HAMILTON]. With these exceptions, the campaign was fought by me from the beginning to the end, so far as outside assistance upon the stump was concerned, absolutely single-handed and alone.

Mr. Gompers made seven or eight speeches in my district, viciously and bitterly attacking, and had scores of his representatives making a personal canvass during the campaign.

As the result of this campaign the plurality of the governor, which was 26,816 in 1904, was reduced to 8,064 in 1906, the governor losing on his plurality in 1906, as compared with 1904, 18,752.

Mr. ALLEN, in the First District, had his plurality reduced in the whole State from 4,981 to 1,749, or a loss of 3,232.

My plurality was reduced from 5,391 to 1,362, a loss of 4,029, losing 797 more than Mr. ALLEN.

Mr. BURLEIGH's plurality was reduced from 6,863 in 1904 to 1,791 in 1906, or a loss of 5,072, more than 1,000 more than my loss.

Mr. POWERS's plurality was reduced from 8,901 in 1904 to 3,574 in 1906, a loss of 5,327, nearly 1,300 more than my loss.

The governor lost in my district on his vote in 1906, as compared with 1904, 1.6 per cent; I lost 2.4 per cent; Mr. ALLEN lost 7½ per cent; Mr. BURLEIGH lost 10 per cent, and Mr. POWERS lost 15½ per cent.

Mr. POWERS's total Republican vote in 1904 was 20,501; my total vote was 19,176. My vote in 1906 was 18,708, from 1,500 to 2,000 more than the vote cast for any other Congressman.

It should be borne in mind that 1906 was what is known as an off year, and is being compared with the Presidential year 1904. In 1904 I received only 19,176, while in 1906 I received 18,708, a loss, as compared with 1904, of only 468. My plurality in my district exceeded that of the governor by 383.

In every speech that I made in this campaign I called the attention of my constituents to the fact that the country little knew or little cared what became of the Republican candidate for Congress, but that they were, in my judgment, vitally interested in ascertaining what the opinion of the voters of the second district of Maine was upon the great questions which I had presented to them in every speech for their consideration. Every intelligent voter in my district knew that my personal interest would be conserved by my defeat at the polls and my relegation to private life; that I was holding the office and had always held it at a financial sacrifice, and, so far as my personal interests were concerned, at a loss to myself.

In every address I made they were specifically requested to register their verdict upon the issues presented to them by me. In the light of the results, I feel that I have a right to say that I am proud of my constituency and the manner in which they acquitted themselves under these circumstances and the verdict they rendered upon the issues before them.

With reference to this legislation and the action that should be taken thereon, I know not what course others may take, and I think I may be pardoned for going so far as to say I care not what course others may take; but, as for me, I propose to base my action upon considerations which I believe to be elemental and fundamental. So far as I have the power to control or shape legislation, the legislation shall be upon the principles of the equality of all before the law—the high and the low; the rich and the poor; the weak and the strong; the oppressor and the oppressed; the wage-earner and the wage payer, friend and foe, shall receive from me the application of the same universally operating principles of fundamental eternal justice. Whenever I fail to be actuated by these principles, which I believe to be essential to the perpetuation of the constitutional government of a free people, may "my tongue cleave to the roof of my mouth, my right hand forget its cunning," and may I be "anathema maranatha."

APPENDIX A.

UNITED STATES V. ADDYSTON PIPE AND STEEL COMPANY ET AL.

[Circuit court of appeals, sixth circuit, February 8, 1908. 85 Fed. Rep. pp. 271-273, 278-302.]

This was a proceeding in equity, begun by petition, filed by the Attorney-General on behalf of the United States, against six corporations engaged in the manufacture of cast-iron pipe, charging them with a combination and conspiracy in unlawful restraint of interstate commerce in such pipe, in violation of the so-called "Antitrust law," passed by Congress July 2, 1890. The defendants were the Addyston Pipe and Steel Company, of Cincinnati, Ohio; Dennis, Long & Co., of Louisville, Ky.; the Howard-Harrison Iron Company, of Bessemer, Ala.; the Anniston Pipe and Foundry Company, of Anniston, Ala.; the South Pittsburg Pipe Works, of South Pittsburg, Tenn., and the Chattanooga Foundry and Pipe Works, of Chattanooga, Tenn. The petition prayed that all pipe sold and transported from one State to another, under the combination and conspiracy described therein, be forfeited to the petitioner, and be seized and confiscated in the manner provided by law, and that a decree be entered dissolving the unlawful conspiracy of defendants, and perpetually enjoining them from operating under the same, and from selling said cast-iron pipe in accordance therewith to be transported from one State into another. The defendants filed a joint and separate demurrer to the petition, in so far as it prayed for the confiscation of goods in transit, on the ground that such proceedings, under the antitrust act, are not to be had in a court of equity, but in a court of law. In addition to the demurrer, the defendants filed a joint and separate answer, in which they admitted the existence of an association between them for the purpose of avoiding the great losses they would otherwise sustain, due to ruinous competition between defendants, but denied that their association was in restraint of trade, State or interstate, or that it was organized to create a monopoly, and denied it was a violation of the antitrust act of Congress. Testimony in the form of affidavits was submitted by petitioner and defendants, and, by stipulation, it was agreed that the final hearing might be had thereon. Judge Clark, who presided in the circuit court, dismissed the petition on the merits. His opinion is reported in 78 Fed., 712.

From the minutes of the association, a copy of which was put in evidence by the petitioner, it appeared that prior to December 28, 1894, the Anniston Company, the Howard-Harrison Company, the Chattanooga Company, and the South Pittsburg Company had been associated as the Southern Associated Pipe Works. Upon that date the Addyston Company and Dennis Long & Co. were admitted to membership, and the following plan was then adopted:

Taft, circuit judge, after stating the case as above, delivered the opinion of the court.

The first section of the act of Congress entitled "An act to protect trade and commerce against unlawful restraints and monopolies," passed July 2, 1890 (26 Stat., 209), declares illegal "every contract, combination in the form of trust or otherwise or conspiracy in restraint of trade or commerce among the several States or with foreign nations." The second section makes it a misdemeanor for any person to monopolize or attempt to monopolize, or combine or conspire with others to monopolize, any part of the trade or commerce among the several States. The fourth section of the act gives the circuit courts of the United States jurisdiction to hear and determine proceedings in equity brought by the district attorneys of the United States under the direction of the Attorney-General to restrain violations of the act.

Two questions are presented in this case for our decision: First, was the association of the defendants a contract, combination, or conspiracy in restraint of trade, as the terms are to be understood in the act? Second, was the trade thus restrained trade between the States?

The contention on behalf of defendants is that the association would have been valid at common law, and that the Federal antitrust law was not intended to reach any agreements that were not void and unenforceable at common law: It might be a sufficient answer to this contention to point to the decision of the Supreme Court of the United States in *U. S. v. Trans-Missouri Freight Assn.* (168 U. S., 290, 17 Sup. Ct., 540), in which it was held that contracts in restraint of interstate transportation were within the statute, whether the restraints would be regarded as reasonable at common law or not. It is suggested, however, that that case related to a quasi public employment necessarily under public control, and affecting public interests, and that a less stringent rule of construction applies to contracts restricting parties in sales of merchandise, which is purely a private business, having in it no element of a public or quasi public character. Whether or not there is substance in such a distinction—a question we do not decide—it is certain that, if the contract of association which bound the defendants was void and unenforceable at the common law because in restraint of trade, it is within the inhibition of the statute if the trade it restrained was interstate. Contracts that were in unreasonable restraint of trade at common law were not unlawful in the sense of being criminal, or giving rise to a civil action for damages in favor of one prejudicially affected thereby, but were simply void and were not enforced by the courts. (*Mogul Steamship Company v. McGregor, Gow & Co.* (1892), App. Cas., 25; *Hornby v. Close*, L. R., 2 Q. B., 153; *Lord Campbell, C. J.*, in *Hilton v. Eckersley*, 6 El. and Bl. 47, 66; *Hannon J.*, in *Farrer v. Close*, L. R., 4 Q. B., 602, 612.) The effect of the act of 1890 is to render such contracts unlawful in an affirmative or positive sense, and punishable as a misdemeanor, and to create a right of civil action for damages in favor of those injured thereby, and a civil remedy by injunction in favor of both private persons and the public against the execution of such contracts and the maintenance of such trade restraints.

The argument for defendants is that their contract of association was not and could not be a monopoly, because their aggregate tonnage capacity did not exceed 30 per cent of the total tonnage capacity of the country; that the restraints upon the members of the association, if restraints they could be called, did not embrace all the States, and were not unlimited in space; that such partial restraints were justified and upheld at common law, if reasonable, and only proportioned to the necessary protection of the parties; that in this case the partial restraints were reasonable, because without them each member would be subjected to ruinous competition by the other, and did not exceed in degree of stringency or scope what was necessary to protect the parties in securing prices for their product that were fair and reasonable to themselves and the public; that competition was not stifled by the association because the prices fixed by it had to be fixed with reference to the very active competition of pipe companies which were not members of the association, and which had more than double the defendants' capacity; that in this way the association only modified and restrained the evils of ruinous competition, while the public had all the benefit from competition which public policy demanded.

From early times it was the policy of Englishmen to encourage trade in England, and to discourage those voluntary restraints which tradesmen were often induced to impose on themselves by contract. Courts recognized this public policy by refusing to enforce stipulations of this character. The objections to such restraints were mainly two. One was that by such contracts a man disabled himself from earning a livelihood, with the risk of becoming a public charge, and deprived the community of the benefits of his labor. The other was that such restraints tended to give to the covenantor, the beneficiary of such restraints, a monopoly of the trade, from which he had thus excluded one competitor, and by the same means might exclude others.

Chief Justice Parker, in 1711, in the leading case of *Mitchell v. Reynolds* (1 P. Wms., 181, 190), stated these objections, as follows:

"First. The mischief which may arise from them (1) to the party by the loss of his livelihood and the subsistence of his family, (2) to the public by depriving it of an useful member. Another reason is the great abuses these voluntary restraints are liable to, as, for instance, from corporations who are perpetually laboring for exclusive advantages in trade, and to reduce it into as few hands as possible."

The reasons were stated somewhat more at length in *Alger v. Thacher* (19 Pick., 51, 54), in which the supreme judicial court of Massachusetts said:

"The unreasonableness of contracts in restraint of trade and business is very apparent from several obvious considerations: (1) Such contracts injure the parties making them, because they diminish their means of procuring livelihoods and a competency for their families. They tempt improvident persons, for the sake of present gain, to deprive themselves of the power to make future acquisitions, and they expose such persons to imposition and oppression. (2) They tend to deprive the public of the services of men in the employment and capacities in which they may be most useful to the community as well as themselves. (3) They discourage industry and enterprise, and diminish the products of ingenuity and skill. (4) They prevent competition and enhance prices. (5) They expose the public to all the evils of monopoly, and this especially is applicable to wealthy companies and large corporations, who have the means, unless restrained by law, to exclude rivalry, monopolize business, and engross the market. Against evils like these wise laws protect individuals and the public by declaring all such contracts void."

The changed conditions under which men have ceased to be so entirely dependent for a livelihood on pursuing one trade have rendered the first and second considerations stated above less important to the community than they were in the seventeenth and eighteenth centuries, but the disposition to use every means to reduce competition and create

monopolies has grown so much of late that the fourth and fifth considerations mentioned in *Alger v. Thacher* have certainly lost nothing in weight in the present day, if we may judge from the statute here under consideration and similar legislation by the States.

The inhibition against restraints of trade at common law seems at first to have had no exception. See language of Justice Hall, Yearbook, 2 Hen. V., folio 5, pl. 26. After a time it became apparent to the people and the courts that it was in the interest of trade that certain covenants in restraint of trade should be enforced. It was of importance, as an incentive to industry and honest dealing in trade, that, after a man had built up a business with an extensive good will, he should be able to sell his business and good will to the best advantage, and he could not do so unless he could bind himself by an enforceable contract not to engage in the same business in such a way as to prevent injury to that which he was about to sell. It was equally for the good of the public and trade, when partners dissolved and one took the business, or they divided the business, that each partner might bind himself not to do anything in trade thereafter which would derogate for his grant of the interest conveyed to his former partner. Again, when two men became partners in a business, although their union might reduce competition, this effect was only an incident to the main purpose of a union of their capital, enterprise, and energy to carry on a successful business and one useful to the community. Restrictions in the articles of partnership upon the business activity of the members with a view of securing their entire effort in the common enterprise were, of course, only ancillary to the main end of the union, and were to be encouraged. Again, when one in business sold property with which the buyer might set up a rival business, it was certainly reasonable that the seller should be able to restrain the buyer from doing him any injury which, but for the sale, the buyer would be unable to inflict. This was not reducing competition, but was only securing the seller against an increase of competition of his own creating. Such an exception was necessary to promote the free purchase and sale of property. Again, it was of importance that business men and professional men should have every motive to employ the ablest assistants and to instruct them thoroughly; but they would naturally be reluctant to do so unless such assistants were able to bind themselves not to set up a rival business in the vicinity after learning the details and secrets of the business of their employers.

In a case of this last kind, *Mallan v. May* (11 Mees. & W., 632), Baron Parke said:

"Contracts for the partial restraint of trade are upheld not because they are advantageous to the individual with whom the contract is made and a sacrifice pro tanto of the rights of the community, but because it is for the benefit of the public at large that they should be enforced. Many of these partial restraints on trade are perfectly consistent with public convenience and the general interest and have been supported. Such is the case of the disposing of a shop in a particular place, with a contract on the part of the vendor not to carry on a trade in the same place. It is, in effect, the sale of a good will and offers an encouragement to trade by allowing a party to dispose of all the fruits of his industry. * * * And such is the class of cases of much more frequent occurrence, and to which this present case belongs, of a tradesman, manufacturer, or professional man taking a servant or clerk into his service, with a contract that he will not carry on the same trade or profession within certain limits. * * * In such a case the public derives an advantage in the unrestrained choice which such a stipulation gives to the employer of able assistants, and the security it affords that the master will not withhold from the servant instruction in the secrets of his trade, and the communication of his own skill and experience, from the fear of his afterwards having a rival in the same business."

For the reasons given, then, covenants in partial restraint of trade are generally upheld as valid when they are agreements (1) by the seller of property or business not to compete with the buyer in such a way as to derogate from the value of the property or business sold; (2) by a retiring partner not to compete with the firm; (3) by a partner pending the partnership not to do anything to interfere, by competition or otherwise, with the business of the firm; (4) by the buyer of property not to use the same in competition with the business retained by the seller, and (5) by an assistant, servant, or agent not to compete with his master or employer after the expiration of his time of service. Before such agreements are upheld, however, the court must find that the restraints attempted thereby are reasonably necessary (1, 2, and 3) to the enjoyment by the buyer of the property, good will, or interest in the partnership bought; or (4) to the legitimate ends of the existing partnership; or (5) to the prevention of possible injury to the business of the seller from use by the buyer of the thing sold; or (6) to protection from the danger of loss to the employer's business caused by the unjust use on the part of the employee of the confidential knowledge acquired in such business. Under the first class come the cases of *Mitchell v. Reynolds*, 1 P. Wms., 181; *Fowle v. Parke*, 131 U. S., 88, 9 Sup. Ct., 658; *Nordenfeldt v. Maxim Nordenfeldt Company* (1894), App. Cas., 634; *Rousillon v. Rousillon*, 14 Ch. Div., 351; *Cloth Company v. Lonsont*, L. R. 9, Eq., 345; *Whittaker v. Howe*, 3 Beav., 383; *Match Company v. Roeber*, 106 N. Y., 473, 13 N. E. 419; *Tode v. Gross*, 127 N. Y., 480, 28 N. E., 460; *Beal v. Chase*, 31 Mich., 490; *Hubbard v. Miller*, 27 Mich., 15; *National Ben. Co. v. Union Hospital Company*, 45 Minn., 272, 47 N. W., 806; *Whitney v. Slayton*, 40 Me., 224; *Pierce v. Fuller*, 8 Mass., 222; *Richards v. Seating Company*, 87 Wis., 593, 58 N. W., 787. In the second class are *Tallis v. Tallis*, 1 El. & Bl., 391, and *Lange v. Work*, 2 Ohio St., 520. In the third class the *Machinery Company v. Dolphs*, 138 U. S., 617, 11 Sup. Ct., 412, Id., 28 Fed., 553, and *Matthews v. Associated Press*, 136 N. Y., 333, 32 N. E., 981. In the fourth class are *American Strawboard Company v. Haldeman Paper Company*, 83 Fed., 619, and *Hitchcock v. Anthony*, Id., 779, both decisions of this court; *Navigation Company v. Winsor*, 20 Wall., 64; *Dunlop v. Gregory*, 10 N. Y., 241; *Hodge v. Sloan*, 107 N. Y., 244, 17 N. E., 335. While in the fifth class are the cases of *Homer v. Ashford*, 3 Bing., 322; *Horne v. Graves*, 7 Bing., 735; *Hitchcock v. Coker*, 6 Adol. & E., 454; *Ward v. Byrne*, 5 Mees. & W., 547; *Dubowski v. Goldstein* (1896), 1 Q. B., 478; *Peels v. Saalfeld* (1892), 2 Ch., 149; *Taylor v. Blanchford*, 13 Allen, 370; *Keeler v. Taylor*, 53 Pa. St., 467; *Herreshoff v. Boutineau*, 17 R. L., 3, 19 Atl., 712.

It would be stating it too strongly to say that these five classes of covenants in restraint of trade include all of those upheld as valid at the common law, but it would certainly seem to follow from the tests laid down for determining the validity of such an agreement that no conventional restraint of trade can be enforced unless the covenant embodying it is merely ancillary to the main purpose of a lawful contract and necessary to protect the covenantor in the enjoyment of the legitimate fruits of the contract or to protect him from the dangers of an unjust use of those fruits by the other party. In *Horne v. Graves* (7 Bing., 735) Chief Justice Tindal, who seems to be regarded

as the highest English judicial authority on this branch of the law (see Lord Macnaghten's judgment in *Nordenfeldt v. Maxim Nordenfeldt Company* (1894) (App. Cas., 535, 537), used the following language:

"We do not see how a better test can be applied to the question whether this is or not a reasonable restraint of trade than by considering whether the restraint is such only as to afford a fair protection to the interests of the party in favor of whom it is given, and not so large as to interfere with the interests of the public. Whatever restraint is larger than the necessary protection of the party requires can be of no benefit to either. It can only be oppressive. It is, in the eye of the law, unreasonable. Whatever is injurious to the interests of the public is void on the ground of public policy."

This very statement of the rule implies that the contract must be one in which there is a main purpose, to which the covenant in restraint of trade is merely ancillary. The covenant is inserted only to protect one of the parties from the injury which, in the execution of the contract or enjoyment of its fruits, he may suffer from the unrestrained competition of the other. The main purpose of the contract suggests the measure of protection needed, and furnishes a sufficiently uniform standard by which the validity of such restraints may be judicially determined. In such a case, if the restraint exceeds the necessity presented by the main purpose of the contract, it is void for two reasons: First, because it oppresses the covenantor, without any corresponding benefit to the covenantee; and, second, because it tends to a monopoly. But where the sole object of both parties in making the contract is expressed therein is merely to restrain competition, and enhance or maintain prices, it would seem that there was nothing to justify or excuse the restraint, that it would necessarily have a tendency to monopoly, and therefore would be void. In such a case there is no measure of what is necessary to the protection of either party, except the vague and varying opinion of judges as to how much, on principles of political economy, men ought to be allowed to restrain competition. There is in such contracts no main lawful purpose, to subserve which partial restraint is permitted, and by which its reasonableness is measured, but the sole object is to restrain trade in order to avoid the competition which it has always been the policy of the common law to foster.

REASONABLE RESTRAINT OF TRADE.

Much has been said in regard to the relaxing of the original strictness of the common law in declaring contracts in restraint of trade void as conditions of civilization and public policy have changed, and the argument drawn therefrom is that the law now recognizes that competition may be so ruinous as to injure the public, and therefore that contracts made with a view to check such ruinous competition and regulate prices, though in restraint of trade, and having no other purpose, will be upheld. We think this conclusion is unwarranted by the authorities when all of them are considered. It is true that certain rules for determining whether a covenant in restraint of trade ancillary to the main purpose of a contract was reasonably adapted and limited to the necessary protection of a party in the carrying out of such purpose have been somewhat modified by modern authorities. In *Mitchell v. Reynolds* (1 P. Wms., 181), the leading early case on the subject, in which the main object of the contract was the sale of a bake house, and there was a covenant to protect the purchaser against competition by the seller in the bakery business, Chief Justice Baker laid down the rule that it must appear before such a covenant could be enforced that the restraint was not general, but particular or partial, as to places or persons, and was upon a good and adequate consideration, so as to make it a proper and useful contract. Subsequently, it was decided in *Hitchcock v. Coker* (6 Adol. & E., 454), that the adequacy of the consideration was not to be inquired into by the court if it was a legal one, and that the operation of the covenant need not be limited in time. More recently the limitation that the restraint could not be general or unlimited as to space has been modified in some cases by holding that, if the protection necessary to the covenantee reasonably requires a covenant unrestricted as to space, it will be upheld as valid. (*Whittaker v. Howe* (3 Beav., 383), *Cloth Company v. Lonsort* (L. R., 9 Eq., 345), *Rousillon v. Rousillon* (14 Ch. Div., 351), *Nordenfeldt v. Maxim Nordenfeldt Company* (1894) (App. Cas., 535). See also *Fowle v. Park* (131 U. S., 88, 9 Sup. Ct., 658), *Match Company v. Roeber* (106 N. Y., 473, 13 N. E., 419). But these cases all involved contracts in which the covenant in restraint of trade was ancillary to the main and lawful purpose of the contract, and was necessary to the protection of the covenantee in the carrying out of that main purpose. They do not manifest any general disposition on the part of the courts to be more liberal in supporting contracts having for their sole object the restraint of trade than did the courts of an earlier time. It is true that there are some cases in which the courts, mistaking, as we conceive, the proper limits of the relaxation of the rules for determining the reasonableness of restraints of trade, have set sail on a sea of doubt, and have assumed the power to say, in respect to contracts which have no other purpose and no other consideration on either side than the mutual restraint of the parties, how much restraint of competition is in the public interest, and how much is not.

The manifest danger in the administration of justice according to so shifting, vague, and indeterminate a standard would seem to be a strong reason against adopting it. The cases assuming such a power in the courts are *Wickens v. Evans* (3 Young & J., 318), *Collins v. Locke* (4 App. Cas., 674), *Ontario Salt Company v. Merchants Salt Company* (18 Grant (U. C.), 540), *Kellogg v. Larkin* (3 Pin., 123), *Leslie v. Lorillard* (110 N. Y., 519, 18 N. E., 363).

In *Wickens v. Evans*, three trunk manufacturers of England, who had competed with each other throughout the realm, to their loss, agreed to divide England into three districts, each party to have one district exclusively for his trade, and, if any stranger should invade the district of either as a competitor, they agreed "to meet to devise means to promote their own views." The restraint was held partial and reasonable, because it left the trade open to any third party in either district. In answer to the suggestion that such an agreement to divide up the beer business of London among the London brewers would lead to the abuses of monopoly, it was replied that outside competition would soon cure such abuses—an answer that would validate the most complete local monopoly of the present day. It may be, as suggested by the court, that local monopolies can not endure long, because their very existence tempts outside capital into competition; but the public policy embodied in the common law requires the discouragement of monopolies, however temporary their existence may be. The public interest may suffer severely while new competition is slowly developing. The case can hardly be reconciled with later cases, hereafter to be referred to, in England and America. It is true that there was in this case no direct evidence of a desire by the parties to regulate prices, and it has been sometimes explained on the theory that the agreement was solely to reduce the expenses incident to a business covering the realm by restricting its territorial extent; but

it is difficult to escape the conclusion that the restraint upon each two of the three parties was imposed to secure to the other a monopoly and power to control prices in the territory assigned to him, because the final clause in the contract implies that when it was executed there were no other competitors except the parties in the territory divided.

Collins v. Locke was a case in the privy council. The action was brought to enforce certain articles of agreement by and between four of the leading master stevedore contracting firms in Melbourne, Australia, who did practically all the business at that port. The court (composed of Sir Barnes Peacock, Sir Montague E. Smith, and Sir Robert F. Collier) describes the scope and purposes of the agreement and the view of the court as follows:

"The objects which this agreement has in view are to parcel out the stevedoring business of the port among the parties to it, and so to prevent competition, at least among themselves, and also, it may be, to keep up the price to be paid for the work. Their lordships are not prepared to say that an agreement having these objects is invalid if carried into effect by proper means—that is, by provisions reasonably necessary for the purpose—though the effect of them might be to create a partial restraint upon the power of the parties to exercise their trade."

No attempt is made to justify the view thus comprehensively stated, or to support it by authority, or to reconcile it with the general doctrine of the common law that contracts restraining competition, raising prices, and tending to a monopoly, as this is conceded by the court to have been, are void. The court ignores the public interest that prices shall be regulated by competition, and assumes the power in the court to uphold and enforce a contract securing a monopoly if it affect only one port, so as to be but a partial restraint of trade. The case is directly at variance with the decision of the supreme court of Illinois in *More v. Bennett* (140 Ill., 69; 29 N. E., 888), hereafter discussed, and can not be reconciled in principle with many of the other cases cited.

The Canadian case of *Ontario Salt Company v. Merchants' Salt Company* is another one upon which counsel for defendants rely. That was the decision of a vice-chancellor. Six salt companies, in order to maintain prices, combined, and put their business under the control of a committee, and agreed not to sell except through the committee. It was held that because it appeared that there were other salt companies in the province, and because the combiners denied that they intended to raise prices, but only to maintain them, the contract of union was not in unlawful restraint of trade. The conclusion and argument of the court in *Salt Company v. Guthrie* (35 Ohio St., 666), hereafter stated, would seem to be a sufficient answer to this case.

Kellogg v. Larkin (3 Pin., 123) was an early case in Wisconsin, in which the action was on the covenant of a warehouseman in a lease of his warehouse, by which he agreed to devote his services to the lessee at certain compensation, and not to purchase or store wheat in the Milwaukee market. The covenant was held valid. Had nothing else appeared in the case the conclusion would have been clearly right, because such a covenant might well have been reasonably necessary to the protection of the lessee in his enjoyment of the warehouse and the good will of the lessor. But it further appeared that the warehousemen of Milwaukee, to the united grain dealers of that city, to enable the latter to obtain absolute control of the wheat market in Milwaukee. The court held the latter combination valid also. The decision can not be upheld, in view of the more modern authorities hereafter referred to.

The case of *Leslie v. Lorillard* (110 N. Y., 519; 18 N. E., 363) would seem to be an authority against our view. In that case a stockholder sought to restrain the payment of an annual payment about to be made by the Old Dominion Steamship Company under a contract by which it bought off the Lorillard Steamship Company from continuing in competition with it in carrying passengers and freight between New York and Norfolk. The contract was held valid, although it had no purpose except the restraining of competition, and, so far as appears, the obtaining of the complete control of the business. The case is rested on *Match Company v. Roeber* (106 N. Y., 473; 13 N. E., 419), which was a case of the purchase of property and good will. It proceeds on the general proposition "that competition is not invariably a public benefaction, for it may be carried on to such a degree as to become a general evil," and thus leaves it to the discretion of the court to say how much competition is desirable, and how much is mischievous, and accordingly to determine whether a contract is bad or not. The case is directly opposed to *Anderson v. Jett* (89 Ky., 375; 12 S. W., 670), hereafter cited. It should be said that nothing appears in the report of the case to show directly that the purpose of the contract was to reserve the entire business to the Dominion Company, or to secure to it the power of regulating prices, but this natural inference from the terms of the contract is not negatived.

The case of *Mogul Steamship Company v. McGregor, Gow & Co.* (1892) (App. Cas., 25) has been cited to sustain the position of the defendants. It does not do so. It was a suit for damages, brought by a company engaged in the tea-carrying trade at Hankow, China, against six other companies engaged in the same trade, for loss inflicted by an alleged unlawful conspiracy entered into by them to drive the plaintiff out of the trade, and to obtain control of the trade themselves. It appeared that the defendants agreed to conform to a plan of association, by which they should constantly underbid the plaintiff and take away his trade by offering exceptional and very favorable terms to customers dealing exclusively with the members of the association, and that they did this to control the business the next season after he had been thus driven out of competition. It was held by the House of Lords that this was not an unlawful and indictable conspiracy giving rise to a cause of action by the person injured thereby; but it was not held that the contract of association entered into by the defendants was not void and unenforceable at common law. On the contrary, Lord Bramwell, in his judgment (at page 46), and Lord Hannon, in his (at page 58), distinctly say that the contract of association was void, as in restraint of trade; but all the law lords were of opinion that contracts void as in restraint of trade were not unlawful in a criminal sense, and gave no right of action for damages to one injured thereby. The statute we are considering expressly gives such contracts a criminal and unlawful character. It is manifest, therefore, that whatever of relevancy the *Mogul Steamship Company* case has in this discussion makes for rather than against our conclusion.

Two other cases deserve mention here. They are *Roller Company v. Cushman* (143 Mass., 353; 9 N. E., 629) and *Gloucester Isinglass and Glue Company v. Russia Cement Company* (154 Mass., 92; 27 N. E., 1005). In these cases it was held that contracts in restraint of trade are not invalid if they affect trade in articles which, though useful and convenient, are not articles of prime or public necessity, and therefore contracts between dealers made to secure complete control of the manufacture and sale of such articles were supported. In the first case the article involved was a fastening of a certain slide roller, and in the other was glue made from fish skins. We think the cases here-

after cited show that the common-law rule against restraint of trade extends to all articles of merchandise, and that the introduction of such a distinction only furnishes another opportunity for courts to give effect to the varying economical opinions of its individual members. It might be difficult to say why it was any more important to prevent restraints of trade in beer, mineral water, leather cloth, and wire cloth than of trade in curtains, shades, or glue. However this may be, the cases do not touch the case at bar, because the same court, in *Telegraph Company v. Crane* (160 Mass., 50; 35 N. E., 98), held that fire-alarm telegraph instruments were articles of sufficient public necessity to render unreasonable restraints of trade in them void, and certainly such articles are not more necessary for public use than water, gas, and sewer pipe.

There are other cases upon which counsel of defendants rely, which, in our judgment, have no bearing on the issue, or, if they have, are clearly within the rules we have already stated. One is a case in which a railroad company has made a contract with a sleeping-car company by which the latter agreed to do the sleeping-car business of the railway company on a number of conditions, one of which was that no other company should be allowed to engage in the sleeping-car business on the same line. (*Chicago, St. L. & N. O. R. Co. v. Pullman Southern Car Company*, 139 U. S., 79; 11 Sup. Ct., 490.) The main purpose of such a contract is to furnish sleeping-car facilities to the public. The railroad company may discharge this duty itself to the public and allow no one else to do it, or it may hire some one to do it, and, to secure the necessary investment of capital in the discharge of the duty, may secure the sleeping-car company the same freedom from competition that it would have itself in discharging the duty. The restraint upon itself is properly proportioned to, and in only ancillary to, the main purpose of the contract, which is to secure proper facilities to the public. Exactly the same principle applies to similarly exclusive contracts with express companies and stock-yard delivery companies. (*Express Cases*, 117 U. S., 1, 6 Sup. Ct., 542, 628; *Stock Yards Company v. Keith*, 139 U. S., 128, 11 Sup. Ct., 461; *Butchers' and Drovers' Stock Yards Company v. Louisville and Nashville Railroad Company*, 31 U. S. App., 252, 14 C. C. A., 290, and 67 Fed., 35.) The fact is that it is quite difficult to conceive how competition would be possible upon the same line of railway between sleeping-car companies or express companies. Such contracts involve the hauling of sleeping cars or express cars on each express train, the assignment of offices in each station, and various running arrangements, which it would be an intolerable burden upon the railroad company to make and execute for two companies at the same time. And the same is true of contracts with a stock-delivery company. The railway company could not ordinarily be expected to have more than one general station for the delivery of cattle in any one town. It would only be required by the nature of its employment to furnish such facilities as were reasonably sufficient for the business at that place. There is hardly more objection on the ground of public policy to such a restriction upon a railway company in cases like these than there would be to a restriction upon a lessor not to allow the subject-matter of the lease to be enjoyed by anyone but the lessee during the lease. The privilege, when granted, is hardly capable of other than exclusive enjoyment. The public interest is satisfactorily secured by the requirement, which may be enforced by any member of the public, to wit, that the charges allowed shall not be unreasonable, and the business is of such a public character that it is entirely subject to legislative regulation in the same interest.

Having considered the cases upon which the counsel for the defendants have relied to maintain the proposition that contracts having no purpose but to restrain competition and maintain prices, if reasonable, will be held valid, we must now pass in rapid review the cases that make for an opposite view.

In *People v. Sheldon* (139 N. Y., 251; 34 N. E., 785) all the coal dealers in the city of Lockport, N. Y., entered into a contract of association, forming a coal exchange to prevent competition by constituting the exchange the sole authority to fix the price to be charged by members for coal sold by them, and the price was thus fixed. The court approved a charge to the jury that even if this was merely a combination between independent coal dealers to prevent competition between themselves for the due protection of the parties to it against ruinous rivalry, and although no attempt was made to charge unreasonable or excessive prices, it was inimical to trade and commerce, whatever might be done under it, and was within the State statute making a conspiracy injurious to trade indictable. Said Andrews, C. J. (p. 139, N. Y., and p. 789, 34 N. E.):

"If agreements and combinations to prevent competition in prices are, or may be, hurtful to trade, the only sure remedy is to prohibit all agreements of that character. If the validity of such an agreement would depend upon actual proof of public prejudice or injury, it would be very difficult in any case to establish the invalidity, although the moral evidence might be very convincing."

See, to the same effect *Judd v. Harrington*, 139 N. Y., 105, 34 N. E., 790; *Leonard v. Poole*, 114 N. Y., 371, 21 N. E., 707; *De Witt Wire Cloth Company v. New Jersey Wire Cloth Company* (Com. Pa.), 14 N. Y. Supp., 277.

In *Morris Run Coal Company v. Barclay Coal Company* (68 Pa. St., 173), five coal companies controlling the bituminous coal trade in Northern Pennsylvania agreed to allow a committee to fix prices and rates of freight, and to fix proportion of sales by each. Competition was not destroyed, because the anthracite coal and Cumberland bituminous coal were sold in competition with this coal. The association was nevertheless held void as in illegal restraint of trade and competition and tending to injure the public. In *Nestor v. Brewing Company* (161 Pa. St., 473, 29 Atl., 102), forty-five brewers in Philadelphia made an agreement to sell beer in Philadelphia and Camden at a certain price to be fixed by a committee of their number. Though beer could hardly be said to be an article of prime necessity, like coal, yet, as it was an article of merchandise, the contract was held void as in restraint of trade, and tending to monopoly.

In *Salt Company v. Guthrie* (35 Ohio St., 666) the salt manufacturers of a producing territory in Ohio, with some exceptions, combined to regulate the price of salt by preventing ruinous competition between themselves, and agreed to sell only at prices fixed by a committee of their number. The supreme court of Ohio held the contract void. Judge McIlvaine, who delivered the opinion of the court, said:

"The clear tendency of such an agreement is to establish a monopoly, and to destroy competition in trade, and for that reason, on the ground of public policy, courts will not aid in its enforcement. It is no answer to say that competition in the salt trade was not in fact destroyed, or that the price of the commodity was not unreasonably advanced. Courts will not stop to inquire as to the degree of injury inflicted upon the public. It is enough to know that the inevitable tendency of such contracts is injurious to the public."

Other Ohio cases which presented similar facts, and in which the same rule was enforced are *Emery v. Candle Company* (47 Ohio St., 320, 24 N. E., 660), and *Hoffman v. Brooks* (11 Wkly. Law Bul., 258).

In *Anderson v. Jett* (89 Ky., 375, 12 S. W., 670), two owners of steamboats running on the Kentucky River made an agreement to keep up rates and divide net profits, to prevent ruinous competition and reduced rates. The contract was held void.

In *Chapin v. Brown* (83 Iowa, 156, 48 N. W., 1074) the grocers in a town, in order to avoid a trade in butter, which was burdensome, agreed not to buy any butter or to take it in trade, except for use in their own families, so as to throw the business into the hands of one man who dealt in butter exclusively. The agreement was held invalid, because in restraint of trade, and tending to create a monopoly.

In *Craft v. McConoughy* (79 Ill., 346) five grain dealers in Rochelle, Ill., agreed to conduct their business as if independent of each other, but secretly to fix prices at which they would sell grain, and to divide profits in a certain proportion. This was held void, as in restraint of trade and tending to create a monopoly. In *More v. Bennett* (140 Ill., 69, 29 N. E., 888) articles of association entered into by only a part of the stenographers of Chicago to fix a schedule of prices, and prevent competition among their members and a consequent reduction of prices, was held void. The court said:

"A combination among a number of persons engaged in a particular business to stifle or prevent competition, and thereby to enhance or diminish prices to a point above or below what they would be if left to the influence of unrestricted competition, is contrary to public policy. Contracts in partial restraint of trade which the law sustains are those entered into by a vendor of a business and its good will with its vendee, by which the vendor agrees not to engage in the same business within a limited territory, and the restraint, to be valid, must be no more extensive than is reasonably necessary for the protection of the vendee in the enjoyment of the business purchased."

As already said, this case is in direct conflict with *Collins v. Locks* (4 App. Cas., 674), discussed above. To the same effect as *More v. Bennett*, are *Ford v. Association* (155 Ill., 166, 39 N. E., 651) and *Bishop v. Preservers' Association* (157 Ill., 284, 41 N. E., 765).

In *Association v. Nieserowski* (95 Wis., 129, 70 N. W., 166) the suit was on a note given in pursuance of the secret rules of an association of sixty out of the seventy-five master masons in Milwaukee, by which all bids for work about to be let were first made to the association, and the lowest bidder was then required to add 6 per cent to his bid, and, if the bid was more than 8 per cent below the next lowest bidder, more than 6 per cent might be added. Each member was required to pay to the association 6 per cent of his estimates, when due, for subsequent distribution. In declaring the contract void, the court said:

"The combination in question is contrary to public policy, and strikes at the interests of those of the public desiring to build, and between whom and the association or the members thereof there exist no contract relations."

In *Vulcan Powder Company v. Hercules Powder Company* (96 Cal., 510, 31 Pac., 581) four powder companies of California agreed that each should sell at a price to be fixed by a committee of their representatives, and should pay over to the others the profits on any excess of sales over a fixed proportion of the total sales. The contract was held void.

In *Oil Company v. Adoue* (83 Tex., 650, 19 S. W., 274) five owners of cotton-seed oil mills in Texas made an agreement not to sell at less than certain agreed prices. One guaranteed profits to the four others, and suit was brought on the guaranty. It was held void, as restraining trade and tending to a monopoly, even though the evidence failed to establish that it effected a monopoly.

In *Association v. Kock* (14 La. Ann., 168) eight commercial firms in New Orleans holding a large quantity of cotton bagging entered into an agreement by which they stipulated that for three months no member should sell a bale except by a vote of the majority. It was held that the contract was "palpably and unequivocally a combination in restraint of trade, and to enhance the price in the market of an article of primary necessity to cotton planters. Such combinations are contrary to public order, and can not be enforced in a court of justice."

In *Hilton v. Eckersley* (6 El. & Bl., 47), it was held that an agreement between eighteen cotton manufacturers to submit to the control of a committee of their number for twelve months the question as to prices to be paid for labor and the terms of employment, in order to resist the aggressions of an association of workmen, was void and unenforceable, because in restraint of trade.

In *Urmonst v. Whitelegg* (63 L. T. (N. S.), 455), a case in the Queen's Bench division, before Day and Lawrence, J. J., the action was brought to enforce a penalty under the rules of the Bolton Mineral Water Manufacturers' Association, which recited that the object of the association was to maintain the price of mineral water, and bound the members for ten years not to sell at less than 9d. a dozen bottles, or at not less than any higher price fixed by the committee, on penalty of £10 for each violation. Day, J., said:

"If a contract for raising prices against the public interest is a contract in restraint of trade, this is undoubtedly such a contract. During the last hundred years great changes have taken place in the views of the public, of the legislature, and, therefore, of the judges, on the matter, and many old-fashioned offenses have disappeared; but the rule still obtains that combination for the mere purpose of raising prices is not enforceable in a court of law. This contract is illegal in the sense of not being enforceable. It is not necessary that it should be such as to form the ground of criminal proceedings."

In the foregoing cases the only consideration of the agreement restraining the trade of one party was the agreement of the other to the same effect, and there was no relation of partnership, or of vendor and vendee, or of employer and employee. Where such relation exists between the parties, as already stated, restraints are usually enforceable, if commensurate only with the reasonable protection of the covenantee in respect to the main transactions affected by the contract. But in recent years even the fact that the contract is one for the sale of property or of business and good will, or for the making of a partnership or a corporation, has not saved it from invalidity if it could be shown that it was only part of a plan to acquire all the property used in a business by one management, with a view to establishing a monopoly. Such cases go a step further than those already considered. In them the actual intent to monopolize must appear. It is not deemed enough that the mere tendency of the provisions of the contract should be to restrain competition. In such cases the restraint of competition ceases to be ancillary, and becomes the main purpose of the contract, and the transfer of property and good will, or the partnership agreement, is merely ancillary and subordinate to that purpose. The principal cases of this class are *Richardson v. Buhl*, 77 Mich., 632, 43 N. W., 1102; *Arnot v. Coal Company* 68 N. Y., 558; *People v. Milk*

Exchange, 145 N. Y., 267, 39 N. E. 1062; *People v. Refining Company*, 54 Hun., 366, 7 N. Y. Supp., 406; *State v. Nebraska Distilling Company*, 29 Nebr., 700, 46 N. W., 155; *State v. Standard Oil Company*, 49 Ohio St., 137, 30 N. E., 279; *Manufacturing Company v. Klotz* 44 Fed., 721; *Distilling and Cattle Feeding Company v. People*, 156 Ill., 448, 41 N. E., 188; *Carbon Company v. McMillin*, 119 N. Y., 46, 23 N. E., 530; *Harrow Company v. Hench*, 83 Fed., 36; *Factor Company v. Adler*, 90 Cal., 110, 27 Pac., 36; *Lumber Company v. Hayes* 76 Cal., 387, 18 Pac., 391.

In addition to the cases cited, there are others which sustain the general principle, but in them there exists the additional reason for holding the contracts invalid that the parties were engaged in a quasi public employment. They are *Gibbs v. Gas Company*, 130 U. S., 396, 9 Sup. Ct., 553; *People v. Chicago Gas Trust Co.*, 130 Ill., 268, 22 N. E., 798; *Stockton v. Railroad Company*, 50 N. J. Eq., 52, 24 Atl., 964; *West Virginia Transportation Company v. Ohio River Pipe Line Company*, 22 W. Va., 600; *Hooker v. Vandewater*, 4 Denio, 349; *Stanton v. Allen*, 5 Denio, 434; *Railroad Company v. Collins*, 40 Ga., 582; *Hazelhurst v. Railroad Company*, 43 Ga., 13.

Upon this review of the law and the authorities we can have no doubt that the association of the defendants, however reasonable the prices they fixed, however great the competition they had to encounter, and however great the necessity for curbing themselves by joint agreement from committing financial suicide by ill-advised competition, was void at common law, because in restraint of trade, and tending to a monopoly. But the facts of the case do not require us to go as far as this, for they show that the attempted justification of this association on the grounds stated is without foundation.

The defendants, being manufacturers and vendors of cast-iron pipe, entered into a combination to raise the prices for pipe for all the States west and south of New York, Pennsylvania, and Virginia, constituting considerably more than three-quarters of the territory of the United States, and significantly called by the associates "pay territory." Their joint annual output was 220,000 tons. The total capacity of all the other cast-iron pipe manufacturers in the pay territory was 170,500 tons. Of this, 45,000 tons was the capacity of mills in Texas, Colorado, and Oregon, so far removed from that part of the pay territory, where the demand was considerable, that necessary freight rates excluded them from the possibility of competing, and 12,000 tons was the possible annual capacity of a mill at St. Louis, which was practically under the same management as that of one of the defendants' mills. Of the remainder of the mills in pay territory, and outside of the combination, one was at Columbus, Ohio, two in northern Ohio, and one in Michigan. Their aggregate possible annual capacity was about one-half the usual annual output of the defendants' mills. They were, it will be observed, at the extreme northern end of the pay territory, while the defendants' mills at Cincinnati, Louisville, Chattanooga, and South Pittsburg, and Anniston and Bessemer, were grouped much nearer to the center of the pay territory. The freight upon cast-iron pipe amounts to a considerable percentage of the price at which manufacturers can deliver it at any great distance from the place of manufacture. Within the margin of the freight per ton which Eastern manufacturers would have to pay to deliver pipe in pay territory, the defendants, by controlling two-thirds of the output in the pay territory, were practically able to fix prices.

The competition of the Ohio and Michigan mills, of course, somewhat affected their power in this respect in the northern part of the pay territory; but the farther south the place of delivery was to be, the more complete the monopoly over the trade which the defendants were able to exercise within the limit already described. Much evidence is adduced upon affidavit to prove that defendants had no power arbitrarily to fix prices, and that they were always obliged to meet competition. To the extent that they could not impose prices on the public in excess of the cost price of pipe, with freight from the Atlantic seaboard added, this is true; but within that limit they could fix prices as they chose. The most cogent evidence that they had this power is the fact, everywhere apparent in the record, that they exercised it. The details of the way in which it was maintained are somewhat obscured by the manner in which the proof was adduced in the court below, upon affidavits solely, and without the clarifying effect of cross-examination, but quite enough appears to leave no doubt of the ultimate fact. The defendants were, by their combination, therefore able to deprive the public in a large territory of the advantages otherwise accruing to them from the proximity of defendants' pipe factories, and, by keeping prices just low enough to prevent competition by Eastern manufacturers, to compel the public to pay an increase over what the price would have been if fixed by competition between defendants nearly equal to the advantage in freight rates enjoyed by defendants over Eastern competitors. The defendants acquired this power by voluntarily agreeing to sell only at prices fixed by their committee, and by allowing the highest bidder at the secret "auction pool" to become the lowest bidder of them at the public letting. Now, the restraint thus imposed on themselves was only partial. It did not cover the United States. There was not a complete monopoly. It was tempered by the fear of competition, and it affected only a part of the price. But this certainly does not take the contract of association out of the annulling effect of the rule against monopolies. In *United States v. E. C. Knight Company* (156 U. S., 1, 16, 15 Sup. Ct., 255), Chief Justice Fuller, in speaking for the court, said:

"Again, all the authorities agree that, in order to vitiate a contract or combination, it is not essential that its results should be a complete monopoly. It is sufficient if it really tends to that end, and to deprive the public of the advantages which flow from free competition."

It has been earnestly pressed upon us that the prices at which the cast-iron pipe was sold in pay territory were reasonable. A great many affidavits of purchasers of pipe in pay territory, all drawn by the same hand or from the same model, are produced, in which the affiants say that, in their opinion, the prices at which pipe has been sold by defendants have been reasonable. We do not think the issue an important one, because, as already stated, we do not think that at common law there is any question of reasonableness open to the courts with reference to such a contract. Its tendency was certainly to give defendants the power to charge unreasonable prices, had they chosen to do so. But if it were important, we should unhesitatingly find that the prices charged in the instances which were in evidence were unreasonable. The letters from the manager of the Chattanooga foundry, written to the other defendants, and discussing the prices fixed by the association, do not leave the slightest doubt upon this point, and outweigh the perfunctory affidavits produced by the defendants. The cost of producing pipe at Chattanooga, together with a reasonable profit, did not exceed \$15 a ton. It could have been delivered at Atlanta at \$17 to \$18 a ton, and yet the lowest price which that foundry was permitted by the rules of the association to bid was \$24.25. The same thing was true all through pay territory, to a greater or less degree, and especially at "reserved cities."

Another aspect of this contract of association brings it within the term used in the statute, "a conspiracy in restraint of trade." A conspiracy is a combination of two or more persons to accomplish an unlawful end by lawful means, or a lawful end by unlawful means. In the answer of the defendants it is averred that the chief way in which cast-iron pipe is sold is by contracts, let after competitive bidding invited by the intending purchaser. It would have much interfered with the smooth working of defendants' association had its existence and purposes become known to the public. A part of the plan was a deliberate attempt to create in the minds of the members of the public inviting bids the belief that competition existed between the defendants. Several of the defendants were required to bid at every letting, and to make their bids at such prices that the one already selected to obtain the contract should have the lowest bid. It is well settled that an agreement between intending bidders at a public auction or a public letting not to bid against each other, and thus to prevent competition, is a fraud upon the intending vendor or contractor, and the ensuing sale or contract will be set aside. *Breslin v. Brown*, 24 Ohio St. 565; *Atcheson v. Mallon*, 43 N. Y., 147; *Loyd v. Malone*, 23 Ill., 41; *Wooten v. Hinkle*, 20 Mo., 290; *Phlippen v. Stickney*, 3 Metc. (Mass.), 334; *Kearney v. Taylor*, 15 How., 494, 519; *Wilbur v. How*, 8 Johns. 444; *Hannah v. Fife*, 27 Mich., 172; *Gibbs v. Smith*, 115 Mass., 592; *Swan v. Chorpennan*, 20 Cal., 182; *Gardiner v. Morse*, 25 Mo., 140; *Ingram v. Ingram*, 49 N. C., 188; *Brisbane v. Adams*, 3 N. Y., 129; *Woodruff v. Berry*, 40 Ark., 251; *Wald, Pol. Cont.*, 310, note by Mr. Wald and cases cited. The case of *Jones v. North*, L. R. 19 Eq., 426, to the contrary, can not be supported. The large purchasers of pipe are municipal corporations, and they are by law required to solicit bids for the sale of pipe in order that the public may get the benefit of competition. One of the means adopted by the defendants in their plan of combination was this illegal and fraudulent effort to evade such laws, and to deceive intending purchasers. No matter what the excuse for the combination by defendants in restraint of trade, the illegality of the means stamps it as a conspiracy, and so brings it within that term of the Federal statute.

The second question is whether the trade restrained by the combination of the defendants was interstate trade. The mills of the defendants were situated, two in Alabama, two in Tennessee, one in Kentucky, and one in Ohio. The invariable custom in sales of pipe required the seller to deliver the pipe at the place where it was to be used by the buyer, and to include in the price the cost of delivery. The contracts, as the answer of the defendants avers, were invariably made after public letting at the home, and in the State, of the buyer. The pay territory sales in which it was the professed object of the defendants to regulate by their contract of association included thirty-six States. The cities which were especially reserved for the benefit of the defendants were Atlanta and Anniston, reserved to the Anniston mill, in Alabama; New Orleans and Chattanooga, reserved to the Chattanooga mill, in Tennessee; St. Louis and Birmingham, reserved to the Bessemer mill, in Alabama; Omaha, reserved to the South Pittsburg mill, in Tennessee; Louisville, New Albany, and Jeffersonville, reserved to Dennis Long & Co., of Louisville, and Cincinnati, Newport, and Covington, reserved to the Addyston mill, in Ohio. Under the agreement every request for bids from any place, except the reserved cities, went to any one of the defendants, was submitted to the central committee, who fixed a price, and the contract was awarded to that member who would agree to pay for the benefit of the other members of the association the largest "bonus." In the case of the reserved cities, the successful bidder having been already fixed, the association determined the price and bonus to be paid. The contract of association restrained every defendant except the one selected to receive the contract from soliciting (in good faith) or making a contract for pipe with the intending purchaser at all, and restrained the defendant so selected from making the contract except at the price fixed by the committee. In cases of pipe to be purchased in any State of the thirty-six in pay territory, except four, each one of the defendants, by his contract of association, restrained his freedom of trade in respect to making a contract in that State for the sale of pipe to be delivered across State lines, five of them agreeing not to make such a contract at all, and the sixth agreeing not to make the contract below a fixed price. With respect to sales in Ohio, Kentucky, Tennessee, and Alabama, the effect of the contract of association was to bind at least three, sometimes four, and sometimes five, of the defendants not to make a contract at all in those States for the sale and delivery of pipe from another State; and if the job were assigned, as it might be, to one living in a different State from the place of the contract and delivery, its effect would be to bind him not to sell and deliver pipe across State lines at less than a certain price. It thus appears that no sale or proposed sale can be suggested within the scope of the contract of association with respect to which that contract did not restrain at least three, often four, more often five, and usually all, of the defendants in the exercise of the freedom which but for the contract would have been theirs, of selling in one State pipe to be delivered from another State at any price they might see fit to fix. Can there be any doubt that this was a restraint of interstate trade and commerce? Mr. Justice Field, in *County of Mobile v. Kimball* (102 U. S., 691, 696), said:

"Commerce with foreign countries and among the States, strictly considered, consists in intercourse and traffic, and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities."

In *Robbins v. Trading Dist.* (120 U. S., 489, 7 Sup. Ct., 592), a law of Tennessee, which imposed a tax on all "drummers" who solicited orders on samples, was held unconstitutional, in so far as it applied to the drummer of an Ohio firm who was soliciting orders for goods to be sent from Ohio to purchasers in Tennessee, on the ground that it was a tax on interstate commerce. In delivering the opinion of the court in that case, Mr. Justice Bradley said (p. 497, 120 U. S., and p. 596, 7 Sup. Ct.) that a tax on the sale of goods, or the offer to sell them before they are brought into the State, was clearly a tax on interstate commerce. He further said:

"The negotiation of sales of goods which are in another State, for the purpose of introducing them into the State in which the negotiation is made, is interstate commerce."

The principle thus announced has been reaffirmed by the court in *Corson v. Maryland* (120 U. S., 502, 7 Sup. Ct., 655); in *Asher v. Texas* (128 U. S., 129, 9 Sup. Ct., 1); in *Stoutenburg v. Hennick* (129 U. S., 141, 9 Sup. Ct., 256); and in *Brennan v. City of Titusville* (153 U. S., 289, 14 Sup. Ct., 829). The point of these cases was emphasized by the distinction taken in *Emert v. Missouri* (156 U. S., 296, 15 Sup. Ct., 367), in which the validity of a law of Missouri imposing a tax on peddlers was in question. The plaintiff in error, convicted under the law of failure to pay the tax, was the selling agent of a New Jersey sewing machine manufacturing company, who carried the machine for sale with him in his wagon. It was held that in such a

case, the machine having become part of the mass of property in the State, the tax on the peddler was not a tax on interstate commerce.

If, then, the soliciting of orders for and the sale of goods in one State, to be delivered from another State, is interstate commerce in its strictest and highest sense—such that the States are excluded by the Federal Constitution from a right to regulate or tax the same—it seems clear that contracts in restraint of such solicitations, negotiations, and sales are contracts in restraint of interstate commerce. The antitrust law is an effort by Congress to regulate interstate commerce. Such commerce as the States are excluded from burdening or regulating in any way by tax or otherwise, because of the power of Congress to regulate interstate commerce, must, of necessity, be the commerce which Congress may regulate, and, which by the terms of the antitrust law, it has regulated. We can see no escape from the conclusion, therefore, that the contract of the defendants was in restraint of interstate commerce.

The learned judge who dismissed the bill at the circuit was of opinion that the contract of association only indirectly affected interstate commerce, and relied chiefly for this conclusion on the decision of the Supreme Court in the case of *United States v. E. C. Knight Company* (156 U. S., 1, 15 Sup. Ct., 249).

In that case the bill filed under the antitrust law sought to enjoin the defendants from continuing a union of substantially all the sugar refineries of the country for the refining of raw sugars. The Supreme Court held that the monopoly thus effected was not within the law, because the contract or agreement of union related only to the manufacture of refined sugar, and not to its sale throughout the country; that manufacture preceded commerce, and although the manufacture under a monopoly might and doubtless would indirectly affect both internal and interstate commerce, it was not within the power of Congress to regulate manufactures within a State on that ground. The case arose on a bill in equity filed by the United States under the antitrust act, praying for relief in respect of certain agreements under which the American Sugar-Refining Company had purchased the stock of four Philadelphia sugar-refining companies with shares of its own stock, whereby the American Company acquired nearly complete control of the manufacture of refined sugar in this country. The relief sought was the cancellation of the agreements of purchase, the redelivery of the stock to the parties respectively, and an injunction against the further performance of the agreements and further violations of the act. The Chief Justice, in delivering the judgment of the court, said:

"The argument is that the power to control the manufacture of refined sugar is a monopoly over a necessity of life, to the enjoyment of which by a large part of the population of the United States interstate commerce is indispensable, and that therefore the General Government, in the exercise of the power to regulate commerce, may repress such monopoly directly and set aside the instruments which have created it. * * * Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not the primary sense; and, although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and it affects it only incidentally and indirectly. Commerce succeeds to manufacture and is not a part of it. The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed, or whenever the transaction is itself a monopoly of commerce. * * * The regulation of commerce applies to the subjects of commerce and not to matters of internal police. Contracts to buy, sell, or exchange goods to be transported among the several States, the transportation and its instrumentalities, and articles bought, sold, or exchanged for the purpose of such transit among the States, or put in the way of transit, may be regulated; but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export to another State does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the State and belongs to commerce."

The Chief Justice then refers to the prior case of *Coe v. Errol* (116 U. S., 517, 6 Sup. Ct., 475), in which it was held that logs were not made subjects of interstate commerce by the mere intent of the owner to ship them into another State, so that State taxation upon them could be regarded as a burden upon interstate commerce, until that intent had been carried so far into execution that "they had commenced their final movement from the State of their origin to that of their destination." *Kidd v. Pearson* (128 U. S., 1, 9 Sup. Ct., 6), is also referred to. In that case it was held that a law of Iowa, which forbade the manufacture of spirituous liquors, except for certain purposes, was not in conflict with the commerce clause of the Federal Constitution, although it appeared by proof that the liquor was to be manufactured only with intent to ship the same out of the State. The Chief Justice further said:

"It was in the light of well-settled principles that the act of July 2, 1890, was framed. Congress did not attempt thereby to assert the power to deal with monopoly directly as such; or to limit and restrict the rights of corporations created by the States or the citizens of the States in the acquisition, control, or disposition of property; or to regulate or prescribe the price or prices at which such property or the products thereof should be sold; or to make criminal the acts of persons in the acquisition and control of property which the States of their residence or creation sanctioned or permitted. Aside from the provisions applicable where Congress might exercise municipal power, what the law struck at was combinations, contracts, and conspiracies to monopolize trade and commerce among the several States or with foreign nations; but the contracts and acts of the defendants related exclusively to the acquisition of the Philadelphia refineries and the business of sugar refining in Pennsylvania, and bore no direct relation to commerce between the States or with foreign nations. The object was manifestly private gain in the manufacture of the commodity, but not through the control of interstate or foreign commerce. * * * There was nothing in the proofs to indicate any intention to put a restraint upon trade or commerce, and the fact, as we have seen, that trade or commerce might be indirectly affected, was not enough to entitle complainants to a decree."

We have thus considered and quoted from the decision in the *Knight* case at length, because it was made the principal ground for the action of the court below, and is made the chief basis of the argument on behalf of the defendants here. It seems to us clear that, from the beginning to the end of the opinion, the Chief Justice draws a distinction between a restraint upon the business of manufacturing and a restraint

upon the trade or commerce between the States in the articles after manufacture, with the manifest purpose of showing that the regulating power of Congress under the Constitution could affect only the latter, while the former was not under Federal control and rested wholly with the States.

Among the subjects of commercial regulation by Congress, he expressly mentions "contracts to buy, sell, or exchange goods to be transported among the several States," and leaves it to be plainly inferred that the statute does embrace combinations and conspiracies which have for their object to restrain, and which necessarily operate in restraint of, the freedom of such contracts. The citation of the case of *Coe v. Errol* was apt to show that merchandise, before its shipment across State lines, was not within the regulating power of Congress, and a fortiori, that its manufacture was not; while *Kidd v. Pearson* clearly made the distinction between the absence of power in Congress to control manufacturing merely because the manufacturer intends to add to interstate commerce with the product and the power which Congress has to prevent obstructions to interstate transportation in the product when made. But neither of these cases controls the one now under consideration. The subject-matter of the restraint here was not articles of merchandise or their manufacture, but contracts for sale of such articles to be delivered across State lines, and the negotiations and bids preliminary to the making of such contracts, all of which, as we have seen, do not merely affect interstate commerce, but are interstate commerce. It can hardly be said that a combination in restraint of what is interstate commerce does not directly affect and burden that commerce. The error into which the circuit court fell, it seems to us, was in not observing the difference between the regulating power of Congress over contracts and negotiations for sales of goods to be delivered across State lines, and that over the merchandise, the subject of such sales, and negotiations. The goods are not within the control of Congress until they are in actual transit from one State to another. But the negotiations and making of sales which necessarily involve in their execution the delivery of merchandise across State lines are interstate commerce, and so within the regulating power of Congress even before the transit of the goods in performance of the contract has begun.

The language of the Chief Justice in the last passage quoted above from his opinion, upon which so much reliance was placed by the circuit court and the defendants' counsel at the bar, is to be interpreted by the facts of the case before the court. The statement in the opinion that Congress did not intend by the antitrust act to limit and restrict the rights of persons and corporations in the mere acquisition, control, or disposition of property, or to regulate the prices at which such property should be sold, or to make criminal the acts of persons or corporations in the acquisition and control of property which the States of their residence or creation sanctioned or permitted, does not imply that Congress did not intend to strike down any combination which had for its object the restraint and attempted monopoly of trade and commerce among a given number of States in specified articles of commerce, and the resulting power to regulate prices therein. The obstacle in the way of granting the relief asked in *United States v. E. C. Knight Company* was (to use the language of the Chief Justice) that "the contracts and acts of the defendant related exclusively to the acquisition of the Philadelphia refineries, and the business of sugar refining in Pennsylvania, and bore no direct relation to commerce between the States or with foreign nations." The Supreme Court distinctly adjudged that "what the law struck at was combinations, contracts, and conspiracies to monopolize trade and commerce among the several States or with foreign nations." That the defendants in the present case combined and contracted with each other for the purpose of restraining trade and commerce among the States covered by their agreement, in the articles manufactured by them, is too clear to admit of dispute. In the *E. C. Knight & Co.* case there was, the Supreme Court said, "nothing in the proofs to indicate any intention to put a restraint upon trade or commerce." In the present case the proofs show that no one of the companies in this pipe-trust combination was allowed to send its goods out of the State in which they were manufactured except upon the terms established by the agreement. Can it be doubted that this was a direct restraint upon interstate commerce in those goods? To give the language of the opinion in the *Knight* case the construction contended for by defendants, would be to assume that the court, after having in the clearest way distinguished the case it was deciding from a case like the one at bar, for the very purpose of not deciding any case but the one before it, then proceeded to confuse the cases by using language which decided both. We can not concur in such an interpretation of the opinion.

Counsel for the defendants also find in the language of Mr. Justice Peckham, in the case of *United States v. Trans-Missouri Freight Association* (166 U. S., 290, 313, 326, 17 Sup. Ct., 540) an argument against our conclusion in this case. The question in that case was whether the antitrust act applied to railroad companies which combined in establishing traffic rates for the transportation of persons and property. It was vigorously contended on behalf of the railroad companies that the act was never intended to apply to them, because Congress had already provided for their regulation by the interstate commerce law. In meeting this position, Mr. Justice Peckham used the following language (p. 313, 166 U. S., and p. 548, 17 Sup. Ct.):

"We have held that the trust act did not apply to a company engaged in one State in the refining of sugar under circumstances detailed in the case of *United States v. E. C. Knight & Co.* (156 U. S., 1, 15 Sup. Ct., 249), because the refining of sugar under those circumstances bore no distinct relation to commerce between the States or with foreign nations. To exclude agreements as to rates by competing railroads for the transportation of articles of commerce between the States would leave little for the act to take effect upon."

Again, upon page 326, 166 United States, page 553, 17 Supreme Court, Justice Peckham repeats the same idea:

"In the *Knight & Co.* case, supra, it was said that this statute applied to monopolies in restraint of interstate or international trade or commerce, and not to monopolies in the manufacture even of a necessary of life. It is readily seen from these cases that, if the act does not apply to the transportation of commodities by railroads from one State to another or to foreign nations, its application is so greatly limited that the whole act might as well be held inoperative."

This is not a declaration that cases might not arise within the statute which were not combinations of common carriers in relation to interstate transportation. The language used means nothing more than that, if such combinations were excluded from the effect of the act, the great and manifest scope for the operation of a Federal statute on such a subject would be denied to it. To give the language more weight would be to violate the first canon for the construction of a judicial

opinion laid down by Chief Justice Marshall in *Cohens v. Virginia* (6 Wheat., 264, 340, 399):

"It is a maxim, not to be disregarded, that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The reason for this maxim is obvious. The question actually before the court is investigated with care, and considered in its full extent. Other principles which may serve to illustrate it are considered in their relation to the case decided, but their possible bearing on all cases is seldom completely investigated."

In *re Greene* (52 Fed., 104), cited for the defendants, is to be distinguished from the case at bar in exactly the same way as the *Knight Company* case. The indictment against *Greene*, drawn under the antitrust act, charged him with being a member of a combination to acquire possession and control of 75 per cent of the distilleries of the country, for the purpose of fixing the price of whisky and controlling the trade in it between the States. The immediate object of the combination was a monopoly in manufacture. The effect upon interstate trade in whisky was as indirect as was the monopoly of the refining of sugar in the *Knight Company* case upon interstate trade in that article.

The case of *Dueber Watch Case Mfg. Company v. E. Howard Watch and Clock Company* (35 U. S. App., 16; 14 C. C. A., 14, and 66 Fed., 637) can not be regarded as an authority upon either of the questions considered in this case, because of the division of opinion among the judges. It was a suit brought by a watch manufacturing company against twenty other companies to recover damages for a boycott of the plaintiff. The averment was that the defendants had agreed not to sell any goods manufactured by them to any person dealing with the plaintiff, and had caused this to be known in the trade, and that they fixed an arbitrary price for the sale of their goods to the public, and, because plaintiff's competition interfered with their maintaining this price they were using the boycott against plaintiff to stifle competition. The pleadings were not drawn with care to bring the case within the antitrust law. The questions arose on demurrer to the bill. Judge Lacombe held that the facts stated gave rise to no cause of action; Judge Shipman held that the averments were not sufficient to show that the trade restrained was interstate, and Judge Wallace dissented, on the ground that a cause of action was sufficiently stated and that the restraint was upon interstate commerce. These varying views decided the case, but they certainly furnish no precedent or authority.

There is one case which seems to be quite like the one at bar. It is the case of *United States v. Jellico Mountain Coal and Coke Company* (46 Fed., 432), a decision by Judge Key, at the circuit. The owners of coal mines in Kentucky entered into a contract of association with coal dealers in Nashville, by which they agreed that the mine owners should only sell to dealers who were members, and the members should only buy from mine owners who were members, and that the dealers should sell at certain fixed prices, of which the mine owners should receive a proportionate part, after payment of freight, and that prices might be raised by a vote of the association, in which case the addition to the price should be divided between the dealers and the mine owners. The contract recited that it was intended to establish and maintain the price of coal at Nashville. It was held to be an attempt to create a monopoly in the interstate trade in coal between Kentucky and Nashville, Tenn., and it was enjoined.

It is pressed upon us that there was no intention on the part of the defendants in this case to restrain interstate commerce, and in several affidavits the managing officers of the defendants make oath that they did not know what interstate commerce was, and, therefore, that they could not have combined to restrain it. Of course the defendants, like other persons subject to the law, can not plead ignorance of it as an excuse for its violation. They knew that the combination they were making contemplated the fixing of prices for the sale of pipe in thirty-six different States, and that the pipe sold would have to be delivered in those States from the four States in which defendants' foundries were situated. They knew that freight rates and transportation were a most important element in making the price for the pipe so to be delivered. They charged the successful bidder with a bonus to be paid upon the shipment of the pipe from his State to the State of the sale. Under their first agreement, the bonus to be paid by the successful bidder was varied according to the State in which the sale and delivery were to be made. It seems to us clear that the contract of association was on its face an extensive scheme to control the whole commerce among thirty-six States in cast-iron pipe and that the defendants were fully aware of the fact, whether they appreciated the application to it of the antitrust law or not.

Much has been said in argument as to the enlargement of the Federal governmental functions in respect of all trade and industry in the States if the view we have expressed of the application of the antitrust law in this case is to prevail, and as to the interference which is likely to follow with the control which the States have hitherto been understood to have over contracts of the character of that before us. We do not announce any new doctrine in holding either that contracts and negotiations for the sale of merchandise to be delivered across State lines are interstate commerce (see cases above cited), or that burdens or restraints upon such commerce Congress may pass appropriate legislation to prevent and courts of the United States may in proper proceedings enjoin. (In *re Debs*, 158 U. S., 564; 15 Sup. Ct., 900.) If this extends Federal jurisdiction into fields not before occupied by the General Government, it is not because such jurisdiction is not within the limits allowed by the Constitution of the United States.

The prayer of the petition that pipe in transportation under the contract of association be forfeited in a proceeding in equity like this, is, of course, improper, and must be denied. The sixth section of the antitrust act, after providing that property owned and in transportation from one State to another or to a foreign country under a contract inhibited by the act "shall be forfeited to the United States," continues "and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law." This requires a like procedure to that prescribed in sections 3309-3391, Revised Statutes, and involves a trial by jury. The only remedy which can be afforded in this proceeding is a decree of injunction.

For the reasons given the decree of the circuit court dismissing the bill must be reversed, with instructions to enter a decree for the United States perpetually enjoining the defendants from maintaining the combination in cast-iron pipe described in the bill, and substantially admitted in the answer, and from doing any business thereunder.

APPENDIX B.

[House of Representatives, Report 1522, part 2, Fifty-seventh Congress, first session.]

LIMITING THE MEANING OF THE WORD CONSPIRACY.

Mr. LITTLEFIELD, from the Committee on the Judiciary, submitted the following as the views of the minority (to accompany H. R. 11060):

The undersigned, a member of the Judiciary Committee, to whom was referred the bill (H. R. 11060) to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, which bill has been reported by the Judiciary Committee without amendment with a favorable recommendation, begs leave to submit herewith views giving reasons why the bill should not become a law without certain amendments materially modifying its provisions and narrowing its scope. It is a bill to define the meaning of the word conspiracy and regulate the use of restraining orders and injunctions. It defines conspiracy as follows (leaving out the language not involved in the definition):

"That no agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees * * * shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime."

It is further provided in the act as follows:

"Nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce."

This last clause is intended to exempt employers and employees contemplating or engaged in the furtherance of any trade dispute from the operation of the Sherman antitrust act. Following the definition and this clause is the general provision, "nor shall any restraining order or injunction be issued with relation thereto." It is submitted that the bill ought not to become a law until it is amended in two important particulars:

First, By striking out the words "nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce."

EXCEPTION TO SHERMAN ANTITRUST ACT.

The only statute of the United States that prohibits contracts and agreements in restraint of trade and commerce is the Sherman antitrust act, approved July 2, 1890.

That statute makes such contracts and agreements criminal and imposes upon the parties making them penalties of fine and imprisonment. It makes no discrimination between classes or individuals. In its application it is not a respecter of persons. It does not select, as it ought not, persons engaged in any particular business or occupation, as distinguished from other kinds of business or occupation, as subject to its penalties. It operates equally and alike upon all. If the results legislated against are properly the subject of criminal legislation, all agencies through which such results are produced must be equally within the penal provisions of the act, as otherwise the restraint of trade and commerce could not be effectually prevented. If the result is injurious, all acts producing the results should be under the ban of the statute.

It is certainly conceivable that acts may be done in "contemplation or furtherance of any trade dispute between employers and employees" that would not be "in restraint of trade or commerce," and it is undoubtedly true that acts might be specially directed to or necessarily involve the "restraint of trade or commerce" for the purpose of furthering such dispute. It can hardly be insisted that a set of acts done to accomplish a particular purpose, and which as a part thereof necessarily restrain trade or commerce, should be held innocent and harmless when intended to produce results denounced as criminal, while other acts of the same general character, not involving this particular purpose, but producing the same result, should be held criminal.

No reason is perceived why the law should discriminate as to the purpose for which trade or commerce should be restrained. We do not think it proper to discriminate between the classes of persons or the acts in which they may be engaged when such acts equally tend to and bring about the same criminal result. It is not within the proper province of the lawmaking power to make fish of one and fowl of another. A State with its recognized powers of sovereignty is impotent to obstruct interstate commerce, but this bill without amendment would in effect authorize persons engaged in the furtherance of a trade dispute, employers and employees, to make contracts and agreements, do acts that would obstruct interstate commerce, and thus exercise powers not possessed by a sovereign State.

We can not feel that the proponents of the bill would desire this result. With the language stricken out as proposed by the amendment it will be seen that the language of the bill is sweeping and far-reaching, and it would be difficult to say just how far the court would go in holding under it that parties to combinations between employers or employees for the furtherance of a trade dispute would be excepted from the operations of the Sherman antitrust act. It is quite possible that its operation will prove to be more extensive than is contemplated by conservative judgment. When the friends of the bill have the full benefit of such extremely general language, with its inherent possibilities of judicial construction, it would appear to be as far as they ought to ask the legislative power to go.

Second, The broad and comprehensive scope of the definition of the word "conspiracy" under the terms of this proposed act should be narrowed and confined within at least reasonable limits.

THE ENGLISH LAW.

An examination of the origin of the legislation which is relied upon as the precedent for this bill will, perhaps, be instructive. Jackson H. Ralston, esq., an attorney at law and counsel for the Federation of Labor, drew this bill and appeared before the committee during the last Congress in advocacy thereof. As to the precise language of the bill and the precedents therefor he used this language at the hearing:

"I want to say that upon examination of the statute law of other jurisdictions I found that the Parliament of England had met the very condition that seemed to be confronting the labor organization here, and in the act known as the 'Trade-union act of 1875' Parliament had provided that where an act could be committed by an individual and not be criminal, the same act, if committed by a number of individuals in combination, could not be made the subject of the criminal-conspiracy law or could not be deemed a criminal act."

"The CHAIRMAN. What was the date of that act?"

"Mr. RALSTON. That act was passed in 1875."

"Mr. PARKER. Does it apply to all acts, no matter what they are?"

"Mr. RALSTON. In relation to trades disputes.
 "Mr. PARKER. It would not, therefore, apply to a boycott?
 "Mr. RALSTON. Yes; it would apply there absolutely.
 "The CHAIRMAN. Even if they starved the man to death?
 "Mr. RALSTON. Yes, sir; it would apply to an act of that kind, and for this reason: That any man has a legal right to purchase from any other man that he chooses, and there is a correlative right in every man to refuse to sell him his goods. That is right."
 Very clearly giving to the committee the impression that the language which he quoted as being the substance of the English law was a correct statement of the scope of that legislation. And upon this same point, more effectively impressing the committee with the idea that he was simply asking in substance a reenactment of the English statute, and leaving upon their minds the impression that its scope, operation, and effect had been accurately stated by him, he said further:
 "Continuing the argument I had in mind, I have stated, I think correctly, the law under this act of 1875. Now, the trades-union act was followed in Maryland in the act of 1884. I have here the Maryland act as it was incorporated in the code of 1888. The language is as follows:

"An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as an offense. Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or any offense against any person or against property."

"That is, as I say, the language of the Maryland act of 1884.
 "Mr. PARKER. And that was the language of the English act of 1875?
 "Mr. RALSTON. Almost identically the language of the English act and the language which has been followed in the bill now before the committee."

Thus very clearly leaving upon the mind of the committee the impression that he had accurately stated the scope of the English statute. The quotation which Mr. Ralston made from the Maryland statute is accurate, and the effect of making the quotation is only to intensify the impression that he had also accurately stated the scope of the English statute. This presentation of the English statute, with the idea that Congress was to accept it as a legislative precedent in legislating upon this subject, was a very serious misconception of the scope of the English law. The fact is, as the brief analysis of the English statute which is given below will show beyond all possible peradventure, that the English statute when accurately stated is very much narrower in its scope than the language used by Mr. Ralston in stating the English law, and is in fact, by numerous limitations and restrictions upon its operation, not only practically innocuous, but extremely oppressive in its operation upon laboring men, as it creates offenses theretofore unknown in the English law and never yet made nor attempted to be made criminal in any American jurisdiction.

What Mr. Ralston did was to take one section of a chapter nearly word for word, disconnect it from at least eight distinct and specific provisions which narrowed and limited the scope of its operations. The section which he quoted as a legislative precedent for our action reads as follows, and is a part of the conspiracy and protection of property act of 1875:

"An agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime."

The first exception reads as follows:

"Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is awarded by any act of Parliament."

Just what the scope of this exception is could not be stated in detail without an examination of the statutory law of England to ascertain as to what particular subjects the law of conspiracy applies.

The second exception is:

"Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offense against the State or the Sovereign."

The third exception provides:

"Where any person willfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury, he shall, on conviction thereof by a court of summary jurisdiction or indictment, as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 or to be imprisoned for a term not exceeding three months, with or without hard labor."

The scope of this exception will be appreciated when it is considered that it is not infrequently the "probable consequence" of a strike to expose valuable property—a man's business is certainly "valuable property"—to serious injury, and wherever there is reasonable cause to believe that such consequences are probable it is very clear that a single individual, independent of conspiracy, who "willfully and maliciously" violated his contract of service or hiring with that end in view, would be punishable under the English law by fine and imprisonment. Such an act, it is believed, is not made a crime in any jurisdiction in this country, and it is thought that the Federation of Labor, which desires this legislation, would protest with great vigor, and properly so, against the enactment of a statute which would make such an act on the part of a single individual punishable by fine and imprisonment. We only call attention to the exceptions which would affect laboring men, as this legislation is requested and urged principally by the labor organizations for the purpose of ameliorating their condition.

The fourth exception limiting the scope of this provision of the English law provides that every person who uses violence to or intimidates any other person, or his wife or children, or injures his property with a view to compel such other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority, "shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding three months, with or without hard labor."

The fifth exception provides that whoever for the same purpose persistently follows such other person about from place to place should be punished in the same manner.

The sixth exception provides that whoever for the same purpose "hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof," shall be punished in the same manner.

The seventh exception provides that whoever for that purpose "watches or besets the house or other place where such other person resides or works or carries on business or happens to be, or the approach to such a house or place" shall be punished in the same manner. The eighth exception provides that whoever, for the same purpose, "follows such other person with two or more other persons in a disorderly manner in or through any street or road" shall be punished in the same manner.

All of these provisions, with the possible exception of some phases of that included in the fourth subdivision creating new and additional criminal offenses upon the part of laboring men, and especially laboring men engaged in the familiar methods universally employed for the purpose of alleviating their condition by strikes. In no instance in any jurisdiction in this country are any of those acts, except possibly some included in the fourth subdivision, made punishable as crimes. It may be safely said that legislation of that sort would not be tolerated for a moment by any of the organizations who are interested in the passage of this bill.

Instead of ameliorating the condition of the laboring man who desires to avail himself of the right of the strike or the boycott provisions of the law, such as exist in the English statute, they narrow and restrict the scope of the operation of the general provision which was, presumably under a misapprehension, cited to us as a precedent for this bill. The enactment of such drastic and oppressive provisions would place every laboring man in a strait-jacket and practically destroy the efficiency of every labor organization in the country. Yet when fairly stated the provision relied upon as a precedent for this bill should have been stated, and should be stated with all of these qualifications and restrictions.

It is not credible that the Federation of Labor would advocate the adoption of the English statute from which this extract upon which they rely as a precedent was made, creating as it does so many new offenses aimed explicitly and expressly against laboring men and labor organizations. When considered in connection with Federal legislation the application of these suggestions is necessarily confined to their effect upon interstate trade and commerce. A bill similar to this was reported by the Judiciary Committee in the last Congress (H. R. 8917, Report No. 2007), but at the time of making the report the attention of the committee had not been called to the provisions above referred to in the English statute, but had, in fact, as the result of the partial statement of the counsel, been diverted therefrom. For that reason no allusion was made to it in that report.

The operation of this law in England, as might well be expected, has proved to be entirely satisfactory to the employers of labor. A short extract from a very able and instructive review of the legislation and its operation, made by A. Maurice Low, esq., who went to England under the auspices of the Department of Labor and made an exhaustive and thorough investigation of the subject, may prove instructive:

"EFFECT OF THE ACT OF 1875.

"The passage of the act of 1875 was hailed by the workmen with great satisfaction. It was regarded by them as conceding all for which they had so long contended—the right to enter into a legal combination to thwart or restrict the efforts of their employers, to more narrowly define their rights, and to lighten the punishment which they might incur in case of any violation of the law. The employers did not regard the law without apprehension.

"How far these hopes on the one side and fears on the other have been realized is a striking commentary on the effect of judicial interpretation of statute law. Dealing for the time being with the law as viewed from the standpoint of the employer, the fact stands forth in bold relief that the law which the employers dreaded twenty-five years ago they would not to-day repeal had they the power. This is not the opinion of a single employer. It is the composite opinion of what may fairly be termed the representative employers of labor in the United Kingdom, men speaking for the basic industries on which must rest all commercial prosperity. The reason given by employers why they are satisfied with the existing law is that it is easier now to prosecute and convict men endeavoring to interfere with their business or their employees than it was prior to the passage of the act, and that the rights of both parties being more narrowly defined, both know precisely what they may or may not be permitted to do, and generally endeavor to keep within those limitations.

"The right of workmen to do in combination that which they might do legally as individuals, feared by the employers at the time of the passage of the act and hailed by the workmen as placing a powerful weapon in their hands, has in practice not been either so dangerous or as beneficial as was imagined at the time. That men can strike, either as individuals or in combination, and do other things in combination which would have been illegal under previous laws, does not apparently cause the employers much concern. So long as men go on strike and do not by intimidation or violence prevent other men from taking their places, employers feel able to cope with the situation. It is in dealing with this question that employers believe they have been distinct gainers by the passage of the conspiracy and protection of property act."

His general conclusions, which we quote below, are also instructive, but should be read in connection with the fact that the law relating to boycotts and strikes had been construed very much more oppressively against labor organizations than is the case in this country.

"GENERAL CONCLUSIONS.

"What effect the passage of the law of 1875 has had in improving the relations between capital and labor is a question so difficult of exact determination, or of mathematical demonstration, that it can only be answered in the most cautious manner and by inference rather than by direct statement. Despite the frequent reference which has been made in this article to litigation—which, perhaps, is always the natural corollary of any legislative action or a complete change from the old established order—and the admitted discontent with some of the phases of the law, that these relations have been improved must be conceded, and the acknowledgment is frankly made by the representatives of both capital and labor.

One of the chief causes for this improvement is the power given to the workmen to do in combination that which they were before permitted to do as individuals only. That permission has removed one source of friction; it has with exactness limited the rights of the men, and there has been no attempt on the part of employers to interfere with this legal right. On the other hand, section 7, as judicially interpreted, enables the employers to prevent intimidation or coercion or interference with the carrying on of their business in their own way, and when an attempt is made to interfere with them a ready means is provided for obtaining relief. Perhaps the answer to the question as to the effect of the law on the relations between capital and labor can be best given in

the words of two men—one entitled to speak as the representative of federated capital, the other as the representative of federated labor. The representative of capital said:

"We are satisfied with the law. We would not change it if we could, except to make clearer the definition of intimidation and coercion. Before the law came into effect we were harassed by picketing and besetting, and it was extremely difficult to secure a conviction. Now we are far less troubled by these forms of violence, and when it becomes necessary to appeal to the protection of the law it is quickly given us, and where the case is a just one we can rely on securing a conviction. But there is another reason why we think the law is a good thing and why it is mutually advantageous both to capital and labor. Prior to 1875 the relations between masters and men were vague, indefinite, barbaric, archaic. The men were denied the right to improve their condition, to obtain an increase of wages, to reduce their hours of labor. I mean, they were denied the right to attempt to do these things by peaceful means, a right which certainly belonged to them. These restrictions have been removed.

"We are often, I admit, dictated to by trade unions, often severe and burdensome restrictions are imposed upon us in the conduct of our business; still, I concede that the men have a right to try and obtain an amelioration of their condition provided they do not resort to illegal methods. Nor can it be denied that what we now recognize as legitimate was in the old days regarded as illegal; prosecutions were frequently instituted on frivolous grounds. The law has removed this cause of complaint. It has brought the relations between capital and labor into greater harmony. These relations are not yet perfect, but they are better than they were."

From the standpoint of the representative of labor the following:

"Speaking broadly, I have no hesitation in saying that the relations between capital and labor are better to-day than they were twenty-five years ago. I do not attribute all of this improvement to the passage of the law of 1875. I attribute part of that improvement to the law of that year, part to the better understanding which now exists between employer and employed, to the recognition that both have equal rights, to the recognition that both are mutually dependent on each other, that nothing can be to the advantage of the one without being to the advantage of the other, and, conversely, if one side is dissatisfied the other is sure to be, with the results that the consequences are injurious to both. Referring more directly to the law of 1875, its advantages to labor have been these:

"It has permitted us to do in combination what we were permitted to do as individuals, but which we were prohibited from doing in association before that law came into effect; it has more particularly established our rights; it has given us certain privileges and restrictions, and at the same time has laid equal privileges and restrictions upon employers; it has made us feel that we are not in a class by ourselves, but stand equal in the eye of the law with other men, which has had the effect of removing much of the bitterness, much of the feeling of injustice and inequality which formerly existed between capital and labor. The law is not to be regarded as perfect. It has not quite fulfilled all of our expectations. The courts, in the opinion of labor, have been too prone to construe the law in favor of capital. Some of the convictions under section 7 we regard as unwarranted by the law and the facts.

"The decision in *Allen v. Flood* was a great victory for us, but the limitation of the power to picket, the restrictions which are imposed upon us, the restraint under which we are held, the fact that we can only do certain negative things and have no power to act affirmatively have weakened instead of strengthened us when we are engaged in a conflict with capital. We should like to see the law amended. Its amendment has often been discussed by us, but I am frank to say I do not see any prospect of the law being modified to make it more acceptable to the workmen. Still, if the question were put to a vote, if we were asked whether we would have the law repealed or let it stand as it now is, faulty although we know it to be, I have no hesitation in saying that a majority of the intelligent workmen of Great Britain would vote in favor of the law being retained on the statute books."

That the English law, if adopted as it reads in the act of 1875, would be very much more restrictive and oppressive than any law that now exists in this country with reference to labor organizations is undeniable. That it would authorize the issuance of injunctions in a great many of the instances about which the most serious complaint is made is also true. It has been complained bitterly that injunctions have been issued to prevent laboring men from approaching a place of business, when the English law makes the mere watching of the approach to such house for the purpose indicated, although done by an individual, a crime. The walking delegate could not exist when the law made it a crime on the part of the single individual for said purpose to either watch or beset the house or other place where any person resided or where he carried on his business or happened to be. An injunction against a single individual persistently following another about from place to place without any reference whatever to the place of business where he might be engaged or his own house, with a view to compel him to do or abstain from doing an act wrongfully and without legal authority, would be, if an injunction was issued in reference thereto, considered a gross abuse of the power of injunction, but in England no individual could thus follow a person from place to place, no matter where the place might be, without being punishable by fine or imprisonment.

It would no doubt be thought oppressive if the court punished by fine or imprisonment a single individual, to say nothing of a combination of individuals, for wilfully or maliciously breaking a contract of service or hiring, even though it was intended thereby to expose a business to injury. The business of an individual or corporation is valuable property. It would be purposely and designedly exposed to serious injury, or at least there may be reasonable cause to believe that would be the probable result, when the object of breaking a contract of service is to paralyze the business and bring it to an absolute standstill until what are not infrequently the reasonable demands of the laboring man are properly adjusted. If, however, a single individual in England saw fit to break his contract of service wilfully and maliciously for the purpose of exposing to serious injury the business of his employer, or aiding in that purpose, he would be punishable by fine and imprisonment, and a combination could be restrained by injunction from carrying such purpose into effect.

It is thought that such an exercise of the power of injunction, which would be possible in this country if we took the English statute with its limitations, so far as applicable to interstate commerce, would be considered oppressive and dangerous to the last degree by the labor organizations. In short, under this statute, with its limitations and restrictions, it is difficult to see how laboring men could successfully and safely assert their rights and protect their interests. Yet this is the statute which we were led to believe furnished an adequate precedent for the pending bill.

We suggest, therefore, as a second amendment to this bill, the proviso which was reported as an amendment by the committee in the last Congress, which reads as follows:

"Provided, That the provisions of this act shall not apply to threats to injure the person or the property, business, or occupation of any person, firm, association, or corporation, to intimidation or coercion, or any acts causing or intended to cause an illegal interference, by overt acts, with the rights of others."

This proviso does not, we think, go as far in limiting the scope of the operation of the bill as do the various exceptions and limitations found in the English law. In other words, it leaves the bill with a wider field within which to operate than is covered by the precedent which is relied upon to justify it. Unlike the English exceptions, it does not make criminal or restrainable what was not before criminal or restrainable.

The bill provides that "any act in contemplation or furtherance of any trade dispute between employers and employees" shall not "be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall any restraining order or injunction be issued with relation thereto."

This bill, as it reads, without amendment, would authorize a large number of persons engaged in the "furtherance of a trade dispute" to orally threaten personal violence and injury to persons, property, business, and occupations—to intimidate and coerce by oral threats—as such an act, when committed by one person, is not punishable as a crime. The only remedy for a threat to do personal injury in nearly every State jurisdiction is a proceeding to place the party making the threat under bonds to keep the peace, and thus prevent the commission of an act that would "be punishable as a crime." If such threat is ever punishable as a crime it is an exception to which attention has not been called, and certainly is not the rule. This being the case, the bill would certainly authorize a combination of any size to orally threaten injury—to intimidate and coerce by oral threats—acts which we assume no one would desire to have permitted, much less authorized, by the provision of any public statute. We have been advised by some of those urging its passage that such a result was neither desirable nor desired.

The bill was evidently drawn under the misapprehension that oral threats to injure as aforesaid were "punishable as a crime." The object sought to be obtained by this act, as we understand it, is to prohibit the punishment of combinations, organized to do or doing acts that would be lawful and proper if done by an individual, and to prohibit the use of injunctions to restrain the doing of such acts by any combination, acts which are not intended to and do not injure persons or property. We do not understand that anyone seriously contends that authority should be given, either directly or indirectly, by a public statute to any combination to orally threaten injury to persons or property, business or occupations, or intimidate or coerce by such threats, or to interfere with the legal rights of others, or that the court should be prohibited from restraining such acts. It is for the purpose of preventing such an undesired and unwarrantable operation of the act and confining it to what its friends admit to be its legitimate scope that the adoption of the second amendment is recommended.

Moreover, it will be observed that this bill by its terms applies as well to employers as to employees, and whether that result is intended or not undoubtedly places the employers with reference to employees where they can take any kind of action in combination, which stops short of an actual crime by an individual employer, to oppress their employees without being subject to criminal punishment or the restraints of a court of equity, and to that extent very clearly leaves the employees at the mercy of the employer.

THE EXCEPTION IS CONTRARY TO THE SPIRIT OF THE CONSTITUTION.

The clause providing that such agreement, combination, or contract shall not be considered in restraint of trade or commerce, if it appeared in a law enacted by a State, would clearly be within and in violation of that provision of the Constitution being considered by the Supreme Court of the United States in the case of *Connolly and another against The Union Sewer Pipe Company*. It is that clause of the Constitution of the United States which is found in the fourteenth amendment and provides, among other things, that "no State shall . . . deny to any person within its jurisdiction the equal protection of the laws." An examination of the Constitution of the United States discloses the fact that there is no such prohibition applying to Federal legislation, and while a statute which denies to any person within the jurisdiction of the United States the equal protection of the laws is, when passed by Congress, equally in violation of the fundamental reasons which justify the existence of that amendment, such statute may not be invalid by reason of the absence of any such constitutional prohibition. Legislation of that character is clearly, however, obnoxious to the same consideration of justice, fairness, and public policy.

In discussing the statute of Illinois in connection with this constitutional provision in the case above referred to, the Supreme Court of the United States declared that by the fourteenth amendment it was—"undoubtedly intended not only that there should be no arbitrary deprivation of life or liberty, or arbitrary spoliation of property, but that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness and acquire and enjoy property; that they should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; that no impediment should be interposed to the pursuits of anyone except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition, and that in the administration of criminal justice no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses."

In applying these general principles, held to be within the scope of the amendment to the case in hand, the court said:

"These principles, applied to the case before us, condemn the statute of Illinois. We have seen that under that statute all except producers of agricultural commodities and raisers of live stock who combine their capital, skill, or acts for any of the purposes named in the act may be punished as criminals, while agriculturists and live-stock raisers, in respect of their products or live stock in hand, are exempted from the operation of the statute, and may combine and do that which, if done by others, would be a crime against the State. The statute so provides notwithstanding persons engaged in trade or in the sale of merchandise and commodities within the limits of a State and agriculturists and raisers of live stock are all in the same general class—that is, they are all alike engaged in domestic trade, which is of right open to all, subject to such regulations applicable alike to all in like conditions,

as the State may legally prescribe. The difficulty is not met by saying that, generally speaking, the State when enacting laws may, in its discretion, make a classification of persons, firms, corporations, and associations in order to subserve public objects."

And again:

"No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government."

And again:

"Two or more engaged in selling dry goods, or groceries, or meats, or fuel, or clothing, or medicines, are under the statute criminals, and subject to a fine, if they combine their capital, skill, or acts for the purpose of establishing, controlling, increasing, or reducing prices, or of preventing free and unrestrained competition amongst themselves or others in the sale of their goods or merchandise; but their neighbors who happen to be agriculturalists and live-stock raisers may make combinations of that character in reference to their grain or live stock without incurring the prescribed penalty. Under what rule of permissible classification can such legislation be sustained as consistent with the equal protection of the laws?"

And

"We conclude this part of the discussion by saying that to declare that some of the class engaged in domestic trade or commerce shall be deemed criminals if they violate the regulations prescribed by the State for the purpose of protecting the public against illegal combinations formed to destroy competition and to control prices, and that others of the same class shall not be bound to regard those regulations, but may combine their capital, skill, or acts to destroy competition and to control prices for their special benefit, is so manifestly a denial of the equal protection of the laws that further or extended argument to establish that position would seem to be unnecessary."

That the Sherman antitrust law denounces as a criminal, without any exception or reservation, every person who shall make a contract or combination in the form of a trust or otherwise, or conspiracy in restraint of trade or commerce among the several States and foreign nations, is very clear.

Two or more persons or corporations engaged in the business of manufacturing or selling "dry goods, or groceries, or meats, or fuel, or clothing, or medicines" (to quote the language of the court in the Illinois case), if they enter into a contract, or combination, or conspiracy in restraint of such interstate trade or commerce would clearly be subject to fine and imprisonment, but under the provisions of this bill employers or employees who may be engaged in interstate commerce might make any contract or agreement in furtherance of any trade dispute between them, and although the direct and necessary effect of the contract and agreement might be not only to restrain but absolutely paralyze interstate trade and commerce, still under the provision of this bill such agreement, combination, or contract would not be considered as in restraint of trade and commerce, and would neither be indictable under the statute, nor could the making of such agreement be restrained by the court.

Upon the other hand, such acts or such agreement, if done or made by any other than the excepted parties, would clearly be indictable and restrainable under the provisions of the antitrust law. While it can be perhaps successfully contended that this exception would be constitutional, there is certainly strong ground for the conclusion that it is clearly within the principle and spirit of the Constitution, and this of itself should lead Congress to hesitate before passing legislation which would appear upon its face to be obnoxious to the idea that every person within the jurisdiction of the United States is entitled to the equal protection of the law, as "in the administration of criminal justice no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses." A fortiori, then, penalties imposed on criminal liability "should not be imposed upon one than such as is prescribed to all for like offenses."

Such legislation is not "intended to secure that equality of rights which is the foundation of free government."

THE REPORT OF THE COMMITTEE.

Common courtesy requires that some reference should be made to the report of the committee, which contains a somewhat exhaustive exposition of this bill.

In reaching their conclusions the committee use some rather novel reasoning. An agreement or a contract without at least two parties thereto is unthinkable. On this point the committee, among other things, say:

"To make such an agreement a person who agrees with another to make and become a party to such a contract, combination, or agreement has agreed or conspired to commit an offense against the United States, which offense would be consummated if both parties should actually enter into such agreement, and hence under the provisions of the act of May 17, 1879, above quoted, he would be guilty of the crime of conspiracy the moment either party should actually consent and become a party to the contract or combination forbidden by the act of July 2, 1890, even if the other person should then refuse to enter into the combination, contract, or agreement made illegal by that act, and which the two persons had agreed to make, and it would be entirely immaterial that no act was done by either party in restraint of trade or commerce."

That is to say, "the moment either party" becomes "a party to the contract," which must of necessity involve the idea of the other party becoming a party also, he would be guilty of conspiracy "even if the other person should then refuse to enter into the contract," leaving only one party to act. One party would be guilty of conspiring, though he had no one to conspire with. It is possible that this may be logic, but it is submitted, with great deference to the committee, that it is chopping logic a trifle fine. This fine, close reasoning is characteristic of the report.

Attention is called to this lucid statement:

"Suppose the persons referred to, not intending to enter into an agreement which will violate that act or to commit any crime, but desire to make an agreement as to their future conduct and acts in aid or furtherance of a trade dispute between themselves and their employers, do make an agreement (all unconsciously) which is in restraint of trade or commerce between the several States if executed. That is, it provides for the doing or not doing of acts which, if done or not done, will necessarily to some extent restrain such trade or commerce. Here there was no prior agreement to make this particular contract, but in determining and agreeing what they will do or will not do such an illegal contract or combination is actually made. Here, clearly, is no conspiracy to make an illegal agreement, and there can be no punishment for a conspiracy under existing law so far as the mere making of the agreement is concerned, although it is an illegal agreement, can not be enforced, and the parties have committed a misde-

meanor (by making it) under the provisions of subdivision 2 of section 1 of the act of July 2, 1890."

Here, if the reasoning of the committee is correctly apprehended under this illustration, "there can be no punishment for a conspiracy under existing law," as there is no conspiracy to conspire on the part of the parties.

THE EFFECT OF THE BILL.

The proposition which seems to give the committee the greatest satisfaction is its discovery as to what it calls the "effect of the bill."

It seems that it has ascertained that all this bill purports to do is to make "nonenjoinable, and in some cases unpunishable," "the agreement, combination, or contract described" only "not an act done or threatened to be done in pursuance thereof."

"The act, or any unlawful act done in the execution of such agreement, combination, or contract is still punishable (if an offense), still considered in restraint of trade or commerce (if it is), and in proper cases may be enjoined or restrained." That is to say, employers or employees in "the furtherance of any trade dispute" may with impunity make any kind of an agreement they like that tends to advance their interests, but the moment they undertake by acts done "or threatened by them" to execute their agreement thus authorized by law, if such acts "would interfere with such commerce to the extent of restraining it," they would be subject to restraining orders and punishment the same as now. This is what the committee says it thinks the bill means.

Summed up in a sentence it means that it is lawful to agree and contract and contrive to do what it is unlawful to do. If you undertake to carry out a valid contract you may be committing a crime and be subject to a restraining order.

The law expressly authorizes you to make a contract and immediately punishes you if you undertake to carry it out. It is to be noticed that although the report of the committee bears evidence of extended investigation, it does not favor us with any case that even inferentially sustains so abnormal a proposition. There is no occasion to discuss it as a legal proposition. With all respect to the committee, it does not appear to be justified by common sense. It must impress the labor organizations as a profound concession to be allowed the high and lofty privilege of being allowed to agree to do acts that they are not allowed to perform. They may agree to strike, but they must not strike. With such a great addition to their existing rights they may be expected to improve their condition.

To place such a construction upon the bill is to insult the intelligence of the labor organizations which are promoting this bill and stultify the attorneys who drew it. If this opinion of the committee is sound, the bill accomplishes nothing. It is to be hoped that it is not for the reason that it entertains that view that the committee reports the bill with a favorable recommendation.

From that point of view the bill does not rise to the dignity of a tub to a whale. It is idle to suggest that men ought not to have the right to do what they have the right to agree to do. If the committee really takes this view, and really desires to aid employers and employees along these lines—believes that full effect should be given to the evident intent—it could very easily have eliminated any question such as it has raised by simply amending the bill by inserting after the word "contract" in the third line on page 1, the words "or act done in pursuance thereof," and the same words after the word "contract" in the third line on the second page of the bill. Perhaps the friends of the bill will test the enthusiasm of the committee by insisting on such an amendment in order to dispel the doubt thus raised.

It is not believed that this clause is necessary; but if the committee's view is correct, in order to raise the bill above the dignity of blank paper for any practical purposes it is necessary.

The committee, moreover, appear to be a trifle enamored of this idea, and iterate and reiterate it again and again, finally "emphatically and as a repetition," so that this interesting idea can not be an inadvertence.

This report is full of protestations of friendship for and sympathy with employees, but we fear that the employees when they realize the infinitesimal character of the alleged relief that the committee believes it is giving them may reach the inference that these protestations are entitled to some discount.

It is not necessary to follow the committee through all its reasoning in this report.

It suggests some amendments which would, it thinks, as successfully emasculate the bill as does its novel construction, but does not say it is intended to press them. With reference to the effect of this bill unamended it says:

"No serious harm can come of it. The evils it is claimed would follow its enactment into law are largely imaginary. The workmen of the United States who demand this legislation are as loyal and well disposed and law-abiding as any class of our citizens. It is difficult to find serious objections to this provision. The enactment of this bill into law will give no aid or encouragement to lawbreaking or lawbreakers. We discover nothing in this proposed legislation that cripples government, imperils capital, permits restraint of interstate trade and commerce, or merits denunciation."

As tending to suggest in some degree a contrary inference, reference is made to a short debate in the last Congress upon a bill identical with this, where the principal question was whether the amendments heretofore suggested in these views should be adopted. During that debate the gentleman from New York (Mr. Ray), then the chairman of the House Judiciary Committee, characterized the effect of the bill as it now reads without the amendments in the following language:

"We do not propose to permit combinations to destroy property, to injure persons, to overthrow society, law, and order to be legalized, and no man who loves his country and favors law and order, and the preservation of property and property rights, and the general good and prosperity of the country, will favor a measure that not only permits but legalizes such combinations. Personal liberty is a grand thing, but it should not include license to do unlawful acts or interfere with the person and property of others unlawfully."

Hence the amendment. It would seem if these remarks were seriously intended that there are those who think that the unamended bill "merits denunciation." "No man who loves his country and favors law and order . . . will favor a measure . . ." The amendment referred to is identical with the one heretofore referred to. Without the amendment the bill would have read precisely as now reported by the committee, and would, in the opinion of the gentleman from New York (Mr. Ray), license "unlawful acts," "interfere with the person and property of others unlawfully," and legalize "combinations to destroy property, injure persons, and overthrow society, law, and order."

These vigorous sentiments are singularly illuminating when considered in connection with this display head in the report, "Will not aid or encourage lawlessness."

In discussing further the purpose and effect of these amendments the gentleman from New York [Mr. Ray] said: "And no man possessed of good sense or desiring to have good order in a community would ask to have one of those acts excepted from the operation of the bill by the amendment legalized. We desire to protect the interests of mercantile men, business men, and railroad and other corporations, while at the same time protecting the interests of the great labor organizations of this country. This we do by the amendments of the bill. They are wise and necessary."

Without the amendments, according to the gentleman from New York [Mr. Ray], their interests would be unprotected. Upon that portion of this bill "intended to effect a modification of the so-called 'Sherman antitrust law,'" the gentleman from New York [Mr. Ray] said: "If we forbid a corporation to do a certain act, and make the act a crime, that same act ought to be wrong and criminal in the eye of the law if done by one man or by a dozen men. It ought to be wrong, whether it is committed by an individual or by an organization."

Comment is unnecessary. That the committee has received light that was not vouchsafed to the gentleman from New York [Mr. Ray] seems quite obvious.

STATEMENT OF THE ENGLISH LAW BY THE COMMITTEE.

Assuming that the committee intend to make an accurate statement of the English law on this subject, in their report they are somewhat unfortunate. It is apparently relied upon by the committee as a controlling precedent for this bill. It quotes the general provision of the English conspiracy and protection of property act of 1875 without quoting the eight exceptions which qualify, limit, and narrow its operation. It states the general provision of the English law without even intimating the substance of the exceptions. It does not even state that the English law as a whole not only did not ameliorate the condition of organized labor, but imposed new and oppressive restriction upon them.

After having quoted the general provisions, without any reference whatever to these important limitations, the committee quote from Mr. Low's report, explaining the "practical working of this law," which would show that it was very conservative in its operation, clearly giving the impression that the general provision which it quotes was "this law" upon which Mr. Low was making his report, when, in fact, it was not that provision at all, but the statute as a whole that he was discussing. Still, whoever reads the committee report, and especially this paragraph by itself, would clearly get the impression that the general provision was in substance the English law referred to, when the fact is directly the reverse.

The force of this criticism is not affected by the fact that at the close of this paragraph containing the erroneous statement and comments a general reference is made to the criminal statutes of Great Britain. "Without referring to this particular statute it is said 'that they make criminal many acts that are innocent here.' This draws the attention from, rather than directly to, this particular provision in question and does not call attention to any of the 'many acts that are innocent here.'"

Moreover, the uncertainty is increased by the statement "that the principle involved is precisely the same."

THE NEW YORK LAW.

It is likewise unfortunate in its reference to the conspiracy laws of New York, if the quotations which it makes therefrom are accurate. It says, after making its quotation, "It will be noted that no agreement to commit an act can be a conspiracy under this law unless such act would or might be an offense or unlawful if committed by one person acting alone;" on the contrary, there are several specifications referred to in the quotation which are certainly not made crimes, "if committed by one person acting alone," by any of the provisions of the law cited, nor is the criminal character of a conspiracy to do the acts made to depend upon the fact that the act if performed by one person would be "punishable as a crime."

Such as—

(2) Falsely and maliciously to indict another for a crime, or to procure another to be complained or arrested for a crime; or

(3) Falsely to institute or maintain an action or special proceedings; or

(5) To prevent another from exercising another trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging or used by another, or with the use or employment thereof; or

(6) To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws."

In the last specification there are undoubtedly included offenses that would be punishable as crimes if committed by one alone. Further comment upon the report is, it is believed, unnecessary. If the view of the committee is correct, the bill by its terms simply "keeps the word of promise to the ear, but breaks it to the hope." It is not believed that the friends of this bill have been misled by their attorney to that extent.

A fair construction leaves it open to the objections which have been made herein and makes the amendments which are here suggested necessary in the interests of wise, judicious, and conservative legislation, legislation that will give to all the "equal protection of the law."

C. E. LITTLEFIELD.
R. M. NEVIN.

APPENDIX C.

Cases involving labor disputes in which injunctions have been granted during the last five years.

INJUNCTION CASES INVOLVING LABOR DISPUTES. (FEDERAL COURTS.)

1902. November 8. C. C. Dist. Nebraska.

Union Pacific R. R. Co. v. Ruef et al., 120 Fed., 102.

In this case a restraining order as prayed was issued, and the case was set down for hearing as to whether a temporary injunction should issue. By agreement of counsel this hearing was to result in a final decree, and evidence was taken on both sides before hearing. The evidence showed that there had been much violence before the bill was filed. An injunction was issued.

1903. April 1. C. C. E. D. Missouri E. D.

Wabash R. R. Co. v. Hannahan et al., 121 Fed., 564.

In this case a restraining order was issued on the filing of this bill. On the hearing of a motion for a preliminary injunction the motion was denied and the restraining order was vacated.

1903. June 22. C. C. D. Minnesota, Fifth Div.

Knudsen et al. v. Benn et al., 123 Fed., 636.

In this case a restraining order was issued on the filing of a bill, and on the hearing, duly noticed, of a motion for a preliminary injunction, such injunction was issued. The evidence showed that there had been violence both before the filing of the bill and after the restraining order was issued.

1905. July 1. C. C. N. D. California.

Loewe et al. v. California State Federation of Labor, 139 Fed., 71.

This case was heard upon an order to show cause why a temporary injunction should not issue. It was heard upon the bill and the affidavits filed by both parties, no answer having been filed. A temporary injunction was issued to restrain the defendants from boycotting. No actual violence was shown, but the boycotting was held to be illegal coercion.

1905. July 10. C. C. S. D. Iowa E. D.

A. T. & S. F. R. E. Co. v. Gee.

This case recites an injunction issued by this court on May 6, 1904, in which illegal picketing, by means of intimidation, was forbidden. The court holds that there can be no such thing as peaceful picketing, so this injunction must be construed as restraining violence.

1906. November 7. C. C. Md. Ohio W. D.

Pope Motor Car Co. v. Keegan, 150 Fed., 148.

In this case a temporary restraining order was allowed on the filing of the bill. An application for a preliminary injunction came up and was heard on affidavits filed and oral evidence. The preliminary injunction was allowed against such of the defendants as were shown to have participated in the violence and intimidation.

1906. December 11. C. C. E. D. Wis. 150 Fed., 155.

Allis-Chalmers Co. v. Iron Molders' Union No. 125 et al.

In this case a temporary restraining order was granted upon the bill and accompanying affidavit. The defendants answered, and upon the hearing for a preliminary injunction it was denied, on the ground that the equity of the bill was substantially denied by the defendant.

A supplemental bill was filed three months later. The defendants answered the supplemental bill and submitted a large number of affidavits. On motion for a preliminary injunction this injunction was granted, restraining illegal picketing, which was found to have been conducted by means of threat, intimidation, and actual violence.

1906. November 7. C. C. N. D. Cal. 149 Fed., 577.

Hammond Lumber Co. v. Sailors' Union of the Pacific.

In this case a restraining order was issued whereby it was ordered that the defendant's name be restrained during the pendency of the hearing for a temporary injunction. One month later an injunction order was made, and under this certain members who had violated the injunction were cited for contempt. Demurrers to the petition to punish for contempt were quashed.

This case was appealed to the circuit court of appeals for the ninth circuit and was there decided on October 7, 1907, and the temporary injunction issued was there sustained. (See 156 Fed., 450.)

1907. October 21. C. C. S. D. Ohio, W. D.

A. R. Barnes & Co. v. Berry, 156 Fed., 72.

Suit was brought to prevent the violation of a contract between two voluntary associations. No answer was filed, but affidavits were filed in behalf of the defendants. An injunction was issued to restrain the officers of the union from exercising their power, their control, and their influence to induce strikes which would cause the men to violate a contract made by the union.

1907. September 26. C. C. N. D. W. Va. 156 Fed., 173.

National Telephone Co. of W. Va. v. Kent.

In this case an original and an amended bill were filed. On the amended bill, exhibits, and affidavits a preliminary injunction was granted. The defendants demurred to the bill on the ground that a sufficient cause for the preliminary injunction was not presented. The court overruled the demurrer, holding in its decision that a boycott was illegal and expressing the opinion that a newspaper which was joined as a defendant had no right to publish any matter intended to aid wrongdoers in doing unlawful things.

1907. October 17. C. C. A. 8th circuit.

Shine v. Fox Bros. Mfg. Co., 156 Fed., 357.

This is an appeal in the circuit court of the United States for the eastern district of Missouri. It is appealed from an order temporarily enjoining certain labor organizations and their officers from boycotting the manufacturing company and the product of its factory. The order was affirmed. A rehearing is pending.

1907. August 7. C. C. D. Montana.

Rocky Mountain Bell Telephone Co. v. Montana Federation of Labor, 156 Fed., 809.

This case arose on a motion for a temporary restraining order, after notice given and affidavits filed on both sides. The court held that an order should be granted restraining the boycott by means of circulars which had been conducted by the defendants.

September 26. C. C. N. D. West Virginia.

October 24. D. C. N. D. West Virginia.

Hitchman Coal Co. v. United Mine Workers et al.

Following additional restraining orders other than hereinbefore noted are issued from January 1, 1903, to date:

(1) Mobile & Ohio R. R. v. E. E. Clark et al., restraining order issued May 11, 1903. Uncontested.

(2) Kemmerer v. Haggerty, July 15, 1905 (139 Fed. Rep., 693), restraining order issued on filing of complaint by Judge Jackson. Order vacated for collusion of stockholders and lack of jurisdiction, July 15, 1905.

(3) Armstrong Cork Company v. Anheuser Busch, restraining order issued on filing of complaint and affidavits July 3, 1905. Hearing set July 25, no opposition.

(4) Newport Iron & Brass Foundry v. Moulders Union, September 27, 1904. Injunction issued. No further record of the case.

(5) Niles Bement Pond Company v. Elwell et al., restraining order January 31, 1906. No further record.

(6) Pope Motor Car Company v. Stitart, restraining order issued on filing of complaints and affidavits. October 5, 1906, hearing set for October 13. No further record.

(7) Central District & Printing Telegraph Company v. Kent, restraining order on filing complaint and affidavits May 31, 1907. Preliminary injunction granted July 2, 1907. State of facts and allegations similar to that shown in National Telephone Company v. Kent. Many of its defendants being identical and both corporations evidently affected by its same strike. No further record.

(8) Hitchman Coal & Coke Company v. John Mitchell et al., November 27, 1907, restraining order issued on filing of complaint and fourteen affidavits, and hearing continued from time to time on defendants' motion; cause still at issue. Set down for hearing last Monday in May, 1908.

INJUNCTION CASES NOT INVOLVING LABOR DISPUTES.

These are principally patent cases, though there are a number of suits to restrain unfair competition and cases of other sorts:

INJUNCTIONS.

1903. January 17. C. C. N. D. N. Y. 119 Fed., 922.
General Electric Co. v. Wise.
1903. January 27. C. C. S. D. Iowa E. D. 120 Fed., 309.
City Water Supply Co. v. City of Ottumwa.
Temporary injunction.
1903. January 14. C. C. D. of N. J. 120 Fed., 981.
Western Union Telegraph Co. v. Pacific Telegraph Co.
1903. February 13. C. C. E. D. Mo. E. D. 120 Fed., 679.
Peters v. Union Biscuit Co.
1903. January 6. C. C. S. D. N. Y. 121 Fed., 126.
Frank v. Jones.
1903. January 6. C. C. S. D. N. Y. 121 Fed., 126.
Frank v. Ginger.
1903. October 2. C. C. W. D. Mich. S. D. 121 Fed., 357.
Bissell Chilled Plow Works v. Bissell Plow Co.
1903. April 1. C. C. S. D. Mo. E. D. 121 Fed., 564.
Wabash R. Co. v. Hannahan.
Restraining order issued on filing bill. Motion for preliminary injunction denied and restraining order vacated.
1903. February 10. C. C. S. D. N. Y. 121 Fed., 907.
Edward Thompson Co. v. American Law Book Co.
1903. March 17. C. C. W. D. N. Y. 121 Fed., 1007.
National Biscuit Co. v. Swich.
1903. January 2. C. C. S. D. N. Y. 122 Fed., 191.
Trow Typewriting, Printing & Bookbinding Co. v. U. S. Typewriting Co.
1903. May 19. C. C. E. D. N. C. 122 Fed., 725.
Terry v. Robbins.
1903. May 23. C. C. N. D. N. Y. 122 Fed., 871.
Bradley v. Eccles.
1903. May 7. C. C. D. of N. J. 122 Fed., 75.
National Meter Co. v. Neptune Meter Co.
1903. April 7. C. C. D. of Mass. 122 Fed., 87.
Merrimac Mattress Mfg. Co. v. Brown.
1903. March 13. C. C. N. D. N. Y. 122 Fed., 640.
Klander, Weldon Dyeing Machine Co. v. Stedwell Dyeing Machine Co.
1903. June 30. C. C. N. D. Fla. 123 Fed., 946.
L. & N. Ry. Co. v. Brown.
1903. April 16. C. C. S. D. N. Y. 123 Fed., 104.
Frost v. Crandel Wedge Co.
1903. July 25. C. C. D. of Kans., 2d Div. 123 Fed., 762.
Old Colony Trust Co. v. Wichita.
1903. May 8. C. C. S. D. N. Y. 123 Fed., 101.
General Electric Co. v. Wagner Electric Co.
1903. July 11. C. C. N. D. N. Y. 124 Fed., 324.
Kirk v. United States.
1903. August 1. C. C. S. D. Ala. 124 Fed., 644.
Sullivan Timber Co. v. City of Mobile.
1903. August 5. C. C. N. D. N. Y. 124 Fed., 764.
American Acetylene Burner Co. ads. Kirchberger.
1903. March 31. C. C. N. D. Ill. 124 Fed., 222.
Cutler-Hammer Mfg. Co. v. Hammer.
1903. August 14. C. C. N. D. N. Y. 124 Fed., 542.
Van Epps v. International Paper Co.
1903. August 29. C. C. D. of N. J. 124 Fed., 778.
Brill v. North Jersey Street Ry. Co.
1903. June 20. C. C. W. D. N. Y. 124 Fed., 903.
Carter, Crume Co. v. American Salesbook Co.
1903. August 1. C. C. W. D. N. Y. 124 Fed., 902.
Wheel Truing Brakeshoe Co. v. Car Wheel Truing Brakeshoe Co.
1903. July 18. C. C. N. D. N. Y. 124 Fed., 514.
Hale & Kilburn Mfg. Co. v. Onsona, C. & R. S. Ry. Co.
1903. June 3. C. C. E. D. Pa. 124 Fed., 69.
Levy v. Harris.
1903. August 15. C. C. W. D. N. Y. 124 Fed., 761.
Lourie v. H. A. Meldrum Co.
1903. October 12. C. C. S. D. N. Y. 125 Fed., 543.
Badische Anilin & Soda Fabrik v. A. Klipstein & Co.
1903. November 14. C. C. E. D. Va. 125 Fed., 812.
Monumental Saving Assn. v. Fentress.
1903. September 10. C. C. E. D. Pa. 125 Fed., 6.
Westinghouse Electric & Mfg. Co. v. Roberts.
1903. August 9. C. C. D. Minn., 4th Div. 126 Fed., 381.
Continental Wire Fence Co. v. Pendergast.
1903. November 17. C. C. N. D. N. Y. 126 Fed., 227.
N. K. Fairbanks Co. v. Dunn.
1903. June 15. C. C. D. Minn., 3d Div. 127 Fed., 887.
Drewry & Son v. Wood.
1903. January 19. C. C. E. D. Mich. 127 Fed., 875.
A. Booth & Co. v. Davis.
1903. January 25. C. C. N. D. Ill. 127 Fed., 731.
Mills v. City of Chicago.
1903. September 30. C. C. S. D. 127 Fed., 161.
Palatka Water Works v. City of Palatka.
1903. July 6. C. C. S. D. Cal. 127 Fed., 741.
Cal. Pastoral & Agricultural Co. v. Enterprise Canal & Land Co.
1903. December 18. C. C. S. D. N. Y. 127 Fed., 355.
Cayuta Wheel & Foundry Co. v. Kennedy Valve Mfg. Co.
1904. February 11. C. C. W. D. Pa. 127 Fed., 822.
Westinghouse Machine Co. v. Press Pub. Co.
1904. January 21. ——— 127 Fed., 116.
Ohio Baking Co. v. National Biscuit Co.
1904. January 13. C. C. D. N. J. 127 Fed., 341.
Diamond Match Co. v. Ruby Match Co.
1904. January 28. C. C. D. R. I. 128 Fed., 116.
Social Register Assn. v. Murphy.
1904. February 23. C. C. E. D. Pa. 128 Fed., 121.
Janney v. Pan-Coast Ventilator & Mfg. Co.
1904. February 2. C. C. D. Mass. 128 Fed., 154.
General Electric Co. v. Re-New Lamp Co.
1904. March 1. C. C. D. Mass. 128 Fed., 927.
Bardon Wire & Supply Co. v. Williams.
1904. March 1. C. C. D. Mass. 128 Fed., 927.
United Wire & Supply Co. v. Williams.
1904. February 13. C. C. E. D. La. 128 Fed., 176.
Louisville & N. R. Ry. Co. v. Bitterenan.
1904. March 10. C. C. D. R. I. 128 Fed., 1015.
Sperry & Hutchinson v. Mechanics Clothing Co.
1904. January 11. C. C. S. D. N. Y. 129 Fed., 130.
Brill v. Peckham Mfg. Co.
1904. February 26. C. C. S. D. N. Y. 129 Fed., 137.
General Gaslight Co. v. Matchless Mfg. Co.
1904. March 24. C. C. E. D. Pa. 129 Fed., 134.
Perkins Electric Switch Mfg. Co. v. Buchanan.
1904. February 9. C. C. W. D. N. Y. 129 Fed., 213.
Westinghouse Electric & Mfg. Co. v. Mutual Life Ins. Co., of New York.
1904. May 6. Dis. Ct. Dis. Mass. 129 Fed., 847.
In re Eastern Commission & Importing Co.
1904. April 22. C. C. D. Mass. 129 Fed., 761.
Sampson & Murdock Co. v. Seaver-Radford Co.
1904. April 4. C. C. D. Nev. 129 Fed., 932.
Rodgers v. Pitt.
1904. April 27. C. C. D. Mass. 129 Fed., 378.
Thomson-Huston Electric Co. v. Ohio Brass Co.
1904. April 18. C. C. D. Mass. 129 Fed., 382.
Kemp v. McBride.
1904. January 11. C. C. S. D. N. Y. 129 Fed., 139.
Brill v. Peckham Mfg. Co.
1904. November 20. C. C. N. D. Ga. W. D. 130 Fed., 180.
Mercantile Trust & Deposit Co. v. Columbus Water Works Co.
1904. June 23. C. C. D. N. J. 130 Fed., 460.
Encyclopedia Co. v. Am. Newspaper Assn.
1904. June 10. C. C. D. N. J. 130 Fed., 600.
Van Houten v. Hooton Cocoa & Chocolate Co.
1904. May 27. C. C. W. D. Ky. 130 Fed., 794.
St. Bernard Mine Co. v. Madisonville Traction Co.
1904. April 7. C. C. E. D. N. Y. 130 Fed., 896.
Diamond Stone Sawing Machine Co. v. Brown.
1904. August 1. C. C. E. D. Pa. 131 Fed., 473.
Albright v. Langfeld.
1904. July 16. C. C. S. D. Ga. E. D. 131 Fed., 931.
Holst v. The Savannah Electric Co.
1904. August 6. Dis. Ct. N. Dis. N. Y. 131 Fed., 507.
In re Mertens. (Restraining order.)
1904. August 1. C. C. E. D. Pa. 131 Fed., 564.
Geo. T. Bisel Co. v. Welch.
1904. May 19. C. C. S. D. N. Y. 131 Fed., 93.
Brunswick-Balke-Collender Co. v. Klump.
1904. May 10. C. C. E. D. Wis. 131 Fed., 92.
Brodrick Copygraph Co. v. Mayhew.
1904. July 19. C. C. S. D. N. Y. 131 Fed., 483.
Hemolin Co. v. Harway Co.
1904. July 5. C. C. W. D. N. Y. 131 Fed., 359.
Cooper & Co. v. Erie Preserving Co.
1904. June 8. C. C. E. D. Va. 131 Fed., 534.
Hampton Roads Ry. Co. v. Newport News Ry. Co.
1904. July 11. C. C. D. of S. Dakota, S. D. 131 Fed., 800.
Farmers Loan & Trust Co. v. City of Sioux Falls.
1904. August 15. C. C. D. Mass. 132 Fed., 168.
Ingersoll v. Coram.
1904. August 16. C. C. D. Mass. 132 Fed., 20.
Calculagraph Co. v. Wilson.
1904. August 30. C. C. W. D. N. Y. 132 Fed., 251.
Edrad v. Breitwieser.
1904. August 30. Dis. Ct. N. Dis. N. Y. 132 Fed., 607.
Paniz v. Battle Island Paper & Pulp Co.
1904. August 25. C. C. N. D. Iowa, Cedar Rapids Division. 132 Fed., 41.
Elgin Nat'l Watch Co. v. Loveland.
1904. October 4. C. C. S. D. N. Y. 132 Fed., 711.
Victor Talking Machine Co. v. Armstrong.
1904. November 17. C. C. S. D. N. Y. 132 Fed., 996.
Seichow v. Chaffee & Seichow Mfg. Co.
1904. September 23. C. C. E. D. of Wis. 132 Fed., 614.
Benbow-Brauner Co. v. Simpson Co.
1904. July 15. C. C. D. of N. J. 132 Fed., 464.
Harriman v. Northern Securities Co.
1904. September 23. C. C. E. D. Pa. 132 Fed., 758.
Ezk v. Kutz.
1904. October 7. C. C. E. D. Pa. 132 Fed., 662.
Corbin v. Taussig & Co.
1904. August 22. C. C. D. Md. 132 Fed., 161.
Bredin v. Solmsion.
1904. September 29. C. C. E. D. Pa. 132 Fed., 823.
Walker Patent Pivoted Bin Co. v. Miller & England.
1905. October 12. C. C. Md. Pa. 133 Fed., 550.
Lattimore Mfg. Co. v. Jones.
1905. September 20. C. C. D. Mass. 133 Fed., 794.
Dr. Miles Medicine Co. v. Goldthwaite.
1905. December 5. C. C. E. D. Pa. 133 Fed., 730.
Pettibone Mulliken & Co. v. Pa. Steel Co.
1905. September 20. C. C. W. D. Pa. 133 Fed., 556.
Lattimore Mfg. Co. v. C. & T. Supply Co.
1905. February 4. C. C. S. D. Iowa. 134 Fed., 635.
Peoples Saving Bank v. Layman.
1905. February 2. C. C. D. of Mass. 134 Fed., 890.
Sampson & Murdock v. Seaver-Radford Co.
1905. February 14. C. C. D. Mass. 134 Fed., 872.
Eolian Co. v. Hallett & Davis Piano Co.
1905. January 28. C. C. E. D. Pa. 134 Fed., 691.
Sperry & Hutchinson Co. v. Brady.
1905. March 16. C. C. D. Conn. 136 Fed., 272.
Ball & Socket Fastener Co. v. Patent Button Co.
1905. January 5. C. C. S. D. N. Y. 136 Fed., 600.
New York Phonograph Co. v. Edison.
1905. October 25. C. C. S. D. N. Y. 136 Fed., 119.
Crown Cork & Seal Co. v. Standard Stopper Co.
1905. February 17. C. C. W. D. Mich. S. D. 136 Fed., 1019.
Int. Silver Co. v. Rodgers Bros. Cutler Co.
1905. February 27. C. C. S. D. N. Y. 136 Fed., 1022.
Gabler v. Picacho Blanco Min. Co.
1905. March 17. C. C. D. Del. 136 Fed., 483.
Hoy v. Altoona Midway Oil Co.
1905. May 1. C. C. D. N. Y. 136 Fed., 85.
Atwood, Morrison Co. v. Sipp Electric & Machine Co.
1905. April 10. C. C. D. Mass. 136 Fed., 879.
Universal Winding Co. v. Foster.
1904. December 22. C. C. W. D. N. Y. 135 Fed., 164.
Devlin v. McLeod.

1904. December 23. C. C. S. D. N. Y. 135 Fed., 167.
 1905. January 28. C. C. D. Minn. 135 Fed., 177.
 J. & P. Coates Co. v. John Coates Thread Co.
 1905. December 22. C. C. S. D. N. Y. 135 Fed., 101.
 Kenney Mfg. Co. v. Wells & Newton Co.
 1905. August 18. C. C. E. D. Pa. 135 Fed., 133.
 U. S. Mitis Co. v. Midvale Steel Co.
 1905. February 27. C. C. D. Colo. 135 Fed., 411.
 Hoge v. Eaton.
 1905. January 9. C. C. N. D. Ill. 135 Fed., 434.
 1905. February 24. C. C. E. D. Pa. 135 Fed., 544.
 Valoona v. Dadamo.
 1905. February 6. C. C. E. D. Pa. 135 Fed., 785.
 Manhattan Gen'l Const. Co. v. Hellos-Upton Co.
 1905. May 2. C. C. S. D. N. Y. 137 Fed., 431.
 Kenney Mfg. Co. v. Mott Iron Works.
 1905. May 18. C. C. N. D. N. Y. 137 Fed., 418.
 Van Epps v. United Box Board & Paper Co.
 1905. February 4. C. C. S. D. 137 Fed., 92.
 Hutter v. Koseberak.
 1905. March 29. C. C. D. Md. 137 Fed., 597.
 Kotten v. Knight.
 1905. April 8. C. C. E. D. Pa. 137 Fed., 649.
 Kronthal Waters v. Becker.
 1903. November 2. C. C. S. D. Ohio W. D. 137 Fed., 917.
 Thomson Houston Electric Co. v. Dayton Fan Co.
 1903. May 9. C. C. D. N. Y. 137 Fed., 928.
 Mica Insulator Co. v. Union Mica Co.
 1903. May 18. C. C. N. D. N. Y. 137 Fed., 940.
 Penn. Globe Gaslight Co. v. Best.
 1905. May 19. C. C. W. D. Mich. S. D. 138 Fed., 264.
 D. G. H. & M. Ry. v. Powers.
 1905. April 5. C. C. S. D. N. Y. 138 Fed., 690.
 Villamill v. Hirsch.
 1905. April 29. C. C. S. D. N. Y. 138 Fed., 82.
 Lamberts-Snyder Vibrator Co. v. Marvel Vibrator Co.
 1905. May 10. C. C. E. D. N. Y. 138 Fed., 68.
 Morrin v. Robert White Engineering Works.
 1905. March 9. C. C. S. D. N. Y. 138 Fed., 83.
 Shepard v. Deitsch.
 1905. May 17. C. C. S. D. N. Y. 138 Fed., 89.
 Mygott v. Zalinski.
 1905. May 30. C. C. S. D. N. Y. 138 Fed., 110.
 Cortelyou v. Chas. Johnson & Co.
 1905. May 26. C. C. S. D. N. Y. 138 Fed., 123.
 Iron Vlad Mfg. Co. v. Diarmens Mfg. Co.
 1905. June 10. C. C. N. D. N. Y. 138 Fed., 136.
 United Shirt & Collar Co. v. Beattie.
 1905. June 10. C. C. D. R. I. 138 Fed., 140.
 Robinson v. S. & B. Leaderer.
 1905. June 23. C. C. D. Conn. 138 Fed., 835.
 Hurwood Mfg. Co. v. Wood.
 1905. June 28. C. C. W. D. Ga. S. D. 138 Fed., 753.
 Tift v. Southern Ry.
 1905. July 12. C. C. N. D. N. Y. 139 Fed., 49.
 Pope Mfg. Co. v. H. P. Snyder Mfg. Co.
 1905. June 30. C. C. S. D. N. Y. 139 Fed., 151.
 Revere Rubber Co. v. Consolidated Hoof Pad Co.
 1905. June 26. C. C. W. D. N. Y. 139 Fed., 146.
 De Long Hook & Eye Co. v. Francis Hook & Eye Fastener Co.
 1905. July 24. C. C. N. D. N. Y. 139 Fed., 330.
 O'Leary v. U. & M. Valley Ry. Co.
 1905. July 12. C. C. Md. D. Ala. 139 Fed., 353.
 Montgomery Amusement Co. v. Montgomery Traction Co.
 1905. June 16. C. C. S. D. N. Y. 139 Fed., 399.
 Bonsall v. Hamilton Mfg. Co.
 1905. June 16. C. C. S. D. N. Y. 139 Fed., 403.
 Bonsall v. Hamilton-Noyes Co.
 1905. June 28. C. C. S. D. N. Y. 139 Fed., 640.
 Nat'l Enameling Co. v. New England Enam. Co.
 1905. July 7. C. C. D. Conn. 139 Fed., 658.
 Martin Fire Arms Co. v. Dinnan.
 1905. July 3. C. C. S. D. N. Y. 139 Fed., 680.
 Walter Baker Co. v. Puritan Food Co.
 1905. July 21. C. C. D. Conn. 139 Fed., 785.
 Int. Register Co. v. Recording Fair Register Co.
 1905. March 3. C. C. S. D. N. Y. 139 Fed., 870.
 Antom Switch Co. of Baltimore v. Cutter.
 1905. August 22. C. C. W. D. Va. 140 Fed., 507.
 S. Penn. Oil Co. v. Calf Creek Oil Co.
 1905. November 13. C. C. C. D. N. Y. 140 Fed., 556.
 U. S. Fastener Co. v. Butez.
 1905. November 7. C. C. S. D. N. Y. 140 Fed., 611.
 Leadam v. Ringgold.
 1905. December 27. C. C. S. D. N. Y. 140 Fed., 714.
 Fox v. Knickerbocker Engraving Co.
 1905. September 28. C. C. S. D. N. Y. 140 Fed., 860.
 Victor Talking Machine Co. v. American Graphophone Co.
 1905. October 10. C. C. S. D. N. Y. 140 Fed., 866.
 New England Motor Co. v. B. S. Sturtevant.
 1905. August 16. C. C. S. D. N. Y. 140 Fed., 444.
 Am. Elec. Novelty Mfg. Co. v. Stanley & Patterson.
 1905. September 19. C. C. D. N. J. 140 Fed., 445.
 Thomson-Houston Elec. Co. v. Salem Elec. Co.
 1905. October 16. C. C. S. D. N. Y. 140 Fed., 449.
 National Elec. Signalling Co. v. De Forrest Wireless Tele. Co.
 1905. August 12. C. C. W. D. N. Y. 140 Fed., 97.
 Brown Bag Filling Machine Co. v. Drohen.
 1905. November 29. C. C. D. Conn. 140 Fed., 879.
 Marlin Fire Arms Co. v. Sparks.
 1905. August 22. C. C. W. D. Va. 140 Fed., 161.
 Bryce Bros. v. The Seneca Glass Co.
 1905. May 12. C. C. D. N. J. 140 Fed., 174.
 Daylight Mfg. Co. v. Am. Prismatic Glass Co.
 1905. August 15. C. C. W. D. N. Y. 140 Fed., 33.
 Killeen v. Buffalo Furnace Co.
 1905. October 22. C. C. W. D. Pa. 140 Fed., 872.
 Penn. Electrical Mfg. Co. v. Conroy.
 1905. September —. C. C. S. D. N. Y. 140 Fed., 794.
 J. A. Seriver Co. v. Girard Co.
 1905. September 28. C. C. S. D. N. Y. 140 Fed., 938.
 Saxlehner v. Eisner.
 1905. October 11. C. C. N. D. Mo. S. D. 140 Fed., 666.
 Ozark Bell Telephone Co. v. City of Springfield.
 1905. August 31. C. C. S. D. Ala. 140 Fed., 412.
 Camors McConnell Co. v. McConnell.
 1904. June 10. C. C. D. of Utah. 140 Fed., 951.
 McCleery v. Hyland Boy Gold Mining Co.
 1905. December 27. C. C. W. D. Wis. 141 Fed., 975.
 London Machinery Co. v. Janesville Hay Tool Co.
 1905. May 8. C. C. W. D. N. Y. 141 Fed., 128.
 Thompson-Houston Elec. Co. v. Int. Trolley Controller Co.
 1905. December 22. C. C. D. Mass. 141 Fed., 992.
 Mellor v. Carroll.
 1905. September 19. C. C. D. N. J. 141 Fed., 101.
 Bullock Elec. Mfg. Co. v. Crocker-Wheeler Co.
 1905. October 2. C. C. D. N. J. 141 Fed., 373.
 Charnbury v. Walden.
 1905. December 6. C. C. S. D. N. Y. 141 Fed., 378.
 Palmer v. Wilcox Mfg. Co.
 1905. September 26. C. C. D. Del. 141 Fed., 385.
 United States v. Luce.
 1905. September 26. C. C. D. Del. 141 Fed., 423.
 United States v. Brown.
 1905. December 12. C. C. D. R. I. 141 Fed., 202.
 Moxie Nerve Food Co. v. Holland.
 1905. October 24. C. C. D. N. J. 141 Fed., 213.
 Bates Mfg. Co. v. Bates Machine Co.
 1905. December 29. C. C. D. N. Y. 142 Fed., 766.
 Western Electrical Co. v. Rochester Telephone Co.
 1905. January 19. C. C. N. D. Ill., E. D. 142 Fed., 776.
 Thayer & Chandler v. Mold.
 1905. December 16. C. C. E. D. Pa. 142 Fed., 172.
 Terry-Hallock Co. v. Hallock.
 1905. October 9. C. C. D. Me. 142 Fed., 479.
 Eastern Paper Bag Co. v. Continental Paper Bag Co.
 1905. December 16. C. C. E. D. Pa. 142 Fed., 121.
 Robins Conveying Belt Co. v. American Road Machine Co.
 1906. January 19. C. C. N. D. Ill. E. D. 142 Fed., 539.
 Comptograph v. Universal A. Machine Co.
 1906. January 5. C. C. D. Mass. 142 Fed., 525.
 Silver Co. v. J. P. Eustis Mfg. Co.
 1906. January 12. C. C. E. D. Pa. 142 Fed., 583.
 Schlichter Juts Cordage Co. v. Mulqueen.
 1906. November 2. C. C. S. D. N. Y. 142 Fed., 208.
 Hostetter Co. v. Gallagher Stores.
 1906. February 16. C. C. N. D. Ill. N. D. 142 Fed., 844.
 Chicago City Ry. Co. v. City of Chicago.
 1906. February 2. C. C. W. D. Mo. W. D. 142 Fed., 188.
 Board of Trade of City of Chicago v. McDearmont Com. Co.
 1906. February 7. C. C. S. D. N. Y. 142 Fed., 348.
 Mygott v. McArthur.
 1906. March 5. C. C. W. D. Pa. 143 Fed., 989.
 Munroe v. Erie City Iron Works.
 1906. February 16. C. C. S. D. N. Y. 143 Fed., 523.
 United States Fastener Co. v. Bradley.
 1906. February 3. C. C. S. D. N. Y. 143 Fed., 128.
 Haskell Golf Ball Co. v. Perfect Golf Ball Co.
 1906. February 20. C. C. N. D. Ohio E. D. 143 Fed., 903.
 Thomson-Houston Electric Co. v. Holland.
 1906. March 2. C. C. W. D. Pa. 144 Fed., 139.
 Hygeice Distilled Water Co. v. Consolidated Ice Co.
 1906. March 28. C. C. D. N. J. 144 Fed., 418.
 Brookfield v. Elmer Glass Works.
 1906. March 31. C. C. S. D. N. Y. 144 Fed., 423.
 Smith Mfg. Co. v. Sheridan.
 1906. March 27. C. C. N. D. N. Y. 144 Fed., 429.
 Benbow-Brannen Mfg. Co. v. Heffron Tanner Co.
 1906. March 31. C. C. E. D. Pa. 144 Fed., 431.
 Chase Electric Const. Co. v. Columbia Const. Co.
 1905. December 29. C. C. N. D. Ill., E. D. 144 Fed., 491.
 Harper and Bros. v. M. A. Donohart & Co.
 1906. March 14. C. C. W. D. Tenn., E. D. 144 Fed., 511.
 New York Cotton Exch. v. Hunt.
 1906. March 24. C. C. D. Md. 144 Fed., 864.
 Acker Merrill and Condit Co. v. McGaw.
 1906. May 12. C. C. E. D. Wis. 145 Fed., 193.
 General Elec. Co. v. National Elec. Co.
 1906. May 3. C. C. E. D. Wis. 145 Fed., 195.
 Laas v. Scott.
 1906. March 6. C. C. S. D. N. Y. 145 Fed., 202.
 Keasberry & Mattison Co. v. H. W. Jones Manville Co.
 1906. March 5. C. C. S. D. N. Y. 145 Fed., 353.
 Brunswick-Balke-Collender Co. v. Beyer.
 1906. May 8. C. C. D. S. C. 145 Fed., 415.
 Mutual Life Ins. Co. of New York v. Lanley.
 1906. December 1. C. C. S. D. N. Y. 145 Fed., 532.
 Seeberger v. Reno Inclined Elevator Co.
 1906. April 17. C. C. S. D. N. Y. 145 Fed., 529.
 Bates Mach. Co. v. Wm. A. Force Co.
 1906. February 2. C. C. N. D. Ill., E. D. 145 Fed., 646.
 Munroe v. Railway Appliance Co.
 1906. June 9. C. C. E. D. Pa. 145 Fed., 659.
 Sperry & Hutchinson Co. v. Asch.
 1906. January 30. C. C. S. D. N. Y.
 Acollan Co. v. Harry H. Jaely Co.
 1906. April 30. C. C. W. D. N. Y. 145 Fed., 939.
 American Salesbook Co. v. Carter Crume Co.
 1906. May 31. C. C. E. D. Wis. 145 Fed., 1007.
 United States v. Milwaukee Refrigerator Transit Co.
 1906. April 20. C. C. E. D. N. Y. 146 Fed., 190.
 Wells & Richardson Co. v. Abraham.
 1906. March 26. C. C. S. D. N. Y. 146 Fed., 204.
 New York Herald Co. v. Star Co.
 1906. July 12. C. C. N. D. N. Y. 146 Fed., 252.
 Nathan Mfg. Co. v. D. L. & W. R. Co.
 1906. June 19. C. C. S. D. N. Y. 146 Fed., 388.
 West Disinfecting Co. v. Frank.
 1906. July 14. C. C. N. D. N. Y. 146 Fed., 517.
 Universal Brush Co. v. Sonn.
 1906. April 26. C. C. S. D. N. Y. 146 Fed., 534.
 Victor Talking Machine Co. v. Talk-o-phone Co.
 1906. July 20. C. C. N. D. N. Y. 146 Fed., 539.
 Edison General Elec. Co. v. Crouse-Hinds Elec. Co.
 1906. February 19. C. C. S. D. Ohio. W. D. 146 Fed., 549.
 General Electric Co. v. Bullock Electric Co.
 1906. June 2. C. C. E. D. Wis. 147 Fed., 266.
 Cutler Hammer Mfg. Co. v. Union Elec. Mfg. Co.

1906. April 3. C. C. S. D. Ohio, W. D. 147 Fed., 528.
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1906. July 23. C. C. D. R. I. 147 Fed., 616.
Authors & Newspapers Ass'n v. O. Goman.
1906. July 29. C. C. S. D. N. Y. 147 Fed., 739.
Consol. Rubber Tire Co. v. Firestone Tire & Rubber Co.
1906. August 11. C. C. W. D. Pa. 147 Fed., 741.
Bredin v. Nat'l Metal Weather Strip Co.
1906. September 7. C. C. S. D. Ga., W. D. 147 Fed., 960.
Gaddie v. Mann.
1906. May 23. C. C. D. R. I. 148 Fed., 107.
Robinson v. Holbrook.
1906. October 27. C. C. E. D. Pa. 148 Fed., 242.
Dwinell Wright Co. v. Co-operative Supply Co.
1906. July 16. C. C. S. D. N. Y. 148 Fed., 92.
Foster Hose Supporter Co. v. Cohen.
1906. October 12. C. C. W. D. Ohio, E. D. 148 Fed., 313.
Enterprise Mfg. Co. of Pa. v. Bender.
1906. July 5. C. C. S. D. N. Y. 148 Fed., 239.
Gunn v. Bridgeport Glass Co.
1906. October 11. C. C. D. Mont. 148 Fed., 450.
St. Louis Mining & Mill Co. v. Mont. Mining Co.
1906. April 26. C. C. E. D. N. Y. 148 Fed., 702.
Palmer Hollow Concrete Bldg. Block Co. v. Palmer.
1906. November 30. C. C. S. D. N. Y. 148 Fed., 863.
Steiner v. Schwartz.
1907. January 11. C. C. S. D. N. Y. 149 Fed., 424.
A. B. Dick Co. v. Henry.
1906. April 4. C. C. W. D. Mich. 149 Fed., 402.
P. M. Ry. Co. v. Bradford.
1907. January 16. C. C. N. D. Ill. E. D. 149 Fed., 771.
Queen & Co. v. Friedlander & Co.
1907. January 9. C. C. D. Mass. 149 Fed., 858.
Ogilvie v. Merriam Co.
1906. October 8. C. C. S. D. N. Y. 149 Fed., 912.
Clay v. Kline.
1906. August 6. C. C. E. D. Wash. 149 Fed., 913.
Spaulding v. Everson.
1907. January 30. C. C. D. N. Y. 150 Fed., 1364.
Lidgewood Mfg. Co. v. Lambert Hoisting Engineering Co.
1906. November 6. C. C. D. S. Dak. 150 Fed., 391.
Platt v. LeCocq.
1906. September 19. C. C. N. D. Ill. E. D. 150 Fed., 707.
Pennsylvania Co. v. Bay.
1907. February 9. C. C. S. D. N. Y. 151 Fed., 34.
Hillard v. Fisher Typewriter Co.
1907. February 20. C. C. E. D. Pa. 151 Fed., 64.
Shelby Steel Tube Co. v. Del. Seamless Tube Co.
1907. February 15. C. C. E. D. Pa. 151 Fed., 59.
Barnes v. Lingo.
1907. February 15. C. C. E. D. Pa. 151 Fed., 264.
Friedberger-Aaron Mfg. Co. v. Chapin.
1907. February 7. C. C. D. N. J. 151 Fed., 265.
Babcock & Wilcox Co. v. N. Am. Dredging Co.
1906. June 25. C. C. S. D. Cal. S. D. 151 Fed., 334.
Carver v. San Pedro L. A. & S. L. R. Co.
1907. February 28. C. C. S. D. N. Y. 151 Fed., 497.
Elevator Supply & Repair Co. v. Peterson.
1907. February 20. C. C. E. D. Ga. S. D. 151 Fed., 891.
Atlanta Coast Line Ry. Co. v. Bailey.
1907. March 4. C. C. W. D. Mo. W. D. 151 Fed., 908.
Chicago R. I. & P. Ry. Co. v. Stepp.
1907. May 23. C. C. S. D. N. Y. 152 Fed., 1023.
Couch Patents Co. v. Woven Wire Mattress Co.
1907. March 27. C. C. N. D. N. Y. 152 Fed., 453.
Haywood B. & Wakefield Co. v. Syracuse Rapid Transit Co.
1905. February 20. C. C. E. D. Wis. 152 Fed., 466.
Westinghouse Elec. Mfg. Co. v. Natl. Elec. Co.
1907. April 8. C. C. D. N. J. 152 Fed., 635.
Standard Sanitary Mfg. Co. v. J. L. Mott Iron Works.
1907. April 17. C. C. N. D. N. Y. 152 Fed., 717.
Int. Time Recording Co. v. W. H. Bundy Recording Co.
1907. March 15. C. C. N. D. Ill. E. D. 152 Fed., 984.
Powers Regulator Co. v. Natl. Reg. Co.
1907. March 19. C. C. N. D. N. Y. 152 Fed., 188.
Clancy v. Troy Belting and Supply Co.
1907. March 15. C. C. N. D. Ill. E. D. 153 Fed., 201.
Dayton Malleable Iron Co. v. Foster, Waterbury & Co.
1907. February 4. C. C. E. D. Mich. E. D. 153 Fed., 229.
Thos. G. Plant Co. v. May Mercantile Co.
1907. February 4. C. C. E. D. Mo., E. D. 153 Fed., 232.
Thos. G. Plant Co. v. Hamburger.
1907. June 9. C. C. E. D., La. 153 Fed., 234.
Southern Ry. Co. v. Simon.
1907. March 15. C. C. N. D. Ill. E. D. 153 Fed., 193.
Cond. Ry. E. L. & E. Co. v. Adams & Westlake Co.
1907. May 7. C. C. D. Mass. 153 Fed., 291.
Gibbs Loom Harness & Reed Co. v. Howard Bros. Co.
1907. March 15. C. C. N. D. Ill. E. D. 153 Fed., 288.
Brunswick-Balke-Collender Co. v. Backus Anton Pin Setter Co.
1907. May 15. C. C. D. R. I. 153 Fed., 487.
Moxie Nerve Food Co. v. Modox Co.
1907. May 7. C. C. D. Mass. 153 Fed., 585.
Foster Hose Supporter Co. v. O'Brien.
1907. May 23. C. C. S. D. N. Y. 153 Fed., 589.
Martin v. Wall.
1907. May 16. C. C. S. D. N. Y. 154 Fed., 1006.
Siegert v. Eiseman.
1907. June 6. C. C. E. D. Pa. 154 Fed., 67.
Shaw Stocking Co. v. Weirman & Sarfert.
1907. May 30. C. C. D. Del. 154 Fed., 79.
Am. Locomotive Sander Co. v. Economy Locomotive Sander Co.
1907. May 29. C. C. S. D. N. Y. 154 Fed., 157.
Jewish Colonization Assn. v. Solomon & Germansky.
1907. May 3. C. C. S. D. N. Y. 154 Fed., 669.
Jas. E. Tompkins Co. v. Woven Wire Mattress Co.
1907. July 9. C. C. N. D. N. Y. 154 Fed., 671.
General Elec. Co. v. Corliss.
1907. July 1. C. C. D. Me. 154 Fed., 851.
Earle Mfg. Co. v. Clark & Parsons Co.
1907. July 10. C. C. D. Me. 154 Fed., 856.
Taussig v. North Wayne Tool Co.
1907. July 12. C. C. E. D. Pa. 154 Fed., 911.
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1907. July 20. C. C. W. D. Pa. 154 Fed., 744.
J. F. Rowley Co. v. Rowley.
1907. May 29. C. C. E. D. Pa. 155 Fed., 909.
Dwinell-Wright Co. v. Co-operative Supply Co.
1907. June 13. C. C. E. D. Mo. E. D. 155 Fed., 639.
W. A. Games & Co. v. Kahn.
1907. June 11. C. C. S. D. N. Y. 155 Fed., 427.
Am. Graphophone Co. v. Int. Record Co.
1907. August 31. C. C. E. D. Pa. 155 Fed., 976.
Kelsey Heating Co. v. Jas. Spear Stove Co.
1907. July 5. C. C. N. D. Ohio, E. D. 154 Fed., 124.
German-American Filter Co. v. Loew.
1907. June 10. C. C. S. D. N. Y. 155 Fed., 138.
Underwood Typewriter Co. v. Graves Typewriter Co.
1907. August 14. C. C. Md. D. Tenn. 155 Fed., 182.
University of the South v. Jetton.
1907. August 15. C. C. W. D. Wis. 155 Fed., 172.
Olmsted v. City of Superior.
1907. August 2. C. C. D. Mass. 155 Fed., 285.
Blake & Knowles Steam Pump Works v. Warren Steam Pump Co.
1907. July 31. C. C. D. N. J. 155 Fed., 409.
Ajax Metal Co. v. Brady Brass Co.
1907. February 5. C. C. W. D. Pa. D. Ct. 155 Fed., 421.
Conroy v. Penn. Elec. Mfg. Co.
1907. September 23. C. C. D. Minn. 3rd D. 155 Fed., 445.
Perkins v. Northern Pacific Ry. Co.
1907. August 12. C. C. D. Oreg. 155 Fed., 535.
Masenula v. Sunell.
1907. May 9. C. C. E. D. N. Y. 155 Fed., 583.
United States v. Banister Realty Co.
1907. June 29. C. C. D. Idaho. 155 Fed., 612.
Clearwater Timber Co. v. Shoshone County, Idaho.
1907. July 1. C. C. D. Idaho. N. D. 155 Fed., 633.
Clearwater Timber Co. v. Nez Perce County.
1907. August 12. C. C. D. N. J. 155 Fed., 740.
Genl. Elec. Co. v. Bullock Elec. Co.
1907. August 12. C. C. D. N. J. 155 Fed., 749.
Westinghouse Elec. Co. v. Prudential Ins. Co. of America.
1907. September 9. C. C. W. D. Pa. 155 Fed., 900.
Liberty Mfg. Co. v. American Brewing Co.
1907. October 24. C. C. D. Ill. E. D. 156 Fed., 585.
Rudolph Woolitzer v. Sheppy.
1907. October 7. C. C. W. D. N. Y. 156 Fed., 370.
Buffalo Gas Co. v. City of Buffalo.
1907. October 30. C. C. D. Mass. 156 Fed., 677.
Geo. Frost Co. v. Estes & Son.
1905. September 22. C. C. W. D. Mo. 156 Fed., 972.
Elec. Candy Machine Co. v. Morris.
1905. January 7. C. C. D. D. N. Y. 156 Fed., 1015.
Baglin v. Cusenier Co.
1907. November 18. C. C. S. D. N. Y. 156 Fed., 1016.
Baglin v. Cusenier Co.
1907. November 21. C. C. S. D. N. Y. 157 Fed., 2138.
Empire Cream Separator Co. v. Sears-Roebuck Co.

Abstract of cases filed with the committee by American Federation of Labor:

APPENDIX C.

1. Farmers' Loan and Trust Co. v. Northern Pacific R. R. April 6, 1904, Jenkins, judge. 60 Fed. Rep., 803a.
In this case the receivers of the road filed a petition to put certain schedules in effect January 1, 1894, and certain defendants, members of the Brotherhood of Railway Trainmen, were enjoined against combining and conspiring to interfere with the operation of the road by quitting its service for that purpose. These injunctions were issued December 19 and 22, 1893, motion to modify the same made by P. M. Arthur, grand chief of the railway brotherhood, February 15, 1894. Injunction modified by striking out the words "and from ordering, recommending, approving, or advising others to quit the service of the receivers of the Northern Pacific Railroad on January 1, 1894, or at any other time."
Appeal was taken from the order refusing further modification of the injunction. For this, see memorandum Arthur v. Oaks, 63 Fed. Rep., 310. Memoranda G.
2. C. C. U. S., eighth judicial circuit, district Nebraska.
Ames v. Union Pacific. January 27, 1894.
This is an order granting petitions of Receivers of Union Pacific Railroad, part of said order operating as restraint of a conspiracy or combination of employees to procure a strike for the purpose of crippling the operation of the road. Evident cause of complaint is this order, which it does not appear that employees made any effort to have modified or vacated, although it contained explicit leave and invitation for them to do so. In connection with this note careful protection given to same employees under same receivers nine days later, Ames v. Union Pacific, 60 Fed. Rep. 74, where court protected said employees against an attempted wage reduction by same receivers. (See Memoranda A.)
3. C. C. U. S. district Pennsylvania.
Platt v. Philadelphia & Reading Railroad, 65 Fed., 600; November 27, 1894, Dallas, judge.
Memoranda is the courts decision in this case denying a petition by certain employees, members of the Brotherhood of Railway Trainmen, asking that the receivers of said road be restrained from discharging them and other members of the union unless they withdraw from said union.
Memoranda states the facts and the decision, against which there can obviously be no complaint.
4. C. C. U. S., Western District Arkansas.
Western Coal Mining Company v. Puckett et al., Nov. 21, 1890:
This is a restraining order issued on complaint and affidavits and exhibits with an order to show cause on a motion for preliminary injunction with hearing fixed first Monday in December, 1890.
No complaint accompanies the order and no specific objection appears. Restraint order was in the usual form and suggested the exceedingly serious condition as it enjoins the intimidating use of firearms, the marching of armed men over roads adjacent to mines, for the purpose of interfering with and intimidating miners, and discloses a condition approximating a local war. This case does not appear in the reports, therefore nothing of record to show that the order was contested successfully or otherwise.
5. C. C. U. S., Western District Kentucky.

Reinecke Coal Mining Co. v. Wood, 112 Fed., 497. Nov. 13, 1901. Evans, district judge.

This is the injunction in this case. A restraining order was issued November 13, 1901, hearing fixed for November 25, on motion for preliminary injunction. Granted December 23.

Memoranda C shows an exceedingly serious condition of affairs in which this order was issued.

6. C. C. U. S., Eastern Division Eastern District Missouri.

Wabash Railroad Co. v. Hannahan et al., March 3, 1903. 121 Fed. Rep., 563. Adams, district judge.

This is a famous restraining order referred to in Memoranda D, issued on complaint and affidavits and vacated on the hearing by same judge as complainants did not, in the opinion of the court, sustain the allegations of the complaint.

7. C. C. U. S., Eastern Division Western District Tennessee.

Mobile and Ohio Railroad v. E. E. Clark et al.; May 11, 1903.

This is a restraining order issued on filing complaint and motion for preliminary injunction May 11, 1903. Order to show cause returnable May 13, 1903. Case not in the reports; unable to say whether order was contested or not. In the printed copy of this order the words "persuaded," "influence," etc., are italicized in evident complaint.

8. C. C. U. S., Eastern District Missouri, Eastern Division.

Boyer v. Western Union Telegraph Co., 124 Fed. 246, August 17, 1903. Rogers, district judge.

Complaint is evidently based on court's decision denying plaintiff's prayer for a bill in equity enjoining defendant from discharging members of the Commercial Telegraphers' Union and the maintenance of an alleged blacklist against them. Demurrer sustained. The case is substantially set forth in Memoranda E.

9. C. C. U. S., Southern District Ohio, Western Division.

Newport Iron & Brass Foundry Co. v. Iron Moulders' Union, September 27, 1904.

This is a copy of a final injunction issued after argument and hearing.

10. C. C. U. S., Eastern District Eastern Division Missouri.

Armstrong Cork Co. v. Anheuser-Busch, July 3, 1905.

Restraining order issued on complaint and motion for preliminary injunction. Hearing fixed July 25, 1905.

11. C. C. U. S., Sixth Circuit Eastern District of Michigan, Southern Division.

Grand Trunk Railroad Co. v. Gratiot Lodge et al., August 23, 1905.

This is an original bill and amended bill of complaint, supported by numerous long affidavits of workmen who have been threatened and assaulted by defendants. Bill filed August 22, 1905. Order to show cause returnable August 31. The court required complaints to serve defendants with copy of complaints and affidavits before August 25, and defendants to file answer and reply affidavits before August 28. No restraining order was issued. No evidence is supplied of further proceedings. The bill alleges a strike by defendants to enforce a closed shop and higher wage scale. Alleging constant picketing, intimidation, and assault and abuse of nonunion employees.

12. C. C. U. S., Eastern Division Southern Division of Iowa.

Atchison, Topeka & Santa Fe R. R. v. Gee, October 24, 1905, 139 Fed. Rep., 582; 140 Fed. Rep., 153. McPherson, judge.

Proceedings for contempt, growing out of violation of a restraining order issued in May, 1904.

Memoranda F summarizes these proceedings, which display the utmost consideration and fairness by the court with evidence of continued and defiant contempt of the court's order.

13. C. C. U. S., Eastern District Pennsylvania.

Niles Bement Pond Co. v. Elwell, January 31, 1906. Restraining order issued. Case not in reports. Nothing to show other action. Order of the usual character.

14. Pope Motor Car Co. v. Stittart et al. C. C. U. S. District Indiana, Anderson, judge. Restraining order issued on exhibits and affidavits June 9, 1906. Hearing fixed June 16.

15. C. C. U. S., Eastern District Wisconsin. Allis Chalmers Co. v. Iron Moulders' Union 125 et al. June 16, 1906. Ditto, September 24, 1906. Temporary restraining order granted June 16, 1906. Hearing for preliminary injunction July 6. Defendant's answer and motion for preliminary injunction denied on the ground that the equity of the bill is substantially denied by the defendant.

The supplemental bill filed three months (Sept. 11) later and defendant's answer submitting a large number of affidavits. Motion for a preliminary injunction granted restraining illegal picketing found to have been conducted by threats, intimidation, and actual violence.

16. C. C. U. S., Western District Ohio.

Pope Motor Car Co. v. Keegan, 150 Fed., 148.

Temporary restraining order granted October 5, 1906. On filing complaint, affidavits, and exhibits. Hearing October 13. On motion for preliminary injunction heard on affidavits and oral evidence. Preliminary injunction allowed against such defendants as are shown to have participated in violence and intimidation.

17. C. C. U. S., Northern District West Virginia.

National Telephone Co. v. Kent, 156 Fed., 173. Dayton, judge.

Restraining order issued May 31, 1907. Heard July 2, 1907. Motion for preliminary injunction and amended bill, exhibits, and affidavits. Motion heard on numerous affidavits. Demurrer overruled and preliminary injunction issued September 26.

Reference memoranda 4.

18. C. C. U. S., Northern District West Virginia.

Central District & Printing Telegraph Co. v. Kent et al.

19. C. C. U. S., Ninth Circuit District Montana.

Rocky Mountain Bell Telephone Co. v. Montana Federation of Labor. 156 Fed., 809. Hunt, district judge. August 7, 1907.

Restraining order issued after notice of motion and affidavits filed by both sides and argument. Facts stated in memoranda H.

20. C. C. U. S., Northern District West Virginia.

Hitchman Coal and Coke Co. v. John Mitchell et al. November 26, 1907. Dayton, judge.

Restraining order issued October 24 on filing a bill. Cause set for hearing January 14 on motion for temporary injunction. Continued to March 18, 1908, on motion of defendants because of absence of their counsel, attending State legislature, and motion made at same time to dismiss order as to certain defendants not served with process. Hearing further continued from 18th of March to fourth Tuesday in May, 1908, on defendants' motion. No demurrer filed nor argument or motion on other matters.

21. Supreme Court District of Columbia.

Buck Stove & Range Co. v. American Federation of Labor, December 17, 1907. Gould, justice. Preliminary injunction issued on depositions and argument. Appeal taken.

22. Supreme Court District of Columbia.

Bender v. Union 118, January 10, 1908.

Permanent injunction issued on testimony and argument.

103. C. C. U. S., Northern District West Virginia. November 7, 1904.

E. M. Kemmerer et al. v. Haggerty. July 15, 1905. Goff, circuit judge.

Restraining order issued November 7, 1904, by Judge Jackson. Motion for permanent order fixed for November 30, 1904. Motion to dissolve injunction by said defendants and for permanent injunction by plaintiffs heard by Judge Goff, and restraining order dissolved for lack of jurisdiction.

See memoranda.

C. C. U. S., Eastern District Wisconsin.

Farmers Loan & Trust Co. v. Northern Pacific R. R. Jenkins, judge.

MEMORANDA A.

AMES v. UNION PACIFIC.

Order of the Circuit Court, District of Nebraska, met at Lincoln, January 27, 1904, Elmer Dundy, judge:

OLIVER AMES, 2ND, ET AL. v. UNION PACIFIC ET AL.

This is an order granting petition of receivers of the Union Pacific Railroad. The petition does not accompany the order, but the portion of the order complained of declares it unlawful for any of said employees, while in the employ of the receivers, to conspire, combine, or confederate together, or if, or by, or through any labor or other organization or the officers or committees thereof, or with any other person or persons whomsoever, for the purpose and with the intention of inducing a strike.

Like language is used with reference to combinations or conspiracies to obstruct or prevent the operation of the road.

It seems that no attempt was made to secure a modification of this order, although the courts specifically provided in it for leave "to each and every of the employees of this court engaged in operating the railway and telegraph lines and conduct the business of the said receivers, to intervene in this cause by petition and to move for such modification or abrogation of such rules and regulations and schedules of this or any other order made herein, or that such further order and direction in the premises as may be just and equitable, and said employees may so appeal by petition either individually or collectively in proper person, or by or through their duly authorized representative or representatives."

It is to be further remarked that apparently in the same connection there appears in Ames v. Union Pacific, 60 Fed. Rep., 674, on February 5, 1894, twelve days after the restraining order above complained of, that Judges Hallett and Renner carefully and energetically protect the employees of the receiver from an effort to put into effect the receivers' petition for an order to sustain them in revising and rearranging the rules and regulations of employment and schedule of wages and directing the employees of receivers to refrain from conspiring with intent to strike.

The court refused to confirm any action of the receivers in reducing wages or changing the working conditions which were in force when they took over the property, which would affect the employees, until the employees had been notified of the proposed changes, and given a chance to point out any inequality or injustice threatened by such changes.

MEMORANDA B.

PLAT V. PHILADELPHIA AND READING RAILROAD.

[65 Fed. Rep., 660: Circuit Court, District of Pennsylvania, November 27, 1894, Dallas, Judge.]

This was a petition by certain employees of the Philadelphia and Reading Railroad, who were members of the Brotherhood of Railway Trainmen, for an order to restrain the receivers of said road from discharging them and other members of the union, unless they withdrew from said union.

From the court's decision it appears the Reading Railroad had adopted a rule in 1887 that no one should be employed belonging to a labor organization unless he agreed to withdraw therefrom. Every applicant for employment was required to sign an application, stating that he was not a member of the union, or, if he was, that he would withdraw. Some years later the road went into the hands of receivers, who continued the employment policy they found in force.

Certain employees thereupon petitioned the court to restrain the receivers from enforcing a notice which they had issued, stating their intention to discharge all employees who were members of labor organizations, and who did not withdraw from them by a certain date.

It appears from the petition that all of the employees had obtained employment either by withdrawing from the union or had notice of the rule and had been employed in violation of it by subordinate agents of the road without the knowledge or consent of the receivers, and no other persons differently situated asked to be made parties to the petition.

The court held substantially that the petitioners who had thus violated a known rule had no equity standing to restrain its enforcement, and that in any event the court would not undertake to direct the receivers to abrogate a rule established by the owners of the property and believed by both them and the receivers to be advantageous to its management and which rule involved nothing unlawful.

It is worth noting that Attorney-General Olney filed a statement as *amicus curiae* in favor of the petition.

MEMORANDA C.

REINECKE COAL MINING COMPANY v. WOOD.

[112 Fed. Rep., 477, Circuit Court Western District of Kentucky, Evans, District Judge.]

A restraining order was issued November 13, 1901, with a hearing fixed for November 25, 1901, on motion for preliminary injunction, said motion being granted December 23, 1901.

Certain jurisdictional questions immaterial to the complaint raised under the restraining order were disposed of, and the application heard on affidavits.

The order was issued on substantially this condition:

It appears that certain coal miners of Indiana and Illinois, members of the United Mine Workers, complained that certain miners belonging to certain organizations in Kentucky were not receiving a wage schedule, fixed at Indianapolis, and they feared they could not maintain their own scale unless that of the Kentucky miners was increased. Agents were therefore dispatched into Kentucky to bring about an increase in the pay of the union miners, and as a result of their effort operators, notably of Central City, Ky., agreed to the scale demanded, provided it was adopted in a majority of the mines in another district (Hopkins County, where nonunion men were employed). The evidence disclosed, in the opinion of the court, that the relations between the

employers and the employees in these nonunion mines were mutually satisfactory, and that for the most part the members did not wish to join the union.

Under these circumstances the defendants and others invaded the Hopkins district in great force, establishing armed camps in the vicinity of the nonunion mines, which were maintained for many months, and the roads patrolled and the approaches to the mines picketed for the purpose of coercing and intimidating miners to join the union, and cause a strike unless the union scale was adopted. Nonunion men were constantly threatened and assaulted and when defensive measures were adopted there were constant collisions and disorder.

The court finds the conditions sought to be brought about were "undesired and vigorously repelled by the employers and a vast majority of the employees." * * * "If this court can not in a case like this protect the rights of a citizen when assailed, as those of the complainant have been in this instance, there is a decrepitude in judicial power which would be mortifying to every thoughtful man."

"One gratifying thing disclosed by the evidence offered in this motion is that much good has probably resulted from that action (issuing a restraining order), although it did not prevent the assault by the United Mine Workers upon property and citizens in Webster County immediately afterwards."

MEMORANDA D.

WARASH R. R. CO. v. HANNAHAN.

[Circuit Court Eastern District Missouri, Adams, District Judge, April 3, 1903.]

In this case, without notice to defendants, a temporary restraining order was issued on the filing of a verified bill of complaint by plaintiff, alleging unlawful and malicious combination and conspiracy by the Brotherhood of Locomotive Firemen and Railway Trainmen through officers and agents, the defendants, to compel the exclusive recognition of their labor organizations and the discharge by plaintiff of all not members thereof; this purpose to be accomplished by maliciously calling a strike of defendant organization's members, inducing others to violate the laws of the United States relating to the mail service and unlawful restraints and combinations in interstate commerce, etc. It was further alleged that the plaintiff's employees were entirely satisfied as to all matters concerning their service and employment. A restraining order was issued and served on defendants commanding them to refrain from ordering and causing a strike of plaintiff's employees and from in any other way or manner interfering with the plaintiff in the discharge of its duties as a common carrier of interstate traffic and the mails of the United States. Defendants were given fifteen days in which to appear and show cause why the restraining order should be dissolved or modified.

In issuing the ad interim order the court declared it to be its imperative duty and right, reciting for its authority in re Debs, 158 U. S. 564; Arthur v. Oaks, 11 C. C. A., 209; Toledo R. R. v. Penn. R. R. Co., 54 Fed., 730; Thomas v. Cincinnati, N. O., & T. P. Ry. Co., 62 Fed., 803.

The defendants filed an answer, supported by numerous affidavits, denying the plaintiff's allegations and especially that the employees were satisfied with the existing working conditions, and further asserting that the defendants were engaged in good faith in bettering the conditions of their services and that the strike they were about to sanction was for the purpose of peacefully and lawfully accomplishing these things. Affidavits were also filed by plaintiff, who moved for a preliminary injunction until final hearing.

The court denied plaintiff's motion and vacated the restraining order, holding that the weight of evidence did not show an unlawful combination of defendants with malicious intent to injure plaintiff, but only a rightful purpose of members of the Railway Brotherhood, acting under the direction of their representatives, peacefully and lawfully quitting plaintiff's employ for the purpose of bettering their condition.

MEMORANDA E.

BOYER v. WESTERN UNION TELEGRAPH COMPANY.

[124 Fed. Rep., 246; Circuit Court U. S., Eastern District of Missouri, August 17, 1903, Rogers, District Judge.]

Complaint in this case is evidently based on the denial of a bill in equity petitioned for by the Commercial Telegraphers' Union, praying for injunctive relief. Demurrer sustained.

The petition alleged—

First. That the defendant discharged plaintiffs without notice and for no other cause than that they joined a union.

Held. That in the absence of a contract the employer has the right to discharge, or the employee to quit at will.

Second. That defendant conspired to destroy the union by discharging its members.

Held. That as in the absence of a contract the employer may discharge for any cause or no cause, there can not be a conspiracy to do this lawful thing. Hence, no such thing as an unlawful conspiracy to destroy a labor union by discharging its members or refusing to employ them.

Third. That defendant, "by threat and intimidation and coercion and otherwise, so interfered with plaintiffs and others of its employees because they united with said union."

The court decided in this regard that it does not appear from the proceedings, "what the threats, what the intimidation, or what the coercion was of which they complained. Such an allegation is not one of fact, but is one of conclusion."

Fourth. The remedy for discharge from employment is an action at law, for breach of contract and not in equity, to enjoin the discharge.

Fifth. As to the allegation that a blacklist was maintained, the court states and answers defendant's assertion in this language:

"Can a court of equity grant relief to a man who says for his cause of action that he belongs to a reputable organization and that he has been discharged solely because he did belong to it; that his employer who discharged him keeps a book in which is placed his name, and has set opposite thereto the fact that he discharged him solely because he belonged to such organization, and that he gives the information to other persons, who refuse to employ him on that account. Suppose a man should file a bill alleging that he belonged to the honorable and ancient order of Free Masons, or to the Presbyterian Church, or the Grand Army of the Republic; that his employer had discharged him solely on that account; that he had discharged other of his employees and intended to discharge all of them for the same reason; that he kept a book which contained the names of all such discharged persons, and set opposite the name of such discharged persons the fact that they had been discharged solely on the ground that he belonged

to such organization and that he had given such information to others, who refused to employ such person on that account. Is it possible a court of equity could grant relief? If so, pray on what ground? And yet that is a perfectly parallel case to this as made by the bill."

MEMORANDA F.

ATCHISON, TOPEKA AND SANTA FE V. GEE.

[139 Fed. Rep., 582; 140 Fed. Rep., 153; Circuit Court Eastern Division, Southern Division of Iowa, July 10 and October 24, 1905. McPherson, judge.]

Proceedings for contempt, growing out of violation of a restraining order issued in May, 1904.

There was, it seems, a strike of machinists against the Santa Fe road in the spring of 1904, and the court calls attention to the continuous picketing for the purpose of intimidation and coercion, accompanied by constant violence to persons and property. The court remarks "there would have been no occasion for its interference if there had been any honesty of purpose by the local authorities to maintain peace and order. Intimidation, threats, violence, and brutality were all winked at because of the belief on the part of certain police officers that they would be kindly remembered on future election days."

The restraining order was issued May 6, 1904. "The accused were solemnly warned by a writ of this court. Two of the defendants appeared June 1, 1904, in person but without counsel. None of the other defendants appeared although notified. Those two were admonished by the court, to which they kindly listened and thanked the presiding judge."

Defendants Randall, Neyer, Hult, and Manly were cited after this on contempt charges, and heard orally and by affidavit April, 1905. Motion to punish for contempt was heard July 10, 1905.

[139 Fed. Rep., 582.]

The court then considered that the points raised on behalf of and in mitigation of defendants' action and made remarks thereon, causing the same to be sent to each defendant as a solemn warning, stating that the court would pronounce judgment later and would be governed to considerable extent by the conduct of the defendants in the interim.

In the following October 27 the court reviewed the previous contempt proceedings and heard further evidence discovered that three of the defendants, Neyer, Hult, and Manly, after receiving a copy of the written opinion of the court, delivered July 10, continued to violate the court's orders, indulging in "intimidation, ugly language, ugly conduct toward the company and toward the new employees." It is true they substituted for the word "scab" another word meaning the same, and which is understood by all as meaning the same as "scab."

The court also calls attention that from the time the restraining order was first issued, no effort was made to modify or vacate it, and no objection of any character raised by counsel or defendants to its terms.

Randall, who had been guilty of previous contempt, but had heeded to the court's admonition, was fined \$25. Neyer was given four months in jail and Hult and Manly three months each.

MEMORANDA G.

ARTHUR v. OAKS.

[Circuit Court of Appeal, 63 Fed. Reporter, 319. Harlan, judge. April 6, 1894, date Jenkins's opinion.]

Petition by P. M. Arbur and others to modify certain injunctions issued in a consolidated suit brought by the Farmers' Loan and Trust Co. et al. v. Northern Pacific Railroad Co. and its receivers, 60 Fed., 803. The injunctions were only modified in part by Circuit Judge Jenkins, and petitioners appealed.

It was contended that the circuit court exceeded its powers when it enjoined the employers of the receivers "from combining and conspiring to quit, with or without notice, the service of said receivers, with the object and intent of crippling the property in their custody or embarrassing the operation of said railroad and from so quitting the service of said receivers, with or without notice, as to cripple the property, or prevent or hinder the operation of said railroad."

This clause embodies two distinct propositions; one relating to combinations and conspiracies to quit the service of the receivers with the object and intent of crippling the property or embarrassing the operation of the railroads in their charge; the other having no reference to combinations and conspiracies to quit, or to the object and intent of any quitting, but only to employees "so quitting" as to cripple the property or prevent or hinder the operation of the railroad.

The appellate court held circuit court had properly refused to strike from the writs of injunction the words "and from combining and conspiring to quit with or without notice the service of said receivers with the object and intent of crippling the property in their custody or embarrassing the operation of said railroad" (the first proposition), but should have eliminated from the writ of injunction the words, "and from so quitting the service of said receivers, with or without notice, as to cripple the property or prevent or hinder the operation of said railroad" (second proposition).

The appellate court further indulged in mild criticism of the use of the word "strike," stating that the order of injunction should describe more distinctly than it did the "strikes" which it was intended to restrain.

The injunction order complained of was therefore revised in part, the motion to strike out granted to the extent here stated, and the injunction thus modified sustained.

MEMORANDA H.

Rocky Mountain Bell Telephone Co. v. Montana Federation of Labor. Circuit Court District Montana, August 17, 1907. Hunt, district judge. Motion for a temporary restraining order; granted after argument and hearing on affidavits.

Case shows during strike against the telephone company the defendant labor organization, through its officers and members, by concerted action attempted to injure and destroy plaintiff's business by boycotting its customers, intimidating and threatening its employees, and preventing others from entering its service. To this end defendants posted and distributed a great number and variety of abusive and threatening circulars, exhorting people not to patronize plaintiff, and threatening the withdrawal of patronage from and the boycotting of all merchants who used plaintiff's line.

Intimidating circulars were especially distributed among actual female employees and applicants for employment with plaintiff. All of these things being done to compel plaintiff to accede to a wage demand made by defendant.

Under the temporary restraining order certain defendants were afterwards punished for contempt.

MEMORANDA I.

[*Kemmerer v. Haggerty et al.* C. C. U. S., Northern District West Virginia, July 15, 1905. Goff, Judge.]

This action arose out of a strike of the United Mine Workers against the Pennsylvania Consolidated Co., a West Virginia corporation, which was made the defendant with the mine workers by certain nonresident stockholders. The corporation and the miners' organization were citizens of the same State; the former seeking an injunction in the State court against members of the latter organization, were alleged to be interfering with the operation of the corporation's property, and its non-union employees during a strike. Certain Pennsylvania stockholders of the corporation sought to obtain a Federal injunction, alleging that the corporation was not protecting their interests by obtaining an injunction from the Federal court against said miners, which injunction it obviously could not obtain on account of identity of citizenship of the parties.

On the filing of stockholders' complaint with accompanying affidavits a restraining order was issued by Judge Jackson on November 7, 1904, and a motion for a permanent order set down for a hearing November 30. Judge Goff heard the motion and held the action of the non-resident stockholders to be collusive, holding further that such acts did not constitute a compliance with equity rule 94, relating to stockholders' bill, and requiring such cases should not be collusive to confer Federal jurisdiction, that the court had no jurisdiction. The order was therefore vacated.

MEMORANDA J.

[*C. C. U. S. N. D. West Virginia, National Telephone Co. v. Kent et al.*, Sept. 26, 1907. Dayton, Judge. 156 Fed. Reporter, 173.]

This action grew out of a strike against the plaintiff in which it was alleged that defendants combined and conspired to injure and interfere with the business of plaintiff by pursuing, abusing, threatening, and assaulting men who took their places. Defendants cut a great number of the plaintiff's cables and wires, drilled holes and poured acid into other cables, injured and destroyed a great amount of plaintiff's property, and intimidated and attacked plaintiff's employees whenever they attempted to repair the damage done. A restraining order was issued on filing of plaintiff's complaint with time fixed for hearing of said order, and an order entered fixing the time within which evidence could be taken by deposition to permit defendants to prepare their defense.

Immediately following the period fixed to take evidence, counsel for defendants announced in court that no evidence had been taken and defendants had decided to make no further defense, but permit plaintiffs to have perpetual injunction in the case. Decree granting such injunction was then entered.

Thereafter, an amended supplemental bill was filed by plaintiff, alleging the original averments and, further, that other persons, including the editor of the local labor paper, had joined the original conspiracy and were assisting in the execution of the same; that the editor was publishing matter obviously calculated to make the injunction granted ineffective and the boycott enjoined effective. To this bill defendants demurred on the ground that sufficient cause for preliminary injunction was not shown. The court overruled the demurrer and on the exhibits and affidavits shown and arguments made preliminary injunction was granted, on the ground that defendants through the newspaper named, and by means of circulars issued and distributed, were encouraging the unlawful acts previously enjoined and inciting the public to boycott plaintiff.

MEMORANDA K.

Restraining orders and injunction orders in all cases herein noted are along the usual line of such orders, with the exception of the injunction of Judge Jenkins, modified by Judge Harlin, in *Arthur v. Oaks*.

While we have at hand no complete injunctions issued by Judge Taft, whose orders are generally held in high esteem, there is no order herein which differs substantially from orders of injunction issued by him in *Thomas v. Cincinnati, New Orleans and Texas Pacific Company* (62 Fed. Rep., 803), or *Toledo and Ann Arbor v. Penn. Company et al.* (54 Fed. Rep., 730), as these orders are substantially stated in the course of decision. In the latter case it is stated that defendant was restrained "from issuing, promulgating, or continuing in force any rule or order of said brotherhood which shall require or command any employees of any defendant railway companies herein to refuse to handle and deliver any cars of freight in course of transportation from one State to another to the complainant, or from refusing to receive and handle cars of such freight which have been hauled over complainant road; and also from in any way, directly or indirectly, endeavoring to persuade any of the employees of the defendant railway company whose lines connect with the railroad of complainant not to extend to said company the same facilities for interchange of interstate traffic as are extended by said companies to other railroad companies."

In *Thomas v. Cincinnati* case, defendant Phelan was enjoined "from, either as an individual or in combination with others, inciting, encouraging, ordering, or in any other manner causing the employees of the receiver to leave his employ with intent to obstruct the operation of his road, and thereby compelling him not to fulfill his contract and carry Pullman cars."

It is to be observed in this case that Judge Taft enjoins the very thing which is so sharply criticised in Judge Dayton's order in the case of the *Hitchman's Coal Mining Company v. Mitchell*—that is, a conspiracy to procure a breach of contract.

In the *Taft case Phelan* and the railway men sought to procure the breach and in the *Hitchman case Mitchell* and the miners enjoined from doing the same thing.

APPENDIX E.

REPORT OF THE SUBCOMMITTEE OF THE JUDICIARY COMMITTEE OF THE FIFTY-NINTH CONGRESS AS TO THE PERSONAL AND PROPERTY RIGHTS INVOLVED IN ANTI-INJUNCTION BILLS.

Your committee, to whom has been referred these resolutions, first, whether United States courts have jurisdiction to issue injunctions to protect the exercise of personal rights as distinguished from property rights; second, whether the right to carry on business is a property right of such a character as to be entitled to the protection of injunctions in proper cases, and to make such other and further report as to them may seem right and proper in the premises, submit the following:

These resolutions were adopted by the committee to assist in arriving at conclusions in the anti-injunction bills now pending. From their phraseology it is evident nothing more was expected of us other than, if possible, to aid in obtaining the correct statement of existing

law. We have not considered ourselves justified in treating the subject separate from legal issues or recommending to you any panacea for existing evils. This it is incumbent on the committee as a whole to do, and we do not, therefore, open up collateral matters, but confine ourselves to the two legal propositions presented by the resolution.

At the outset we are confronted with a paucity of decisions upon the first branch of our inquiry. What is a personal right? To say that it appertains to the person, that it is the right of personal security and the enjoyment of life, limb, body, health, reputation, and personal liberty, still leaves us in the dark as to personal rights to labor and demand its protection by judicial process. Acts against purely personal rights are very often crimes. Injunction does not lie to prevent crimes. It has never been the practice to enjoin the commission of a crime. Such remedy would be wholly inefficient. When a right is purely personal, that is where it has associated with it no idea of property, the use of the property, or the acquirement of property, etc., then it may not be protected by the writ of injunction. But where a personal right has connected with it the idea of property, it presents a different question. The right to pursue a particular calling has associated with it the idea of handling or acquiring property. It makes it a mixed personal and property right, and such a right has the protection of the law by injunction. We can not easily separate the personal from the property character of the act. The adjudicated cases almost invariably involve the latter, and the injunction relief asked is to protect the alleged property right. Ever when other rights appear the decision turns upon the property interest, and allusions to the personal right is incidental. We are forced, therefore, to go to fundamental principles as enunciated by the courts from time to time, and upon which the fabric of human liberty has been constructed. In *Regina v. Drury* (10 Cox C. C., 592), Lord Bramwell says:

"No right of property or capital was so sacred or carefully guarded by the law of the land as that of personal liberty. That liberty was not liberty of the body only, it was also a liberty of the mind and will, and the liberty of a man's mind and will, to say how he should bestow himself, his means, his talent, and his industry, was as much a subject of the law's protection as was that of his body."

So the supreme courts of Massachusetts, New York, Illinois, and Nebraska have in various decisions touched upon this question, maintaining, for instance, that the right to enter upon and remain in the employment of any person is secured by the Constitution itself. In *Algeyer v. Louisiana* (165 U. S., 589) the Supreme Court said:

"The constitutional guaranty embraces the right of the citizen to be free in the enjoyment of all his faculties, to be free to use them in all lawful ways, to live and work where he will, and earn his livelihood by any lawful manner, to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper, necessary, and essential in his carrying out the purposes above mentioned."

The State courts have affirmed this doctrine, as is set forth in *State v. Stewart* (59 Vt., 273):

"The principles upon which the cases, English and American, proceed is that every man has a right to employ his talents, industry, and capital as he pleases, free from the dictation of others."

The Anthracite Coal Strike Commission, composed of men selected by agreement between the employers and the employees, referring to the rights of citizens, said:

"The right and liberty to pursue a lawful calling and to lead a peaceable life, free from molestation or attack, concerns the comfort and happiness of all men, and the denial of them means the destruction of one of the greatest, if not the greatest, of the benefits which the social organization confers."

In volume 4, American and English Encyclopedia of Law, page 608, it says:

"The labor and skill of a workman, the plant of the manufacturer, and the equipment of the farmer all are in equal sense property. Every man has a right to employ his talents, industry, and capital as he pleases, free from the dictation of others."

More emphatically is this doctrine laid down in 16 Wall., 116; 212 L., 421:

"The individual citizen, as a necessity, must be left free to adopt such callings, profession, or trade as may seem to him most conducive to that end. Without this right he can not be a free man."

Finally we quote from the address of Justice Brewer, of the United States Supreme Court, recently delivered in Virginia:

"I believe in the liberty of the individual limited only by the equal rights of his neighbor. Whatever may be the changes of the future, whatever may be the new conditions of the social, business, and political life, the time will never come when anything will justify shacking the Golden Rule or striking down the Declaration of Independence."

If, then, the sole question is the right to labor, the right to do business, to employ and be employed, to barter and sell, to contract and trade, separate from the objects to which they are directed, they are personal rights which the courts have protected so long that they may be considered fixed and fundamental. The necessity for labor is imperative. Since Adam was driven from Eden it has been an inexorable law. You might as well say that one should not breathe or eat or sleep as to say he shall not work. As unavoidable, it will receive the highest protection the law affords.

It follows, therefore, that unless one's labor militates against the public good he has a constitutional right to employ that labor wherever and whenever he chooses. If the public weal is affected, the right of one must yield to the rights of the many. His alternative is to follow other lines of labor in which the public morals, health, peace, or happiness and interests of the people are not injuriously affected. In this conclusion it would appear that both the advocates and the opponents of injunctions agree, from the fact that in the bill especially selected for approval by the latter incorporated the following, unnecessary if the law was otherwise:

"No right to continue the relation of the employer and employee or to assume or create such relation with any particular person or persons or at all, or to carry on business of any particular kind or at any particular place or at all, shall be construed, held, considered, and treated as property or as constituting a property right."

With the modifications we have referred to, we claim that the first resolution should be answered in the affirmative.

As to the second resolution the decisions are numerous and substantially agree. There are a few dissenting opinions, but dissenting opinions do not establish the law. In this controversy they are largely in criticism of existing conditions rather than a denial of the law. They recommend the equalization of rights, so that capital and labor shall have a fair field for contention, and it can not be said that the laws are more favorable to one than to another. In other words, they are ethical discussions of what should be, rather than what is. Some are indignant protests against combinations of individuals and aggregations of capital stifling competition, establishing monopolies, and

reducing the wages of the laborer. We agree with the essence of these dissenting opinions, for in substance they amount to this: That the power of capital is so gigantic that the combinations of labor should be recognized and labor legislation approved, when equal justice and equal rights are dispensed to both. We fail to find any cases whatever either in the Federal or State courts controverting the principles of law which, for convenience, can be summarized as follows:

1. Business is not lifeless or dead things, but the activities in which they are employed.
2. It is a valuable property right, entitled under the Constitution to protection from unlawful interference.
3. It embraces a right to trade, apart from contract rights.
4. The owner of a business has a pecuniary interest in it beyond its actual tangible assets.
5. The right to carry on a lawful business without obstruction is a property right.
6. A business is just as much the subject of suit as ordinary forms of real and personal property.
7. It is a substantial right which should be protected by any remedy known to the courts.
8. One has a right to carry on his business within legal limits according to his own discretion and choice.
9. It is such property that any attempt to injure or destroy it will be restrained by injunction.
10. A conspiracy to interfere with business by threats or intimidation is subject to injunction.
11. When the injury is of a continuing character to business the injunctive process applies.
12. Even threatening to bring infringement suits without intending to bring them can be enjoined.
13. Also intimidating workmen, thereby preventing them from continuing in existing employment.
14. Interference with business through fraud, misrepresentation, intimidation, obstruction, or molestation is actionable through injunctions.
15. The right to do business at a certain place and in a certain manner, or at all, is a property right of such value that it is taxable as property.
16. Corporate franchises are property.
17. The good will of a business is property.
18. Good will, under some circumstances, is a personal right.
19. Contracts and privileges are property.
20. A license to do business is a property right.
21. A man has a right fundamentally to seek or accept, reject or quit, labor whenever or wherever he sees fit to do so, if not estopped by contract.

These propositions are supported by the decisions of the State and Federal courts, the latter frequently quoting the former in indorsement of their views. See *Minnesota v. Northern Securities*, 194 U. S. 70 and 71; *Scott v. Donald*, 185 U. S. 107; *Nashville and St. Louis R. R. Co. v. McConnell*, 82 Fed. Rep. 65; *Toledo A. A. and N. M. R. Co. v. Penn. Co.*, 54 Fed. Rep. 730; *Casey v. Cincinnati Typographical Union No. 3*, 45 Fed. Rep. 135; *Cœur d'Alene Consol. Min. Co. v. Miners' Union*, 51 Fed. Rep. 260; *Emack v. Kane*, 24 Fed. Rep. 47; see also *Brautigan v. Edward*, 36 N. J. Equity, 545; *Tarleton v. McCauley*, *Peake's Nisi Prius Reports* (Drake's edition, 1795), page 270; *Adams v. Columbia Typographical Union*, pages 281, 282, and 283 of the hearings before House Judiciary Committee on anti-injunction bills in the Fifty-eighth Congress; *State v. Stewart*, 59 Vt. 273; *Barr v. Essex Trade Council*, 53 N. J. Equity, 101; *Vegetahm v. Gutner*, 167 Mass. 92, and other Massachusetts cases; *Springhead Spinning Co. v. Riley*, L. R. 6 Eq. 531; *Longshore Printing and Publishing Co. v. Havill*, 26 Oreg. 527; *Jackson v. Stanfield*, 137 Ind. 502; *Doremus v. Hennessey*, 176 Ill. 608; *Hamilton Shoe Co. v. Saxly*, 131 Mo. 212, and *Brown and Allen v. Jacobs Pharmacy Co.*, 115 Ga. 438.

As to the right to do business at a certain place, in a certain manner, or at all, see *Adams Express Co. v. Ohio State Auditor*, 165 U. S. 194, and 106 U. S. 185; *People of the State of N. Y. v. Roberts*, 154 N. Y. 101, and 159 N. Y. 70.

That good will as property exists entirely separate and distinct from the physical property used in business, see *Washburn v. National Wall Paper Co.*, 31 Fed. 17; *Smith v. Gibbs*, 44 N. H. 335; *Lindemann v. Rusik* (Wis.), 104 N. W. 119; *Millspaugh Laundry v. National Bank* (Ia.), 94 N. W. 62.

The Sherman antitrust act was constructed, in part, upon the idea that business was a property right of great value, for in the seventh section thereof it is especially recognized as such, and treble damages given for injury to it. Section 74 of the Wilson tariff law expressly gives a remedy for damages to "business" as a property right, and the same provisions are substantially embodied in the Dingley Act. The opinion of one who has held an important judicial position, and who is now conspicuous in the public service, is valuable. Therefore we quote from Secretary Taft, who, discussing the question, said:

"The question at issue is whether the unlawful injury to a going commercial or transportation business is an interference or injury with either a right of property or a right of a pecuniary nature. This question would seem to answer itself in the affirmative. The good will of a business, which is really the thing a man has in the custom he has built up by his business, is so much a property right that it is frequently bought and sold. Indeed, a man's business has been frequently protected by injunctions against unfair and fraudulent competition. Even if it be conceded that property right is to be limited to one growing out of ownership of tangible property, certainly a right in a going business is a right of a pecuniary nature."

We answer the second resolution as follows:

That the right to do business is a property right and may be protected by the writ of injunction.

CHARLES Q. TIRRELL
JOHN A. STERLING.

VIEWS OF MR. BRANTLEY.

Since the foregoing report was submitted to me I have not had the opportunity of investigating the many citations nor of carefully weighing and considering the various statements of opinions and conclusions appearing therein. I must therefore content myself with a brief statement of the views entertained by me.

The two questions propounded are largely, if not entirely, academical, and for the simple reason that, regardless of how they may be answered, the protection of property and of property rights is involved in all the proposed legislation to which the questions relate.

The first question, in the way it is stated, should, in my opinion, be answered in the negative. The point in this question is that it distinguishes personal rights from property rights. A personal right may involve a property right, and if the property right so involved is taken into consideration, then a court of equity has jurisdiction in a proper case to issue an injunction to protect it; but if we assume a personal right to exist that in no way involves or includes a property right, then I do not think the United States courts have jurisdiction to issue an injunction to protect such a right. The Supreme Court said in the *Sawyer* case (124 U. S., p. 210):

"The office and jurisdiction of a court of equity, unless enlarged by express statute, are limited to the protection of rights of property."

The same court, in the *Debs* case (158 U. S., p. 593), said: "There must be some interference, actual or threatened, with property or rights of a pecuniary nature" before the jurisdiction of a court of equity arises.

The second question broadly asks whether the right to do business is a property right of such character to be entitled to the protection of injunction in proper cases. This question, it seems to me, requires an answer in the affirmative. The right to do business is a right of "pecuniary value," and according to the rule laid down in the *Debs* case this makes it a property right. An employer has no right of property in his employees, but he has the right, for the protection of his capital, his business, his plant, to carry on his business without unlawful interference from employees or anyone else. I can well understand how the right to do business may necessarily involve and include the protection of actual, tangible property, and where it does, a "proper" case is made for the injunctive process of the courts.

If a man owns property the subject of barter and sale, and is denied the right of barter and sale, he is denied a right of pecuniary nature. Unlimited capital is of no value to a man wishing to engage in business if he is denied the right to do business. The man without capital but with the right to do business is better off, so far as engaging in business is concerned, than the man with the capital but no right to use it. It is well-nigh impossible, to my mind, to separate the right to do business from the business itself. It takes both to make a business. Financial loss, and perhaps bankruptcy and ruin, awaits every man who is denied the right to carry on the business in which his capital is invested.

W. G. BRANTLEY.

The Countervailing Duty on Petroleum.

SPEECH

OF

HON. JAMES S. SHERMAN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 26, 1908.

Mr. SHERMAN said:

Mr. SPEAKER: Availing myself of the leave to print, I desire to have inserted in the Record the following illustration on the countervailing duty on petroleum:

Much criticism has been made in recent years of the fact that the "Dingley tariff law," so called, the law now in operation, places a duty on petroleum, or mineral oil, imported from countries which impose a duty on petroleum or its products exported from the United States; and the charge has been made by the Democrats that this was placed in the Dingley tariff act at the instance of or through the secret workings of the Standard Oil Company. If this be true, it merely illustrates the danger of accepting, even in a single instance, a precedent or plan established by the Democratic party, since this proposition of placing a countervailing duty on petroleum from countries which impose duties on like products from the United States first made its appearance in the Wilson tariff act of 1894. The provisions of the Wilson and Dingley acts upon this subject are given below in parallel columns.

Tariff act of August 27, 1894 (Wilson tariff act).

Petroleum, crude or refined, free: Provided, That if there be imported into the United States crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States there shall be levied, collected, and paid upon said crude petroleum or its products so imported 40 per cent ad valorem.

Tariff act of July 24, 1897 (Dingley tariff act).

Petroleum, crude or refined, free: Provided, That if there be imported into the United States crude petroleum or the products of crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States there shall in such cases be levied, paid, and collected a duty upon said crude petroleum or its products so imported equal to the duty imposed by such country.

It will be noted by a careful examination of the above that the countervailing duty proposition of the Dingley Act is precisely that of the Wilson Act, except that the Wilson Act made the rate of duty 40 per cent irrespective of the rate enforced against American petroleum, while the Dingley Act makes the rate of duty the same as that imposed upon our petroleum by the country from which the product is imported.

Clerical Services in Department of Justice.

SPEECH

OF

HON. JOHN H. STEPHENS,
OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

On the joint resolution (No. 197) authorizing the employment of clerical services in the Department of Justice.

Mr. STEPHENS of Texas said:

Mr. SPEAKER: I desire to call the attention of this House and the country to the fact that the Department of Justice and the Indian Bureau (in the Interior Department) seem to consider that every Western man who seeks to avail himself of the laws regulating the disposal of public (Government) or Indian lands is inherently and by practice a criminal and therefore deserves prosecution by the Government; hence the heads of these Departments have instituted many groundless prosecutions, which have resulted in immense cost to the country and great loss of time and often ruin to the party prosecuted—most of whom have been found innocent—by the courts trying them.

To more clearly illustrate the character of these prosecutions and the waste of public money thereby I will read the following letter received by me from a very reputable member of this Congress. It is as follows:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, January 10, 1908.

HON. JOHN H. STEPHENS,
House of Representatives.

MY DEAR SIR: I most earnestly protest against the continued high-handed, pernicious, political persecution made by certain of the Department bureaus of the Government in this city, branding many of our most honorable, upright, and law-abiding business men of Colorado as criminals.

Their only information and authority for such malicious statements are reports made to them by nonresident special agents and "prosecutors" sent to Colorado, whose accusations against innocent men are for the sole purpose of securing personal promotion in Washington and the opportunity for the governmental bureaus here to disseminate among the press throughout the country misrepresentations as to timber land and coal thieves that do not exist in Colorado.

Judge Robert E. Lewis, of the United States district court, Denver, on December 24, 26, and 30 quashed all of the indictments against some thirty of our most worthy and reputable citizens (several of whom have been engaged actively in business in Colorado for thirty years) on the ground that the Government had absolutely failed to furnish any evidence whatever against these men—a most stinging and severe rebuke by Judge Lewis, of the United States district court (an appointee of the present Administration). Active preparations were made by certain high officials in Washington for the prosecution of these cases, and who condemn honorable men of unquestioned integrity before being found guilty of any violation of the law, or even given an opportunity of defense.

Judge Lewis's decision gives universal satisfaction to all of our people in Colorado regardless of their political affiliations, and is indorsed by a united press; in fact, every newspaper in the State most heartily commends Judge Lewis's action; the truth has been vindicated.

In this connection I beg to call attention to editorial below from the Denver Republican of December 26, 1907; also editorial of December 25, 1907, written by ex-Senator T. M. Patterson, owner and editor of the Rocky Mountain News, Denver:

[Extract from the Denver Republican, Thursday, December 26, 1907.]

A RETURN TO SANITY IN LAND AFFAIRS.

By his decision quashing indictments against a number of local lumbermen, Judge Lewis, in the United States court, struck a blow for justice and sanity where it has been needed for some time. His action was a rebuke to the idea that seems to prevail in some quarters at Washington that special agents are alone able to ferret out, punish, and prevent violations of the land laws. Incidentally, it comes as a defense of the westerner from the imputation of Departmental Washington that everyone who seeks to avail himself of the laws regulating the disposal of Government lands is inherently and by practice a criminal.

No doubt Uncle Sam of himself is just as generously disposed in the matter of giving his Western lands to men who would use them as he was when his laws were drawn to regulate their disposal; but of late there has grown in the minds of some officials in Washington the idea that every man who ever filed a claim did so with malicious intent to rob the Government and thwart the Department in its duty. As a part of that suspicion comes the thought that every Western man is in the conspiracy, and that therefore the regular agents of the Government are not to be trusted in such matters. This leads to sending West to unearth gigantic frauds special agents who, having their spurs to win, proceed to find what they are sent after.

In many cases the special agent is one whose knowledge of practical affairs is confined to holding a job in Washington. Coming West and discovering that certain individuals have made money by availing themselves of the Government's liberality in land affairs, such a man leaps promptly to the conclusion that there was fraud in acquiring the lands. His philosophy can not cover the fact that the Westerner in taking advantage of the land laws as they exist may make money and still be honest; that the laws are drawn to give him that very opportunity. To him the fact of having taken up lands and made money becomes ground enough for charging fraud, and he rushes to the courts and begins action.

When the suits dismissed by Judge Lewis were brought against some of the most reputable business men of Colorado most people understood that they were the outgrowth of this excess of zeal on the part of such

special agents. Men of the highest character were forced for a time to stand under the imputation of conspiracy to defraud the Government. They courted the fullest investigation, but the cases brought were found to have so flimsy a base that the judge refused to let them be tried. In so deciding he took pains to point out to the land officials that they had failed to show wherein a single law had been violated and reminded them that it is beyond their power to determine how the Government ought to dispose of its lands and then charge the commission of crime on that theory.

The existing land laws have stood the test of time and have been a large factor in making the West. None too liberal, they are yet calculated, and rightly so, to benefit the man who avails himself of them. Men prosper from seizing the opportunities presented just as the framers of the laws intended they should. The attitude of the Government toward settlers has not changed; the laws passed by Congress stand to-day as they have stood for years. This idea of calling a man a thief because he has made his money out of land given him to use exactly for that purpose comes not from the Government, not from Congress or the Administration, but from the overzealous special agent set to find that a fraud was committed or write himself unequal to the task. Usually the men he is set to accuse have been suspected in Washington Departments before the agent has begun even to collect evidence for the courts, and he dare not fail to make good.

The decision of Judge Lewis will go a long way toward putting a stop to such practices and bring about a return to sanity in land affairs.

[Extract from the Daily News, Denver, December 25, 1907.]

GOOD MEN CLEARED.

One of the things that added to the Christmas joy of this office was the action of Judge Lewis, of the Federal court, in quashing indictments against eleven citizens of Colorado. These men were charged with conspiracy to defraud the Government, and Judge Lewis—assuredly a man not blind to his obligations to his country—has dismissed the charges in a decision which clears the indicted men of anything that could be called an offense.

It is mightily satisfactory, for among these eleven were men like Charles D. McPhee and John J. McGinnity and Alexander T. Sullenberger. All of them are men past middle life, and their lives have been spent in upbuilding the communities which have been lucky enough to own them. All of them are men against whom no suspicion of dishonesty ever breathed. All of them have doubtless suffered more from this charge than a real criminal would have suffered from conviction and imprisonment. But at least they have the satisfaction of a vindication as complete as the law can make it. And the News frankly rejoices.

Up till last winter the Government had no right of appeal in cases like the present. Last winter a bill was passed conferring on the Government the right of appeal in criminal cases where indictments were quashed by a judge, not where the facts were passed on by a jury. But this does not mean that the indicted men will have to again stand trial. The law in question was passed simply for the purpose of getting an even, standardized construction of the law from the highest court in the land. Hitherto one judge has declared the law to be this and another one has declared with equal force that the law was that, and the Government agents have been greatly puzzled by the conflicting interpretations. The Government's new right of criminal appeal insures that the law will be uniformly construed. But even if the Supreme Court should reverse Judge Lewis on this case, it will mean only a final statement of the meaning of the points of law involved. The old provision of the Constitution, that no man shall twice be placed in jeopardy of life or limb for one offense still stands and must stand forever.

Our only regret is that the good and necessary work of running down the land frauds seems so likely to cause trouble and expense to honorable and worthy men. Perhaps this is one of those faults that can not be helped, and must even be endured with what grace one may summon. Anyway, we are glad that in this case the wrong went no further and that the decision of Judge Lewis was as sweeping as it is final.

Referring to the action taken at "the last" Cabinet meeting of the year, December 31, as to the Colorado cases, the President criticised the judiciary and authorized the Attorney-General: "The Government will use every means in its power to bring about in the higher courts disapproval of the decision rendered in Colorado by Judge Lewis."

Our citizens are willing and ready to meet the issue raised by the impulsive Administration, but as to the purpose on the part of the latter I can not comprehend, unless to continue in the "limelight," and, therefore, the country will be saved—from the bureaucrats' point of view.

The unprecedented and dictatorial encroachment of the Executive against the legislative and judicial departments of the Government is almost a daily threat to the peace and prosperity of the Republic, and should be knocked on the head by the constitutional decision of the Supreme Court of the United States.

The article in the Washington Star of December 31 quotes the Commissioner of the Land Office to say: "They will call sixty to eighty violations of the land laws in Colorado to the attention of the grand jury, and some of these may involve a number of the very persons whom Judge Lewis has discharged."

This is a subterfuge bordering on the farcical, and is disseminated to the press of the country for the purpose of misleading the public as to so-called "land frauds" that do not and have not existed in Colorado.

Our citizens in Colorado have submissively and with patience submitted to these persecutions for alleged offenses, and every fair-minded citizen should join in commendation that we have in our beloved country true judges who have the courage of their convictions and believe in justice to every citizen and a real "square deal emphasized."

In conclusion I beg to say I assume the personal responsibility for statements herein made.

Yours, sincerely,

GEO. W. COOK,
Congressman at Large, Colorado.

Mr. Speaker, I am not now and never have been an apologist for criminals, but the above indictment of the present Republican Administration does not indicate that the citizens of Colorado and of other Western States are getting a square deal. Mr. Cook is a stalwart Republican, and his statements of the outrages perpetrated by this square-deal Republican Administration is certainly entitled to full faith and credit.

Mr. Speaker, I also wish to call the attention of Congress and the country to the maladministration of the affairs of the Five

Civilized Tribes in Oklahoma. The Secretary of the Interior, on page 20 of his last annual report, states that "without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there," and so forth. The facts of the matter are as follows:

Between March 2 and March 4, 1907, the Secretary of the Interior struck from the rolls a large number of persons. The number has been fixed at 257 and at 400. The Department knows the exact number; outsiders do not. Test cases have been brought, and the supreme court of the District of Columbia and the court of appeals have held this action on the part of the Secretary to have been erroneous and unlawful.

Many of these people, in fact most of them, had contests upon lands. They were a class of persons whose citizenship was disputed by the nation, and therefore speculators had filed upon their lands. By the act of striking them from the roll all their allotments were canceled. To remove restrictions will enable the parties who have recorded allotments upon these people's lands to transfer the same to innocent holders, complicate the title, establish an equity against the people, and instead of clearing the situation, work the reverse.

In addition to these 400 who were stricken from the rolls there were a large number of persons whose cases were identical with these people whose applications had not been acted on by the Secretary. Decisions in their favor had been rendered by the Commission. They were awaiting action in the Indian Office. This number is estimated at 400, although of all classes who ought to be enrolled we understand the number is estimated by the Secretary's office to be 1,200. A decision upon the merits of the cases now pending before the Supreme Court will apply to these, and the total number can be estimated at from 600 to 1,800 persons.

Citizenship in the Choctaw-Chickasaw country is worth at least \$6,000. The amount involved is between six millions and ten millions of dollars. The United States is now asked to provide for the distribution of surplus lands, for the distribution of trust funds, and to assume the responsibilities in this entire question and to remove the restrictions upon lands which have already been allotted, many of which are now disputed.

No business men would do this; no corporation would do it. The action to take as a primary basic action is to settle who the beneficiaries are. The only possible thing to do, as the matter has gone into court, is to await the court's determination, otherwise the United States is liable, and will assume a liability of from ten to fifty millions of dollars as the result of hasty action.

If legislative action adjudicating this matter can be secured then the other could follow, but the men who ask a distribution of this money, this land, and the removal of restrictions, oppose such legislative action. Therefore, the only possible thing to do is to await the final adjudication of these matters. It is useless to say there is no merit in it, for everyone admits there are meritorious cases.

The Secretary of the Interior, in his last annual report, on page 20, states:

"Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there, but," etc., and he then proceeds to say that the mistakes or cases of injustice are too few to warrant a general opening of the rolls.

The Secretary of the Interior did not, presumably at the time of the writing of this report, know that these cases were in court and that the number involved could be definitely ascertained. If injustice has been done to from 500 to 1,000 persons, admittedly so, that number is large enough to demand legislative action, and this is particularly true if it be shown that there is a recording liability, either legal or equitable, against the Government of the United States for errors committed in the administration of a trust.

The report of the Secretary is therefore incomplete, because it does not touch upon that phase of the question, nor furnish complete information; but it is complete enough to admit the existence of facts worthy of investigation.

It is foolish to say that the supreme court of the District of Columbia and the court of appeals have both presumptively erred. The decision of the courts are against the presumption, and anyone who will read the petitions and argument in the case now pending in the eighth circuit court at St. Louis, Mo., entitled "Bettie Ligon et al. v. Johnston et al.," will become convinced that a serious question is raised, and that the question is serious enough to cause legislators to hesitate with regard to the enactment of any legislation affecting these titles pending the result of this litigation.

This is not intended in any way to block progress. It is not an unfortunate situation; but a man who has an interest in that land has a right to say to Congress that his land, the land in which he claims an interest, should not be sold to outside parties until his rights thereto have been determined.

Mr. Speaker, on April 7, 1908, I wrote a letter to the Department requesting the names of Indians who were, through inadvertence, omitted from the rolls of Choctaw and Chickasaw nations, my object being to secure by special act of Congress the passage of a bill naming the Indians entitled to enrollment. I had then and now pending several special bills for this purpose—other Members of Congress have several bills of this character pending before the Committee on Indian Affairs, of which I am a member, one of them, viz, the case of the Haley heirs—introduced by Mr. CARTER, of Oklahoma—has been favorably reported. If the Secretary had given me the names of the Indians shown by the records to be entitled to enrollment, the committee could have acted intelligently. But my very courteous, just, and customary request was refused, and the concluding paragraph of that refusal is as follows, viz:

It is the view of the Department and Office that Congress should take no action looking to any revision of the rolls, either by new enrollments or eliminating names from the rolls.

This statement is an assertion that the Congress of the United States is powerless to enact laws except by the consent of the Executive Departments, thus ignoring the Constitution of the United States making each department—the legislative, ex-

ecutive, and judicial—coordinate with each other, and supreme only in exercising the powers of their own department, yet here is a clear assertion of an executive officer dictating to the legislative branch what it should or should not do. Mr. Speaker, this is paternalism or bureaucracy run mad.

The letter is as follows, viz:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 13, 1908.

Hon. JOHN H. STEPHENS,
House of Representatives, Washington, D. C.

SIR: The office is in receipt of your communication of April 7, 1908, requesting that you be furnished with a list of the names of persons who were through inadvertence omitted from the approved rolls of Choctaw and Chickasaw citizens.

In reply there is inclosed a copy of a letter written by the Secretary of the Interior on February 4, 1908, to Senator CLAPP in reply to his letter of January 24 on this same subject. The Secretary and this Office have conferred at length in regard to the matter mentioned by you, and the conclusion has been reached that any publication of these names would only be preliminary to the enactment of legislation of some sort authorizing their enrollment, and that any legislation to provide for putting names upon the rolls which were omitted, although having a meritorious claim, ought also, in all fairness, to provide for the removal from the rolls of the names of persons improperly placed thereon. If any names were omitted from the rolls which should have been placed thereon it was on account of the Department not having sufficient time in which to enroll the persons, as the law required that the rolls be completed and closed on March 4, 1907, and no legislation should be enacted authorizing the enrollment of any person omitted unless such legislation also carries the power to eliminate from the rolls the names of persons not properly thereon, and to do this would be to open up the entire subject, undo practically all that has been done, and postpone indefinitely the final settlement of the tribal estates.

It is the view of the Department and Office that Congress should take no action looking to any revision of the rolls, either by new enrollments or eliminating names from the rolls.

Very respectfully,

F. E. LEUPP,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1908.

DEAR SIR: I have given very careful consideration to your letter of January 24, asking whether this Department has any suggestion to make regarding legislation to place any additional names upon the rolls of the members of the Five Civilized Tribes.

In pursuance of the act of Congress of April 26, 1906 (34 Stat., 138), which reads as follows, the rolls were closed at midnight of March 4, 1907:

"Provided, That the rolls of the tribes affected by this bill shall be fully completed on or before the 4th day of March, 1907, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

I think there can be no question regarding the wisdom of Congress in enacting such legislation. Citizenship matters had been given the most thorough and careful consideration of the Department in accordance with the various laws of Congress during nearly fourteen years. Various cases were passed upon by the Commissioners, the citizenship court, and the Department. It was necessary to definitely fix a time to close the rolls; otherwise there would have been no limit to the number or character of the claims presented by the various applicants.

The act closing the rolls was likewise just to the Indians. Without doubt there are names on the rolls which ought not to be there, and there are names omitted which ought to be there, but in view of the long period during which the rolls remained open and subject to amendment, the percentage of error on either side is presumptively very small, and the property rights of all the other citizens should not be left indeterminate or subject to further legislative action because of this small percentage who now claim the right of enrollment.

The Commissioner of Indian Affairs and I have gone over very carefully the different cases of claimants who are urging special legislation, and while there are cases of seeming individual hardship, yet we are confident that only harm will come if Congress attempts to open the rolls for individual cases.

In conference with the representatives of the different nations and with the representatives from the State of Oklahoma, I have discussed this question and stated that I did not believe it wise to attempt to deal with these individual claimants, and should urge upon Congress the necessity of not opening these rolls by special act.

Very truly, yours,

JAMES RUDOLPH GARFIELD,
Secretary.

Hon. MOSES E. CLAPP,
Chairman Committee on Indian Affairs,
United States Senate.

Mr. Speaker, having been refused the names of the Indians entitled to enrollment, I desire to state frankly that a great wrong has been done these Indians by that refusal for the following reasons, viz:

1. It is true that a number of persons found by the Dawes Commission to be entitled to enrollment never had their cases passed on by the Secretary of the Interior because of the rush of final closing of the rolls or for other reason.

2. Many cases were passed on by the Commissioner of Indian Affairs and the Secretary of the Interior in the last six weeks prior to March 4, 1907, so that it was almost impossible to do justice to each case, and it is true that hundreds of cases, because of the rush of closing the rolls, never had any fair consideration given them.

3. It is also true where several hundred persons at least have been denied enrollment where decisions in later cases of the Department show that these persons denied enrollment should have been enrolled, and had their rights denied them, and the

Department has the names of all these Indians, and these names are among those withheld from me, for fear, as the letter says, that Congress will enroll them.

4. It is also true that hundreds of cases are depending upon construction of treaties involved in suits pending in court, and these should be enrolled.

5. Justice to those persons whose cases came up in the closing days demand that the rolls should be reopened for re-adjudication of all cases passed on in the last six weeks prior to the closing of the rolls.

Mr. Speaker, on April 15 I introduced the following resolution:

Whereas many bills have been introduced in the House of Representatives during the present session of Congress providing for the enrollment of certain persons of Choctaw or Chickasaw Indian blood on the finally approved rolls of the Choctaw or Chickasaw nations or tribes, prepared under the direction of the Secretary of the Interior, and which rolls are now being used as a basis for the distribution of the tribal property of said Indians; and

Whereas said bills have been referred to and are now pending before the Committee on Indian Affairs for examination and report to the House of Representatives; and

Whereas JOHN H. STEPHENS, a Member of the House of Representatives and a member of the Committee on Indian Affairs thereof, did, on the 7th day of April, in the year 1908, address a communication to the Commissioner of Indian Affairs, Francis E. Leupp, requesting the said Commissioner to furnish him a copy of a communication addressed to the Secretary of the Interior and signed by the Commissioner to the Five Civilized Tribes, under date of November 15, 1907, transmitting a list of names of persons entitled to enrollment as members of the Choctaw or Chickasaw tribes, but whose names had been omitted from the finally approved rolls thereof through inadvertence or mistake on the part of the administrative officers charged by law with the duty of preparing complete and correct rolls of said Indians; and

Whereas the said Commissioner of Indian Affairs, Francis E. Leupp, replied thereto in an official communication under date of April 13, 1908, in part, as follows: "The Office is in receipt of your communication of April 7, 1908, requesting that you be furnished with a list of the names of persons who were through inadvertence omitted from the approved rolls of Choctaw and Chickasaw citizens. * * * The Secretary and this Office have conferred at length in regard to the matter mentioned by you, and the conclusion has been reached that any publication of these names would only be preliminary to the enactment of legislation of some sort authorizing their enrollment, and that any legislation to provide for putting names upon the rolls which were omitted, although having a meritorious claim, ought also, in all fairness, to provide for the removal from the rolls of the names of persons improperly placed thereon. * * * It is the view of the Department and Office that Congress should take no action looking to the revision of any of the rolls, either by new enrollments or eliminating names from the rolls;" and

Whereas the Secretary of the Interior, James Rudolph Garfield, in his official report for the fiscal year ending June 30, 1907, on page 20, says with reference to the finally approved Choctaw and Chickasaw rolls of citizens which are now being used as a basis for the distribution of the tribal property: "Without doubt there are persons on the rolls who are not entitled to be there, and there are persons who are not on the rolls whose names should be there;" and

Whereas the failure of the administrative officers to properly administer upon this estate and to accord to all legal beneficiaries their just share of the tribal property will result in just claims against the Government amounting to millions of dollars, which the Government will be called upon to pay; and

Whereas it is necessary, in order that the House of Representatives may take intelligent action on the bills now pending, that all the facts in the possession of the administrative officers relating to the rights of persons to share in said tribal property whose names are not on said finally approved rolls be furnished the House of Representatives; and

Whereas neither the Secretary of the Interior nor the Commissioner of Indian Affairs have any lawful authority to refuse to furnish the House of Representatives or any Member thereof with a copy of the names of persons referred to by their Department in an official report in order to prevent legislation to correct the admitted mistakes and injustice committed or resulting by or from their acts as administrative officers; and

Whereas it is the duty of the administrative officers to obey and enforce the acts of Congress, and it is not their duty to instruct Congress what to do or what not to do, as they endeavor to do in the letter above referred to, the offensive language being as follows, viz: "It is the view of the Department" (meaning the Secretary of the Interior) "and Office" (meaning the Commissioner of Indian Affairs) "that Congress should take no action looking to the revision of any of the rolls, either by new enrollments or eliminating names from the rolls;" Therefore be it

Resolved, That the Secretary of the Interior be, and he is hereby, directed to transmit without delay to the House of Representatives the report of the Commissioner to the Five Civilized Tribes under date of November 15, 1907, forwarding to the Secretary of the Interior a list of names of persons of Indian blood whose names were omitted from the finally approved rolls of the Choctaw or Chickasaw nations through inadvertence or mistake or other cause on the part of administrative officers; also a list of the names of all persons who have applied to the Commission to the Five Civilized Tribes for enrollment as citizens or members of the Choctaw or Chickasaw nations or who have been before the said Commission for examination or identification who are possessed of Choctaw or Chickasaw Indian blood as shown by the official records and who have been denied enrollment by the administrative officers; also a list of names of persons who have been erroneously or fraudulently placed on said finally approved rolls, with an explanation of how said error or fraud occurred, and the name of the officer or officers who were responsible therefor.

Mr. Speaker, this resolution was pigeonholed and never reported, but I expect to push it next winter and, if possible, secure the names requested, so as to legislate on this question, the Department to the contrary notwithstanding.

Mr. Speaker, there was created by act of Congress of date July 1, 1902, a court in the Indian Territory known as the "citizenship court," and its term of office was limited to completion of its work until December 31, 1904. This court tried, or rather pretended to try, 256 citizenship cases, involving the rights of 3,484 applicants for citizenship. The value of each allotment was fixed by the court at \$4,800, thus making the value of the property involved more than \$28,000,000. The law firm of Mansfield, McMurray & Cornish had a contract with these tribes for a fee of 9 per cent of the value of the property of each Indian whose name was left off of the roll by the citizenship court; thus their fee for preventing the enrollment of each Indian was \$432. This citizenship court refused to enroll a great majority of these 3,484 claimants and it also awarded the enormous fee of \$750,000 to said lawyers as their fee, for which actions this court had been often, by citizens of Oklahoma, openly charged with official corruption; and on January 6, 1908, I offered a resolution (No. 111) in the House of Representatives, asking for information relative to the matter. The resolution is as follows, viz:

Whereas it is alleged that on the 24th day of June, 1905, a grand jury of the United States of America duly selected, summoned, impaneled, sworn, and charged to inquire fully in and for the body of the southern district of the Indian Territory in the name and by the authority of the United States of America did upon the oaths of the members thereof find, present, and charge that one D. H. Johnson, one P. S. Mosely, one George Mansfield, one J. F. McMurray, and one Melvin Cornish, and others to the grand jurors unknown, on certain days in the year 1902, within the southern district of the said Indian Territory, did unlawfully and feloniously commit the crime of conspiracy to defraud (an offense against the laws of the United States) by defrauding the Chickasaw Nation out of the sum of \$28,876.90, the exact amounts fraudulently obtained from the Chickasaw Nation and the exact times and places where and when the said fraudulent transactions occurred being set out in said indictment; and

Whereas it is alleged that on or about the 15th day of December, 1905, the Attorney-General of the United States did direct one W. B. Johnson, then United States attorney for the southern district of the Indian Territory, to dismiss, by entering a nolle prosequi in said case, the said indictment; and

Whereas it is alleged that the said W. B. Johnson refused to dismiss the said indictments as directed by the Attorney-General of the United States; and

Whereas it is alleged that the Attorney-General of the United States on or about the 15th day of January, 1905, removed the said W. B. Johnson from office, said removal being by telegraphic communication, and said removal being based upon the refusal of the said W. B. Johnson to carry out the directions of the Attorney-General of the United States; and

Whereas it is alleged that the said Attorney-General of the United States did, on or about the 15th day of January, 1905, by telegraphic communication, reinstate the said W. B. Johnson in the office of United States attorney for the southern district of the Indian Territory; and

Whereas it is alleged that the said W. B. Johnson refused and continued to refuse to dismiss the said indictment against the said persons during his term of office; and

Whereas it is alleged that on or about the 13th day of November, 1907, the Attorney-General of the United States did send a telegram to the United States attorney for the southern district of the Indian Territory, one George R. Walker, directing him to "be sure" and dismiss the said indictment against the said persons "before the Territorial courts pass out of existence and the creation of the new State;" and

Whereas it is alleged that on or about the 14th day of November, 1907, the assistant United States attorney for the southern district of the Indian Territory (the United States attorney being absent at the time), one James E. Humphrey, did cause an order to be entered upon the records of the United States court for the southern district of the Indian Territory, sitting at Ardmore, dismissing the said indictment with the notation "by the direction of the Attorney-General of the United States." Therefore be it

Resolved, That the Attorney-General of the United States be, and he is hereby, directed to transmit to the House of Representatives a true and correct copy of the said indictment, all correspondence of every kind and description that has passed between the Department and the United States attorney or attorneys and his or their assistant attorney or attorneys for the southern district of the Indian Territory, and all correspondence of every kind and description between any officer of the United States Government and any other person or persons pertaining or appertaining to said indictment.

Sec. 2. That the Attorney-General of the United States be, and he is hereby, directed to inform the House of Representatives why said indictment was dismissed and whether it is customary for the Attorney-General to interfere with the prosecution of persons against whom an indictment or indictments have been returned in the State or Federal courts of the country, and whether other indictments have been dismissed by direction of the Attorney-General within the past five years, and if so, what indictments, and the cause therefor.

Mr. Speaker, it is clearly apparent that these attorneys have received as fees and expenses from these Indians more than \$1,000,000, and by padding the expense and other accounts against these Indians they were charged with receiving large sums of money unlawfully and feloniously, as shown in the preamble to the above resolution.

Mr. Speaker, Mr. W. B. Johnson, of Ardmore, Okla., was the United States attorney representing the Government in the prosecution of this indictment against the law firm of Mansfield & Co. Mr. Johnson is an able, honest, and efficient lawyer, and believing, as I do, that these Indians had been robbed, he desired their conviction on the indictment. Some of my personal friends, men of unimpeachable character, were on the grand

jury finding this indictment. The following letter to myself from Mr. Johnson is self-explanatory:

HON. JOHN H. STEPHENS, M. C.,
Washington, D. C.

ARDMORE, OKLA., April 1, 1908.

SIR: I inclose you under separate cover the statement regarding the Mansfield, McMurray, Cornish, and others case, as requested by you, and I hope it will answer all the purposes you desire it for. All the record evidence in this case is on file here, copy of which can be had at any time, except that portion retained by the Interior Department, which, I think, is at Muskogee.

You will observe that my connection with this entire transaction was confined to the Chickasaw tribe of Indians and did not involve the Choctaw Nation, which seemed so much to confuse the officers in the Department of Justice.

I have nowhere commented upon the guilt or innocence of the defendants, because my idea was, and is, that having been indicted by a grand jury of good and lawful men, these people should have been compelled to pursue the same course as other defendants, who were without influence in Washington and not wealthy.

Col. John S. Mosby still lives in Washington and, I am sure, will talk with you freely on this subject if you will call upon him.

I inclose copy of the only questions I propounded to the grand jury and their answers. You are at liberty to use this and the other letter as you desire.

Very respectfully,

[Inclosure.]

W. B. JOHNSON.

The questions the grand jury are requested to vote on are as follows:
1. Were the warrants (five) deposited as collateral with Joplin National Bank to secure a note of Purdom and Colbert for \$4,040 recirculated after having been paid to State National Bank of Denison? If so, was there a conspiracy between Colbert and Purdom to recirculate them?

Answer. Yes.

2. Was there a conspiracy to recirculate warrants deposited as collateral with Commercial National Bank of Kansas City, Kans.? If so, who are the parties?

Answer. Yes. E. B. Henshaw, B. H. Colbert, W. T. Ward, T. A. Teel, S. M. White, Kirby Purdom.

3. Was there a conspiracy to recirculate warrants sold to Floyd Shock & Co., of St. Louis? If so, who are the parties?

Answer. Yes. William T. Ward, B. H. Colbert, Kirby Purdom.

4. Was there a conspiracy to defraud the Chickasaw Nation out of money by paying warrants more than one time? If so, who are the parties?

Answer. Yes. Kirby Purdom, W. T. Ward, B. H. Colbert.

5. Was there a conspiracy between Governor Johnson and Mansfield, McMurray & Cornish to defraud the Chickasaw government out of funds pretended to be drawn on the contingent fund by reason of an act of the Chickasaw legislature known as the "unlimited contingent fund act?"

Answer. Yes.

6. Did there exist a conspiracy in the Bank of the Chickasaw Nation to defraud stockholders and depositors by converting the resources of the bank to private purposes? If so, who are the parties?

Answer. Yes. Kirby Purdom, B. H. Colbert, W. T. Ward.

7. Were deposits received in the bank after it was known to be insolvent by its officers, with intent to defraud such depositors?

Answer. Yes. T. A. Teel, S. M. White, Kirby Purdom, E. B. Henshaw, B. H. Colbert, W. T. Ward.

8. Were the assets of the bank fraudulently used for the benefit of individuals? If so, who were they?

Answer. Yes. W. T. Ward, B. H. Colbert, Kirby Purdom.

9. Did Kirby Purdom steal warrants and recirculate them in St. Louis, Kansas City, and Joplin?

Answer. Yes.

ARDMORE, OKLA., April 1, 1908.

HON. JOHN H. STEPHENS, M. C.,
Washington, D. C.

DEAR SIR: I have your letter of the 23d ultimo, with an inclosed copy of the report of the Attorney-General in pursuance to a resolution of the Senate of March 3, 1908, with reference to the dismissal of the indictment pending in the southern district of Indian Territory against Mansfield, McMurray, Cornish, and others.

Your request that I make a statement about this entire transaction is similar to one which I refused to make in the past. My reason for not complying with your request before was that I regarded the matters of such a confidential nature that I did not feel disposed to give publicity to them unless it was first done by the Attorney-General or by his permission. Since he has complied with the resolution and given a partial statement of the affair, I can see no harm in telling you the whole matter. I had hoped that so far as I was concerned this matter was ended long ago, for my connection with it was purely official, and I ceased to hold office more than two years ago.

In order that what I shall relate hereafter shall be fully understood, I will give a preliminary statement of my connection with the Chickasaw citizenship cases. In September, 1896, I was employed by the governor of the Chickasaw Nation to accompany a commission, consisting of four Indians by blood, viz. Judge Overton Love, ex-Governor William Bird, Richard McLish, and Martin Cheadle, who were to assist the Dawes Commission in passing upon the applications for enrollment as citizens of the Chickasaw tribe of Indians, and to give such legal advice to said Commission as they might require. This employment was to last for one year. In the fall of 1897 I was again employed to represent the Chickasaw Nation in the courts of the Indian Territory in such civil matters, including appealed citizenship cases, as that nation might be interested in. This employment was to last for two years.

There were in all about 2,500 persons asking for enrollment as citizens in the Chickasaw Nation, as I now remember. All of these applications were disposed of either for or against the applicants, and when the United States court, to which many of the cases had been appealed, had finally passed upon them, there were less than 700 applicants who had been enrolled by the court and Dawes Commission whose right to citizenship was contested. Through my efforts Senator Morgan, of Alabama, had passed through Congress a bill granting the right of appeal of either party to the Supreme Court of the United States, and all those cases in which applicants had been admitted whose right to enrollment was denied by the Chickasaws were appealed to the Supreme Court. The records and names of the applicants can be obtained from the clerk of the Supreme Court and are comprised in the sixty-six cases appealed there from this court.

When the appeals had been perfected my duties in connection with said cases ceased under my written contract with the Chickasaw Indians, and the governor of the Chickasaw Nation, by reason of a special appropriation passed by the Chickasaw legislature, employed counsel in Washington of his own selection to look after these cases pending in the Supreme Court.

In the fall of 1897 I was appointed United States attorney for the southern district of Indian Territory, and again in 1902 was reappointed by President Roosevelt. In 1899 Messrs. Mansfield, McMurray & Cornish were selected as the attorneys for the Chickasaw Nation, after I had informed the governor of that nation that it would be impossible for me to longer represent them and hold my office as United States attorney. After my employment by the Indians had ceased, I assisted in every possible way Messrs. Mansfield, McMurray & Cornish in their efforts to defeat those whom the Indians thought were wrongfully upon the rolls, because my sympathies were then, and are yet, with the Indians. At their instance I represented them many times before our court, and until they were indicted in 1905 by the grand jury our relations were always cordial and friendly. In 1902 they wrote a letter to the President indorsing me for reappointment as United States attorney.

I come now to the matter you inquired about, viz: The indictment against Mansfield, McMurray & Cornish and others, charging them with conspiracy to embezzle funds belonging to the Chickasaw tribe of Indians. In May, 1905, a gentleman called at my office and introduced himself as Mr. Jenkins, of Iowa, and talked with me a few minutes, and asked if I could see him on the following day, and left. On the next day he returned, and asked for a private interview with me, and then informed me that he was an inspector from the Interior Department. He produced a great many papers and records and told me that he had some important matters which he desired to submit to our grand jury, which was then in session. When I looked over his papers I discovered that the matters he desired investigated by the grand jury incriminated our United States marshal, B. H. Colbert, and our deputy United States clerk, William T. Ward, and other prominent citizens.

The grand jury was ready to adjourn. I held a conference with Judge Townsend, and explained the matter fully to him, after which I requested Mr. Jenkins to wait about two weeks, until I could communicate with the Department of Justice. (See my letter on p. 38 of the Attorney-General's report.) I stated in my letter to the Department that I was very busy in court, and requested that some special attorney be sent from Washington to conduct this examination before the grand jury. This, however, was not my only reason for desiring an attorney from the Department of Justice. I well knew that B. H. Colbert was a personal appointee of the President, and had been a Rough Rider, and from the evidence shown me I felt that the grand jury would probably indict, and I naturally wanted some one from the Department to know the entire evidence in the case.

Col. John S. Mosby, from the Department of Justice, was sent down in compliance with my request, and showed me a special appointment made by the Attorney-General, so that he would be authorized to appear before the grand jury.

In a day or two after I was first seen by Mr. Jenkins the grand jury was adjourned to some future date—which I do not now recall, but about two weeks off—by Judge Townsend; and when some members of the grand jury found that they would be compelled to return, seven or eight of them on various excuses obtained a final discharge from the court, so that when the grand jury was reconvened it became necessary to reorganize it and procure persons to serve in their stead. I objected to Mr. Colbert selecting these additional grand jurors, but agreed that his chief deputy might do so, which was done.

The grand jury was composed then of men many of whom you know. A list of their names and occupations can be found on page 46 of the Attorney-General's report. Two or three members have been acquainted with Mr. McMurray for almost a quarter of a century, and all of them are still living in this vicinity except one, who has since died.

We began the investigation before the grand jury on Monday morning, and the evidence was produced by Mr. Jenkins and his assistant, Mr. Taylor, an expert bookkeeper, then employed by the Dawes Commission at Muskogee. The most of this evidence related to the recirculation of Chickasaw warrants by Colbert, Ward, and others, which, for your information, I will explain was that for indebtedness of the Chickasaw Nation it had issued certain warrants payable to bearer. Mr. Ward, who was the treasurer, had redeemed the same, but failed to cancel the warrants, and, as he claimed, they were stolen from him and again put in circulation. Other evidence tended to show and did show that some of the warrants were forgeries. About the second day of this investigation, while Mr. Taylor, the expert bookkeeper, was on the stand, evidence began to crop out involving Mansfield, McMurray & Cornish, Governor Johnston, and ex-Governor Moseley, so that when the grand jury had finished their investigation against Ward and others for the recirculation of the Chickasaw warrants they immediately proceeded with an investigation against Mansfield, McMurray, and others. No sooner had this begun than every influence possible was used upon the grand jury to prevent the indictment. Judge J. M. Lindsay and J. L. Simpson, of Gainesville, Tex., came to Ardmore and personally called upon some of the grand jurors—as I have since learned—and interceded for McMurray and others. Mr. McMurray was present, as were nearly all the other defendants.

An unusual thing occurred in connection with this investigation, and that was that every defendant who requested it was permitted to appear before the grand jury and testify. There was no desire on the part of anyone, so far as I know, to wrongfully indict any person, and for that reason these defendants were permitted to appear before the grand jury, which was seldom done in this country, either before or since.

I had one assistant who was a stenographer, and all the time that I could command his services I kept him in the grand-jury room to take the evidence of certain witnesses which I desired to preserve for the trial. There was no effort made to take the testimony of all the witnesses, because it was impossible for me to keep the stenographer in the grand-jury room all of the time.

On the last day of the hearing before the grand jury, which was Saturday, Mr. McMurray was called in and permitted to testify voluntarily, and, as I remember it, before he concluded his statement he said that he had some books which he would like to show to the grand jury. When asked where his books were, he said they were in South McAlester, and that he thought he could procure them that night. No reply was given to him, as I recall it, because that was a matter which the grand jury in secret session would determine for themselves. During the day Mr. J. B. Spragins, one of the members of the jury, received a telegram that his brother was dying in Mississippi and requesting his presence. After the grand jury had heard Mr. McMurray, they excluded

every person from the room except the members thereof, and the next thing I knew I was sent for and requested to prepare an indictment, which I did.

While this investigation was going on I prepared in writing certain questions and handed them to the grand jury, so that in their investigation, and at the conclusion of the evidence, they could inform me by their answers to those questions of what offense, if any, the defendants were guilty. I inclose you herewith a copy of the questions and answers. This was done because there was a vast amount of evidence, some of which tended to show one offense and some another.

Our criminal procedure and practice was the same as is used in Arkansas, put in force here by Congress. Under that practice the prosecuting attorney appears before the grand jury only to examine witnesses and to advise them as to the law. When the grand jury is to consider whether an indictment shall be returned or not, even the prosecuting attorney is not permitted to be present, nor is he permitted to give them advice as to the weight of the evidence. So that the suggestion that I had advised this grand jury to indict anyone for any offense is without the slightest foundation. The suggestion made that the grand jury was influenced by anything except pure motives is, in my judgment, puerile. Those members of the grand jury who were acquainted with the defendants were their personal friends. The other members were absolute strangers to them. Although this case was on the docket of this court for more than two years, no motion was ever filed by the defendants for a change of venue because of prejudice against them in this country, or for any other reason.

In August following I received a telegram from the Attorney-General to come to Washington and bring all the papers in the Mansfield, McMurray & Cornish cases. I immediately complied with the request, and reached there on a Saturday morning, the date I do not remember. I immediately went to the Department of Justice, and was shown to the office of Charles W. Russell. I introduced myself, told him I had come in obedience to his telegram. He asked if I had brought the papers in the case. I told him that I had and they were at the hotel. He requested that I go and bring them at once, which I did. He took the papers and told me I could return on Monday morning. On Monday morning I was present, and was then told why I had been called there; that the President had directed the Attorney-General to investigate the case, and that he, Russell, had notified Mansfield, McMurray & Cornish to be present, and that neither of them had yet arrived.

We talked over the case, and I explained to him that the stenographic report of the evidence before the grand jury was not complete; that some of the witnesses had testified whose evidence had not been taken down. I further explained to him that the records furnished by the Interior Department were in the possession of that Department, and that Mr. Taylor, the expert bookkeeper, ought to be present. I further explained to him that I thought it unwise to show this evidence, or any part of it, or to discuss the case with the defendants. His entire demeanor, as it appeared to me, was that of a friend to the defendants. This impressed me so much from his conversation, in his efforts to justify and excuse certain acts of the defendants to which his attention was directed, that during that week I wrote to Judge Townsend, who was then in Colorado, what I was informed that I was called there for; that I was told it was to be an investigation before Mr. Russell of the charges against these defendants, but that it appeared to me more like I was appearing before an attorney for the defendants.

I was kept there nine days, waiting for the defendants to come. During all of this time Mr. Russell had the papers. Finally, Mr. McMurray and Mr. Mansfield came, and we were called into the office of Mr. Russell. He asked Mr. McMurray where his books were, which it seemed he knew they were to produce. Mr. McMurray informed him that the books were in the custody of Mr. Cornish, who had kept them, and that he was then in Colorado. Mr. Russell at that time asked the defendants several questions. Mr. Mansfield disclaimed having any knowledge of the entire transaction, and stated that his part of the work had been in the office attending to the law business, and that Mr. Cornish and Mr. McMurray had had charge of the other work, and that it was useless to have him there, because he could explain nothing. At that time it was agreed that Mr. Cornish would produce the books in Washington during the month of September, and I was to be notified to be present.

In September I received another telegram from Mr. Russell similar to the first, and I again went to Washington and met Mr. Cornish, Mr. McMurray, and Mr. Cecil Lyon, of Texas. Mr. Russell again asked the defendants for their books as soon as we had met. It was then announced to Mr. Russell that they kept no books whatever and could not produce any. Mr. Russell again took up the papers that I had brought and interrogated the defendants about them. He had previously requested me to say nothing unless he asked me a question. During all this time Mr. Lyon was present. After we had concluded the papers were returned to me and I came home. On this trip I was so thoroughly convinced that Mr. Russell, although defendants produced no records, intended to exonerate them that I wrote my clerk, R. A. Howard, "If this is not a clear case of whitewash I never heard of one."

At this meeting Mr. Lawrence, an assistant to Mr. Russell, was also present, but Col. John S. Mosby, who represented the Department before the grand jury, was never called in, although in the same building, and, as he has since told me, was never asked to make any report in the case.

In October of the same year I received a letter from Mr. Russell, dated October 14, 1905, containing his recommendations in the case, which will be found on page 37 of the Attorney-General's report. I immediately, on October 20, replied to this letter, a copy of which will be found on page 38 of said report. At that time it will be observed that Mr. Russell recommended that the cases be dismissed and an apology be offered to the defendants publicly for having had them indicted. He also included in the recommendation that we apologize to a man who was not a defendant in that case, but a witness, viz, Mr. Ward, who was then under indictment in another case.

I heard nothing more after my reply above referred to until in November I received another telegram to come to Washington and bring the papers in this case. After a short delay of about one week I complied with this request, and again was called into a conference by Mr. Russell. He stated that the Attorney-General desired to see me, and in company with him I met the Attorney-General, Mr. Moody. I talked with the Attorney-General a few minutes, and assured him that I had some additional proof which I had procured after my second trip to Washington. He asked me what it was. I told him that I had the affidavits of the clerks of the United States courts at various places, and of other people, showing that the expenses charged by Mansfield,

McMurray, and Cornish, and fees charged for services in certain cases were not legitimate; that they had not rendered the services, nor had they been present. He asked me to produce those affidavits. I retired to another room, where I had the papers, and when I returned Mr. Russell was reading something to the Attorney-General, but stopped as soon as I came in. I started to open the papers, and the Attorney-General stopped me, and remarked to Mr. Russell, "Will these defendants be willing to show the district attorney their books?" Mr. Russell replied that he did not know whether they would or not. The Attorney-General said: "You go and tell them if they refuse to show Mr. Johnson their books that this prosecution will go on and this investigation cease." He said to me: "These gentlemen have shown me their books, and, so far as I am able to judge, the books appear to be correct, and, as they claim, satisfactorily explain this entire transaction." Whereupon Mr. Russell and I left the room.

Mr. Russell sent me to his room, and he went to another part of the building. In a few minutes he returned, and informed me that Mr. McMurray and Mr. Cornish had agreed, after some persuasion on his part, to show me their books, and that he had arranged a meeting for that evening in their room in the New Willard Hotel for that purpose. At the appointed hour we were all present, including Mr. Lawrence. I should also say that Mr. Lyon was in the city, having come at the request of the defendants, as he told me, from Colorado, for that purpose, but he was not present at any of the meetings. After we met in the room of the defendants I was shown their book, and carefully went over it with them and Mr. Russell, and I am frank to say that many, in fact nearly all, of the checks and items which had appeared before the grand jury were entered on those books. It looked to me at that time as if the backbone of our case was broken, and I so stated.

Subsequently, by appointment, we all reported to the Attorney-General. By this I mean Mr. Russell, Mr. Cornish, Mr. McMurray and myself were present. I told the Attorney-General what had been done, and made the suggestion that many of the items contained in those books could be verified if they were true; that the business was shown to have been transacted through the State National Bank, of Denison, Tex., and that in order to be sure I would suggest that an opportunity be given me to make such an investigation, which I thought could be concluded in the early days of December. Mr. Russell insisted that the case should be dismissed then. The Attorney-General replied that the request of the district attorney was reasonable and would be granted.

I might say, by way of parenthesis here, that before leaving the Attorney-General shook hands with the two defendants and myself and made substantially this remark: "Gentlemen, it was the duty of the district attorney to advise the grand jury to return an indictment on the evidence they had before them. He has conscientiously performed his duty and should be commended by everybody. I will further say to you that I do not approve of this way of disposing of criminal cases, and have so advised, but have been overruled. This is not the first instance where similar actions have been taken against my judgment, and my conclusion is that however innocent a man may be, he will never be able to convince the people of the fact by being discharged in this kind of a hearing." There was more of this conversation, which referred to some particular cases, which I do not think it proper to relate.

After we retired to Mr. Russell's office, I requested Mr. McMurray or Mr. Cornish to go with me to Denison, Tex., and make this examination. Each of them refused to do so. I then requested them to write a note to the president of the bank, authorizing me to make this investigation, and this was not done. Mr. Cornish seemed to be very much offended at that time because I had objected to the order of dismissal of the cases being made at that time.

I returned home and immediately wrote Governor Johnston explaining to him what had transpired and asked him to give me permission to examine his account as governor and his individual account at the State National Bank of Denison.

To this letter he never replied. Knowing that my time was limited I went to Denison, Tex., and saw the cashier of the bank referred to. He objected to my examining these accounts, which I expected him to do. I informed him that unless he did so I would have him brought before the grand jury at Ardmore on a subpoena duces tecum, commanding him to bring all of the books of the bank. He asked me if he would have his bookkeeper make out a statement of these accounts for the period requested, and swear to it, if that would satisfy me. I told him that it would, and returned home. I waited several days and having received no statement I wired him, and in a few days more I received a partial statement. I immediately wired him that he had not complied fully with my request and requested him to do so at once, and in a few days longer I received the entire report. In the meantime I noticed in the newspapers that the Attorney-General had directed a dismissal of the cases, and a statement was published similar to the one Mr. Russell had prepared in October. About the same time, to wit, on December 6, 1905, I received the following telegram from the Attorney-General:

"Dismiss the indictment of Mansfield, McMurray, Cornish, Johnston, and Moseley unless you have since your return found some reason to the contrary."

I immediately answered the telegram, stating that the information I had sought was unavoidably delayed. On December 10, 1905, the Attorney-General again wired me to send the information in at once, and on December 17, as will be found on page 6 of the Attorney-General's report, I sent him a telegram and letter, inclosing the additional information.

On December 18 I was notified by the Attorney-General by telegram that I had been removed from office, without any explanation, and about one hour later received another telegram stating that the order removing me from office had been revoked. On the same day, December 18, after receiving these two telegrams, I wired the Attorney-General as follows:

"The high esteem I entertain for the President and yourself will not permit me to embarrass either of you. If retention in office does so I tender my resignation to take effect immediately."

On December 19 I received the following telegram from him:

"Your telegram yesterday received. Your resignation is not requested."

Later on I received a letter from the Attorney-General, dated December 22, 1905, stating, in substance: "It is the desire both of the President and myself that you should continue in office until the end of your term," etc. I continued in office until the end of my term, as requested, viz, January 31, 1906.

Of course you will understand that it is impossible in a letter of this kind to recite all of the details connected with this transaction, and I have only referred to that part which would give you a general idea of what occurred.

I want now to notice a letter published in the Attorney-General's report, commencing on page 11, dated March 29, 1907, and written by George R. Walker, my successor in office. When Mr. Walker was appointed and came to Ardmore I went over the record in this case with him on two different occasions. He told me that he knew nothing about criminal law and had never tried a criminal case, and it was with great difficulty that I was able to get him to even take any interest in finding out what the record contained. I venture the assertion now that he is unable to recite a solitary fact connected with this case; that he does not know the name of a witness who was in the case. His letter, you will observe, contains many exaggerations and inconsistent statements, showing that his knowledge, if any he had, was gained from the defendants themselves. He says, on page 12, that he investigated the books in the State National Bank at Denison, Tex., and that everything squared up with the books of the defendants. The truth is he left Ardmore one morning on the Frisco train after receiving a telegram, and could not possibly have reached Denison before 11 o'clock. The same train leaves Denison at 3 o'clock, or did at that time, which brought him home. He returned the same night, accompanied by the defendant, McMurray. How any man could investigate and compare numerous transactions which occurred during a period of four or five years in two or three hours in the bank books of any bank is beyond my comprehension. It took me two or three weeks to get the statement prepared by the bank itself, after which I had to compare the statement with the information given by the defendants themselves.

The criticism made on page 13 of said report, on the grand jury and personnel thereof, would be ridiculed by every person without regard to race, color, or condition who is acquainted with the members thereof. Some of them, Mr. J. B. Spragins, Mr. W. O. Dutton, and Mr. J. A. Bivens, were formerly from your district. One of them is president of a bank and a physician by profession, another is a large dry-goods merchant, and the third one of the proprietors of two or three large hardware stores. The other members of the grand jury, especially the foreman, is a large lumber merchant and a prominent church member. I state now, without the slightest prospect of contradiction, that this grand jury was composed of sixteen men above the average, none of whose characters can be questioned in any respect. They are men who have resided here for years and who came from many States of this Union, including Tennessee, Texas, Kansas, Alabama, Nebraska, Kentucky, Illinois, and Iowa.

The statement contained in that letter reflecting upon me and my ability as a lawyer of course I do not care to notice. I will say, however, that my record as United States attorney can be seen in the office of the Attorney-General of the United States, where it will compare favorably with that of my successor. During my term of office more than 800 men were sent to the penitentiary. During his term of office less than 10 per cent of that number were sent. During the last year of his official life he, with three assistants and two clerks, and with two judges on the bench, disposed of fifty-two criminal cases by trial, thirty-three of which were acquitted.

As to whether my services were satisfactory to the Indians, I do not propose to say, and my only answer is that I am now the attorney in some important civil litigation, representing the Indian who was, at the time I represented the tribe, governor of the Chickasaw Nation.

I call your attention now to the serious part of this letter, for it is used as the basis for subsequent investigations, and finally for the dismissal of this case. It will be observed that nowhere in this letter is any of the evidence in the case discussed. As a lawyer, you know that in a charge of conspiracy to commit a felony, if the conspiracy existed among them to commit this offense, they could and would have been sent to the penitentiary, that any evidence tending to establish a conspiracy is admissible, so that all of the evidence which was submitted to the grand jury, or which could have been obtained on the trial, tending to show that these defendants, acting together, appropriated funds belonging to the Chickasaw Nation, without authority, could have been introduced, whether the indictment covered the transaction or not. Is it not remarkable that Mr. Walker, before making his voluminous recommendation in this case, did not confer with a single witness, nor a member of the grand jury, so far as I am able to learn?

His reference there to the payment of fees to Volna Johnson, a man who is not related to me, is incorrect. Volna Johnson was employed to prepare transcripts for the appeal of the cases to the Supreme Court of the United States heretofore referred to. He was a stenographer, and as such prepared all of the transcripts, and for sixty-five cases only received \$1,300, an amount at least one-third less than would have been charged by the clerk of the court had he prepared them. I had nothing in the world to do with this employment, or his payment, more than to recommend him.

If the defendants had prepared this letter in their own defense, I have no doubt that they would have been modest enough not to have claimed credit for all that Mr. Walker gives to them.

The report signed by W. S. Gregg, contained in the report of the Attorney-General, beginning on page 18, made by him in this case on May 1, 1907, contains no new information whatever. All the acts set forth by him had previously been submitted by me to the Department of Justice. His entire information seems to have been obtained from Mr. Walker and the defendants.

I am acquainted with Mr. Gregg, saw him while he was here making the investigation, but did not know his business. Not one time did he ever ask me or any member of the grand jury, or any witness, so far as I am able to learn, anything about the case. From his report it can be seen that his information was obtained from the incomplete transcript of the evidence in the district attorney's office, from the district attorney, Mr. Walker, and from the defendants.

The report made by Mr. Charles Nagel, an attorney, of St. Louis, Mo., dated June 24, 1907, beginning on page 26 of the Attorney-General's report, as he confesses in said report, amounts to nothing. He based his entire report upon the reports made by District Attorney Walker and Inspector Gregg. He confesses that he knows but little criminal law, and the report justifies him in that conclusion.

The indictments for offenses committed in Indian Territory were very simple in form; only in capital cases was the common-law form of indictment required. In other cases the Arkansas form was in force. I mention this because Mr. Nagel seems to place some stress on the form of the indictment. The defendants in this case had representing them the ablest criminal lawyers in the Southwest. No motion was ever made to quash the indictment, and none would ever have been sustained, in my judgment.

Referring again to District Attorney Walker, he states that although he was in office from February 1, 1906, until November 16, 1907, he

never found time from his official duties to investigate this case until about the time when his letter was written on March 29, 1907. During all that time courts were in session, and the case pending on the docket for trial, as well as cases against Ward, Colbert, and others, and none of them were ever called for trial by Mr. Walker. Mr. Walker's official record here consisted in his appearing in nine criminal cases during his term of office, none of which trials he conducted, and in none of those cases were the defendants convicted. His official life was so unsatisfactory to the President that although he was indorsed by a cabinet officer for reappointment when statehood came, the President refused to appoint him, because, as he stated to one of the ex-judges, Walker had failed to make good. Ignorance and impotency have ruined many good cases before.

I have not referred to the evidence in this case for obvious reasons. First, because the case has been dismissed; second, because if you desire the evidence, which is of record, you can procure a copy of same; third, because it would make this letter too long. I do, however, invite your attention to the fact that all the citizenship cases in the Chickasaw Nation were closed in 1900, and not again reopened until the creation of the citizenship court in 1903, and that at the time this firm of attorneys was employed to represent the Chickasaw Nation there were not to exceed twenty-five cases on the dockets of the courts undisposed of relating to citizenship. You will observe, however, in the Attorney-General's report, on page 41, they continued to draw money from the Chickasaw Nation, which aggregated in five years \$94,000. It is also shown that during that time they had drawn more than \$60,000 from the Choctaw Nation, and that after the citizenship cases were disposed of by the citizenship court they claimed a balance of \$80,500 due them for expenses.

If you will examine the evidence taken before the citizenship court, now on file with the Secretary of the Interior, when that court gave a hearing for the purpose of fixing the fee of these attorneys, you will find where Mr. Cornish swore that these attorneys had paid all these expenses personally, and that therefore that fact should be taken into consideration in fixing the amount of their compensation.

I hope this letter will close this matter, so far as I am concerned, for I am tired of it and disgusted with it.

Respectfully,

W. B. JOHNSON.

Mr. Speaker, it appears that the dismissal of the indictment against the firm of Mansfield & Co., was an unheard-of proceeding, and to my mind shows that this firm have powerful friends here in high official life. This matter has provoked so much discussion and suspicion of the citizenship court and its friends the attorneys for the Indians, that on March 12, 1908, the Secretary of the Interior sent to the Senate the following letter in response to a resolution on the subject. The letter is as follows:

SECRETARY'S OFFICE,
DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 12, 1908.

SIR: By direction of the President, I submit this report upon the matter contained in the following Senate resolution of March 2, 1908: "That the Secretary of the Interior be, and he is hereby, directed to inform the Senate what foundation, if any, there is for the charge which appears in the CONGRESSIONAL RECORD of February 11, 1908, that certain members of the Choctaw-Chickasaw court were bribed in connection with certain decisions rendered by them, and to transmit to the Senate all correspondence, affidavits, evidence, papers, and all other information in his possession pertaining thereto; also to inform the Senate whether he has had in his possession, as alleged, certain evidence in connection with the case, and has ordered no investigation of the matter." * * *

A thorough examination of the files of the Secretary's office and the Indian Office discloses no correspondence, affidavits, evidence, papers, or other information intimating or charging that members of the Choctaw-Chickasaw citizenship court were bribed in connection with certain decisions rendered by them.

The records show the following facts:

The citizenship court was created under the act of July 1, 1902. Its jurisdiction was continued by the act of March 3, 1903, and provision made for the completion of its work on December 31, 1904. The records of the Indian Office show that the court disposed of 256 cases involving the rights of 3,487 applicants. The court completed its work and went out of existence in December, 1904, in accordance with the statute.

Early in 1903 the law firm of Mansfield, McMurray & Cornish submitted to this Department for approval a contract between it and the chief executives of the Choctaws and Chickasaws, under which contract the said firm of attorneys was to conduct litigation for these two nations in matters connected with citizenship cases. The contract provided that the compensation of the attorneys should be 9 per cent of the value of the shares of tribal property which such of said so-called "court claimants," as hereinafter defined, as may be refused allotment or distribution of tribal property would have received in the event of allotment or distribution thereof to them, whether for past or future services to this end, and for the purpose of fixing the value upon which to compute the compensation of said attorneys the value of an allotment was fixed at \$4,800. On February 20, 1903, the Indian Office placed the following indorsement on the contract and forwarded it to the Secretary for consideration:

DEPARTMENT OF THE INTERIOR,
Washington, February 20, 1903.

The within contract is hereby approved, subject to the following conditions and modifications, to wit:

First. That the compensation of said attorneys shall be 5 per cent instead of 9 per cent, as provided in said contract.

Second. The total compensation to be paid said attorneys for services rendered and required, under said contract as herein modified, shall not exceed \$250,000.

Third. That no part of said compensation shall be paid to said attorneys until the Choctaw and Chickasaw roll or rolls of all persons entitled to allotment or distribution of tribal property shall become final.

Fourth. The conditions and modifications subject to which this approval is given must be fully accepted on or before March 1, 1903, or this approval will be without effect.

W. A. JONES,
Commissioner of Indian Affairs.

On the same day it was approved in the following language:
Approved.

E. A. HITCHCOCK, *Secretary.*

Mansfield, McMurray & Cornish were required to accept in writing the modified approval of the contract. This they declined to do. Congress, by act of March 3, 1903 (32 Stat. L., 982), authorized the citizenship court to fix the compensation of said attorneys.

The compensation fixed by the court was \$750,000.

Thereafter a suit was instituted in the supreme court of the District of Columbia by a member of one of the tribes for the purpose of enjoining the payment of the fee, but the court held that it had no jurisdiction in the matter. My predecessor, Secretary Hitchcock, objected to the payment of so large a fee, believing that the maximum amount fixed by him under the form of contract which he was willing to approve, namely, \$250,000, was sufficient. He therefore submitted to the Attorney-General the question whether he was compelled to pay the amount fixed by the citizenship court. The Attorney-General on January 5, 1905, advised him that he was without authority either to refuse to issue the warrants for the amount fixed by the citizenship court or to delay the issuance of such warrants. Thereupon Secretary Hitchcock drew his warrant for the amount fixed by the court. He had no alternative; the responsibility lies with Congress, which, by the act of March 3, 1903, upset the action of the Secretary, who, on the preceding February 20, had fixed the fee at just a third of the amount which the court, as authorized by Congress, actually did fix.

I understand that at and since the time of the payment of that fee there were rumors to the effect that attorneys representing claimants whose cases were set aside by the citizenship court alleged that the firm of Mansfield, McMurray & Cornish exerted undue or improper influence over the court.

During the summer of 1907 an attorney stated to an officer of this Department that he would offer evidence regarding these rumors, and he was urged to do so. By reference to a memorandum I find that in November this attorney brought before me a Mr. Rosenwinkle, who made statements regarding alleged improper conduct on the part of the members of the firm of Mansfield, McMurray & Cornish, and Judge Foote (deceased) and Judge Adams, of the citizenship court. He, however, declined to allow his name to be used, and refused to reduce to writing, sign, or in any way substantiate his statements.

Mr. Rosenwinkle's statements were not different from the rumors to which I have above referred. As his statements were avowedly based merely upon conjecture and hearsay, I gave the matter no further consideration. He is now quoted in the public press as saying that "he had no knowledge of the truth or falsity of the charges."

I am, therefore, unable to inform the Senate what foundation, if any, there is for the charge of bribery against certain members of the Choctaw-Chickasaw court, which appeared in the CONGRESSIONAL RECORD of February 11, 1908. The records of this office disclose no foundation for it.

Very respectfully,

JAMES RUDOLPH GARFIELD,
Secretary.

THE PRESIDENT OF THE SENATE.

Mr. Speaker, the above letter of the Secretary intimates that there was no foundation in fact for the statement of Mr. Gus Rosenwinkle, and in order that the public may judge of that matter, I make a part of my remarks a statement of Mr. W. R. Blackmore, and it is as follows, viz:

In the early part of November, 1907, I went with Mr. Gus Rosenwinkle before the Secretary of the Interior at his office in Washington, and there in the presence of the Secretary, the Assistant Attorney-General, Mr. Woodruff, Mr. Chester Howe, and myself, Mr. Rosenwinkle related to the Secretary what he knew of the charges of bribery and corruption which had been made against the members of the late citizenship court, and the firm of Mansfield, McMurray & Cornish.

Mr. Rosenwinkle said in substance, that from about the time of the creation of the citizenship court until the spring of 1907, he had been employed by the firm of Mansfield, McMurray & Cornish; at first in preparing the citizenship cases for trial, and later as the trial lawyer of that firm before the Commissioner to the Five Civilized Tribes, and in doing work in their office.

Mr. Rosenwinkle informed the Secretary of the Interior that the stenographers employed by the judges of the citizenship court were also employed by Mansfield, McMurray & Cornish and were paid for whatever work they did. This was in direct violation of the law which created the court, as that act provided that they should not receive any compensation except their salaries. He also said that a large number of the opinions rendered by the citizenship court were prepared in the office of Mansfield, McMurray & Cornish; that one of the items of expenditure which that firm sought to recover against the Choctaw and Chickasaw nations was the money paid out to these stenographers of the court and that the vouchers therefor had been filed with the Department of the Interior at Washington; that the firm of Mansfield, McMurray & Cornish used money to influence the elections in the Choctaw and Chickasaw nations; that one of the judges of the citizenship court often received sums of money from that firm; that one of the members of the firm would go to the bank and get the money, inclose it in an envelope, and give it to one of their stenographers, who was a brother-in-law to both Mr. Mansfield and Mr. Cornish; that at one time, when Judge Foot was in Memphis, he wrote to Mr. Cornish and informed him that "our friend here is broke and needs \$150;" that this money was sent to him.

He stated that Judge Adams was a man in very moderate circumstances when he was appointed as judge of the citizenship court; that he knew him intimately, and that he invested no money in the Indian Territory except in a little home in South McAlester, which he sold at the time he left the Territory for practically the sum he paid for it; that immediately after the payment to Mansfield, McMurray & Cornish of the fee of \$750,000, letters came daily addressed to Mr. Cornish in the handwriting of Judge Adams; that about a month after the payment of this fee, and shortly after the return of Mr. Cornish from the coast of Florida, where he had gone from Washington after receiving the fee, he, Mr. Cornish, met Judge Adams at Memphis and went with him to Monticello; that before Mr. Cornish left he and the other members of the firm executed checks of equal amount in large denominations, aggregating about \$25,000; that afterwards Judge Adams wrote to Mr. Cornish and informed him that he was erecting a new residence at his home in North Carolina and sent him the plans; that Adams, upon his return home and after the payment of this fee, began to invest in other property at his home in North Carolina and became in a short time regarded as one of the wealthiest men in his town.

He says that Adams had a friend to whom was conveyed without consideration a one-half interest in a certain coal mine near South McAlester and belonged to McMurray; that this was to supposedly secure Adams in the payment of his portion of the fee; that the members of the citizenship court decided at first to pay Mansfield, McMurray & Cornish a fee of \$1,000,000, but that after it was ascertained that \$750,000 was about all the available cash in the Treasury of the United States to the credit of the two nations it was decided to fix the fee at that amount, the fear being entertained that if it was for more than the amount then available the Treasury warrants to be issued could not immediately be cashed and these gentlemen might never get their fee.

He stated that the brother-in-law of Mansfield and Cornish, whose name he gave and which I do not now recall, is an employee of the Government, working on the Panama Canal at this time. Mr. Rosenwinkle informed the Secretary of a great many other instances and circumstances. The Secretary of the Interior promised Mr. Rosenwinkle, Mr. Howe, and myself, that he would use the testimony of Rosenwinkle as a basis of the investigation, but promised Rosenwinkle that his name should not be used. Mr. Rosenwinkle himself dictated to these stenographers for almost two hours. This dictation was interspersed by interrogations propounded by the Secretary and Mr. Woodruff and the answers of Mr. Rosenwinkle. There was a stenographer at each side of the Secretary's desk, and both of them took down all the statements that were made by Mr. Rosenwinkle, as well as the questions of the Secretary and General Woodruff. In this procedure Mr. Rosenwinkle was designated as "Mr. X."

In the report of the Secretary of the Interior he directly violated his agreement with Mr. Rosenwinkle in using the name of Rosenwinkle and in suppressing the evidence given by Rosenwinkle.

W. R. BLACKMORE.

Power of the Speaker of the House of Representatives.

It is all right to say the people *should* rule; it is better to say "The people *shall* rule;" but it will be infinitely better when the people really do rule.

SPEECH

OF

HON. T. D. NICHOLLS,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. NICHOLLS said:

Mr. SPEAKER: Under the general leave to print, I desire to bring to the attention of the American people a state of affairs at Washington which results, in part, in the suppression of the privileges of a free people, and threatens the very existence of representative government. The Speaker of the House of Representatives has become the ruler of the people's representatives and the censor of the legislation proposed by them. By his leave only can they enact the legislation desired by the people.

Under the present rules, as interpreted by the Speaker, he is able to prevent absolutely the passage of legislation it is proposed to originate in the House of Representatives.

At the opening of the present Congress, arguments against the adoption of the rules were made by Representatives WILLIAMS of Mississippi, Democrat; COOPER of Wisconsin, Republican; DE ARMOND of Missouri, Democrat; during which complaints were made that too much power was concentrated in the Speaker. I have culled from these arguments, and from the Speaker's remarks on the subject, such portions as are particularly pertinent to the purpose of this address:

Mr. WILLIAMS said:

Mr. Speaker, of course I have no desire to make a useless play to the galleries. I know, of course, that the resolution is going to pass, but I do not consider it consistent with the past record of this side of the House to permit it to pass without a protest. We are of the opinion, and have been for a long time, that entirely too much power is concentrated in the hands of the Speaker of the House, and without any party spirit at all, speaking only what I think is best for the country at large, believing if my party were in the majority I would still take that same view. I want to protest against the adoption of the rules in their present drastic form, without any opportunity to the Members of the House to propose amendments and without any opportunity for the House itself to pass upon proposed amendments. We will, of course, vote against the resolution.

Mr. COOPER said:

I agree with the gentleman from Mississippi, that there is altogether too much power concentrated in the Speaker of the House of Representatives. [Applause on the Democratic side.] It is more power, gentlemen, than ought to be given to any man in any government that pretends to be republican in form and democratic in spirit. [Applause on the Democratic side.] * * * We all know his power, which compels us to go into his room if we wish to ask to be recognized for unanimous consent. [Applause on the Democratic side.] We all know that we can not get a bill passed—every man on the floor does, Republican or Democrat—by unanimous consent unless the Member presenting it first goes to the private chamber of the Speaker and asks to be recognized. The Speaker does not have to give his reasons before the House for any objection he may have. He does not rise upon the floor, but in his private chamber he objects.

Mr. Speaker, one more thing. That this is too much power ever to give to one man in the House of Representatives is demonstrated by

this fact: If the Vice-President of the United States had a similar power, then the Vice-President would appoint all of the committees of the Senate. He would appoint the Committee on Rules of that body and have the sole power of recognition. So that the Speaker of the House of Representatives and the Vice-President of the United States together could agree practically to allow or not to allow legislation to come up before either Chamber.

Mr. DE ARMOND. Mr. Speaker, I listened a very short time ago, as I have no doubt the other Members of the House did, to the carefully worded and blandly sounding address from the Speaker-elect, in which, among other things, the Members of the House and the people of the country were told that here in this House is lodged the power of the people to make known their wishes and to execute their will. It sounded well; it was expressed handsomely. But a few minutes have elapsed since that performance, and now here, with time so precious that only a few minutes can be conceded to anybody to express an opinion upon the subject, it is proposed to tie and shackle the House by rules about which a good many know nothing and about which a good many others know a great deal. Talk about the people having here representation and about here the will and wish of the American people being executed, when here, at once, out of hand, blindly, without consideration, without reading, the code of rules is designed—cunningly designed—to put the Representatives in this House, the membership of it, and the mighty interests of the people of this nation in the sacred keeping of the Speaker! What is the occasion for hurry?

The SPEAKER. The Chair, the Speaker of the House, is a Member of the House the same as any other Member. Unanimous consent being asked, it would not be granted should any Member object. The usage in many Congresses in the past was that the Chair would submit the request to the House; and it is an open secret to gentlemen who have served in some of the former Congresses that the Chair, keeping track of the business of the House as the Speaker and at the same time exercising his right as a Member, would often indicate to some Member upon the floor, by messenger or otherwise, that he desired an objection to be made. The Chair has seen that frequently occur under both Democratic and Republican Speakers. The present occupant of the chair, ever since he has occupied that position, has thought the better way and the more manly and fairer way was to exercise his right as a Member to object to a request for unanimous consent. Therefore the practice has grown up that gentlemen see the Speaker, and if he has objections, then he invariably says that it is useless to recognize the Member for unanimous consent, because if nobody else objects, the Chair in his capacity as a Member of the House would object. [Applause on the Republican side.]

Addressing the House on January 24, Representative SHACKLEFORD said:

I arise once more to challenge the autocratic authority which the Speaker has asserted over the deliberations of this body. I regret that a sense of duty calls me to the performance of this task. If I shall be made to suffer some inconveniences by those in power here because of that which I now utter, I shall try to exercise the fortitude necessary to bear it. * * * If the people of the United States knew, as you know, Mr. Chairman, and as I know and as other Members know, how the voice of the people is suppressed here, the Administration now in control would be swept out of power. [Applause on the Democratic side.]

I entertain no malevolence toward the Speaker. I have for him personally the highest regard. So impressed have I been with the successful career of this wonderful man that I have adorned the walls of my home with his picture, that there may be kept constantly before my boy and the boys of my neighbors the sublime heights which may be reached by one of such inflexible purpose as has possessed this man of iron. As an individual he is most lovable. Generous, companionable, intellectual, resourceful, persistent, and, above all, courageous, he stands a giant among men. *He is the ablest and the boldest champion of aristocracy this age has produced.* * * * I hold in my hand a magazine article written by the Hon. L. White Busbey, the genial and talented private secretary to the Speaker, from which I desire to read some extracts.

He says: "The Committee on Public Buildings and Grounds prepared an omnibus bill, and three-fourths of the Members signed a request to the Speaker asking that the Rules Committee bring in a special rule for the consideration of this bill. The Speaker refused the request. The chairman of the committee pleaded and urged. * * * As a final stroke the chairman said: 'Then, Mr. Speaker, this bill is to fail by the will of one man, who is in the chair by our votes. We have no redress from this one-man power.' 'Yes; you have,' replied the Speaker, 'you have a way to pass your bill. You placed me in the chair to shoulder the responsibility of the legislation here enacted. In my view I can not assume responsibility for this bill. You can elect a new Speaker to-day and pass your bill if you can find one who will accept that responsibility, but if you leave me in the chair your bill will not become a law.'"

No doubt my constituents will be much surprised and shocked to know that their Representative is allowed to propose for the consideration of the Members of the House of Representatives only such propositions as it may please the Speaker to recognize some Member for the purpose of moving consideration of the same. Members are at times recognized by the Speaker, but not allowed to proceed until he is informed "For what purpose does the gentleman rise?" Then, if the purpose is not agreeable to the Speaker, he states: "The gentleman is not recognized for that purpose."

Do the people agree with him, and is it the general opinion of the American people that the Speaker of the House of Representatives, who is but the chairman, is entirely responsible for legislation? If so, then blame him for the failure to have an anti-injunction law enacted, to so amend the Sherman antitrust law as to exempt trade unions and farmers' organizations, to enact an income-tax law, to enact an eight-hour law for all work done for the Government, to enact a law taking the tariff off wood pulp, to enact a postal savings bank law, and for failure to pass other meritorious measures desired by the people. If this idea prevails, then a great deal of money could be saved to the people by having the laws

so changed as to provide for the election of a Speaker of the House of Representatives, but no Members, leaving him with full power to legislate as he may see fit.

I do not, however, believe that the people are willing to give full control into the hands of any one man, be he good or bad. The rule of the people is preferable to that of the best of autocrats.

There are those who praise our free government, but in their hearts and by their acts they show that they fear to allow the people to really rule. They dare not say, however, *the people shall not rule.*

It is all right to say the people *should* rule; it is better to say "The people *shall* rule;" but it will be infinitely better when the people really *do* rule.

DEFEAT OF PROPOSED ANTI-INJUNCTION LEGISLATION.

During the term of the present Speaker the laboring men of this country have sought for legislation which would prevent the further abuse of the power of injunction by Federal judges in labor disputes, this abuse having now grown to the extent that workmen have been restrained from striking and from organizing. But owing to the hostility of the Speaker and the Republican members of the Judiciary Committee, all of whom were selected by him, all anti-injunction bills have been smothered in that committee. And in their zeal to prevent the passage of such legislation they have shown a ruthless disregard for both the spirit and letter of the rules of the House.

I read from the Manual and Digest, Rules and Practices of the House of Representatives for the present Congress, page 165, Rule XXVI:

Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill; for he that would totally destroy will not amend it. (Hakew., 146; Town., col. 208; D'Ewes, 634, col. 2; Scob., 47.)

Or, as is said (5 Grey, 145):

The child is not to be put to a nurse that cares not for it. (6 Grey, 373.)

It is therefore a constant rule—

That no man is to be employed in any matter who has declared himself against it—

and when any Member who is against the bill hears himself named of its committee he ought to ask to be excused.

But, notwithstanding this rule, the records of the Committee on the Judiciary show that every anti-injunction bill introduced during the present session of Congress was referred to a subcommittee, of which the gentleman from Maine [Mr. LITTLEFIELD] was chairman, after it was known by the Speaker and the members of the committee that the gentleman was an avowed opponent of this legislation, that gentleman having already so expressed himself in public addresses. Not only had the gentleman from Maine publicly declared his opposition to such legislation, but, to quote his own words, this legislation was an issue in his campaign for reelection in 1905, and he said that he was against this legislation, and that if elected to the House he would continue to be against it. He also said that Speaker CANNON went into his district during that campaign and declared that he stood with him in his position.

Here are some quotations from an address on anti-injunction legislation delivered by the gentleman from Maine [Mr. LITTLEFIELD] before the American Founders' Associations, and which is published in American Industries for January 1, 1907:

I said in my campaign, and I thought I might as well have a perfect understanding about it, that in the beginning I stood against that legislation and that I always should stand against it. I ought to say here, before I forget it, that not until about four and a half years after this legislation had been pending was any aid of the slightest kind received in opposing this legislation. * * * During the last four and a half years the National Association of Manufacturers, largely through the instrumentality of the distinguished gentleman sitting here this evening, Mr. Marshal Cushing, its secretary, has done a great deal before that committee to hold the Republicans of that committee, with one exception, as a united front against this legislation. Now, that, in a general way, covers that bill—4445.

I said in my campaign and I say now—I said in the beginning that I was opposed to these bills, H. R. 4445 and H. R. 18752, and I oppose them now, and that if elected to the House of Representatives I should continue to oppose them.

Some time before the House adjourned Mr. Samuel Gompers and other gentlemen, representing labor organizations, visited Washington and had an interview with a gentleman by the name of JOSEPH G. CANNON [applause], Speaker of the House of Representatives, who, I may say, entertains the same views in connection with this legislation that I entertain, and ordinarily expresses them in a manner characterized by a degree of vigor and picturesque language that would require asbestos paper for its proper preservation. [Laughter and applause.] Language, really, that would not quite bear repeating in so polite an audience as this.

And I might say that I have been acting in entire harmony with that distinguished gentleman, and while I do not indulge here in the vigorous language he uses in private on this question, I heartily approve what he says.

And here are some quotations from another address on the same subject, delivered by the gentleman from Maine a short time ago before another society made up of the captains of industry, who profit by the misuse and abuse of the power of injunction:

Do you wonder now that a man that has any self-respect of his own and has the responsibility of helping formulate Federal legislation does not hesitate to say that as long as that infamous proposition remains in his charge, as the chairman of a subcommittee of three, it never will come out and start even to be come a part of a law.

As long as I remain a Member of the House, legislation like that shall never become a part of the law of the United States if I can help it.

The campaign in my district was conducted by myself practically alone, with the exception that the distinguished Speaker of the House of Representatives, the Hon. JOSEPH G. CANNON, came in my district and declared he stood with me on these propositions.

This not only shows that the Speaker knew before he appointed the gentleman from Maine as a member of the committee to which this legislation was referred that he was opposed to it, but it also suggests an understanding between the Speaker and the gentleman from Maine that this legislation would not be reported from the committee, knowing, as they did, that if it were reported and brought before the House nothing could prevent its passage. That it would pass the House if the Members were given an opportunity to vote upon it is evidenced by the following quotation from the address of the gentleman from Maine before the American Founders' Association, to which I have before referred.

I might say now that when that legislation is reported by the Judiciary Committee of the House of Representatives, it will be passed by an overwhelming majority.

It is needless to say that the plans to smother this legislation have well carried, for up to this hour every one of the many anti-injunction bills which were introduced at this session still remains in committee, and they will likely remain there and continue to go there and be smothered just so long as those in control are continued in power, and notwithstanding that the rules of the House provide that bills shall not be referred to hostile committees.

As a further evidence of the Speaker's unfriendliness toward labor legislation before the Committee on the Judiciary, it should be known that he failed to reappoint on that committee Representative PEARRE, of Maryland, who had in the last Congress and in this session presented the anti-injunction bill which is desired by the American Federation of Labor. The activity of Representative PEARRE in favor of this measure is generally cited as the cause for his removal from the Committee on the Judiciary. The one Republican actively favoring the measure was thus put out of commission.

In view of the foregoing, is it surprising that those who profit by the abuse of the power of injunction in labor disputes applaud the names of those who have so successfully opposed the passage of laws to properly restrict the issue of injunctions?

Now, the question of the abuse of injunctions is so important that the President has advised consideration of the matter by Congress, but none has been given it. Whether the claims of abuses are well founded or not, it is only fair and businesslike to let the matter come up in the House for discussion and decision. Distrust of the Government by the masses and contempt for the proceedings of Congress may be some of the results gained by pursuing a policy which indicates distrust of the people by those controlling legislation.

The President and Injunctions.

SPEECH

OF

HON. HENRY D. CLAYTON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 30, 1908.

Mr. CLAYTON said:

Mr. SPEAKER: The President has sent many messages to the Senate and House of Representatives recommending the passage of what he deemed proper and important measures. Some of his suggestions, especially the good ones, he borrowed from Democratic platforms and other Democratic sources. In many of his messages the President reiterated his former recommendations and lectured the Congress, a Republican Congress, upon their failure or refusal to carry into legislation the measures he had urged. Inasmuch as he has not within the last few days called the attention of Congress to what Congress has left undone, nor

called an extra session, with a reiteration of demands he says are imperatively needful to be molded into legislation, it may not be amiss for me to now invite attention to some of the recommendations of the President and the failure of his party, which is in control of both branches of Congress, to enact the legislation recommended by the Republican President.

On December 3, 1906, in his message to Congress the President said:

INJUNCTIONS.

In my last message I suggested the enactment of a law in connection with the issuance of injunctions, attention having been sharply drawn to the matter by the demand that the right of applying injunctions in labor cases should be wholly abolished. It is at least doubtful whether a law abolishing altogether the use of injunctions in such cases would stand the test of the courts; in which case of course the legislation would be ineffective. Moreover, I believe it would be wrong altogether to prohibit the use of injunctions. It is criminal to permit sympathy for criminals to weaken our hands in upholding the law; and if men seek to destroy life or property by mob violence there should be no impairment of the power of the courts to deal with them in the most summary and effective way possible. But so far as possible the abuse of the power should be provided against by some such law as I advocated last year.

In this matter of Injunctions there is lodged in the hands of the judiciary a necessary power which is nevertheless subject to the possibility of grave abuse. It is a power that should be exercised with extreme care and should be subject to the jealous scrutiny of all men, and condemnation should be meted out as much to the judge who fails to use it boldly when necessary as to the judge who uses it wantonly or oppressively. Of course a judge strong enough to be fit for his office will enjoin any resort to violence or intimidation, especially by conspiracy, no matter what his opinion may be of the rights of the original quarrel. There must be no hesitation in dealing with disorder. But there must likewise be no such abuse of the injunctive power as is implied in forbidding laboring men to strive for their own betterment in peaceful and lawful ways; nor must the injunction be used merely to aid some big corporation in carrying out schemes for its own aggrandizement. It must be remembered that a preliminary injunction in a labor case, if granted without adequate proof (even when authority can be found to support the conclusions of law on which it is founded), may often settle the dispute between the parties; and therefore if improperly granted may do irreparable wrong. Yet there are many judges who assume a matter-of-course granting of a preliminary injunction to be the ordinary and proper judicial disposition of such cases; and there have undoubtedly been flagrant wrongs committed by judges in connection with labor disputes even within the last few years, although I think much less often than in former years. Such judges by their unwise action immensely strengthen the hands of those who are striving entirely to do away with the power of injunction; and therefore such careless use of the injunctive process tends to threaten its very existence, for if the American people ever become convinced that this process is habitually abused, whether in matters affecting labor or in matters affecting corporations, it will be well-nigh impossible to prevent its abolition.

On December 3, 1907, the President said, in his message to Congress:

Instances of abuse in the granting of injunctions in labor disputes continue to occur, and the resentment in the minds of those who feel that their rights are being invaded and their liberty of action and of speech unwarrantably restrained continues likewise to grow. Much of the attack on the use of the process of injunction is wholly without warrant; but I am constrained to express the belief that for some of it there is warrant. This question is becoming more and more one of prime importance, and unless the courts will themselves deal with it in effective manner, it is certain ultimately to demand some form of legislative action. It would be most unfortunate for our social welfare if we should permit many honest and law-abiding citizens to feel that they had just cause for regarding our courts with hostility. I earnestly commend to the attention of the Congress this matter, so that some way may be devised which will limit the abuse of injunctions and protect those rights which from time to time it unwarrantably invades. Moreover, discontent is often expressed with the use of the process of injunction by the courts, not only in labor disputes, but where State laws are concerned. I refrain from discussion of this question as I am informed that it will soon receive the consideration of the Supreme Court.

The Federal courts must of course decide ultimately what are the respective spheres of State and Nation in connection with any law, State or National, and they must decide definitely and finally in matters affecting individual citizens, not only as to the rights and wrongs of labor but as to the rights and wrongs of capital; and the National Government must always see that the decision of the court is put into effect. The process of injunction is an essential adjunct of the court's doing its work well; and as preventive measures are always better than remedial, the wise use of this process is from every standpoint commendable. But where it is recklessly or unnecessarily used, the abuse should be censured, above all by the very men who are properly anxious to prevent any effort to shear the courts of this necessary power. The court's decision must be final; the protest is only against the conduct of individual judges in needlessly anticipating such final decision, or in the tyrannical use of what is nominally a temporary injunction to accomplish what is in fact a permanent decision.

On January 31, 1908, in a special message to Congress, the President said:

I again call your attention to the need of some action in connection with the abuse of injunctions in labor cases. As regards the rights and wrongs of labor and capital, from blacklisting to boycotting, the whole subject is covered in admirable fashion by the report of the Anthracite Coal Strike Commission, which report should serve as a chart for the guidance of both legislative and executive officers. As regards injunctions, I can do little but repeat what I have said in my last message to the Congress. Even though it were possible, I should consider it most unwise to abolish the use of the process of injunction. It is necessary in order that the courts may maintain their own dignity and in order that they may in effective manner check disorder and violence. The judge who uses it cautiously and conservatively, but who, when the need arises, uses it fearlessly, confers the greatest service upon our people, and his preeminent usefulness as a public servant should be heartily recognized. But there is no question in

my mind that it has sometimes been used heedlessly and unjustly, and that some of the injunctions issued inflict grave and occasionally irreparable wrong upon those enjoined.

It is all wrong to use the injunction to prevent the entirely proper and legitimate actions of labor organizations in their struggle for industrial betterment, or under the guise of protecting property rights unwarrantably to invade the fundamental rights of the individual. It is futile to concede, as we all do, the right and the necessity of organized effort on the part of wage-earners and yet by injunctive process to forbid peaceable action to accomplish the lawful objects for which they are organized and upon which their success depends. The fact that the punishment for the violation of an injunction must, to make the order effective, necessarily be summary and without the intervention of a jury makes its issuance in doubtful cases a dangerous practice, and in itself furnishes a reason why the process should be surrounded with safeguards to protect individuals against being enjoined from exercising their proper rights. Reasonable notice should be given the adverse party.

This matter is daily becoming of graver importance, and I can not too urgently recommend that the Congress give careful consideration to the subject. If some way of remedying the abuses is not found the feeling of indignation against them among large numbers of our citizens will tend to grow so extreme as to produce a revolt against the whole use of the process of injunction. The ultra-conservatives who object to cutting out the abuses will do well to remember that if the popular feeling does become strong many of those upon whom they rely to defend them will be the first to turn against them. Men of property can not afford to trust to anything save the spirit of justice and fair play; for those very public men who, while it is to their interest, defend all the abuses committed by capital and pose as the champions of conservatism, will, the moment they think their interest changes, take the lead in just such a matter as this and pander to what they esteem popular feeling by endeavoring, for instance, effectively to destroy the power of the courts in matters of injunctions; and will even seek to render nugatory the power to punish for contempt, upon which power the very existence of the orderly administration of justice depends.

In a special message to Congress March 25, 1908, the President said:

I call your attention to certain measures as to which I think there should be action by the Congress before the close of the present session. There is ample time for their consideration. As regards most if not all of the matters, bills have been introduced into one or the other of the two Houses, and it is not too much to hope that action will be taken one way or the other on these bills at the present session. In my message at the opening of the present session, and, indeed, in various messages to previous Congresses, I have repeatedly suggested action on most of these measures.

Child labor should be prohibited throughout the nation. At least a model child-labor bill should be passed for the District of Columbia. It is unfortunate that in the one place solely dependent upon Congress for its legislation there should be no law whatever to protect children by forbidding or regulating their labor.

I renew my recommendation for the immediate reenactment of an employers' liability law, drawn to conform to the recent decision of the Supreme Court. Within the limits indicated by the court, the law should be made thorough and comprehensive, and the protection it affords should embrace every class of employee to which the power of the Congress can extend.

In addition to a liability law protecting the employees of common carriers, the Government should show its good faith by enacting a further law giving compensation to its own employees for injury or death incurred in its service. It is a reproach to us as a nation that in both Federal and State legislation we have afforded less protection to public and private employees than any other industrial country of the world.

I also urge that action be taken along the line of the recommendations I have already made concerning injunctions in labor disputes. No temporary restraining order should be issued by any court without notice; and the petition for a permanent injunction upon which such temporary restraining order has been issued should be heard by the court issuing the same within a reasonable time—say, not to exceed a week or thereabouts from the date when the order was issued. It is worth considering whether it would not give greater popular confidence in the impartiality of sentences for contempt if it was required that the issue should be decided by another judge than the one issuing the injunction, except where the contempt is committed in the presence of the court, or in other case of urgency.

On April 27, 1908, in a special message to Congress, the President said:

Ample appropriation should be made to enable the Interstate Commerce Commission to carry out the very important feature of the Hepburn law which gives to the Commission supervision and control over the accounting system of the railways. Failure to provide means which will enable the Commission to examine the books of the railways would amount to an attack on the law at its most vital point, and would benefit as nothing else could benefit, those railways which are corruptly or incompetently managed. Forest reserves should be established throughout the Appalachian Mountain region wherever it can be shown that they will have a direct and real connection with the conservation and improvement of navigable rivers.

There seems, however, much doubt about two of the measures I have recommended—the measure to do away with abuse of the power of injunction and the measure or group of measures to strengthen and render both more efficient and more wise the control by the National Government over the great corporations doing an interstate business.

First, as to the power of injunction and of punishment for contempt. In contempt cases, save where immediate action is imperative, the trial should be before another judge. As regards injunctions, some such legislation as that I have previously recommended should be enacted. They are blind who fail to realize the extreme bitterness caused among large bodies of worthy citizens by the use that has been repeatedly made of the power of injunction in labor disputes. Those in whose judgment we have most right to trust are of the opinion that while much of the complaint against the use of the injunction is unwarranted, yet that it is unquestionably true that in a number of cases this power has been used to the grave injury of the rights of laboring men. I ask that it be limited in some such way as that I have already pointed out in my previous messages, for the very reason that I do not wish to see an embittered effort made to destroy it. It is unwise

stubbornly to refuse to provide against a repetition of the abuses which have caused the present unrest. In a democracy like ours it is idle to expect permanently to thwart the determination of the great body of our citizens. It may be and often is the highest duty of a court, a legislature, or an executive, to resist and defy a gust of popular passion; and most certainly no public servant, whatever may be the consequences to himself, should yield to what he thinks wrong. But in a question which is emphatically one of public policy, the policy which the public demands is sure in the end to be adopted; and a persistent refusal to grant to a large portion of our people what is right is only too apt in the end to result in causing such irritation that when the right is obtained it is obtained in the course of a movement so ill-considered and violent as to be accompanied by much that is wrong. The process of injunction in labor disputes, as well as where State laws are involved, should be used sparingly, and only when there is the clearest necessity for it; but it is one so necessary to the efficient performance of duty by the court on behalf of the nation that it is in the highest degree to be regretted that it should be liable to reckless use; for this reckless use tends to make honest men desire so to hamper its execution as to destroy its usefulness.

I desire to now have printed in the RECORD the bill H. R. 69, introduced December 2, 1907, by the able lawyer and distinguished gentleman, Mr. HENRY of Texas. It is as follows:

A bill (H. R. 69) in relation to restraining orders and injunctions.

Be it enacted, etc., That no writ of injunction or temporary restraining order shall be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same: *Provided,* That nothing herein contained shall be held to authorize the issuance of any injunction or restraining order not now authorized by law.

I also desire to have printed in the RECORD the bill H. R. 76, introduced December 2, 1907, by Mr. HENRY of Texas.

A bill (H. R. 76) in relation to contempts of court.

Be it enacted, etc., That contempts of court committed during the sitting of the court, or of a judge at chambers, in its or his presence or so near thereto as to obstruct the administration of justice, are direct contempts. All others are indirect contempts.

SEC. 2. That a direct contempt may be punished summarily without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defense or extenuation the accused offered thereto and the sentence of the court thereon.

SEC. 3. That upon the return of an officer on process or an affidavit duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue and such person be arrested and brought before the court; and thereupon a written accusation, setting forth clearly and succinctly the facts alleged to constitute such contempt, shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court may, on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced. If the accused answers, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or, upon application of the accused, a trial by jury shall be had as in any criminal case. If the accused be found guilty judgment shall be entered accordingly, prescribing the punishment.

SEC. 4. That the testimony taken on the trial of any accusation of indirect contempt may be preserved by bill of exceptions, and any judgment of conviction therefor may be reviewed upon direct appeal to, or by writ of error from, the Supreme Court, and affirmed, reversed, or modified, as justice may require. Upon allowance of an appeal or writ of error, execution of the judgment shall be stayed, upon the giving of such bond as may be required by the court or a judge thereof, or by any justice of the Supreme Court.

SEC. 5. That the provisions of this act shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court.

Mr. Speaker, it will be remembered that a bill similar to the one just last above printed passed the Senate some years ago, when such able lawyers as David Bennett Hill, of New York, George F. Hoar, of Massachusetts, and John T. Morgan, of Alabama, were members of that body. Many of the laboring people of the country believe that these two measures, or either one of them, would largely lessen or prevent the injury sometimes done them by the injudicious and improper use of restraining orders and injunctions issued by United States courts and judges.

A number of the laboring people have advocated, before the Senate and House committees having jurisdiction thereof, the passage of the following bill, H. R. 94, introduced December 2, 1907, by Mr. PEARRE, of Maryland:

A bill (H. R. 94) to regulate the issuance of restraining orders and injunctions and procedure thereon and to limit the meaning of "conspiracy" in certain cases.

Be it enacted, etc., That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed to labor and persons seeking employment as laborers, or between persons seeking employment as laborers, or involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be particularly described in the application, which must be in writing and sworn to by the applicant or by his, her, or its agent or attorney. And for

the purposes of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

Sec. 2. That in cases arising in the courts of the United States or coming before said courts, or before any judge or the judges thereof, no agreement between two or more persons concerning the terms or conditions of employment of labor, or the assumption or creation or termination of any relation between employer and employee, or concerning any act or thing to be done or not to be done with reference to or involving or growing out of a labor dispute, shall constitute a conspiracy or other criminal offense or be punished or prosecuted as such unless the act or thing agreed to be done or not to be done would be unlawful if done by a single individual, nor shall the entering into or the carrying out of any such agreement be restrained or enjoined unless such act or thing agreed to be done would be subject to be restrained or enjoined under the provisions, limitations, and definition contained in the first section of this act.

Sec. 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

On January 20, 1908, Mr. CAMPBELL, of Kansas, introduced H. R. 14377, which is as follows:

A bill (H. R. 14377) providing for notice before issuance of certain orders and writs by the courts and judges of the United States courts.

Be it enacted, etc., That courts and judges of the United States circuit and district courts shall cause reasonable notice to be served upon the parties to a suit in equity to be adversely affected by any extraordinary writ asked for at the inception or during the progress of a cause before such writ is issued.

Sec. 2. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

On February 14, 1908, Mr. RODENBERG, of Illinois, introduced the bill H. R. 17137, which is as follows:

A bill (H. R. 17137) relating to conspiracies, restraining orders, injunctions, and contempt of court, and for other purposes.

Be it enacted, etc., That no agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any labor dispute between employers and employees in the District of Columbia or in any Territory of the United States, or between employers and employees who may be engaged in trade or commerce between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be actionable, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce. Nothing in this section shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy for which punishment is now provided by any act of Congress, but such act of Congress shall, as to the agreements, combinations, and contracts heretofore referred to, be construed as if this section were therein contained.

Sec. 2. That no restraining order or injunction shall be granted by any court created by Congress, or any judge or judges of such court, restraining or enjoining any person or persons from entering into or carrying out any agreement, combination, or contract referred to in section 1 of this act.

Sec. 3. That no restraining order or injunction shall be granted by any court created by Congress, or any judge or judges of such court, in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same.

Sec. 4. That contempt of court are divided into two classes, direct and indirect, and shall be proceeded against only as hereinafter prescribed. That contempts committed during the sitting of the court or of a judge at chambers, in its or his presence or so near thereto as to obstruct the administration of justice, are direct contempts. All others are indirect contempts. That a direct contempt may be punished summarily without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defense or extenuation the accused offered thereto and the sentence of the court thereon. That upon the return of an officer on process or an affidavit duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue and such person be arrested and brought before the court; and thereupon a written accusation setting forth succinctly and clearly the facts alleged to constitute such contempt shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court may, on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. But pending the trial, and until the final trial and termination of the case, the accused shall be admitted to bail in such sum as the court may direct. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced. If the accused answer, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or upon application of the accused, a trial by jury shall be had as in any criminal case. If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment. That the testimony taken on the trial of any accusation of indirect contempt may be preserved by bill of exceptions, and any judgment of conviction therefor may be reviewed upon direct appeal to or by writ of error from the Supreme Court, and affirmed, reversed, or modified as justice may require. Upon allowance of an appeal or writ of error execution of the judgment shall be stayed upon the giving of such bond as may be required by the court or a judge thereof, or by any justice of the Supreme Court. That the provisions of this section shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court; but this section shall not affect any proceedings for contempt pending at the time of the passage thereof.

On April 20 (calendar day, April 28), 1908, Mr. STERLING, of Illinois, introduced the following bill:

A bill (H. R. 21358) to regulate the granting of restraining orders and injunctions.

Be it enacted, etc., That in no case shall an injunction or a temporary restraining order be granted by the court in term, or by a judge thereof in vacation, except upon due notice to the opposite party, and after hearing, which may be ex parte, if the adverse party does not appear at the time and place mentioned in said notice: *Provided, however,* That if it shall be made to appear to the court or judge that delay will result in irreparable injury to property or property rights the court or judge shall so certify on the back of the application, and in such case the injunction or restraining order may issue without notice.

Sec. 2. That when such an injunction or restraining order is granted, the court in term, or the judge thereof in vacation, at the time of granting the same, shall fix a time, not more than five days from the time said order or injunction is granted, for final hearing of the case.

And on April 20, calendar day April 28, 1908, Mr. PAYNE, of New York, the distinguished leader of the Republican party in the House of Representatives, introduced the bill H. R. 21359, which is as follows:

A bill (H. R. 21359) relating to injunctions.

Be it enacted, etc., That hereafter no preliminary injunction or restraining order shall be granted by any judge or court without notice to the party sought to be enjoined or restrained, unless it shall appear to the satisfaction of the court or judge to whom application for such injunction or restraining order is made that the immediate issue of such injunction or restraining order is necessary to prevent irreparable damage.

Sec. 2. That any such injunction or restraining order granted shall contain a rule on the opposite party to show cause within five days why such injunction or restraining order shall not be continued.

Mr. Speaker, this last bill is, of course, only a pretense, and intended to muddy the waters. Other bills, modifying, limiting, or regulating the issuance of injunctions or restraining orders by the inferior United States courts and judges, have been introduced by the following-named gentlemen:

H. R. 4044, December 3, 1907, by Mr. SHEPPARD, Democrat, Texas.

H. R. 9195, December 16, 1907, by Mr. HENRY, Democrat, Texas.

H. R. 14275, January 17, 1908, by Mr. HACKNEY, Democrat, Missouri.

H. R. 14372, January 17, 1908, by Mr. HACKNEY, Democrat, Missouri.

H. R. 14377, January 20, 1908, by Mr. CAMPBELL, Republican, Kansas.

H. R. 15944, January 31, 1908, by Mr. THOMAS, Democrat, North Carolina.

H. R. 16622, February 7, 1908, by Mr. GARRETT, Democrat, Tennessee.

H. R. 16758, February 10, 1908, by Mr. PATTERSON, Democrat, South Carolina.

H. R. 20823, April 6, 1908 (calendar day April 14), by Mr. SMALL, Democrat, North Carolina.

H. R. 21454, April 20, 1908 (calendar day April 30), by Mr. CHANEY, Republican, Indiana.

H. R. 21489, April 20, 1908 (calendar day May 1), by Mr. HUBBARD, Republican, West Virginia.

H. R. 21498, April 20, 1908 (calendar day May 1), by Mr. FOSTER, Republican, Indiana.

H. R. 21539, April 20, 1908 (calendar day May 2), by Messrs. BOYD and MADISON, Republicans.

H. R. 21629, May 4, 1908 (calendar day May 6), by Mr. BONYNGE, Republican, Colorado.

H. R. 22010, May 12, 1908 (calendar day May 19), by Mr. HEPBURN, Republican, Iowa.

Mr. Speaker, none of these bills which I have inserted in the RECORD suggest anything very novel in the legislative and judicial history of the United States. The act of March 2, 1793, provided:

Nor shall such writ (injunction) be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same.

I here insert in the RECORD part of the act of March 2, 1793, which is as follows:

Sec. 5. *And be it further enacted,* That writs of ne exeat and of injunction may be granted by any judge of the Supreme Court in cases where they might be granted by the Supreme or a circuit court; (a) but no writ of ne exeat shall be granted unless a suit in equity be commenced, and satisfactory proof shall be made to the court or judge granting the same that the defendant designs quickly to depart from the United States; nor shall a writ of injunction be granted to stay proceedings in any court of a State; nor shall such writ be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same.

Note the part of this good and sound, if old, law about "staying proceedings in a State court" and about "reasonable previous notice" in all cases. Under this law our courts worked for seventy-odd years.

And I also insert in the RECORD section 719 of the Revised Statutes, which shows the requirements of previous notice to have been omitted:

Sec. 19. (Injunctions.) Writs of injunction may be granted by any justice of the Supreme Court in cases where they might be granted by the Supreme Court; and by any judge of a circuit court in cases where they might be granted by such court. But no justice of the Supreme Court shall hear or allow any application for an injunction or restraining order in any cause pending in the circuit to which he is allotted, elsewhere than within such circuit, or at such place outside of the same as the parties may stipulate in writing, except when it can not be heard by the circuit judge of the circuit or the district judge of the district. And an injunction shall not be issued by a district judge, as one of the judges of a circuit court, in any case where a party has had a reasonable time to apply to the circuit court for the writ; nor shall any injunction so issued by a district judge continue longer than to the circuit court next ensuing, unless so ordered by the circuit court.

Note that the old law of 1793 was repealed by omission by codifiers in revising the Statutes, and never openly, bravely, or expressly. Yet we are charged as "revolutionists" because we wish virtually to reenact it.

Mr. Speaker, the justice of the demand for legislation on the lines suggested in the bills which I have printed in the RECORD and those referred to is manifest. The President has repeatedly called attention to the importance of such legislation, particularly so during the present Congress. Even Secretary Taft has acknowledged that such legislation ought to be had. He said, in a letter to Ohio labor organizations, not very long ago, that he favored such legislation. I quote what he said:

Second. You ask me what I think of a provision that no restraining order or injunction shall issue except after notice to the defendant and a hearing is had. This was the rule under the Federal statutes for many years, but it was subsequently repealed. In the classes of cases to which you refer I do not see any objection to the reenactment of that Federal statute. Indeed, I have taken occasion to say in public speeches that the power to issue injunctions ex parte has given rise to certain abuses and injustices to the laborers engaged in a peaceful strike. Men leave employment on a strike, counsel for the employer applies to a judge, and presents an affidavit averring fear of threatened violence and making such a case of the ex parte statement that the judge feels called upon to issue a temporary restraining order. The temporary restraining order is served upon all the strikers; they are not lawyers; their fears are aroused by the process with which they are not acquainted, and, although their purpose may have been entirely lawful, their common determination to carry through the strike is weakened by an order which they have never had an opportunity to question, and which is calculated to discourage their proceeding in their original purpose. To avoid this injustice, I believe, as I have already said, that the Federal statute might well be made what it was originally, requiring notice and a hearing before an injunction issues.

Third. In answer to your third question it would seem that it is unnecessary to impose any limitation as to the time for a final hearing if, before an injunction can issue at all, notice and hearing must be given. The third question is relevant and proper only should the power of issuing ex parte injunctions be retained in the court. In such cases I should think it eminently proper that the statute should require the court issuing an ex parte injunction to give the person against whom the injunction was issued an opportunity to have a hearing thereof within a very short space of time, not to exceed, I should say, three or four days.

Mr. Speaker, notwithstanding the President's recommendations, the opinion of many Republicans and Democrats, as evidenced by the bills introduced into Congress by them, by the letter of Secretary Taft, by the numerous petitions of labor organizations, and by the testimony gathered in the committee hearings of Congress, this Republican Congress, which has been in session since the first Monday in December last, and can remain in session until December next, has determinedly failed and refused to enact any law on this important subject—has turned a deaf ear to all the urgent demands and has done nothing.

The failure to do anything to meet just demands on this question is in keeping with the general inactivity and shifty evasions of this Republican Congress, which has been too cowardly to meet squarely any issue of acute public interest.

The Washington Post of May 21, 1908, said:

INJUNCTION TALK FAILS—REPUBLICANS OBLIGED TO ADJOURN CONFERENCE—WILL DEBATE AGAIN TO-NIGHT—LITTLEFIELD OPPOSES NEW LEGISLATION, QUOTING LETTER FROM REPRESENTATIVE TOWNSEND THAT PRESENT LAWS WORK NO HARDSHIP—FRIENDS OF CHANGE DESIRE IT MOSTLY AS A PARTY MEASURE.

After three hours of debate on the proposition for an anti-injunction law, the House Republican conference adjourned last night without having reached any decision, to meet again to-night at 8 o'clock to still further discuss the matter.

Friends of the anti-injunction bills declared, after last night's meeting, that undoubtedly the Republicans would decide upon some measure to remedy alleged abuses due to injunction laws on the statute books, but they were not sure that a straight law would be advocated. In fact, it was pretty well conceded that a measure similar to the Payne bill, which will leave the laws practically as they are, would be the outcome of the conference. It was admitted that an anti-injunction measure would not stand a ghost of a show in the Senate at this session.

PROVOKES SPIRITED DISCUSSION.

Nearly all anti-injunction bills introduced at this session and now reposing in the Judiciary Committee unreported were brought to the attention of the conference and more than a dozen amendments were tentatively offered. The discussion was at times spirited, but no dispositions. Representatives LITTLEFIELD, of Maine; JENKINS, of Wisconsin, and PARKER, of New Jersey, argued against any legislation; HUBBARD, of Iowa; TOWNSEND, of Michigan; MADISON, of Kansas, and STEELING, of Illinois, took the opposite side.

BEYOND THE POWER OF CONGRESS.

Mr. LITTLEFIELD said that any attempt to restrain the power of the court with reference to the question of notice and hearing as to the time during which a restraining order should remain in effect would, in his judgment, be beyond the power of Congress; that there was no occasion for legislation on the ground that the courts had abused the power to issue writs of injunction; that the official reports showed that in the last five years only 328 injunctions had been issued, twenty of these only being in labor cases, and five of those were issued after notice and hearing.

There was nothing in the books, he said, to show that the court in any instance had exceeded or improperly exercised its power. He stated that within the last week or so the American Federation of Labor had filed with him twenty-three different injunctions, covering a period from 1893 up to date, but had filed no criticism in connection with any, and that only one of them appeared to have been modified by the court—the Jenkins injunction, issued in 1893, and that was modified in only one particular.

TOWNSEND FAVORS WRITS.

Bearing upon this point he read an extract from a letter written by Representative TOWNSEND, of Michigan, as follows: "After looking over the history of this writ in the United States I have been unable to find a single case where it has been issued improperly."

Representative TOWNSEND and other advocates of legislation for restriction of the courts in the matter of restraining orders or injunctions strongly urged action. Their argument, simmered down, amounted to nothing more or less than the contention that some people demanded it and that it should be done on the ground of political expediency.

RECOGNIZES PRESENT PRACTICES.

The Payne bill, which is expected to prove the ultimate compromise on this question, merely accords statutory recognition of the present practices of the Federal courts. The Hepburn bill differs from it in a number of particulars. It provides that no injunction or restraining order shall be granted in any case without reasonable previous notice to the adverse parties or such of them as may be found within the jurisdiction of the court, and after hearing, which hearing may be ex parte if the adverse party does not appear at the time and place mentioned in the notice of the court.

It provides further that, if it shall clearly appear to the satisfaction of the court that irreparable injury is imminent in case notice be given, or in case of delay until notice can be given, and that the application for an injunction has not been unduly delayed, a judge may grant a restraining order, which order shall state the time for dispensing with notice, and shall fix a time not exceeding five days thereafter.

MUST GIVE BOND FOR INJUNCTION.

There is also a provision in the Hepburn bill that no injunction or restraining order shall take effect until the party applying for it shall give bond in such penalty as may be prescribed in the order, and conditioned to pay all such costs as may be awarded against the person obtaining the order or injunction and also such damages as shall be incurred or sustained by the person enjoined or restrained in case such order or injunction be dissolved or such order expire without a preliminary injunction being granted.

If the second conference shall decide to-night that a bill should be passed, a measure will be reported by the Committee on the Judiciary. That committee adjourned yesterday, subject to the call of its chairman, Representative JENKINS, of Wisconsin, who is opposed to anti-injunction legislation.

The Washington Post of May 22, 1908, published the following:

INJUNCTION BILLS DEAD—CONFERENCE OF REPUBLICANS ADJOURN WITHOUT ACTION—CANNON ATTACKS GOMPERS—SPEAKER OF HOUSE ASSAILS LABOR LEADER AT CONFERENCE—VOTE ON MOTION TO DISCONTINUE FURTHER CONSIDERATION OF THE LEGISLATION DEMANDED BY PRESIDENT ROOSEVELT WAS 75 TO 63.

There will be no legislation changing the injunction laws at this session of Congress. This was decided by the House Republican conference held last night for the purpose of thrashing out this matter. The conference after three hours' debate, adjourned sine die by a vote of 75 to 63, and, so far as the House is concerned, the matter is a dead issue for this session. It was admitted that such a measure would not meet with approval in the Senate at this time.

While the vote taken by the House Republicans amounted, in the final analysis, to a vote against any anti-injunction legislation at this session, it also showed the fact that no agreement could be reached upon any of the measures under consideration. A number of the members of the conference favored all of the bills, from the Hepburn measure to the Payne bill, but a sufficient number of them could not agree upon any one of these propositions.

During the debate the House Chamber was excessively hot, and Representative FASSETT, of New York, fainted from the effects of the heat. He was taken to the lobby and quickly resuscitated. He went back to the conference and stayed to the end.

FIRST VOTE TAKEN.

Three votes were necessary to reach an adjournment, and the first, taken early, upon a motion by Representative FASSETT, showed sixty-nine Members opposed to adjourning without deciding upon some measure, and sixty-eight in favor of an immediate adjournment.

Later, Representative TAWNEY, of Minnesota, moved a final decision be deferred until to-night. This was lost by a vote of sixty-four to sixty-two. The discussion was resumed, and, in the meantime, a hurry call was sent to absent Members. Representative SHERMAN then made the sine die motion, which was carried.

In the course of the conference Speaker CANNON made a severe attack on Samuel Gompers, president of the American Federation of Labor, one of the most ardent supporters of the bill. The argument of the opponents of the proposed legislation was that it was dangerous to the interests of the country.

Representatives TOWNSEND, of Michigan, and ESCH, of Wisconsin, talked in favor of anti-injunction legislation, as well as a number of others, but their effort proved in vain.

The failure of the conference to adopt an anti-injunction measure clears the way still more for an early adjournment of Congress. Had the Republicans decided upon such a measure and passed it through the House and a fight had been made on it in the Senate, considerable time would have been needed to finally dispose of it.

Mr. Speaker, from this record we may be justified in concluding that some in high official places have been attempting to

play politics with the laboring people. Strong and insistent utterances were indulged in in their behalf, and then, when favorable action could have been had, nothing was said by the President. So far as we know, he was silent when the Republicans were holding three separate caucuses to consider the advisability of passing such legislation; and when the Republican Members of the House of Representatives resolved not to pass any such legislation, although fifty-one Republican Members of the House agreed to support it, the President said nothing. It would seem that he either desired no action or else he preferred to have it fail rather than to have it passed by the cooperation of the Democratic Representatives with the fifty-one Republican Representatives who favored such legislation.

INJUNCTIONS AGAINST OPERATION OF STATE LAWS.

Mr. Speaker, I here insert in the RECORD the following excerpt from the proceedings of the National Association of Attorneys-General of the United States:

THE NATIONAL ASSOCIATION OF ATTORNEYS-GENERAL OF THE UNITED STATES.

On August 12, 1907, there was held in the city of St. Louis a meeting of the attorneys-general of Indiana, Ohio, Illinois, Kansas, Mississippi, Tennessee, Texas, and Missouri for the purpose of considering the advisability of calling a general convention of the attorneys-general of the United States for the discussion of questions of mutual interest, and to arrange for such measure of cooperation in litigation of public interest as might be advisable or practicable.

In accordance with the decision had at this meeting, a call was issued by Charles T. Cates, Jr., attorney-general of Tennessee; F. S. Jackson, attorney-general of Kansas; James Bingham, attorney-general of Indiana; Herbert S. Hadley, attorney-general of Missouri; R. V. Davidson, attorney-general of Texas; R. V. Fletcher, attorney-general of Mississippi; Wade H. Ellis, attorney-general of Ohio, and W. H. Stead, attorney-general of Illinois, for a meeting of the attorneys-general of the United States at St. Louis on September 30, 1907.

At this meeting there were present:

Alexander M. Garber, attorney-general, Alabama.
William H. Dickson, attorney-general, Colorado.
James Bingham, attorney-general, Indiana.
F. S. Jackson, attorney-general, Kansas.
Dana Malone, attorney-general, Massachusetts.
Edward T. Young, attorney-general, Minnesota.
R. V. Fletcher, attorney-general, Mississippi.
W. T. Thompson, attorney-general, Nebraska.
Wade H. Ellis, attorney-general, Ohio.
S. W. Clark, attorney-general, South Dakota.
R. V. Davidson, attorney-general, Texas.
Herbert S. Hadley, attorney-general, Missouri.
Russell Jackson, assistant attorney-general, Wisconsin.
J. T. Dempsey, assistant attorney-general, Illinois.
P. W. Dougherty, assistant attorney-general, South Dakota.
George T. Simpson, assistant attorney-general, Minnesota.
Jewel P. Lightfoot, assistant attorney-general, Texas.
James S. Dawson, assistant attorney-general, Kansas.
N. T. Gentry, assistant attorney-general, Missouri.
Rush C. Lake, assistant attorney-general, Missouri.

The attorneys-general of a number of other States signified that they were in sympathy with the object of the meeting, and expressed regret that prior engagements and press of official duties prevented their attendance.

The papers included in this publication were read and discussed, and are here published, in accordance with the direction of the association.

By unanimous vote it was decided to effect a permanent organization under the name of "The National Association of Attorneys-General of the United States," and the following officers were elected for the ensuing year:

President, Hon. Herbert S. Hadley, Missouri.
Vice-president, Hon. Dana Malone, Massachusetts.
Secretary and treasurer, Hon. William H. Dickson, Colorado.
The following members were selected by the president as the executive committee of the association:
Hon. R. V. Davidson, Texas.
Hon. F. S. Jackson, Kansas.
Hon. James Bingham, Indiana.

On motion of Attorney-General Davidson, of Texas, a committee was appointed to draft a scheme of antitrust legislation, in order that the same might be submitted to the attorneys-general of the several States, and by them recommended to the legislative departments for enactment. The committee selected was as follows:

Hon. R. V. Davidson, Texas.
Hon. Wade H. Ellis, Ohio.
Hon. F. S. Jackson, Kansas.
Hon. S. W. Clark, South Dakota.
Hon. R. V. Fletcher, Mississippi.

On motion of Attorney-General Edward T. Young, of Minnesota, a committee was appointed to submit a resolution expressive of the sense of those present as to the enactment of a law by Congress by which threatened conflicts between State and Federal authorities arising out of injunctions against the enforcement of State laws by United States circuit courts could be avoided. This committee, composed of Attorney-General Edward T. Young, Minnesota; Attorney-General Dana Malone, Massachusetts; Attorney-General A. M. Garber, Alabama; Attorney-General William T. Thompson, Nebraska; and Attorney-General Herbert S. Hadley, Missouri, submitted the following resolution, which was unanimously adopted:

"Resolved by the convention of attorneys-general of the several States here assembled, That we earnestly recommend to the favorable consideration of the President and the Congress of the United States the enactment of a Federal law providing that no circuit court of the United States or any judge exercising the powers of such circuit judge shall have the jurisdiction in any case brought to restrain any officer of a State or any administrative board of a State from instituting in a State court any suit or any other appropriate proceedings to enforce the laws of such State or to enforce any order made by such administrative board; but allowing any person or corporation asserting in any such action in a State court any right arising under the Constitution or any law of the United States to have the decision of the highest

court of the State reviewed by the Supreme Court of the United States, as now provided by law. We also recommend that suits in Federal courts instituted by persons interested in corporations to restrain such corporations from obeying the law of the State in which they are doing business be prohibited."

A motion was carried to the effect that the secretary of the association be notified by the members thereof of the institution of any anti-trust proceedings, in order that such information might be in turn furnished to any member of the association by the secretary.

The selection of the time and place for the holding of the next meeting of the association was referred to the officers and executive committee of the association, and while no definite action was taken in reference thereto, it was the expression of those present that the meeting be held in the month of August, 1908, in the city of Denver.

Mr. Speaker, on December 12, 1907, Mr. CLAYTON, of Alabama, introduced in the House the bill H. R. 7636, which is as follows:

A bill (H. R. 7636) to limit the authority of circuit and district courts and circuit and district judges in granting injunctions and restraining orders.

Be it enacted, etc., That hereafter it shall be unlawful for any circuit or district court of the United States or any circuit or district judge of the United States to issue any injunction or order prohibiting or restraining the execution of any State law in all cases except where final trial has been had and final judgment or final decree has been rendered declaring such State law to be in violation of the Constitution, laws, or treaties of the United States.

SEC. 2. That hereafter it shall be unlawful for any circuit or district court or any circuit or district judge of the United States to issue any injunction or restraining order prohibiting or restraining any State officers or any persons from executing any State law in all cases except where final trial has been had and final judgment or final decree has been rendered declaring such State law to be in violation of the Constitution, laws, or treaties of the United States.

The Senate passed the following bill (S. 3732), which was, on April 17, 1908 (Calendar day, April 18), referred in the House of Representatives to the Committee on the Judiciary:

An act (S. 3732) regulating injunctions and the practice of the district and circuit courts of the United States.

Be it enacted, etc., That no temporary or interlocutory injunction, or temporary restraining order, or decree suspending or restraining the enforcement, operation, or execution of any statute of any State by restraining the action of any officer of such State in the enforcement or execution of such statute shall be issued or granted by any circuit or district court of the United States or by any judge or justice thereof upon the ground of unconstitutionality of the statute, unless the application for the same shall be presented to a circuit judge and shall be heard and determined, upon issue made and proof taken by affidavit or otherwise, by three judges, of whom two shall be circuit judges, and the third may be either a circuit or a district judge, and unless a majority of said three judges shall concur in granting such application. Whenever such application, as aforesaid, is presented to a circuit judge he shall immediately call to his assistance, to hear and determine the application, one circuit judge and one district judge or another circuit judge. Said application shall not be heard and determined until five days' notice of the hearing has been given to the governor and attorney-general of the State and such other persons as may be defendants in the suit: *Provided*, That if a majority of said judges are of the opinion, at the time notice of said hearing is given as aforesaid, that irreparable loss and damage would result to the applicant unless a temporary restraining order, pending the period of the required notice, is granted, a majority of said judges may grant such order, but the same shall only remain in force until the hearing and determination of the application, upon due notice as aforesaid, has taken place. That an appeal may be taken directly to the Supreme Court of the United States from any order or decree granting or denying, after notice and hearing, a temporary or interlocutory injunction or restraining order in such case; and the hearing of such appeal shall take precedence over all other cases except those of a similar character and criminal cases.

Mr. Speaker, the far-reaching effect of the decision of the Supreme Court in what is known as the "Minnesota case" is so well understood by the public that comment here is scarcely necessary. In connection with the bills H. R. 7636 and S. 3732 I desire to submit the following letters:

OFFICE OF ATTORNEY-GENERAL,
Topeka, Kans., February 4, 1908.

DEAR SIR: Your letter of February 1, inclosing copy of House bill 7636, is received. I find on examination that it is in conformity with the resolution passed by the Association of Attorneys-General mentioned in your letter. I therefore give it my recommendation and sincerely hope that you may succeed in securing the passage of the law.

Very truly, yours,

F. S. JACKSON, Attorney-General.

HON. H. D. CLAYTON,
Washington, D. C.

OFFICE OF ATTORNEY-GENERAL,
Lincoln, Nebr., February 5, 1908.

HON. HENRY D. CLAYTON,
Washington, D. C.

DEAR SIR: Your letter of February 1 received, also copy of your bill limiting the jurisdiction of Federal courts in the matter of the issuance of temporary injunctions.

I have carefully examined your bill and am disposed to think it may be too sweeping to pass the Congress. If you would be unable to secure the passage of a measure of this character, it may be you could secure the passage of the bill so amended as to prevent Federal courts from granting temporary injunctions restraining the law officers of the States from commencing actions in State courts to enforce the provisions of State statutes.

To my mind the greatest infringement on rights of the States is that Federal courts have authority, or at least have assumed, to grant injunctions restraining prosecuting attorneys and attorneys-general from going into the courts of the States to enforce the statutes enacted by

the legislatures of the States and thereby effectively enjoin the States. By this method it seems to me the inhibition of the eleventh amendment to the Federal Constitution is circumvented.

Wishing you success in your undertaking, I am,
Very truly, yours,

W. T. THOMPSON,
Attorney-General.

STATE OF MISSOURI,
LEGAL DEPARTMENT,
Jefferson City, Mo., February 5, 1908.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: I beg to acknowledge receipt of your letter of February 1, inclosing copy of House bill No. 7636, with a request for my opinion concerning the same. I think that this bill if enacted into a law would tend to accomplish the result of carrying out the purpose and intent of the people of the United States in the adoption of the eleventh amendment. It was certainly never the intention of the people of that time that it should be within the power of a United States circuit court to suspend by injunction the operation of State laws. Such a situation would have been abhorrent to their ideas of State sovereignty. While I think it is within the power of Congress to enact a law denying the United States circuit courts jurisdiction to enjoin State officers from enforcing State laws, yet, as there is a difference of opinion among leading lawyers upon this question, I think that it is the most advisable course to secure the passage of your bill.

Very truly, yours,

HERBERT S. HADLEY.

OFFICE OF THE ATTORNEY-GENERAL,
Columbus, Ohio, February 5, 1908.

Hon. H. D. CLAYTON,
Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR SIR: I have given careful consideration to your letter of February 1, and also the bill you inclose, to limit the authority of the United States circuit and district courts and judges in granting injunctions and restraining orders. The bill seems to meet the complaint made by the attorneys-general. I did not personally take part, however, in the study of this question, having given attention to other subjects at the meeting of the attorneys-general, and I suggest that Attorney-General Young, of Minnesota, will be better prepared to discuss the questions involved.

Thanking you very much for the courtesy of your letter, I am,
Very truly, yours,

WADE H. ELLIS.

ATTORNEY-GENERAL'S OFFICE,
Jackson, Miss., February 5, 1908.

Hon. H. D. CLAYTON, M. C., Washington, D. C.

MY DEAR SIR: I have your valued favor of the 1st instant, in regard to a bill which you have introduced for the purpose of prohibiting Federal courts from interfering by injunction with the efforts of State officers to enforce State statutes. I have examined this measure with some care and give it my unqualified approval. In my judgment no more important measure could be enacted.

It was suggested at the session of the Association of Attorneys-General, in conference in St. Louis last summer, that a measure such as you have proposed would go far toward avoiding unfortunate conflicts constantly arising between the State and Federal judiciary.

I trust that you will be able to secure the passage of the bill.

Yours, very truly,

R. V. FLETCHER, Attorney-General.

OFFICE OF THE ATTORNEY-GENERAL,
St. Paul, Minn., February 5, 1908.

Hon. H. D. CLAYTON,
House of Representatives, Washington, D. C.

MY DEAR SIR: I am in receipt of your favor of February 1, inclosing copy of H. R. 7636, the same being a bill to limit the authority of circuit and district courts, and as soon as I can find time will write you more at length in relation thereto.

Yours, truly,

GEORGE T. SIMPSON.

OFFICE OF ATTORNEY-GENERAL,
Redfield, S. Dak., February 7, 1908.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: I have your favor of the 1st instant, inclosing copy of bill introduced by you, H. R. 7636. I am in entire sympathy with legislation of this character and, from a hasty consideration of the bill, it seems to me that it would be effective to accomplish the desired end. I hope that you may be successful in your effort. I have not talked this matter over with our Members of Congress, but I hope that they may give their approval to some measure of this character.

Yours, very truly,

S. W. CLARK.

OFFICE OF ATTORNEY-GENERAL,
Topeka, Kans., February 8, 1908.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: I am in receipt of your favor of February 1 inclosing a copy of H. R. 7636, being a bill to limit the authority of circuit and district courts and circuit and district judges in granting injunctions and restraining orders.

I beg to say that the purposes of this bill have my hearty indorsement. I have had no experience in preparing bills to be introduced or considered by the National Congress, but if this were a proposed act for the Kansas legislature, I would say that it was defective in this: That while the issuance of such injunctions is made unlawful, no punishment or penalty is prescribed for the violation of the provisions of the act. Of course, if this bill is enacted into law, it will be generally obeyed by the Federal judges, but for that matter the spirit of the eleventh amendment of the United States Constitution has been generally obeyed without this bill, and it is on account of the usurpations and lawless practices of certain Federal judges that such a bill as H. R. 7636 has become necessary, and, according to my line of rea-

soning, a Federal judge who will violate the spirit of the eleventh amendment by issuing an injunction against an attorney-general or a county attorney to restrain him from commencing a suit in the name of the State to enforce the State law, will not hesitate to violate H. R. 7636 when there are no penalties. I am not unaware that there is a general penalty of impeachment and removal from office for official misfeasance, but such a penalty is so remote and shadowy that it is not worthy of consideration.

I inclose you a clipping from the Kansas City Times, which covers part of the remarks which I had occasion to make in a public address some days ago.

I remain, sir, with sincere respect,
Yours, very truly,

JOHN S. DAWSON,
Assistant Attorney-General.

[Inclosure.]

One of the gravest and most regrettable situations has arisen in the last year or two where the hands of State officers have been stayed in the execution of State laws by judges of inferior Federal courts. A notable case, or series of cases, may be pointed out in Missouri, where the State legislature enacted a maximum freight-rate law three years ago and a Federal district judge of that State issued a "temporary" injunction against the State officers who were charged with its enforcement, and that was the end of the freight-rate law.

Somewhere it appears that the fathers of 1787 or the fathers of 1868 slipped a joker into the Federal Constitution which has just come to light and which clothes an inferior Federal judge with the veto power over State laws. It is no answer to say that the State laws are often unwise or unfair or unconstitutional. Of course they frequently are. Lawmakers are not constitutional lawyers. Let that be decided on the final submission of the case. Let such objections be made in the regular course of the particular case before the court, and there are no law books nor other sources of legal lore accessible to judges of the lowest Federal courts which are denied to the great and deservedly honored supreme courts of the several States.

Moreover, there is above these the Supreme Court of the United States where unconstitutional decrees may be corrected. I have neither opportunity nor wish nor talents to serve in the national Congress—I'd have a row with the Speaker before I was there forty-eight hours—but the seats of some who are there would sit just as firmly if they would examine with care and prayer and meditation whether or not the statutes made in pursuance of the fourteenth amendment have been given a construction which leaves free scope for the use and operation of the wise and necessary provisions of the eleventh amendment, which guarantee that a State shall not be sued without its consent.

I am aware that this subject is only serious at this time among those who have something to do with the enforcement of State laws, but we are going to hear more of it before long if the correction of corporate misdoings is not merely a passing fad. Suppose this legislature should pass a number of strong laws against foreign corporations doing business in Kansas and make it the duty of the attorney-general to enforce them. If the power of the Federal district court, or of any court, high or low, to enjoin the attorney-general from instituting suits to compel obedience to the law be conceded, how easily an attorney-general can shirk his duty. It would never be difficult to find some person who would make the affidavit necessary to secure a "temporary" injunction from a Federal court, and the attorney-general's ready excuse for non-performance of his duty would be, "I was ready and willing to enforce the law, but I was enjoined from doing it by the court."

If any court desires to continue in the esteem and affection of the people, the use of an injunction as a mere substitute for the veto power will be shunned and avoided.

DEPARTMENT OF THE ATTORNEY-GENERAL,
Boston, February 11, 1908.

H. D. CLAYTON, Esq.,
House of Representatives, Washington, D. C.

DEAR SIR: I have your letter in reference to H. R. 7636, a bill to limit the authority of circuit and district court judges, etc. I have not had time to carefully consider the whole bill, but think it merits the careful consideration of the Committee on the Judiciary. A committee was appointed by the attorneys-general of the United States at St. Louis in reference to the matter, from whom you will probably hear.

Very truly, yours,

DANA MALONE, Attorney-General.

OFFICE OF THE ATTORNEY-GENERAL,
St. Paul, February 17, 1908.

Hon. H. D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: I have your recent favor relating to H. R. 7636, introduced by you, relating to the jurisdiction of the district and circuit courts of the United States in cases where the enforcement of State laws is sought to be prevented.

I think your bill would fully cover all cases where the enforcement of a State law is involved, but as now worded it would not be broad enough, it seem to me, to cover the case of orders made by State railway commissions. Most of the injunction suits against State officers are brought to prevent the enforcement of orders made by administrative boards with reference to railroad rates. The fixing of rates by commissions is a far safer and more reasonable process than is the fixing of such rates by an act of the legislature. These boards, exercising delegated legislative powers, can make investigations and try the questions of fact, that ought to be determined in advance, as to the reasonableness of rates much more perfectly than can a legislative committee or the legislature itself. It seems to me, therefore, that when railroad rates are fixed by authority of the State through the instrumentality of a commission the order made by the commission fixing such rates ought to have the same protection as a State law, and the enforcement of such an order in the proper tribunals of the State ought not to be preventable by means of a Federal injunction any more than the enforcement of a statute. In all cases, so far as I know, such administrative orders can be enforced only by mandatory proceedings brought in the proper courts having general common-law jurisdiction, and in such proceedings the carrier may interpose its defense and have the question of the reasonableness of the rate tried as effectually and far more speedily than in the Federal courts.

In all such cases, if the rate is confiscatory, and for that reason in violation of the fourteenth amendment to the Federal Constitution, the carrier can always obtain relief by writ of error from the highest court of the State, and have the matter reviewed by the United States Supreme Court. This course of procedure is an ample protection, and

It would leave the administration of the order in the hands of the State tribunal until a decision should be rendered by the highest court of the State. This is the procedure pointed out in the case of *Fitts v. McGhee* (172 U. S.), and in many other cases decided by the Federal Supreme Court.

It would be a great step in the direction of restoring harmony between the two sovereignties, and would in no manner interfere with the rights of any carrier if your bill could be made to apply as well to the administrative orders that I have referred to as to cases arising under statute.

I have a case pending in the Federal Supreme Court—in which we hope to obtain a decision when the court resumes its sittings on the 24th—which involves the right of the Federal court to restrain a State officer from enforcing a State law.

I believe no greater benefit could be conferred on all of the great interests affected than to have such a measure as yours become a law.

Yours, truly,

E. T. YOUNG, Attorney-General.

DELL RAPIDS, S. DAK., February 17, 1908.

HON. HENRY D. CLAYTON,
Washington, D. C.

DEAR SIR: I received in due course your letter of the 1st instant inclosing House bill No. 7636, which has for its object the limiting of the jurisdiction of the United States circuit and district courts and circuit and district judges to issue temporary restraining orders and temporary injunctions against the execution of any State laws.

I assume that the object in sending this bill to the different attorneys-general throughout the United States is to obtain their opinion as to what a law of this kind should provide.

There are two methods of executing the laws of a State, one through the office of the attorney-general and another through administrative boards, such for instance as the board of railroad commissioners of the State of South Dakota. In the case of legislative rate bills such as were passed in Minnesota and Missouri, and, if I remember rightly, also in your State, this act, were it permitted to become a law, would render some assistance, but in those States where no legislative-rate bill has been passed and authority has been conferred upon administrative boards, such as our board of railroad commissioners, to make schedules of maximum rates for the transportation of both passengers and freight, there is nothing in this law which would prevent a United States court or a United States judge from enjoining the administrative board.

On the 20th day of last September, after a protracted hearing, the board of railroad commissioners of this State issued an order fixing the rate and fare of charges for the transportation of passengers within this State, including ordinary baggage not exceeding 150 pounds, at 2½ cents per passenger per mile. When the attorney-general and the writer returned from St. Louis, where we had been attending the convention of the attorneys-general of the United States on the 30th of September and the 1st day of October, we found in Sioux Falls a number of railroad attorneys preparing bills of complaint, temporary restraining orders, etc., in eight actions to enjoin the board of railroad commissioners and the attorney-general from putting into effect this 2½-cent rate. Now, it can not be said that the order of these administrative boards are State laws, and consequently the bill before me would not prevent a United States court or judge from enjoining the administrative board from putting into effect its schedules of passenger rates.

I am certainly in favor of permitting railroads and all corporations to have their day in court just the same as any other litigant, but I am unalterably opposed to the exercise of jurisdiction by United States courts in actions brought against State officers to enjoin such State officers from the performance of their duties under State laws. A great many of the States, and in fact all of the States, have administrative boards of one kind or another, with power to regulate common carriers and other public utilities. The members of these boards are State officers, and perform their duties under the law as they understand it should be performed, and I am unalterably opposed to the theory that a United States court has jurisdiction to enjoin such a board from the exercise of its discretion in the performance of its duty. I believe that all jurisdiction should be withdrawn from United States courts over suits in which State officers are made parties defendant for the purpose of enjoining them from putting into effect any of their orders. If the railroad companies or other owners of public utilities believe that the acts of the board are unconstitutional, and that their orders, if put into effect, will be confiscatory, then they have a complete remedy in the State courts. If the trial courts of the State find adversely to them they have a right to appeal then to the supreme court of the State, and if the supreme court of the State decide against them then they have a right to have the entire record reviewed by the highest court of the land, the Supreme Court of the United States.

The members of these administrative boards selected in the different States are selected by the people because they have confidence in their ability to serve all of the people, including the owners of public utilities, fearlessly and impartially. One of the reasons why nonresidents and foreign corporations do not wish to try cases involving property rights in the State courts is that in such actions they do not wish the decision to be influenced by local prejudice. Of course this argument can only have application to jury trials where the people in the immediate vicinity may be so prejudiced as to render it doubtful whether a nonresident can have a fair and impartial trial. In all of the cases, however, where the question is as to whether or not the orders of these administrative boards are confiscatory, and where injunctions are sought for the purpose of restraining State officers from the performance of their duties as they understand them under the statute, and from putting into effect orders and rates made by them, the trials are to the court and not to a jury, as they are all equity cases, and consequently the plea of local prejudice does not avail.

I hope that at no very distant day Congress will pass an act withdrawing from United States courts jurisdiction of all suits brought against State officers. There is no question whatever but that the judges of our State courts are just as fearless in the administration of justice as are the judges of the United States courts, and the exercise of jurisdiction by the United States courts and judges in these actions creates an unnecessary friction between the State and Federal governments.

I am firmly of the opinion that the regulation of public utilities under our present system can be better accomplished by withdrawing from the United States circuit and district courts and judges jurisdiction in this class of cases, and in writing this I do not mean or intend any reflection, even the slightest, upon our United States district judge, who is eminently able, honest, and fearless in the administration of justice.

Very respectfully,

P. W. DOUGHERTY,
Special Assistant Attorney-General.

Address of Edward T. Young, attorney-general of Minnesota, before the National Association of Attorneys-General, held at St. Louis, Mo., September 30 and October 1, 1907, on the subject of conflict between State and Federal courts.

In order to understand the jurisdiction of the State and Federal courts it will be necessary to examine the relation and character of the two sovereignties.

Our Government is unique and not easy to understand, because it is carried on under a dual instead of a single system. We have a Federal Government and State governments, each independent of the other, and each intended to be supreme in its sphere. The American States were evolved by natural growth directly from and were the legitimate and immediate successors of the English colonies. By what might be called a process of inheritance, the people of the several States succeeded to all of the powers exercised on this continent by the English Government prior to the severance of the tie between it and the colonies. Immediately after the Declaration of Independence the people of each colony formed a State government and endowed it with power to carry on all ordinary functions of government, through the instrumentality of a legislature, executive officers, and a system of courts having general common law and equity jurisdiction administered in accordance with the rules prevailing in the common law courts and the high court of chancery of England, respectively. The American States can, therefore, trace their governmental lineage back to the foundations of English civilization. But their environments, as well as their aspirations, made necessary a form of government which would enable the citizens of the several States to work out their destiny as one people.

There had been several attempts at federation between the colonies prior to the Revolution, and they had done much toward the accomplishment of their independence under the imperfect organization of the Continental Congress. In order to strengthen this unity during the Revolution the Articles of Confederation were prepared and adopted, but the government so formed was entirely inefficient for the reason that it lacked the power of self-maintenance and had neither courts nor executive officers to enforce its laws.

It was apparent that no Federal Government could successfully administer the affairs of a general character which were necessary to the public welfare unless it was endowed with exclusive power over such subjects, coupled with the power to raise the necessary revenues for its own maintenance and to enforce its mandates through its own tribunals. In order to form such a government it was necessary that the people should withdraw from their several States some of the powers theretofore delegated to them, and should redelegate those powers to the General Government. This alteration by the people of the fundamental form of their government was possible, because of the principle first established here, that the essence of sovereignty is in the people, and that the creation of government is merely the delegation of such of the powers of sovereignty as are necessary for the administration of public affairs. In American politics the people are omnipotent, and the organized government is merely the administrative agent of the people; it has only such powers as it receives by grant from the body politic, and has no original or inherent authority. Political equality is preserved by the joint tenancy of the people in the sovereignty. From that equality it follows that no individual can, as a matter of right, exercise any authority over anyone else. Authority can only be acquired officially, as a trust, or, in other words, only by the consent of the governed.

In American political philosophy the feudal idea of hereditary inequalities which runs through the jurisprudence of England, as well as the favorite doctrine of Sir William Blackstone, that there can be no government without a superior, was entirely repudiated.

The framers of the Federal Constitution no doubt fully realized the delicacy of the undertaking and the dangers of conflict between the States and the new Federal sovereignty. It was apparent that in each State both governments, with the two sets of tribunals necessary for making, construing, and executing these laws, should operate at the same time upon the same persons and property. But with the States already in existence the task of the fathers was to form a National Government without destroying the States.

In framing the Federal Government under these circumstances, it was necessary to enumerate in the Constitution the powers granted to it, and to prohibit the exercise of those powers by the States. The powers not granted by the Federal Constitution were to remain in the States as before. This purpose was afterwards formally stated in the tenth amendment in these words:

"The powers not delegated to the United States by the Constitution, or prohibited by it to the States, are reserved to the States respectively, or to the people."

There is a marked difference in character between the Federal Constitution and the constitutions of the respective States. When the original States were organized it was the understanding of the people that the Government so brought into being possessed all the powers of a nation except such as might be expressly withheld by the people. These powers were so numerous as to be incapable of enumeration, and they were not attempted to be enumerated in any of the State constitutions, but the powers withheld were stated. The State constitutions were in a sense intended as limitations on the otherwise unrestricted delegation of power—while the Federal Constitution was an affirmative grant of enumerated powers.

It is clear that at the time of the formation of the Government the people could bestow on each sovereignty such powers as it saw fit. The people may also at any time by constitutional amendment readjust any of the powers so granted by transferring them from one sovereignty to the other, so as better to equip their Government for the accomplishment of its purposes. The people intended that the two sovereignties, of which our system is so composed, should, together, constitute one complete Government; and if authority to deal with any situation or subject of governmental cognizance can not be found in the sovereignty whose powers are enumerated, it necessarily exists in the other sovereignty which possesses all unenumerated powers.

Under this system the citizens of each State are also citizens of the nation. The Federal Constitution and laws are the laws of each State on the subject to which they relate. The powers possessed by each sovereignty are distinct from those possessed by the other, and neither is intended to be clothed with any authority over the other. Each occupies an exclusive field and is supreme within its sphere, and if the functions assigned to either government are not performed by it, they can not be performed by the other.

It is provided in Article VI of the Federal Constitution that that instrument, and the laws and treaties of the United States made in pursuance thereof, shall be the supreme law of the land. This provision does not mean that the Federal Government was intended to have any authority over the States. It only amounts to saying that within

its sphere the Federal power is exclusive, and that no law or constitution of a State shall have any validity in the domain assigned to the Federal Government.

The converse of this is also true. No act of Congress is valid if in excess of the powers granted in the Federal Constitution.

The States started in their governmental career with the common law as their rich and exclusive heritage; the Federal Government, being an artificial creation, started with only the Constitution. Although the main body of the rights of the people of this country rest upon and are governed by English common-law principles, there is no common law of the United States. When we speak of the common law we refer to the law of the States as it has been adopted by statute or recognized by the courts as the foundation of legal rights.

No part of the police power of the States was surrendered when the nation was formed, and the Federal Government has no police power except where its jurisdiction is exclusive, as in the District of Columbia.

It is very properly provided that the Federal Supreme Court shall have the right to construe the Federal Constitution and to determine the boundaries of Federal authority whenever the question arises, and the determination of that boundary fixes the validity or invalidity of the Federal or State laws that may be involved. Within the limits of its authority, however, the government of each State is also supreme and exclusive. Within the borders of the State its law, statute and common, relating to domestic affairs is the supreme law of the land.

This extended reference to their origin and relationship is given in order to show the completeness and independence of each sovereignty and how necessary it is for each to keep within its own orbit and not interfere with the other. The structure and powers of the Federal courts are provided for in the third article of the Federal Constitution, which, so far as here material, is as follows:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. * * *

"The judicial powers shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and * * * to controversies between citizens of different States."

It will be noted that the Supreme Court is the only one whose existence and jurisdiction are provided for by the Constitution; all other Federal courts are created, and their jurisdiction is prescribed—and may be changed—by Congress.

Under the judiciary act of 1789 Congress created the circuit courts of the United States, and, among other things, conferred upon them original jurisdiction over actions at law or in equity "arising under the Constitution or laws of the United States" and over controversies "between citizens of different States," whether the cause of action arose under Federal or State laws, in cases, as the law now stands, and where the amount in controversy exceeds \$2,000.

It is out of the foregoing two branches of jurisdiction conferred on the Federal circuit courts by Congress that most of the friction between State and Federal authority has arisen, and in most cases it has been with reference to the control of commerce or where a foreign corporation was a party. It will be noted that by the second subdivision above the Federal circuit courts were given a jurisdiction in the administration of State laws coordinate with, but independent of, the State courts, where the specified jurisdictional amount is in controversy and the citizenship is diverse, with this single limitation, that in the trial of such common law actions the statutes of the State shall be made the rule of decision where they apply. This jurisdiction was given under what I believe to be a mistaken notion that in cases where a nonresident of a State was a party the State courts would be so swayed by local prejudice as not to do justice. If in the early days any ground for such a belief existed it has long ago disappeared. The high character of the judiciary in the several States at the present time assures every suitor a fair and impartial trial, regardless of his place of residence, and it would seem that a tribunal which has exclusive jurisdiction of cases arising under the law of this State involving less than \$2,000 ought not to be held disqualified by local prejudice where the case involves more than \$2,000.

This branch of Federal jurisdiction has incited much bitterness between individuals and corporations, and in many States statutes have been enacted attempting to impose heavy penalties and forfeitures on foreign corporations for instituting suits in the Federal courts. The chief trouble under this provision arose when the Federal Supreme Court extended its application beyond its literal terms and held that corporations of other States were within the reason of the rule creating a tribunal that would presumably be above local influence, and that they should have the same privilege as citizens of the State of their creation. The court had held, in *Paul v. Virginia*, 8 Wall., 168, that under Article IV, section 2, of the Constitution, a corporation was not a citizen; but under the judiciary act, in order to give corporations the privilege of suing in Federal courts and having suits brought against them by individuals removed to such courts, it was held, after evolving the doctrine by degrees, that there is an indisputable presumption that a State corporation is composed of citizens of the State which created it—and this without regard to whether a single one of the incorporators live in such State—and that it should be endowed in its corporate name with the right to sue in a Federal court as the aggregate of the citizens composing it. By reason of this rule it is the common practice of large corporations in all cases where the amount involved permits it to ignore the State courts and resort to the Federal courts for the trial of cases in which they are interested, and as a result of this practice, on account of the remoteness and the expense of reaching and producing his witnesses before such court, the private citizen considers he is at a disadvantage in his own State by being deprived of the privilege of having his rights passed upon by its tribunals.

There has been much recent conflict under the other branch of this jurisdiction arising out of the regulation of public-service corporations by States. The States prescribe these regulations under their police powers, and, as a rule, the corporations resist such regulations under the fourteenth amendment. There have been so many actions of a strikingly similar character commenced in various States recently as to indicate united action by the public-service corporations to cripple the power of the States, and the most striking feature of the contest is that so many of the Federal circuit courts have, at least temporarily, assumed an attitude hostile to the enforcement of these State laws. I do not want to be understood as reflecting on the Federal courts. The eminent members of the Supreme Court of the United States and the great majority of the judges of the inferior Federal courts are men of the highest character. Their official fidelity to the Constitution and the highest national ideals has given both dignity and stability to our institutions. But in some of the rulings recently made with reference to the power of Federal courts over the officers of States by some of the inferior Federal judges, there seems to have been not

only a departure from the line of decisions of the highest court, but an apparent unwillingness to recognize the true relations between the State and Federal sovereignties. They seem especially to forget or ignore the eleventh amendment, which forbids the institution of a suit against a State in any court.

Before referring to the nonsuability of a State I want to call attention for a moment to the fourteenth amendment, which prohibits the States from denying to any person within their jurisdiction the equal protection of the law, or taking from any person life, liberty, or property without due process of law. The corporations seem to assume that in this amendment they have found a weapon with which to successfully combat all regulatory laws passed by States. They ignore the fact that the constitutions of the various States contain the same prohibition against depriving any person of life, liberty, or property without due process of law. That provision in the fourteenth amendment is cumulative, so far as the State courts are concerned. The prohibitions of both constitutions are binding on the State; it is as much the duty of the State courts to uphold the Constitution of the United States as that of the State.

The Supreme Court of the United States has held that the question of whether a State law violates the State constitution is exclusively for the supreme court of the State; but that if the question of conflict between such a law and the Federal Constitution arises, while the State court is competent to consider and decide it, its decision is to that extent subject to review by the Federal Supreme Court. Following this reasonable rule, it will be seen that the only legitimate effect of the adoption of the fourteenth amendment was to confer on the Federal Supreme Court the power to review the decisions of the several State supreme courts, when the question of whether the State law operated unequally or whether the State procedure amounted to due process of law was raised.

In *re Kemmler* (136 U. S., 436) the Federal Supreme Court repudiates the idea that any control over the States or any neutralization of their police powers was intended by this amendment. The court says:

"The fourteenth amendment did not radically change the whole theory of the relations of the State and Federal governments to each other and both governments to the people. * * * Protection of life, liberty, and property rests primarily with the States; the amendment furnishes an additional guaranty against any encroachment by the States upon those fundamental rights which belong to citizenship, which the States' governments were created to secure."

The statement in the foregoing opinion that "protection of life, liberty, and property rests primarily with the States" emphasizes the obvious incorrectness and danger of the practice which permits a corporation or an individual to go into a Federal circuit court and procure an injunction suspending the operation of a State law, relating to life, liberty, or property, in advance of any finding that it is void, on the mere assertion that it does not operate equally or afford in its enforcement due process of law. All laws relating to life, liberty, or the regulation of property arise out of the exercise of the police power; and if an interested party is to be allowed to suspend a rate law in advance of a trial and finding of its invalidity, then an interested party may also by Federal injunction procure the suspension of a law prescribing punishment for murder or any other crime.

By the continuance of this practice the primary power to protect life and liberty and to regulate the use of property would be denied to the States, which in effect means that the power would be destroyed altogether, because there is nowhere any provision for the primary exercise of power over these subjects by the Federal authorities. Outside of the fourteenth amendment the power to suspend the operation of State laws by Federal courts has never been claimed.

In the foregoing opinion the Supreme Court says that the original relations of the State and Federal governments were not changed by that amendment; it therefore follows that the practice is wholly unjustifiable.

There is a strong presumption of verity and constitutionality due to the enactment of a sovereign government. It can not legitimately be claimed that such presumption is overcome by the mere assertion of a private complainant who seeks its suspension. Even if a State could be sued, such a course would be unwarranted. The only justifiable practice, consistent with the dignity of the State as an independent government and the safety of the people who must look to that government for the protection of most of their rights, is to require questions affecting the validity of State laws to be first passed upon by the State courts. If they are declared valid by the highest court of the State, the question of their validity under the Federal Constitution can then be taken for review to the Federal Supreme Court.

In the case of *Fitts v. McGhee* (172 U. S., 516), where an action was brought in a Federal circuit court to restrain the enforcement of a State law claimed to be void under the fourteenth amendment, the court, in refusing to entertain the action until the matter had been passed upon by the State court, said:

"Under the view we take of the question, the citizen is not without an effective remedy when proceeded against under a legislative enactment, void for repugnancy to the supreme law of the land; for whatever the form of the proceeding against him, he can make his defense on the ground that the statute is unconstitutional and void. And that question can be ultimately brought to this court for final determination."

But the audacity of such practice is apparent when we consider the terms of the eleventh amendment, to which I now invite attention.

THE ELEVENTH AMENDMENT.

It is a matter of familiar history that in the convention which framed the Constitution, when the clause was under consideration defining the extent of the judicial power of the United States, the question was raised and discussed as to whether or not a suit might be brought by an individual against a State. It was at that time contended with great vigor by Alexander Hamilton and other patriotic scholars, who were members of the Convention, that in the nature of things a State was, under the rules of the common law, exempt from suit by virtue of its sovereignty. According to the universal practice of mankind, the rule had been established that the sovereign might be petitioned but not sued.

But the first constitutional question coming before the Supreme Court of the United States was a suit commenced in that court by Alexander Chisholm against the State of Georgia, reported in 2 Dal., 219; the chief controversy was the suability of the State. After careful consideration the court held that it had jurisdiction and that the suit might be maintained, although the dissenting opinion of Justice Iredell in that case was one of the most vigorous in the history of the court. That decision caused such a shock of surprise throughout the country that on the very next day the eleventh amendment was proposed, providing that the judicial power of the United States should not be construed to extend to any suit in law or equity prose-

cuted against a State by a citizen of any other State or foreign country. The amendment was publicly proclaimed to be intended to reverse the decision of the Supreme Court in the *Chisholm* case and was duly adopted with that understanding. In deference thereto that eminent court, immediately after its adoption, ordered dismissed all cases then pending against the various States. Soon after the adoption of that amendment it was held by Mr. Chief Justice Marshall that a State was exempt from suit only when it was a party of record. That doctrine, however, soon gave way to the more rational one that a suit was not maintainable against the officers of a State when it was plain that they were made parties solely in their official capacity to prevent the performance of official duties constitutionally imposed on them, where it appeared that the State was the one upon whom the judgment would effectually operate.

Notwithstanding the clearness of the language of the eleventh amendment and the avowed purpose of its adoption, there has grown up in the Federal decisions a differentiation between different classes of State officers, until the doctrine seems to be now well established that where a common carrier claims that a schedule of rates prescribed by a railway commission of any State is obnoxious to the fourteenth amendment, a suit may be maintained in equity against such administrative board to try the question of their reasonableness, even though in prescribing the rates in controversy they acted solely as officers of the State. The theory upon which such a board is held to be suable is that its duties are ministerial instead of discretionary.

But the railroad companies have for many years been industriously endeavoring to still further limit the operation of the eleventh amendment and to exalt the fourteenth. They are especially anxious to secure a construction which will permit the bringing of a suit against the attorney-general of a State to prevent him from instituting actions in the local courts in the State's name and for its benefit, for the enforcement of its laws, or the enforcement of orders made by such administrative boards whenever it is claimed by the plaintiff that such law is obnoxious to the fourteenth amendment. While, as I have heretofore stated, some of the inferior Federal courts have asserted and have attempted to exercise such jurisdiction in some of the States by restraining the Attorney-General from performing his official duties, the decisions of the Supreme Court of the United States do not warrant such assumed jurisdiction, but, on the contrary, that court has repeatedly denied its existence.

Perhaps the controlling case on this subject is that entitled in re *Ayers* (123 U. S., 448), which arose in the State of Virginia under a statute making it the duty of the attorney-general to commence proceedings for the recovery of taxes for the payment of which the parties holding certain outstanding bonds had been authorized by a prior law to tender the interest coupons. The coupons had been tendered and refused. In the attempt which was made to restrain the attorney-general, a temporary injunction was issued prohibiting him from prosecuting the suits referred to. He disobeyed this injunction and was fined for contempt by the court, whereupon he sued out a writ of habeas corpus from the Federal Supreme Court, and that court, in a very exhaustive opinion, decided that the proceedings in which the injunction was issued were void for want of jurisdiction, and that, therefore, the contempt proceedings for its violation were equally void. The court *inter alia*, said:

"It follows, therefore, in the present case that the personal act of the petitioners sought to be restrained, * * * reduced to the mere bringing of an action in the name of and for the State against taxpayers, who, although they may have tendered the tax-receivable coupons, are charged as delinquents, can not be alleged against them as an individual act in violation of any legal or contract rights of such taxpayers."

"The relief sought is against the defendants not in their individual but in their representative capacity, as officers of the State."

"The acts sought to be restrained are the bringing of suits by the State, * * * in its own name and for its own use. If the State had been made a defendant to this bill by name charged according to the allegations it now contains—supposing that such a suit could be maintained, it would have been subject to the jurisdiction of the court by process served upon its governor and attorney-general according to the precedents in such cases. * * * If a decree could have been rendered enjoining the State from bringing suits against its taxpayers, it would have operated upon the State only through the officers who, by law, were required to represent it in bringing such suits, viz., the present defendants, its attorney-general and the Commonwealth's attorneys for the several counties. * * * The nature of the case as supposed, is identical with that of the case as actually presented in the bill, with a single exception that the State is not named as a defendant. How else can a State be forbidden by judicial process to bring actions in its name, except by constraining the conduct of its officers, its attorneys, and its agents? And if all such officers, attorneys, and agents are personally subjected to the process of the court, so as to forbid their acting in its behalf, how can it be said that the State itself is not subjected to the jurisdiction of the court as an actual and real defendant?"

"The very object and purpose of the eleventh amendment were to prevent the indignity of subjecting a State to the coercive process of judicial tribunals at the instance of private parties. It is thought to be neither becoming nor convenient that the several States of the Union, invested with that large residuum of sovereignty which had not been delegated to the United States, should be summoned as defendants to answer the complaints of private persons, * * * or that the course of their public officers should be subject to and controlled by the mandates of judicial tribunals without their consent and in favor of individual interests."

The doctrine so clearly promulgated in the *Ayers* case seemed to be somewhat departed from in the well-known case of *Smyth v. Ames* (169 U. S.), known as the "Nebraska freight rate case." In that case a suit was brought to restrain the transportation board from enforcing a schedule of rates prescribed by the legislature, and which it was the special duty of the board of transportation to enforce. The attorney-general of that State was a member of said board, and under the rule which applied to suits maintained against such administrative boards, he was included, not as attorney-general, but as a member of the board.

The apparent departure in the *Ames* case from the rule was explained by Mr. Justice Harlan in the subsequent case of *Fitts v. McGhee* (172 U. S., 516), which involved a schedule of rates prescribed for a toll bridge in the State of Alabama, and in which it was sought to restrain the attorney-general from bringing civil or criminal actions for the purpose of enforcing the penalties therein provided. In the latter case, the court, after reviewing all the authorities, distinguished the *Ames* case by calling attention to the fact that the particular duties of the attorney-general which were enjoined were ministerial, because he was a member of the transportation board, specially charged with the enforcement of the law, and that it was not intended in that case to hold

that under any circumstances a governor or attorney-general of a State may be prevented by injunction from performing his discretionary duties. On this subject the court said:

"Upon examination it will be found that the defendants in each of those cases were officers of the State specially charged with the execution of a State enactment alleged to be unconstitutional, but under the authority of which it was averred they were committing, or were about to commit, some specific wrong or trespass, to the injury of the plaintiffs' rights. There is a wide difference between a suit against individuals holding official positions under a State to prevent them, under the sanction of an unconstitutional statute, from committing by some positive act a wrong or trespass and a suit against officers of a State merely to test the constitutionality of a State statute in the enforcement of which those officers will act only by formal judicial proceedings in the courts of the State. In the present case, as we have said, neither of the State officers named held any special relation to the particular statute alleged to be unconstitutional. They were not expressly directed to see to its enforcement. If, because they were law officers of the State, a case could be made for the purpose of testing the constitutionality of the statute by an injunction suit brought against them, then the constitutionality of every act passed by the legislature could be tested by a suit against the governor and the attorney-general, based upon the theory that the former, as the executive of the State, was, in a general sense, charged with the execution of all its laws, and the latter, as attorney-general, might represent the State in litigation involving the enforcement of its statutes. That would be a very convenient way for obtaining a speedy judicial determination of questions of constitutional law which may be raised by individuals, but it is a mode which can not be applied to the States of the Union consistently with the fundamental principle that they can not, without their assent, be brought into any court at the suit of private persons. If their officers commit acts of trespass or wrong to the citizens, they may be individually proceeded against for such trespasses or wrong. Under the view we take of the question, the citizen is not without effective remedy when proceeded against under a legislative enactment void for repugnancy to the supreme law of the land, for, whatever the form of proceeding against him, he can make his defense upon the ground that the statute is unconstitutional and void. And that question can be ultimately brought to this court for final determination."

The question came again before the Supreme Court in the case of *Prout v. Starr* (188 U. S.), which was a proceeding ancillary to the case of *Smith v. Ames*, being an attempt on the part of a succeeding attorney-general, after the decision in the *Ames* case, to reopen the same issues and to enforce the terms of the law which in the *Ames* case had been declared unconstitutional. In the latter case an injunction was issued against the attorney-general, and was sustained in accordance with the well-known rule that the Federal court, having rendered a decree in a case over which it has jurisdiction, will, in support of its decree, prevent by injunction the reopening of the same issues in a subsequent case.

A case similar to that of *Prout v. Starr* is *Gunter v. A. C. L. R. Co.* (200 U. S., 273). In the latter case the court states that by exercising its power for the protection of its former decree, it did not intend to overrule or trench upon the doctrine of the *Ayers* case or *Fitts v. McGhee*.

The immunity of the Attorney-General from suit under the eleventh amendment was reaffirmed in the case of *Cotting v. Goddard* (183 U. S., 79).

One of the most instructive discussions of the subject in an inferior Federal court is found in the recent decision by Judge Trieber, in the circuit court for the eastern district of Arkansas, in the case of *Western Union Telegraph Company v. Andrews*, reported August 22, 1907. An injunction was sought in that case against the district attorneys, who represented the State in the several districts into which the State is divided, to prevent the enforcement of the State law relating to foreign corporations, which the company claimed was void under the fourteenth amendment.

The court said:

"Is this an action against the State within the prohibition of the eleventh amendment of the Constitution? Counsel for both parties have cited numerous cases to sustain their respective contentions. A careful examination of those cases shows that the supposed conflicting views of the Supreme Court of the United States, as well as those of the national courts inferior to that tribunal, are not real, and that, considering carefully the facts in each case, there is little trouble in reconciling these supposed divergent views, and arriving at a correct conclusion as to what is now the settled law as declared by the Supreme Court of the United States. * * *

"A careful examination of the many authorities on this subject leads to the following conclusions as to when an action is against the State or not such a suit within the meaning of the eleventh amendment of the national constitution.

"No suit can be maintained in the courts of the United States against the officers of a State when the State, though not named in the pleadings, is the real party against which the relief is asked, and the judgment will operate."

"A proceeding against officers of a State merely to test the constitutionality of a State statute, in the enforcement of which the officers will act only by formal judicial proceedings in the courts of the State as attorneys for the State, is, in effect, a suit against the State. The allegations in the bill show that this is an attempt to prevent the State of Arkansas, through its officers, who, by its laws, are merely its attorneys to represent it in all legal actions in its favor, or in which it is interested, from instituting and prosecuting suits for recovery of penalties incurred for alleged violations of its laws, actions which can only be instituted in the name of the State and for its use and benefit."

"To hold that a court may assume jurisdiction of an action against the attorneys of a party and enjoin them from instituting suits for their client, when it is expressly prohibited from exercising such jurisdiction against the client, would be, to say the least, novel. In fact, how can a court of equity proceed against an attorney affecting the right of his client without having the client before it as a party to the suit?"

One of the chief objects of the public service corporations in endeavoring to emasculate the eleventh amendment and to bring actions in the Federal circuit courts to enjoin the enforcement of State rates, is to secure the advantage of suspending the operation of such rates pending the litigation.

Every student of the subject realizes the futility of public regulation unless, after there has been a hearing and determination of the reasonableness of a rate by the proper board or commission, such a rate shall be put into effect and remain in operation until it is found to be confiscatory by the proper decision of a court, after trial.

In a proper sense the question that is involved when the propriety of a railroad rate is taken into court, is the question of its constitutionality. The rate-making power must not make rates so low as to deprive the property devoted to the public service of the equal protection of the law. Rate making is legislative in its character, whether undertaken by a commission or by the legislature itself, and does not become judicial when the question of the reasonableness of rates is taken into court. The only question the court can consider is whether the rates are confiscatory, and if they are, it must hold that the legislative authority was exceeded in prescribing them, and it must either uphold or condemn the rates accordingly.

The court can not prescribe any other rate to take the place of the one found to be confiscatory. Mr. Justice Brewer, in the *Reagan* case (154 U. S.), put the matter tersely when he said that when a court finds a rate to be confiscatory it has no more right to prescribe another rate to take its place than it has when a law is found to be unconstitutional, to enact an unobjectionable law in its stead.

Inasmuch as rates can be regulated much more fairly and intelligently by a commission than by the legislature, the final orders of such commissions ought to stand on the same level as State laws, so far as immunity from restraining their enforcement is concerned. The distinction which has been made in the Federal decisions between State officers composing such administrative boards, and the general executive officers of a State, so far as immunity from suit under the eleventh amendment is concerned, has no real foundation. Every State officer while performing his official duties comes within the meaning of the rule, making a State immune from suit; if any State officer can be enjoined, then the conduct of the State government is to that extent interfered with.

There can be no danger of injustice resulting to any carrier if the right to suspend the taking effect of such rates by Federal injunction is taken away, because such orders can only be enforced by mandatory proceedings in the courts of the State, where all the rights of the carrier can be protected. If the hands of the State can be tied with reference to such orders by Federal injunctions, thus not only suspending the operation of the orders, but prohibiting the institution of proper proceedings for their enforcement in the local courts, the State governments are hopelessly handicapped and the rights of the public are completely subordinated to the private rights of the carriers.

Such practice offers a premium upon dilatory suits by railroad companies; delay is greatly to their advantage, as they enjoy the benefit of old rates while they are contesting the new. This is especially true in view of the insidious practice which has recently been adopted of having these injunction proceedings instituted by stockholders, instead of by the corporations themselves. In such cases the corporations, as well as the State officers sought to be restrained, are joined as defendants, and an injunction obtained prohibiting the corporation from obeying the law, as well as prohibiting the State officers from enforcing it. This makes the proceedings a two-edged sword; it suspends the rate pending the suit, and protects the corporation from all punishment if the injunction suit is unsuccessful, and the rates are found to be valid, because it is thought that the command of the Federal court to the corporation to disobey the law or order will be a sufficient justification of its disobedience to protect it and its officers from criminal proceedings or from penalties or forfeitures which may be prescribed as punishment for the violation. This form of procedure, therefore, places corporations, in a large measure, above the law and clothes them with immunities and privileges not enjoyed by individuals. If an individual disobeys the law of a State, he does so at his peril. If there are penalties prescribed for its violation, he takes his chances of having them imposed. He can not go into court and procure an injunction prohibiting himself from obeying the law he desires to violate, as it seems corporations can. This form of action is disapproved by the Federal Supreme Court in the case of *Corbus v. Gold Mining Company* (187 U. S., 455), but the ninety-fourth rule in equity seems to have been framed to encourage such actions. It is clear that, unless this palpable debasement of State government by the abuse and misapplication of the forms of law is ended, respect for the courts will be lost.

No private suitor can claim that he is deprived of the guarantees afforded by the fourteenth amendment so long as he has the ultimate right, whatever the form of proceeding that may be brought against him, of having his case finally reviewed by the Federal Supreme Court. On the other hand, it is plain on its face that the efficiency of a State government is not only impaired, but in a large measure destroyed by the practice of taking the administration of its laws entirely out of its hands and suspending their operation at the demand of private parties, till their validity is tested in a foreign jurisdiction.

There is no question now before the American people which overshadows this in importance. The validity of particular laws is of only local importance, but the question of the right of the States to perform their governmental functions without Federal interference goes to the very foundation of the social compact. There seems to be no doubt but that the Supreme Court of the United States will adhere to its uniform ruling that under the eleventh amendment actions can not be maintained to enjoin the attorney-general of a State from performing his constitutional duties, by private suitors, but action must be taken to relieve the members of administrative boards from such suits also.

There is no demand for any enlargement of the powers of the States, but it seems to me the demand of the hour is that they be permitted to exercise the powers they now have.

There seems to be but one simple and effective remedy for existing evils in this unwarranted clash of authority, and that is by changing the law under which the abuse has grown up. Both governments should be left in a position to exercise to the fullest extent all the powers vested in them by the people. This can be accomplished and the existing friction removed by an amendment to the judiciary act withdrawing from the Federal circuit courts jurisdiction over controversies arising between State officers and private parties, under what might be called the negative side of the Federal Constitution—the portion which limits the powers of the States—leaving that branch of jurisdiction, which is supervisory and conservative rather than remedial in its nature, to be exercised only by the Federal Supreme Court in reviewing the decisions of the highest courts of the States on such subjects. Only by this course can the primary powers of the States over the fundamental rights of the citizen be preserved and the harmony between the two sovereignties, which is necessary to the continued existence of our dual system of government, be maintained.

Mr. Speaker, in what is generally called the "Minnesota case," the United States circuit court adjudged the attorney-general in contempt, and he applied to the Supreme Court of the United States for a writ of habeas corpus. The issue upon that

hearing was whether the State of Minnesota, which admittedly was beyond the jurisdiction of the United States circuit court, and could not be directly proceeded against in any manner in the Federal court, could be indirectly affected with the same result brought about through restraining its attorney-general, through whom only could suit in its own courts be instituted to enforce the provisions of the State laws. The suit seemed to be a direct and glaring invasion of the rights of the States to proceed in its own courts to regulate a corporation doing business within its borders, which its legislative branch had determined required such regulation.

It is not my purpose to criticize the conclusions of the court. Proper respect for the highest judicial tribunal of any land, coupled with observance of the fact that this Republic is essentially a Government of law, forbids that; but I earnestly commend the forceful utterances of Mr. Justice Harlan, not the least eminent of that body, to the thoughtful consideration of every citizen who loves liberty and justice more than expediency.

Of course no one will contend that any corporation ought not to have its fair day in court. The rights of the railway company in this case would have been fully secured by the trial of the case in the State court or by appeal from the court of last resort in the State to the Supreme Court of the United States.

Sometimes the dissenting opinion of a great judge, noted for his broad-minded treatment of subjects affecting the national life, is valuable for the opportunity it affords the people to view how the tendencies of the times are taking us further and further away from the landmarks of the fathers, especially the constitutional reservation to the States of all the powers not granted away from them by the adoption of the Federal Constitution. As an example, I beg to quote the dissenting opinion of Mr. Justice Harlan, in *ex parte* Edward T. Young, the "Minnesota case," decided at the October term of the Supreme Court of the United States, under date of March 23, 1908.

Mr. Young was attorney-general of the State of Minnesota, and in his official capacity as such attorney-general, for and in the name of the State, had filed a petition for an alternative writ of mandamus in one of the courts of the State and obtained an order from that court September 24, 1907, directing the writ to issue as prayed for against the defendant named—the Northern Pacific Railway Company.

This was one day after a citizen of Iowa and Minnesota, stockholders in said railway company, had obtained an order from the circuit court of the United States for the district of Minnesota temporarily restraining the railway company from publishing certain rates, and from reducing its tariff to the figures set forth in a law of Minnesota, and restrained the attorney-general from taking any steps against the railroads to enforce the remedies or penalties specified in the State law.

In this suit it was sought to shut out the State of Minnesota from proceeding in its own courts to carry out its own laws, which Mr. Justice Harlan says could not be done indirectly by restraining the only officials of the State having the power and authority and whose duty it was to execute its laws. His dissent is as follows:

Ex parte: In the matter of Edward T. Young, petitioner. Petitions for writs of habeas corpus and certiorari and motion for leave to file same. March 23, 1908. Mr. Justice Harlan dissenting.

Although the history of this litigation is set forth in the opinion of the court, I deem it appropriate to restate the principal facts of the case in direct connection with my examination of the question upon which the decision turns. The question is whether the suit in the circuit court of the United States was, as to the relief sought against the attorney-general of Minnesota, forbidden by the eleventh amendment of the Constitution of the United States, declaring that "the judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State." That examination, I may say at the outset, is entered upon with no little embarrassment, in view of the fact that the views expressed by me are not shared by my brethren. I may also frankly admit embarrassment arising from certain views stated in dissenting opinions heretofore delivered by me which did not, at the time, meet the approval of my brethren, and which I do not now myself entertain. What I shall say in this opinion will be in substantial accord with what the court has heretofore decided, while the opinion of the court departs, as I think, from principles previously announced by it upon full consideration. I propose to adhere to former decisions of the court, whatever may have been once my opinion as to certain aspects of this general question.

The plaintiffs in the suit referred to, Perkins and Shepard, were shareholders of the Northern Pacific Railway Company and citizens, respectively, of Iowa and Minnesota. The defendants were the railway company, Edward T. Young, attorney-general of Minnesota; the several members of the State railroad and warehouse commission, and certain persons who were shippers of freight over the lines of that railway.

The general object of the suit was to prevent compliance with the provisions of certain acts of the Minnesota legislature and certain orders of the State railroad and warehouse commission, indicating the rates which the State permits to be charged for the transportation of passengers and commodities upon railroads within its limits; also, to prevent shippers from bringing actions against the railway company to enforce those acts and orders.

The bill, among other things, prayed that Edward T. Young, "as attorney-general of the State of Minnesota," and the members of the State railroad and warehouse commission (naming them) be enjoined from all attempts to compel the railway company to put in force the rates or any of them prescribed by said orders, and "from taking any action, step, or proceeding against said railway company, or any of its officers, directors, agents, or employees, to enforce any penalties or remedies for the violation by said railway company of said orders or either of them;" and that said Young, "as attorney-general," be enjoined from taking any action, step, or proceeding against the railway company, its officers, agents, or employees, to enforce the penalties and remedies specified in those acts.

The court gave a temporary injunction as prayed for. The attorney-general of Minnesota appeared specially and, without submitting to or acknowledging the jurisdiction of the court, moved to dismiss the suit as to him, upon the ground that the State had not consented to be sued, and also because the bill was exhibited against him "as, and only as, the attorney-general of the State of Minnesota," to restrain him, by injunction, from exercising the discretion vested in him to commence appropriate actions, on behalf of the State, to enforce or to test the validity of its laws. He directly raised the question that the suit as to him, in his official capacity, was one against the State, in violation of the eleventh amendment.

In response to an order to show cause why the injunction asked for should not be granted the attorney-general also appeared specially and urged like objections to the suit against him in the circuit court.

After hearing the parties the court made an order, September 23, 1907, whereby the railway company, its officers, directors, agents, servants, and employees, were enjoined until the further order of the court from publishing, adopting, or putting into effect the tariffs, rates, or charges specified in the act of April 18, 1907. The court likewise enjoined the defendant Young, "as attorney-general of the State of Minnesota," from "taking or instituting any action, suit, step, or proceeding to enforce the penalties and remedies specified in said act or either thereof, or to compel obedience to said act or compliance therewith or any part thereof." A like injunction was granted against the defendant shippers.

On the next day, September 24, 1907, the State of Minnesota, "on the relation of Edward T. Young, attorney-general," commenced an action in one of its own courts against the Northern Pacific Railway Company—the only relief sought being a mandamus ordering the company to adopt, publish, keep for public inspection, and put into effect, as the rates and charges to be maintained for the transportation of freight between stations in Minnesota, those named and specified in what is known as chapter 232 of the Session Laws of Minnesota for 1907. That was the act which it was the object of the Perkins-Shepard suit in the Federal court to strike down and nullify. An alternative writ of mandamus, such as the State asked, was issued by the State court.

The institution in the State court by the State, on the relation of its attorney-general, of the mandamus proceeding against the railway company having been brought to the attention of the Federal circuit court, a rule was issued against the defendant Young to show cause why he should not be punished as for contempt. Answering that rule, he alleged, among other things, that the mandamus proceeding was brought by and on behalf of the State, through him as its attorney-general; that in every way possible he had objected to such jurisdiction on the ground that the action was commenced against him solely as the attorney-general for Minnesota in order to prevent him from instituting in the proper courts civil actions for and in the name of the State to enforce or test the validity of its laws; that there is no other action or proceeding pending or contemplated by this defendant against said railway company except said proceedings in mandamus hereinbefore referred to. Defendant expressly disclaimed any intention to treat this court with disrespect in the commencement of the proceedings referred to, "but believing that the decision of this court in this action, holding that it had jurisdiction to enjoin this defendant, as such attorney-general, from performing his discretionary official duties, was in conflict with the eleventh amendment of the Constitution of the United States, as the same has been interpreted and applied by the United States Supreme Court, defendant believed it to be his duty as such attorney-general to commence said mandamus proceedings for and in behalf of the State, and it was in this belief that said proceedings were commenced solely for the purpose of enforcing the said law of the State of Minnesota."

The rule was heard, and the attorney-general was held to be in contempt, the order of the Federal court being: "Ordered further, That said Edward T. Young forthwith dismiss or cause to be dismissed the suit of the State of Minnesota on the relation of Edward T. Young, attorney-general, plaintiff, v. Northern Pacific Railway Company, defendant, heretofore instituted by him in the district court of the county of Ramsey, second judicial district, State of Minnesota. Ordered further, That for his said contempt said Edward T. Young be fined the sum of \$100 and stand committed in the custody of the marshal of this court until the same be paid and until he purge himself of his contempt by dismissing or causing to be dismissed said suit last herein mentioned."

The present proceeding was commenced by an original application by Young to this court for a writ of habeas corpus. The petitioner in his application proceeds upon the ground that he is held in custody in violation of the Constitution of the United States. The petition set out all the steps taken in the suit in the Federal court, alleging, among other things—

"That your petitioner's office as attorney-general of the State of Minnesota is established and provided for by the constitution of the said State, section 1 of Article V thereof providing as follows, to wit: 'The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, and attorney-general, who shall be chosen by the electors of the State.' That neither by statute nor otherwise is your petitioner charged with any special duty of a ministerial character in the doing or not doing of which complainants in the said bill of complaint or the said Northern Pacific Railway Company had any legal right, and that whatever duties your petitioner had or has with respect to the several matters complained of in the said bill of complaint are of an executive and discretionary nature. That in no case could your petitioner, even though it was his intention so to do, which it was not, deprive the said complainants or the said Northern Pacific Railway Company, or either of them, of any property, nor could he trespass upon their rights in any particular, and that all he could do as attorney-general as aforesaid and all that it was his duty to do in that capacity, and all that he intended to do or would do, was to commence formal judicial proceedings in the appropriate court of Minnesota against the said Northern Pacific Railway Company, its officers, agents, and employees, to compel the

said company, its agents and servants, to adopt and put in force the schedule of freight rates, tariffs, and charges prescribed by said chapter 232, laws 1907, of the State of Minnesota." He also renewed the objection that the suit instituted by Perkins and Shepard, in so far as the same is against him, was a suit against the State to prevent his commencing the proposed action in the name of the State, and was in restraint of the State itself, "and that the said suit is one against the said State in violation of the eleventh amendment to the Constitution of the United States, and that therefore the same is and was, so far as your petitioner is concerned, beyond the jurisdiction of the said circuit court," and so forth.

This statement will sufficiently indicate the nature of the question to be now examined upon its merits.

Let it be observed that the suit instituted by Perkins and Shepard in the circuit court of the United States was, as to the defendant Young, one against him as, and only because he was, attorney-general of Minnesota. No relief was sought against him individually, but only in his capacity as attorney-general. And the manifest, indeed the avowed and admitted, object of seeking such relief was to tie the hands of the State so that it could not in any manner or by any mode of proceeding, in its own courts, test the validity of the statutes and orders in question. It would therefore seem clear that, within the true meaning of the eleventh amendment, the suit brought in the Federal court was one, in legal effect, against the State—as much so as if the State had been formally named on the record as a party—and therefore it was a suit to which, under the amendment, so far as the State or its attorney-general was concerned, the judicial power of the United States did not and could not extend. If this proposition be sound, it will follow—indeed, it is conceded that if, so far as relief is sought against the attorney-general of Minnesota, this be a suit against the State—then the order of the Federal court enjoining that officer from taking any action, suit, step, or proceeding to compel the railway company to obey the Minnesota statute was beyond the jurisdiction of that court and wholly void, in which case that officer was at liberty to proceed in the discharge of his official duties as defined by the laws of the State, and the order adjudging him to be in contempt for bringing the mandamus proceeding in the State court was a nullity.

The fact that the Federal circuit court had, prior to the institution of the mandamus suit in the State court, preliminarily (but not finally) held the statutes of Minnesota and the orders of its railroad and warehouse commission in question to be in violation of the Constitution of the United States was no reason why that court should have laid violent hands upon the attorney-general of Minnesota and by its orders have deprived the State of the services of its constitutional law officer in its own courts. Yet that is what was done by the Federal circuit court; for the intangible thing called a State, however extensive its powers, can never appear or be represented or known in any court in a litigated case except by and through its officers. When, therefore, the Federal court forbade the defendant, Young, as attorney-general of Minnesota, from taking any action, suit, step, or proceeding whatever looking to the enforcement of the statutes in question, it said in effect to the State of Minnesota:

"It is true that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to its people, and it is true that under the Constitution the judicial power of the United States does not extend to any suit brought against a State by a citizen of another State or by a citizen or subject of a foreign State, yet the Federal court adjudges that you, the State, although a sovereign for many important governmental purposes, shall not appear in your own courts, by your law officer, with the view of enforcing or even for determining the validity of the State enactments which the Federal court has, upon a preliminary hearing, declared to be in violation of the Constitution of the United States."

This principle, if firmly established, would work a radical change in our governmental system. It would inaugurate a new era in the American judicial system and in the relations of the National and State governments. It would enable the subordinate Federal courts to supervise and control the official action of the States as if they were "dependencies" or provinces. It would place the States of the Union in a condition of inferiority never dreamed of when the Constitution was adopted or when the eleventh amendment was made a part of the supreme law of the land. I can not suppose that the great men who framed the Constitution ever thought the time would come when a subordinate Federal court, having no power to compel a State, in its corporate capacity, to appear before it as a litigant, would yet assume to deprive a State of the right to be represented in its own courts by its regular law officer. That is what the court below did, as to Minnesota, when it adjudged that the appearance of the defendant Young in the State court, as the attorney-general of Minnesota, representing his State as its chief law officer, was a contempt of the authority of the Federal court, punishable by fine and imprisonment. Too little consequence has been attached to the fact that the courts of the States are under an obligation equally strong with that resting upon the courts of the Union to respect and enforce the provisions of the Federal Constitution as the supreme law of the land and to guard rights secured or guaranteed by that instrument. We must assume—a decent respect for the States requires us to assume—that the State courts will enforce every right secured by the Constitution. If they fail to do so, the party complaining has a clear remedy for the protection of his rights; for he can come by writ of error, in an orderly, judicial way from the highest court of the State to this tribunal for redress in respect of every right granted or secured by that instrument and denied by the State court. The State courts, it should be remembered, have jurisdiction concurrent with the courts of the United States of all suits of a civil nature, at common law or equity involving a prescribed amount, arising under the Constitution or laws of the United States. (25 Stat., 434.) And this court has said:

"A State court of original jurisdiction, having the parties before it, may consistently with existing Federal legislation determine cases at law or in equity arising under the Constitution or laws of the United States or involving rights dependent upon such Constitution or laws. Upon the State courts, equally with the courts of the Union, rests the obligation to guard, enforce, and protect every right granted or secured by the Constitution of the United States and the laws made in pursuance thereof, whenever those rights are involved in any suit or proceeding before them; for the judges of the State courts are required to take an oath to support that Constitution, and they are bound by it and the laws of the United States made in pursuance thereof, and all treaties made under their authority, as the supreme law of the land, 'anything in the constitution or laws of any State to the contrary notwithstanding.' If they fail therein, and withhold or deny rights, privileges, or immunities secured by the Constitution and laws

of the United States, the party aggrieved may bring the case from the highest court of the State in which the question could be decided to this court for final and conclusive determination." (Robb v. Connolly, 111 U. S., 624, 637.)

So that an order of the Federal court preventing the State from having the services of its attorney-general in one of its own courts, except at the risk of his being fined and arrested, can not be justified upon the ground that the question of constitutional law, involved in the enforcement of the statutes in question, was beyond the competency of a State court to consider and determine, primarily, as between the parties before it in a suit brought by the State itself.

At the argument of this case counsel for the railway company insisted that the provisions of the act in question were so drastic that they could be enforced by the State in its own courts with such persistency and in such a manner as, in a very brief period, to have the railway officers and agents all in jail, the business of the company destroyed, and its property confiscated by heavy and successive penalties before a final judicial decision as to the constitutionality of this act could be obtained. I infer from some language in the court's opinion that these apprehensions are shared by some of my brethren. And this supposed danger to the railway company and its shareholders seems to have been the basis of the action of the Federal circuit court when, by its order directed against the attorney-general of Minnesota, it practically excluded the State from its own courts in respect of the issues here involved. But really no such question as to the State statute is here involved or need be now considered; for it can not possibly arise on the hearing of the present application of that officer for discharge on habeas corpus. The only question now before this court is whether the suit by Perkins and Shepard in the Federal court was not, upon its face, as to the relief sought against the attorney-general of Minnesota, a suit against the State. Stated in another form, the question is whether that court may, by operating upon that officer in his official capacity, by means of fine and imprisonment, prevent the State from being represented by its law officer in one of its own courts? If the Federal court could not thus put manacles upon the State so as to prevent it from being represented by its attorney-general in its own court and from having the State court pass upon the validity of the State enactment in question in the Perkins-Shepard suit, that is an end to this habeas corpus proceeding, and the attorney-general of Minnesota should be discharged by order of this court from custody.

It is to be observed that when the State was in effect prohibited by the order of the Federal court from appearing in its own courts, there was no danger, absolutely none whatever, from anything that the attorney-general had ever done or proposed to do, that the property of the railway company would be confiscated and its officers and agents imprisoned, beyond the power of that company to stay any wrong done by bringing to this court, in regular order, any final judgment of the State court, in the mandamus suit, which may have been in derogation of a Federal right. When the attorney-general instituted the mandamus proceeding in the State court against the railway company there was in force, it must not be forgotten, an order of injunction by the Federal court which prevented that company from obeying the State law. There was consequently no danger from that direction. Besides, the mandamus proceeding was not instituted for the recovery of any of the penalties prescribed by the State law, and therefore no judgment in that case could operate directly upon the property of the railway company or upon the persons of its officers or agents. The attorney-general, in his response to the rule against him, assured the Federal court that he did not contemplate any proceeding whatever against the railway company except the one in mandamus. Suppose the mandamus case had been finally decided in the State court, the way was open for the railway company to preserve any question it made as to its rights under the Constitution, and, in the event of a decision adverse to it in that court, at once to carry the case to the highest court of Minnesota and thence by a writ of error bring it to this court. That course would have served to determine every question of constitutional law raised by the suit in the Federal court in an orderly way without trampling upon the State, and without interfering, in the meantime, with the operation of the railway property in the accustomed way. Instead of adopting that course—so manifestly consistent with the dignity and authority of both the Federal and State judicial tribunals—the Federal court practically closed the State courts against the State itself when it adjudged that the attorney-general, without regard to the wishes of the governor of Minnesota, and without reference to his duties as prescribed by the laws of that State, should stand in the custody of the marshal, unless he dismissed the mandamus suit. If the Federal court could thus prohibit the law officer of the State from representing it in a suit brought in the State court why might not the bill in the Federal court be so amended that that court could reach all the district attorneys in Minnesota and forbid them from bringing to the attention of grand juries and the State courts violations of the State act by the railway company? And if a grand jury was about to inquire into the acts of the railway company in respect of the matter of its rates, why may not the Federal court, proceeding upon the same grounds on which it has moved against the attorney-general, enjoin the finding or returning of indictments against the railway company? If an indictment was returned against the railway company, and was about to be tried by a petit jury, why could not the Federal court, upon the principles now announced, forbid the jury to proceed against the railway company, and if it did, punish every petit jurymen as for contempt of court? Indeed, why may it not lay its hands on the governor of the State and forbid him from appealing to the courts of Minnesota in the name of the State to test the validity of the act in question? And why may not the Federal court lay its hands even upon the judge of the State court itself, whenever it proceeds against the railway company under the State law?

The subject-matter of these questions have evidently been considered by this court, and the startling consequences that would result from an affirmative answer to them have not been overlooked; for, in its opinion, I find these observations: "It is proper to add that the right to enjoin an individual, even though a State official, from commencing suits under circumstances already stated, does not include the power to restrain a court from acting in any case brought before it, either of a civil or criminal nature, nor does it include power to prevent any investigation or action by a grand jury. The latter body is part of the machinery of a criminal court, and an injunction against a State court would be a violation of the whole scheme of our government. If an injunction against an individual is disobeyed, and he commences proceedings before a grand jury or in a court, such disobedience is personal only, and the court or jury can proceed without incurring any penalty on that account. The difference between the power to enjoin an individual from doing certain things, and the power to enjoin courts from proceeding in their own way to exercise jurisdiction

is plain, and no power to do the latter exists because of a power to do the former." If an order of the Federal court forbidding a State court or its grand jury from attempting to enforce a State enactment would be "a violation of the whole scheme of our Government," it is difficult to perceive why an order of that court, forbidding the chief law officer and all the district attorneys of a State to represent it in the courts, in a particular case, and practically, in that way, closing the doors of the State court against the State, would not also be inconsistent with the whole scheme of our Government, and therefore beyond the power of the court to make.

Whether the Minnesota statutes are or are not violative of the Constitution is not, as already suggested, a question in this habeas corpus proceeding. I do not, therefore, stop to consider whether those statutes are repugnant to the Constitution upon the ground that by their necessary operation, when enforced, they will prevent the railway company from contesting their validity, or upon the ground that they are confiscatory and therefore obnoxious to the requirement of due process of law. While the argument at the bar in support of each of these propositions was confessedly of great force and persuasiveness, those points need not be now examined. I express no opinion about them. Their soundness may, however, be conceded for the purposes of this discussion. Indeed, it may be assumed for the purposes of this discussion that these State enactments are harsh and intemperate and, in some of their features, invalid. But those questions are wholly apart from the present proceeding. If we now consider them we must go out of our way in order to do so. We have no evidence in this proceeding as to the effect which the statutes, if enforced, would have upon the value either of the railway property or of the bonds or stocks of the railway company. The question of their validity has not been finally decided by the circuit court, and we have not before us even the evidence upon which its preliminary injunction was based. The essential and only question now before us or that need be decided is whether an order by the Federal court, which prevents the State from being represented in its own courts by its chief law officer, upon an issue involving the constitutional validity of certain State enactments, does not make a suit against the State within the meaning of the eleventh amendment. If it be a suit of that kind, then, it is conceded the circuit court was without jurisdiction to fine and imprison the petitioner and he must be discharged, whatever our views may be as to the validity of those State enactments. This must necessarily be so, unless the amendment has less force and a more restricted meaning now than it had at the time of its adoption, and unless a suit against the attorney-general of a State, in his official capacity, is not one against a State under the eleventh amendment when its determination depends upon a question of constitutional power or right under the fourteenth amendment. In that view I can not concur. In my opinion the eleventh amendment has not been modified in the slightest degree as to its scope or meaning by the fourteenth amendment, and a suit which, in its essence, is one against the State remains one of that character, and is forbidden even when brought to strike down a State statute alleged to be in violation of that clause of the fourteenth amendment, forbidding the deprivation by a State of life, liberty, or property without due process of law. If a suit be commenced in a State court, and involves a right secured by the Federal Constitution, the way is open under our incomparable judicial system to protect that right, first, by the judgment of the State court, and ultimately by the judgment of this court, upon writ of error. But such right can not be protected by means of a suit which, at the outset, is directly or in legal effect, one against the State whose action is alleged to be illegal. That mode of redress is absolutely forbidden by the eleventh amendment and can not be made legal by mere construction or by any consideration of the consequences that may follow from the operation of the statute. Parties can not, in any case, obtain redress by a suit against the State. Such has been the uniform ruling in this court, and it is most unfortunate that it is now declared to be competent for a Federal circuit court, by exerting its authority over the chief law officer of the State, without the consent of the State, to exclude the State, in its sovereign capacity, from its own courts when seeking to have the ruling of those courts as to its powers under its own statutes. Surely, the right of a State to invoke the jurisdiction of its own courts is not less than the right of individuals to invoke the jurisdiction of a Federal court. The preservation of the dignity and sovereignty of the States, within the limits of their constitutional powers, is of the last importance, and vital to the preservation of our system of government. The courts should not permit themselves to be driven by the hardships, real or supposed, of particular cases to accomplish results, even if they be just results, in a mode forbidden by the fundamental law. The country should never be allowed to think that the Constitution can, in any case, be evaded or amended by mere judicial interpretation, or that its behests may be nullified by an ingenious construction of its provisions.

The importance of the question under consideration is a sufficient justification for such a reference to the authorities as will indicate the precise grounds on which this court has oftentimes proceeded when determining what is and what is not a suit against a State within the meaning of the eleventh amendment. All the cases agree in declaring the incapacity of a Federal court to exercise jurisdiction over a State as a party. But assaults upon the eleventh amendment have oftentimes been made in cases in which the effort has been, without making the State a formal party, to control the acts of its officers and agents, by such orders directed to them as will accomplish, by indirection, the same results that could be accomplished by a suit directly against the State, if such a suit were possible. It will be well to look at some of the principal adjudged cases.

The general question was examined in *Cunningham v. Macon and Brunswick Railroad Company* (109 U. S., 446-451), where the court said that it was conceded in all the cases, and "may be accepted as a point of departure unquestioned, that neither a State nor the United States can be sued as defendant in any court in this country without their consent, except in the limited class of cases in which a State may be made a party in the Supreme Court of the United States by virtue of the original jurisdiction conferred on this court by the Constitution." The court has not in any case departed from this constitutional principle. In *Pennoyer v. McConaughy* (140 U. S., 1, 9), it said that "this immunity of a State from suit is absolute and unqualified, and the constitutional provision securing it is not to be so construed as to place the State within the reach of the process of the court. Accordingly, it is equally well settled that a suit against the officers of a State, to compel them to do the acts which constitute a performance by it of its contracts, is, in effect, a suit against the State itself."

In *Cunningham v. Macon and Brunswick Railroad Company*, just cited, the distinction was drawn between a suit in which the State

is the real party in interest, although not technically a party on the record, and one in which "an individual is sued in tort for some act injurious to another in regard to person or property, to which his defense is that he has acted under the orders of the Government;" in which last case, the court observed, the defendant "is not sued as, or because he is, the officer of the Government, but as an individual, and the court is not ousted of jurisdiction because he asserts authority as such officer." Let it not be forgotten that the defendant Young was sued, not as an individual or because he had any personal interest in these matters, but as, and solely because he is, an officer of the State charged with the performance of certain public duties.

In *Hagood v. Southern* (117 U. S., 52, 67, 68), which involved the validity of certain scrip alleged to have been issued by the State of South Carolina, it appeared that the State having denied its obligation to pay, the plaintiff sought relief by simply suing certain State officers, as such, without making the State a formal party. The court said:

"These suits are accurately described as bills for the specific performance of a contract between the complainants and the State of South Carolina, who are the only parties to it. But to these bills the State is not in name made a party defendant, though leave is given to it to become such, if it chooses; and, except with that consent, it could not be brought before the court and be made to appear and defend. And yet it is the actual party to the alleged contract the performance of which is decreed, the one required to perform the decree, and the only party by whom it can be performed. Though not nominally a party to the record, it is the real and only party in interest, the nominal defendants being the officers and agents of the State, having no personal interest in the subject-matter of the suit, and defending only as representing the State. And the things required by the decrees to be done and performed by them are the very things which, when done and performed, constitute a performance of the alleged contract by the State. The State is not only the real party to the controversy, but the real party against which relief is sought by the suit, and the suit is, therefore, substantially within the prohibition of the eleventh amendment to the Constitution of the United States, which declares that 'the judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.'"

Again:

"If this case is not within the class of those forbidden by the constitutional guaranty to the States of immunity from suits in Federal tribunals, it is difficult to conceive the frame of one which would be. If the State is named as a defendant, it can only be reached either by mesne or final process through its officers and agents, and a judgment against it could neither be obtained nor enforced, except as the public conduct and government of the ideal political body called a State could be reached and affected through its official representatives. A judgment against these latter, in their official and representative capacity, commanding them to perform official functions on behalf of the State according to the dictates and decrees of the court, is, if anything can be, a judicial proceeding against the State itself. If not, it may well be asked, What would constitute such a proceeding? In the present cases the decrees were not only against the defendants in their official capacity, but, that there might be no mistake as to the nature and extent of the duty to be performed, also against their successors in office." Is it to be said that an order requiring the attorney-general of a State to perform certain official functions on behalf of the State is a suit against the State, while an order forbidding him, as attorney-general, not to perform an official function on behalf of the State is not a suit against the State?

The leading case upon the general subject, and one very similar in many important particulars to the present one, is *In re Ayers* (123 U. S., 443, 496, 497, 505). The facts in that case were briefly these: The legislature of Virginia, in 1887, passed an act which holders of sundry bonds and tax-receivable coupons of that Commonwealth alleged to be in violation of their rights under the Constitution of the United States. They instituted a suit in equity in the circuit court of the United States against the attorney-general and auditor of Virginia, and against the treasurers and Commonwealth attorneys of counties, cities, and towns in Virginia, the relief asked being a decree enjoining and restraining the said State officers, and each of them, from bringing or commencing any suit provided for by the above act of 1887, or from doing anything to put that act into operation. The circuit court entered an order, enjoining the attorney-general of Virginia and each and all the State officers named "from bringing or commencing any suit against any person who has tendered the State of Virginia tax-receivable coupons in payment of taxes due to said State, as provided for and directed by the act of the legislature of Virginia, approved May 12, 1887." Subsequently the circuit court of the United States was informed that the attorney-general of Virginia had disobeyed its order of injunction. Thereupon that officer was ruled to show cause why he should not be fined and imprisoned. He responded to the rule, admitting that after being served with the injunction he had instituted a suit in the State circuit court against the Baltimore and Ohio Railroad Company to recover taxes due the State, and alleging "that he instituted the said suit because he was thereunto required by the act of the general assembly of Virginia aforesaid, and because he believed this court had no jurisdiction whatever to award the injunction violated." He disclaimed any intention to treat the court with disrespect, and stated that he had been actuated alone by the desire to have the law properly administered. He was, nevertheless, adjudged guilty of contempt, was required forthwith to dismiss the suit he had brought, was fined \$500 for contempt of court, and committed to the custody of the marshal until the fine was paid, and until he purged himself of his contempt by dismissing the suit in the State court. The attorney-general then applied directly to this court for a writ of habeas corpus, which was granted, and upon hearing he was released by this court from custody. The order for his discharge recited that the suit in which the injunctions were granted was "in substance and in law a suit against the State of Virginia," and "within the prohibition of the eleventh amendment to the Constitution;" that it was one "to which the judicial power of the United States does not extend;" that the circuit court was without jurisdiction to entertain it; that all its proceedings in the exercise of jurisdiction were null and void; that it had no authority or power to adjudge the attorney-general in contempt; and that his imprisonment was without authority of law. In the opinion in the *Ayers* case the court said:

"It follows, therefore, in the present case, that the personal act of the petitioners sought to be restrained by the order of the circuit court, reduced to the mere bringing of an action in the name of and for the State against taxpayers, who, although they may have tendered tax-receivable coupons, are charged as delinquents, can not be alleged against them as an individual act in violation of any legal or contract rights of such taxpayers."

Again:

"The relief sought is against the defendants, not in their individual, but in their representative capacity as officers of the State of Virginia. The acts sought to be restrained are the bringing of suits by the State of Virginia in its own name and for its own use. If the State had been made a defendant to this bill by name, charged according to the allegations it now contains—supposing that such a suit could be maintained—it would have been subject to the jurisdiction of the court by process served upon its governor and attorney-general, according to the precedents in such cases." (*New Jersey v. New York*, 5 Pet., 284, 288, 290; *Kentucky v. Dennison*, 24 How., 66, 96, 97; *Rule 5 of 1884*, 108 U. S., 574.)

If a decree could have been rendered enjoining the State from bringing suit against its taxpayers, it would have operated upon the State only through the officers who by law were required to represent it in bringing such suits, viz, the present defendants, its attorney-general, and the Commonwealth's attorneys for the several counties. For a breach of such an injunction, these officers would be amenable to the court as proceeding in contempt of its authority, and would be liable to punishment thereof by attachment and imprisonment. The nature of the case, as supposed, is identical with that of the case as actually presented in the bill, with the single exception that the State is not named as a defendant. How else can the State be forbidden by judicial process to bring actions in its name, except by constraining the conduct of its officers, its attorneys, and its agents? And if all such officers, attorneys, and agents are personally subjected to the process of the court, so as to forbid their acting in its behalf, how can it be said that the State itself is not subjected to the jurisdiction of the court as an actual and real defendant?"

Further:

"The very object and purpose of the eleventh amendment were to prevent the indignity of subjecting a State to the coercive process of judicial tribunals at the instance of private parties. It was thought to be neither becoming nor convenient that the several States of the Union, invested with that large residuum of sovereignty which had not been delegated to the United States, should be summoned as defendants to answer the complaints of private persons, whether citizens of other States or aliens, or that the course of their public policy and the administration of their public affairs should be subject to and controlled by the members of judicial tribunals without their consent, and in favor of individual interests. To secure the manifest purposes of the constitutional exemption guaranteed by the eleventh amendment requires that it should be interpreted, not literally and too narrowly, but fairly, and with such breadth and largeness as effectually to accomplish the substance of its purpose. In this spirit it must be held to cover not only suits brought against a State by name, but those also against its officers, agents, and representatives where the State, though not named as such, is nevertheless the only real party against which alone in fact the relief is asked, and against which the judgment or decree effectively operates. But this is not intended in any way to impinge upon the principle which justifies suits against individual defendants, who, under color of the authority of unconstitutional legislation by the State, are guilty of personal trespasses and wrongs, nor to forbid suits against officers in their official capacity either to arrest or direct their official action by injunction or mandamus, where such suits are authorized by law, and the act to be done or omitted is purely ministerial, in the performance or omission of which the plaintiff has a legal interest."

It is said that the *Ayers* case is not applicable here, because the orders made by the Federal circuit court had for their object to compel Virginia to perform its contract with bondholders, which is not this case. But that difference between the *Ayers* case and this case can not affect the principle involved. The proceeding against the attorney-general of Virginia had for its object to compel, by indirection, the performance of the contract which that Commonwealth was alleged to have made with bondholders—such performance, on the part of the State, to be effected by means of orders in a Federal circuit court directly controlling the official action of that officer. The proceeding in the *Perkins-Shepard* suit against the attorney-general of Minnesota had for its object, by means of orders in a Federal circuit court, directed to that officer, to control the action of that State in reference to the enforcement of certain statutes by judicial proceedings commenced in its own courts. The relief sought in each case was to control the State by controlling the conduct of its law officer against its will. I can not conceive how the proceeding against the attorney-general of Virginia could be deemed a suit against that State, and yet the proceeding against the attorney-general of Minnesota is not to be deemed a suit against Minnesota, when the object and effect of the latter proceeding was, beyond all question, to shut that State entirely out of its own courts and prevent it through its law officer from invoking their jurisdiction in a special matter of public concern, involving official duty, about which the State desired to know the views of its own judiciary. In my opinion the decision in the *Ayers* case determines this case for the petitioner.

More directly in point, perhaps, for the petitioner Young is the case of *Fitts v. McGhee* (172 U. S., 516, 528, 529, 530). That suit was brought by the receivers of a railroad company against the governor and attorney-general of Alabama. Its object was to prevent the enforcement of the provisions of an Alabama statute prescribing the maximum rates of toll to be charged on a certain bridge across the Tennessee River. The statute imposed a penalty for each time that the owners, lessees, or operators of the bridge demanded or received any higher rate of toll than was prescribed by it. The relief asked was an injunction prohibiting the governor and attorney-general of the State and all other persons from instituting any proceeding against the complainants, or either of them, to enforce the statute. An injunction as prayed for was granted. In the progress of the cause the solicitor of the district in which the case was pending was made a defendant and the injunction was extended to him. By amended pleadings it was made to appear that the tollgate keepers at the public crossing of the bridge were indicted for collecting tolls in violation of the statute. In the progress of the cause the plaintiffs dismissed the case as to the State, and the cause was discontinued as to the governor. But the case was heard upon the motion to dismiss the bill upon the ground that the suit was one against the State in violation of the Constitution of the United States.

After stating the principles settled in the *Ayers* case and in other cases, this court said: "If these principles be applied in the present case there is no escape from the conclusion that, although the State of Alabama was dismissed as a party defendant, this suit against its officers is really one against the State. As a State can act only by its officers, an order restraining those officers from taking any steps, by means of judicial proceedings, in execution of the statute of February 9, 1895, is one which restrains the State itself, and the suit is consequently as much against the State as if the State were named as a party defendant on the record. If the individual defendants held pos-

session or were about to take possession of or to commit any trespass upon any property belonging to or under the control of the plaintiffs, in violation of the latter's constitutional rights, they could not resist the judicial determination, in a suit against them, of the question of the right to such possession by simply asserting that they held or were entitled to hold the property in their capacity as officers of the State. In the case supposed, they would be compelled to make good the State's claim to the property, and could not shield themselves against suit because of their official character. (*Tindal v. Wesley*, 167 U. S., 204, 222.) No such case is before us."

Again, in the same case:

"It is to be observed that neither the attorney-general of Alabama nor the solicitor of the eleventh judicial circuit of the State appears to have been charged by law with any special duty in connection with the act of February 9, 1895. In support of the contention that the present suit is not one against the State reference was made by counsel to several cases, among which were *Polindexter v. Greenhow* (114 U. S., 270); *Allen v. Baltimore and Ohio Railroad* (114 U. S., 311); *Pennoyer v. McConnaughy* (140 U. S., 1); *In re Tyler* (140 U. S., 164); *Reagan v. Farmers' Loan and Trust Company* (154 U. S., 362, 388); *Scott v. Donald* (165 U. S., 58), and *Smyth v. Ames* (169 U. S., 466). Upon examination it will be found that the defendants in each of those cases were officers of the State, especially charged with the execution of a State enactment alleged to be unconstitutional, but under the authority of which, it was averred, they were committing or were about to commit some specific wrong or trespass, to the injury of the plaintiff's rights. There is a wide difference between a suit against individuals holding official positions under a State to prevent them, under the sanction of an unconstitutional statute, from committing by some positive act a wrong or trespass, and a suit against officers of a State merely to test the constitutionality of a State statute, in the enforcement of which those officers will act only by formal judicial proceedings in the courts of the State. In the present case, as we have said, neither of the State officers named held any special relation to the particular statute alleged to be unconstitutional. They were not expressly directed to see to its enforcement. If, because they were law officers of the State, a case could be made for the purpose of testing the constitutionality of the statute by an injunction suit brought against them, then the constitutionality of every act passed by the legislature could be tested by a suit against the governor and attorney-general, based upon the theory that the former, as the executive of the State, was, in a general sense, charged with the execution of all its laws, and the latter, as attorney-general, might represent the State in litigation involving the enforcement of its statutes. That would be a very convenient way for obtaining a speedy judicial determination of questions of constitutional law which may be raised by individuals, but it is a mode which can not be applied to the States of the Union consistently with the fundamental principle that they can not, without their assent, be brought into any court at the suit of private persons. If their officers commit acts of trespass or wrong to the citizen, they may be individually proceeded against for such trespass or wrong. Under the view we take of the question, the citizen is not without effective remedy when proceeded against under a legislative enactment void for repugnancy to the supreme law of the land, for, whatever the form of the proceeding against him, he can make his defense upon the ground that the statute is unconstitutional and void. And that question can be ultimately brought to this court for final determination." I am unable to distinguish that case in principle from the one now before us. The *Fitts* case is not overruled, but is, I fear, frittered away or put out of sight by unwarranted distinctions.

Two cases in this court are much relied on to support the proposition that the *Perkins-Shepard* suit in the circuit court is not a suit against the State. I refer to *Reagan v. Farmers' Loan and Trust Company* (154 U. S., 362), and *Smyth v. Ames* (169 U. S., 466, 472). But each of those cases differs in material respects from the one instituted by *Perkins and Shepard* in the court below. In the *Reagan* case it appears that the very act under which the railroad commission proceeded authorized the railroad company or any interested party, if dissatisfied with the action of the commission in establishing rates, to bring suit against that commission in any court, in a named county, with right of appeal to a higher court. This court, when combating the suggestion that only the State court had jurisdiction to proceed against the commission and give relief in respect of the rates it established, said:

"It may be laid down as a general proposition that whenever a citizen of a State can go into the courts of a State to defend his property against the illegal acts of its officers, a citizen of another State may invoke the jurisdiction of the Federal courts to maintain a like defense. A State can not tie up a citizen of another State having property rights within its territory invaded by unauthorized acts of its own officers to suits for redress in its own courts. Given a case where a suit can be maintained in the courts of the State to protect property rights, a citizen of another State may invoke the jurisdiction of the Federal courts. * * * It comes, therefore, within the very terms of the act. It can not be doubted that a State, like any other government, can waive exemption from suit."

The declaration of the court in the *Reagan* case that that suit was not, within the true meaning of the eleventh amendment, to be regarded as a suit against the State, must therefore be taken in connection with the declaration in the same case that the State having consented that the commission might be sued in one of its own courts in respect of the rates established by the statute, must be taken to have waived its immunity from suit in the circuit court of the United States sitting in Texas. In *Smyth v. Ames*, above cited, which was a suit in a circuit court of the United States involving the constitutional validity of certain rates established for railroads in Nebraska, it appeared that the statute expressly authorized any railroad company claiming that the rates were unreasonable to bring an action against the State before the Supreme Court in the name of the railroad company or companies bringing the same. Thus the State of Nebraska waived its immunity from suit, and having authorized a suit against itself in one of its courts, in respect of the rates there in question, it could not, according to the decision in the *Reagan* case, deny its liability to like suit in a court of the United States. It is true that this court, in its opinion in *Smyth v. Ames*, did not lay any special stress on the fact that Nebraska, by the statute, agreed that it might be sued, but it took especial care in its extended statement of the case to bring out that fact. Its silence on that point is not extraordinary in view of the fact, as appears from the opinion of this court, that the question whether that suit was to be deemed one against the State was not discussed at the bar by the Nebraska State Board. We there quoted from the *Reagan* case these words:

"Whenever a citizen of a State can go into the courts of a State to defend his property against the illegal acts of its officers, a citizen

of another State may invoke the jurisdiction of the Federal courts to maintain a like defense. A State can not tie up a citizen of another State, having property rights within its territory invaded by unauthorized acts of its own officers, to suits for redress in its own courts." That the *Reagan* and *Smyth* cases did not go as far as is now claimed for them is made clear by the later case of *Fitts v. McGhee*, already referred to, in which the doctrines of *In re Ayers* were reaffirmed and applied.

We may refer in this connection to *Gunter v. Atlantic Coast Line* (200 U. S., 273, 291), in which case one of the points made was that the circuit court of the United States had no power to restrain the attorney-general of South Carolina and the counsel associated with him from prosecuting in the State courts actions authorized by the laws of the State, and hence that the court erred in awarding an injunction against said officers. This court said: "Support for the proposition is rested upon the terms of the eleventh amendment and the provisions of section 720 of the Revised Statutes, forbidding the granting of a writ by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy. The soundness of the doctrine relied upon is undoubted. In *re Ayers* (123 U. S., 443); *Fitts v. McGhee* (172 U. S., 516). The difficulty is that the doctrine is inapplicable to this case. Section 720 of the Revised Statutes was originally adopted in 1793, whilst the eleventh amendment was in process of formation in Congress for submission to the States, and long, therefore, before the ratification of that amendment. The restrictions embodied in the section were, therefore, but a partial accomplishment of the more comprehensive result effectuated by the prohibitions of the eleventh amendment. Both the statute and the amendment relate to the power of courts of the United States to deal, against the will and consent of a State, with controversies between it and individuals. None of the prohibitions, therefore, of the amendment or of the statute relate to the power of a Federal court to administer relief in causes where jurisdiction as to a State and its officers has been acquired as a result of the voluntary action of the State in submitting its rights to judicial determination. To confound the two classes of cases is but to overlook the distinction which exists between the power of a court to deal with a subject over which it has jurisdiction and its want of authority to entertain a controversy as to which jurisdiction is not possessed."

Counsel for the railway company placed some reliance on *Pennoyer v. McConnaughy* (140 U. S., 1, 18), in which the previous cases on the general subject of suits against the States were classified. That case was a suit in equity against certain parties "who, under the constitution of Oregon, as governor, secretary of state, and treasurer of that State, comprised the board of land commissioners of that State, to restrain and enjoin them from selling and conveying a large amount of land in that State to which the plaintiff asserted title." That suit, in view of the nature of the relief asked, and of the relations of the defendants to the matters involved, was held not to be one against the State within the meaning of the eleventh amendment. But after a review of the facts the court, as explanatory of the conclusion reached by it, took especial care to observe: "In this connection it must be borne in mind that this suit is not nominally against the governor, secretary of state, and treasurer as such officers, but against them collectively, as the board of land commissioners." The present suit is, in terms, against Young "as attorney-general of Minnesota," and the decree was sought against him as such officer, not against him individually as a mere administrative officer charged with certain duties.

One of the cases cited in support of the decision now rendered is *Missouri, Kansas and Texas Railway Company v. Missouri Railroad and Warehouse Commissioners* (183 U. S., 53, 58, 59). But although that particular suit was held not to be one against the State, the case, in respect of the principles announced by the court, is in harmony with the views I have expressed. For the court there says:

"Was the State the real party plaintiff? It was at an early day held by this court, construing the eleventh amendment, that in all cases where jurisdiction depends on the party, it is the party named in the record. *Osborn v. United States Bank* (9 Wheat., 738). But that technical construction has yielded to one more in consonance with the spirit of the amendment, and in *re Ayers* (123 U. S., 443) it was ruled upon full consideration that the amendment covers not only suits against a State by name but those also against its officers, agents, and representatives where the State, though not named as such, is nevertheless the only real party against which in fact the relief is asked, and against which the judgment or decree effectively operates. And that construction of the amendment has since been followed."

In the present case the State, although not named on the record as a party, is the real party whose action it is sought to control.

There are other cases in this court in which the scope and meaning of the eleventh amendment were under consideration, but they need not be cited, for they are well known. They are all cited in *In re Ayers* (123 U. S., 443, 500). "The vital principle in all such cases," this court said in the *Ayers* case, "is that the defendants, though professing to act as officers of the State, are threatening a violation of the personal or property rights of the complainant, for which they are personally and individually liable," or cases in which the officer sued refused to perform a purely ministerial duty, about which he had no discretion and in the performance of which the plaintiff had a direct interest. The case before us is altogether different. The statutes in question did not impose upon the attorney-general of Minnesota any special duty to see to their enforcement. In bringing the mandamus suit he acted under the general authority inhering in him as the chief law officer of his State. He could not become personally liable to the railway company simply because of his bringing the mandamus suit. The attorney-general stated that all he did or contemplated doing was to bring the mandamus suit. The mere bringing of such a suit could not be alleged against him as an individual in violation of any legal right of the railway company or its shareholders. In *re Ayers* (123 U. S., 443, 496). The plaintiffs recognized this fact, and hence did not proceed in their suit upon the ground that the defendant was individually liable. They sued him only as attorney-general, and sought a decree against him in his official capacity, not otherwise.

Some reference has been made to *ex parte Royall* (117 U. S., 241) and other cases that affirm the authority of a Federal court, under existing statutes, to discharge upon habeas corpus from the custody of a State officer one who is held in violation of the Federal Constitution for an alleged crime against a State. Those cases are not at all in point in the present discussion. Such a habeas corpus proceeding is *ex parte*, having for its object only to inquire whether the applicant for the writ is illegally restrained of his liberty. If he is, then the State officer holding him in custody is a trespasser, and can not defend

the wrong or tort committed by him by pleading his official character. The power in a Federal court to discharge a person from the custody of a trespasser may well exist, and yet the court have no power in a suit before it, by an order directed against the attorney-general of a State, as such, to prevent the State from being represented by that officer, as a litigant in one of its own courts. The former cases, it may be argued, come within the decisions which hold that a suit which only seeks to prevent or restrain a trespass upon property or person by one who happens to be a State officer, but is proceeding in violation of the Constitution of the United States, is not a suit against a State within the meaning of the eleventh amendment, but a suit against he trespasser or wrongdoer. But the authority of the Federal court to protect one against a trespass committed or about to be committed by a State officer in violation of the Constitution of the United States is very different from the power now asserted and recognized by this court as existing, to shut out a sovereign State from its own courts by the device of forbidding its attorney-general, under the penalty of fine and imprisonment, from appearing in such courts in its behalf. The mere bringing of a suit on behalf of a State, by its attorney-general, can not (this court has decided in the *Ayers* case) make that officer a trespasser and individually liable to the party sued. To enjoin him from representing the State in such suit is, therefore, for every practical or legal purpose, to enjoin the State itself. This court, in the *Debs* case (158 U. S., 564, 584), said:

"Every government intrusted, by the very terms of its being, with powers and duties to be exercised and discharged for the general welfare, has a right to apply to its own courts for any proper assistance in the exercise of the one and the discharge of the other, and it is no sufficient answer to its appeal to one of those courts that it has no pecuniary interest in the matter. The obligation which it is under to promote the interest of all, and to prevent the wrongdoing of one resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court. This proposition in some of its relations has heretofore received the sanction of this court."

If there be one power that a State possesses which ought to be deemed beyond the control in any mode of the National Government or of any of its courts, it is the power by judicial proceedings to appear in its own courts, by its law officer or by its attorneys, and seek the guidance of those courts in respect of matters of a justiciable nature. If the State court, by its judgment in such a suit, should disregard the injunctions of the Federal Constitution, that judgment would be subject to review by this court upon writ of error or appeal.

It will be well now to look at the course of decisions in other Federal courts.

Attention is first directed to *Arbuckle v. Blackburn* (113 Fed. Rep., 616, 622), which was a suit in equity, one of the principal objects of which was to restrain the enforcement of an act of the Ohio legislature relating to food products, particularly of a named coffee in which the plaintiffs were interested. The circuit court of appeals held that the bill was properly dismissed, saying, among other things:

"What, then, is the object of the injunction sought in this case? It is no more or less than to restrain the officer of the State from bringing prosecutions for violations of an act which said officer is expressly charged to enforce in the only way he is authorized to proceed—by bringing criminal prosecutions in the name of the State. This is virtually to enjoin the State from proceedings through its duly qualified and acting officers. If the food commissioner may be enjoined from instituting such prosecution, why may not the prosecuting attorney, or any officer of the State charged with the execution of the criminal laws of the State? While the State may not be sued, if the bill can be sustained against its officers, it is as effectually prevented from proceeding to enforce its laws as it would be by an action directly against the State. This view of the case, in our judgment, is amply sustained by the cases above cited and by the later case of *Fitts v. McGhee* (172 U. S., 516). In so far as this action seeks an injunction against the respondent from proceeding to enforce by prosecution the provisions of the statutes of Ohio above cited, the courts of the United States are deprived of jurisdiction by the eleventh amendment to the Constitution."

In *Union Trust Company v. Stearns* (119 Fed. Rep., 790, 791-2, 795), the circuit court of the United States for the district of Rhode Island had occasion to consider the scope of the eleventh amendment. The case related to a statute regulating the hours of labor of certain employees of street railways, and imposing a fine for a violation of its provisions. The court upon an elaborate review of all the cases in this court dismissed the action. The defendants *Stearns* and *Greenough* were, respectively, the attorney-general and assistant attorney-general of the State. They were not named in the act, nor charged with any special duty in connection therewith. The court said:

"The purpose of the present bill, in substance and effect, is to enjoin the State of Rhode Island from the enforcement of a penal statute. Indictments under the act are brought in the name and on behalf of the State for the protection of the State. These defendants, the attorney-general and his assistant, merely represent the State in such proceedings. They are simply the officers and agents of the State. It is not as individuals, but solely by virtue of their holding such offices, that they prefer and prosecute indictments in the name of the State. A State can only act or be proceeded against through its officers. If a decree could be entered against the State of Rhode Island enjoining prosecutions under this act, it could only operate against the State through enjoining these defendants. An order restraining the attorney-general and his assistant from the enforcement of this statute is an order restraining the State itself. The present suit, therefore, is as much against the State of Rhode Island as if the State itself were named a party defendant."

After referring to *In re Ayers*, and *Fitts v. McGhee*, and upon a review of the cases, the court proceeded:

"The defendants *Stearns* and *Greenough* hold no special relation to the act of June 1, 1902. They are not specially charged with its execution. They are not thereby constituted a board or commission with administrative powers, nor are they as individuals, and apart from the official authority under which they act, threatening to seize the property of the complainant, or to commit any wrong or trespass against its personal or property rights. They have no other connection with this statute than the institution of formal judicial proceedings for its enforcement in the courts of the State in the name and behalf of the State. Upon reason and authority the present bill is a suit against the State of Rhode Island, within the meaning of the eleventh amendment to the Constitution of the United States."

In *Morenci Copper Company v. Freer* (127 Fed. Rep., 199, 205), which was an action in equity to restrain and inhibit the defendant, in his official capacity as attorney-general of West Virginia, from proceeding to institute an action in the State court for forfeiture of the charter of the plaintiff corporation for a failure to pay a license tax

imposed by a State statute, and which statute was alleged to be in violation of the Federal Constitution, the circuit court reviewed the decision of this court upon the question as to what and what were not suits against the State. The circuit court held that it had no jurisdiction of the case, saying:

"But it may be said, if the court holds that no remedy of this sort will lie in the circuit court of the United States to prevent this breach of a contract by the State of West Virginia by means of the machinery of a law violative of the Constitution of the United States, how are the rights of corporations to be preserved? The answer is that such alleged unconstitutionality is matter of defense to any suit brought for the forfeiture of complainant's charter, and could be set up as an answer and defense to any bill brought for that purpose, and, if the highest court of the State ruled adversely to that contention, appeal would lie to the Supreme Court of the United States. Or the case can be removed to the circuit court of the United States if it presents a case arising under the Constitution or laws of the United States."

A well-considered case is that of *Western Union Telegraph Company v. Andrews* (154 Fed. Rep., 95, 107). In that case the telegraph company sought by bill to enjoin the prosecuting attorneys of the various judicial circuits of Arkansas from instituting any proceeding for penalties for its failure or refusal to comply with the provisions of an act of the legislature of Arkansas relating to foreign corporations doing business in that State and fixing fees, etc. The bill charged that the various prosecuting attorneys would, unless restrained, institute numerous actions for the recovery of the penalties prescribed by the act, which was no less than \$1,000 for each alleged violation. The defense was, among other things, that the action was one against the State, and therefore prohibited by the Constitution. After a careful review of the adjudged cases in this court and in the subordinate Federal courts, the circuit court held the action to be one against the State, forbidden by the eleventh amendment, saying among other things:

"The allegations in the bill show that this is an attempt to prevent the State of Arkansas, through its officers, who by its laws are merely its attorneys, to represent it in all legal actions in its favor or in which it is interested, from instituting and prosecuting suits for the recovery of penalties incurred for alleged violation of its laws, actions which can only be instituted in the name of the State and for its use and benefit."

Upon the fullest consideration and after a careful examination of the authorities, my mind has been brought to the conclusion that no case heretofore determined by this court requires us to hold that the Federal circuit court had authority to forbid the attorney-general of Minnesota from representing the State in the mandamus suit in the State court, or to adjudge that he was in contempt and liable to be fined and imprisoned simply because of his having, as attorney-general, brought that suit for the State in one of its courts. On the contrary, my conviction is very strong that, if regard be had to former utterances of this court, the suit of Perkins and Shepard in the Federal court, in respect of the relief sought therein against Young, in his official capacity, as attorney-general of Minnesota, is to be deemed—under the *Ayers* and *Fitts* cases particularly—a suit against the State of which the circuit court of the United States could not take cognizance without violating the eleventh amendment of the Constitution. Even if it were held that suits to restrain the instituting of actions directly to recover the prescribed penalties would not be suits against the State, it would not follow that we should go further and hold that a proceeding under which the State was, in effect, denied access, by its attorney-general, to its own courts, would be consistent with the eleventh amendment. A different view means, as I think, that although the judicial power of the United States does not extend to any suit expressly brought against a State by a citizen of another State without its consent or to any suit the legal effect of which is to tie the hands of the State, although not formally named as a party, yet a circuit court of the United States, in a suit brought against the attorney-general of a State may, by orders directed specifically against that officer, control, entirely control, by indirection, the action of the State itself in judicial proceedings in its own courts involving the constitutional validity of its statutes. This court has heretofore held that that could not be done, and that such a result would, for most purposes, practically obliterate the eleventh amendment and place the States, in vital particulars, as absolutely under the control of the subordinate Federal courts as if they were capable of being directly sued. I put the matter in this way, because to forbid the attorney-general of a State (under the penalty of being punished as for contempt) from representing his State in suits of a particular kind, in its own courts, is to forbid the State itself from appearing and being heard in such suits. Neither the words nor the policy of the eleventh amendment will, under our former decisions, justify any order of a Federal court the necessary effect of which will be to exclude a State from its own courts. Such an order attended by such results can not, I submit, be sustained consistently with the powers which the States, according to the uniform declarations of this court, possess under the Constitution. I am justified, by what this court has heretofore declared, in now saying that the men who framed the Constitution and who caused the adoption of the eleventh amendment would have been amazed by the suggestion that a State of the Union can be prevented by an order of a subordinate Federal court from being represented by its attorney-general in a suit brought by it in one of its own courts; and that such an order would be inconsistent with the dignity of the States as involved in their constitutional immunity from the judicial process of the Federal courts (except in the limited cases in which they may constitutionally be made parties in this court) and would be attended by most pernicious results.

I dissent from the opinion and judgment.

Mr. Speaker, I shall not dwell on the necessity for the legislation suggested by the bill H. R. 7636, that I introduced, and by the bill S. 3732, which passed the Senate, both of which are printed in this RECORD. The autonomy of the States is threatened. The right of each State to carry on local self-government was never further encroached upon. The Federal judiciary has asserted astonishing doctrine. It is clearly within the power of Congress to limit the power and to regulate the practice of inferior United States courts and judges. This ought to be done in the interests of public justice and to prevent that disaster which Jefferson predicted would come from the work of "sappers and miners of the Constitution."

